The City of Wyoming City Code 2012 Codification

Table of Contents

Chapter 1 GENERAL PROVISIONS 1
Sec. 1-1. Designation and citation of Code. 1
Sec. 1-2. Definitions and rules of construction. 1
Sec. 1-3. Catchlines of sections. 2
Sec. 1-4. References to chapters or sections. 2
Sec. 1-5. History notes. 2
Sec. 1-6. References and editor's notes. 2
Sec. 1-7. Code does not affect prior offenses, penalties and rights. 3
Sec. 1-8. Effect of repeals. 3
Sec. 1-9. Certain ordinances not affected by Code. 3
Sec. 1-10. Amendments to Code. 3
Sec. 1-11. Supplementation of Code. 4
Sec. 1-12. Severability of parts of Code. 4
Sec. 1-13. General penalty. 4

Chapter 2 ADMINISTRATION* 5
ARTICLE I. IN GENERAL 6
Sec. 2-1. Form of government. 6
ARTICLE II. COUNCIL* 7
Sec. 2-31. Terms of office. 7
Sec. 2-32. Salaries. 7
Sec. 2-33. Council sessions. 7
Sec. 2-34. Special meetings. 7
Sec. 2-35. Public meetings. 7
Sec. 2-36. Presiding officer. 7
Sec. 2-37. Quorum. 7
Sec. 2-38. Order of business. 7
ARTICLE III. OFFICERS AND EMPLOYEES* 9
Sec. 2-71. Compensation. 9
Sec. 2-72. Officers appointed. 9
ARTICLE IV. BOARDS, COMMISSIONS AND COMMITTEES 10
ARTICLE V: ORDINANCE OFFENSES. 11
Sec. 2-150. Purpose. 11
Sec. 2-151. Ordinance offense defined. 11
Sec. 2-152. Notice. 11
Sec. 2-153. Payment. 11
Sec. 2-154. Hearing. 11
Sec. 2-155. Hearing officer. 11
Sec. 2-156. Failure to pay. 11
Sec. 2-157. Disposition of penalties. 11
Sec. 2-158. Offenses and penalties. 11
Sec. 2-159. Subsequent offenses. 11
Sec. 2-160. Ordinance offenses and fee schedule. 12
ARTICLE 6: ADMINISTRATIVE OFFENSES. 14
Sec. 2-170. Purpose. 14
Sec. 2-171. Administrative traffic offense defined. 14
Sec. 2-172. Notice. 14
Sec. 2-173. Payment. 14
Sec. 2-174. Hearing. 14
Sec. 2-175. Hearing officer. 14
Sec. 2-176. Failure to pay. 14
Sec. 2-177. Disposition of penalties. 14
Sec. 2-178. Offenses and penalties. 14
Sec. 2-179. Administrative offenses and fee schedule. 15

Chapter 3 RESERVED 16

Chapter 4 ALCOHOLIC BEVERAGES* **17**
ARTICLE I. IN GENERAL 18
ARTICLE II. LICENSES 19
Sec. 4-31. Definitions. 19
Sec. 4-32. Required. 19
Sec. 4-33. Applications for license. 19
Sec. 4-34. License fees. 20
Sec. 4-35. Granting of licenses. 20
Sec. 4-36. Persons ineligible for license. 21
Sec. 4-37. Places ineligible for license. 21
Sec. 4-38. Conditions of license. 21
Sec. 4-39. Hours of operation. 22
Sec. 4-40. Sales in full public view. 22
Sec. 4-41. Clubs. 22
Sec. 4-42. Restrictions on purchase or consumption. 22
Sec. 4-43. Revocation. 22
Sec. 4-44. Special Sunday on-sale license. 23
Sec. 4-45. Hours. 23
Sec. 4-46. Entertainment in establishments and restaurants selling or permitting to be displayed or consumed intoxicating liquor or 3.2 malt liquor. 23
Sec. 4-47. Temporary 3.2 malt liquor licenses. 23

Chapter 5 RESERVED **26**

Chapter 6 AMUSEMENTS AND ENTERTAINMENTS* **27**
ARTICLE I. IN GENERAL 29
Sec. 6-1. Entertainments. 29
Sec. 6-2. Bowling alleys and pool halls. 29
Sec. 6-3. Public dances. 29
ARTICLE II. GAME MACHINES 30
DIVISION 1. GENERALLY 30
Sec. 6-36. Definitions. 30
Sec. 6-37. Conduct of recreational facility. 30
DIVISION 2. LICENSE 30
Sec. 6-61. Required. 30
Sec. 6-62. Fee. 30
ARTICLE III. BINGO* 31
DIVISION 1. GENERALLY 31
Sec. 6-96. General regulations. 31
DIVISION 2. LICENSE 31
Sec. 6-116. Authorization to issue. 31
Sec. 6-117. Required. 31
Sec. 6-118. Application. 31
Sec. 6-119. License fee. 31
Sec. 6-120. Suspension or revocation. 31
Sec. 6-121. License fees. 31
Sec. 6-122. Not transferable. 31
Sec. 6-123. Revocation. 31
Sec. 6-124. Appeal. 31
ARTICLE IV. GAMBLING* 33
Sec. 6-156. Adoption of state statute; local control. 33
Sec. 6-157. Notice; approval and disapproval. 33
Sec. 6-158. Allowed organizations. 33
Sec. 6-159. Authorized forms of gambling. 33
Sec. 6-160. Authorized locations of gambling. 33
Sec. 6-161. Conditions of gambling. 34
Sec. 6-162. Filing of records; inspection; access to records. 34
Sec. 6-163. Lawful gambling at on-sale establishments. 34
Sec. 6-164. Use of profits from lawful gambling. 35
Sec. 6-165. Penalty. 35

Chapter 7 RESERVED **36**

Chapter 8 ANIMALS* **37**
ARTICLE I. IN GENERAL 38
Sec. 8 – 1. Definitions. 38

Sec. 8 – 2. Running at large prohibited. 40
Sec. 8 – 3. Seizure of an animal running at large. 40
Sec. 8 – 4. Muzzling proclamation. 40
Sec. 8 – 5. Specific Prohibitions. 41
Sec. 8 – 6. Premises entry right. 41
Sec. 8 – 7. Number of animals permitted. 41
ARTICLE II. POUND 43
Sec. 8 – 41. Authorized. 43
Sec. 8 – 42. Impoundment of animals. 43
Sec. 8 – 43. Redemption. 43
Sec. 8 – 44. Selling of impounded animals. 43
Sec. 8 – 45. Disposition of proceeds of sale. 43
Sec. 8 – 46. Breaking pound. 43
ARTICLE III. URBAN FOWL 44
Sec. 8 – 71. Authorized. 44
Sec. 8 – 72. Facilities. 44

Chapter 9 RESERVED 45

Chapter 10 BUILDINGS AND BUILDING REGULATIONS* 46
ARTICLE I. IN GENERAL 47
ARTICLE II. BUILDING CODE 48
DIVISION 1. MINNESOTA STATE BUILDING CODE ADOPTED 48
Sec. 10 – 31. Codes Adopted by Reference. 48
Sec. 10 – 32. Application, Administration and Enforcement. 48
Sec. 10 – 33. Permits and Fees. 48
Sec. 10 – 34. Violations Penalties. 48
Sec. 10 – 35. Building Code Optional Chapters. 48
Sec. 10 – 36. Effective Date. 48
Sec. 10 – 37. Severability. 49
DIVISION 2. GAS INSTALLERS LICENSE 49
Sec. 10 – 51. Prohibited Acts. 49
Sec. 10 – 52. Application. 49
Sec. 10 – 53. Insurance. 49
Sec. 10 – 54. Duration of License. 49
Sec. 10 – 55. Suspension or Revocation. 49
Sec. 10 – 56. Effective Date. 49
Sec. 10 – 57. Severability. 49
ARTICLE III HIGH RISK USES - BUILDING REGULATIONS 51
Sec. 10 – 71. Purpose. 51
Sec. 10 – 72. Findings of the City Council. 51
Sec. 10 – 73. Definitions. 51
Sec. 10 – 74. Public health regulations. 52
Sec. 10 – 75. Exceptions. 52
Sec. 10 – 76. Health enforcement powers. 52
Sec. 10 – 77. Criminal penalties. 53
Sec. 10 – 78. Severability. 53
Sec. 10 – 79. Effective date. 53

Chapter 11 RESERVED 54

Chapter 12 BUSINESSES* 55
ARTICLE I. IN GENERAL 58
ARTICLE II. SAUNAS AND MASSAGE 59
DIVISION 1. GENERALLY 59
Sec. 12-31. Policy. 59
Sec. 12-32. Definitions. 59
DIVISION 2. LICENSE AND CERTIFICATE 59
Sec. 12-56. Required. 59
Sec. 12-57. Application. 60
Sec. 12-58. Certificate required. 60
Sec. 12-59. Certificate application. 60
Sec. 12-60. License investigation fee, license fee and license year. 60
Sec. 12-61. Certificate fee, certificate investigation fee and certificate year. 61
Sec. 12-62. Granting or denial of licenses and certificates. 61
Sec. 12-63. Conditions governing issuance of license. 61

Sec. 12-64. Conditions governing issuance of certificate. 61
Sec. 12-65. Restrictions and regulations. 62
Sec. 12-66. Construction and maintenance requirements. 62
Sec. 12-67. Health and disease control. 63
Sec. 12-68. Revocation, suspension or nonrenewal of license. 63
Sec. 12-69. Appeal. 63
Sec. 12-70. Prohibited acts. 63
Sec. 12-71. Liability for crimes of another. 63
ARTICLE III. CIGARETTES/TOBACCO PRODUCTS 65
DIVISION 1. GENERALLY 65
Sec. 12-101. Purpose of article. 65
Sec. 12-102. Definitions and interpretations. 65
Sec. 12-103. Prohibited sales and transactions. 65
Sec. 12-104. Vending machines. 66
Sec. 12-105. Tobacco display and storage. 66
Sec. 12-106. Licensee responsibility for actions of employees. 66
Sec. 12-107. Compliance checks and inspections. 66
Sec. 12-108. Illegal acts. 66
Sec. 12-109. Administrative fines. 67
Sec. 12-110. Administrative revocation hearing. 67
Sec. 12-111. Penalty for violation of article. 68
Sec. 12-112. Exceptions and defenses to violations of this article. 68
DIVISION 2. LICENSE 68
Sec. 12-141. Required. 68
Sec. 12-142. Application. 68
Sec. 12-143. Approval or denial. 68
Sec. 12-144. Term. 68
Sec. 12-145. Revocation or suspension. 68
Sec. 12-146. Moveable place of business. 68
Sec. 12-147. Display. 68
Sec. 12-148. Renewals. 68
Sec. 12-149. Restrictions. 68
Sec. 12-150. Fees. 69
Sec. 12-151. Basis for denial. 69
ARTICLE IV. CONDUCTING SALES OF MERCHANDISE OR FOOD PRODUCTS OR ENGAGING IN SIMILAR TRANSIENT COMMERCE FROM A MOVEABLE PLACE OF BUSINESS 70
Sec. 12 – 200. Purpose. 70
Sec. 12 – 201. Definitions. 70
Sec. 12 – 202. Required. 70
Sec. 12 – 203. Application. 70
Sec. 12 – 204 Approval or Denial. 70
Sec. 12 – 205. Term. 70
Sec 12 – 207 License fee and license investigation fee. 71
ARTICLE V SEXUALLY ORIENTED BUSINESSES 72
Sec. 12 – 251. Purpose. 72
Sec. 12 – 252. Findings of the city council. 72
Sec. 12 – 253. Conclusions of the city council. 72
Sec. 12 – 254. Definitions. 72
Sec. 12 – 255. License required. 74
Sec. 12 – 256. License application. 74
Sec. 12 – 257. License application execution. 75
Sec. 12 – 258. License application verification. 75
Sec. 12 – 259. License application consideration. 75
Sec. 12 – 260. License fees. 75
Sec. 12 – 261. Issuance of a license. 75
Sec. 12 – 262. License restrictions. 76
Sec. 12 – 263. Restrictions regarding license transfer. 76
Sec. 12 – 264. Restrictions regarding hours of operation. 77
Sec. 12 – 265. Restrictions regarding minors. 77
Sec. 12 – 266. Restrictions regarding sanitation and health. 77
Sec. 12 – 267. Renewal application. 78
Sec. 12 – 268. Sanctions for license violations. 78
Sec. 12 – 269. Penalty. 79
Sec. 12 – 270. Severability. 79

Sec. 12 – 271. Effective date. 79
ARTICLE VI. PAWN SHOPS, SECONDHAND GOODS DEALERS, AND JUNK DEALERS 80
Sec. 12 – 301. Statement of policy. 80
Sec. 12 – 302. Definitions. 80
Sec. 12 – 303. License Required. 80
Sec. 12 – 304. Application, Investigation and Eligibility. 80
Sec. 12 – 305. License and Investigation Fee. 81
Sec. 12 – 306. Bond. 81
Sec. 12 – 307. Pawnbroker, Secondhand Dealer, and Junk Dealer's Records. 81
Sec. 12 – 308. Register Open to Inspection. 82
Sec. 12 – 309. Buying Prohibited from Certain Persons. 82
Sec. 12 – 310. Holding of Property. 82
Sec. 12 – 311. Pawnshop, Secondhand Dealer, or Junk Dealer Location. 82
Sec. 12 – 312. Hours of Operation. 82
Sec. 12 – 313. Suspension or Revocation of License. 82
Sec. 12 – 314. Penalty. 83
Sec. 12 – 315. Other Laws. 83
Sec. 12 – 316. Separability. 83
Sec. 12 – 317. Effective Date. 83

Chapter 13 RESERVED 84

Chapter 14 ELECTIONS* 85
Sec. 14-1. Election date. 85
Sec. 14-2. Registration. 85
Sec. 14-3. Law adopted by reference. 85
Article II. Special Elections 86
Sec. 14-5 Purpose. 86
Sec. 14-51 Circumstances. 86
Sec. 14-52 Public Notice for Filing. 86
Sec. 14-53 Filing Period. 86
Sec. 14-54 Special Election Date. 86
Sec. 14-55 Poll hours. 86

Chapter 15 RESERVED 87

Chapter 16 ENVIRONMENT* 88
ARTICLE I. IN GENERAL 90
ARTICLE II. NUISANCES 91
DIVISION 1. GENERALLY 91
Sec. 16 – 31. Definitions. 91
Sec. 16 – 32. Illustrative enumeration. 91
Sec. 16 – 33. Property kept clean. 92
Sec. 16 – 34. Human waste. 92
Sec. 16 – 35. Stagnant water. 92
Sec. 16 – 36. Debris from construction. 92
Sec. 16 – 37. Posting advertising; etc. 92
DIVISION 2. WEEDS, HEDGES, TALL GRASS AND OTHER VEGETATION 93
Sec. 16 – 50. Definitions. 93
Sec. 16 – 51. Lawn Maintenance. 93
Sec. 16 – 52. Prohibited 93
Sec. 16 – 53. Trimming plants at intersections. 93
Sec. 16 – 54. Destruction of trees or bushes. 94
Sec. 16 – 55. Trimming plants extending over streets. 94
Sec. 16 – 56. Removal of unsafe trees by owner. 94
DIVISION 3. LITTERING 95
Sec. 16 – 70. Definitions. 95
Sec. 16 – 71. Litter in public places. 95
Sec. 16 – 72. Polluting waters. 95
Sec. 16 – 73. Scattering litter. 95
Sec. 16 – 74. Placement of litter in receptacles so as to prevent scattering. 95
Sec. 16 – 75. Sweeping litter into gutters prohibited. 95
Sec. 16 – 76. Merchants' duty to keep sidewalks free of litter. 95
Sec. 16 – 77. Litter thrown by persons in vehicles. 96
Sec. 16 – 78. Truck loads causing litter. 96
Sec. 16 – 79. Litter in parks, lakes, and fountains. 96

Sec. 16 – 80. Litter on occupied and vacant private property; property owner, tenant, or occupant duty. 96
DIVISION 4. NOISE 97
Sec. 16 – 90. Unreasonable loud noise prohibited. 97
Sec. 16 – 91. Noises expressly prohibited. 97
Sec. 16 – 92. Quiet zone. 98
DIVISION 5. JUNKED AND ABANDONED VEHICLES 99
Sec. 16 – 100. Definitions. 99
Sec. 16 – 101. Prohibited storage. 99
Sec. 16 – 102. Permitted storage. 99
Sec. 16 – 103. Investigation of premises. 99
DIVISION 6. SEXUAL OFFENDERS AND SEXUAL PREDATORS 100
Sec. 16 – 110. Findings and intent. 100
Sec. 16 – 111. Definitions. 100
Sec. 16 – 112. Sexual offender and Sexual Predator Residence Prohibition; Penalties; Exceptions. 100
Sec. 16 – 113. Property Owners Prohibited from Renting Real Property to Certain Sexual Offenders and Sexual Predators; Penalties. 101

Sexual Offender Residence Prohibition Map. 102
DIVISION 7 ENFORCEMENT 103
Sec. 16 – 120. Duties of City Officers. 103
Sec. 16 – 121. Abatement Procedure. 103
Sec. 16 – 122. Recovery of Cost. 103
Sec. 16 – 123. Penalty. 104
Sec. 16 – 124. Severability. 104

Chapter 17 RESERVED 105

Chapter 18 FIRE PREVENTION AND PROTECTION* 106
ARTICLE I. IN GENERAL 108
ARTICLE II. FIRE CODE 109
Sec. 18-31. Adopted. 109
Sec. 18-32. Enforcement. 109
Sec. 18-33. Definitions. 109
Sec. 18-34. Establishment of limits of districts in which storage of flammable or combustible liquids in outside aboveground tanks is prohibited. 109
Sec. 18-35. Liquefied petroleum gases storage. 109
Sec. 18-36. Storage of explosives and blasting agents prohibited. 109
Sec. 18-37. Appeals. 109
Sec. 18-38. New materials, processes or occupancies which may require permits. 109
Sec. 18-39. Penalties. 110
ARTICLE III. FIREWORKS* 111
Sec. 18-71. License. 111
ARTICLE IV. OPEN BURNING* 112
Sec. 18 – 106. Purpose. 112
Sec. 18 – 107. Definitions. 112
Sec. 18 – 108. Prohibited Burning. 112
Sec. 18 – 109. Recreational Fire Requirements. 113
Sec. 18 – 110. Open Burning Prohibited. 113
Sec. 18 – 111. Exemptions from Open Burning Prohibition. 113
Sec. 18 – 112. Permit process, application, and fees. 114
Sec. 18 – 113. Permit holder responsibility. 114
Sec. 18 – 114. Revocation of permit. 114
Sec. 18 – 115. Burning ban or air quality alert. 114
Sec. 18 – 116. Penalties 114
ARTICLE V. FIRE DEPARTMENT* 115
Sec. 18-146. Established. 115
Sec. 18-147. Appointments. 115
Sec. 18-148. Duties of the fire inspector. 115
Sec. 18-149. Duties of the fire chief. 115
Sec. 18-150. Records. 115
Sec. 18-151. Practice drills. 115
Sec. 18-152. Assistant fire chief. 115
Sec. 18-153. Firefighters. 116
Sec. 18-154. Loss of membership. 116
Sec. 18-155. Compensation. 116
Sec. 18-156. Relief association. 116

Sec. 18-157. Interference with department. 116

Chapter 19 RESERVED 117

Chapter 20 LAW ENFORCEMENT* 118

Sec. 20 – 50. Purpose. 118
ARTICLE I. IN GENERAL 119
ARTICLE II. POLICE DEPARTMENT* 120
Sec. 20-31. Established. 120
Sec. 20-32. Duties. 120
ARTICLE III. APPLICANT CRIMINAL HISTORY BACKGROUND CHECKS. 121
DIVISION 1. APPLICANTS FOR CITY EMPLOYMENT. 121
Sec. 20 – 50. Purpose. 121
Sec. 20 – 51. Criminal history employment background investigations. 121
Sec. 20 – 52. Employment positions. 121
DIVISION 2. APPLICANTS FOR CITY LICENSES. 121
Sec. 20 – 53. .Purpose. 121
Sec. 20 – 54. Criminal history license background investigations. 121
Sec. 20 – 55. City licenses. 121
Sec. 20 – 56. Date of Effect. 122
ARTICLE IV. SOCIAL HOST ORDINANCE. 123
DIVISION 1. SOCIAL HOST ORDINANCE. 123
Sec. 20 – 60. Purpose and Findings 123
Sec. 20 – 61. Authority. 123
Sec. 20 – 62. Definitions. 123
Sec. 20 – 63. Prohibited Acts. 123
Sec. 20 – 64. Exceptions, Defenses. 124
Sec. 20 – 65. Enforcement. 124
Sec. 20 – 66. Severability 124
Sec. 20 – 67. Penalty 124
Sec. 20 – 68. Publication. 124
Sec. 20 – 69. Effective Date. 124

Chapter 21 RESERVED 125

Chapter 22 OFFENSES AND MISCELLANEOUS PROVISIONS* 126
ARTICLE I. IN GENERAL 127
Sec. 22-1. Loitering. 127
Sec. 22 – 2. Shooting and Carrying of Firearms and Weapons Regulated: 128
Sec. 22 – 3. Definitions: 128
Sec. 22 – 4. Permitted Use of Firearms: 128
Sec. 22 – 5. Prohibitions: 129
Sec. 22 – 6. Dangerous Weapons: 129
Sec. 22 – 7. Penalty: 129
ARTICLE II. CURFEW 130
Sec. 22-36. Established. 130
Sec. 22-37. Defenses. 130
Sec. 22-38. Adult's liability. 130
Sec. 22-39. School nights. 130
Sec. 22-40. Penalty. 130
ARTICLE III PUBLIC INDECENCY. 131
Sec. 22 – 50. Purpose. 131
Sec. 22 – 51. Findings. 131
Sec. 22 – 52. Definitions. 131
Sec. 22 – 53. Public indecency prohibited. 131
Sec. 22 – 54. Severability. 131
Sec. 22 – 55. Effective Date. 131

Chapter 23 RESERVED 132

Chapter 24 PEDDLERS AND SOLICITORS* 133
Sec. 24-1. License required. 133
Sec. 24-2. Application for license. 133
Sec. 24-3. License issuance fee. 133
Sec. 24-4. Consumer fraud. 133

Chapter 25 RESERVED 134

Chapter 26 SOLID WASTE MANAGEMENT* **135**
ARTICLE I. IN GENERAL 136
Sec. 26-1. Flytight containers. 136
Sec. 26-2. Accumulation. 136
Sec. 26-3. Dumping. 136
Sec. 26-4. Can placement. 136
ARTICLE II. COLLECTION* 137
DIVISION 1. GENERALLY 137
Sec. 26-36. Definitions. 137
Sec. 26-37. Insurance. 137
Sec. 26-38. Trucks and motor vehicles. 137
Sec. 26-39. Disposition of garbage. 137
Sec. 26-40. Regulations compliance. 137
Sec. 26-41. Inspection of vehicles. 137
Sec. 26-42. Bond. 137
DIVISION 2. LICENSE* 137
Sec. 26-66. Required. 138
Sec. 26-67. License. 138
Sec. 26-68. Revocation. 138

Chapter 27 RESERVED **139**

Chapter 28 SPECIAL ASSESSMENTS* **140**
Sec. 28-1. Legislative intent. 140
Sec. 28-2. General assessment policies. 140
Sec. 28-3. Classification of projects. 141
Sec. 28-4. Financing improvements. 141
Sec. 28-5. Distribution of assessments. 141
Sec. 28-6. Assessment procedures. 142
Sec. 28-7. Federal, state and county aid use; application. 142
Sec. 28-8. Water and sewer stubs; installation. 142
Sec. 28-9. Assessment policy manual. 142

Chapter 29 RESERVED **143**

Chapter 30 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES* **144**
ARTICLE I. IN GENERAL 146
Sec. 30-1. Refuse. 146
Sec. 30-2. Council regulations. 146
ARTICLE II. SIDEWALK REPAIR 147
Sec. 30-36. Duty of owner of abutting premises. 147
Sec. 30-37. Notice of disrepair. 147
Sec. 30-38. Failure to repair. 147
Sec. 30-39. Cost of repairs. 147
ARTICLE III. EXCAVATIONS AND STREET OPENINGS 148
Sec. 30-71. Licenses. 148
Sec. 30-72. License conditions. 148
Sec. 30-73. Penalties. 148
ARTICLE IV. STREET NAMING AND NUMBERING* 149
Sec. 30-106. Uniform naming and numbering system. 149
Sec. 30-107. Assignment of names and numbers. 149
Sec. 30-108. Administration. 149
ARTICLE V. RIGHT-OF-WAY MANAGEMENT 150
Sec. 30-109. Findings, Purpose, and Intent 150
Sec. 30-110. Election to Manage the Public Rights-of-Way 150
Sec. 30-111. Definitions 150
Sec. 30-112. Administration 152
Sec. 30-113. Registration and Right-of-Way Occupancy 152
Sec. 30-114. Registration Information 152
Sec. 30-115. Reporting Obligations 153
Sec. 30-116. Permit Requirement 153
Sec. 30-117. Permit Applications 154
Sec. 30-118. Issuance of Permit; Conditions 154
Sec. 30-119. Permit Fees 154
Sec. 30-120. Right-of-Way Patching and Restoration 154
Sec. 30-121. Joint Applications 155

Sec. 30-122. Supplementary Applications 155
Sec. 30-123. Other Obligations 155
Sec. 30-124. Denial of Permit....156
Sec. 30-125. Installation Requirements 156
Sec. 30-126. Inspection....156
Sec. 30-127. Work Done Without a Permit 156
Sec. 30-128. Supplementary Notification....156
Sec. 30-129. Revocation of Permits 156
Sec. 30-130. Mapping Data....157
Sec. 30-131. Location and Relocation of Facilities 157
Sec. 30-132. Pre-excavation Facilities Location 158
Sec. 30-133. Damage to Other Facilities 158
Sec. 30-134. Right-of-Way Vacation....158
Sec. 30-135. Indemnification and Liability....158
Sec. 30-136. Abandoned and Unusable Facilities 158
Sec. 30-137. Appeal....158
Sec. 30-138. Severability 158
Sec. 30-139. Waiver....158
Sec. 30-140. Franchise Required 159

Chapter 31 RESERVED....160

Chapter 32 SUBDIVISIONS*....161
ARTICLE I. GENERAL PROVISIONS 164
Sec. 32 - 1. Reference. 164
Sec. 32 - 2. Application. 164
Sec. 32 - 3. Purpose....164
Sec. 32 - 4. Interpretation. 164
Sec. 32 - 5. Conflict. 164
Sec. 32 - 6. Registered Land Surveys. 164
Sec. 32 - 7. Conveyance by Metes and Bounds. 164
Sec. 32 - 8. Exceptions for Single Lot Division....165
Sec. 32 - 9. Lot Splits. 165
Sec. 32 - 10. Amendments. 165
Sec. 32 - 11. Government Filings. 165
Sec. 32 - 12. Separability. 165
Sec. 32 - 13. Rules....165
Sec. 32 - 14. Building Permits. 165
Sec. 32 - 15. Enforcement and Penalty. 165
ARTICLE II. DEFINITION OF TERMS....166
Sec. 32 - 20. Definitions. 166
ARTICLE III. PLATTING PROCEDURE 169
DIVISION 1. THE SKETCH PLAN 169
Sec. 32 - 30. Sketch Plan. 169
DIVISION 2. THE PRELIMINARY PLAT 170
Sec. 32 - 40. Preparing and Submitting the Preliminary Plat....170
Sec. 32 - 41. Preliminary Plat Review Committee....170
Sec. 32 - 42. Preliminary Plat Review Process. 171
Sec. 32 - 43. Identification and Description....172
Sec. 32 - 44. Existing Conditions. 173
Sec. 32 - 45. Design Features. 173
Sec. 32 - 46. Other information....174
Sec. 32 - 47. Preparation of Environmental Assessments. 174
DIVISION 3. THE FINAL PLAT 175
Sec. 32 - 50. Preparing and Submitting the Final Plat....175
Sec. 32 - 51. Review of the Final Plat. 176
ARTICLE IV. PARK, TRAIL AND OPEN SPACE DEDICATION 177
Sec. 32 - 60. Public Sites and Open Spaces. 177
Sec. 32 - 61. Park, Trail, and Open Space Dedication. 177
Sec. 32 - 62. Parkland Dedication. 177
Sec. 32 - 63. Residential Platted Subdivisions....177
Sec. 32 - 64. Application to Planned Unit Developments (PUD's). 178
Sec. 32 - 65. Application to Resubdivision. 178
Sec. 32 - 66. Commercial/Industrial Parkland Dedication. 178
Sec. 32 - 67. Required Improvements and Park Dedication Credit. 179

Sec. 32 - 68. Standards for Accepting Dedication of Land for Public Park Purposes. 179
Sec. 32 - 69. Agreement as to Dedication. 179
Sec. 32 - 70. Joint Park Planning Board. 179
ARTICLE V. MINIMUM STANDARDS....181
Sec. 32 - 80. Application. 181
Sec. 32 - 81. Land Requirements. 181
Sec. 32 - 82. Soil Erosion and Drainage Plans. 181
Sec. 32 - 83. Street Plan. 181
Sec. 32 - 84. Cul-De-Sac Streets. 182
Sec. 32 - 85. Street Design. 182
Sec. 32 - 86. Restriction of Access. 183
Sec. 32 - 87. Intersection Spacing. 183
Sec. 32 - 88. Deflections. 183
Sec. 32 - 89. Grades. 183
Sec. 32 - 90. Vertical and Horizontal Curves. 183
Sec. 32 - 91. Intersections. 184
Sec. 32 - 92. Curb and Gutter on Urban Design Streets. 184
Sec. 32 - 93. Utilities. 184
Sec. 32 - 94. Drainage. 184
Sec. 32 - 95. Easements. 184
Sec. 32 - 96. Street Names. 184
Sec. 32 - 97. Block Requirements. 185
Sec. 32 - 98. Lot Requirements. 185
ARTICLE VI. IMPROVEMENTS....186
Sec. 32 – 110. Required Improvements. 186
Sec. 32 – 111. Sewer and Water in Areas with Municipal Sewer/Water Availability. 186
Sec. 32 – 112. Sewer and Water in Rural and Urban Areas where Municipal Systems are not Currently Available. 186
Sec. 32 – 113. Street Signs. 187
Sec. 32 – 114. Miscellaneous Facilities. 187
Sec. 32 – 115. Payment for Installation of Improvements. 187
Sec. 32 – 116. Agreement Providing for the Installation of Improvements. 187
Sec. 32 – 117. Release of Financial Securities. 187
Sec. 32 – 118. Insurance....187
Sec. 32 – 119. Construction Plans and Inspection. 187
Sec. 32 – 120. Improvements Completed Prior to Approval of the Plat. 187
Sec. 32 – 121. Alternate Installation and Incomplete Improvements. 188
Sec. 32 – 122. Acceptance of Improvements. 188
ARTICLE VII. OTHER TYPES OF DEVELOPMENTS....189
Sec. 32 - 130. Planned Unit Developments and Cluster Developments. 189
Sec. 32 – 131. Condominium Plats. 189
ARTICLE VIII. REPEAL AND DATE OF EFFECT 190
Sec. 32 - 140. Repeal of Previous Subdivision Ordinance. 190
Sec. 32 – 141. Date of Effect. 190

Chapter 33 RESERVED....191

Chapter 34 TRAFFIC*....192
ARTICLE I. IN GENERAL 194
Sec. 34-1. State act adopted by reference....194
ARTICLE II. OPERATION....195
Sec. 34-31. Unnecessary acceleration. 195
ARTICLE III. PARKING* 196
DIVISION 1. GENERALLY 196
Sec. 34-61. Definitions. 196
Sec. 34-62. Parking during snow removal. 196
Sec. 34-63. Owner responsible. 196
Sec. 34-64. Moving of vehicle required. 196
Sec. 34-65. Impounding vehicles. 196
Sec. 34-66. Trucks. 196
Sec. 34-67. Parking and Storage Prohibition. 197
Sec. 34-68. Penalties. 198
DIVISION 2. SNOW REMOVAL 198
Sec. 34-102. Prohibition. 198
ARTICLE IV. SNOWMOBILES AND OFF-ROAD VEHICLES RULES AND REGULATIONS....199
DIVISION 1. SNOWMOBILES....199

Sec. 34-136. Definitions. 199
Sec. 34-137. Uses specifically prohibited. 199
Sec. 34-138. Crossing a public road right-of-way. 200
Sec. 34-139. Traffic ordinances applicable. 200
Sec. 34-140. Yielding right-of-way. 200
Sec. 34-141. Operation; persons under 18. 200
Sec. 34-142. Equipment required. 200
Sec. 34-143. Ignition lock. 201
Sec. 34-144. Emergencies, operation permitted. 201
Sec. 34-145. Uses prohibited; animals. 201
Sec. 34-146. Established Riding Area. 201
Sec. 34-147. Exemptions 201
DIVISION 2. OFF ROAD VEHICLES 202
Sec. 34-160. Definitions. 202
Sec. 34-161. Uses specifically prohibited. 202
Sec. 34-162. Crossing a public road right-of-way. 203
Sec. 34-163. Traffic ordinances applicable. 203
Sec. 34-164. Yielding right-of-way. 203
Sec. 34-165. Youthful Operators. 203
Sec. 34-166. Equipment required. 203
Sec. 34-167. Ignition lock. 204
Sec. 34-168. Emergencies, operation permitted. 204
Sec. 34-169. Uses prohibited; animals. 204
Sec. 34-170. Established Riding Area. 204
Sec. 34-171. Exemptions 204
ARTICLE V. RECREATIONAL MOTOR SCOOTER, MOTORIZED PUSH SCOOTER AND MOTORIZED SKATEBOARD RULES AND REGULATIONS 205
Sec. 34-200. Purpose and intent. 205
Sec. 34-201. Unlawful Operation - 50 CC Motors or Less. 205

Chapter 35 RESERVED 206

Chapter 36 UTILITIES* 207
ARTICLE I. IN GENERAL 212
ARTICLE II. WATER* 213
Sec. 36-32. Permit applications and fees. 213
Sec. 36-33. Tapping charge. 213
Sec. 36-34. Meters. 213
Sec. 36-35. Charges reserved. 213
Sec. 36-36. Location. 213
Sec. 36-37. Ownership. 213
Sec. 36-38. Unlawful to tamper with meter. 213
Sec. 36-39. Implied consent to rules, regulations and rates. 213
Sec. 36-40. Meter reading, billing and penalties. 214
Sec. 36-41. Faulty meters. 214
Sec. 36-42. Leak in service line. 214
Sec. 36-43. Connection availability. 214
Sec. 36-44. Installation of meters. 214
Sec. 36-45. City not liable. 214
Sec. 36-46. Billing regulations. 214
Sec. 36-47. Turning on water. 214
Sec. 36-48. Property assessments. 214
Sec. 36-49. Water rates. 215
Sec. 36-50. Discontinuance of service for violations. 215
Sec. 36-51. Deficiency of water and shutting off water. 215
Sec. 36-52. Turning on water limited. 215
Sec. 36-53. Supply from one service. 215
Sec. 36-54. Tapping of mains prohibited. 215
Sec. 36-55. Repair of leaks. 215
Sec. 36-56. Abandoned services; penalties. 215
Sec. 36-57. Service pipes. 216
Sec. 36-58. Use of fire hydrants. 216
Sec. 36-59. Private water supplies. 216
Sec. 36-60. Restricted hours for sprinkling. 216
Sec. 36-61. Water fee required. 216

Sec. 36 - 62. Lawn Watering Regulations. 216
ARTICLE III. SEWER* 219
Sec. 36-91. Connection required. 219
Sec. 36-92. Use of certain buildings restricted. 219
Sec. 36-93. Existing wastewater disposal. 219
Sec. 36-94. Types of waste prohibited. 219
Sec. 36-95. Interceptors. 219
Sec. 36-96. Industrial wastes. 219
Sec. 36-97. Discharge of surface waters prohibited. 219
Sec. 36-98. Certain connections prohibited. 220
Sec. 36-99. Entry upon private property. 220
Sec. 36-100. Rates and charges. 220
Sec. 36-101. Payment of charges. 220
Sec. 36-102. Action to collect charges. 220
Sec. 36-103. Supervision of connections. 220
Sec. 36-104. Connection permits. 220
Sec. 36-105. Property assessments before connection. 220
Sec. 36-106. Sewer connections. 221
Sec. 36-107. Material and construction requirements to be observed. 221
Sec. 36-108. Materials. 221
Sec. 36-109. Grades. 221
Sec. 36-110. Alignment. 221
Sec. 36-111. Trenching and backfilling. 222
Sec. 36-112. Use of old house sewers. 222
Sec. 36-113. Connections at Y only. 222
Sec. 36-114. Tunneling. 222
Sec. 36-115. Independent system required. 222
Sec. 36-116. Exception to requirement of independent system. 222
Sec. 36-117. Repair of public right-of-way. 222
Sec. 36-118. Costs and expenses. 222
Sec. 36-119. Owner responsibility. 222
Sec. 36-120. Enforcement. 222
ARTICLE IV. SURFACE WATER MANAGEMENT UTILITY* 223
Sec. 36-151. General operation. 223
Sec. 36-152. Definitions. 223
Sec. 36-153. Establishment of fees. 223
Sec. 36-154. Adjustment of fees. 223
Sec. 36-155. Exemptions. 223
Sec. 36-156. Mailing statement of charges. 224
Sec. 36-157. Fee appeal. 224
Sec. 36-158. Penalties for delinquent payments of fees. 224
Sec. 36-159. Annual certification of delinquent accounts. 224
ARTICLE V SUBSURFACE SEWAGE TREATMENT SYSTEMS 225
DIVISION 1. TITLE 225
Sec. 36 – 181. Title. 225
DIVISION 2. PURPOSE 225
Sec. 36 – 191. Purpose. 225
DIVISION 3. AUTHORITY 225
Sec. 36 – 201. Authority 225
DIVISION 4. DEFINITIONS AND ACRONYMS. 226
Sec. 36 – 211. Definitions. 226
DIVISION 5. GENERAL PROVISIONS 228
Sec. 36 – 221. Scope. 228
Sec. 36 – 222. Management. 228
DIVISION 6. GENERAL REQUIREMENTS 229
Sec. 36 – 231. Effective Date. 229
Sec. 36 – 232. Minimum Soil Test Area Requirements. 229
Sec. 36 – 233. Upgrade, Repair, and Replacement Requirements. 229
Sec. 36 – 234. SSTS in Floodplains. 230
Sec. 36 – 235. Class V Injection Wells. 230
Sec. 36 – 236. SSTS Licensing. 230
Sec. 36 – 237. Prohibitions. 230
Sec. 36 – 238. Maintenance. 231
DIVISION 7. SSTS STANDARDS. 231

Sec. 36 – 251. Standards Adopted by Reference. 231
Sec. 36 – 252. Amendments to the Adopted Standards. 231
Sec. 36 – 253. Determination of Hydraulic Loading Rate and SSTS Sizing. 232
Sec. 36 – 254. Holding Tanks. 232
DIVISION 8. SSTS CONSTRUCTION PERMITS 232
Sec. 36 – 261. Permits Required. 232
Sec. 36 – 262. Activities Not Requiring a Permit. 232
Sec. 36 – 263. SSTS Permit Required to Obtain Building Permit. 232
Sec. 36 – 264. Permit Application Requirements. 232
Sec. 36 – 265. Application Review and Response. 233
Sec. 36 – 266. Appeal. 233
Sec. 36 – 267. Permit Expiration. 233
Sec. 36 – 268. Extensions and Renewals. 233
Sec. 36 – 269. Suspension or Revocation. 233
Sec. 36 – 270. Posting. 233
DIVISION 9. MANAGEMENT PLANS 233
Sec. 36 – 281. SSTS Requiring Management Plans. 233
Sec. 36 – 282. Required Contents of a Management Plan. 233
DIVISION 10. OPERATING PERMIT 234
Sec. 36 – 291. Operating Permit Required. 234
Sec. 36 – 292. SSTS Requiring an Operating Permit. 234
Sec. 36 – 293. Operating Permit Application Requirements. 234
Sec. 36 – 294. Operating Permit Expiration and Renewal. 234
Sec. 36 – 295. Transfers. 234
Sec. 36 – 296. Monitoring. 235
Sec. 36 – 297. Issuance of Certificate of Completion. 235
DIVISION 11. ABANDONMENT CERTIFICATION 236
Sec. 36 – 301. Abandonment Requirements. 236
DIVISION 12. COMPLIANCE INSPECTIONS 236
Sec. 36 – 311. Compliance Inspections. 236
Sec. 36 – 312. Circumstances Which Require a Compliance Inspection. 236
Sec. 36 – 313. Compliance Inspection Requirements. 236
Sec. 36 – 314. Compliance Criteria for Existing SSTS. 237
Sec. 36 – 315. Certificate of Compliance. 238
Sec. 36 – 316. Point of sale requirements: Existing Private Wells. 238
Sec. 36 – 317 Contaminated wells. 238
DIVISION 13. CONSTRUCTION INSPECTIONS 239
Sec. 36 – 321. New Construction or Replacement General Requirements. 239
Sec. 36 – 322. Trench, Pressure Bed, and Chamber Systems. 239
Sec. 36 – 323. Holding Tank. 240
Sec. 36 – 324. At-Grade and Mound Systems. 240
Sec. 36 – 325. Reusing Tank. 241
Sec. 36 – 326. Point of Sale Inspection Requirements for Transfer of Property. 241
DIVISION 14. LAND APPLICATION OF SEPTAGE 242
Sec. 36 – 331. Definitions. 242
Sec. 36 – 332. Scope and Jurisdiction. 242
Sec. 36 – 333. General Provisions. 242
Sec. 36 – 334. Permit. 243
Sec. 36 – 335. Requirements for Land Application Sites. 243
Sec. 36 – 336. Required Land Application Methods. 244
Sec. 36 – 337. Grease Trap Wastes. 246
Sec. 36 – 338. Record Keeping and Reporting. 246
DIVISION 15. ENFORCEMENT AND VIOLATIONS 247
Sec. 36 – 341. Access. 247
Sec. 36 – 342. Stop Work Orders. 247
Sec. 36 – 343. Violation. 247
Sec. 36 – 344. Civil and Other Action. 247
DIVISION 16. COSTS AND REIMBURSEMENTS 247
Sec. 36 – 351. Cost and reimbursements. 247
DIVISION 17. ADMINISTRATION 247
Sec. 36 – 361. Fees. 247
Sec. 36 – 362. Interpretation. 248
Sec. 36 – 363. Variances and Appeals. 248
Sec. 36 – 364. Severability. 248

Sec. 36 – 365. Abrogation and Greater Restrictions. 248
Sec. 36 – 366. Repealer. 248
Sec. 36 – 367. Date of Effect. 248

Chapter 37 RESERVED 249

Chapter 38 VEGETATION* 250
ARTICLE I. IN GENERAL 251
ARTICLE II. CONTROL OF INVASIVE SPECIES TREE PESTS 252
DIVISION 1. GENERALLY 252
Sec. 38-31. Definitions. 252
Sec. 38-32. Nuisances declared. 252
Sec. 38-33. Nuisance prohibited. 252
Sec. 38-34. Inspections; right to enter. 252
Sec. 38-35. Abatement on public property. 252
Sec. 38-36. Abatement on private property. 253
Sec. 38-37. Collection of assessment. 253
Sec. 38-38. Interference prohibited. 253
Sec. 38-39. Reporting discovery of invasive species tree pests. 253
Sec. 38-40. Registration of tree care firms. 253

Chapter 39 RESERVED 254

Chapter 40 ZONING* 255
ARTICLE I. TITLE 271
Sec. 40 – 1. Reference. 271
Sec. 40 – 2. Provisions. 271
ARTICLE II. INTENT AND PURPOSE 272
Sec. 40 – 10. Defined. 272
ARTICLE III. APPLICATION 273
Sec. 40 – 20. Relation to Comprehensive Plan. 273
Sec. 40 – 21. Standard Requirement. 273
Sec. 40 – 22. Minimum Requirements. 273
Sec. 40 – 23. Conformity with Provisions. 273
Sec. 40 – 24. Building Permits. 273
Sec. 40 – 25. Conditional Uses, Variances, and Amendments. 273
Sec. 40 – 26. Uses Not Provided for Within Zoning Districts. 273
Sec. 40 – 27. Separability. 273
Sec. 40 – 28. Rules. 273
ARTICLE IV. DEFINITION OF TERMS 274
Sec. 40 – 40. Definitions. 274
ARTICLE V. ADMINISTRATION AND ENFORCEMENT 285
DIVISION 1. ADMINISTRATION 285
Sec. 40 – 50. Administrative Officer. 285
Sec. 40 – 51. Duties of the Zoning Administrator. 285
Sec. 40 – 52. Zoning, Building and Construction Permits Required. 285
Sec. 40 – 53. Permits, Applications, Licenses and Administrative Services. 285
Sec. 40 – 54. Certificate of Occupancy. 286
Sec. 40 – 55. Administrative Costs. 286
DIVISION 2. PLANNING COMMISSION 287
Sec. 40 – 60. Membership and Terms. 287
Sec. 40 – 61. Function of the Planning Commission. 287
DIVISION 3. BOARD OF APPEALS 288
Sec. 40 – 70. Creation of Board of Appeals. 288
Sec. 40 – 71. Duties of Board of Appeals. 288
DIVISION 4. SITE PLAN REVIEW 289
Sec. 40 – 80. Site Plan Review. 289
Sec. 40 – 81. Approval required. 289
Sec. 40 – 82. Application. 289
Sec. 40 – 83. Environmental Reviews. 290
Sec. 40 – 84. Planning Commission Review. 290
Sec. 40 – 85. City Council review. 290
Sec. 40 – 86. General criteria and standards for site plan review. 290
Sec. 40 – 87. Security deposit required. 291
Sec. 40 – 88. Terms of approval. 291
Sec. 40 – 89. Amendments to an approved site plan. 291

Sec. 40 – 90. Review of minor amendments. 292
Sec. 40 – 91. Review of major amendments. 292
DIVISION 5. MIXED USE DEVELOPMENTS 293
Sec. 40 – 100. Master Development Plan Review. 293
Sec. 40 – 101. Application. 293
Sec. 40 – 102. Public Hearing and Planning Commission review. 293
Sec. 40 – 103. City Council review. 293
Sec. 40 – 104. General Criteria and standards for master development plan review. 293
Sec. 40 – 105. Environmental Review. 293
DIVISION 6. CONDITIONAL USE PERMITS 294
Sec. 40 – 110. Procedure. 294
Sec. 40 – 111. Application. 294
Sec. 40 – 112. Public Hearing and Disposition. 294
Sec. 40 – 113. Lapse of Conditional Use Permit by Non-Use. 296
Sec. 40 – 114. Amended Conditional Use Permit. 296
Sec. 40 – 115. Revocation of a Conditional Use Permit. 296
Sec. 40 – 116. Performance Bond. 296
DIVISION 7. VARIANCES 298
Sec. 40 – 120. Procedure. 298
Sec. 40 – 121. Lapse of Variance. 299
Sec. 40 – 122. Performance Bond. 300
DIVISION 8. APPEALS 301
Sec. 40 – 130. Appeals, Procedure. 301
Sec. 40 – 131. Lapse of Appeal. 301
DIVISION 9. ZONING AMENDMENTS 302
Sec. 40 – 140. Initiation of Amendments. 302
Sec. 40 – 141. Procedure. 302
DIVISION 10. ENFORCEMENT 304
Sec. 40 – 150. Penalties and Violations. 304
ARTICLE V. ZONING DISTRICT PROVISIONS 305
DIVISION 1. ZONING DISTRICT PROVISIONS - GENERALLY 305
Sec. 40 – 160. Establishment of Districts. 305
Sec. 40 – 161. Map. 305
Sec. 40 – 162. Alterations of City Boundaries. 305
Sec. 40 – 163. Zoning District Boundaries. 305
Sec. 40 – 164. District Regulations. 306
DIVISION 2. AGRICULTURE DISTRICT (A) 307
Sec. 40 – 170. Purpose. 307
Sec. 40 – 171. Permitted Uses. 307
Sec. 40 – 172. Conditional Uses. 307
Sec. 40 – 173. Interim Conditional Uses. 308
Sec. 40 – 174. Accessory Uses. 308
Sec. 40 – 175. Height, Yard Area and Lot Width and Depth Regulations. 309
Sec. 40 – 176. Architectural Standards. 310
Sec. 40 – 177. Landscape Standards. 310
DIVISION 3. RURAL RESIDENTIAL I DISTRICT (R-1) 311
Sec. 40 – 180. Purpose. 311
Sec. 40 – 181. Permitted Uses. 311
Sec. 40 – 182. Conditional Uses. 311
Sec. 40 – 183. Interim Conditional Uses. 311
Sec. 40 – 184. Accessory Uses. 311
Sec. 40 – 185. Heights, Yard, Area and Lot Width and Depth Regulation. 312
Sec. 40 – 186. Architectural Standards. 312
Sec. 40 – 187. Landscape Standards. 313
DIVISION 4. RURAL RESIDENTIAL II DISTRICT (R-2) 314
Sec. 40 – 190. Purpose. 314
Sec. 40 – 191. Permitted Uses. 314
Sec. 40 – 192. Conditional Uses. 314
Sec. 40 – 193. Interim Conditional Uses. 314
Sec. 40 – 194. Accessory Uses. 314
Sec. 40 – 195. Heights, Yard, Area and Lot Width and Depth Regulation. 315
Sec. 40 – 196. Architectural Standards. 316
Sec. 40 – 197. Landscape Standards. 316
DIVISION 5. SINGLE-FAMILY RESIDENTIAL DISTRICT (R-3) 317

Sec. 40 – 200. Purpose. 317
Sec. 40 – 201. Permitted uses. 317
Sec. 40 – 202. Conditional uses. 317
Sec. 40 – 203. Interim conditional uses 317
Sec. 40 – 204. Accessory uses. 317
Sec. 40 – 205. Heights, Yard, Area and Lot Width and Depth Regulation. 317
Sec. 40 – 206. Architectural Standards. 319
Sec. 40 – 207. Landscape Standards. 319
DIVISION 6 ONE- AND TWO-FAMILY RESIDENTIAL DISTRICT (R-4) 320
Sec. 40 – 210. Purpose. 320
Sec. 40 – 211. Permitted uses. 320
Sec. 40 – 212. Conditional uses. 320
Sec. 40 – 213. Interim Conditional Uses. 320
Sec. 40 – 214. Accessory uses. 320
Sec. 40 – 215. Heights, Yard, Area and Lot Width and Depth Regulation. 320
Sec. 40 – 216. Architectural Standards. 322
Sec. 40 – 217. Landscape Standards. 322
DIVISION 7. MANUFACTURED HOME DISTRICT (R-5) 323
Sec. 40 – 220. Purpose. 323
Sec. 40 – 221. Conditional Use Permit Required. 323
Sec. 40 – 222. Applications. 323
Sec. 40 – 223. General Provisions. 324
Sec. 40 – 224. Design Standards. 325
Sec. 40 – 225. Operating Conditions. 326
DIVISION 8. MEDIUM- AND HIGH-DENSITY HOUSING DISTRICT (R-6) 328
Sec. 40 – 230. Purpose. 328
Sec. 40 – 231. Permitted uses. 328
Sec. 40 – 232. Conditional uses. 328
Sec. 40 – 233. Accessory uses. 328
Sec. 40 – 234. Heights, Yard, Area and Lot Width and Depth Regulation. 328
Sec. 40 – 235. Architectural Standards. 330
Sec. 40 – 236. Landscape Standards. 330
DIVISION 9. CENTRAL BUSINESS DISTRICT (CBD) 331
Sec. 40 – 240. Purpose. 331
Sec. 40 – 241. Special requirements; enclosure of uses. 331
Sec. 40 – 242. Permitted uses. 331
Sec. 40 – 243. Conditional uses. 331
Sec. 40 – 244. Accessory uses. 331
Sec. 40 – 245. Heights, Yard, Area and Lot Width and Depth Regulation. 332
Sec. 40 – 246. Architectural Standards. 332
Sec. 40 – 247. Landscape Standards. 332
DIVISION 10. COMMERCIAL DISTRICT (C) 333
Sec. 40 – 250. Purpose. 333
Sec. 40 – 251. Permitted uses. 333
Sec. 40 – 252. Conditional uses. 333
Sec. 40 – 253. Accessory uses. 333
Sec. 40 – 254. Dimensional Requirements for Uses with Public Sewer Service 334
Sec. 40 – 255. Dimensional Requirements for Uses without Public Sewer Service. 335
Sec. 40 – 256. Architectural Standards. 336
Sec. 40 – 257. Landscape Standards. 336
DIVISION 11. OFFICE AND HEALTH CARE DISTRICT (OHC) 337
Sec. 40 – 260. Purpose. 337
Sec. 40 – 261. Services Agreement. 337
Sec. 40 – 262. Permitted uses. 337
Sec. 40 – 263. Conditional uses. 337
Sec. 40 – 264. Accessory uses. 338
Sec. 40 – 265. Heights, Yard, Area and Lot Width and Depth Regulation. 338
Sec. 40 – 266. Architectural Standards. 339
Sec. 40 – 267. Landscape Standards. 339
DIVISION 12. MIXED USE DISTRICT (MXD) 340
Sec. 40 – 270. Purpose. 340
Sec. 40 – 271. Permitted uses. 340
Sec. 40 – 272. Conditional uses. 340
Sec. 40 – 273. Interim conditional uses. 340

Sec. 40 – 274. Accessory uses. 340
Sec. 40 – 275. Design and review process. 341
Sec. 40 – 276. Design requirements. 341
Sec. 40 – 277. Dimensional requirements. 342
DIVISION 13. INDUSTRIAL DISTRICT (I) 343
Sec. 40 – 280. Purpose. 343
Sec. 40 – 281. Permitted uses. 343
Sec. 40 – 282. Conditional uses. 343
Sec. 40 – 283. Interim conditional uses. 343
Sec. 40 – 284. Accessory Uses. 343
Sec. 40 – 285. Dimensional Requirements for Uses with Public Sewer Service 344
Sec. 40 – 286. Dimensional Requirements for Uses without Public Sewer Service. 345
Sec. 40 – 287. Architectural Standards. 346
Sec. 40 – 288. Landscape Standards. 346
DIVISION 14. HIGHWAY 8 CORRIDOR OVERLAY DISTRICT (H0) 347
Sec. 40 – 290. Purpose. 347
Sec. 40 – 291. District Application. 347
Sec. 40 – 292. Access Management. 347
Sec. 40 – 293. Permitted Uses. 347
Sec. 40 – 294. Lot Size. 347
Sec. 40 – 295. Lot Width. 347
Sec. 40 – 296. Structure Setbacks. 347
DIVISION 15. CARLOS AVERY WILDLIFE DISTRICT 348
Sec. 40 – 300. Purpose. 348
Sec. 40 – 301. District Application. 348
Sec. 40 – 302. Permitted Uses. 348
Sec. 40 – 303. Lot Size. 348
Sec. 40 – 304. Lot Width. 348
Sec. 40 – 305. Setbacks from Carlos Avery Wildlife Management Area Boundary. 348
DIVISION 16. SHORELAND DISTRICT 349
Sec. 40 – 310. Purpose. 349
Sec. 40 – 311. District Application. 349
Sec. 40 – 312. Boundaries. 349
Sec. 40 – 313. Water Bodies Included in the Shoreland District. 349
Sec. 40 – 314. Shoreland Classification System and Land Use Districts. 350
Sec. 40 – 315. Permits Required. 350
Sec. 40 – 316. Planned Unit Developments. 351
Sec. 40 – 317. Revisions and Amendments to Land Use or District Boundaries. 351
Sec. 40 – 318. Lot Area and Width Standards. 352
Sec. 40 – 319. Structure and Sewage System Minimum Setback from the Ordinary High Water Level. 353
Sec. 40 – 320. Additional Structure Setbacks. 354
Sec. 40 – 321. Accessory Structures and Uses. 354
Sec. 40 – 322. Shoreland Alterations. 355
Sec. 40 – 323. Placement and Design of Roads. 356
Sec. 40 – 324. Agricultural Use Standards. 357
Sec. 40 – 325. Forest Management Standards. 357
Sec. 40 – 326. Extractive Use Standards. 357
Sec. 40 – 327. Standards for Commercial, Industrial, Public, and Semi-Public Uses. 357
Sec. 40 – 328. Stormwater Management. 358
Sec. 40 – 329. Mining of Metallic Minerals and Peat, as Defined by Minnesota Statues, Section 93.44 to 93.51. 358
Sec. 40 – 330. Projections in Water. 358
Sec. 40 – 331. Elevation of Lowest Floor. 358
Sec. 40 – 332. Maximum Building Height. 359
Sec. 40 – 333. Notification of Variances and Conditional Uses. 359
Sec. 40 – 334. Water Supply and Sewage Treatment. 359
Sec. 40 – 335. Substandard Lots. 359
Sec. 40 – 336. Surface Zoning of Heims Lake. 360
DIVISION 17. FLOODPLAIN DISTRICT 361
Sec. 40 – 340. Statutory authorization, findings of fact and purpose. 361
Sec. 40 – 341. General provisions. 361
Sec. 40 – 342. Establishment of zoning districts. 363
Sec. 40 – 343. Reserved for future use. 364
Sec. 40 – 344. Standards for flood fringe permitted uses. 364
Sec. 40 – 345. Reserved for future use. 365

Sec. 40 – 346. Subdivisions. 365
Sec. 40 – 347. Public utilities, railroads, roads, and bridges. 365
Sec. 40 – 348. Manufactured homes and manufactured home parks and placement of recreational vehicles. 366
Sec. 40 – 349. Administration. 367
Sec. 40 – 350. Nonconforming uses. 368
Sec. 40 – 351. Penalties for violation. 369
Sec. 40 – 352. Amendments. 370
DIVISION 18. PLANNED UNIT OVERLAY DISTRICT (PUD) 371
Sec. 40 – 360. Purpose and Scope. 371
Sec. 40 – 361. Authorization. 371
Sec. 40 – 362. Conditional Use Permit Required 371
Sec. 40 – 363. Allowed uses. 371
Sec. 40 – 364. Required standards; city considerations. 372
Sec. 40 – 365. Coordination with subdivision regulations; simultaneous review. 372
Sec. 40 – 366. Revisions and/or changes. 372
Sec. 40 – 367. General Regulations. 372
Sec. 40 – 368. Site Design. 373
Sec. 40 – 369. Standards for Common Open Space. 373
Sec. 40 – 370. Conveyance and Maintenance of Common Open Space. 374
Sec. 40 – 371. Required Covenants, Easements, and Provisions in Plan. 374
Sec. 40 – 372. Guarantee the Provision of Common Open Space. 374
Sec. 40 – 373. Guarantee of performance. 374
Sec. 40 – 374. Phased development. 374
Sec. 40 – 375. Final Approval. 375
Sec. 40 – 376. Final Action by Applicant. 375
Sec. 40 – 377. Control of Planned Unit Development Following Acceptance. 375
Sec. 40 – 378. Amendments to the Final Development Plan. 375
Sec. 40 – 379. Failure to Begin Planned Unit Development. 375
DIVISION 19. RESIDENTIAL CLUSTER DEVELOPMENT IN THE AGRICULTURE DISTRICT. 377
Sec. 40 – 400. Purpose: 377
Sec. 40 – 401. Density and Lot Requirements: 377
Sec. 40 – 402. Conditional Use Permit Required: 377
Sec. 40 – 403. Height, Yard, Area, and Lot Width and Depth Regulations: 378
Sec. 40 – 404. Subdivision Design. 379
Sec. 40 – 405. Development Planning. 379
Sec. 40 – 406. Common Open Space. 379
DIVISION 20 – CLOSED LANDFILL RESTRICTED (CLR) DISTRICT 380
Sec. 40 – 407. Purpose. 380
Sec. 40 – 408. Uses and Regulations. 380
Sec. 40 – 409. Amendments. 381
ARTICLE VII. GENERAL BUILDING AND PERFORMANCE REQUIREMENTS. 382
DIVISION 1. ACCESSORY STRUCTURES AND USES. 382
Sec. 40 – 410. Residential and Shoreland Zones. 382
Sec. 40 – 411. Setback Requirements 382
Sec. 40 – 412. Sanitary Facilities 382
Sec. 40 – 413. Accessory Buildings Prior to Principal Building. 382
Sec. 40 – 414. Size of Non-Agricultural Accessory Buildings. 382
Sec. 40 – 415. Building Permit Required. 382
Sec. 40 – 416. Commercial Storage. 382
Sec. 40 – 417. Building Design Standards. 382
DIVISION 2. ADULT USES. 383
Sec. 40 – 420. Purpose. 383
Sec. 40 – 421. Definitions. 383
Sec. 40 – 422. General Provisions. 385
Sec. 40 – 423. Sexually Oriented Uses, Principal. 385
Sec. 40 – 424. Sexually Oriented Uses, Accessory. 385
DIVISION 3. AGRICULTURAL OPERATIONS 387
Sec. 40 – 430. Nonconforming Agricultural Operations. 387
Sec. 40 – 431. Irrigation System Permits. 387
DIVISION 4. ANTENNAS 388
Sec. 40 – 440. Satellite Dish Antennas. 388
Sec. 40 – 441. Conditional Use Permit Application Requirements, Amateur Radio Antenna. 388
DIVISION 5. ARCHITECTURAL STANDARDS 389
Sec. 40 – 450. Scope. 389

Sec. 40 – 451. Architectural standards. 389
Sec. 40 – 452. Additions and Repairs to Existing Buildings 390
DIVISION 6. BUILDING REQUIREMENTS....391
Sec. 40 – 460. Building Size and Architectural Requirements. 391
DIVISION 7. DEVELOPMENT IN FIRE PRONE AREAS 392
Sec. 40 – 470. Purpose. 392
Sec. 40 – 471. Fire Prone Areas. 392
Sec. 40 – 472. Regulations for Developments in Fire Prone Areas. 392
DIVISION 8. DRIVE-IN OR DRIVE-THROUGH BUSINESSES....393
Sec. 40 – 480. Purpose. 393
Sec. 40 – 481. Site Plan Requirements. 393
Sec. 40 – 482. Design Standards. 393
Sec. 40 – 483. General. 393
Sec. 40 – 484. Location. 393
Sec. 40 – 485. Drive-in Theater. 393
Sec. 40 – 486. Lighting. 393
DIVISION 9. ENVIRONMENTAL EFFECTS 394
Sec. 40 – 490. Environmental Effects. 394
Sec. 40 – 491. Protection. 394
Sec. 40 – 492. Noise. 394
Sec. 40 – 493. Odor. 394
Sec. 40 – 494. Glare. 394
Sec. 40 – 495. Exterior lighting. 394
Sec. 40 – 496. Smoke, dust, fumes, or gases. 394
Sec. 40 – 497. Hazard. 395
Sec. 40 – 498. Water supply. 395
Sec. 40 – 499. Waste. 395
Sec. 40 – 500. Testing. 395
DIVISION 10. ESSENTIAL SERVICES 396
Sec. 40 – 510. Permit Required. 396
Sec. 40 – 511. Conditional Use Permit Required. 396
Sec. 40 – 512. Solar Energy Systems – General Provisions. 397
Sec. 40 – 513. Definitions. 397
Sec. 40 – 514. Types of Solar Energy Systems. 398
Sec. 40 – 515. Solar Energy System Overlay District. 400
Sec. 40 – 516. Solar Energy System Overlay Standards. 400
Sec. 40 – 517. Additional Standards. 400
Sec. 40 – 518. Solar Site Permit Requirements. 400
Sec. 40 – 519. Conditional Use Permit (CUP) Requirements. 401
DIVISION 11. EXTERIOR STORAGE 403
Sec. 40 – 520. Storage or Screening Requirements. 403
Sec. 40 – 521. Conditional Use Permit May Be Required. 403
Sec. 40 – 522. Bulk Storage Liquid. 403
Sec. 40 – 523. Explosive Materials. 403
DIVISION 12. FENCES 404
Sec. 40 – 530. Special requirements. 404
Sec. 40 – 531. Fences Located in Residential Districts. 404
Sec. 40 – 532. Fences Located in Non-Residential Districts. 404
Sec. 40 – 533. Prohibited Fences. 404
Sec. 40 – 534. Swimming pool fencing. 405
Sec. 40 – 535. Swimming pool fencing exception. 405
DIVISION 13. HOME OCCUPATIONS 406
Sec. 40 – 540. Purpose. 406
Sec. 40 – 541. Permitted Home Occupations. 406
Sec. 40 – 542. Interim Conditional Use Permit Required. 406
Sec. 40 – 543. Performance Standards. 406
Sec. 40 – 544. Review by Planning Commission. 406
DIVISION 14. LANDSCAPING AND WOODLAND PRESERVATION....407
Sec. 40 – 550. Landscaping On A Lot. 407
Sec. 40 – 551. Landscaping in all Districts. 407
Sec. 40 – 552. Landscaping Maintenance. 407
Sec. 40 – 553. Double Fronted Lots. 407
Sec. 40 – 554. Vegetated Buffers. 407
Sec. 40 – 555. Landscaping Regulations. 407

Sec. 40 – 556. Woodland Preservation Regulations. 411
DIVISION 15. LIGHTING 415
Sec. 40 – 560. Purpose. 415
Sec. 40 – 561. Exemptions. 415
Sec. 40 – 562. Non-Conforming Uses. 415
Sec. 40 – 563. Intensity. 415
Sec. 40 – 564. Method of Measuring Light Intensity. 415
Sec. 40 – 565. Performance Standards. 415
Sec. 40 – 566. Outdoor Recreation. 416
Sec. 40 – 567. Submission of Plans. 416
DIVISION 16. LOTS OF RECORD 417
Sec. 40 – 570. Lots of Record. 417
DIVISION 17. MINERAL EXTRACTION 418
Sec. 40 – 580. Purpose. 418
Sec. 40 – 581. Definitions. 418
Sec. 40 – 582. Mineral Extraction Permit Required. 418
Sec. 40 – 583. Exceptions from Permit Requirements. 419
Sec. 40 – 584. Permit Application Requirements. 419
Sec. 40 – 585. Application. 420
Sec. 40 – 586. Security. 421
Sec. 40 – 587. Annual certification. 422
Sec. 40 – 588. Use Restrictions. 422
Sec. 40 – 589. Mineral Extraction Performance Standards. 422
Sec. 40 – 590. Land Rehabilitation Plans. 423
DIVISION 18. MOTOR VEHICLE DEALERSHIP 425
Sec. 40 – 600. Purpose. 425
Sec. 40 – 601. Conditional Use Permit Required. 425
Sec. 40 – 602. Surface Drainage Plans and Improvements. 425
Sec. 40 – 603. Lot Requirements. 425
Sec. 40 – 604. Access Driveways. 425
Sec. 40 – 605. Screening. 425
Sec. 40 – 606. Landscaping. 425
Sec. 40 – 607. Curbing. 425
Sec. 40 – 608. Surfacing. 425
Sec. 40 – 609. Parking. 425
Sec. 40 – 610. Signage. 426
Sec. 40 – 611. Lighting. 426
DIVISION 19. MOTOR VEHICLE REDUCTION / SALVAGE YARDS 427
Sec. 40 – 620. Purpose. 427
Sec. 40 – 621. Conditional Use Permit Required. 427
Sec. 40 – 622. Operation Plan. 427
Sec. 40 – 623. Location. 427
Sec. 40 – 624. Area. 427
Sec. 40 – 625. Automobile Reduction/Salvage Yards. 427
Sec. 40 – 626. Screening. 427
DIVISION 20. MOTOR VEHICLE SERVICE STATIONS. 428
Sec. 40 – 630. Drainage and Site Plans. 428
Sec. 40 – 631. Parked Vehicles. 428
Sec. 40 – 632. Exterior Storage. 428
Sec. 40 – 633. Storage Areas. 428
Sec. 40 – 634. Related Business Activities. 428
Sec. 40 – 635. Access to any Service Stations. 428
Sec. 40 – 636. Lighting. 428
DIVISION 21. NATURAL RESOURCE MANAGEMENT REQUIREMENTS 429
Sec. 40 – 640. Vegetation Removal. 429
Sec. 40 – 641. Drainage Requirements. 429
Sec. 40 – 642. Surfacewater Management. 429
Sec. 40 – 643. Wetland Protection and Management. 429
Sec. 40 – 644. Erosion and Sedimentation Control. 429
Sec. 40 – 645. Developments. 430
Sec. 40 – 646. Building Construction. 430
Sec. 40 – 647. Stop Work Order. 431
DIVISION 22. NONCONFORMITIES 432
Sec. 40 – 650. Purpose. 432

Sec. 40 – 651. General Provisions. 432
Sec. 40 – 652. Substandard Lots. 432
Sec. 40 – 653. Substandard Lots of Record in Combination. 432
Sec. 40 – 654. Substandard Lots: Accessory Structures. 432
Sec. 40 – 655. Uses under Conditional Use Permits. 433
Sec. 40 – 656. Maintenance of Non-Conforming Structures. 433
Sec. 40 – 657. Alterations of Non-Conforming Structures. 433
Sec. 40 – 658. Non-Conforming Structures in Progress at Time of Adoption. 433
DIVISION 23. OFF-STREET PARKING, LOADING, AND STORAGE 434
Sec. 40 – 670. Purpose. 434
Sec. 40 – 671. Scope of Regulations. 434
Sec. 40 – 672. Calculating Space. 434
Sec. 40 – 673. Site Plan. 434
Sec. 40 – 674. Site Plan Criteria. 434
Sec. 40 – 675. Reduction and Use of Parking and Loading Space. 434
Sec. 40 – 676. Parking of Large Vehicles or Equipment. 435
Sec. 40 – 677. Parking of Recreational Vehicles & Placement Thereof. 435
Sec. 40 – 678. Maintenance. 435
Sec. 40 – 679. Use of Parking Area. 435
Sec. 40 – 680. Control of Off-Street Parking Facilities. 435
Sec. 40 – 681. Parking Space, Aisle and Driveway Design. 435
Sec. 40 – 682. Number of Required Parking and Loading Spaces. 436
Sec. 40 – 683. Joint Facilities. 437
Sec. 40 – 684. Off-Street Loading Facilities. 438
Sec. 40 – 685. Central Loading. 438
Sec. 40 – 686. Snow Parking. 438
Sec. 40 – 687. Bicycle Parking. 438
DIVISION 24. PEDESTRIAN CIRCULATION AND ACCESS. 439
Sec. 40 – 690. Pedestrian circulation and access. 439
Sec. 40 – 691. Conflicts. 439
Sec. 40 – 692. Design Standards. 439
DIVISION 25. RECREATIONAL CAMPING AREAS 440
Sec. 40 – 700. Purpose. 440
Sec. 40 – 701. License Required. 440
Sec. 40 – 702. Conditional Use Permit Required. 440
Sec. 40 – 703. Camping Area Spacing Requirements. 440
Sec. 40 – 704. Utilities. 440
Sec. 40 – 705. Water Supply, Sewage Disposal, and Toilet, Bathing, Laundry Facilities, and Lighting. 440
Sec. 40 – 706. Plumbing. 440
Sec. 40 – 707. Garbage and Refuse - Handling and Disposal. 441
Sec. 40 – 708. Swimming Areas. 441
Sec. 40 – 709. Barbecue Pits, Fireplaces, Stoves, Incinerators. 441
Sec. 40 – 710. Bottled Gas. 441
Sec. 40 – 711. Prohibited Activities. 441
Sec. 40 – 712. Caretaker/Operator Duties. 441
DIVISION 26. SCREENING. 442
Sec. 40 – 720. Commercial Uses and Non-Residential Uses in Residential Districts. 442
Sec. 40 – 721. Residential Uses. 442
Sec. 40 – 722. All Districts. 442
Sec. 40 – 723. Trash Storage Screening. 442
Sec. 40 – 724. Mechanical Screening. 442
Sec. 40 – 725. Screening Materials and Maintenance. 442
DIVISION 27. SEWAGE SLUDGE AND/OR ASH SLUDGE LAND APPLICATION 444
Sec. 40 – 730. Purpose. 444
Sec. 40 – 731. Requirements. 444
DIVISION 28. Signs. 445
Sec. 40 – 740. Purpose. 445
Sec. 40 – 741. Definitions. 445
Sec. 40 – 742. General Regulations. 449
Sec. 40 – 743. Maintenance of Signs. 450
Sec. 40 – 744. Legally Established Nonconforming Permanent Signs. 451
Sec. 40 – 745. Basic Design Elements for Specific Identification Signs. 451
Sec. 40 – 746. Sign Permit. 451
Sec. 40 – 747. Sign Plan. 452

Sec. 40 – 748. Prohibited Signs. 452
Sec. 40 – 749. Residential Districts – Permitted Signs. 454
Sec. 40 – 750. Non-Residential Districts – Permitted Signs. 454
Sec. 40 – 751. Nonconforming Signs. 455
DIVISION 29. SWIMMING POOLS 456
Sec. 40 – 760. Permits. 456
Sec. 40 – 761. Construction of pools. 456
Sec. 40 – 762. Swimming pool fencing. 456
Sec. 40 – 763. Swimming pool fencing exception. 456
Sec. 40 – 764. Miscellaneous pool regulations. 456
Sec. 40 – 765. Existing swimming pools and special purpose pools. 456
DIVISION 30. TELECOMMUNICATION TOWERS 457
Sec. 40 – 770. Telecommunication Towers. 457
Sec. 40 – 771. Permits. 457
Sec. 40 – 772. Location Requirements for New Facilities. 457
Sec. 40 – 773. Towers in Residential Zoning Districts. 458
Sec. 40 – 774. Antennas in the Public Right-of-Way. 458
Sec. 40 – 775. Co-Location Requirements. 458
Sec. 40 – 776. Tower and Antenna Design Requirements. 458
Sec. 40 – 777. Tower Setbacks. 458
Sec. 40 – 778. Tower Height. 459
Sec. 40 – 779. Tower Lighting. 459
Sec. 40 – 780. Signs and Advertising. 459
Sec. 40 – 781. Associated Equipment. 459
Sec. 40 – 782. Abandoned or Unused Towers or Portions of Towers. 459
Sec. 40 – 783. Antennas Mounted on Roofs, Walls, and Existing Towers. 459
Sec. 40 – 784. Interference with Public Safety Telecommunications. 460
Sec. 40 – 785. Tower Construction Requirements. 460
Sec. 40 – 786. Additional Submittal Requirements. 460
Sec. 40 – 787. Maintenance and Inspections. 461
Sec. 40 – 788. Antenna Design and Mounts. 461
Sec. 40 – 789. Variances. 461
Sec. 40 – 790. Expert Review. 461
DIVISION 31. TEMPORARY MANUFACTURED HOME PERMIT 462
Sec. 40 – 800. Purpose. 462
Sec. 40 – 801. Temporary Manufactured Home Permit Required. 462
Sec. 40 – 802. Conditions for Issuance of Temporary Manufactured Home Permit. 462
DIVISION 32. TRAFFIC AND PARKING STUDIES 464
Sec. 40 – 810. Traffic and parking studies. 464
Sec. 40 – 811. Traffic Management Plans. 464
DIVISION 33. UNDERGROUND UTILITIES 465
Sec. 40 – 820. Underground utilities. 465
DIVISION 34. YARD REGULATIONS 466
Sec. 40 – 830. General Statement. 466
Sec. 40 – 831. Yard Requirements. 466
ARTICLE VIII. REPEAL AND DATE OF EFFECT 467
Sec. 40 – 840. Repeal of Previous Zoning Ordinance. 467
Sec. 40 – 841. Date of Effect. 467

City of Wyoming Zoning Map 468

APPENDIX A FEE SCHEDULE 469

APPENDIX B PERSONNEL POLICY* 470
INTRODUCTION 474
EMPLOYMENT 474
EQUAL EMPLOYMENT OPPORTUNITY 474
DEFINITIONS 474
RECRUITMENT AND SELECTION 475
PROBATIONARY PERIOD 476
EMPLOYEE IN-PROCESSING/ORIENTATION 476
ADMINISTRATION OF EMPLOYEE PERSONNEL RECORDS 476
POSITION CLASSIFICATION PLAN 477
RECLASSIFICATION PROCEDURE 478
WORK WEEK 479
COMPENSATION 479

TIME CARDS....480
PAYDAYS....480
FLEXIBLE WORKING HOURS....480
MEAL PERIODS AND REST BREAKS....480
OVERTIME....480
REPORT OF PERSONNEL CHANGES....481
GOVERNMENT DATA PRACTICES ACT....481
PERFORMANCE APPRAISALS....481
ATTENDANCE....481
NEPOTISM....482
SUPPLEMENTAL EMPLOYMENT....482
RESIDENCY....482
CONDUCT....482
ETHICS OF PUBLIC EMPLOYMENT....482
EMPLOYEE ETHICS....483
EMPLOYEE CONDUCT....484
DISCIPLINARY ACTION....484
POLITICAL ACTIVITIES....486
TOBACCO FREE WORK ENVIRONMENT....488
SMOKING POLICY FOR CITY EMPLOYEES WITHIN CITY-OWNED FACILITIES....488
CONFLICT OF INTEREST....488
GIFTS AND GRATUITIES....489
HARASSMENT....489
WORKPLACE VIOLENCE....490
DRUG AND ALCOHOL FREE WORKPLACE....490
PURPOSE....490
POLICY....490
DRUG AND ALCOHOL TESTING....491
EMPLOYEE PROHIBITIONS....491
ADDITIONAL EMPLOYEE RESPONSIBILITIES....491
ENFORCEMENT AND DISCIPLINE....492
PREVENTION AND REHABILITATION....492
MAINTENANCE AND DISTRIBUTION OF POLICY....492
APPEARANCE AND DRESS GUIDELINES....492
SEPARATION FROM EMPLOYMENT....492
RESIGNATION....492
RETIREMENT....492
LAYOFFS....493
SEVERANCE PAY....493
CONTINUATION OF INSURANCE BENEFITS UPON SEPARATION....493
LEAVE BENEFITS....493
VACATION....493
SICK TIME....493
HOLIDAYS....494
FAMILY AND MEDICAL LEAVE....495
STATEMENT OF POLICY....495
COVERAGE AND ELIGIBILITY....495
INTERMITTENT OR REDUCED LEAVE....495
SUBSTITUTION OF PAID VACATION TIME....496
NOTICE REQUIREMENT....496
MEDICAL CERTIFICATION....496
EFFECT ON BENEFITS....496
JOB PROTECTION....496
FAMILY/MEDICAL LEAVE FORMS TO BE SUBMITTED BY EMPLOYEE....497
SCHOOL CONFERENCE AND ACTIVITIES LEAVE....497
BONE MARROW DONATION LEAVE....497
MILITARY LEAVE....497
JURY DUTY LEAVE....498
FUNERAL LEAVE....498
LEAVE OF ABSENCE WITHOUT PAY....498
SEVERE WEATHER CONDITIONS....498
GENERAL BENEFITS....498
INSURANCES....498
DEFERRED COMPENSATION PROGRAM....499

FLEXIBLE BENEFITS PLAN....499
LABOR RELATIONS....499
GRIEVANCES....499
DISCIPLINE....499
SAFETY REQUIREMENTS....500
SAFETY....500
SAFETY/INJURY REPORTING....500
SAFETY GLASSES....500
SAFETY TOED FOOTWEAR....501
HEAD PROTECTION....501
HAND PROTECTION....501
RESPIRATORY PROTECTION....501
HEARING PROTECTION....501
PROTECTIVE CLOTHING....501
TEMPORARY & SEASONAL EMPLOYEES....502
PROPERTY DAMAGE REPORTING....502
WORKERS' COMPENSATION....502
MISCELLANEOUS POLICIES....502
HANDLING CITIZENS' COMPLAINTS....502
REQUESTS FOR LEGAL WORK....502
TRAINING PROGRAMS, INCLUDING SEMINARS OR CONVENTIONS....503
TRAVEL EXPENSES....504
TELEPHONE USE....505
ELECTRONIC COMMUNICATIONS AND INTERNET USE....505
PERSONAL USE OF CITY PROPERTY....506
USE OF CITY VEHICLES....506
COLLISION INVESTIGATION INVOLVING CITY EMPLOYEES AND/OR VEHICLES....506
ACCIDENTS INVOLVING DEFECTIVE EQUIPMENT....507
EMPLOYEE ACTIONS AT ACCIDENT SCENES....507
NEWS RELEASE....507
WORKING OUT OF CLASSIFICATION PAY....507
CHILDREN'S SERVICE WORKER BACKGROUND CHECK POLICY & PROCEDURE....508
CRIMINAL BACKGROUND CHECK PROCESS....508
NEGATIVE INFORMATION....509
RETENTION AND ACCESSIBILITY OF RECORDS....509
CURRENT EMPLOYEES....509
IMPLEMENTATION....509
JOB ANNOUNCEMENTS....510
COMMUNICATION OF POLICY....510

APPENDIX C PURCHASING POLICY*....511
Section 125.01. Authority....512
Section 125.02. Purpose....512
Section 125.03. Application....512
Section 125.04. Policy....512
Section 125.05. Vendor opportunity....512
Section 125.06. Employee conflict of interest....512
Section 125.07. Sales call policy....512
Section 125.08. Gratuities and kickbacks....512
Section 125.09. Departmental purchasing responsibilities....512
Section 125.10. Quotations and bidding....512
Section 125.11. Quotation and bidding policy....513
Section 125.12. Discretionary authority....513
Section 125.13. Local purchases....513
Section 125.14. Purchase authorization and procedures....513
Section 125.15. Purchase requisition policy....513
Section 125.16. Routing....513
Section 125.17. Purchases under $100.00....513
Section 125.18. Purchases over $300.00....513
Section 125.19. Purchases over $1,000.00....513
Section 125.20. Purchases over $15,000.00/formal bids....513
Section 125.21. Emergency purchases....514
Section 125.22. Purchase orders....514
Section 125.23. Blanket purchase orders....514
Section 125.24. Receipt/return of materials....514

Section 125.25. Invoices. 515
Section 125.26. Personal purchases. 515
Section 125.27. Inventories. 515

APPENDIX D ASSESSMENT POLICY MANUAL* 516
I. GENERAL ASSESSMENT POLICIES 517
II. DEFINITIONS 517
A. Assessment Units 517
B. General 519
III. ASSESSMENT POLICY FOR NEW DEVELOPMENTS 520
IV. SANITARY SEWER IMPROVEMENTS 521
A. Definitions 521
B. Determining Sanitary Sewer Assessment Rates 521
V. WATER IMPROVEMENTS 522
A. Definitions 522
B. Determining Watermain Assessment Rates 522
VI. STORM SEWER IMPROVEMENTS 523
A. Definitions 523
B. Determining Storm Sewer Assessment Rates 523
VII. STREET IMPROVEMENTS 524
A. Definitions 524
B. Determining Street Assessment Rates 525
APPENDIX 526
DIAGRAMS FOR CALCULATING ADJUSTED FRONT FOOTAGE 527
SPECIAL ASSESSMENT DEFERMENT 530
TYPICAL MINNESOTA STATUTES CH. 429 IMPROVEMENT PROJECT PROCESS 531
PETITION FOR LOCAL IMPROVEMENTS 533
SAMPLE RESOLUTIONS 534
SERVICE AVAILABILITY CHARGE (SAC) UNITS 543
MINNESOTA STATUTES §§ 444.16--444.21 FOR STORM SEWER 547

APPENDIX E CABLE COMMUNICATIONS FRANCHISE* - CITATION CABLE 548
SECTION 1. STATEMENT OF INTENT AND PURPOSE, AUTHORITY, FRANCHISE APPLICATIONS. 548
SECTION 2. SHORT TITLE. 548
SECTION 3. DEFINITIONS. 548
SECTION 4. GRANT OF AUTHORITY TO AND GENERAL PROVISIONS. 549
SECTION 5. DESIGN PROVISIONS. 551
SECTION 6. SERVICE PROVISIONS. 552
SECTION 7. CONSTRUCTION PROVISIONS. 552
SECTION 8. OPERATION AND MAINTENANCE. 553
SECTION 9. GENERAL FINANCIAL AND INSURANCE PROVISIONS. 558
SECTION 10. REVOCATION. 559
SECTION 11. FORECLOSURE, RECEIVERSHIP AND ABANDONMENT. 559
SECTION 12. PURCHASE OF SYSTEM. 559
SECTION 13. RIGHTS OF INDIVIDUALS PROTECTED. 560
SECTION 14. MISCELLANEOUS PROVISIONS. 560
SECTION 15. EFFECTIVE DATE; PUBLICATION; ACCEPTANCE; GUARANTEE; EXHIBITS. 563

APPENDIX F CABLE COMMUNICATIONS FRANCHISE – US CABLE 565
SECTION 1. STATEMENT OF INTENT AND PURPOSE 568
SECTION 2. FINDINGS 568
SECTION 3. SHORT TITLE 568
SECTION 4. DEFINITIONS 568
SECTION 5. GRANT OF AUTHORITY AND GENERAL PROVISIONS 570
SECTION 6. DESIGN PROVISIONS 571
SECTION 7. SERVICE PROVISIONS. 572
SECTION 8. CONSTRUCTION PROVISIONS 572
SECTION 9. OPERATION AND MAINTENANCE 574
SECTION 10. CONSUMER PROTECTION PROVISIONS 575
SECTION 11. GENERAL FINANCIAL, INSURANCE AND ENFORCEMENT PROVISIONS 576
SECTION 12. RIGHTS OF INDIVIDUALS PROTECTED. 578
SECTION 13. MISCELLANEOUS PROVISIONS. 578
SECTION 14. EFFECTIVE DATE; PUBLICATION; AND TIME OF ACCEPTANCE 579
EXHIBIT A. 581
EXHIBIT B. 582
EXHIBIT C. 583

APPENDIX G AN ORDINANCE ESTABLISHING USE AND RATE REGULATIONS FOR MUNICIPAL WASTEWATER TREATMENT FACILITIES 585
ARTICLE I. Definitions 586
ARTICLE II. Control by the Authorized Representative 587
ARTICLE III. Use of Public Sewers Required 587
ARTICLE IV. Private Wastewater Disposal 587
ARTICLE V. Building Sewers and Connections Design 587
ARTICLE VI. Use of Public Wastewater Treatment Facilities 588
ARTICLE VII Damage of Facilities 590
ARTICLE VIII. Powers and Authority of Inspectors 590
ARTICLE IX. The Sewer Service Charge System 590
ARTICLE X. Penalties 590
ARTICLE XI. Validity 591

APPENDIX H. AN ORDINANCE REGULATING ALL TAXING DISTRICTS WITHIN THE CORPORATE LIMITS OF THE CITY OF WYOMING, MINNESOTA 592
1. Rural Service Taxing Districts. 592
2. Ratio of Benefits 592
3. Effective Date. 592
4. Severability 592

Chapter 1 GENERAL PROVISIONS

Sec. 1-1. Designation and citation of Code.

Sec. 1-2. Definitions and rules of construction.

Sec. 1-3. Catchlines of sections.

Sec. 1-4. References to chapters or sections.

Sec. 1-5. History notes.

Sec. 1-6. References and editor's notes.

Sec. 1-7. Code does not affect prior offenses, penalties and rights.

Sec. 1-8. Effect of repeals.

Sec. 1-9. Certain ordinances not affected by Code.

Sec. 1-10. Amendments to Code.

Sec. 1-11. Supplementation of Code.

Sec. 1-12. Severability of parts of Code.

Sec. 1-13. General penalty.

Sec. 1-1. Designation and citation of Code.

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances, City of Wyoming, Minnesota."

Sec. 1-2. Definitions and rules of construction.

In the construction of this Code and of all ordinances, the following definitions and rules of construction shall be observed, unless such construction would be inconsistent with the manifest intent of the city council:

Agent or employee. Whenever the Code requires an act to be done, which act may legally be done by an agent or employee as well as by the principal, such requirement shall be satisfied by the performance of such act by an authorized agent or employee.

City. The term "city" shall mean the City of Wyoming, Minnesota, and shall extend to and include its several officers, agents and employees.

City council; council. The terms "city council" and "council" shall mean the city council of the City of Wyoming, Minnesota.

Code. The term "Code" shall mean the Code of Ordinances, City of Wyoming, Minnesota, as designated in section 1-1.

Computation of time. The time, where the performance or doing of any act, duty, matter, payment or thing is ordered or directed and the period of time or duration for the performance or doing thereof is prescribed and fixed by law or ordinance, shall be computed so as to exclude the first and include the last day of the prescribed period or duration of time. When the last day of the period falls on a Saturday, Sunday or legal holiday, that day shall be omitted from the computation.

County. The term "county" shall mean the County of Chisago, Minnesota.

Gender. A word importing either the masculine or feminine gender shall extend and be applied to both the masculine and feminine genders, and to firms, partnerships and corporations.

Joint authority. Words purporting to give authority to three or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise declared.

Keeper and *proprietor.* The terms "keeper" and "proprietor" shall mean and include persons, firms, associations, corporations, clubs and copartnerships, whether acting by themselves or through a servant, agent or employee.

Minnesota Statutes. The term "Minnesota Statutes" shall mean and refer to the latest edition or supplement of Minnesota Statutes.

Month. The term "month" shall mean a calendar month.

Number. A word importing the singular may extend and be applied to the plural, and vice versa.

Oath. The term "oath" shall include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath; and in such cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

Officer, employee, department, board, commission or other agency. Whenever any officer, employee, department, board, commission or other agency is referred to by title only, such reference shall be construed as if followed by the words "of the City of Wyoming, Minnesota." Whenever, by the provisions of this Code, any officer, employee, department, board, commission or other agency of the city is assigned any duty or empowered to perform any act or duty, reference to such officer, employee, department, board, commission or other agency shall mean and include such officer or any designee or authorized subordinate and shall also include the successor in function to such officer, employee, department, board, commission or agency.

Owner. The term "owner," when applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of a part of such building or land. In the case of personal property, a person other than a lien holder, having an ownership interest in or title to personal property.

Person. The term "person" shall extend and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as to individuals. For the purpose of imposing penalties or fines for violation of any section of this Code and whenever the word "person" is used in such section for which a penalty is imposed, the term shall include partners or members of an association, and as to corporations shall include the officers, agents or members of the corporation who are responsible for any such violation.

Personal property. The term "personal property" shall include every species of property except real property.

Property. The term "property" shall include real, personal and mixed property.

Public place. The term "public place" shall mean any place subject to the primary control of any public agency, including but not limited to any park, street, public way, cemetery, schoolyard or adjacent open space and any lake or stream.

Real property. The term "real property" shall include lands, tenements and hereditaments.

Sidewalk. The term "sidewalk" shall mean any portion of a street between the curb line and the adjacent property line, intended for the use of pedestrians.

State. The term "state" shall mean the State of Minnesota.

Statutory rules of interpretation. The rules of interpretation contained in Minnesota Statutes Ch. 645 are adopted by reference and apply to this Code and govern its interpretation.

Street. The term "street" shall embrace streets, avenues, boulevards, roads, highways, alleys, lanes, viaducts and all other public ways in the city.

Tenant; occupant; lessee. The terms "tenant," "occupant" and "lessee," when applied to a building or land, shall include any person holding a written or oral lease of, or who occupies the whole or part of, such building or land, either alone or with others.

Tense. Words used in the past or present tense include the future as well as the past and present.

Written and *in writing.* The terms "written" and "in writing" shall include any representation of words, letters or figures, whether by printing or otherwise.

The words and phrases used in this Code shall be construed in their plain, ordinary and usual sense, except that technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

State law references: Construction of words and phrases, Minnesota Statutes § 645.08 et seq.; definitions of words and phrases, Minnesota Statutes § 645.44 et seq.

Sec. 1-3. Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of the sections; nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

Sec. 1-4. References to chapters or sections.

All references to chapters or sections are to the chapters and sections of this Code unless otherwise specified.

Sec. 1-5. History notes.

The history notes appearing in parentheses after sections of this Code are not intended to have any legal effect, but are merely intended to indicate the source of matter contained in the section.

Sec. 1-6. References and editor's notes.

References and editor's notes following certain sections of this Code are inserted as an aid and guide to the reader and are not controlling nor meant to have any legal effect.

Sec. 1-7. Code does not affect prior offenses, penalties and rights.

Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

Sec. 1-8. Effect of repeals.

The repeal of an ordinance or portion of this Code shall not revive any ordinance or portion of this Code in force before or at the time the provision repealed took effect. The repeal of an ordinance or a portion of this Code shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the provision repealed.

Sec. 1-9. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:

(1) Any offense or act committed or done or any penalty or forfeiture incurred before the effective date of this Code.

(2) Any ordinance or resolution promising or guaranteeing the payment of money for the city, or authorizing the issue of any bonds of the city, or any evidence of the city's indebtedness, or any contract, right, agreement, lease, deed or other instrument or obligation assumed by the city.

(3) Any administrative ordinances of the city not in conflict or inconsistent with the provisions of this Code.

(4) Any right or franchise granted by any ordinance.

(5) Any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing, vacating, etc., any street or public way in the city.

(6) Any appropriation ordinance.

(7) Any ordinance levying or imposing taxes.

(8) Any ordinance prescribing fees, fines, charges, rates, or other specific monetary values.

(9) Any ordinance annexing territory or excluding territory or any ordinance extending the boundaries of the city.

(10) Any ordinance establishing traffic or parking regulations on any street or public way, including traffic schedules.

(11) Any ordinance regarding salaries or compensation of city officers or employees.

(12) Any zoning map amendment.

(13) Any temporary or special ordinances.

All such ordinances are recognized as continuing in full force and effect to the same extent as if set out at length in this Code. All ordinances are on file in the office of the city clerk-administrator.

Sec. 1-10. Amendments to Code.

(a) Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the city council to make such additions or amendments a part of this Code, shall be deemed to be incorporated in this Code so that reference to the Code shall be understood and intended to include such additions and amendments.

(b) All ordinances passed subsequent to the adoption of this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in the Code. When subsequent ordinances repeal any chapter, article, division, section or subsection or any portion of the Code, such repealed portions may be excluded from the Code by their omission from reprinted pages.

(c) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "That section _____ of the Code of Ordinances, City of Wyoming, Minnesota, is hereby amended to read as follows: . . . ." The new provisions shall then be set out in full.

(d) If a new section not then existing in the Code is to be added, the following language may be used: "That the Code of Ordinances, City of Wyoming, Minnesota, is hereby amended by adding a section to be numbered _____, which section reads as follows: . . . ." The new section may then be set out in full.

(e) All sections, divisions, articles, chapters or provisions desired to be repealed must be specifically repealed by section, division, article or chapter number, as the case may be.

Sec. 1-11. Supplementation of Code.

(a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the city council. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the city council or adopted by initiative and referendum during the period covered by the supplement and all changes made by the supplement in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete; and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by their omission from reprinted pages.

(c) When preparing a supplement to this Code, the codifier, meaning the person authorized to prepare the supplement, may make formal, non-substantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," or "this section," as the case may be, or to "sections _____ through _____"; the inserted section numbers will indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code; and

(5) Make other non-substantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-12. Severability of parts of Code.

It is the intention of the city council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable; and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional, invalid or unenforceable, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

Sec. 1-13. General penalty.

(a) Whenever in this Code or in any ordinance of the city any act is prohibited or is made or declared to be unlawful, an offense or a misdemeanor, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided, the violation of any such provision of this Code or city ordinance shall be punished as a misdemeanor, that is, with a fine of up to $1,000.00 or imprisonment for not more than 90 days or by both such fine and imprisonment, unless otherwise provided in this Code. The term "misdemeanor" shall be as defined in Minnesota Statutes § 609.02, subd. 3. Each day any violation of any provision of this Code or of any ordinance shall continue shall constitute a separate offense.

(b) In the event of a violation or threatened violation of any of the terms of this Code or of any ordinance of the city, the City may take appropriate action to enforce this Ordinance, including application for injunctive relief, action to compel performance or other appropriate action to the district court to prevent, restrain, correct or abate such violations or threatened violations. Upon motion, the court may award costs, disbursements and reasonable attorney's fees and witness fees, which costs and fees can be assessed against the property.

(c) Whenever an act or omission is declared to be a petty misdemeanor in this Code, any person violating such provision shall, upon conviction, be subject to the penalties in Minnesota Statutes § 609.0332.

(d) In the case of an amendment by the city council of any section of this Code for which a penalty is not provided, the general penalty as provided in subsection (a) of this section shall apply to that section, as amended; or in the case such amendment contains provisions for which a specified penalty other than the aforementioned general penalty is provided in another section in the same chapter as the amended section, the penalty so specified shall be held to relate to the amended section, unless such penalty is specifically repealed.

State law references: Authority to adopt penalty of up to $1,000.00, Minnesota Statutes § 609.034, as it may be amended from time to time.

Chapter 2 ADMINISTRATION*

***Cross references:** Any administrative ordinances of the city not in conflict or inconsistent with the provisions of this Code saved from repeal, § 1-9(3); administration of building code, § 10-32; elections, ch. 14; law enforcement, ch. 20; utilities, ch. 36; administration of zoning regulations, § 40-36 et seq.; administrative enforcement of sign regulations, § 40-670; fee schedule, app. A; personnel policy, app. B; purchasing policy, app. C.

Article I. In General

Sec. 2-1. Form of government.

Secs. 2-2--2-30. Reserved.

Article II. Council

Sec. 2-31. Terms of office.

Sec. 2-32. Salaries.

Sec. 2-33. Council sessions.

Sec. 2-34. Special meetings.

Sec. 2-35. Public meetings.

Sec. 2-36. Presiding officer.

Sec. 2-37. Quorum.

Sec. 2-38. Order of business.

Secs. 2-39--2-70. Reserved.

Article III. Officers and Employees

Sec. 2-71. Compensation.

Sec. 2-72. Officers appointed.

Secs. 2-73--2-105. Reserved.

Article IV. Boards, Commissions and Committees

Secs. 2-106--2-125. Reserved

Article V: Ordinance Offenses.

Sec. 2-150 Purpose.

Sec. 2-151 Ordinance Offense Defined.

Sec. 2-152 Notice.

Sec. 2-153 Payment.

Sec. 2-154 Hearing.

Sec. 2-155 Hearing Officer.

Sec. 2-156 Failure to Pay.

Sec. 2-157 Disposition of Penalties.

Sec. 2-158 Offenses and Penalties.

Sec. 2-159 Subsequent Offenses.

Sec. 2-160 Ordinance Offenses and Fee Schedule.

Sec. 2-161—2-169. Reserved

Article VI: Administrative Offenses.

Sec. 2-170 Purpose.

Sec. 2-171 Administrative Traffic Offense Defined.

Sec. 2-172 Notice.

Sec. 2-173 Payment.

Sec. 2-174 Hearing.

Sec. 2-175 Hearing Officer.

Sec. 2-176 Failure to Pay.

Sec. 2-177 Disposition of Penalties.

Sec. 2-178 Offenses and Penalties.

Sec. 7-179 Administrative Offenses and Fee Schedule..

Sec. 2-180—2-190. Reserved

ARTICLE I. IN GENERAL

Sec. 2-1. Form of government.

The city is a plan "A" statutory city as defined by Minnesota Statutes.

(Code 1989, § 115.01)

Secs. 2-2--2-30. Reserved.

ARTICLE II. COUNCIL*

_____

***Cross references:** Elections, ch. 14.

_____

Sec. 2-31. Terms of office.

The mayor shall serve a two year term. Council members shall serve four year terms.

Sec. 2-32. Salaries.

The mayor shall receive a salary of $1,200.00 per year payable annually, and each councilmember shall receive a salary of $900.00 per year payable annually.

Sec. 2-33. Council sessions.

The council meeting will be on the first and third Tuesday of each month at 7:00 p.m. If a council meeting falls on a holiday, the meeting will be held at any other time the council may deem proper. All meetings shall be held in the City Hall.

(ORDINANCE NO. 01-03-05A)

State law references: Regular meetings of council to be held as prescribed by council rules, Minnesota Statutes § 412.191, subd. 2.

Sec. 2-34. Special meetings.

Special meetings of the council may be called as provided by Minnesota Statutes § 412.191, subd. 2.

Sec. 2-35. Public meetings.

All council meetings, including special and adjourned meetings and meetings of council committees, will be open to the public, except as otherwise provided by law.

State law references: Similar provisions, Minnesota Statutes § 412.191, subd. 2.

Sec. 2-36. Presiding officer.

The mayor shall preside at all meetings of the council. In the absence of the mayor, the acting mayor shall preside. In the absence of both, the members shall elect one of their number as a temporary chairperson. The acting mayor and temporary chairperson when occupying the place of the mayor shall have the same privileges as other members.

Sec. 2-37. Quorum.

At all meetings of the council a majority of the council members elected shall constitute a quorum to do business, but a minority may adjourn to a specified date and hour.

Sec. 2-38. Order of business.

At the hour appointed for meeting, the members shall be called to order by the Mayor, or in his/her absence by the acting mayor. Upon the appearance of a quorum, the Council shall proceed with business, which shall be conducted in the following order:

(1) Consent Agenda

(2) Visitors

(3) Old Business.

(4) New Business.

(5) Council members' and City Administrator Report.

(6) Adjournment.

(ORDINANCE NO. 01-03-05A)

Secs. 2-39--2-70. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES*

_____

***Cross references:** Any ordinance regarding salaries or compensation of city officers or employees saved from repeal, § 1-9(11); fire department, § 18-146 et seq.; police department, § 20-31 et seq.; zoning administrator, § 40-36; personnel policy, app. B.

_____

Sec. 2-71. Compensation.

When not otherwise provided for by law, compensation of all officers and employees of the city shall be set by the council.

Sec. 2-72. Officers appointed.

The following officers shall be appointed by the council and shall hold office at the pleasure of the council:

(1) Acting mayor.

(2) Fire chief.

(3) City engineer.

(4) Building inspector.

(5) City attorney.

(6) Such other officers and employees as shall be provided from time to time by ordinance or resolution.

State law references: Appointment of officers and employees, Minnesota Statutes § 412.111.

Secs. 2-73--2-105. Reserved.

ARTICLE IV. BOARDS, COMMISSIONS AND COMMITTEES

Secs. 2-106--2-125. Reserved.

ARTICLE V: ORDINANCE OFFENSES.

Sec. 2-150. Purpose.

Ordinance offense procedures established pursuant to this chapter are intended to provide the public and the City with an informal, cost effective, and expeditious alternative to traditional criminal charges for violations of certain ordinance provisions. The procedures are intended to be voluntary on the part of those who have been charged with ordinance offenses. At any time prior to the payment of the Ordinance penalty as is provided for hereafter, the individual may voluntarily withdraw from participation in the procedures in which event the City may bring criminal charges in accordance with the law. Likewise, the City in its discretion, may choose not to initiate an ordinance offense and may bring criminal charges in the first instance.

Sec. 2-151. Ordinance offense defined.

An ordinance offense is a violation of a provision of this code and is subject to the ordinance penalties set forth in the schedule of offenses and penalties referred to in Section 2-158, hereafter.

Sec. 2-152. Notice.

Any officer of the Wyoming Police Department, or any other person employed by the City, authorized in writing by the City Clerk, and having authority to enforce this code, shall, upon determining that there has been a violation, notify the violator, or in the case of a vehicular violation, where the violator is not present, attach to the vehicle a notice of the violation. Said notice shall set forth the nature, date and time of the violation, the name of the official issuing the notice, and the amount of the scheduled penalty.

Sec. 2-153. Payment.

Once such notice is given, the alleged violator may, within seven (7) days of the time of issuance of the notice, pay the amount set forth on the schedule of penalties for the violation, or may request a hearing in writing, as is provided for hereafter. The penalty may be paid in person or by mail, and payment shall be deemed to be an admission of the violation.

Sec. 2-154. Hearing.

Any person contesting an ordinance offense pursuant to this chapter may, within seven (7) days of the time of issuance of the notice, request a hearing by a hearing officer who shall forthwith conduct an informal hearing to determine if a violation has occurred. The hearing officer shall have authority to dismiss the violation or reduce or waive the penalty. If the violation is sustained by the hearing officer, the violator shall pay the penalty imposed.

Sec. 2-155. Hearing officer.

The City will direct the appointment of a neutral third party to hear and rule on challenges to ordinance citations authorized by this ordinance. Such appointment may be renewed annually at the first meeting of the year as all other Council appointments, or more immediately as the Council directs, in its sole, reasonable discretion. The hearing officer is authorized to hear and determine any controversy relating to ordinance offenses provided for in this chapter.

Sec. 2-156. Failure to pay.

In the event a party is charged with an ordinance offense fails to pay the penalty, a misdemeanor or petty misdemeanor charge may be brought against the alleged violator in accordance with applicable statutes. If the penalty is paid or if an individual is found to not have committed the ordinance offense by the hearing officer, no such charge may be brought by the City for the same violation.

Sec. 2-157. Disposition of penalties.

All penalties collected pursuant to this chapter shall be paid to the City's Finance Director and may be deposited in the City's general fund.

Sec. 2-158. Offenses and penalties.

Offenses which may be charged as ordinance offenses and the penalties for such offenses may be established by resolution of the City Council from time to time. Copies of such resolutions shall be maintained in the office of the City Clerk.

Sec. 2-159. Subsequent offenses.

In the event a party is charged with a subsequent ordinance offense within a twelve (12) month period of paying an ordinance penalty for the same or substantially similar offense, the subsequent ordinance penalty shall be increased by twenty-five percent (25%) above the previous penalty except as otherwise provided by resolution.

Sec. 2-160. Ordinance offenses and fee schedule.

Animal Regulations	**City Ordinance**	**Fee**
Animals Running at Large	8-2	$75.00
Keeping of Wild, Vicious and Exotic Animals	8-5	$200.00
Possession of Public Nuisance Animal	8-5, (8)	$75.00
Excessive Dogs	8-7	$75.00
~~Unlicensed Dog~~	~~8-41~~	~~$75.00~~
Breaking Pound	8-46	$75.00
Public Nuisances	16-31, 32, 33, 34, 62, 71, 72, 80, 91	$150.00

Waste/Rubbish Regulations	**City Ordinance**	**Fee**
Flytight Containers	26-1	$25.00
Rubbish Accumulation	26-2	$150.00
Unauthorized Disposal of Garbage	26-39	$200.00
Rubbish Collection without License	26-66	$200.00

Parking Violations	**City Ordinance**	**Fee**
No Parking 2 am – 6 am	34-67, (1)	$25.00
Parking During Snow Removal	34-62	$125.00
Failure to Move Vehicle at Police Officer Direction	34-64	$150.00
Illegal Truck Parking	34-66	$75.00
Snow Parking	34-102 a	$75.00
Depositing Snow onto Public Street	34-102 b	$75.00
Failure to Remove Snow (Sidewalk)	34-102 c	$75.00
Failure to Remove Snow Around Mailbox	34-102 d	$75.00
Snow Removal Obstructions (Temporary)	34-102 e	$75.00
Snow Parking (Winter Parking)	40-686	$75.00

ATV/Snowmobile Regulations	**City Ordinance**	**Fee**
Non permitted Use of Snowmobile / ATV	34-137	$75.00
Crossing of Streets and Highways by Snowmobiles	34-138	$125.00
Yielding Right-of-Way at Intersection	34-140	$125.00
Under 14 Operation	34-141	$125.00
Prohibited Uses (Snowmobile / ATV)	34-137	$125.00
Snowmobile / ATV – Equipment	34-142	$125.00
Snowmobile / ATV – Chase / Kill Animal	34-145	$125.00

Alcohol and Tobacco City Ordinance Fee	City Ordinance	Fee
Consumption by Minor	4-42	$20.00
Sale of Alcohol to Drunkards	4-38	$30.00
Sale of Alcohol to minors	4-38	$30.00

Fireworks City Ordinance Fee	City Ordinance	Fee
Use Prohibited	18-71	$20.00

Loitering	City Ordinance	Fee
Act Prohibited	22-1	$25.00
Second Offense within 12 months	22-1	$30.00

Other	City Ordinance	Fee
Excessive Acceleration	34-31	$75.00
Loitering	22-1	$25.00
Second Offense within 12 months	22-1	$30.00
Firearm – Illegal Discharge	22-2	$250.00
a. Hunting, Trapping without Permit		$250.00
b. Minor Possession of Gun without Parent		$250.00
Curfew	22-36	
a. 14 years and under		$125.00
b. 15 and 16		$125.00
c. 17		$125.00

Peddlers	City Ordinance	Fee
License Required	24-1	$250.00

Secs. 2-161--2-169. Reserved.

(ORDINANCE NO.2009-2)

ARTICLE 6: ADMINISTRATIVE OFFENSES.

Sec. 2-170. Purpose.

Administrative traffic offense procedures established pursuant to this chapter are intended to provide the public and the City with an informal, cost effective, and expeditious alternative to traditional criminal charges for violations of certain traffic offenses. The procedures are intended to be voluntary on the part of those who have been charged with administrative traffic citations authorized by Minn. Stat. § 169.999. At any time prior to the payment of the administrative penalty as is provided for hereafter, the individual or the city may voluntarily withdraw from participation in the procedures in which event the City may bring criminal charges in accordance with the law. The City in its discretion, may choose not to initiate an administrative traffic offense and may bring criminal charges in the first instance.

Sec. 2-171. Administrative traffic offense defined.

Any administrative traffic offense is a violation of a provision of this code and is subject to the administrative penalties set forth in the schedule of offenses and penalties referred to in Section 7-159 or Minn. Stat. §169.999, hereafter.

Sec. 2-172. Notice.

An officer of the Wyoming Police Department, or any other person employed by the City, authorized in writing by the City Clerk, and having authority to enforce this code, shall, upon determining that there has been a violation, notify the violator, or in the case of a vehicular violation, where the violator is not present, attach to the vehicle a notice of the violation. Said notice shall set forth the nature, date and time of the violation, the name of the official issuing the notice, and the amount of the scheduled penalty.

Sec. 2-173. Payment.

Once such notice is given, the alleged violator may, within seven (7) days of the time of issuance of the notice, pay the amount set forth on the schedule of penalties for the violation, or may request a hearing in writing, as is provided for hereafter. The penalty may be paid in person or by mail, and payment shall be deemed to be an admission of the violation. The City Reserves the right to reject the admission, return the fine payment and change the matter criminally.

Sec. 2-174. Hearing.

Any person contesting an administrative traffic offense pursuant to this chapter may, within seven (7) days of the time of issuance of the notice, request a hearing by a hearing officer who shall forthwith conduct an informal hearing to determine if a violation has occurred. The hearing officer shall have authority to dismiss the violation or reduce or waive the penalty. If the violation is sustained by the hearing officer, the violator shall pay the penalty imposed.

Sec. 2-175. Hearing officer.

The City will direct the appointment of a neutral third party to hear and rule on challenges to administrative traffic citations authorized by this ordinance. Such appointment may be renewed from time to time as all other Council appointments, or more immediately as the Council directs, in its sole, reasonable discretion. The hearing officer is authorized to hear and determine any controversy relating to administrative offenses provided for in this chapter.

Sec. 2-176. Failure to pay.

In the event a party is charged with an administrative traffic offense fails to pay the penalty, a misdemeanor or petty misdemeanor charge may be brought against the alleged violator in accordance with applicable statutes. If the penalty is paid or if an individual is found to not have committed the administrative traffic offense by the hearing officer, no such charge may be brought by the City for the same violation.

Sec. 2-177. Disposition of penalties.

All penalties collected pursuant to this chapter shall be paid to the City's Finance Director. City staff will separately account for administrative traffic citations authorized by this ordinance in City financial reports, summaries, and audits in keeping with common accounting practices and standards. The City will designate a special fund for the portion of administrative traffic fines that must be spent on law enforcement purposes, in keeping with common accounting practice and standards, and to report annually, or as otherwise directed by Council, to the City Council on said fund. One-third of the fines collected from the administrative traffic citations must be transferred to the commissioner of finance to be deposited into the state general fund.

Sec. 2-178. Offenses and penalties.

Offenses which may be charged as administrative traffic offenses and the penalties for such offenses may be established by resolution of the City Council and as may be allowed by statute from time to time. Copies of such resolutions shall be maintained in the office of the City Clerk. City peace officers may not issue administrative traffic citations in violation of Minn. Stat. §169.999; and will abide by the requirements related to the issuance of administrative traffic citations including but not limited to prescribing a uniform traffic citation form, use and sharing of fine revenues, and other administrative measures.

Sec. 2-179. Administrative offenses and fee schedule.

Chapter 169 Admin Traffic Offenses	City Ordinance	State Stat.	Fee
Speed	34-1	169.14	$60.00
Fail to Obey stop sign	34-1	169.30	$60.00
Hitching behind a vehicle	34-1	169.46	$60.00
Use of Headphones/TV's in Motor Vehicle	34-1	169.471	$60.00
Use of wireless devices in a Motor Vehicle	34-1	169.475	$60.00
Vehicle Lighting	34-1	169.48	$60.00
Head Lamps	34-1	169.49	$60.00
Rear Lamps	34-1	169.5	$60.00
Clearance and Marker Lamps	34-1	169.51	$60.00
Light or Flagging a projected load	34-1	169.52	$60.00
Vehicle Signals	34-1	169.57	$60.00
Prohibited Lights	34-1	169.64	$60.00
Brakes	34-1	169.67	$60.00
Muffler	34-1	169.69	$60.00
Cracked Windshield	34-1	169.71	$60.00
Bumpers, Safeguards	34-1	169.73	$60.00
Wheel Flaps on Trucks and Trailers	34-1	169.733	$60.00
Automobile Fender	34-1	169.734	$60.00

(ORDINANCE NO.2009-3)

Secs. 2-180--2-190. Reserved.

Chapter 3 RESERVED

Chapter 4 ALCOHOLIC BEVERAGES*

***Cross references:** Businesses, Ch. 12.

State law references: Liquor act, Minnesota Statutes § 340A.101 et seq.

Article I. In General

Secs. 4-1--4-30. Reserved.

Article II. Licenses

Sec. 4-31. Definitions.

Sec. 4-32. Required.

Sec. 4-33. Applications for license.

Sec. 4-34. License fees.

Sec. 4-35. Granting of licenses.

Sec. 4-36. Persons ineligible for license.

Sec. 4-37. Places ineligible for license.

Sec. 4-38. Conditions of license.

Sec. 4-39. Hours of operation.

Sec. 4-40. Sales in full public view.

Sec. 4-41. Clubs.

Sec. 4-42. Restrictions on purchase or consumption.

Sec. 4-43. Revocation.

Sec. 4-44. Special Sunday on-sale license.

Sec. 4-45. Hours.

Sec. 4-46. Entertainment in establishments and restaurants selling or permitting to be displayed or consumed intoxicating liquor or 3.2 malt liquor.

Sec. 4-47. Temporary 3.2 malt liquor licenses.

ARTICLE I. IN GENERAL

Secs. 4-1--4-30. Reserved.

ARTICLE II. LICENSES

Sec. 4-31. Definitions.

As used in this article, all words shall have the meanings given them by Minnesota Statutes ch. 340A.

Cross references: Definitions generally, § 1-2.

Sec. 4-32. Required.

(a) *Kinds of licenses.* No person, except wholesalers or manufacturers to the extent authorized under state license, shall directly or indirectly deal in, sell or keep for sale any intoxicating liquor or 3.2 malt liquor without first having received a license to do so as provided in this article. Licenses shall be of six kinds:

(1) On-sale intoxicating liquor.

(2) Off-sale intoxicating liquor.

(3) Club intoxicating liquor.

(4) On-sale 3.2 malt liquor.

(5) Off-sale 3.2 malt liquor.

(6) Temporary on-sale 3.2 malt liquor.

(b) *On-sale intoxicating liquor licenses.* On-sale intoxicating liquor licenses shall be issued only to restaurants, hotels, clubs and exclusive liquor stores and shall permit the sale of intoxicating liquor for consumption on the premises only.

(c) *Off-sale intoxicating liquor licenses.* Off-sale intoxicating liquor licenses shall be issued only to exclusive liquor stores for sale of intoxicating liquor for consumption off the licensed premises only.

(d) *Club intoxicating liquor licenses.* Special club intoxicating liquor licenses shall be issued only to duly organized clubs as defined in Minnesota Statutes ch. 340A.

(e) *On-sale 3.2 malt liquor licenses.* On-sale 3.2 malt liquor licenses shall be issued only to drugstores, restaurants, hotels, clubs and establishments used exclusively for the sale of 3.2 malt liquor for consumption on the premises only.

(f) *Off-sale 3.2 malt liquor licenses.* Off-sale 3.2 malt liquor licenses permit the sale of 3.2 malt liquor for consumption off the premises only.

(g) *Temporary on-sale 3.2 malt liquor licenses.* Temporary on-sale 3.2 malt liquor licenses may be issued to clubs or charitable, religious or nonprofit organizations for the sale of 3.2 malt liquor on-sale for a period of time not to exceed three days.

Sec. 4-33. Applications for license.

(a) *Filing; contents.* Every application for a license to sell liquor shall be verified and filed with the city clerk-administrator. It shall state:

(1) The name of the applicant;

(2) His or her age;

(3) Representations as to his or her character, with such references as may be required;

(4) His or her citizenship;

(5) The type of application being applied for;

(6) The business connection with which the proposed license will operate and its location;

(7) Whether the applicant is the owner and operator of the business;

(8) How long he has been in that business at that place; and

(9) Such other information as the council may require from time to time.

In addition to containing such information, each application for a license shall be in the form prescribed by the liquor control commissioner. No person shall make a false statement in an application.

(b) *Surety bond and liability insurance.* A surety bond, liability insurance policy, or in lieu thereof cash or United States government bonds of equivalent market value in the currently required amount shall accompany each application for an off-sale license. An application for an on-sale license shall be accompanied by a liability insurance policy in the currently required amount and shall specifically include so-called dram shop coverage as provided by Minnesota Statutes § 340A.801. The licensee shall

also comply with the provisions of Minnesota Statutes § 304A.409. The city shall be named as an additional insured to whatever extent they might become liable or involved, and a certificate of insurance shall be filed with the city clerk-administrator before any license shall be granted or renewed. Failure to maintain such insurance or failure to notify the city of any cancellation or other discontinuance of this insurance requirement shall be grounds for revocation or suspension of the license.

(c) *Council and city attorney approval.* The security offered under subsection (c) of this section shall be approved by the council, and in the case of applicants for off-sale licenses, by the state liquor control commissioner. Surety bonds and liability insurance policies shall be approved as to form by the city attorney. All bonds shall be conditioned as follows:

(1) That the licensee will obey the laws related to such licensed business;

(2) That the licensee will pay to the city when due all taxes, license fees, penalties and other charges provided by law;

(3) That in the event of any violation of the provisions of any law relating to the retail off-sale and on-sale of intoxicating liquor, such bond, policy or other security shall be forfeited to the city;

(4) That the licensee will pay, to the extent of the principal amount of such bond, policy or security, any damages for death or injury caused by or resulting from the violation of any provisions of related law; and in such cases recovery under this subsection (c)(4) may be had from the surety on the bond or the policy. The amount specified in such bond or policy is declared to be a penalty.

(d) *Seating capacity and value of premises.* No on-sale intoxicating liquor license shall be issued to any establishment unless it has seating capacity for 50 persons and contains at least 1,250 square feet of space devoted to the sale and consumption of liquor. The total premises devoted to the sale and consumption of liquor including facilities for dining, if any, shall have a value of not less than $75,000.00, which amount shall be adjusted to reflect changes in the cost of living after 1975. If the owner and the city do not agree as to the value of the premises, the council may consider the value ascertained by a qualified appraiser selected by it, and paid by the owner. The application shall show specifically the area in the premises devoted to the sale and consumption of liquor. No liquor may be sold or consumed in any other area.

State law references: Liability insurance, Minnesota Statutes § 340A.409.

Sec. 4-34. License fees.

(a) *License fee payment required.* Each application for a license shall be accompanied by a receipt from the city clerk-administrator for payment in full of the required fee for the license. All fees shall be paid into the general fund of the city. Upon rejection of any application for a license, the city clerk-administrator shall refund the amount paid.

(b) *Expiration date.* All licenses shall expire on June 30 of each year. Each license shall be issued for a period of one year; except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rata fee. In computing such fee, any unexpired fraction of a month shall be counted as one month.

(c) *Annual fee.* The annual fees for the various liquor and intoxicating and 3.2 malt liquor licenses shall be set from time to time, and a schedule of such fees is on file and available in the city offices and is included in appendix A.

(d) *Refunds.* No part of the fee paid for any license issued under this section shall be refunded except in the following instances upon application to the council within 30 days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis when operation of the licensed business ceases not less than one month before expiration of the license because of:

(1) Destruction or damage of the licensed premises by fire or other catastrophe.

(2) The licensee's illness.

(3) The licensee's death.

(4) A change in the legal status of the city, making it unlawful for the licensed business to continue.

State law references: Retail license fees, Minnesota Statutes § 340A.408.

Sec. 4-35. Granting of licenses.

(a) *Council action.* The council shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After such investigation and hearing, the council shall grant or refuse the application at its discretion. No off-sale intoxicating liquor license shall become effective until it, together with the bond furnished by the applicant, has been approved by the public safety commissioner.

(b) *License transfer prohibited.* Each license shall be issued to the applicant only. Each license shall be issued only for the premises described in the application. No license may be transferred to another person or to another place without the approval of the council.

(c) *City clerk-administrator action.* The city clerk-administrator shall, within ten days after the issuance of any on-sale intoxicating liquor license under this division, submit to the public safety commissioner the full name and address of each person granted a

license, the trade name, the effective license date, and the date of expiration of the license. He shall also submit to the public safety commissioner any change of address, transfer, cancellation or license by the council during the license period.

Sec. 4-36. Persons ineligible for license.

No license shall be issued to any person under this division:

(1) *Age minimum.* Under the minimum lawful drinking age specified in Minnesota Statutes § 340A.503.

(2) *Character.* Who is not of good moral character or repute.

(3) *Conviction of law violation.* Who is or has been convicted of any willful violation of any law of the United States or the state or of any local ordinance regarding the manufacture, sale, distribution or possession for resale or distribution of intoxicating liquor, or whose liquor license has been revoked for any willful violation of any such laws or ordinances.

(4) *Manufacturer of intoxicating liquor.* Who is a manufacturer or wholesaler of intoxicating liquor or is interested directly or indirectly in the ownership or operation of any such licenses.

(5) *Interest in other establishments.* Who is directly or indirectly interested in any other establishment in the city to which a license of the same class has been issued under this division.

Sec. 4-37. Places ineligible for license.

(a) *Delinquent or unpaid financial claims.* No license shall be issued or renewed for operation on any premises on which taxes, assessments or other financial claims of the city are delinquent and unpaid.

(b) *Exceptions.* No license shall be issued for any premises owned by a person to whom a license may be not granted under this division except an owner who is a minor.

Sec. 4-38. Conditions of license.

(a) *Code conditions apply.* Every license granted under this division is subject to the conditions of this section and all other applicable provisions of this Code and state law.

(b) *License posting required.* The license shall be posted in a conspicuous place on the licensed premises at all times.

(c) *Licensee responsible for conduct and order in premises.* Every licensee shall be responsible for the conduct of his place of business and the conditions of sobriety and order in it.

(d) *Limits to on-sale and off-sale licenses.* No on-sale licensee shall sell intoxicating liquor off-sale unless he also holds an off-sale liquor license. No off-sale licensee shall sell on-sale or permit the consumption of any liquor on the licensed premises unless he has an on-sale license.

(e) *License effective only within named space.* No license shall be effective beyond the compact and contiguous space named in the license for which it was granted.

(f) *Sale to intoxicated person, habitual drunkard or minor prohibited.* No liquor or 3.2 malt liquor shall be sold, given, bartered, furnished, delivered or disposed of to any person to whom such activities are prohibited by Minnesota Statutes § 340A.503, including intoxicated persons, habitual drunkards, public prostitutes or persons under the minimum age.

(g) *Minors' employment regulations.* No minor shall be employed in any rooms where on-sales are made, except that persons under such age may be employed to perform the duties of a busboy or dishwashing service in restaurants or hotels/motels serving food in rooms in which intoxicating liquors are sold at retail on-sale.

(h) *Gambling or gambling devices prohibited.* No licensee shall keep, possess or operate, or permit the keeping, possession or operation of any slot machine, dice or any gambling device or apparatus on the licensed premises or any adjoining room or building directly or indirectly under his control; and he shall not permit any unlawful gambling in any such location.

(i) *Resort for prostitute use prohibited.* No licensee shall permit the licensed premises or any room in the premises or any adjoining building directly or indirectly under his control to be used as a resort for prostitutes or other disorderly persons.

(j) *Equipment ownership by manufacturer prohibited.* No equipment or fixture in any licensed place shall be owned in whole or in part by any manufacturer or distiller of intoxicating liquor.

(k) *Credit sales prohibited.* No sale of liquor or 3.2 malt liquor shall be made to anyone on credit.

(l) *Inspection rights.* Any peace officer or health officer, or any properly designated officer of the city shall have the unqualified right to enter, inspect and search the premises of the licensee during occupied hours or any reasonable time without a warrant. Any refusal to allow such an inspection shall constitute grounds for suspension or revocation of license. No licenses shall be issued under the provision of this division without the execution in writing by the licensee of a written assent to this condition.

(m) *Tampering with contents of original package prohibited.* No licensee shall sell, offer for sale or keep for sale intoxicating liquors in any original package which has been refilled or partly refilled. No licensee shall directly or through any other person

dilute or in any manner tamper with the contents of any original package so as to change its composition or alcoholic content while in the original package. Possession on the licensed premises by any licensee of any intoxicating liquor in the original package differing in composition or alcoholic content from the liquor when received from the manufacturer or wholesaler from whom it was purchased shall be prima facie evidence that the contents of the original package have been diluted, changed or tampered with.

(n) *Liquor display prohibited during hours when liquor sale is prohibited.* No on-sale establishment shall display liquor when the establishment is open to the public during hours when the sale of liquor is prohibited by this division.

(o) *Federal wholesale liquor dealer's special tax stamp.* No licensee shall apply for or possess a federal wholesale liquor dealer's special tax stamp except to liquidate retail stock over a period not to exceed 30 days.

(p) *Prohibited sale to person after written notice.* No person shall sell intoxicating liquor to any spendthrift or improvident person after written notice not to do so has been served on him by a parent, husband, wife, adult child or guardian of such person or by the chief of police or any councilmember of the city. The prohibition of this subdivision shall extend for one year from the date of the service of the notice. When notice is served by an authorized person not a city official, a copy of the notice shall also be served upon the city clerk-administrator; but the prohibition of this subsection shall be effective without such additional service.

(q) *Ethyl alcohol or neutral spirits prohibited.* No licensee shall keep ethyl alcohol or neutral spirits on the licensed premises or permit their use on the premises either alone or mixed with any other beverage.

State law references: License restrictions for intoxicating liquor licenses, Minnesota Statutes § 340A.412.

Sec. 4-39. Hours of operation.

No sale of intoxicating liquor or 3.2 malt liquor shall be made during the dates and times for which such sales are prohibited by Minnesota Statutes § 340A.504. During such prohibited dates and times, no person shall be allowed to be or remain within any room, place or premises where intoxicating liquor or 3.2 malt liquor is permitted to be sold for any purpose whatsoever more than 45 minutes after closing time; except that the licensee, his agents or employees, may be and remain for the purpose only of cleaning, preparation of meals, necessary repairs or maintenance, bookkeeping, or for the purpose of acting as watchmen.

State law references: Hours and days of sale, Minnesota Statutes § 340A.504.

Sec. 4-40. Sales in full public view.

All sales in an on-sale establishment shall be in full public view.

Sec. 4-41. Clubs.

No club holding a special club license shall sell liquor except to members or their guests.

Sec. 4-42. Restrictions on purchase or consumption.

(a) *Prohibitions.* For the purpose of this section, any person under minimum age established by Minnesota Statutes § 340A.503 or other state statute for the allowable sale, possession or consumption of intoxicating liquors shall be considered a minor. It is unlawful for any:

(1) Licensee or his employee to sell or serve liquor or 3.2 malt liquor to any minor or other person to whom the sale would be illegal, or to permit any in or to consume the liquor or 3.2 malt liquor on the licensed premises unless accompanied by his parent or legal guardian.

(2) Person other than the parent or legal guardian to procure liquor or 3.2 malt liquor for any minor.

(3) Person to induce another to make an illegal sale or purchase of liquor or 3.2 malt liquor.

(4) Minor to misrepresent his age for the purpose of obtaining liquor or 3.2 malt liquor.

(5) Minor to consume liquor or any 3.2 malt liquor.

(6) Minor to have in his possession any liquor or 3.2 malt liquor with intent to consume the liquor or 3.2 malt liquor at a place other than the household of his parent or guardian. Possession of such liquor at a place other than the household of his parent or guardian shall be prima facie evidence of intent to consume the liquor or 3.2 malt liquor at a place other than the household of his parent or guardian.

(b) *Sale or consumption in automobiles or on public highways prohibited.* No liquor shall be sold or consumed on a public highway or in an automobile.

Sec. 4-43. Revocation.

The council may suspend or revoke any liquor license for willful violation of any provision or condition of this Code or any state law regulating the sale of intoxicating liquor and shall revoke such license if the licensee willfully violates any provision to Minnesota Statutes ch. 340A. Upon a first nonwillful violation of this Code, the council may suspend any license for not more than 15 days. Upon a second violation, the council may suspend the license for not more than 60 days. Upon a third such violation, the council may permanently revoke the license.

No suspension or revocation takes effect until the licensee has been afforded an opportunity for a hearing under sections 14.57 to 14.70 of the Administrative Procedures Act.

State law references: License suspension and revocation, Minnesota Statutes § 340A.415.

Sec. 4-44. Special Sunday on-sale license.

Special on-sale licenses for the sale of intoxicating liquor on Sunday shall be issued only to hotels, restaurants, bowling centers and clubs as defined in Minnesota Statutes § 340A.101. All sales of liquor by such establishments shall be in accordance with Minnesota Statutes § 340A.504, subd. 3.

Sec. 4-45. Hours.

No liquor shall be sold after 1:00 a.m. on Sunday; except hotels, restaurants, bowling centers and clubs having special Sunday on-sale liquor licenses may serve liquor between the hours of 10:00 a.m. and 1:00 a.m. of the next day provided the licensee is in conformance with Minnesota Statutes § 116.061 et seq.

State law references: Similar provisions, Minnesota Statutes § 340A.504, subd. 3(b).

Sec. 4-46. Entertainment in establishments and restaurants selling or permitting to be displayed or consumed intoxicating liquor or 3.2 malt liquor.

(a) *Entertainment defined.* Entertainment as used in this section is defined to include, but not be limited to, music, singing, plays, dancing either by the public or performers, motion pictures, videotape, expositions, performance, male or female reviews, fashion shows, TV other than regular public channels, concerts or any other deliberate act intended to amuse or entertain patrons and/or employees.

(b) *Entertainment license required.*

(1) No person who has been issued a special use permit to operate a restaurant, and no person owning and/or operating an establishment in the business of selling or permitting to be displayed or consumed an intoxicating liquor or 3.2 malt liquor shall permit any entertainment in the establishment without having secured from the council a license to permit the entertainment.

(2) The license and fee shall be in addition to any licenses required for the establishment's operations. The annual license fee shall be set from time to time by the council, and a schedule of such fees is on file and available in the city offices, and is included in appendix A.

(c) *Restrictions.* Holders of an entertainment license are subject to all the regulations and restrictions contained in this Code, and any violation may be grounds for the cancellation of the license if the council so determines.

(d) *Entertainment prohibitions.* It is unlawful and no entertainment license shall be held at any establishment in which any person is allowed to:

(1) Remain in or upon the premises who exposes to public view any of his genitals or anus, except when the genitals or anus are covered with opaque clothing.

(2) Remain in or upon the premises who wears or uses any device or covering exposed to view which simulates sexual parts of the body.

(3) Expose to public view any portion of the female breast below the top of the areola.

(4) Perform or simulate sexual acts, or make physical contact with another's sexual parts of the human body.

(5) Perform or simulate masturbation or bestiality.

(6) Show films or other visual reproductions depicting entertainment which, if done by a person on the premises, would be prohibited by this section.

(e) *Violation.* Any person who produces, promotes, prepares, solicits, manages, directs or participates in any entertainment contrary to the provisions of this section shall be subject to revocation or suspension of any and all licenses held on the premises.

Sec. 4-47. Temporary 3.2 malt liquor licenses.

(a) *Issuance.* Temporary on-sale 3.2 malt liquor licenses may be issued to clubs, charitable organizations and nonprofit organizations permitting the club or organization to sell 3.2 malt liquor on-sale for a period of time, not to exceed three days.

(b) *Application for license.*

(1) Any club or organization desiring a temporary on-sale 3.2 malt liquor license shall file a verified application in writing with the city clerk-administrator at least 30 days before the license is to take effect, on forms to be prescribed by the council.

(2) The application shall specifically state the precise premises where the 3.2 malt liquor is to be sold, shall contain the names of officers, directors, shareholders, local managers and local managing agents of the club or organization, making such application and such additional information as the city clerk-administrator shall request and shall be accompanied by the following:

a. The currently required cash deposit.

b. A license fee as set by council resolution.

c. A liability insurance policy meeting the requirements of subsection (d) of this section.

(c) *Return of cash deposit.* The cash deposit required to be submitted with an application for a temporary on-sale 3.2 malt liquor license shall be returned to the licensee after the license expires only if the licensed premises is cleaned up to the satisfaction of the council or its designated representative.

(d) *Conditions of liability insurance policy.* Any liability policy submitted with an application for a temporary on-sale 3.2 malt liquor license in lieu of a bond shall be in the currently required amount as set forth in appendix A to this Code and shall name the city as an additional insured party on the policy. The policy shall specifically provide for the payment by the insurance company, on behalf of the insured, all sums which the insured shall become obligated to pay by reason of liability imposed upon him by law for injuries or damages to persons, other than an employee, including the liability imposed upon the insured by reason of Minnesota Statutes § 340A.801 or by common law extension of the liability imposed by the statute. The liability insurance policy shall further provide that no cancellation of it for any cause can be made either by the insured or the insurance company without first giving ten days' notice to the city clerk-administrator in writing of such intention to cancel the policy. The operation of the on-sale business without having on file at all times with the city clerk-administrator the liability insurance policy referred to in this subsection is grounds for immediate revocation of the license. No payment of any claim by the insurance company shall, in any manner, decrease the coverage provided for in respect to any other claim brought against the insured or insurance company thereafter.

(e) *Provisions.* The city clerk-administrator shall not issue any temporary on-sale 3.2 malt liquor license unless directed to do so by resolution duly adopted by the council. Any such license that is issued shall contain the following provisions:

(1) The specific dates on which it is valid.

(2) The precise premises where the 3.2 malt liquor is to be sold.

(3) That the license is not transferable.

(4) The specific time of the day for which the license is valid.

(5) The time by which the licensed premises shall be vacated.

(6) That the license may be suspended or revoked at any time by the council for violation of any provision of this article or any statute of the state without notice or hearing.

(f) *Issuance.*

(1) No license shall be issued under this section if it appears that the issuance of such license will endanger the health, safety or morals of the public.

(2) No corporation or organization shall be granted such a license if any of its officers, directors, shareholders, local managers or local managing agents have been convicted within five years prior to the application for such license of violation of any law relating to the sale of 3.2 malt liquor or of intoxicating liquor, and unless its officers, directors, shareholders, local managers or local managing agents are of good moral character and reputation.

(g) *Sales, closing hours, vacating of premises.*

(1) No sales of 3.2 malt liquor shall be made by the holder of a temporary on-sale 3.2 malt liquor license during any time in which the license is not valid. However, in no event shall any such sale be made between the hours of 1:00 a.m. and 8:00 a.m.

(2) All customers of the licensee shall vacate the premises for which a temporary on-sale 3.2 malt liquor license has been issued by the time specified on the license, which shall not be later than 1:30 a.m. It is the responsibility of the licensee to assure compliance with this requirement, and noncompliance shall constitute grounds for revocation of the license.

(h) *Suspension and revocation.*

(1) Any license issued under this section may be suspended or revoked at any time by the council for any violations of the provision of this section, any other provision of this article or any statute of the state. Such suspension or revocation may be ordered by the council without notice or hearing.

(2) The chief of police shall notify the licensee of the revocation or suspension and shall forthwith cause the licensed premises to be vacated by the licensee and its customers.

(i) *Limitation on number of licenses.* No organization or corporation shall be granted a temporary on-sale 3.2 malt liquor license more than four times per calendar year.

(j) *License not transferable.* No license issued under this section is transferable.

State law references: Temporary 3.2 percent malt liquor licenses, Minnesota Statutes § 340A.403, subd. 2.

Chapter 5 RESERVED

Chapter 6 AMUSEMENTS AND ENTERTAINMENTS*

***Cross references:** Businesses, Ch. 12.

State law references: Authority to regulate license or prohibit amusements, circuses, etc., Minnesota Statutes § 412.221, subd. 25.

Article I. In General

Sec. 6-1. Entertainments.

Sec. 6-2. Bowling alleys and pool halls.

Sec. 6-3. Public dances.

Secs. 6-4--6-35. Reserved.

Article II. Game Machines

Division 1. Generally

Sec. 6-36. Definitions.

Sec. 6-37. Conduct of recreational facility.

Secs. 6-38--6-60. Reserved.

Division 2. License

Sec. 6-61. Required.

Sec. 6-62. Fee.

Secs. 6-63--6-95. Reserved.

Article III. Bingo

Division 1. Generally

Sec. 6-96. General regulations.

Secs. 6-97--6-115. Reserved.

Division 2. License

Sec. 6-116. Authorization to issue.

Sec. 6-117. Required.

Sec. 6-118. Application.

Sec. 6-119. License fee.

Sec. 6-120. Suspension or revocation.

Sec. 6-121. License fees.

Sec. 6-122. Not transferable.

Sec. 6-123. Revocation.

Sec. 6-124. Appeal.

Secs. 6-125--6-155. Reserved.

Article IV. Gambling

Sec. 6-156. Adoption of state statute; local control.

Sec. 6-157. Notice; approval and disapproval.

Sec. 6-158. Allowed organizations.

Sec. 6-159. Authorized forms of gambling.

Sec. 6-160. Authorized locations of gambling.

Sec. 6-161. Conditions of gambling.

Sec. 6-162. Filing of records; inspection; access to records.

Sec. 6-163. Lawful gambling at on-sale establishments.

Sec. 6-164. Use of profits from lawful gambling.

Sec. 6-165. Penalty.

ARTICLE I. IN GENERAL

Sec. 6-1. Entertainments.

(a) *License required.* No person shall give or exhibit any show or public entertainment, circus, carnival, game or concert, or operate any merry-go-round or similar apparatus, or conduct any show, whether admission is to be charged or not, without first securing a license. Provided, no license shall be necessary for any entertainment given by amateurs, or in which the performers do not receive any pay, or which is given solely for the benefit of any school, church or benevolent institution or for any charitable purpose. The council may waive license requirements for any activity or entertainment sponsored by a local nonprofit organization or association.

(b) *Application.* Application for such licenses shall be made to the city clerk-administrator and shall state the nature of the entertainment, and its time and place. Such license shall be issued by the city clerk-administrator if, in his opinion, the public morals and welfare will not suffer from such issuance.

(c) *Fee.* Licenses for entertainment, including motion pictures and video tapes, shall not be issued until a fee as set forth in appendix A has been paid to the city clerk-administrator.

Sec. 6-2. Bowling alleys and pool halls.

(a) *License required.* No person shall operate or maintain billiard or pool tables or bowling alleys without first having obtained a license to do so.

(b) *Application.* Applications for licenses shall be made to the city clerk-administrator, and shall contain the names, residences and occupations of the principal owners and the persons to be in charge, such information covering a period of five years prior to the application; whether any of the above persons has ever been convicted of a felony; and such other information as to character and reputation as may be required. The city clerk-administrator shall issue the license if, in his opinion, the public health and morals will not suffer from such issuance.

(c) *Fees.* The fees for bowling alleys and pool halls shall be as set forth in appendix A.

(d) *Practices prohibited.* It is unlawful for any licensee or employee of such licensee in any pool hall or any appurtenant or connected place to:

(1) Permit any form of gambling.

(2) Permit any person to become disorderly.

(3) Sell or possess, or knowingly allow any person in the hall to sell or possess intoxicants or narcotics.

Sec. 6-3. Public dances.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Public dance means any place in which dancing may be or is carried on, other than a private residence; and the term shall be taken to apply to every dance held in a public dancing place, whether an admission fee is charged or not.

(b) *License required.* No person shall conduct a public dance in this city unless a license has been procured from the city clerk-administrator.

(c) *Fee.* The license fee shall be as set forth in appendix A. Provided that any lodge or society not organized or maintained for profit may conduct public dances upon the payment of a fee as set forth in appendix A.

(d) *Application.* Any person desiring a permit to hold a public dance in the city shall make application on blanks furnished by the city clerk-administrator. The application shall set forth the name and address of the person who is to conduct the dance; the time and place where such dance is to be held; and the area of the dance floor. The application shall also show affirmatively that the applicant is a person of good moral character and reputation in the community in which he lives and that the applicants has not been convicted of a felony or gross misdemeanor. The city clerk-administrator shall issue the license if, in his opinion, the public health or safety will not suffer from such issuance. If the license is issued, it shall be posted in a public place in the dance hall described in the license during the time the dance is being given, and the person named in the license shall be responsible under the law for the manner in which such dance is to be held and conducted.

Secs. 6-4--6-35. Reserved.

ARTICLE II. GAME MACHINES

DIVISION 1. GENERALLY

Sec. 6-36. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Game machine means any machine or device intended to provide entertainment for individuals upon the payment of money. Game machines include, without limitation, pool tables, pinball machines, electronic display game machines, foosball games and similar devices.

Cross references: Definitions generally, § 1-2.

Sec. 6-37. Conduct of recreational facility.

Any premises upon which game machines or other private recreational facilities are operated shall be supervised at all times by an adult who shall have the responsibility of maintaining discipline and order on the premises. Upon the finding by any court or the city council that persons on the premises have engaged in disorderly conduct or that the facility constitutes a public nuisance, the city council may revoke any license granted under this article.

Secs. 6-38--6-60. Reserved.

DIVISION 2. LICENSE

Sec. 6-61. Required.

No person may own, manage, operate or lease any premises upon which any game machine is made available for public operation or any private recreational facility charging a fee for recreation, without first securing a license.

Sec. 6-62. Fee.

A game room license shall not be issued until a fee as set forth in appendix A is paid for each game machine or recreational activity conducted on the premises. The license and the license fee shall be renewable once each year.

Secs. 6-63--6-95. Reserved.

ARTICLE III. BINGO*

_____

***State law references:** Bingo hall licenses, Minnesota Statutes § 349.164.

_____

DIVISION 1. GENERALLY

Sec. 6-96. General regulations.

(a) *Minimum age.* No person working a bingo game shall be less than 18 years of age.

(b) *Alcohol.* No alcoholic beverages shall be served or consumed in the same room as bingo is being played.

Secs. 6-97--6-115. Reserved.

DIVISION 2. LICENSE

Sec. 6-116. Authorization to issue.

The city is authorized to issue bingo operator's licenses to organizations otherwise exempt from the licensing provisions of Minnesota Statutes ch. 349. Licenses may be issued to organizations as defined by state law.

Sec. 6-117. Required.

No organization may operate a bingo game within the city without first having been issued a license by the state charitable gambling control board.

Sec. 6-118. Application.

Application for a city bingo license shall be made on forms provided by the city. A license shall be valid for a period of one year.

Sec. 6-119. License fee.

The annual license fee for a city bingo operator's license shall be as set forth in appendix A. A special one-day license may be issued as set forth in appendix A. This special one-day's license fee may be waived by city council action for church or other charitable organizations. The city may impose an investigation fee as set forth in appendix A for organizations applying for or renewing a state license.

Sec. 6-120. Suspension or revocation.

A bingo operator's license issued by the city may be suspended for a period not exceeding 30 days for violation of this article or for violation of state statutes. A bingo operator's license may be revoked for violation of this article or for violation of state statutes; the revocation shall be after reasonable notice and public hearing before the city council.

Sec. 6-121. License fees.

All license fees pursuant to section 6-119 shall be reviewed annually and may be adjusted by city council resolution, which shall be kept on file for public inspection in the city clerk-administrator's office.

Sec. 6-122. Not transferable.

No license issued by the city under this division may be transferred from one person to another without permission of the city council. When the city council permits the transfer of a license, it may waive any residence requirement, but only for the unexpired term of the license.

Sec. 6-123. Revocation.

Any license may be revoked by the city council for a violation of the section under which it is issued, or for the violation of any state or federal law in conjunction with the operation of the business for which the license is issued.

Sec. 6-124. Appeal.

Any person whose application for a city bingo operator's license has been denied or not acted upon within 30 days after the application may apply directly to the city council for a license. The application to the city council shall contain the same information that the

city council may require or that the applicant may feel is pertinent. The city council may grant the license after a hearing if the requirements of this article are substantially complied with and, in the opinion of the city council, granting of the license would be in the best interests of the public.

Secs. 6-125--6-155. Reserved.

ARTICLE IV. GAMBLING*

_____

***State law references:** Authority to regulate lawful gambling, Minnesota Statutes § 349.213.

_____

Sec. 6-156. Adoption of state statute; local control.

Minnesota Statutes ch. 349, dealing with state regulation of lawful gambling, is adopted by reference the same as if it were fully set forth in this article. Lawful gambling conducted within the city and pursuant to Minnesota Statutes Ch. 349 shall be operated in accordance with the conditions prescribed in this article and other applicable provisions of this article. Terms not otherwise defined shall have the meanings given them in Minnesota Statutes § 349.12.

Sec. 6-157. Notice; approval and disapproval.

Pursuant to Minnesota Statutes § 349.213, the city council is required to receive written notice from the state charitable gambling control board or the applicant of each pending application for a lawful gambling premises permit before issuing or denying the premises permit of the applicant. After receipt of such written notice, each pending application for a premises permit shall be approved or disapproved by resolution of the city council.

Sec. 6-158. Allowed organizations.

Lawful gambling may only be conducted in the city by fraternal, religious, veterans or other nonprofit organizations, which are located within the Wyoming Trade Area, defined as the City and each city or township contiguous to the City, and which have obtained a license to conduct such lawful gambling from the state charitable gambling control board or are exempt from such license requirement and provide written evidence of said exemption. While eligibility for gambling licenses shall not be restricted to local organizations, preference shall be given to local organizations which:

(1) Have properly submitted an application for a gambling license and are willing to abide by the terms of the City's Lawful Gambling Ordinance;

(2) Have not violated any statute, state rule or city ordinance relating to gambling within the last three years;

(3) Have been in existence in the City for at least three consecutive years prior to the date of application;

(4) Have at least 15 active members on the date the application was submitted;

(5) Only allow lawful gambling to take place at a premise the organization owns or rents;

(6) Have filed with the city clerk-administrator or other designated city employee copies of all records and reports required to be filed with the state charitable gambling control board pursuant to Minn. Stat. § 349 and the rules and regulations provided under that section;

(7) Have paid any and all permit or application fees required by the City;

(8) The operation of gambling at the site by such organization will not be detrimental to the health, safety and welfare of the community; and

(9) For any other reasons which are reasonably related to a legitimate government purpose of the City.

(ORDINANCE NO. 03-21-06F)

Sec. 6-159. Authorized forms of gambling.

Only those forms of lawful gambling allowed by state statute and approved by the city council subject to the terms and conditions of this article shall be allowed in the city.

Sec. 6-160. Authorized locations of gambling.

Lawful gambling under a license issued by the state charitable gambling control board after approval by city council resolution may be conducted only at the following locations:

(1) *General limitation.* An organization may only conduct lawful gambling on premises owned or leased by the organization. All leases shall be on a form prescribed by the board and shall otherwise be in accordance with Minnesota Statutes § 349.18.

(2) *Raffles.* Notwithstanding subsection (1) of this section, class D (raffle only) licenses may be approved for any proper location.

(3) *City codes compliance.* No location shall be approved for gambling unless it complies with the applicable zoning, building, fire, and health codes of the city.

Sec. 6-161. Conditions of gambling.

The conduct of lawful gambling under a license issued by the state charitable gambling control board shall be subject to the following conditions of the city:

(1) *Alcoholic beverages prohibited; exception.* No sale, consumption or possession of liquor, wine or 3.2 beer shall be permitted during gambling conducted by a licensed organization, except as permitted under a valid on-sale liquor, wine or 3.2 beer license, or a bottle club permit. No sale of liquor, wine or 3.2 beer shall be permitted in the room where a bingo session is taking place.

(2) *Organization eligibility.* In order to conduct lawful gambling in the city, an organization must meet all of the requirements of Minnesota Statutes § 349.15 and must provide the city with a copy of the organization's license issued pursuant to that section. In addition, the organization must have at least ten active members who are residents of the trade area.

(3) *Bingo occasions.* No more than 52 bingo occasions each year and one bingo occasion each week shall be conducted by any organization. No person who leases premises to two or more organizations for purposes including the conduct of bingo shall allow more than one bingo occasion to be conducted on the premises in any week.

(4) *Limitation on licenses.* No organization shall hold more than two premises permits for locations in the city. As to organizations who have permits to conduct gambling in more than two establishments in the city, this limitation shall apply upon the expiration of such permits that are in excess of two.

(5) *Gambling manager.* Except where, pursuant to Minnesota Statutes § 349.167, subd. 4, dealing with those situations of an emergency nature where the board would allow otherwise, before any person may serve as gambling manager for any organization licensed to conduct gambling in the city, that person must have satisfactorily completed a course of instruction conducted by the board on the duties and responsibilities of the gambling manager.

Sec. 6-162. Filing of records; inspection; access to records.

(a) *Filing.* All organizations licensed to conduct gambling in the city shall file with the city clerk-administrator or other designated city employee copies of all records and reports required to be filed with the state charitable gambling control board pursuant to Minnesota Statutes Ch. 349 and the rules and regulations promulgated under that section. The records and reports shall be due to the city at the same time they are due to the board.

(b) *Inspection.* Every gambling event in the city conducted by an organization under Minnesota Statutes ch. 349 shall at all times be open to inspection by officers of the police department without notice or search warrant.

(c) *Access.* The city clerk-administrator may inspect, at any reasonable time upon reasonable notice and without search warrant, all records of a licensed organization conducting gambling within the city, including the organization's gambling account and other bank records, required by the board to be maintained and preserved.

Sec. 6-163. Lawful gambling at on-sale establishments.

In addition to the other requirements of this article, lawful gambling at on-sale liquor, wine and 3.2 beer establishments shall be conducted in compliance with the following regulations:

(1) *Type of gambling.* Only lawful gambling allowed under state statute gambling licenses may be conducted at such establishments except where the licensed gambling organization also holds the on-sale liquor, wine or 3.2 beer licenses for the premises, in which case lawful gambling allowed under any class of gambling license may be conducted at such establishment.

(2) *One organization.* On-sale establishments shall be limited to one licensed gambling organization at any one time in the licensed premises and any rooms adjoining the premises under the same management. No lease shall be made with one organization while another lease is in effect for the same on-sale establishment.

(3) *Written lease.* Every agreement between an organization and an on-sale establishment for gambling shall be in the form of a written lease. The written lease shall be the complete agreement between the parties, and there shall be no unwritten terms or conditions. The lease shall specifically provide that the lessee shall operate only after issuance of a license and premises permit and shall be subject to the terms of this article.

(4) *Copy on file.* A copy of any lease agreement between an organization and an on-sale establishment shall be filed with the city clerk-administrator at the same time as the gambling premises permit application.

(5) *Lease limitations.* A lease agreement between an organization shall in all respects be in accordance with state guidelines and requirements regarding such leases.

(6) *Maintenance.* The gambling booth or other segregated area shall be constructed and maintained by the organization licensed to conduct gambling, and shall be under the exclusive control of that organization. The organization licensed to conduct gambling shall prominently display its name at its gambling booth and shall indicate that all profits from gambling are for the use by the organization for designated lawful purposes.

(7) *Exclusive control.* The organization licensed to conduct gambling shall have exclusive control over all gambling devices, money and records.

(8) *Commingling of funds prohibited.* No charitable gambling funds shall be commingled with funds of the on-sale establishment.

(9) *No promotions.* No food, drink, or entertainment discounts or other promotions shall be offered in conjunction with the sale of gambling devices or chances.

(10) *Hours of operation.* The on-sale establishment shall allow the organization to conduct gambling at any time during its lawful business hours, and shall prohibit gambling at any time other than its lawful business hours.

(11) *Requiring certain equipment prohibited.* The on-sale establishment shall make no agreements with any gambling equipment distributor requiring the use of his gambling equipment in the establishment.

(12) *Exception.* Subsections (6) through (8) of this section shall not apply when the licensed gambling organization is also the holder of the on-sale license for the establishment where the gambling is conducted.

(13) *Previous violations.* The city council may disapprove a premises permit application for an organization or at an on-sale establishment in which gambling violations have previously occurred.

Sec. 6-164. Use of profits from lawful gambling.

Not less than 75 percent (75%) of the net profits (the "Wyoming Amount") derived from lawful gambling conducted within the City by an organization shall be spent or disbursed in the Wyoming Trade Area, defined as the geographic area of the City and each city or township contiguous to the City. The Wyoming Amount shall be based upon gross receipts generated within the City less prizes actually paid out of such receipts by the organization and amounts expended for allowable expenses attributable to such gross receipts. The terms "net profits," "gross receipts" and "allowable expenses" shall have the meanings given them and shall be subject to all of the limitations provided in state statute and the state charitable gambling control board's rules promulgated under state statute. In addition to and at the time the organization submits its reports to the City required by section 6-162, it shall also submit the following information upon such form as may be required by the city clerk-administrator:

(1) *Total gross receipts*. The total amount of gross receipts generated within the City (the City Receipts) from lawful gambling activities within the reporting period.

(2) *Total prizes*. The total amount of prizes actually paid out attributable to such City receipts by the organization during the reporting period.

(3) *Total expenses*. The total amount of money expended for allowable expenses attributable to such City Receipts.

(4) *Net profits*. The amount of net profits derived from lawful gambling during the reporting period attributable to such City Receipts.

(5) *Lawful purposes.* The identification of the amount and lawful purposes for which expenditures in the Wyoming Trade Area were made.

(6) *Signature*. The signature and title of the person filing the report on behalf of the organization.

(7) *Time period*. The time period covered by the report.

(ORDINANCE NO. 03-21-06F)

Sec. 6-165. Penalty.

Any person violating any of the provisions of this article shall be guilty of a misdemeanor. Additionally, a violation of this article may result in a recommendation by the city to disapprove or not renew a license or premises permit. Finally, in addition to any other penalty available under this article, the city may revoke a premises permit for any violation of this article which is not corrected within 30 days of notice of such violation from the city.

Chapter 7 RESERVED

Chapter 8 ANIMALS*

_____

***Cross references:** Environment, Ch. 16; RR rural residential district, § 40-136 et seq.

State law references: Authority to regulate the keeping of animals, Minnesota Statutes § 412.221, subd. 21.

_____

ARTICLE I. IN GENERAL

Sec. 8 – 1. Definitions.

Sec. 8 – 2. Running at large prohibited.

Sec. 8 – 3. Seizure of an animal running at large.

Sec. 8 – 4. Muzzling proclamation.

Sec. 8 – 5. Specific Prohibitions.

Sec. 8 – 6. Premises entry right.

Sec. 8 – 7. Number of animals permitted.

ARTICLE II. POUND

Sec. 8 – 41. Authorized.

Sec. 8 – 42. Impoundment of animals.

Sec. 8 – 43. Redemption.

Sec. 8 – 44. Selling of impounded animals.

Sec. 8 – 45. Disposition of proceeds of sale.

Sec. 8 – 46. Breaking pound.

ARTICLE III. URBAN FOWL

Sec. 8 – 71. Authorized.

Sec. 8 – 72. Facilities.

ARTICLE I. IN GENERAL

Sec. 8 – 1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) **Agricultural Purposes:** Means animals that are raised, kept, or bred as commodities and are sold, or their offspring sold, whole or in part for meat, food, fur, skin, fiber, or egg production.

(2) **Buildable:** Means an area of land excluding surface waters, wetlands or floodplains.

(3) **Domestic Animal:** Domestic animal means, animal species that have been selectively bred for hundreds of generations to accept humans or live with humans, and are commonly considered to be domesticated in the United States. Domestic animals include companion animals and livestock.

(4) **Companion Animal:** Means any animal that is commonly kept by persons as a pet or for companionship. The definition of "companion animal" includes, but is not limited to: domesticated dogs, domesticated cats, domesticated birds, and horses/donkeys.

(5) **Educational Purposes:** Means possession of a non-releasable prohibited animal(s) for educational, or exhibition purposes as allowed only under a separate permit from the Minnesota Department of Natural Resources, pursuant to Minnesota Rules 6244.0800.

(6) **Livestock:** means domestic animals that are traditionally raised as agricultural commodities whole or in part, or the produce of the animals is sold as a commodity and animals traditionally used as beasts of burden or transportation. When kept and/or raised for agricultural purposes the following animals include, but are not limited to, any of the following orders and families and are considered livestock:

(a) Equus caballus (domestic horse)

(b) Equus asinus (domestic ass)

(c) Members of the genus Mustela lawfully kept commercially for fur production.

(d) The following members of the Order Artiodactyla:

1. Family Bovidae, Subfamily Bovinae;

   i. Bison bison (American bison)

   ii. Bison Bonasus (European bison)

   iii. Bos grunniens (domestic yak)

   iv. Bos taurus (common cattle)

2. Family Bovidae, Subfamily Caprinae;

   i. Capra hircus (domestic goat)

   ii. Ovis aries (domestic sheep)

3. Family Camelidae;

   i. Camelus bactrianus (camel)

   ii. Camelus dromedarius (camel)

   iii. Lama glama (lama)

   iv. Lama pacos (alpaca)

4. Family Cervidea, Sub-family Capreolinae

   i. Odocileus hemionus (mule deer)

   ii. Odocoileus verginianus (white-tail deer)

   iii. Rangifer tarandus (reindeer)

5. Family Cervidea, Sub-family Cervinae

   i. Axis axis (axis deer)

   ii. Axis porcinus (hog deer)

iii. Cervus albirostris (Thorold's deer)

iv. Cervus elaphus (elk)

v. Cervus nippon (sika deer)

vi. Cervus timorensis (Timor deer or Javan rusa)

6. Dama dama (fallow deer)

i. Elaphorus davidainus (Pere David's deer)

7. Family Suidae, Sub-family Suinae;

i. Only domesticated verities of Sus scrofa (pigs)

(e) The following members of the Order Struthioniformes;

1. Family Dromaiidae (emu)

2. Family Rheidae (rheas)

3. Family Struthionedae (ostrich)

(f) The following members of the Order Galliformes;

1. Domestic animals of the Family Nemididae (guinea fowl)

2. Domestic animals of the Family Phasianidae (pheasant, peafowl, chicken, turkey)

(g) Domestic animals of the species Cyprinus carpio (common carp, koi)

(7) **Prohibited Animal:** Means any animal that is not normally domesticated in the United States or is wild by nature. Prohibited Animals include, but are not limited to, any of the following orders and families, whether bred in the wild or captivity, and also any of their hybrids with domestic species.

(a) Order Carnivoria, Family Ailuridae (red panda);

(b) Order Carnivoria, Family Eupliridae (mongoose);

(c) Order Carnivoria, Family Canidae, other than Canis familiaris (domestic dogs);

(d) Order Carnivoria, Family Felidae, other than Felis catus (domestic cats);

(e) Order Carnivoria, Family Mephitidae (skunks)

(f) Order Carnivoria, Families Nandiniidae and Viverridae (civet);

(g) Order Carnivoria, Family Odoenidae, Otariidae and Phocidae (walruses and seals);

(h) Order Carnivoria, Family Procyonidae (raccoons);

(i) Order Carnivoria, Family Ursidae (bears, including hybrids);

(j) Order Carnivoria, Family Mustelidae (wolverines);

(k) Order Carnivoria, Family Hyaenidae (hyenas);

(l) Order Primates (monkeys, apes, etc.), other than the species Homo sapiens;

(m) Order Proboscidae, Family Elephantidae (elephants);

(n) Order Perissodactyla, Family Rhinocerotidae (rhinoceroses);

(o) Order Artiodactyla, Family Suidae (warthogs) and Family Hippopotamidae (hippopotamuses);

(p) Order Crocodilia (crocodiles, alligators, and caimans);

(q) Venomous reptiles, including all members of the following families:

1. Helodermidae (gila monsters and Mexican beaded lizards);

2. Viperidae vipers;

3. Crotalidae (pit vipers);

4. Hydrophilidae (sea snakes);

5. Elapidae (cobras, coral snakes, and related); and

6. Any rear-fanged snakes of the family Colubridae that are known to be life-threatening to humans, including but not limited to the following:

i. Dispholidus typus (boomslang);

ii. Thebtornis kirtlandii (twig snake); and

iii. Rhabdophis (keelbacks).

(r) Any constricting snake greater than four (4) feet in length or 20 pounds in weight;

(s) Any species of the class Insecta (insects) considered life-threatening to humans in general;

(t) Any species of the class Arachnida (spiders, scorpions, and related) considered life-threatening to humans in general;

(u) Any species of the genera Catoprion, Pygocentrus, Pygopristis, Rooseveltiella, Serrasalmus, Serrasalmo, and Taddyella of the superorder Teleostei of the class Osteichthyes (piranhas);

(v) Any regulated animal;

(8) **Public nuisance animal:** Is any animal which:

(a) Is repeatedly found at large.

(b) Damages the property of anyone other than its owner.

(c) Is a vicious animal.

(d) Causes fouling of the air by odors.

(e) Cause unsanitary conditions of enclosures or surroundings.

(f) By virtue of number of types of animals maintained is offensive or dangerous by possession.

(g) Makes excessively disturbing noises.

(h) Molests passersby or passing vehicles.

(i) Attacks other domestic animals.

(j) Has been designated by the city council to be a public nuisance animal by virtue of being a menace to the public health, welfare and safety.

(9) **Regulated Animal:** Regulated animals means any animal defined as regulated in Minn. Stat. §346.155, Subd. 1(e).

(10) **Run at large** or **running at large:** means permitting any animal to be found, whether intentionally or unintentionally, on property not owned by the individual who is the animal's owner unless the animal is leashed or under control of a competent person.

(11) **Wildlife Rehabilitator:** means a person who has a valid Department of Natural Resources novice, general, or master class wildlife rehabilitation permit issued pursuant to Minnesota Rules 6244.0100 to 6244.2000.

Cross references: Definitions generally, § 1-2.

Sec. 8 – 2. Running at large prohibited.

No person may permit an animal to run at large in the city.

Sec. 8 – 3. Seizure of an animal running at large.

The city will promptly seize, take up, and place all animals that may be found running at large or being kept or harbored any place in the city contrary to the provisions of this chapter. The city clerk-administrator is granted the authority to formulate rules and regulations for the detention, care, redemption, and disposal of all animals taken up under this section.

Sec. 8 – 4. Muzzling proclamation.

When the health officers determine that a cat or dog in the city is infected with rabies or hydrophobia, the mayor may, upon written advice from the health officer that the public safety and general welfare require it, order by proclamation that all cats or dogs be muzzled when off the premises of the owner, and that all unmuzzled cats or dogs found off the premises of the owner be immediately taken up and impounded, and may further order that after the proclamation has been published for five (5) days either by posting or printing in the official newspaper, all cats and dogs found off the premises of the owner shall be taken up, impounded and killed; except that an officer may immediately kill such unmuzzled cat or dog if with reasonable effort it cannot first be taken up and impounded. Any cat or dog seized and impounded within the first 48 hours after the publishing of any such proclamation shall, if claimed within five business days, and if not infected with rabies or hydrophobia, be returned to its owners; but after five business days, such cats or dogs may be killed. The

poundmaster shall collect from the owners or persons desiring to redeem any animal which has been impounded a reasonable sum relative to the expenses incurred.

Sec. 8 – 5. Specific Prohibitions.

(1) Unlawful to Keep Prohibited Animals. It shall be unlawful for any person to own, possess, keep, harbor, bring, or to have in one's possession a prohibited animal(s) within the City of Wyoming.

(2) Unlawful to Keep Livestock. It shall be unlawful for any person to own, possess, keep, harbor, bring, or to have in one's possession a livestock animal(s) within the City of Wyoming.

(3) Unlawful to Allow Prohibited Animals. It shall be unlawful for the owner, possessor, or any other person in control of a lot, tract, or parcel of land within the City of Wyoming or any residence or business premises situated thereon to knowingly permit any other person to be in possession of a prohibited animal or prohibited animals upon the property, residence, or premises.

(4) Unlawful to Allow Livestock. It shall be unlawful for the owner, possessor, or any other person in control of a lot, tract, or parcel of land within the City of Wyoming or any residence or business premises situated thereon to knowingly permit any other person to be in possession of a livestock animal or livestock animals upon the property, residence, or premises.

(5) Unlawful to Sell or Trade. It shall be unlawful for any person, corporation, business, or broker to sell, trade, barter, or exchange for valuable consideration any prohibited animal in any way within the City.

(6) Non-Native Species. It is unlawful to possess non-native, (to Minnesota,) prohibited animals. The exceptions in Subdivision (9) do not apply to non-native, (to Minnesota,) prohibited animals.

(7) Wildlife Sanctuaries. Wildlife sanctuaries or wildlife sanctuary of any type are not permitted within the City of Wyoming.

(8) No person shall keep, own, harbor, or otherwise possess in the city an animal which is a public nuisance as defined by this Chapter.

(9) Exceptions. A person may keep or allow the keeping of prohibited animals and livestock within the City under the following exceptions:

(a) Wildlife rehabilitators licensed by a state or federal agency;

(b) Veterinary clinics in possession of prohibited animals for temporary treatment or rehabilitation purposes, not to exceed six (6) months. Wildlife sanctuaries or Exotic Animal shelters shall not be considered veterinary clinics;

(c) Nonresident circuses, carnivals or traveling fairs for no longer than one seven-day period, per each separate location where such circus is held within the County per calendar year;

(d) Persons temporarily transporting prohibited animals through the city, provided that the animal is in a secured enclosure with no public contact and such transport time shall not exceed 24 hours; and

(e) Falconers in possession of valid Minnesota DNR Falconry permit, and valid U.S. Fish and Wildlife permit. Only animals listed on the permits are excepted from this ordinance.

(f) Livestock being used for agricultural purposes if:

1. Their location and use conforms to the provisions of Chapter 40.

2. All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.

3. Animals are maintained in quarters constructed as to prevent their escape.

(g) The provisions of subsections (2) and (4) shall not apply to domestic fowl kept in accordance with Secs. 8 – 71 and 8 – 72.

(10) Penalty. Any person violating any provision of this section is guilty of a misdemeanor.

Sec. 8 – 6. Premises entry right.

The city police officers may enter upon any premises at reasonable times for the purpose of discharging the duties imposed upon them by this chapter where there is a reasonable belief that a violation of this chapter has occurred.

Sec. 8 – 7. Number of animals permitted.

(1) No person may own, keep, or allow the keeping of more than the following number of animals of the dog, cat, ferret, rabbit, or rodent kind over the age of six (6) months on his or her premises without first receiving a kennel permit or conditional use permit from the City:

(a) Three dogs; or

(b) Three cats; or

(c) Two ferrets; or

(d) Four rabbits; or

(e) Four rodents; or

(f) Five animals that consist of a combination of any animal permitted to be kept under this ordinance (but no more of any one kind than listed in subdivisions 1 (a) through (e) above).

(2) The limitation contained in paragraph (1), (f), does not apply to farm animals on property being used for agricultural purposes that qualifies for the agricultural property tax classifications established in Minn. Stat. § 273.13.

(3) All dogs, cats and ferrets four (4) months of age and older shall be vaccinated against rabies and records for such vaccination retained.

(4) In the event that the City repairs, remediates, condemns, demolishes or removes any property or removes, houses, transfers, shelters, cares for or euthanizes any animals because they were kept in numbers in excess of that permitted then the City shall be permitted to assess all costs incurred by it therein against the property under this code and any Minnesota Statute permitting assessment for any service to the property.

Secs. 8-9--8-40. Reserved.

ARTICLE II. POUND

Sec. 8 – 41. Authorized.

Any suitable place within or without the city limits may be established as the animal pound of the city by the city clerk-administrator.

Sec. 8 – 42. Impoundment of animals.

The police officers of the city or such persons as may be designated by the council may take up and impound in the animal pound any animal found running at large.

Sec. 8 – 43. Redemption.

The poundmaster shall collect from the owners or persons desiring to redeem any animal which has been impounded a reasonable sum relative to the expenses incurred.

Sec. 8 – 44. Selling of impounded animals.

If any animal taken up and impounded has not been redeemed within five business days after impounding, the poundmaster shall give three days' notice of time and place where the animals shall be sold by posting notices in his office and on the bulletin board of the municipal building and also in the pound. Should the poundmaster for want of bidders, or from any other cause, be unable to sell the animal on the day stated, it shall be lawful for him to sell such animal on the succeeding day, or as soon thereafter as possible, without further notice.

Sec. 8 – 45. Disposition of proceeds of sale.

The poundmaster, after paying the expenses of impounding, keeping, and sale of such animal, shall hold the balance of such sale for the benefit of the owner of the animal; and if not claimed in one year, such funds shall be placed in the general funds of the city.

Sec. 8 – 46. Breaking pound.

No person shall break open or aid, assist in, counsel or advise the breaking open of a pound, or take or let out any animal, except when done by an officer duly authorized by law.

Secs. 8-47--8-70. Reserved.

ARTICLE III. URBAN FOWL

Sec. 8 – 71. Authorized.

(1) Fowl.

(a) Chickens, ducks, geese or other fowl or poultry may be kept within the City limits on residential properties located in the R1, R2, R3, and R4, Residential Districts subject to the following conditions:

1. On residential properties with less than two (2) buildable acres:

i. A maximum of four (4) hens are permitted.

ii. Roosters are prohibited.

2. On residential properties containing two (2) or more buildable acres:

i. Four hens are allowed per acre.

ii. Roosters are prohibited.

3. Hens shall be fully contained on the property at all times through the use of fencing.

4. Housing facilities and grounds shall be maintained in a clean and sanitary condition, and in good repair. Flies, rodents, and noxious odors shall be controlled. Facilities shall be kept free of fecal matter and collected fecal material shall be properly stored and disposed.

5. Food materials that are stored outside shall be in closed containers with lids. Feed must be kept in metal predator proof containers.

6. All containment areas and shelters shall be maintained in a clean, sanitary, and odor free environment and shall be free from the presence of rodents or vermin at all times.

7. Stored fecal matter shall not be allowed to accumulate on the property. Stored fecal matter shall be removed at least once a week. Manure may be placed in yard compost piles.

8. Coops are not allowed to be located in any part of a home and/or garage.

9. Hens must be secured in a chicken coop from sunset to sunrise each day.

10. Chickens shall not be raised or kept for fighting. Cockfighting is prohibited.

Sec. 8 – 72. Facilities.

(1) All poultry and fowl must be contained with the following restrictions:

(a) Coops and Runs.

1. All coops and runs must be located within the rear yard subject to a twenty (20) foot setback from any adjacent premises and be at least twenty-five (25) feet from any residential structure or dwelling or any other structures or dwellings on any adjacent premises. All chicken coops must be a minimum of four (4) square feet per chicken in size must not exceed ten (10) square feet per chicken in size and must not exceed six (6) feet in total height. Attached fenced-in runs must not exceed 20 square feet per chicken and fencing must not exceed six (6) feet in total height. Runs may be enclosed with wood and/or woven wire materials, and may allow the fowl contact with the ground.

i. The exterior finish and roofing materials of coops shall match as closely as possible the construction materials and appearance of the principal structure on the lot.

ii. Coops and runs shall be screened in accordance with Chapter 40 of the City Code.

2. Coops must either be:

i. Elevated with a clear open space of at least twenty-four (24) inches between the ground surface and framing/floor of the coop; or,

ii. The coop floor, foundation, and footings must be constructed using rodent resistant construction.

Secs. 8-73--8-100. Reserved.

(ORDINANCE NO. 2012-0)

Chapter 9 RESERVED

Chapter 10 BUILDINGS AND BUILDING REGULATIONS*

_____

***Cross references:** Environment, Ch. 16; fire prevention and protection, Ch. 18; solid waste management, Ch. 26; streets, sidewalks and other public places, Ch. 30; street naming and numbering, § 30-106 et seq.; subdivisions, Ch. 32; utilities, Ch. 36; vegetation, Ch. 38; zoning, Ch. 40; building design standards, § 40-566 et seq.

State law references: Authority to regulate the construction of buildings, Minnesota Statutes § 412.221, subd. 28.

_____

Article I. In General

Secs. 10-1--10-30. Reserved.

Article II. Building Code

Division 1. Minnesota State Building Code Adopted

Sec. 10 – 31. Codes Adopted by Reference.

Sec. 10 – 32. Application, Administration and Enforcement.

Sec. 10 – 33. Permits and Fees.

Sec. 10 – 34. Violations Penalties.

Sec. 10 – 35. Building Code Optional Chapters.

Sec. 10 – 36. Effective Date.

Sec. 10 – 37. Severability.

Division 2. Gas Installers License

Sec. 10 – 51. Prohibited Acts.

Sec. 10 – 52. Application.

Sec. 10 – 53. Insurance.

Sec. 10 – 54. Duration of License.

Sec. 10 – 55. Suspension or Revocation.

Sec. 10 – 56. Effective Date.

Sec. 10 – 57. Severability.

Article III. High Risk Uses - Building Regulations

Sec. 10 – 71. Purpose.

Sec. 10 – 72. Findings of the City Council.

Sec. 10 – 73. Definitions.

Sec. 10 – 74. Public health regulations.

Sec. 10 – 75. Exceptions.

Sec. 10 – 76. Health enforcement powers.

Sec. 10 – 77. Criminal penalties.

Sec. 10 – 78. Severability.

Sec. 10 – 79. Effective date.

ARTICLE I. IN GENERAL

Secs. 10-1--10-30. Reserved

ARTICLE II. BUILDING CODE

DIVISION 1. MINNESOTA STATE BUILDING CODE ADOPTED

Sec. 10 – 31. Codes Adopted by Reference.

The Minnesota State Building Code, pursuant to Minnesota Statutes, chapter 326B, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Labor and Industry, through the Building Codes and Standards Unit, is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this ordinance. The Minnesota State Building Code is hereby incorporated in this ordinance as if fully set out herein.

Sec. 10 – 32. Application, Administration and Enforcement.

The application, administration, and enforcement of the code shall be in accordance with the Minnesota State Building Code. The code enforcement agency of this municipality is called the City of Wyoming Department of Building Safety. This code shall be enforced by the Minnesota Certified Building Official designated by the City of Wyoming to administer the code (Minnesota Statutes, 326B.133, Subdivision 1).

Sec. 10 – 33. Permits and Fees.

The issuance of permits and the collection of fees shall be as authorized in Minnesota Rules Chapter 1300.

(1) Permit Fees. Permit fees shall be assessed for work governed by this code in accordance with Appendix A. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with Minnesota Statutes 326B.148.

(2) Plan Review Fees. When submittal documents are required by Minnesota Rules Chapter 1300, a plan review fee shall be paid at the time of submitting the submittal documents for plan review. Said plan review fee shall be 65 percent of the building permit fee as shown in Appendix A. The plan review fees specified in this section are separate fees from the permit fees specified in Sec. 10 – 33, (1) are in addition to the permit fees.

(3) Mechanical System Permit Fees. Plumbing and Heating, Ventilation, Air Conditioning (HVAC) permit fees shall be assessed for work governed by this code in accordance with Appendix A.

(4) Grading Permit and Grading Plan Review Fees. Grading Permit fees and Grading Plan Review fees shall be assessed for work governed by this code in accordance with Appendix A. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with Minnesota statute 326B.148.

(5) Investigation Fees. An Investigation Fee, in addition to the permit fee, shall be collected whenever any work for which a permit is required has been commenced without first obtaining said permit. The minimum investigation fee shall be the same as the minimum fee set forth in Appendix A. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law.

(6) Fee Refunds. The building official may authorize refunding of any fee paid hereunder, which was erroneously paid or collected. The building official may authorize refunding of not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code. The building official may authorize refunding of not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or cancelled before any plan reviewing is done. The building official shall not authorize refunding of any fee paid except on written application filed by the original permitee not later than 180 days after the date of fee payment.

Sec. 10 – 34. Violations Penalties.

A violation of the code is a misdemeanor (Minnesota Statute 326B.082).

Sec. 10 – 35. Building Code Optional Chapters.

Minnesota State Building Code, Chapter 1300 allows the City of Wyoming to adopt by reference and enforce certain optional chapters of the most current edition of the Minnesota State Building Code.

(1) The Following optional provisions identified in the most current edition of the Minnesota State Building Code are hereby adopted and incorporated as part of the building code for the City of Wyoming.

(a) Chapter 1335, Floodproofing Regulations, parts 1335.0600 to 1335.1200.

(b) Appendix Chapter J (Grading).

Sec. 10 – 36. Effective Date.

This ordinance shall become effective upon hearing, adoption and publication pursuant to law and upon filing of a certified copy hereof with the County Auditor.

Sec. 10 – 37. Severability.

Every Section, provision, or part of this ordinance is declared separate from every other section, provision or part; and if any section provision or part shall be held invalid, it shall not affect any other section provision or part. Where a provision of any other City ordinance conflicts with the provisions of this ordinance, the provisions of this ordinance shall prevail.

Secs. 10 – 38 – 10 – 50 Reserved

(ORDINANCE NO. 2008-05)

DIVISION 2. GAS INSTALLERS LICENSE

Sec. 10 – 51. Prohibited Acts.

(1) No person, except as exempted in Item (2) below, shall install, repair, replace or maintain any natural or propane gas line without a gas installer's license issued under this Ordinance. No person shall be issued a permit for the installation, repair, replacement or maintenance of any gas line unless such person is licensed under this Ordinance. This Ordinance does not apply to any pipe or tubing within an appliance when such appliance is not connected to a gas line.

(2) Notwithstanding Item 1 above, a homeowner working on a single family residential property and/or a related accessory building both of which are owned and occupied by the said homeowner, is exempt from the provisions of this Ordinance and is not required to obtain a license to perform such work.

Sec. 10 – 52. Application.

Every application for a license shall be made to the Building Official on a form provided by the building inspector. The application shall be accompanied by the payment of the annual license fee of $25.00. If the building inspector is satisfied that all requirements of law and this Ordinance have been met, the building inspector shall issue the license. No license fee shall be prorated or any part of the license fee refunded.

Sec. 10 – 53. Insurance.

(1) No license shall be issued unless the applicant provides a certificate of insurance providing protection in at least the following amounts:

A. Completed operations insurance in the amount of $200, 000.00.

B. Public liability insurance in the amount of $500,000.00.

C. Workers Compensation insurance as required by law.

(2) Such policies shall provide that they are non-cancelable without 15 days notice to the City and the coverage shall be for the term of the license. The license granted under this ordinance shall terminate upon termination of any of the required insurance coverage.

Sec. 10 – 54. Duration of License.

All licenses granted under this Ordinance shall be valid for a calendar year or the part of the year for which it is issued and shall expire on December 31 of each year.

Sec. 10 – 55. Suspension or Revocation.

The City Council may suspend a license for a period not exceeding 60 days or revoke any license or permit for violation of any provision of law, ordinance, or regulation applicable to the licensed activity. Except for termination of insurance, the holder of a license shall be granted a hearing upon at least 10 days notice before revocation or suspension is ordered. The notice shall state the time and place of the hearing and the nature of the charges against the licensee.

Sec. 10 – 56. Effective Date.

This ordinance shall become effective upon hearing, adoption and publication pursuant to law and upon filing of a certified copy hereof with the County Auditor.

Sec. 10 – 57. Severability.

Every Section, provision, or part of this ordinance is declared separate from every other section, provision or part; and if any section provision or part shall be held invalid, it shall not affect any other section provision or part. Where a provision of any other City ordinance conflicts with the provisions of this ordinance, the provisions of this ordinance shall prevail.

Secs. 10 – 58 – 10 – 70 Reserved

(ORDINANCE NO. 08-08-07)

ARTICLE III HIGH RISK USES - BUILDING REGULATIONS

Sec. 10 – 71. Purpose.

The purpose of this Article of Chapter 10 of the City Code is to prescribe regulations governing Commercial premises, buildings, and structures that are conducive, by virtue of design and use, to high-risk sexual conduct which can result in the spread of sexually transmitted diseases to persons frequenting such premises, buildings, and structures

Sec. 10 – 72. Findings of the City Council.

(1) The City Council of the City of Wyoming makes the following findings regarding the need to regulate commercial premises, buildings, and structures that are conducive to the spread of communicable disease in order to further the substantial interest of public health:

(a) The experience of other cities establishes that certain commercial premises, buildings, and structures, or parts thereof, by reason of the design and use of such premises, buildings, or structures are conducive to the spread of communicable disease or danger to persons frequenting such premises, buildings, or structures, as well as to the general public, and that the risk of spreading infectious and contagious diseases can be minimized by regulating such commercial premises, buildings, and structures.

(b) The experience of other cities where such commercial premises, buildings, and structures are present indicates that the risk of spreading the sexually transmittable disease of Acquired Immune Deficiency Syndrome (AIDS) is increased by the presence of such premises, buildings, and structures, because the design or use of such premises, buildings, and structures, or parts thereof, can facilitate high-risk sexual conduct.

(c) Medical publications of the Center for Disease Control of the United States Department of Health and Human Services indicate that the sexually transmittable disease of AIDS is currently irreversible and uniformly fatal. Medical research has further established that the risk factors for obtaining or spreading AIDS are associated with high-risk sexual conduct.

Sec. 10 – 73. Definitions.

The following words and phrases when used m this Article shall have the following meanings unless the context indicates otherwise

(1) **Booths, stalls, or partitioned portions of a room or individual room:**

(a) Enclosures specifically offered to persons for a fee or as an incident to performing high-risk sexual conduct, or

(b) Enclosures which are part of a business operated on the premises which offers movies or other entertainment to be viewed within the enclosure, including enclosures wherein movies or other entertainment is dispensed for a fee The phrase “booths, stalls, or partitioned portions of a room or individual room” does not mean enclosures which are private offices used by the owners, managers, or persons employed by the premises for attending to the tasks of their employment and which are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing movies or other entertainment for a fee, and are not open to any persons other than employees.

(2) **Doors, curtains, or portal partitions:** Full, complete, nontransparent closure devices through which one cannot see or view activity taking place within the enclosure.

(3) **Hazardous site:** Any commercial premises, building or structure, or any part thereof which is a site of high-risk sexual conduct as defined herein.

(4) **High-risk sexual conduct:**

(a) fellatio;

(b) anal intercourse; and/or

(c) vaginal intercourse with persons who engage in sexual acts in exchange for money.

(5) **Open to an adjacent room so that the area inside is visible to persons in the adjacent room:** Either the absence of any entire “door, curtain or portal partition” or a door or other device which is made of clear, transparent material such as glass, plexi-glass or other similar material meeting building code and safety standards, which permits the activity inside the enclosure to be entirely viewed or seen by persons outside the enclosure

(6) **Public health official:** An agent or employee of the City of Wyoming, Chisago County, or the State of Minnesota charged with the enforcement of the state or local health laws.

Sec. 10 – 74. Public health regulations.

(1) No commercial building, structure, premises or part thereof, or facilities therein shall be so constructed, used, designed or operated in the City of Wyoming for the purpose of engaging in, or permitting persons to engage in, sexual activities which include high-risk sexual conduct.

(2) No person shall own, operate, manage, rent, lease, or exercise control of any commercial building, structure, premises, or portion or part thereof in the City of Wyoming, which contains:

a. Partitions between subdivisions of a room, portion or part of a building, structure or premises having an aperture which is designed or constructed to facilitate sexual activity, including but not limited to vaginal intercourse, anal intercourse, or fellatio, between persons on either side of the partition.

b. "Booths, stalls, or partitioned portions of a room or individual room" as defined herein which have "doors, curtains or portal partitions" as defined herein unless such booths, stalls, partitioned portions of a room or individual room have at least one side open to an adjacent public room so that the area inside is visible to persons in the adjacent public room as defined herein. Booths, stalls, and/or partitioned portions of a room or individual room that are so open to an adjacent public room shall be lighted in a manner that the persons in the area used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms, but such lighting shall not be of such intensity as to prevent the viewing of the motion pictures or other offered entertainment.

Sec. 10 – 75. Exceptions.

The regulations set forth in Section 10-74 of this Article shall not apply to premises, buildings, or structures that are lawfully operating and licensed as hotels, motels, apartment complexes, condominiums, townhomes, or boarding houses which are subject to other general health and sanitation requirements under state and local law.

Sec. 10 – 76. Health enforcement powers.

(1) In exercising powers conferred by this or any other section of this Code relating to communicable diseases, the Public Health Official shall be guided by the most recent instructions, opinions, and guidelines of the Center for Disease Control of the United States Department of Health and Human Services which relate to the spread of infectious diseases.

(2) In order to ascertain the source of infection and reduce its spread, the Public Health Official, and persons under the Public Health Official's direction and control, shall have full power and authority to inspect or cause to be inspected, and to issue orders regarding any commercial building, structure or premises, or any part thereof, which may be a site of high-risk sexual conduct. If the Public Health Official determines that a hazardous site as defined herein exists, the Public Health Official shall declare it to be a public health hazard and public health nuisance and shall then:

a. Notify the manager, owner, or tenant of the hazardous site that the Public Health Official has reasonable belief that the premises, building, or structure is a hazardous site as defined herein.

b. Issue two written warnings at least ten (10) days apart to the manager, owner, or

(1) Once such notices and warnings have been issued, the Public Health Official or the Public Health Official's appointee shall proceed as follows:

(a) After the manager, owner, or tenant of the premises has been notified in writing as to the basis of the Public Health Official's determination, the manager, owner or tenant shall have ten (10) days from the date of the last Warning to request a hearing before the Public Health Official or the Public Health Official's appointee for the determination as to the existence of such hazardous site If the manager, Owner or tenant of the premises does not request a hearing within ten (10) days of the date of the last warning notice, the Public Health Official shall then cause the premises to be posted with a Warning advising the public that the premises have been declared a hazardous site, and the Public Health Official shall cause orders to be issued to the manager, owner or tenant of the premises constituting the hazardous site to take specified corrective measures to prevent high-risk sexual conduct from taking place within the premises.

(b) If the manager, owner, or tenant of the premises requests a hearing, the hearing shall be held before the Public Health Official or the Public Health Official's appointee at a date not more than thirty (30) days after demand for a hearing. After considering all evidence, the Public Health Official or the Public Health Official's

appointee shall make a determination as to whether the premises constitute a hazardous site, as defined herein and issue a decision based upon all hearing evidence presented. If the Public Health Official or the Public Health Official's appointee makes a determination that the premises constitute a hazardous site, the Public Health Official shall then issue orders to the manager, Owner, or tenant of the premises to take corrective measures to prevent high-risk sexual conduct from taking place within the premises and cause the premises to be posted with a warning advising the public that the premises have been declared a hazardous site.

(c) If, within thirty (30) days from issuance of the orders to the manager, owner, or tenant of the hazardous site, the Public Health Official determines that such Corrective measures have not been undertaken, the Public Health Official may order the abatement of the hazardous site as a public nuisance, which shall be enforced by mandatory or prohibitory injunction in a court of competent jurisdiction or may secure a court order for the closure of the premises constituting the hazardous site until the premises, building, or structure is in compliance with the regulations set forth in Section 10-74 of this Article.

Sec. 10 – 77. Criminal penalties.

(1) Any person who removes, destroys, or defaces warnings posted on premises by the Public Health Official pursuant to Section 10-76 of this Article shall be guilty of a misdemeanor.

(2) A violation of this Article and its regulations is a misdemeanor under Minnesota law

Sec. 10 – 78. Severability.

If any section, subsection, sentence, clause or phrase of this Article is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Article The City Council hereby declares that it would have adopted the Article and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Sec. 10 – 79. Effective date.

The foregoing Article III of Chapter 10 of the City's Code of Ordinances shall take effect upon its passage and publication as required by law

ORDINANCE NO 02-03-03A

Chapter 11 RESERVED

Chapter 12 BUSINESSES*

***Cross references:** Alcoholic beverages, Ch. 4; amusements and entertainments, Ch. 6; peddlers and solicitors, Ch. 24; utilities, Ch. 36; CBD central business district, § 40-241 et seq.; B general business district, § 40-271 et seq.; L district general business/light industrial, § 40-306 et seq.; fee schedule, app. A.

Article I. In General

Secs. 12-1--12-30. Reserved.

Article II. Saunas and Massage

Division 1. Generally

Sec. 12-31. Policy.

Sec. 12-32. Definitions.

Secs. 12-33--12-55. Reserved.

Division 2. License and Certificate

Sec. 12-56. Required.

Sec. 12-57. Application.

Sec. 12-58. Certificate required.

Sec. 12-59. Certificate application.

Sec. 12-60. License investigation fee, license fee and license year.

Sec. 12-61. Certificate fee, certificate investigation fee and certificate year.

Sec. 12-62. Granting or denial of licenses and certificates.

Sec. 12-63. Conditions governing issuance of license.

Sec. 12-64. Conditions governing issuance of certificate.

Sec. 12-65. Restrictions and regulations.

Sec. 12-66. Construction and maintenance requirements.

Sec. 12-67. Health and disease control.

Sec. 12-68. Revocation, suspension or nonrenewal of license.

Sec. 12-69. Appeal.

Sec. 12-70. Prohibited acts.

Sec. 12-71. Liability for crimes of another.

Secs. 12-72--12-100. Reserved.

Article III. Cigarettes/Tobacco Products

Division 1. Generally

Sec. 12-101. Purpose of article.

Sec. 12-102. Definitions and interpretations.

Sec. 12-103. Prohibited sales and transactions.

Sec. 12-104. Vending machines.

Sec. 12-105. Tobacco display and storage.

Sec. 12-106. Licensee responsibility for actions of employees.

Sec. 12-107. Compliance checks and inspections.

Sec. 12-108. Illegal acts.

Sec. 12-109. Administrative fines.

Sec. 12-110. Administrative revocation hearing.

Sec. 12-111. Penalty for violation of article.

Sec. 12-112. Exceptions and defenses to violations of this article.

Secs. 12-113--12-140. Reserved.

Division 2. License

Sec. 12-141. Required.

Sec. 12-142. Application.

Sec. 12-143. Approval or denial.

Sec. 12-144. Term.

Sec. 12-145. Revocation or suspension.

Sec. 12-146. Moveable place of business.

Sec. 12-147. Display.

Sec. 12-148. Renewals.

Sec. 12-149. Restrictions.

Sec. 12-150. Fees.

Sec. 12-151. Basis for denial.

Article IV. Conducting Sales of Merchandise or Food Products or Engaging In Similar Transient Commerce from a Moveable Place of Business.

Sec. 12-200. Purpose.

Sec. 12-201. Definitions.

Sec. 12-202. Required.

Sec. 12-203. Application.

Sec. 12-204. Approval or Denial.

Sec. 12-205. Term.

Sec. 12-206. Restrictions.

Sec. 12-207. License fee and license investigation fee.

Article V. Sexually Oriented Businesses

Sec. 12 - 251. Purpose.

Sec. 12 - 252. Findings of the city council.

Sec. 12 – 253. Conclusions of the city council.

Sec. 12 – 254. Definitions.

Sec. 12 - 255. License required.

Sec. 12 – 256. License application.

Sec. 12 - 257. License application execution.

Sec. 12 - 258. License application verification.

Sec. 12 - 259. License application consideration.

Sec. 12 - 260. License fees.

Sec. 12 - 261. Issuance of a license.

Sec. 12 – 262. License restrictions.

Sec. 12 – 263. Restrictions regarding license transfer.

Sec. 12 – 264. Restrictions regarding hours of operation

Sec. 12 - 265. Restrictions regarding minors.

Sec. 12 - 266. Restrictions regarding sanitation and health.

Sec. 12 - 267. Renewal application.

Sec. 12 - 268. Sanctions for license violations.

Sec. 12 - 269. Penalty.

Sec. 12 - 270. Severability.

Sec. 12 - 271. Effective date.

Article VI. Pawn shops, secondhand goods dealers, and junk dealers.

Sec. 12 – 301. Statement of policy.

Sec. 12 – 302. Definitions.

Sec. 12 – 303. License Required.

Sec. 12 – 304. Application, Investigation and Eligibility.

Sec. 12 – 305. License and Investigation Fee.

Sec. 12 – 306. Bond.

Sec. 12 – 307. Pawnbroker, Secondhand Dealer, and Junk Dealer's Records.

Sec. 12 – 308. Register Open to Inspection.

Sec. 12 – 309. Buying Prohibited from Certain Persons.

Sec. 12 – 310. Holding of Property.

Sec. 12 – 311. Pawnshop, Secondhand Dealer, or Junk Dealer Location.

Sec. 12 – 312. Hours of Operation.

Sec. 12 – 313. Suspension or Revocation of License.

Sec. 12 – 314. Penalty.

Sec. 12 – 315. Other Laws.

Sec. 12 – 316. Separability.

Sec. 12 – 317. Effective Date.

ARTICLE I. IN GENERAL

Secs. 12-1--12-30. Reserved

ARTICLE II. SAUNAS AND MASSAGE

DIVISION 1. GENERALLY

Sec. 12-31. Policy.

(a) The city council deems it necessary to provide for the special and express regulation of businesses or commercial enterprises which operate as massage parlors, saunas and similar adult-oriented services operating under different names in order to protect the public health, safety and welfare and to guard against the inception and transmission of disease. The council further finds that commercial enterprises such as the type described above, and all other similar establishments whose services include sessions offered to adults, conducted in private by members of the same or the opposite sex, and employing personnel with no specialized training, are susceptible to operation in a manner contravening, subverting or endangering the morals of the community by being the site of acts of prostitution, illicit sex and occasions of violent crimes, thus requiring close inspection, licensing and regulation.

(b) The council also finds that control and regulation of commercial establishments of these types, in view of the abuses often perpetrated, require intensive efforts by the police department, public health sanitarian and other departments of the city. As a consequence, the concentrated use of city services in such control detracts from and reduces the level of service available to the rest of the community and thereby diminishes the ability of the city to promote the general health, welfare and safety of the community. In consideration for the necessity on the part of the city to provide numerous services to all segments of the community, without a concentration of public services in one area working to the detriment of the members of the general public, the number of sauna and massage parlor licenses which may be in force at any one time shall be five, for commercial businesses.

Sec. 12-32. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Certificate means a certificate issued by the city authorizing the holder to practice or administer massage in the city.

Massage means the rubbing, stroking, kneading, tapping or rolling of the body of another with the hands for the exclusive purpose of physical fitness, relaxation, beautification and for no other purpose.

Massage parlor means any premises at or in which massage is performed.

(1) The practice of massage is declared to be distinct from the practice of medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry; and persons duly licensed in this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry, and nurses who work solely under the direction of such persons, are expressly excluded from the provisions of this division. Beauty culturists and barbers who do not give, or hold themselves out to give, massage treatments other than is customarily given in such shops or places of business, for the purpose of beautification only, shall be exempt from the provisions of this division.

(2) Athletic directors and trainers who perform massages in the course of any athletic program or event which is sponsored by a local unit of government, bona fide educational institution complying with state or local regulations, bona fide churches, synagogues or institutions of organized religion, or bona fide, nonprofit civic organizations are expressly excluded from the requirements of this division provided that the performing of massages is subsidiary to the performing of other services and tasks.

Masseur means a male person who practices or administers massage.

Masseuse means a female person who practices or administers massage.

Sauna means a steam bath or heat bathing room used for the purpose of bathing, relaxing or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent.

Cross references: Definitions generally, § 1-2.

Secs. 12-33--12-55. Reserved.

DIVISION 2. LICENSE AND CERTIFICATE

Sec. 12-56. Required.

(a) *License.* No person shall engage in the business of operating a sauna or massage parlor either exclusively or in connection with any other business enterprise without being licensed as provided in this division.

(b) *Sign display.* No person shall hold out any establishment as providing sauna or massage services unless such establishment is licensed as provided in this division. Whenever any establishment ceases to be licensed as a sauna whether through the

suspension, cancellation, revocation, nonrenewal or lapse of its license, its owners shall immediately remove from public view any sign or display which identifies the establishment as being a sauna or massage parlor or as offering sauna or massage services.

Sec. 12-57. Application.

(a) *Application forms.* Application for a license required by this division shall be made only on the forms provided by the city clerk-administrator. Four complete copies of the application shall be furnished to the office of the city clerk-administrator containing:

(1) The address and legal description of the property to be used;

(2) The names, addresses and phone numbers of the owner, lessee, if any, and the operator or manager;

(3) The name, address and telephone number of two persons, who shall be residents of the county, and who may be called upon to attest to the applicant's, manager's or operator's character;

(4) Whether the applicant, manager or operator has ever been convicted of a crime or offense other than a traffic offense and, if so, complete and accurate information as to the time, place and nature of such crime or offense, including the disposition of such crime or offense; and

(5) The names and addresses of all creditors of the applicant, owner, lessee or manager insofar as and regarding credit which has been extended for the purposes of constructing, equipping, maintaining, operating or furnishing or acquiring the premises, personal effects, equipment or anything incident to the establishment, maintenance and operation of a massage parlor or massage establishment.

(b) *Additional business records.* If the application is made on behalf of a corporation, joint business venture, partnership or any legally constituted business association, it shall submit along with its application accurate and complete business records showing the names and addresses of all individuals having an interest in the business, including partners, officers, owners and creditors furnishing credit for the establishment, acquisition, maintenance and furnishing of the business and, in the case of a corporation, the names and addresses of all officers, general managers, members of the board of directors as well as any creditors who have extended credit for the acquisition, maintenance, operation or furnishing of the establishment, including the purchase or acquisition of any items of personal property for use in the operation.

(c) *Additional documentation.* All applicants shall furnish to the city, along with their application:

(1) Complete and accurate documentation establishing the interest of the applicant and any other person having an interest in the premises upon which the building is proposed to be located or its furnishings, personal property, or its operation or maintenance. Documentation shall be in the form of a lease, deed, contract for deed, mortgage deed, mortgage credit arrangement, loan agreements, security agreements and any other documents establishing the interest of the applicant or any other person in the operation, acquisition or maintenance of the enterprise offering a massage; and

(2) Blueprints, diagrams, plans, layouts and the like showing the construction, revision, remodeling, alteration or additions of or to the premises and specifically showing the layout, design and arrangement of the bathing and restroom facilities and the size and type of equipment and facilities to be used.

Sec. 12-58. Certificate required.

No person shall administer massage without a certificate as provided in this division.

Sec. 12-59. Certificate application.

Application for a massage certificate shall be made only on forms provided by the city. The application shall contain the following information, together with any other information the city may require:

(1) Evidence of the applicant's educational qualifications, including originals or certified copies of degrees, diplomas or certificates, if any;

(2) Evidence of the applicant's practical qualifications to practice massage;

(3) The names and addresses of two residents of the county, who may be referred to regarding the applicant's character;

(4) Whether the applicant has ever been convicted of a crime or offense other than a traffic offense, and if so, information as to the time, place and nature of such crime or offense; and

Sec. 12-60. License investigation fee, license fee and license year.

The investigation fee for a massage license and the license fee shall be as stated in appendix A. The fee for the investigation of the license and the license shall be paid when the application is filed. If the application is denied or the license, once issued, is revoked, canceled or surrendered, no part of the annual license fee and investigation fee for the issuance of a license shall be returned to the

applicant unless by express action of the city council. A separate license shall be obtained each year for each place of business. The licensee shall display the license on a prominent place in the licensed premises at all times. A license, unless revoked, is for the calendar year for which it has been issued. The fee for the investigation for issuance of a license must be tendered with each new application for a license and must also be paid at any time when there is a proposed change of ownership or reapplication for a license wherein additional or different parties other than the original licensee and interested parties are proposing to be licensed. A license for the operation of a massage parlor is nontransferable.

Sec. 12-61. Certificate fee, certificate investigation fee and certificate year.

The investigation fee and the certificate fees shall be set from time to time, and a schedule of such fees is on file and available in the city offices and are listed in appendix A. The investigation for the certificate and the certificate fee shall be paid when the application is filed. If the application is denied or the certificate, once issued, is revoked, canceled or surrendered, no part of the annual certificate fee and investigation fee for the issuance of a certificate shall be returned to the applicant unless by express action by the city council. A separate certificate shall be obtained each year for each place of business. The certificate holder shall display the certificate on a prominent place in the licensed premises at all times. A certificate, unless revoked, is for the calendar year for which it has been issued. The fee for the investigation for issuance of a certificate must be tendered with each new application for a certificate and must also be paid at any time when there is a proposed change of ownership or reapplication for a certificate wherein additional or different parties other than the original certificate holder are proposing certification. A certificate permitting the holder to practice massage is nontransferable.

Sec. 12-62. Granting or denial of licenses and certificates.

License and certificate applications under this division shall be reviewed by the police department, planning department, health officer and such other departments as the city clerk-administrator shall deem necessary. The review shall include any inspection of premises covered by the application by the health officer, inspection division and fire department to determine whether the premises conforms to all applicable code requirements. Recommendations shall be made in writing to the city. Thereafter, licenses shall be granted or denied by the city subject to the provisions of this division. The applicant may appeal the decision to the city council.

Sec. 12-63. Conditions governing issuance of license.

(a) *Reputation of applicant.* No license shall be issued if the applicant or any of its owners, lessees, managers, employees or agents is a person of bad repute.

(b) *Convictions.* Licenses shall be issued only if the applicant and all of its owners, lessees, managers, employees and agents are free of convictions for offenses which involve moral turpitude or which relate directly to such person's ability, capacity, or fitness to perform the duties and discharge the responsibilities of the licensed activity.

(c) *Prior application denial or license revocation.* Licenses shall be issued only to applicants who have not, within one year prior to the date of application, been denied licensure; or who have not within such period had their license revoked.

(d) *Fees paid and full disclosure of information.* Licenses shall be issued only to applicants who have answered fully all of the information requested in the application, have paid the full license fee, and have cooperated with the city in review of the application.

(e) *Minimum age.* A license shall be granted only if an applicant is 18 years of age or older.

(f) *Code requirements.* Licenses may be granted only to establishments which can meet the safety, sanitary and building code requirements of the city.

(g) *Compatibility with neighborhood and city development.* A license shall not be granted if granting the license would be inconsistent with the comprehensive development plans of the city or would otherwise have a detrimental effect upon other property in the vicinity.

Sec. 12-64. Conditions governing issuance of certificate.

(a) *Reputation of applicant.* Certificates shall be issued only to persons of good moral character and repute and persons who are in good health and free from any communicable diseases which would disqualify the applicant from engaging in the practice of massage.

(b) *Convictions.* Certificates shall be issued only to a person free of convictions for offenses which involve moral turpitude or which relate directly to such person's ability, capacity or fitness to perform the duties and discharge the responsibilities of the occupation.

(c) *Prior application denial or certificate revocation.* Certificates shall not be issued to a person who has, within one year prior to the date of application, been denied certification or who has had his certificate revoked or surrendered in or by any political subdivision, municipality or the state.

(d) *Fees paid and full disclosure of information.* Certificates shall be issued only to applicants who have fully and truthfully provided all of the information requested in the application, have paid the full certificate fee and certification investigation fee.

(e) *Minimum age.* Certificates shall be issued only to persons 18 years of age or older.

Sec. 12-65. Restrictions and regulations.

(a) *Certificate for employee.* No licensee shall employ any person as a masseur or masseuse without first ensuring that the employee possesses a valid certificate for the administration or practice of massage.

(b) *Hours of operation.* The licensed premises shall not be open or in operation between the hours of 11:00 p.m. and 8:00 a.m. on the succeeding day, nor shall any person engaged in the practice of massage be on the premises or perform any massage or administer any such services between the hours of 11:00 p.m. and 8:00 a.m. on the succeeding day.

(c) *Regulations compliance.* The licensee, masseuse or masseur and any persons in their employ or agents or officers and any and all persons with an interest in the business shall comply with all applicable provisions of this article, the state and the United States government.

(d) *Manager.* If the licensee is a partnership or corporation, the applicant shall designate a person to be manager and in responsible charge of the business. Such person shall remain responsible for the conduct of the business until another suitable person has been designated in writing by the licensee. The licensee shall promptly notify the police department in writing of any such change indicating the name, address and telephone number of the new manager and the effective date of such change.

(e) *Inspection.* Every licensee shall permit and allow an examination and inspection of every part of the premises by a police, fire or health authority of the city during normal business hours six times each year. Refusal to allow such inspection or to answer the request of city police, fire or health authority to be admitted to a licensed premises shall be grounds for suspension or revocation of all licenses.

(f) *Sanitary condition of premises required.* The licensed premises must be kept and maintained in a sanitary condition defined as being free from the vegetative cells of pathogenic microorganisms and all equipment, personal property, tables, beds, towels, clothing and the like used in or for the purpose of massage shall also be maintained in a sanitary condition.

(g) *Display of certificate required.* Any person acting as a masseur or masseuse shall have his certificate displayed in a prominent place at his place of employment; and upon demand by any police officer or other authorized officer or agent of the city, any person engaged in practicing massage shall identify himself, giving his true legal name, correct address and phone number.

(h) *Age minimum.* No person under 18 years of age shall be permitted upon or allowed to be employed or to serve in any establishment licensed under the provisions of this division.

(i) *Address and telephone number.* Any person practicing massage within the city shall initially advise the city of his address and telephone number and shall further advise the city of any changes in address or telephone number within 30 days of such change.

(j) *Practice at licensed premises only.* Any person practicing massage within the city may do so only at premises which are licensed for the conduct of such business, and further any person practicing massage shall inform the city of any changes in employment or the location of his employment within the city within seven days after such change.

(k) *Uniform requirements.* Any masseur or masseuse practicing massage shall have the upper and lower parts of his body covered and completely clothed by a nontransparent uniform at all times.

(l) *Rate posting required.* Price rates for all services shall be prominently posted in the reception area in a location available to all prospective customers.

Sec. 12-66. Construction and maintenance requirements.

(a) *Gender separation of restrooms, locker rooms and showers.* Each premises licensed under this division shall have a separate restroom, locker room and showers for members of each sex.

(b) *Room, equipment and materials construction requirements.* All massage rooms, restrooms and bathrooms used in connection therewith shall be constructed of materials which are impervious to moisture, bacteria, mold or fungus and shall be maintained in a sanitary condition, defined as being completely free from the vegetative cells of pathogenic microorganisms. The floor-to-wall and wall joints shall be constructed to provide a sanitary cove with a minimum radius of one inch. All equipment, personal property, beds, towels, clothing and the like used in the massage parlor shall be of a sanitary design and kept in a sanitary condition.

(c) *Restroom requirements.* All restrooms shall be provided with mechanical ventilation with two cfm per square foot of floor area, a handwashing sink equipped with hot and cold running water under pressure, sanitary towels and a soap dispenser.

(d) *Janitor's closet.* Each licensed premises shall have a janitor's closet, which shall provide for the storage of cleaning supplies. Such closet shall have mechanical ventilation of two cfm per square foot of floor area. Such closet shall include a mop sink.

(e) *Room illumination requirements.* All rooms in the licensed premises, including but not limited to sauna rooms, massage rooms, restrooms, bathrooms, janitor's closet, hallways and reception area, shall be illuminated with not less than 30 foot-candles of illumination.

(f) *Repair and sanitation requirements.* Floors, walls and equipment in massage rooms, restrooms and bathrooms must be kept in a state of good repair and sanitary at all times. Linen and other materials shall be stored at least 12 inches off the floor. Clean towels, wash cloths and linens must be available for each customer.

(g) *Lockers.* Individual lockers shall be made available for use by patrons, with each locker having separate keys for locking.

(h) *Refuse receptacles.* Such licensed premises shall provide adequate refuse receptacles, which shall be emptied as often as required.

(i) *Individual massage room doors.* The doors to the individual massage rooms shall not be equipped with any locking device, nor shall they be blocked or obstructed from either side of the door.

(j) *Main entrance and inner doors.* Main entrance doors to the premises and all inner doors to rooms that contain customers shall be unlocked at all times during business hours.

Sec. 12-67. Health and disease control.

No person while afflicted with any disease in a communicable form or while a carrier of such disease or wounds, sores or any acute respiratory infection shall work in or use the services of any public massage room; and no person known or suspected of being afflicted with any such disease or condition shall be employed or permitted in such area or capacity.

Sec. 12-68. Revocation, suspension or nonrenewal of license.

A license under this division may be revoked, suspended or not renewed by the city council upon recommendation of the city clerk-administrator by showing that the licensee, its owners, managers, employees, agents or any other interested parties, as enumerated in section 12-57 with the exception of creditors have engaged in any of the following conduct:

(1) *Fraud, deception or misrepresentation.* Fraud, deception or misrepresentation in connection with the securing of the license.

(2) *Habitual drunkenness or drug intemperance.* Habitual drunkenness or intemperance in the use of drugs, including but not limited to the use of drugs, defined in Minnesota Statutes § 618.01, barbiturates, hallucinogenic drugs, amphetamines, benzedrine, dexedrine or other sedatives, depressants, stimulants or tranquilizers.

(3) *Moral turpitude.* Engaging in conduct involving moral turpitude or permitting or allowing others within their employ or agency to engage in conduct involving moral turpitude or failing to prevent agents, officers or employees from engaging in conduct involving moral turpitude.

(4) *Code requirements.* Failure to fully comply with any requirements of the provisions of this article regarding sanitary and safety conditions, zoning requirements, building code requirements or sections, the violation of which involves moral turpitude, or failure to comply fully with any requirements of this division.

(5) *Moral turpitude offense conviction.* Conviction of an offense involving moral turpitude by any court of competent jurisdiction.

(6) *Conduct.* Engaging in any conduct which would constitute grounds for refusal to issue a license.

Sec. 12-69. Appeal.

A licensee under this division may appeal such suspension, revocation or nonrenewal to the city council. The council shall consider the appeal at the next regularly scheduled council meeting on or after ten days after service of the notice of appeal to the city clerk-administrator. At the conclusion of the hearing, the council may order that the revocation, suspension or nonrenewal be affirmed or lifted and that the certificate be returned to the certificate holder. The council may base either suspension or issuance of the certificate upon any additional terms, conditions and stipulations which they may, in their sole discretion, impose.

Sec. 12-70. Prohibited acts.

No employer shall employ a person to practice or administer massage nor permit, suffer or allow a person to practice or administer massage unless that person has been granted a valid certificate pursuant to this division. Every employer shall require that the certifications be prominently and openly displayed on the premises in plain view.

Sec. 12-71. Liability for crimes of another.

Every person who commits or attempts to commit, conspires to commit or aids and abets in the commission of any act constituting a violation of this division or any act which constitutes an omission and, therefore, a violation of this division, whether individually or in connection with one or more persons or as a principal, agent or accessory, shall be guilty of such offense; and every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any of the provisions of this division is likewise guilty of such offense.

Secs. 12-72--12-100. Reserved.

ARTICLE III. CIGARETTES/TOBACCO PRODUCTS

DIVISION 1. GENERALLY

Sec. 12-101. Purpose of article.

Because the city recognizes that many persons under the age of 18 purchase or otherwise obtain, possess and use tobacco, tobacco products and tobacco related devices, and because studies have shown that most smokers begin smoking before they have reached the age of 18 and that those persons who reach the age of 18 without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; the city council adopts this article to regulate the sale, possession and use of tobacco, tobacco products and tobacco related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products and tobacco related devices and to further the official public policy of the state in regard to preventing young people from starting to smoke, as provided in Minnesota Statutes § 144.391.

Sec. 12-102. Definitions and interpretations.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and neuter and vice-versa. The term "shall" means mandatory and the term "may" means permissive. The following terms shall have the definitions given to them:

Applicant means any person, entity, or organization that applies for a license to sell tobacco or tobacco products. If the applicant is a business organization such as a corporation, limited liability company, or partnership, the term "applicant" includes all persons who are officers, partners, shareholders, and/or partners of such organization.

Compliance checks means the system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products and tobacco related devices are following and complying with the requirements of this article. The term "compliance checks" shall also mean a system approved by the city council used by an educational or research institution to study the sale of tobacco in retail establishments.

Individually packaged means the practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include, but not be limited to, single cigarette packs, single cigars, single bags, or cans of loose tobacco in any form and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this definition shall not be considered individually packaged.

Loosies means the common term used to refer to a single or individually packaged cigarette.

Minor means any natural person who has not yet reached the age of 18 years.

Moveable place of business means any form of business operated out of a truck, van, automobile or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

Retail establishment means any place of business where tobacco, tobacco products and tobacco related devices are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, restaurants and similar establishments.

Sale means any transfer of goods for money, trade, barter or other consideration.

Self-service merchandising means open displays of tobacco, tobacco products or tobacco related devices in any way where any person shall have access to the product without the assistance or intervention an employee of the premise maintaining the self-service merchandising. Self-service merchandising shall not include vending machines.

Tobacco or *tobacco products* means any substance or item containing tobacco leaf, including, but not limited to: cigarettes; cigars; pipe tobacco; snuff; fine cut or other chewing tobacco; cheroot; stogies; perique, granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff flowers; cavendish; shorts, plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing or smoking.

Tobacco related devices means any tobacco product as well as a pipe, rolling papers or other device used in a manner which enables the chewing, sniffing or smoking of tobacco or tobacco products.

Vending machine means any mechanical, electric or electronic or other type of device which dispenses tobacco, tobacco products or tobacco related devices upon the insertion of money, tokens or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product or tobacco related device.

Sec. 12-103. Prohibited sales and transactions.

It shall be a violation of this article for any person to sell, offer to sell, give away, or deliver any tobacco product or tobacco related device as follows:

(1) *To minors or failure to require proof of age.* To any person under the age of 18 years. Retailers must verify that purchasers are 18 years or older by requiring proof of age of the purchaser by checking:

a. A valid driver's license or identification card issued by Minnesota, another state, or a province of Canada;

b. A valid military identification card issued by the United States Department of Defense; or

c. In the case of a foreign national, from a nation other than Canada, by a valid passport.

The retailer or his employee must so verify the age of any person he believes to be 26 years of age or younger unless the exact age of such person is known to the retailer or his employee as a result of a previous verification of the age of such person as required hereunder.

(2) *Vending machine.* By means of any type of vending machine.

(3) *Self-service merchandising.* By means of self-service merchandising as defined in section 12-102 whereby the customer is not required to make a verbal or written request to an employee of the licensed premises in order to receive the tobacco, tobacco product or tobacco related device.

(4) *Loosies.* By means of loosies or kiddie packs.

(5) *Prohibited contents.* Containing opium, morphine, jimson weed, belladonna, strychnos, cocaine, marijuana, or other type of deleterious, hallucinogenic, or toxic or controlled substance except nicotine and not naturally found in tobacco or tobacco products.

(6) *Free samples.* By distributing free samples of tobacco or tobacco products to any person.

(7) *Other.* By any other means, or to any other person prohibited by federal, state or other local law, ordinance, provision or other regulation.

Sec. 12-104. Vending machines.

It shall be unlawful for any person licensed under this article to allow the sale of tobacco, tobacco products or tobacco related devices by means of a vending machine.

Sec. 12-105. Tobacco display and storage.

All tobacco products and tobacco related devices shall be stored behind a counter or other area not freely accessible to customers or in a case or other storage unit not left open and accessible to the general public.

Sec. 12-106. Licensee responsibility for actions of employees.

All licensees under this article shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products or tobacco related devices on the licensed premises and the sale of such an item by an employee shall considered a sale by the license holder. Nothing in this article shall be construed as prohibiting the city from also subjecting the employee to whatever penalties are appropriate under this article, state law or other applicable law or regulation.

Sec. 12-107. Compliance checks and inspections.

The city council may authorize or delegate to the city police department, other city officials, and educational or research organizations to conduct compliance checks and inspections. All licensed premises shall be open to inspection during regular business hours. Such compliance checks shall be made during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging minor's to enter the licensed premises to attempt to purchase tobacco, tobacco products or tobacco related devices. Minors used for the purpose of compliance checks shall be not less than 15 nor more than 17 years of age and shall not be guilty of unlawful possession of tobacco, tobacco products or tobacco related devices when such items are obtained as part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age and all minors lawfully engaged in a compliance check shall answer all questions about the minors age asked by the licensee or his employee and shall produce any identification for which the minor is asked.

Sec. 12-108. Illegal acts.

Unless otherwise provided, the following acts shall be a violation of this article:

(1) *Possession by minor.* It shall be a violation of this article for any minor to have in the minor's possession any tobacco, tobacco product or tobacco related device. This subsection shall not apply to minors lawfully involved in a compliance check on behalf of the city or an educational or research organization or who have only temporary possession during a legal sales transaction.

(2) *Use by minor.* It shall be a violation of this article for any minor to smoke, chew, sniff or otherwise use any tobacco, tobacco product or tobacco related device.

(3) *Procurement for or by a minor.* It shall be a violation of this article for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product or tobacco related device. It shall be a violation of this article for any person to purchase or otherwise obtain such items on behalf of a minor. It shall be a violation of this article for any person to sell or otherwise provide any tobacco, tobacco product or tobacco related device to any minor or to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product or tobacco related device. This subsection shall not apply to minors lawfully involved in a compliance check on behalf of the city.

(4) *Use of false identification.* It shall be a violation of this article for any minor to attempt to disguise the minor's true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or altered, to represent an age older than the actual age of the person.

(5) *Redemption of coupons.* It shall be a violation of this article for any retail establishment to redeem coupons for any minor for free or discounted tobacco products. It shall be a violation of this article for any retail establishment to redeem coupons for any person by mail-order.

(6) *Tobacco advertising.* It shall be a violation of this article for any person to permit or place outdoor tobacco advertisements or billboards within 1,000 feet of elementary and secondary schools and public playgrounds or to permit or place outdoor tobacco advertisements or billboards beyond 1,000 feet of elementary and secondary schools and public playgrounds unless said advertisement or billboard consists of black text on a white background. It shall be a violation of this article for any retail establishment that permits persons under the age of 18 to be present in or enter its premises at any time to permit or place any tobacco advertisement inside its establishment unless said advertisement consists of black text on a white background.

(7) *Sale and distribution of nontobacco items and services.* It shall be a violation of this article for any person to disseminate or give away any nontobacco item or service that identifies it with tobacco products, including, but not limited to, the following items: tee shirts, caps, and sporting goods.

(8) *Mandatory compliance with all federal and state statutes, rules and regulations.* It shall be a violation of this article for any person to violate any federal or state statute or regulations regarding the sale of tobacco products.

Sec. 12-109. Administrative fines.

(a) Any violation of the restrictions attached to a tobacco product license shall be cause for a fine, suspension or revocation of such license or any combination thereof. Separate fines may be assessed against both the licensee and an employee of the licensee for each violation. Without limiting the possible suspension or revocation of licenses under this article, if the violator is both a licensee and an employee/clerk, he shall be fined as a licensee. The first violation for a licensee shall result in an administrative fine of $100.00 payable to the city. The first violation for an employee shall result in an administrative fine of $50.00 payable to the city. Failure of the licensee or employee to pay the fine for a first violation within 30 days from the date of invoice shall result in a two-day license suspension. A second violation for a licensee within 12 months shall result in a fine of $250.00 payable to the city and a five-day license suspension. A second violation for an employee shall result in a fine of $100.00 and a five-day license suspension. A third violation by either a licensee or an employee within any 12-month period or any violation or sale during a license suspension, shall result in a license revocation and prosecution as a misdemeanor.

(b) Licensees whose licenses have been revoked shall not be eligible for another tobacco product license for one year from the date of revocation. The city council may attach reasonable conditions to the reinstatement of a suspended or revoked license.

(c) The accused violator whether a licensee or employee, may at any time withdraw from the administrative penalty process and elect to have the case heard in court under a misdemeanor prosecution with the applicable penalty for such misdemeanor violation to be determined by the court and not governed by this article, except for the suspension or revocation of licenses allowed hereunder. Upon discovery of a suspected violation, the violator may be issued a citation by the city police and given notice of the violator's right to be heard on the accusations. Such notice shall set forth the nature, date and time of violation, the name of the officer issuing the notice and the amount of the scheduled penalty.

Sec. 12-110. Administrative revocation hearing.

Any person contesting an administrative offense or penalty pursuant to this article may request a hearing before a hearing examiner. Such request shall be filed in writing at the city clerk-administrator's office within 20 days of the offense. The city clerk-administrator shall notify the hearing examiner, who will notify the licensee or employee of the date, time, place, and nature of the hearing. The hearing shall be conducted no more than 20 days after the hearing examiner receives notice of the request, unless a later date is mutually agreed to by the hearing examiner, the licensee and/or the licensee's employee, and the city. Within ten days after such hearing, the hearing examiner shall affirm, repeal, or modify the charge against the licensee and/or employee. Any person aggrieved by the decision of the hearing examiner may appeal the decision to the city council by filing notice of such appeal with the city clerk-administrator within 20 days of receiving notice of the hearing examiner's decision. At its next regular scheduled meeting following the filing of the notice of appeal, the council shall review the decision and findings of fact of the hearing examiner and shall affirm, repeal, or modify that decision. The position of hearing examiner is hereby created and shall be an individual trained in the law but does not have to be currently licensed to practice law in the state. The city clerk-administrator may, at his discretion, and with the approval of the city council, contract with third parties for the furnishing of all services of the hearing examiner as contained in this article and set the rate of compensation therefore.

Sec. 12-111. Penalty for violation of article.

Any person, occupant, property owner or owners, firm, partnership or corporation found to be in violation of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished according to law. Each day that a violation is permitted to exist constitutes a separate offense.

Sec. 12-112. Exceptions and defenses to violations of this article.

Nothing in this article shall prevent the providing of tobacco, tobacco products or tobacco related devices to a minor as part of a lawfully recognized religious, spiritual or cultural ceremony. It shall be an affirmative defense to the violation of this article for a person to have reasonably relied on proof of age as described by state law.

Secs. 12-113--12-140. Reserved.

DIVISION 2. LICENSE

Sec. 12-141. Required.

No person shall sell or offer to sell any tobacco, tobacco products or tobacco related devices without first having obtained a license to do so from the city.

Sec. 12-142. Application.

An application for a license to sell tobacco, tobacco products or tobacco related devices shall be made in writing on a form provided by the city and executed by the applicant. The application shall contain the full name of the applicant, the applicant's residential and business addresses, date of birth and telephone numbers, the name of the business for which the license is sought and any additional information the city deems necessary. If the applicant is a corporation, limited liability company, association, or partnership, the application shall contain the names, residential addresses, dates of birth, and telephone numbers of all officers, directors, and partners of the organization. Upon receipt of a completed application, the city clerk-administrator shall forward the application to the city council for action at its next regularly scheduled council meeting. If the city clerk-administrator shall determine that an application is incomplete, the application shall be returned to the applicant with notice of the information necessary to make the application complete.

Sec. 12-143. Approval or denial.

The city council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the city council approves the license, the city clerk-administrator shall issue the license to the applicant. If the city council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the city council's decision.

Sec. 12-144. Term.

All licenses issued under this article shall be valid for the current calendar year in which the license is issued.

Sec. 12-145. Revocation or suspension.

Any license issued under this article may be revoked or suspended as provided in section 12-111, pertaining to violations and penalties.

Sec. 12-146. Moveable place of business.

No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this article.

Sec. 12-147. Display.

All licenses shall be posted and displayed in plain view of the general public on the licensed premises.

Sec. 12-148. Renewals.

The renewal of a license issued under this article shall be processed in the same manner as the original application. The request for a renewal shall be made at least 30 days but no more than 60 days before the expiration of the current license.

Sec. 12-149. Restrictions.

A license shall be issued subject to the following restrictions:

(1) *Applicant's place of business.* No license shall be issued to any applicant for the sale of tobacco, tobacco products or tobacco related devices at any place other than the applicant's established place of business.

(2) *Moveable place of business.* No license shall be issued for the sale of tobacco, tobacco products or tobacco related devices at a moveable place of business.

(3) *Number of locations.* No license shall be issued for the sale of tobacco, tobacco products or tobacco related devices at more than one place of business.

(4) *Vending machines.* No person shall sell or dispense any tobacco, tobacco products or tobacco related devices through the use of a vending machine except as provided in section 12-104.

(5) *Self-service merchandising.* No individually packaged tobacco product shall be offered for sale by means of self-service merchandising.

(6) *Responsibility for employees; employee responsibility.* Every licensee shall be responsible for the conduct of its employees while on the licensed premises and any sale or other disposition of tobacco products in violation of this article by an employee to a person under 18 years of age shall be considered an act of the licensee for purposes of imposing an administrative fine, license suspension or revocation. Notwithstanding this provision, an employee of the licensee may also be fined as an individual for selling or disposing tobacco products to a person under 18 years of age.

Sec. 12-150. Fees.

No license shall be issued under this article until the appropriate license fee shall be paid in full. Fees shall be set from time to time by the city council by resolution and may be amended from time to time. The annual license shall be effective for up to one year by approval of the city council, expiring on December 31 of each year, upon which time it will be available for renewal. Application for renewal of such license shall be submitted on an annual basis prior to the expiration of such license.

Sec. 12-151. Basis for denial.

The following shall be grounds for denying the issuance or renewal of a license under this article:

(1) *Age restriction.* The applicant is under the age of 18 years.

(2) *Conviction.* The applicant has been convicted within the past five years of any violation of a federal, state, or local law, ordinance provision or other regulation relating to tobacco, tobacco products or tobacco related devices.

(3) *Revocation of provisional license.* The applicant has had a license to sell tobacco, tobacco products or tobacco related devices revoked within the preceding 12 months of the date of the application.

(4) *Failure to provide information.* The applicant fails to provide any information required on the application or provides false or misleading information.

(5) *Other.* The applicant is prohibited by federal, state, or other local law, ordinance or other regulation from holding such a license.

Except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license. If a license is mistakenly issued or renewed it shall be revoked upon the discovery that the licensee was ineligible for the license under this article.

ARTICLE IV. CONDUCTING SALES OF MERCHANDISE OR FOOD PRODUCTS OR ENGAGING IN SIMILAR TRANSIENT COMMERCE FROM A MOVEABLE PLACE OF BUSINESS

Sec. 12 – 200. Purpose.

Pursuant to the powers granted to it by Minnesota Statutes 412.221 subd. 20, the City Council deems it necessary to provide for the regulation of sales of merchandise or food products or similar transient commerce from a moveable place of business in order to protect the public health, safety and welfare.

Sec. 12 – 201. Definitions.

(a) Moveable Place of Business means any form of business operated out of a truck, van, automobile or other type of vehicle or transportable shelter which circulates through the streets making intermittent stops for the purpose of sales and not a fixed address store front or other type of permanent type structure authorized for sales transactions Moveable Place of Business does not mean the incidental use of a truck, van, automobile or other similar type of vehicle to transport goods sold in a door to door manner consistent with Chapter 24, Section 24-1 of the Wyoming Code of Ordinances Moveable Place of Business does not mean the incidental use of a truck, van, automobile or similar type of vehicle as shelter for the purpose of sales from a semi- permanent though not necessary fixed storefront such as a vegetable stand

(b) Sale means any transfer of goods for money, trade, barter or other consideration

Sec. 12 – 202. Required.

(a) License. No person may conduct sales of merchandise or food products or similar transient commerce from a moveable place of business without first obtaining a license to do so from the City.

Sec. 12 – 203. Application.

(a) Application forms Application for a license required by this division shall be made only on the forms provided by the City clerk-administrator and executed by the applicant. Four complete copies of the application shall be furnished to the office of the City clerk- administrator with the appropriate license fee and license investigation fee The application shall include the full name of the applicant, the applicant's residential and business address, date of birth and telephone numbers, the same information for any employees of the applicant who will be conducting sales, the name of the business for which the license is sought and any additional information the City deems necessary If the applicant is a corporation, limited liability company, association or partnership, the application shall contain the names, residential addresses, dates of birth, and telephone numbers of all the officers, directors, and partners of the organization

(b) Additional Documentation In addition to the Application, if the license applicant desires to conduct sales of food products, the applicant shall provide a copy of the applicable Minnesota Department of Agriculture license and/or permit and/or Minnesota Department of Health license and/or permit issued to the applicant All applicants shall provide a copy of a valid driver's license for the applicant and each employee of the applicant who will be conducting sales and proof of insurance for any vehicles to be used in the sales

Sec. 12 – 204 Approval or Denial.

(a) Upon receipt of a completed application, the City clerk-administrator shall forward the application to the Police Department for a background check on the applicant and any employees who will conduct sales to the public Once the background check is complete, the clerk-administrator shall forward the application to City Council for consideration at its next regularly scheduled council meeting If the clerk-administrator determines that the application is incomplete, the application shall be returned to the applicant with notice of the information necessary to make the application complete

(b) The City Council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant and/or the applicant's employees that it deems necessary If the City Council approves the license, the City clerk-administrator shall issue the license to the applicant If the City council demes the license, notice of the denial shall be given to the applicant

Sec. 12 – 205. Term.

All licenses issued under this article shall be valid for the current calendar year in which the license is issued. Application for renewal of any license must be made at least thirty (30) days but no more than sixty (60) days before the expiration of the current license.

Sec. 12 – 206. Restrictions.

The City Council may place such conditions upon the grant of the license as it deems reasonable, such restrictions may include but are not limited to, restrictions upon noise and hours of operation.

Sec 12 – 207 License fee and license investigation fee.

The license fee and license investigation fee shall be as stated in appendix A of the City Code.

The license investigation fee must be paid for each applicant and each of the applicant's employees who will be conducting sales to the public.

ORDINANCE NO. 07-05-05B

ARTICLE V SEXUALLY ORIENTED BUSINESSES

Sec. 12 – 251. Purpose.

The purpose of this Article of the City Code is to prescribe licensing requirements for sexually- oriented businesses in order to protect the general health, safety, and welfare.

Sec. 12 – 252. Findings of the city council.

The City Council of the City of Wyoming makes the following findings regarding the need to license sexually-oriented businesses. The findings are based upon the experiences of other cities where such businesses have located, as studied by City staff.

(1) Sexually-oriented businesses can contribute to an increase in criminal activity in the area in which such businesses are located, taxing City crime-prevention programs, and law enforcement services.

(2) Sexually-oriented businesses can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that the proper management and operation of such businesses can, however, minimize this risk, provided the owners and operators of such facilities are regulated by licensing or other procedures.

(3) Sexually-oriented businesses can increase the risk of exposure to communicable diseases including but not limited to Acquired Immune Deficiency Syndrome (AIDS) for which currently there is no cure. Experiences of other cities indicate that such businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, thereby endangering not only the patrons of such establishments but also the general public.

(4) Sexually-oriented businesses can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.

(5) A licensing and regulatory scheme as prescribed herein can aid in monitoring sexually oriented businesses for adverse secondary effects on the City.

(6) The risk of criminal activity and/or public health problems can be minimized through a licensing and regulatory scheme as prescribed herein.

Sec. 12 – 253. Conclusions of the city council.

In direct furtherance of the substantial goals of public health, safety, and welfare, the City Council adopts the following licensing regulations, recognizing that it has a great interest in the promotion of health and the prevention of criminal activity.

Sec. 12 – 254. Definitions.

The following words and terms when used in this Article shall have the following meanings, unless the context clearly indicates otherwise

(1) **Adult Body Painting Studio:** An establishment or business which provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude in terms of specified anatomical areas as defined herein.

(2) **Adult Book Store:** An establishment that has forty percent (40%) or greater of its current store stock in merchandise, videos, books, magazines, and/or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as herein defined.

(3) **Adult Car Wash:** A wash facility for any type of motor vehicle that allows employees, agents, independent contractors, or persons to appear in a state of partial or total nudity in terms of specified anatomical areas as defined herein.

(4) **Adult Companionship Establishment:** A companionship establishment which excludes minors by reason of age, or which provides the service for a fee of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas as defined herein.

(5) **Adult Entertainment Facility:** A building or space wherein an admission is charged for entrance, or food or nonalcoholic beverages are sold or intended for consumption, and wherein may be observed live presentation of entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein.

(6) **Adult Modeling Studio:** An establishment whose major business is the provision to customers of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in specified sexual activities as defined herein or display specified anatomical areas as defined herein while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

(7) **Adult Motion Picture Theater:** A building or space with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as herein defined, for observation by patrons therein The phrase "used for" in this definition shall mean a regular and substantial course of conduct and not a one-time presentation of such material.

(8) **Adult Mini-Motion Picture Theater:** A building or space with a capacity for fewer than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as herein defined, for observation by patrons therein The phrase "used for" in this definition shall mean a regular and substantial course of conduct and not a one-time presentation of such material.

(9) **Adult Sauna:** A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas as defined herein.

(10) **Booths, stalls, or partitioned portions of a room or individual room:**

(a) Enclosures specifically offered to persons for a fee or as an incident to performing high-risk sexual conduct; or

(b) Enclosures which are part of a business operated on the premises which offers movies or other entertainment to be viewed within the enclosure, including enclosures wherein movies or other entertainment is dispensed for a fee.

The phrase "booths, stalls, or partitioned portions of a room or individual rooms" does not mean enclosures which are private offices used by the owners, managers, or persons employed by the premises for attending to the tasks of their employment, and which are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing movies or other entertainment for a fee, and are not open to any persons other than employees.

(11) **City:** City of Wyoming, Minnesota.

(12) **Clean:** The absence of dirt, grease, rubbish, garbage, semen, bodily excretions, and other offensive, unsightly, or extraneous matter.

(13) **Doors curtains or portal partitions:** Full, complete, nontransparent closure devices through which one cannot see or view activity taking place within the enclosure.

(14) **Good repair:** Free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions, and similar defects so as to constitute a good and sound condition.

(15) **Health Inspectors:** Inspectors employed by the City or the County of Chisago or their agents.

(16) **Issuing Authority:** The City Administrator.

(17) **Minor:** Any natural person under the age of eighteen (1 8) years.

(18) **Nudity:** The showing of the human male or female genitals or pubic area or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering below a point immediately above the top of the areola, or the depiction or showing of the covered male genitals in a discernibly turgid state.

(19) **Open to an adjacent public room so that the area inside is visible to persons in the adjacent public room:** Either the absence of any entire "door, curtain or portal partition" or a door or other device which is made of clear, transparent material such as glass, plexi-glass or other similar material meeting building code and safety standards, which permits the activity inside the enclosure to be entirely viewed or seen by persons outside the enclosure.

(20) **Person:** One (1) or more natural persons; a partnership, including a limited partnership; a corporation, including a foreign, domestic, or nonprofit corporation; a trust; a political subdivision of the State, or any other business organization.

(21) **Sexually-Oriented Business:** An adult book store, adult body painting studio, adult companionship establishment, adult motion picture theater, adult entertainment facility, adult modeling studio, adult mini-motion picture theater, adult car wash, or adult sauna as herein defined.

(22) **Specified Sexual Activities:** include the following:

a. Human genitals in a discernible state of sexual stimulation or arousal; or

b. Acts of human masturbation, sexual intercourse, or sodomy; or

c. Fondling or other erotic touching of human genitals, pubic region or pubic hair, buttock, or female breast or breasts; or

d. Any combination of the foregoing.

(23) **Specified Anatomical Areas:**

a. Less than completely and opaquely covered:

i. human genitals, pubic region or pubic hair, or

ii. buttock, or

iii. female breast or breasts below a point immediately above the top of the areola; or

iv. any combination of the foregoing; or

b. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

Sec. 12 – 255. License required.

No person shall own or operate a sexually-oriented business within the City unless such person is currently licensed under this Article.

Sec. 12 – 256. License application.

The application for a license under this Article shall be made on a form supplied by the Issuing Authority and shall request the following information.

(1) All Applicants. For all applicants:

(a) Whether the applicant is a natural person, corporation, partnership, or other form of organization.

(b) The legal description of the premises to be licensed, along with a floor plan of the premises The floor plan of the premises shall detail all internal operations and activities, including a statement of the total floor space occupied by the business. The floor plan need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

(c) The name and street address of the business. If the business is to be conducted under a designation, name, or style other than the name of the applicant, a certified copy of the certificate required by Minnesota Statutes, Section 333.01 shall be submitted.

(2) Applicants Who Are Natural Persons. If the applicant is a natural person:

(a) The name, place, and date of birth, street and city address, and phone number of the applicant.

(b) Whether the applicant has ever used or has been known by a name other than the applicant's name, and so, the name or names used and information concerning dates and places where used.

(c) The street and city addresses at which the applicant has lived during the preceding two (2) years.

(d) The type, name, and location of every business or occupation in which the applicant has been engaged during the preceding two (2) years and the name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding two (2) years.

(e) Whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a petty misdemeanor traffic ordinance. If so, the applicant shall furnish information as to the time, place, and offense for which convictions were had.

(3) Applicants That Are Partnerships. If the applicant is a partnership:

(a) The name(s) and address(es) of all general partners and all of the information concerning each general partner that is required of applicants in subpart (2) of this Section.

(b) The name(s) of the managing partner(s) and the interest of each partner in the business.

(c) A true copy of the partnership agreement shall be submitted with the application if the partnership is required to file a certificate as to a trade name pursuant to Minnesota Statutes, Section 333.01, a certified copy of such certificate shall be attached to the application.

(4) Corporate or Other Applicants. If the applicant is a corporation or other organization.

(a) The name of the corporation or business form, and if incorporated, the state of incorporation.

(b) A true copy of the Certificate of Incorporation, Articles of Incorporation or Association Agreement, and By-laws shall be attached to the application If the applicant is a foreign corporation, a Certificate of Authority as required by Minnesota Statutes, Section 303 06, shall be attached.

(c) The name of the manager(s), proprietor(s), or other agent(s) in charge of the business and all of the information concerning each manager, proprietor, or agent that is required of applicants in subpart (2) of this Section.

Sec. 12 – 257. License application execution.

If the application is that of a natural person, the application shall be signed and sworn to by that person, if of a corporation, by an officer thereof, if of a partnership, by one of the general partners; if of an unincorporated association or a limited liability company, by the manager or managing officer thereof.

Sec. 12 – 258. License application verification.

Applications for licenses under this Article shall be submitted to the Issuing Authority. Within twenty (20) calendar days of receipt of a complete application and payment of all license application fees, the Issuing Authority is empowered to conduct any and all investigations to verify the information on the application, including ordering a computerized criminal history inquiry and/or a driver's license history inquiry on the applicant.

Sec. 12 – 259. License application consideration.

No later than ten (10) calendar days after the completion of the license application verification and investigation by the Issuing Authority, as prescribed in Sec. 12 - 257, the Issuing Authority shall accept or deny the license application in accordance with this Article. If the application is denied, the Issuing Authority shall notify the applicant of the determination in writing. The notice shall be mailed by certified and regular mail to the applicant at the address provided on the application form and it shall inform the applicant of the applicant's right, within twenty (20) calendar days of receipt of the notice by the applicant, to request an appeal of the Issuing Authority's determination to the City Council or to immediately challenge the determination in a court of law. If an appeal to the City Council is timely received by the Issuing Authority, the hearing before the City Council shall take place within twenty (20) calendar days of the receipt of the appeal by the Issuing Authority If an application is granted for a location where a building Is under construction or not ready for occupancy, the license shall not be delivered to the licensee until a certificate of occupancy has been issued for the licensed premises by the Building Official During the application consideration process prescribed herein an applicant operating a business not previously subject to the license provisions of this Article may remain operating pending the outcome of the application consideration by the Issuing Authority.

Sec. 12 – 260. License fees.

(1) Application fee.

(a) a The license application fee shall be as set forth in Appendix A of this Code b The application license fee shall be paid in full before the application for a license is considered All fees shall be paid to the Issuing Authority for deposit into the general fund of the City Upon rejection of any application for a license or upon withdrawal of application before approval by the Issuing Authority the license fee shall be refunded to the applicant.

(b) The application license fee shall be paid in full before the application for a license is considered all fees shall be paid to the Issuing Authority for deposit into the general fund of the City. Upon rejection of any application for a license or upon withdrawal of application before approval by the Issuing Authority the license fee shall be refunded to the applicant.

(c) When the license is for premises where the building is not ready for occupancy, the time fixed for computation of the license fee for the initial license period shall be ninety (90) days after approval of the license by the Issuing Authority or upon the date an occupancy permit is issued for the building.

(2) Investigation fee.

(a) An applicant for any license under this Article shall deposit with the Issuing Authority, at the time an original application is submitted, $500.00 to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this Article. The investigation fee shall be nonrefundable.

Sec. 12 – 261. Issuance of a license.

(1) The Issuing Authority shall issue a license under this Article to an applicant unless one or more of the following conditions exist:

(a) The applicant is not eighteen (18) years of age or older on the date the application is submitted to the Issuing Authority;

(b) The applicant failed to supply all of the information requested on the license application;

(c) The applicant gave false, fraudulent, or untruthful information on the license application;

(d) The applicant has had a sexually-oriented license revoked from the City or any other jurisdiction within a one (1) year period immediately preceding the date the application was submitted;

(e) The applicant has had a conviction of a felony or gross misdemeanor or misdemeanor relating to sex offenses, obscenity offenses, or adult uses in the past five (5) years;

(f) The sexually-oriented business does not meet all of the zoning requirements prescribed in Chapter 40 of this Code,

(g) The premises to be licensed as a sexually-oriented business is currently licensed by the City as a tanning facility, tattoo establishment, pawnshop, therapeutic massage enterprise, or an establishment licensed to sell alcoholic beverages,

(h) The applicant has not paid the license and investigation fees required in Sec. 12 – 260.

Sec. 12 – 262. License restrictions.

(1) Posting of License. A license issued under this Article must be posted in a conspicuous place in the premises for which it is used.

(2) Effect of License. A license issued under this Article is only effective for the compact and contiguous space specified in the approved license application.

(3) Maintenance of Order. A licensee under this Article shall be responsible for the conduct of the business being operated and shall not allow any illegal activity to take place on or near the licensed premises, including but not limited to prostitution, public indecency, indecent exposure, disorderly conduct, or the sale or use of illegal drugs. Every act or omission by an employee or independent contractor of the licensee constituting a violation of this Article shall be deemed the act or omission of the licensee if such act or omission occurs either with the authorization, knowledge, or approval of the licensee, or as a result of the licensee's negligent failure to supervise the employee's or independent contractor's conduct..

(4) Distance requirement for Live Adult Entertainment. All performers, dancers, and persons providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas in the licensed facility or in areas adjoining the licensed facility where such entertainment can be seen by patrons of the licensed facility shall remain at all times a minimum distance of ten (1 0) feet from all patrons, customers, or spectators and shall dance or provide such entertainment on a platform intended for that purpose, which shall be raised at least two (2) feet from the level of the floor on which patrons or spectators are located.

(5) Interaction with Patrons. No dancer, performer, or person providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas in the licensed facility or in areas adjoining the licensed facility where the entertainment can be seen by patrons of the licensed facility shall fondle or caress any spectator or patron.

(6) Gratuity Prohibition. No customers, spectator, or patron of a licensed facility shall directly pay or give any gratuity to any dancer or performer, and no dancer or performer shall solicit any pay or gratuity from any patron or spectator.

(7) Adult Car Wash Requirements. Sexually-oriented businesses that are adult car washes shall meet the requirements of this Article, and the zoning requirements of Chapter 40 of this Code, and shall not allow employees, agents, independent contractors, or persons to violate this Code.

Sec. 12 – 263. Restrictions regarding license transfer.

(1) Prohibition. The license granted under this Article is for the person and the premises named on the approved license application No transfer of a license shall be permitted from place to place or from person to person without complying with the requirements of an original application.

(2) Transfer of Business. When a sexually-oriented business licensed under this Article is sold or transferred, the existing licensee shall immediately notify the Issuing Authority of the sale or transfer If the new owner or operator is to continue

operating the sexually-oriented business, the new owner or operator must immediately apply for a license under this Article.

Sec. 12 – 264. Restrictions regarding hours of operation

(1) A licensee shall not be open for business to the public during the following hours on the following days:

(a) Adult Body Painting Studio, Adult Book Stores, Adult Companionship, Establishment, Adult Modeling Studio, Adult Motion Picture Theaters, Adult, Mini-Motion Picture Theaters, Adult Sauna, Adult Car Wash:
Monday through Sunday
Not open before 6:00 a.m. nor after 11:00 p.m.

(b) Adult Entertainment Facilities:
Monday through Sunday
Not open before 6:00 a.m. nor after 1:00 a.m.

Sec. 12 – 265. Restrictions regarding minors.

No licensee shall allow minors to enter the licensed premises. The licensee shall request proof of age of all persons the licensee believes to be under the age of eighteen (18) years. Proof of age may be established only by: a valid driver's license or identification card issued by Minnesota, another state; or a province of Canada, and including the photograph and date of birth of the licensed person; a valid military identification card issued by the United States Department of Defense; or in the case of a foreign national from a nation other than Canada, a valid passport.

Sec. 12 – 266. Restrictions regarding sanitation and health.

(1) Partitions Facilitating Sexual Activity. A licensee under this Article shall not allow any partition between a subdivision, portion, or part of the licensed premises having any aperture which is designed or constructed to facilitate sexual intercourse, sodomy, or fondling or other erotic touching of human genitals, pubic region or pubic hair, buttocks, or female breast between persons on either side of the partition.

(2) Restrictions on Booths, Stalls, and Partitions. A licensee under this Article shall not allow or have on the licensed premises or adjoining areas any booths, stalls, or partitions used for the viewing of motion pictures or other forms of entertainment that have doors, curtains, or portal partitions, unless such booths, stalls, or partitions have at least one side open to an adjacent public room so that the area inside is visible to persons in the adjacent public room Such areas shall be lighted m a manner that the persons in the area used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms Seating or reclining surfaces inside any booths, stalls, or partitions used for the viewing of motion pictures or other forms of entertainment including but not limited to live entertainment shall be prohibited

(3) Authority of Health Inspectors. The Issuing Authority and/or Health Inspectors shall have the authority to inspect or cause to be inspected the licensed premises and adjoining areas in order to ascertain the source of infection or reduce the spread of communicable diseases Such officials shall have the authority to issue appropriate orders to the licensee regarding health and sanitation.

(4) Limitation on Number of Persons in Partitioned Areas. Any booths, stalls or partitioned portions of a room or individual rooms used for the viewing of motion pictures or other forms of entertainment including but not limited to live entertainment shall not be occupied by more than one (1) person at a time.

(5) Adult Sauna Regulations. Adult saunas shall comply with the following health requirements:

(a) All steam rooms and bathrooms shall be constructed of materials which are impervious to moisture, bacteria, mold, or fungus growth. The floor-to-wall and wall-to-wall joints shall be constructed to provide a sanitary cover with a minimum radius of one (1) inch.

(b) The restrooms shall be provided with mechanical ventilation with two (2) cfm per square foot of floor area; a minimum of 1 5-foot candles of illumination; a hand washing sink equipped with hot and cold running water under pressure; and a sanitary towel dispenser.

(c) Floors, walls, ceilings, water closets, hand washing sinks, and urinals shall be in good repair and maintained in a clean sanitary condition at all times. Sanitary hand cleaning agents, sanitary towels, and toilet tissue shall be provided at all times.

(d) Adequate refuse receptacles shall be provided and shall be emptied as required.

(6) General Sanitation Requirements. All sexually-oriented businesses shall at all times be kept clean as defined herein and in a state of good repair as defined herein.

(7) Duty to Supervise. The licensee shall not permit specified sexual activities as defined herein to take place on the premises and shall have an affirmative duty to supervise the licensed premises and prevent such activities.

Sec. 12 – 267. Renewal application.

(1) Annual Licenses Deadline for Renewal Applications All licenses issued under this Article shall be effective for only one (1) year commencing with the date of approval by the Issuing Authority or City Council An application for the renewal of an existing license shall be submitted to the Issuing Authority at least thirty (30) calendar days prior to the expiration date of the license.

(2) Verification Investigation and Consideration of Renewal Application Within twenty (20) calendar days of receipt by the Issuing Authority of a fully completed renewal application, the Issuing Authority shall verify any and all of the information requested of the applicant in the renewal application, including the ordering of criminal background checks, and shall conduct any necessary investigation to assure compliance with this Article. No later than ten (10) calendar days after the completion of the renewal application verification and investigation by the Issuing Authority, as prescribed herein, the Issuing Authority shall issue a renewal license unless one (1) or more of the following conditions exist:

(a) The applicant is a minor at the time the application is submitted;

(b) The applicant failed to supply all of the information requested on the renewal application;

(c) The applicant gave false, fraudulent, or untruthful information on the renewal application,

(d) The sexually-oriented business was found in the immediately preceding license year to have violated the license restrictions prescribed in this Article;

(e) The sexually-oriented business does not meet the zoning requirements prescribed in Chapter 40 of this Code;

(f) The premises licensed as a sexually-oriented business is currently licensed by the City as a tanning facility, tattoo establishment, pawnshop, therapeutic massage enterprise, or an establishment licensed to sell alcoholic beverages;

(g) The applicant has had a conviction of any crime listed in this Article; or

(h) The applicant has had a sexually-oriented license revoked within a one (1) year period immediately proceeding the date the application was submitted.

(3) Notice of Denial. If the Issuing Authority demes a renewal application, the Issuing Authority shall notify the applicant in accordance with this Article and the notice shall, in addition, state the grounds for the denial.

(4) Appeal to City Council or Court of Law. After the denial of a renewal application by the Issuing Authority, the applicant may appeal the Issuing Authority's determination to the City Council in accordance with Section 12-169 of this Article or by immediately challenging the determination in a court of law. If the City denies renewal of a license under this Article, the applicant shall not be issued a license under this Article for one (1) year from the date of the denial. If, subsequent to the denial, the City finds that the basis for the denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the denial became final.

Sec. 12 – 268. Sanctions for license violations.

(1) Suspension The City Council may suspend a license issued pursuant to this Article for a violation of:

(a) Fraud, misrepresentation, or false statement contained in a license application or a renewal application.

(b) Fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business.

(c) Any violation of this Article or state law.

(d) A licensee's criminal conviction that is directly related to the occupation or business licensed as defined by Minnesota Statutes, Section 364 03, subdivision 2 provided that the licensee cannot show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the licensed occupation or business as defined by Minnesota Statutes, Section 364.03, subdivision 3.

(e) Conducting the licensed business or occupation in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the community.

(2) Revocation The City Council may revoke a license if the City Council determines that:

(a) The licensee's license was suspended in the preceding fourteen (14) months and an additional cause for suspension as detailed in (a) above is found by the City Council to have occurred within the fourteen (14) month period;

(b) The licensee gave false or misleading information in the material submitted to the City during the application process;

(c) A licensee or an employee or independent contractor of the licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;

(d) A licensee or an employee or independent contractor has knowingly allowed prostitution on the premises;

(e) A licensee violated any of the provisions of Minnesota Statutes, Section 617.241 - 617.299 relating to the illegal distribution, possession or sale of obscene materials;

(f) A licensee or an employee knowingly operated the sexually-oriented business during a period of time when the licensee's license was suspended;

(g) A licensee has been convicted of an offense listed in Section 12 – 261 of this Article for which the time period required has not elapsed;

(h) On two or more occasions within a 12-month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in Section 12 – 261 of this Code for which a conviction has been obtained, and the person or persons were employees or independent contractors of the licensee at the time the offenses were committed;

(i) A licensee or an employee or independent contractor of the licensee has knowingly allowed specified sexual activities to occur in or on the licensed premises; or

(j) A licensee is delinquent in payment to the City, County, State or Federal Governments for hotel occupancy taxes, ad valorem taxes, sales taxes, or other financial obligations;

(3) Notice and Hearing. A revocation or suspension shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least eight (8) days' notice of the time and place of the public hearing and shall state the nature of the charges against the licensee. The notice shall be mailed to the licensee by regular and certified mail at the most recent address listed on the application.

Sec. 12 – 269. Penalty.

A violation of this Article shall be a misdemeanor under Minnesota law.

Sec. 12 – 270. Severability.

If any section, subsection, sentence, clause or phrase of this Article is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Article The City Council hereby declares that it would have adopted the Article and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Sec. 12 – 271. Effective date.

The foregoing Article V of Chapter 12 of the City's Code of Ordinances shall take effect upon its passage and publication as required by law.

ORDINANCE NO 02-03-03B

ARTICLE VI. PAWN SHOPS, SECONDHAND GOODS DEALERS, AND JUNK DEALERS

Sec. 12 – 301. Statement of policy.

Pursuant to the provisions of Minnesota Statutes 1996, Sections 325J.01, *et seq*., entitled the "Pawnbroker Regulation Act", and Minn. Stat. § 471.927 regarding a municipality's authority to regulate secondhand or junk dealers, the City of Wyoming has the power for the purpose of promotion of the public's health, safety, morals and welfare, to adopt an ordinance to regulate "pawn transactions" and "secondhand and junk dealers" and to issue licenses to qualified applicants to enable said applicants to engage in business as a "pawnbrokers", "secondhand goods dealers", or "junk dealers."

Sec. 12 – 302. Definitions.

As used in this ordinance, the following terms have the meanings given to them:

(1) **Pawnbroker:** "Pawnbroker" means a person engaged in whole or in part in the business of lending money on the security of pledged goods left in a pawn transaction, or in the business of purchasing tangible personal property to be left in a pawn transaction on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

(2) **Pawnshop:** "Pawnshop" means the location at which or premises in which a pawnbroker regularly conducts business.

(3) **Pawn Transaction:** "Pawn transaction" means any loan on the security of pledged goods or any purchase of pledged goods on the condition that the pledged goods are left with the pawnbroker and may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

(4) **Person:** "Person" means an individual, partnership, corporation, limited liability company, joint venture, trust, association, or any other legal entity, however organized.

(5) **Pledged Goods:** "Pledged goods" means tangible personal property other than choses in action, securities, bank drafts, or printed evidence of indebtedness, that are purchased by, deposited with, or otherwise actually delivered into the possession of a pawnbroker in connection with a pawn transaction.

(6) **Secondhand Goods Dealer; Junk Dealer:** "Secondhand goods dealer" or "junk dealer" means a person engaged in the business of buying secondhand goods of any kind, including but not limited to coins, gold, silver, jewelry, watches, metals, guns, and wrecked or dismantled motor vehicles or motor vehicles intended to be wrecked or dismantled, but not including used goods and merchandise taken as part or full payment for new goods and merchandise.

Sec. 12 – 303. License Required.

No person shall engage in the business of pawnbroker, secondhand goods dealer, or junk dealer in the City without first obtaining a license from the City, and any pawn or other transaction made without benefit of a license is void. Any person currently in the business of pawnbroker, secondhand goods dealer, or junk dealer in the City must apply for a license and pay the required fee within six (6) months of adoption of this ordinance. Licenses shall be issued only upon approval by the City Council. A separate license is required for each calendar year or part thereof for which it has been issued for each place of business. Each license shall remain in full force and effect until surrendered, suspended, revoked or expired. A license may be suspended or revoked by the City for failure to comply with this Ordinance or other applicable ordinances and/or failure to comply with Minnesota Stat. § 325J.01, *et seq.*, Minnesota Stat. § 325F.73 or other applicable state or federal law. All licenses granted pursuant hereto are non-transferable. A license under this section shall authorize the licensee to carry on business only at the permanent place of business designated in the license. No license may be transferred to a different location or different licensee. Any change, directly or beneficially, in the ownership of any licensed pawnshop, secondhand dealer, or junk dealer shall require the application for a new license and the new owner must satisfy all current eligibility requirements. The granting of a license pursuant hereto does not entitle the licensee the right to have the license renewed unless the applicant satisfies all current eligibility requirements. Accordingly, if a license is not renewed by the City Council, the former licensee is not entitled to avail itself of the notice and hearing procedures set forth in Sec. 12 – 313 of this Ordinance.

Sec. 12 – 304. Application, Investigation and Eligibility.

The application for any pawnbroker, secondhand dealer, or junk dealer license shall be filed with the City Clerk and shall state:

(1) Full name, place, and date of birth, and street residence of the applicant and the proposed manager of the applicant's facility m the City,

(2) The street address where the applicant intends to engage in such pawnbroker, secondhand dealer, or junk dealer business.

(3) A statement as to whether within the preceding five (5) years, the applicant or the proposed manager has been convicted of any felony and or the violation of any law relating to theft, damage or trespass to property, sale of a controlled substance, or the operation of any business; the nature of any such offense and the penalty assessed.

(4) Whether the applicant is a natural person, corporation, or partnership.

(a) If the applicant is a corporation, the state of incorporation and the full names and addresses of all officers and directors; or

(b) If the applicant is a partnership, the full names and addresses of all partners.

(5) The Chief of Police or any other police officer of the City shall investigate each applicant, the applicant's designated manager and , upon the issuance of a license hereunder, any proposed replacement manager, if any, for such license and shall make written recommendations within thirty (30) days of the filing of the application to the City Council whether such applicant or manager meet the eligibility requirements for or to maintain a pawnbroker, secondhand dealer, or junk dealer's license which are as follows:

(a) The applicant and its designated manager are persons of good moral character or repute;

(b) The applicant, if a natural person, and his or her designated manager, may not be under eighteen (1 8) years of age at the time that the application for a pawnbroker, secondhand dealer, or junk dealer's license is filed;

(c) The applicant and its designated manager may not have been convicted of any crime directly related to the occupation licensed as prescribed in Minnesota Statutes Section 364.03, subd. 2. If the applicant and its designated manager are not free of such convictions, a license may still be issued if either or both of them submit competent evidence of sufficient rehabilitation and present fitness to perform the duties of a licensee under Minnesota Statute, Section 325J.01, *et seq*. as prescribed by Minnesota Statutes Section 364.03, subd. 3, or other applicable state or federal law;

(d) The applicant and its designated manager have not had a license of this type denied, revoked or suspended within five (5) years prior to the date of application, in or by any political entity; and

(e) The applicant and its designed manager must operate the pawnshop, secondhand dealership, or junk dealership lawfully and fairly within the provisions of this Ordinance and other applicable ordinances and Minnesota Statutes Section 325.J.01, *et seq*., Minn. Statutes Section 325F.73, *et seq*., and other applicable state or federal law.

Sec. 12 – 305. License and Investigation Fee.

The annual fee for a pawnbroker, secondhand dealer, or junk dealer's license issued under this Ordinance shall be Seven Thousand Seven Hundred and no/100ths ($7,700.00) Dollars or Three Thousand Eight Hundred Fifty and no/100ths ($3,850.00) Dollars for a part of the calendar year where the license is issued on or after July 1st and, except as provided in Minnesota Statutes Section 325J.12(a), this fee shall be payable in advance and no license shall be issued until the fee is paid. The fee for the investigation for the purpose of considering issuance of a license is Four Hundred and no/100ths ($400.00) Dollars and this fee shall be payable when the application for issuance is filed, and the investigation must be completed prior to issuance of any license by the City. In the event that the license is denied upon application, the license fee shall be refunded; however, in no event shall the investigation fee be returned to the applicant. In the event that the license once issued is revoked, surrendered, lapses or is not renewed, no part of the annual license fee shall be returned to the licensee. The licensee shall display the license in a prominent place in the licensed pawnshop or dealership at all times. A license, unless revoked or surrendered, is for the calendar year or a part thereof for which is has been issued. The license and investigation fees provided in this Ordinance may be modified from time to time by the Resolution of the City Council.

Sec. 12 – 306. Bond.

A pawnbroker, secondhand dealer, or junk dealer's license will not be issued unless the applicant files, with the City Clerk, a bond with corporate surety in the amount of Five Thousand and no/100ths ($5,000.00) Dollars. The surety bond shall be approved by the City Attorney as to form and execution and deposited with the City Clerk. The bond shall be kept in full force and effect throughout the license period and shall be conditioned as follows:

(1) The licensee shall obey the laws relating to the licensed business and the provisions of this Ordinance;

(2) The licensee shall pay to the City, when due, all taxes, license fees, penalties and other charges provided by law or this Ordinance; and

(3) In the event of violation of any provision of this Ordinance or any law relating to the business for which the license has been granted, the bond shall be forfeited to the City.

Sec. 12 – 307. Pawnbroker, Secondhand Dealer, and Junk Dealer's Records.

In addition to the information required by the Pawnbroker Regulation Act, every pawnbroker, secondhand dealer, and junk dealer shall keep, at the place of business, a register of entries made immediately upon the receipt, purchase or sale of pledged or other goods recorded legibly in English by using ink or other indelible medium on forms or in a computerized record approved by the Chief of Police which contains the following information:

(1) A complete and accurate description of the property; including model and serial number if indicated on the property;

(2) The full name, residence address, residence telephone number, and date of birth of the pledgor, seller, and buyer;

(3) The date and time of the pawn purchase and sale transaction;

(4) The identification number and state of issue from one of the following forms of identification of the seller or pledgor; current valid Minnesota driver's license; current valid Minnesota identification card; or current valid photo identification card issued by another state or a province of Canada; or current passport with picture;

(5) Description of the pledgor or seller including approximate race, color of hair, color of eyes and approximate height and weight;

(6) Amount advanced or paid;

(7) The maturity date of any pawn transaction and the amount due;

(8) The monthly and annual interest rates, including all pawn fees and charges; and

(9) The signature of the person pledging or selling the items.

Sec. 12 – 308. Register Open to Inspection.

Said register shall at all times be kept open to the inspection of the Chief of Police or any other police officer of the City. Said register shall be kept at the licensee's place of business for a period of five (5) years and shall be made available for police inspection at any reasonable time during regular business hours. Pawnbrokers shall also, upon request of said officers show and exhibit to such officers for inspection, any pledged goods.

Sec. 12 – 309. Buying Prohibited from Certain Persons.

Pawnbrokers, secondhand dealers, and junk dealers, and anyone employed or acting for them shall not purchase, take or receive any article of property, of or from any intoxicated person, or of or from persons from under eighteen (1 8) years of age, or owned by persons under eighteen (18) years of age, nor any stolen property, or property which, from any cause, they may have reason to believe or suspect cannot be sold or pledged by the person offering it.

Sec. 12 – 310. Holding of Property.

An item received by a pawnbroker may not be sold or otherwise transferred for a period of sixty (60) days after the failure of the pledgor to make payment on the account or if a direct sale, for a period of fourteen (14) days after the item is received provided, however, an individual may redeem an item pawned at any time. When the Chief of Police or any member of the police force designated by the Chief of Police notifies any pawnbroker not to sell any property received on deposit or purchased by him, or not to permit the same to be redeemed, the pawnbroker shall not sell nor permit such property to be redeemed until such property is released in writing by the Chief of Police, or his designee, provided that such time period may not exceed thirty (30) days.

Sec. 12 – 311. Pawnshop, Secondhand Dealer, or Junk Dealer Location.

Except as provided for in Minnesota Statutes Section 325.J.10, no pawnshop, secondhand dealer, or junk dealer shall be located within ten (10) driving miles of any gambling casino and the premises shall not be located within five hundred feet (500') of a school, church premises, or daycare facilities. No pawnshop, secondhand dealer, or junk dealer shall be located in any zoning district unless it is a listed permitted use within said zoning district.

Sec. 12 – 312. Hours of Operation.

No property shall be received as a pledge or purchase by any pawnbroker, secondhand dealer, or junk dealer nor shall any property be sold by a pawnbroker, secondhand dealer, or junk dealer from 9:00 p.m. Saturday to 7:00 a.m. Monday, nor on any other day before 7:00 a.m., nor on any day after 9:00 p.m.

Sec. 12 – 313. Suspension or Revocation of License.

A license granted under this Ordinance may be suspended or revoked after written notice to the licensee and a public hearing. The City shall give notice to the licensee, which shall state the time and place of the hearing and the nature of the charges against the licensee, at least seven (7) days prior to the date of hearing at which the City Council shall consider the suspension or revocation of the license. The licensee shall have the opportunity to be heard at said hearing prior to any determination of suspension or revocation. Notice shall be effective when deposited in the U.S. mail, postage prepaid, certified mail return receipt requested, addressed to the licensee at the licensed business address indicated on the most recent license application form of the licensee in the possession of the City, or an amendment thereto. A license may be suspended or revoked by the City Council, in-the discretion of the City Council, when the licensee or its designated manager has engaged in any of the following conduct in connection with or on the premises of the licensed business:

(1) Fraud, deception or negligent misrepresentation in connection with the securing of the license;

(2) Failure to fully comply with any requirements of this Ordinance or other applicable ordinances or Minnesota Statutes Section 325J.01, *et seq*., Minnesota Statutes 325F.73 *et seq*., or other applicable state or federal law;

(3) Violation by an employee or agent of licensee of any requirements of this Ordinance or other applicable ordinances or Minnesota Statutes Section 325J.01, et seq., Minnesota Statutes Section 325F.73, or other applicable state or federal law; and

(4) Operation of the pawnshop, secondhand dealership, or junk dealership without a valid license or during periods in which the license has been suspended.

Sec. 12 – 314. Penalty.

Any person violating any provision of this Chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than One Thousand and no/100ths ($1,000.00) Dollars or by imprisonment of not more than ninety (90) days, or both, plus costs of prosecution in either case.

Sec. 12 – 315. Other Laws.

The provisions of this Ordinance are not intended and should not be construed as restricting the applicability of any other ordinance, state or federal laws, including without limitation, state or federal laws regulating the purchase, storage and sale of firearms to the extent that such ordinances and laws cannot be applied consistently with this Ordinance, the most restrictive ordinance or law shall be applied.

Sec. 12 – 316. Separability.

Every section, provision or part of this Ordinance is declared separable from every other section, provision or part to the extent that if any section, provision, or part of this Ordinance shall be held invalid, such holding shall not invalidate any other section, provision, pr part thereof.

Sec. 12 – 317. Effective Date.

This Ordinance shall take effect and be in force from and after its passage and publication according to law.

ORDINANCE NO. 11-04-02A

Chapter 13 RESERVED

Chapter 14 ELECTIONS*

***Cross references:** Administration, ch. 2; council, § 2-31 et seq.

State law references: Municipal elections, Minnesota Statutes § 205.01 et seq.

Sec. 14-1. Election date.

Sec. 14-2. Registration.

Sec. 14-3. Law adopted by reference.

Article II. Special Elections.

Sec. 14-5. Purpose.

Sec. 14-51. Circumstances.

Sec. 14-52. Public Notice for Filing.

Sec. 14-53. Filing Period.

Sec. 14-54. Special Election Date.

Sec. 14-55. Poll hours.

Sec. 14-1. Election date.

The regular city election shall be held annually on the first Tuesday after the first Monday of November in even numbered years.

State law references: Similar provisions, Minnesota Statutes § 205.07.

Sec. 14-2. Registration.

The judges of election of the city may not receive the vote in any election of any person whose name is not registered in accordance with this section and state law. No person may vote in any election in the city unless he shall be registered in accordance with this chapter and state law, nor shall any person vote in any election in another municipality on the same date or same election.

Sec. 14-3. Law adopted by reference.

The state registration law, Minnesota Statutes ch. 201, is adopted by reference, and the provisions of such law thus incorporated shall be as much a part of this section as if they had been set forth in full in this section; and three copies marked as official copies shall be kept in the office of the city clerk-administrator.

Article II. Special Elections

Sec. 14-5 Purpose.

As requested by Minnesota State Statutes Section 412.02, Subdivision 2(a), the purpose of this section is to establish the circumstances and the procedures under which a special election will be held other than at the same time as the regular election of the City of Wyoming.

Sec. 14-51 Circumstances.

Special elections will be held in accordance with the guidelines described in Minnesota State Statute, including without limitation Minnesota Statutes Section 412.02, Subdivisions 2(b), regarding filling a vacancy on the Wyoming City Council.

Sec. 14-52 Public Notice for Filing.

At least two weeks before the first day to file affidavits of candidacy, the clerk shall publish a notice stating the first and last dates of the time period, set forth in 14-53 below, on which affidavits of candidacy may be filed in the clerk's office, and the closing time for filing on the last day for filing. The clerk will also post a similar notice, at least ten days before the first day to file affidavits of candidacy.

Sec. 14-53 Filing Period.

Affidavits of candidacy will be accepted for a period of ten (10) days.

Sec. 14-54 Special Election Date.

The special election will be held no less than fourteen (14) days and no more than forty-five (45) days after the close of the filing period described in 14.53 above.

Sec. 14-55 Poll hours.

For all special elections held under this ordinance, the polls will be open for voting from 7:00 a.m. to 8:00 p.m.

(ORDINANCE NO. 01-03-05B)

State law references: Election statutes applicable, Minnesota Statutes § 205.01 et seq.

Chapter 15 RESERVED

Chapter 16 ENVIRONMENT*

_____

***Cross references:** Animals, ch. 8; buildings and building regulations, ch. 10; open burning, § 18-106 et seq.; solid waste management, ch. 26; streets, sidewalks and other public places, ch. 30; subdivisions, ch. 32; utilities, ch. 36; vegetation, ch. 38; zoning, ch. 40.

State law references: Environmental impact statements, Minnesota Statutes § 116C.01 et seq.; authority to define nuisances and provide for their prevention or abatement, Minnesota Statutes § 412.221, subd. 23.

_____

Article I. In General

Secs. 16-1--16-30. Reserved.

Article II. Nuisances

Division 1. Generally

Sec. 16 – 31. Definitions.

Sec. 16 – 32. Illustrative enumeration.

Sec. 16 – 33. Property kept clean.

Sec. 16 – 34. Human waste.

Sec. 16 – 35. Stagnant water.

Sec. 16 – 36. Debris from construction.

Sec. 16 – 37. Posting advertising; etc.

Division 2. Weeds, hedges, tall grass and other vegetation.

Sec. 16 – 50. Definitions.

Sec. 16 – 51. Lawn maintenance.

Sec. 16 – 52. Prohibited.

Sec. 16 – 53. Trimming plants at intersections.

Sec. 16 – 54. Destruction of trees or bushes.

Sec. 16 – 55. Trimming plants extending over streets.

Sec. 16 – 56. Removal of unsafe trees by owner.

Division 3. Littering

Sec. 16 – 70. Definitions.

Sec. 16 – 71. Litter in public places.

Sec. 16 – 72. Polluting waters.

Sec. 16 – 73. Scattering litter.

Sec. 16 – 74. Placement of litter in receptacles so as to prevent scattering.

Sec. 16 – 75. Sweeping litter into gutters prohibited.

Sec. 16 – 76. Merchants' duty to keep sidewalks free of litter.

Sec. 16 – 77. Litter thrown by persons in vehicles.

Sec. 16 – 78. Truck loads causing litter.

Sec. 16 – 79. Litter in parks, lakes, and fountains.

Sec. 16 – 80. Litter on occupied and vacant private property; property owner, tenant, or occupant duty.

Division 4. Noise

Sec. 16 – 90. Unreasonable loud noise prohibited.

Sec. 16 – 91. Noises expressly prohibited.

Sec. 15 – 92. Quiet Zone.

Division 5. Junked and abandoned vehicles .

Sec. 16 – 100. Definitions.

Sec. 16 – 101. Prohibited storage.

Sec. 16 – 102. Permitted storage.

Sec. 16 – 103. Investigation of premises.

Division 6. Sexual offenders and sexual predators

Sec. 16 – 110. Findings and intent.

Sec. 16 – 111. Definitions.

Sec. 16 – 112. Sexual offender and sexual predator residence prohibition; penalties; exceptions.

Sec. 16 – 113. Property owners prohibited from renting real property to certain sexual offenders and sexual predators; penalties.

Division 7 Enforcement.

Sec. 16 – 120. Duties of city officers.

Sec. 16 – 121. Abatement procedure.

Sec. 16 – 122. Recovery of cost.

Sec. 16 – 123. Penalty.

Sec. 16 – 124. Severability.

ARTICLE I. IN GENERAL

Secs. 16-1--16-30. Reserved

ARTICLE II. NUISANCES

DIVISION 1. GENERALLY

Sec. 16 – 31. Definitions.

The following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) Nuisance. The term "nuisance" is hereby defined as any person doing an unlawful action, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

(a) Injures or endangers the welfare, health, or safety of others;

(b) Offends decency;

(c) Creates offensive odors;

(d) Unlawfully interferes with, obstructs, or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch, drainage or public water;

(e) In any way renders other person insecure in life or the use of property; or

(f) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

(g) Is guilty of any other act or omission declared by law or this Chapter to be a public nuisance and for which no sentence is specifically provided.

Sec. 16 – 32. Illustrative enumeration.

The maintaining, using, placing, depositing, leaving, or permitting to be or remain on any public or private property of any of the following items, conditions, or actions are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting, or restrictive:

(1) Accumulation of manure, rubbish, trash, refuse, junk, and other debris.

(2) The ownership, possession or control of any unused appliances or other containers with doors which fasten automatically when closed and of sufficient size to retain any person, that are exposed and accessible to the public without removing the doors, lids, hinges or latches or providing locks to prevent access by the public is prohibited.

(3) The carcasses of animals or fowl not disposed of within a reasonable time after death.

(4) All diseased animals running at large.

(5) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches, including smoke and fires in unreasonable quantities.

(6) Dense smoke, noxious fumes, gas and soot, or cinder in unreasonable quantities.

(7) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances.

(8) The discharge of effluent from any cesspool, septic tank, drainfield, or human sewage disposal system upon the surface of the ground, except as regulated by the City of Wyoming Sewage and Wastewater Treatment Ordinance.

(9) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch with trash or other materials.

(10) All uses and activities shall conform to water pollution standards and/or controls in effect at the time of the adoption of this Ordinance and those adopted at a later date by any and all agencies and governing bodies which have such powers and controls over this Ordinance.

(11) All uses shall be so operated as to prevent the emission of odor, heat, and dust as to be reasonably objectionable at any point beyond the lot line of the site on which the use is located. This standard shall not apply to agricultural operations.

(12) All snow and ice not removed from public sidewalks twelve (12) hours after the snow or other precipitation causing the condition has ceased to fall.

(13) Any well, hole or similar excavation which is left uncovered or in such other condition as to constitute a hazard to any child or other person coming on the premises where it is located.

(14) Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks or public grounds except under conditions permitted by this article or other applicable law.

(15) The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles or other substance which may injure any person or animal or damage any pneumatic tire when passing over such substance.

(16) Any lighting used to illuminate an off-street parking area, sign, or other structure, shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or reflected glare from any source shall not be directed into any adjoining property. The source of light shall be hooded or controlled in some manner so as not to unreasonably light adjacent property. Bare incandescent light bulbs shall not be permitted in full view from adjacent property or public right-of-way.

(17) All other conditions or things which are likely to cause injury to the person or property of anyone.

Sec. 16 – 33. Property kept clean.

Property owners, tenants, or occupants of premises are required to keep such premises clean. Every person owning or occupying any premises in the city limits shall keep the premises free from weeds, trash, and all other forms of animal or vegetable refuse which may be dangerous or prejudicial to the public health, or which may constitute a public nuisance. No property owner, tenant, or occupant of any premises shall bury therein any animal or vegetable matter which, upon decaying, may become dangerous or prejudicial to the public health, or may constitute a nuisance.

Sec. 16 – 34. Human waste.

No person shall urinate or deposit any human waste of any kind on any street, lot, or premises except in approved sanitary facilities.

Sec. 16 – 35. Stagnant water.

No person or occupant of any property shall allow stagnant water to accumulate or remain in cellars or anywhere on their property.

Sec. 16 – 36. Debris from construction.

All refuse and debris remaining as a result of the repair of any buildings, of the erection and completion of any buildings, or the demolition of any building, shall be removed by the property owner within thirty (30) days from the completion of the aforesaid work.

Sec. 16 – 37. Posting advertising; etc.

No person shall stick, paint, brand, stamp, write, or put upon any house, fence, wall, pavement, post, or upon any property owned by any person, firm or corporation, or the city, any printed, written, painted, or other advertisement, bill, notice, sign, or poster without first having obtained the permission of the owner of such property, and without doing so in accordance with the city sign ordinance.

Secs. 16 – 38—16 – 49. Reserved.

DIVISION 2. WEEDS, HEDGES, TALL GRASS AND OTHER VEGETATION

Sec. 16 – 50. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) Weeds and nuisance vegetation. The term "weeds and nuisance vegetation" under this article shall include the following which may occur on any lot within the limits of the city:

(a) Weeds or tall grass exceeding an average of twelve (12) inches in height.

(b) Vegetation providing safe harborage for rats, mice, snakes, or other vermin, on any lot less than one acre in size that has a building constructed on it.

(c) Vegetation which obstructs the safe view of traffic at an intersection or driveway.

(d) Noxious weeds per state statute.

(e) Dead or dying trees or plants which may cause a hazardous situation if they fall.

Sec. 16 – 51. Lawn Maintenance.

(1) Once an area has been converted to turf grass the property owner, tenant, or occupant shall not allow the turf grass to exceed the height of seven (7) inches or be allowed to go to seed.

(2) Also no property owner, tenant, or occupant shall allow any herbaceous vegetation growing upon the adjacent City right-of-way to grow to a height greater than seven (7) inches or to allow such vegetation to go to seed except as otherwise permitted herein.

(a) Exception:
Properties where the adjacent right-of-way is a rural ditch without curb and gutter.

Sec. 16 – 52. Prohibited

(1) It shall be unlawful for any property owner, tenant, or occupant of real property in the City to permit or maintain noxious weeds or plants on such land.

(2) It shall be unlawful for property owners, tenants, or occupants to permit a weed or vegetative nuisance condition to exist on their property.

(3) Within the limits of the City of Wyoming, property which is platted or developed, and property within one hundred (100) feet of said platted or developed property, it shall be unlawful to allow or permit any growth of weeds, grass, brush or other rank vegetation to a height greater than twelve (12) inches or any accumulation of dead weeds, grass, or brush on such land. "Developed" property shall mean that the property has been improved with the construction of buildings, parking lots, or other facilities excluding underground utilities for sewer or water lines. This paragraph shall not apply to:

(a) "Natural Areas" which shall be defined as densely wooded areas, bogs and marshes;

(b) Parkland;

(c) Storm water pond areas;

(d) Real property used for agricultural purposes;

(e) Landscaped and natural areas, as approved by the Zoning Administrator, which involve wildflowers and other similar plants as a part of a plan of natural landscaping;

(f) Compost areas which meet the following conditions:

1. The compost is in a compost box which is of adequate construction to offer the decomposition of the material; and

2. The compost is screened from the view of adjacent property owners.

Sec. 16 – 53. Trimming plants at intersections.

The property owner, tenant, or occupant of any lot or lands lying and abutting on any intersection of two streets, or any combination thereof, in the city and having shrubs or bushes on such lot or lands shall trim or cause to be trimmed all shrubs and bushes located within thirty (30) feet of the intersection of the property lines nearest to the street intersection so that no bush or shrub shall grow in such a manner as to materially impede vision between a height of two and one-half (2 1/2) and ten (10) feet above street level.

Sec. 16 – 54. Destruction of trees or bushes.

No person, except by direction or authority of the director of public works, shall box, bore, cut, break down, deface, injure or destroy any trees, shrubs or bushes on any street or right-of-way.

Sec. 16 – 55. Trimming plants extending over streets.

The property owner, tenant, or occupant of any lot or lands lying and abutting on any street in the city and having trees, shrubs, or bushes on his lot or lands extending over the property line onto such street shall trim or cause to be trimmed such trees to the height of not less than nine feet above the surface of the sidewalk or sixteen (16) feet above the surface of the street.

Sec. 16 – 56. Removal of unsafe trees by owner.

The director of public works shall have the authority, and reserves the right to order trimming, or removal of trees or plants upon private property when he finds such an act necessary to public safety or to prevent the spread of disease or insects in public trees or places. The property owner, tenant, or occupant shall at his or her expense trim or remove such tree within thirty (30) days of the order to trim or remove the tree.

Secs. 16 – 57—16 – 69. Reserved.

DIVISION 3. LITTERING

Sec. 16 – 70. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) Garbage: Means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food.

(2) Litter: Means garbage, refuse, and rubbish as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety, and welfare.

(3) Park: Means any park, reservation, playground, beach, recreation center, or any other public area in the city owned or used by the city and devoted to active or passive recreation.

(4) Person: Means any person, firm, partnership, association, corporation, company, or organization of any kind.

(5) Private premises: Means any dwelling, house, building, or other structure, designed or used either wholly or in part for private residential purposes whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule, or mailbox belonging or appurtenant to such dwelling, house, or other structure.

(6) Public place: Means any and all streets, sidewalks, boulevards, alleys, or other public ways and any and all public parks, squares, spaces, grounds, and buildings.

(7) Refuse: Means all putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned motor vehicles, scrap metal, and solid market and industrial wastes.

(8) Rubbish: Means nonputrescible solid wastes constituting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, leaves, weeds, brush, shrubbery and similar materials.

(9) Vehicle: Means any device in, upon, or by which any person or property is or may be transported or drawn upon a highway including devices used exclusively upon stationary rails or tracks.

Sec. 16 – 71. Litter in public places.

No person shall throw or deposit litter in or upon any street, sidewalk, or other public place within the city except in public receptacles or in private receptacles for collection.

Sec. 16 – 72. Polluting waters.

No person shall contaminate or shall deposit any litter, chemicals, or waste material of any kind in any lake, river, stream, aquifer, or natural waterway, or upon the banks of same.

Sec. 16 – 73. Scattering litter.

No person shall deposit in or upon, or scatter over or upon any of the streets, parks, or public grounds within the city any paper, litter, or waste material of any kind. No person who is the owner or lessee of any lot or land within the city shall deposit litter upon any such lot or land, or allow litter to be deposited thereon.

Sec. 16 – 74. Placement of litter in receptacles so as to prevent scattering.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other grounds within the city.

Sec. 16 – 75. Sweeping litter into gutters prohibited.

No person shall sweep into or deposit in any gutter, ditch, street, or other public place within the city the accumulation of litter from any building or lot or from the public sidewalks. Nor shall any property owner, tenant, or occupant abutting a public thoroughfare allow or suffer to remain litter upon the adjacent public sidewalk including medians, so that litter shall not be allowed to pile up or accumulate on such public right-of-way.

Sec. 16 – 76. Merchants' duty to keep sidewalks free of litter.

No merchant or business within the city shall allow litter to accumulate, and shall clean and otherwise rid his premises, including sidewalks, of waste matter and litter although the same may not have been deposited by him, his agents, or his patrons.

Sec. 16 – 77. Litter thrown by persons in vehicles.

No operator or passenger in any motor vehicle shall throw or deposit litter on any public street, right-of-way, sidewalk, or upon private premises while such vehicle is either stopped or in motion.

Sec. 16 – 78. Truck loads causing litter.

No operator of any truck or hauling motor vehicle shall cause to be scattered on or about public or private premises or streets while in motion or stopped any litter, mud, dirt, or sticky substances. All loads shall be secured in such a manner so as to effect compliance with this section.

Sec. 16 – 79. Litter in parks, lakes, and fountains.

No camper, spectator, participant, pedestrian, person engaged in recreational pursuit, or other person shall cause litter to be cast, thrown, deposited, or scattered in or around public parks, lakes, waterways, or other public lands, except in containers and receptacles designed for such use.

Sec. 16 – 80. Litter on occupied and vacant private property; property owner, tenant, or occupant duty.

Litter shall not be cast, scattered, thrown, or deposited on or about private property within the city limits to the detriment of public health, safety, and welfare. The property owner, tenant, or occupant, lessees, agents, or others in charge of premises within the city shall rid such lands and abutting sidewalks and medians of such nuisance or place it in an authorized receptacle. It shall likewise be unlawful for any person to dump, place, or scatter litter on or about private premises, whether such premises are vacant or inhabited.

Secs. 16 – 81—16 – 89. Reserved.

DIVISION 4. NOISE

Sec. 16 – 90. Unreasonable loud noise prohibited.

It shall be unlawful for any person, firm, or corporation to create or assist in creating, permit, continue, or permit the continuance of any unreasonably loud, disturbing, and unnecessary noise in the city.

Sec. 16 – 91. Noises expressly prohibited.

The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section, but said enumeration shall not deem to be exclusive, namely:

(1) The sounding of any horn or signal device or any device on any automobile, motorcycle, bus, or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control; or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(2) The use of any gong or siren upon any vehicle, other than police, fire, or other emergency vehicle.

(3) The keeping of any animal which by causing frequent or long continued noise shall disturb the comfort and repose of any person in the vicinity.

(4) The use or operation of any piano (manual or automatic), phonograph, radio, loud speaker, or any other instrument, or sound amplifying devices so loudly as to disturb persons in the vicinity thereof, or in such a manner as renders the same a public nuisance.

(5) The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, rattling, or other noise.

(6) The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of danger.

(7) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or a motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(8) The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced.

(9) The erection (including excavation), demolition, alteration or repair of any building in a residential or business district other than between the hours of 7:00 a.m. and 9:00 p.m., except in the case of urgent necessity in the interest of public safety and then only with a permit from the city clerk, which may be renewed for a period of three days or less while the emergency continues.

(10) The creation of any excessive noise during hours of worship and services on any street adjacent to any church.

(11) The creation of loud and excessive noise in connection with loading or unloading any vehicle, of the opening and destruction of bales, boxes, crates, and containers.

(12) The sounding of any bell or gong attached to any building or premises which disturbs the quiet or repose of persons in the vicinity thereof.

(13) The shouting and crying of peddlers, barkers, hawkers, and vendors which disturbs the quiet and peace of the neighborhood.

(14) The use of any drum, loud speaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show, sale or display of merchandise.

(15) The use of any mechanical loudspeakers or amplifiers on trucks or other moving vehicles for advertising purposes or other purposes except where specific license is received from the city.

(16) The conducting, operating, or maintaining of any garage or filling station in any residential district so as to cause loud or offensive noises to be emitted therefrom between the hours of 11:00 p.m. to 7:00 a.m.

(17) The firing or discharging of squibs, crackers, gunpowder, or other combustible substances in the streets or elsewhere for the purpose of making noise or disturbance.

(18) Any person participating in any party or other gathering that causes the unreasonable disturbing of the peace, quiet, or repose of another person.

Sec. 16 – 92. Quiet zone.

The creation of any excessive noise on any street adjacent to any school, institution of learning, library, or sanitarium, or court while the same is in session, or within one hundred fifty (150) feet of any hospital, which unreasonably interferes with the working of such institutions, without receiving a permit for the same, and notification of the city, shall be deemed a violation of this Division.

Secs. 16 – 93—16 – 99. Reserved.

DIVISION 5. JUNKED AND ABANDONED VEHICLES

Sec. 16 – 100. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) Junked motor vehicle: Means any vehicle or motor vehicle which is partially dismantled or wrecked and which cannot safely, or legally, be operated upon a highway. Junked motor vehicle also means any vehicle or motor vehicle, whether partially dismantled, wrecked, or in running condition, which does not have a valid and current vehicle or motor vehicle license plate (registration) issued by the proper state agency attached thereto.

(2) Motor vehicle: Means any self-propelled land vehicle which can be used for towing or transporting people or materials, including but not limited to automobiles, trucks, buses, motor homes, motorized campers, motorcycles, motor scooters, tractors, snowmobiles, dune buggies and other wheeled off road vehicles.

(3) Motor vehicle accessories: Means any part or parts of any vehicle or motor vehicle.

(4) Private property: Means any real property not owned by the federal government, state, county, city, school board, or other public subdivisions.

(5) Removal: Means the physical relocation of a vehicle or motor vehicle to an authorized location.

(6) Vehicle: Means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including but not limited to trailers, utility trailers, boat trailers, snowmobile trailers, camper trailers, travel trailers and fifth wheel type trailers, excepting devices used exclusively upon rails or stationary tracks.

Sec. 16 – 101. Prohibited storage.

(1) It shall be unlawful for any person owning or having custody of any junked motor vehicle or motor vehicle accessories to store or permit any such vehicle or accessories to remain on any private property within the city for a period of more than thirty (30) days after the receipt of a notice requiring such removal. It shall be further unlawful for any person owning any private property in the city to store or to permit to remain any such vehicles or accessories on their property for more than a like period. Such storage is declared to be a public nuisance and may be abated or removed and penalties imposed as provided in this Article.

(2) After a removal order has been given, it shall be unlawful for any person to remove any vehicle, motor vehicle, or motor vehicle accessories to any other private property upon which storage is not permitted or onto any public highway or other public property for storage.

Sec. 16 – 102. Permitted storage.

(1) This section shall not apply to any vehicle or motor vehicle or motor vehicle accessories stored within an enclosed building, or on the premises of a business enterprise, operated in a lawful place and manner when necessary to the operation of such business enterprise, for storage or depository. Such business enterprises shall include auto junkyards, auto repair and body shops, and commercial storage facilities.

(2) An exception would exist if a conditional use permit were issued.

Sec. 16 – 103. Investigation of premises.

The building inspector on routine inspection or any police officer upon receipt of a complaint may investigate a potentially unlawful junked motor vehicle or motor vehicle accessories and record the make, model, style, and identification numbers.

Secs. 16 – 104—16 – 109. Reserved.

DIVISION 6. SEXUAL OFFENDERS AND SEXUAL PREDATORS

Sec. 16 – 110. Findings and intent.

(1) Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Current information indicates that sexual offenders are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large and specifically to the City of Wyoming ("City"), while incalculable, clearly exorbitant.

(2) It is the intent of this division to serve the City's compelling interest to promote, Protect and improve the health, safety and welfare of the citizens of the City by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence.

Sec. 16 – 111. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) Designated offender: Means any person who has been convicted of a designated sexual offense, regardless of whether adjudication has been withheld, in which the victim of the offense was less than sixteen (16) years of age, or who has been categorized as a Level III sex offender under Minnesota Statute § 244.052 or successor or amended statute.

(2) Designated sexual offense: Means a conviction, adjudication of delinquency, commitment under Minnesota Statute §§ 253B, or admission of guilt under oath without adjudication involving any of the following offenses: 609.342; 609.343; 609.344; 609.345; 609.352; 609.365; 617.23; 617.246; 617.247; 617.293; successor or amended statute, or a similar offense from another state.

(3) Permanent residence: Means a place where the person abides, lodges, or resides for fourteen (14) or more consecutive days. Permanent residence does not require an ownership interest by the person in such residence.

(4) Temporary residence: Means a place where the person abides, lodges, or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where the person routinely abides, lodges, or resides for a period of four or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

Sec. 16 – 112. Sexual offender and Sexual Predator Residence Prohibition; Penalties; Exceptions.

(1) Prohibited location of residence. It is unlawful for any designated offender to establish a permanent residence or temporary residence:

(a) Within two thousand (2,000) feet of any school, licensed day care center, park, or playground; or

(b) Within one thousand (1,000) feet of any designated public school bus stop, place of worship which provides regular educational programs (i.e. Sunday school), or other places where children are known to congregate.

(1) Prohibited activity. It is unlawful for any designated offender to participate in a holiday event involving children under eighteen (18) years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, or wearing an Easter Bunny costume on or preceding Easter. Holiday events in which the offender is the parent or guardian of the children involved, and no non-familial children are present, are exempt from this paragraph.

(2) Measurement of distance.

(a) For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to nearest outer property line of a school, designated public school bus stop, day care center, park, playground, place of worship, or other place where children regularly congregate.

(b) The City Clerk shall maintain an official map showing prohibited locations as defined by this Ordinance. The Clerk shall update the map at least annually to reflect any changes in the location of prohibited zones. The map shall not be deemed conclusive or all encompassing since prohibited zones change from time to time including but not limited to designated public school bus stops or other places where children are known to congregate.

(3) Penalties. Each day a person maintains a residence in violation of this ordinance constitutes a separate violation.

(4) Exceptions. A designated offender residing within a prohibited area as described in Sec. 16 – 112, (1), does not commit a violation of this section if any of the following apply:

(a) The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Minnesota Statute § 243.166, § 243.167, or successor statute, prior to April 4, 2006.

(b) The person was a minor when he/she committed the offense and was not convicted as an adult.

(c) The person is a minor.

(d) The school, designated public school bus stop or day care center within two thousand (2,000) feet of the persons permanent residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Minnesota Statute § 243.166 or § 243.167.

(e) The residence is also the primary residence of the person's parents, grandparents, siblings, spouse, or children.

(f) The residence is a property owned or leased by the Minnesota Department of Corrections.

Sec. 16 – 113. Property Owners Prohibited from Renting Real Property to Certain Sexual Offenders and Sexual Predators; Penalties.

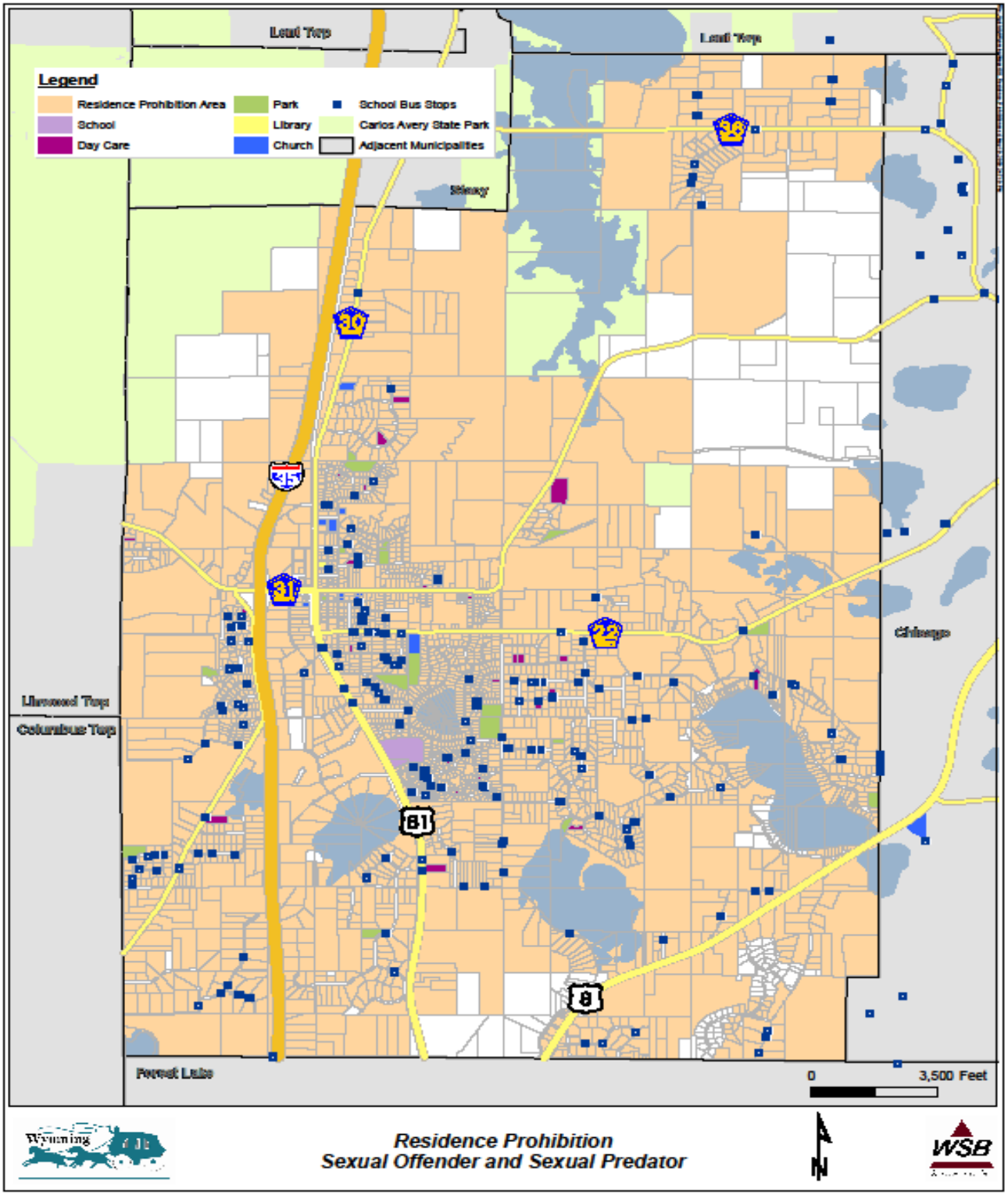
(1) It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used as a permanent residence or temporary residence by any person prohibited from establishing such permanent residence of temporary residence pursuant to this Division, if such place, structure, or part thereof, trailer or other conveyance, is located within a prohibited location zone described in this ordinance.

(2) A property owners failure to comply with provisions of this Section shall constitute a violation of this Section, and shall subject the property owner to the code enforcement provisions and procedures as provided in Sec. 1-13 of this Code, including the provisions of Sec. 1-13 that allow the City to seek relief as otherwise provided by law.

(3) If a property owner discovers or is informed that a tenant is a designated offender after signing a lease or otherwise agreeing to let the offender reside on the property, the owner or property manager may evict the offender.

Secs. 16 – 114—16 – 119. Reserved.

Sexual Offender Residence Prohibition Map.



DIVISION 7 ENFORCEMENT

Sec. 16 – 120. Duties of City Officers.

City officials may apply and enforce any provision of this ordinance relating to public nuisances within this jurisdiction. Any peace officer or other designated city official shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances. Except in emergency situations of imminent danger to human life and safety, no peace officer or designated city official will enter private property for the purpose of inspecting or preventing public nuisances without the permission of the property owner, tenant, or occupant, or other person in control of the property, unless the officer or person designated has obtained a warrant or order from a court of competent jurisdiction authorizing entry.

Sec. 16 – 121. Abatement Procedure.

(1) **Procedure**. Whenever the peace officer or other designated official determines that a public nuisance is being maintained or exists on the premises in the city, the official shall notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the official shall report that fact forthwith to the City Council. Thereafter, the City Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the city may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement or obtain an administrative search and seizure warrant and abate the nuisance.

(2) **Notice**. Written notice of the violation; notice of the time, date, place, and subject of any hearing before the City Council; notice of the City Council order; and notice of motion for summary enforcement hearing shall be served by a peace officer or designated official on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premise is not occupied, the owner of record is unknown, or if the owner of record or occupant refuses to accept notice, notice of the violation shall be served by positing it on the premises.

(3) **Emergency procedure; summary enforcement**. In cases of emergency, where delay in abatement required to complete the procedure and notice requirements as set forth in subdivisions (1) and (2) of this section will permit a continuing nuisance to unreasonably endanger public health, safety, or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the peace officer or other designated official shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement will unreasonably endanger public health, safety, or welfare. The officer or designated official shall notify in writing the occupant or owner of the premises of the nature of the nuisance, whether public health, safety, or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in subdivision (1) of this section and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

(4) **Immediate abatement.** Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition that poses an imminent and serious hazard to human life or safety.

(5) **Unlawful parties or gatherings.** When law enforcement determines that a gathering is creating such a noise disturbance as prohibited under Sec. 16 – 91 (18), the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered to do so by law enforcement. Every owner or tenant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped.

(6) **Judicial remedy.** Nothing in this section shall prevent the city from seeking a judicial remedy when no other adequate administrative remedy exists.

Sec. 16 – 122. Recovery of Cost.

(1) **Personal liability.** The owner of the premises on which a nuisance has been abated by the city, or a person who has caused a public nuisance on property not owned by that person, shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the city clerk or other city official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the city clerk.

(2) **Assessment.** If the City incurs costs associated with abating a nuisance, the City shall have full authority under Minnesota law to assess such costs against the property. After notice and hearing as provided in Minn. Stat. 429.061, as it may be amended from time to time, the city clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under Minn. Stat. 429.101 against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and any other pertinent statutes for certification to the county auditor and collection along with current taxes the following year or in annual installments, not exceeding ten (10), as the City Council may determine in each case.

Sec. 16 – 123. Penalty.

Any person convicted of violating any provision of this ordinance is guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars ($1,000.00) or imprisonment for not more than ninety (90) days, or both, plus the costs of prosecution in either case.

Sec. 16 – 124. Severability.

If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

Secs. 16 – 125—16 – 129. Reserved.

(ORDINANCE NO. 2010-04)

Chapter 17 RESERVED

Chapter 18 FIRE PREVENTION AND PROTECTION*

***Cross references:** Buildings and building regulations, ch. 10.

State law references: Authority to provide for fire prevention and protection, Minnesota Statutes § 412.221, subd. 17.

Article I. In General

Secs. 18-1--18-30. Reserved.

Article II. Fire Code

Sec. 18-31. Adopted.

Sec. 18-32. Enforcement.

Sec. 18-33. Definitions.

Sec. 18-34. Establishment of limits of districts in which storage of flammable or combustible liquids in outside aboveground tanks is prohibited.

Sec. 18-35. Liquefied petroleum gases storage.

Sec. 18-36. Storage of explosives and blasting agents prohibited.

Sec. 18-37. Appeals.

Sec. 18-38. New materials, processes or occupancies which may require permits.

Sec. 18-39. Penalties.

Secs. 18-40--18-70. Reserved.

Article III. Fireworks

Sec. 18-71. License.

Secs. 18-72--18-105. Reserved.

Article IV. Open Burning

Sec. 18 – 106. Purpose.

Sec. 18 – 107. Definitions.

Sec. 18 – 108. Prohibited Burning.

Sec. 18 – 109. Recreational Fire Requirements.

Sec. 18 – 110. Open Burning Prohibited.

Sec. 18 – 111. Exemptions from Open Burning Prohibition.

Sec. 18 – 112. Permit process, application, and fees.

Sec. 18 – 113. Permit holder responsibility.

Sec. 18 – 114. Revocation of permit.

Sec. 18 – 115. Burning ban or air quality alert.

Sec. 18 – 116. Penalties

Secs. 18-117--18-145. Reserved.

Article V. Fire Department

Sec. 18-146. Established.

Sec. 18-147. Appointments.

Sec. 18-148. Duties of the fire inspector.

Sec. 18-149. Duties of the fire chief.

Sec. 18-150. Records.

Sec. 18-151. Practice drills.

Sec. 18-152. Assistant fire chief.

Sec. 18-153. Firefighters.

Sec. 18-154. Loss of membership.

Sec. 18-155. Compensation.

Sec. 18-156. Relief association.

Sec. 18-157. Interference with department.

ARTICLE I. IN GENERAL

Secs. 18-1--18-30. Reserved.

ARTICLE II. FIRE CODE

Sec. 18-31. Adopted.

The Minnesota State Fire Code, as adopted pursuant to Minnesota Statutes, section 299F.011, and as modified by Minnesota Rules, Chapter 7511, one copy of which is on file for reference and inspection in the office of the city clerk-administrator, is adopted and incorporated by reference as the fire code for the city for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion. Every provision contained in the fire code, except as modified or amended by this article, is adopted and made a part of this article as if fully set forth.

(ORDINANCE NO. 2010-05)

Sec. 18-32. Enforcement.

(a) *Enforced by fire chief.* The chief of the fire department serving the city, or his representative authorized by him, shall enforce the provisions of this article.

(b) *Administration.* The chief of the fire department may detail such members of the fire department as inspectors as shall from time to time be necessary. The chief of the fire department may recommend the employment of technical inspectors, who, when such authorization is made, shall be selected through an examination to determine their fitness for the position. The examination shall be open to members and nonmembers of the fire department, and appointments made after examination shall be for an indefinite term with removal only for cause.

Sec. 18-33. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Corporation counsel means the attorney for the city.

Jurisdiction means the city.

Cross references: Definitions generally, § 1-2.

Sec. 18-34. Establishment of limits of districts in which storage of flammable or combustible liquids in outside aboveground tanks is prohibited.

(a) The limits referred to in the fire code in which storage of flammable or combustible liquids in outside aboveground tanks is prohibited are established as the entire area located within the city, except by special permit from the council and fire marshal in planned industrial district (I-1).

(b) The limits referred to in the fire code in which new bulk plants for flammable or combustible liquids are prohibited are established as the entire area located within the city, except by special permit from the council and fire marshal in planned industrial district (I-1).

Sec. 18-35. Liquefied petroleum gases storage.

The limits referred to in the fire code in which bulk storage of liquefied petroleum gas is restricted are established as the entire area located within the city, except where storage facilities are established by August 4, 1980. Previously established facilities shall not be enlarged.

Sec. 18-36. Storage of explosives and blasting agents prohibited.

The limits referred to in the fire code in which storage of explosives and blasting agents is prohibited are established as the entire area located in the city.

Sec. 18-37. Appeals.

Whenever the fire chief shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the fire code do not apply or that the true intent and meaning of the fire code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the fire chief to the council within 30 days from the date of the decision appealed.

Sec. 18-38. New materials, processes or occupancies which may require permits.

The building inspector, zoning administrator and the fire chief shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies which shall require permits, in addition to those now enumerated in the fire code. The fire chief shall post such list in a conspicuous place in his office and distribute copies to interested persons.

Sec. 18-39. Penalties.

(a) *Violators.* Any person who shall violate any of the provisions of this Chapter or who fails to comply with this Chapter or who shall violate or fail to comply with any order made under this Chapter, or who shall build in violation of any detailed statement of specifications or plans submitted and approved under this Chapter, or any certificate or permit issued under this Chapter, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the council or by a court of competent jurisdiction, within a fixed time, shall be in violation of this Chapter.

(b) *Prohibited conditions removal required.* The application of the penalty for violation shall not be held to prevent the enforced removal of prohibited conditions.

(ORDINANCE NO. 2010-05)

Secs. 18-40--18-70. Reserved.

ARTICLE III. FIREWORKS*

***State law references:** Fireworks generally, Minnesota Statutes § 624.20 et seq.

Sec. 18-71. License.

(a) *Required.* No person shall use or explode any fireworks as defined in Minnesota Statutes § 624.20 without a license.

(b) *Application.* Every application for such a license shall be made in writing to the city clerk-administrator at least 15 days in advance of the date of the display. The application shall be promptly referred to the fire marshal, who shall make an investigation to determine whether the operator of the display is competent and whether the display is of such a character and is to be so located, discharged or fired that it will not be hazardous to property or endanger any person. The fire marshal shall report the results of this investigation to the city clerk-administrator; and if he reports that in his opinion the operator is competent and that the display as planned will conform to safety requirements, including the rules and regulations of the state fire marshal, the city clerk-administrator shall issue a license for the display.

(c) *Fee.* The license shall not be issued until the currently required fee as set out in appendix A is paid for each day of display.

Secs. 18-72--18-105. Reserved

ARTICLE IV. OPEN BURNING*

***Cross references:** Environment, ch. 16.

State law references: Open burning prohibitions, Minnesota Statutes § 88.171.

Sec. 18 – 106. Purpose.

(1) Adoption of state law by reference: The provisions of *Minnesota Statutes*, Chapter 88, Division of Forestry, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, permits, and all other matters pertaining to open burning are hereby adopted by reference and are made a part of this ordinance as if set out in full. It is the intention of the City Council that all future amendments of Minnesota Statutes, Chapter 88, are hereby adopted by reference or referenced as if they had been in existence at the time this ordinance was adopted.

(2) City may be more restrictive than state law: The Council is authorized to impose, and has imposed in this ordinance, additional restrictions on open burning within its limits beyond those contained in *Minnesota Statutes*, Chapter 88, as it may be amended from time to time.

(3) Purpose: The purpose of this ordinance is to regulate open burning within the City of Wyoming, to protect the public health, safety, and welfare. Through passage of this ordinance, the designated fire official is hereby authorized to adopt and impose burning restrictions to aid in the prevention of wildfire and to consult with the Department of Natural Resources (DNR), Division of Forestry to develop any restrictions or other criteria.

Sec. 18 – 107. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) Adult: A natural person who has reached the age of eighteen (18) years.

(2) Burning permit: A permit issued by the city authorizing fires exempted from the general provisions of this article, and setting conditions for use.

(3) Campfire or recreational fire: A fire set for cooking, warming or ceremonial purposes, which is not more than three (3) feet in diameter by three (3) feet high, and has had the ground twenty (20) feet from the base of the fire cleared of all combustible material. Burners, mobile cooking devices, such as hibachis, charcoal grills, wood smokers, and propane or natural gas devices shall not be considered recreational fires or open fires under this article.

(4) Designated Fire Official. The Fire Chief, Fire Marshall, Deputy Fire Chief, or other designee who provides fire protection or public safety services to the City.

(5) Open fire or open burning: A fire burning in matter, whether concentrated or dispersed, which is not contained within a fully enclosed fire box, structure or vehicle, and from which the products of combustion are emitted directly to the open atmosphere without passing through a stack, duct or chimney.

(6) Person: means as given in Minnesota Statutes § 116.06, subd. 17.

(7) Wood: means dry, clean fuel only such as twigs, branches, limbs, presto logs, charcoal, cordwood or untreated dimensional lumber. The term does not include wood that is green, with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or preservatives. Clean pallets may be used for recreational fires when cut into three-foot lengths.

Sec. 18 – 108. Prohibited Burning.

No person shall conduct, cause, or permit the open burning of the following materials:

(1) Oils, petroleum fuels, rubber, plastic, chemically treated materials, or other materials that produce excessive or noxious smoke such as, but not limited to, tire, railroad ties, treated, painted or glued wood composite shingles, tar paper, insulation, composition board, sheet rock, wiring, paint or paint fillers.

(2) Hazardous waste or salvage operations; solid waste generated from an industrial or manufactured process; materials from a service or commercial establishment, or building materials generated from demolition of commercial or institutional structures.

(3) Discarded materials resulting from the handling, processing, storage, preparation, serving, or consumption of food.

(4) Leaves or grass clippings.

(5) The use of burners (i.e. burning barrels), as described in *Minnesota Statute* §88.16, subd. 2(d) are prohibited within the city's jurisdiction.

(6) The burning of structures, not conducted as part of a fire training exercise.

Sec. 18 – 109. Recreational Fire Requirements.

(7) The following site requirements apply to recreational fires, which must:

(a) Be contained in an area of no more than a three (3) foot diameter circle as measured from the inside of the fire ring or border;

(b) Be completely surrounded by noncombustible and non-smoke- or odor-producing material, either of natural rock, cement, brick, tile or block of ferrous metal only;

(c) Be in an area depressed below ground, on the ground or on a raised bed, including permanent outdoor wood-burning fireplaces; and

(d) Not be located closer than twenty (20) feet to any structure.

(8) Burn requirements. The following burn requirements apply to the starting and burning of recreational fires, which must:

(a) Be ignited with a safe and customarily approved starter fuel using dry clean wood.

(b) Produce little detectable smoke, odor, or soot beyond the property line of the property on which the recreational fire has been constructed.

(c) Be conducted with an adult tending the recreational fire at all times until completely extinguished.

(d) Be extinguished completely before being left unattended.

(e) No more than one recreational fire shall be allowed on any property at one time.

(9) No nuisance. All recreational fires shall be conducted so as to respect the weather conditions, the fire's effect on, or concerns from neighbors, burning bans and air quality so that nuisance, health, or safety hazards will not be created.

Sec. 18 – 110. Open Burning Prohibited.

Except as otherwise provided in this article, open burning shall be prohibited within the city.

Sec. 18 – 111. Exemptions from Open Burning Prohibition.

(1) Types of fires. Open burning of the types, and subject to the conditions, as stated in this subsection, shall be exempt from the prohibition of Sec. 18 – 108.

(a) Recreational fires. Recreational fires that are in compliance with the requirements of Sec. 18 – 107.

(b) Permitted fires. Open fires under managed supervision for which a burning permit has been obtained from the city and, where required by state law, from the Department of Natural Resources; but such permits shall be at the discretion of city personnel and shall be limited to the following:

1. Burning permits shall only be issued to the owner, or the agent of an owner, on parcels that are a minimum of one (1) acre in size.

2. Open fires purposely set for the instruction and training of public and industrial firefighting personnel;

3. Open fires set for the elimination of a fire hazard which cannot be abated by any other practicable means;

4. Open fires purposely set for forest and game management purposes; and

5. The burning of trees, brush, grass and other vegetative matter in the clearing of land, the maintenance of street, road and highway right-of-way, and in accepted agricultural land management practices.

(c) Permitted fires, exception. When the ground is snow covered an open burning permit is not required. "Snow-covered", as defined, in Minnesota Statute 88.16 subd. 2, means that the ground has a continuous unbroken cover of snow, to a depth of three inches or more, surrounding the immediate area of the fire, sufficient to keep the fire from spreading.

(2) Additional restrictions. Without in any way limiting any other provision of this article, any additional restrictions specifically set forth in the burning permit shall apply to the open fire allowed by such burning permit; and a violation of any such restriction shall be a violation of this article.

(3) Limitation exemptions. An exemption to conduct an open fire under this section does not excuse a person from the consequences, damages or injuries which may result, nor does it exempt any person from regulations promulgated by the state pollution control agency or any other governmental unit exercising jurisdiction in matters of pollution or fire hazard regulation.

Sec. 18 – 112. Permit process, application, and fees.

(1) Open burning permits shall be obtained by making application on a form prescribed by the DNR. The permit application shall be presented to the designated fire official for review. An open burning permit shall require the payment of a fee. Permit fees shall be in an amount established by the Council.

(2) The applicant shall demonstrate to the designated fire official the ability to comply with the applicable state statutes, this ordinance, or any additional guidelines as may be adopted.

(3) Upon receipt of the completed open burning permit application and fee, the designated fire official may, if he or she believes necessary, require a preliminary site inspection to locate the proposed burn site, note special conditions, and set dates and times of permitted burn and review fire safety considerations, including the preparation of a detailed burn event safety plan with the designated fire official when conditions require.

(4) If the established criteria for the issuance of an open burning permit are not met, the application will be denied.

(5) Even if the established criteria for the issuance of an open burning permit are met, if it is determined that a practical alternative method for disposal exists, a pollution or nuisance condition would result, or if a burn event safety plan cannot be drafted to the satisfaction of the designated fire official, the application may be denied.

Sec. 18 – 113. Permit holder responsibility.

(1) Prior to starting an open burn, the permit holder shall be responsible for confirming that no burning ban or air quality alert is in effect.

(2) Prior to starting an open burn, the permit holder shall activate the open burning permit by contacting the DNR and the Chisago County Sheriff's Dispatch non-emergency phone number.

(3) The open burning site shall have appropriate communication and fire suppression equipment available.

(4) The open burn shall be attended to at all times. No fire may ever be allowed to smolder. The fire shall be completely extinguished before the permit holder or his or her representative leaves the site. It is the responsibility of the permit holder to have a valid permit, as required by this ordinance, available for inspection on site by law enforcement, the Fire Department, a Minnesota Pollution Control Agency (MPCA) representative or DNR officer.

(5) The permit holder is responsible for compliance and implementation of all general conditions, special conditions, and guidelines as established in the permit issued.

Sec. 18 – 114. Revocation of permit.

An open burning permit is subject to revocation at the discretion of a DNR officer or the designated fire official. Reasons for revocation include but are not limited to: a fire hazard existing or developing during the course of the burn; any permit conditions being violated during the course of the burn; pollution or nuisance conditions developing during the course of the burn; or a fire smoldering with no flame, or attendant, present.

Sec. 18 – 115. Burning ban or air quality alert.

(1) The designated fire official is authorized to determine when conditions make open burning potentially hazardous and declare a burning ban within the city.

(2) No recreational fire or open burn will be permitted when the city or the DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an air quality alert.

Sec. 18 – 116. Penalties

(1) Violation of any provision of this ordinance, including maintaining a nuisance after being notified in writing, shall be a guilty of a misdemeanor.

Secs. 18-117--18-145. Reserved.

(ORDINANCE NO. 2010-06)

ARTICLE V. FIRE DEPARTMENT*

***Cross references:** Officers and employees, § 2-71 et seq.

State law references: Fire and police departments relief associations, Minnesota Statutes § 69.011 et seq.; authority to establish a fire department, Minnesota Statutes § 412.221; volunteer firefighters' retirement, Minnesota Statutes § 424A.001 et seq.

Sec. 18-146. Established.

There is established in this city a volunteer fire department consisting of a fire chief, one or more assistant fire chiefs, a fire marshal, and not less than 15 firefighters. Volunteer firefighters shall reside within at no more than eight minutes from the fire station.

Sec. 18-147. Appointments.

The fire chief shall be appointed annually by the members of the department subject to confirmation by the council. Upon confirmation by the council, the fire chief shall be sworn in by the council. He shall appoint each year one or more assistant fire chiefs, and a fire marshal, subject to confirmation by the council. The chief of the fire department, the assistant fire chiefs and the fire marshal each shall hold office for one year and until their successors have been duly elected or appointed; except that any of the officers may be removed by the council for cause and after a public hearing. Firefighters and probationary firefighters shall be appointed by the members of the department, subject to confirmation by the council. Firefighters shall continue as members of the department during good behavior and may be removed by the council only for cause and after a public hearing.

Sec. 18-148. Duties of the fire inspector.

The fire inspector shall be charged with the enforcement of all provisions of the fire code aimed at fire prevention. He shall have full authority to inspect all premises and to cause the removal or abatement of all fire hazards.

Sec. 18-149. Duties of the fire chief.

The fire chief shall have control over all of the firefighting apparatus and shall be solely responsible for its care and condition. He shall make a report semiannually, to the council at its meeting in March and September, as to the condition of the equipment and needs of the fire department. He may submit additional reports and recommendations at any meeting of the council, and he shall report each suspension by him of a member of the fire department at the first meeting of the council following such suspension. He shall be responsible for the proper training and discipline of the members of the fire department and may suspend any member for refusal or neglect to obey orders pending final action by the council on his discharge or retention.

Sec. 18-150. Records.

The fire chief shall keep in convenient form a complete record of all fires. Such record shall include the:

(1) Time of the alarm;

(2) Location of fire;

(3) Cause of fire (if known);

(4) Type of building;

(5) Name of owner and tenant;

(6) Purpose for which occupied;

(7) Value of building and contents;

(8) Members of the department responding to the alarm; and

(9) Such other information as he may deem advisable or as may be required by the council or state insurance department.

Sec. 18-151. Practice drills.

It shall be the duty of the fire chief to hold one monthly meeting and at least two monthly practice drills of at least one hour's duration for the fire department and to give the firefighters instruction in approved methods of firefighting and fire prevention.

Sec. 18-152. Assistant fire chief.

In the absence or disability of the fire chief, the assistant fire chief shall perform all the functions and exercise all of the authority of the fire chief.

Sec. 18-153. Firefighters.

The fire chief, the assistant fire chief, the fire inspector and all firefighters and probationary firefighters shall be not less than 18 nor more than 65 years of age and able bodied. They shall become members of the fire department only after a 12-month probationary period. The council may require that each candidate, before he may become a probationary firefighter, must complete an approved fire department training program; and he must pass a satisfactory mental and physical examination.

Sec. 18-154. Loss of membership.

Firefighters must maintain the following requirements or forfeit membership in the department:

(1) Firefighters cannot be absent from three consecutive meetings unless excused by the fire chief.

(2) Firefighters must attend a minimum of 12 practice drills per year.

(3) Firefighters must attend a minimum of 33 percent of the fire calls a year.

(4) Firefighters must pass a physical examination program.

Sec. 18-155. Compensation.

The compensation for the members and officers of the fire department shall be set annually by the council.

Sec. 18-156. Relief association.

The members and officers of the fire department shall organize themselves into a firefighter's relief association.

Sec. 18-157. Interference with department.

It is unlawful for any person to give or make or cause to be given or made an alarm of fire without probable cause, or to neglect or refuse to obey any reasonable order of the fire chief at a fire, or to interfere with the fire department in the discharge of its duties.

Chapter 19 RESERVED

Chapter 20 LAW ENFORCEMENT*

***Cross references:** Administration, ch. 2; offenses and miscellaneous provisions, ch. 22; traffic, ch. 34.

State law references: Municipal public safety and law enforcement, Minnesota Statutes § 436.05 et seq.

Article I. In General

Secs. 20-1--20-30. Reserved.

Article II. Police Department

Sec. 20-31. Established.

Sec. 20-32. Duties.

Article III. Applicant criminal history background checks

Division 1. Applicants for city employment.

Sec. 20 – 50. Purpose.

Sec. 20 – 51. Criminal history employment background investigations.

Sec. 20 – 52. Employment positions.

Division 2. Applicants for city licenses.

Sec. 20 – 53. .Purpose.

Sec. 20 – 54. Criminal history license background investigations.

Sec. 20 – 55. City licenses.

Sec. 20 – 56. Date of Effect.

Article IV. Social Host Ordinance.

Division 1. Social Host Ordinance:

Sec. 20 – 60. Purpose and Findings.

Sec. 20 – 61. Authority.

Sec. 20 – 62. Definitions.

Sec. 20 – 63. Prohibited Acts.

Sec. 20 – 64. Exceptions, Defenses.

Sec. 20 – 65. Enforcement.

Sec. 20 – 66. Severability.

Sec. 20 – 67. Penalty.

Sec. 20 – 68. Publication.

Sec. 20 – 69. Effective Date.

ARTICLE I. IN GENERAL

Secs. 20-1--20-30. Reserved.

ARTICLE II. POLICE DEPARTMENT*

***Cross references:** Officers and employees, § 2-71 et seq.

Sec. 20-31. Established.

There is established a police department in and for the city. The chief of police shall be the chief executive officer of the police department.

(Code 1989, § 135.01)

Sec. 20-32. Duties.

The city police shall have the power and duties conferred on peace officers by law. It shall also be a duty of the city police to answer emergency calls and come to the aid of any resident of the city, the security of whose person or property is in danger.

(Code 1989, § 135.02)

ARTICLE III. APPLICANT CRIMINAL HISTORY BACKGROUND CHECKS.

DIVISION 1. APPLICANTS FOR CITY EMPLOYMENT.

Sec. 20 – 50. Purpose.

The purpose and intent of this section is to establish regulations that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of employment background checks for the positions described in Section 20 – 52.

Sec. 20 – 51. Criminal history employment background investigations.

The Wyoming Police Department is hereby required, as the exclusive entity within the City, to do a criminal history background investigation on the applicants for the following positions within the city, unless the city's hiring authority concludes that a background investigation is not needed:

Sec. 20 – 52. Employment positions.

All regular part-time or full-time employees of the City of Wyoming and other positions that work with children or vulnerable adults.

(1) In conducting the criminal history background investigation in order to screen employment applicants, the Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Police Department under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the Computerized Criminal History data may be released by the Police Department to the hiring authority, 2012-03 including the City Administrator, or other city staff involved in the hiring process.

(2) Before the investigation is undertaken, the applicant must authorize the Police Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of Minn. Stat. Chap. 13 regarding the collection, maintenance, and use of the information. Except for the positions set forth in Minnesota Statutes Section 364.09, the city will not reject an applicant for employment on the basis of the applicant's prior conviction unless the crime is directly related to the position of employment sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the City rejects the applicant's request on this basis, the City shall notify the applicant in writing of the following:

(a) The grounds and reasons for the denial.

(b) The applicant complaint and grievance procedure set forth in Minnesota Statutes Section 364.06.

(c) The earliest date the applicant may reapply for employment.

(d) That all competent evidence of rehabilitation will be considered upon reapplication.

DIVISION 2. APPLICANTS FOR CITY LICENSES.

Sec. 20 – 53. .Purpose.

The purpose and intent of this section is to establish regulations that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of licensing background checks.

Sec. 20 – 54. Criminal history license background investigations.

The Wyoming Police Department is hereby required, as the exclusive entity within the City, to do a criminal history background investigation on the applicants for the following licenses within the city:

Sec. 20 – 55. City licenses.

(1) Employees and Business Owners of Liquor Establishments.

(2) Peddler Licenses.

(3) Massage Therapy.

(4) Sexually Oriented Businesses.

(5) Conducting Sales of Merchandise or Food Products or Engaging in Similar Transient Commerce from a Moveable Place of Business

(a) In conducting the criminal history background investigation in order to screen license applicants, the Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Police Department under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the Computerized Criminal History data may be released by the Police Department to the licensing authority, including the City Council, the City Administrator or other city staff involved the license approval process.

(b) Before the investigation is undertaken, the applicant must authorize the Police Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of Minn. Stat. Chap. 13 regarding the collection, maintenance, and use of the information. Except for the positions set forth in Minnesota Statutes Section 364.09, the city will not reject an applicant for a license on the basis of the applicant's prior conviction unless the crime is directly related to the license sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the City rejects the applicant's request on this basis, the City shall notify the applicant in writing of the following:

(i) The grounds and reasons for the denial.

(ii) The applicant complaint and grievance procedure set forth in Minnesota Statutes Section 364.06.

(iii) The earliest date the applicant may reapply for the license.

(iv) That all competent evidence of rehabilitation will be considered upon reapplication.

Sec. 20 – 56. Date of Effect.

Passed and approved by the City Council of the City of Wyoming this 8th day of February, 2012.

ORDINANCE NO. 2012-03

ARTICLE IV. SOCIAL HOST ORDINANCE.

DIVISION 1. SOCIAL HOST ORDINANCE.

Sec. 20 – 60. Purpose and Findings. It is the intent and desire of the City Council of the City of Wyoming to discourage and prevent underage possession and consumption of alcoholic beverages, whether in public areas or on private property, premises or residences; and it is the intent of City of Wyoming to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol, regardless of whether the person hosting the event or gathering supplied the alcohol.

The City Council of the City of Wyoming finds that:

(1) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of twenty-one (21) are harmful to those persons and constitute a potential threat to public health, requiring prevention or abatement.

(2) Prohibiting underage consumption protects underage persons from harm or injuries related to alcohol consumption, such as alcohol overdose (alcohol poisoning), long-term or lifelong issues with chemical abuse, and/or alcohol-related traffic collisions. Further, the health of the public is enhanced when underage drinking is diminished, as alcohol-related injuries due to traffic crashes are limited

(3) Alcohol is an addictive drug which if used irresponsibly, has been shown to have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.

(4) Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent, guardian or other adult is present, condones the activity, and, in some circumstances provides the alcohol.

(5) Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.

(6) A deterrent effect will be created by holding persons criminally responsible for hosting an event or gathering whether underage possession or consumption occurs.

Sec. 20 – 61. Authority.

This ordinance is enacted pursuant to Minn. Stat. § 145A.05, Subdivision. 1.

Sec. 20 – 62. Definitions.

For purposes of this ordinance, the following terms have the following meanings:

(1) Alcohol. “Alcohol” means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.

(2) Alcoholic beverage. “Alcoholic Beverage” means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer and which contain one-half of one percent or more of alcohol by volume and which if fit for beverage purpose either alone or when diluted, mixed or combined with other substances.

(3) Event or gathering. “Event or gathering” means any group of three or more person who have assembled or gathered together for a social occasion or other activity.

(4) Host. “Host” means, allow, entertain, or organize, or permit a gathering or event.

(5) Parent. “Parent” means any person having legal custody of a juvenile:

(a) As natural, adoptive parent or step-parent;

(b) A legal guardian;

(c) As a person to whom legal custody had been granted by order of the court.

(7) Person. “Person” means any individual, partnership, co-partnership, corporation, or any association of one or more individuals.

(8) Residence or Premises. “Residence” or “premises” means any home, yard, farm, field, land apartment, condominium, hotel or motel room, or other dwelling unit, or hall or meeting room, park,

(9) or any other place of assembly, public private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.

(10) Underage Person. “Underage person” is any individual under twenty-one (21) years of age.

Sec. 20 – 63. Prohibited Acts.

(1) It is unlawful for any person(s) to host an event or gathering; at any residence, premises, or on any private or public property; where alcohol or alcoholic beverages are present; when the person knows or reasonably should know that an underage person will or does consume any alcohol or alcoholic beverage; or possess any alcohol or alcoholic beverage with the intent to consume it; and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

(a) A person is criminally responsible for violating Sec. 20 – 63, (1) if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.

(b) A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

Sec. 20 – 64. Exceptions, Defenses.

(1) Exceptions. This Ordinance does not apply to:
- (a) Conduct solely between an underage person and his or her parents while present in the parent's household;
- (b) Legally protected religious observances;
- (c) Retail intoxicating liquor or 3.2 percent malt liquor licensees, municipal liquor stores, or bottle club permit holders who are regulated by Minn. Stat. §340A.503 Subd. 1(a)(1);
- (d) Underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

(2) Defenses. If proven by a preponderance of evidence, it shall be an affirmative defense to any violation of Sec. 20 – 63, that the alleged violation is consistent with one or more of the exceptions set forth in Sec. 20 – 64, (1).

Sec. 20 – 65. Enforcement.

This Ordinance may be enforced by any law enforcement officer.

Sec. 20 – 66. Severability.

If any section, subsection, sentence, clause, phrase, word or other portion of this ordinance is, for any reason held to be unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

Sec. 20 – 67. Penalty.

Violation of any provision or paragraph of Sec. 20 – 63 is a misdemeanor and shall be punishable by up to 90 days in jail and/or $1,000 fine.

Sec. 20 – 68. Publication.

The City Clerk is directed to certify the passage of this Ordinance and cause this Ordinance to be published in the designated newspaper by the City Council of the City of Wyoming, circulated in the County of Chisago, State of Minnesota.

Sec. 20 – 69. Effective Date.

This Ordinance shall take effect thirty (30) days following its final passage and adoption.

Passed and approved by the City Council of the City of Wyoming this 3rd day of June, 2014.

ORDINANCE NO. 2014-03

Chapter 21 RESERVED

Chapter 22 OFFENSES AND MISCELLANEOUS PROVISIONS*

***Cross references:** Law enforcement, ch. 20; traffic, ch. 34.

State law references: Criminal code, Minnesota Statutes ch. 609.

Article I. In General

Sec. 22-1. Loitering.

Sec. 22 – 02. Shooting and Carrying of Firearms and Weapons Regulated.

Sec. 22 – 03. Definitions:

Sec. 22 – 04. Permitted Use of Firearms:

Sec. 22 – 05. Prohibitions:

Sec. 22 – 06. Dangerous Weapons:

Sec. 22 – 07. Penalty:

Secs. 22-8--22-35. Reserved.

Article II. Curfew

Sec. 22-36. Established.

Sec. 22-37. Defenses.

Sec. 22-38. Adult's liability.

Sec. 22-39. School nights.

Sec. 22-40. Penalty.

Article III. Public Indecency

Sec. 22 – 50. Purpose.

Sec. 22 – 51. Findings.

Sec. 22 – 52. Definitions.

Sec. 22 – 53. Public Indecency Prohibited.

Sec. 22 – 54. Severability.

Sec. 22 – 55. Effective Date.

ARTICLE I. IN GENERAL

Sec. 22-1. Loitering.

(a) *Petty misdemeanors.* Whoever commits any of the following acts is guilty of a petty misdemeanor:

(1) Lingering about the doorway of any building, or sitting or lingering upon the steps, windowsills, railing, fence or parking area adjacent to any building in such a manner so as to obstruct or partially obstruct ingress to or egress from such building or in such a manner as to annoy the owner or occupant.

(2) Remaining for more than five minutes on any private business premises which is posted with a conspicuous sign containing the words "No Loitering" when:

a. The business establishment is closed; or

b. The person charged does not visibly demonstrate any intent to conduct business at the establishment or to leave the premises after having conducted such business.

(3) Remaining for more than five minutes on any public business premises which is posted with a conspicuous sign containing the words "No Loitering" when such premises neither has been nor will be open for business within 30 minutes.

(4) Remaining for more than five minutes on any public or private nonbusiness premises which is posted with a conspicuous sign containing the words "No Loitering."

(5) Lingering for any length of time upon any public or private premises after having been warned within the preceding four months, whether orally or in writing, by the owner, agent, manager or person in charge, or by any law enforcement agent or official, that such lingering will result in a charge under this section.

(b) *Misdemeanors.* Whoever commits any of the following acts is guilty of a misdemeanor:

(1) Failing or refusing to vacate or leave any premises after being requested or ordered, either orally or in writing, to do so by the owner, agent, manager or person in charge, or by any law enforcement agent or official or returning at any time thereafter to such premises after having been so requested or ordered to vacate such premises.

(2) Any of the acts described in subsection (a) of this section within one year of being found guilty of any violation of subsection (a).

(c) *Premises.* For purposes of this section, "premises" shall include any yard, lot, parcel, sidewalk, boulevard, street, highway, alley, park, playground, restaurant, cafe, church, school, any car or other motor vehicle, parking lot, drive-in, building used for business, commercial or industrial purposes, washroom, or lavatory, apartment hallway or other location, whether public or private, in the city. Business premises includes all premises, whether public or private, which include a facility that has established open and closed hours. Nonbusiness premises include all other premises in the city.

(Ord. No. 11-18-91, § 426.03, 11-18-1991)

Sec. 22 – 2. Shooting and Carrying of Firearms and Weapons Regulated:

The purpose of this ordinance is to provide that the shooting of firearms within the city limits will not constitute an unreasonable nuisance to persons in the city. This ordinance is designed to prevent nuisances caused by the noise created from the discharge of firearms, and to minimize the potential that projectiles discharged from firearms could injure individuals. The city council deems these regulations necessary to protect public and private property and to promote health, safety, order, convenience, and the general welfare of persons within the city.

Sec. 22 – 3. Definitions:

(1) **Carry:** The handling or transportation of a firearm, controlled weapon, or dangerous weapon, concealed or otherwise, outside a person's domicile.

(2) **Cased Firearm:** Any unloaded firearm or bow, placed in a case which is tied or otherwise secured in the manner provided, to prevent shooting it.

(3) **Controlled weapons:** Any gun or device from which a shot or projectile is discharged by means of gas, or compressed air, or any other mechanical means capable of launching said projectile or arrow and includes, but is not limited to, pellet and BB guns, archery bows, crossbows, wrist rockets, sling shots, and paint ball guns.

(4) **Dangerous Weapons:** Clubs, blackjacks, spring guns, brass or metal knuckles or any knife with a switchblade which opens automatically under spring pressure with a button or release mechanism or by any other mechanical contrivance, daggers, dirks, stilettos, or figures or discs with sharpened points or edges (commonly known as throwing stars)

(5) **Firearm:** Any gun from which any projectile is discharged or propelled by means of an explosion, excluding devices used exclusively for the firing of stud cartridges, explosive rivets, or similar industrial apparatus, instruments, or equipment used by construction personnel, licensed physicians or veterinarians in the course or scope of their professions.

(6) **Landowner:** Any person, group, firm, or corporation owning, leasing, or legally controlling any lands within the territorial limits of the city.

(7) **Shooting:** The firing or discharge of any firearm or controlled weapon.

(8) **Single Projectile:** Any single projectile, whether contained in a metallic, paper, plastic or other cartridge including any method of loading a muzzleloader which results in a single projectile being discharged.

(9) **Suitable Backstop:** Any natural or manmade barrier of sufficient mass, size, or construction to wholly contain the projectile being discharged.

(10) **Written Permission:** The following information must be included: The full name, address, date of birth, phone number, and signature of the person authorized to hunt or shoot on identified land; and the full name, address, phone number and signature of the landowner or lessee, written permission must be dated.

Sec. 22 – 4. Permitted Use of Firearms:

The carrying of firearms in the city is regulated by Minnesota Statutes Chapter 624. The shooting of firearms and controlled weapons is permitted under the following circumstances so long as no innocent party is endangered, unless otherwise prohibited by state or federal law:

(1) By law enforcement officers in the line of duty or military personnel in the line of duty.

(2) By any person to resist or prevent an offense which that person reasonably believes exposes himself or another to great bodily harm or death.

(3) By a certified firearms safety training instructor while participating in a Department of Natural Resources approved firearms safety program.

(4) By any person while participating in a Department of Natural Resources approved firearms safety program.

(5) By any person for the destruction of diseased, injured, or dangerous birds, animals or reptiles by persons authorized to do so in writing by the Chief of Police.

(6) By any person on a rifle, trap, archery, or target range established in accordance with the city's zoning ordinance or as part of a city sponsored activity.

(7) By any person for target practice with a firearm provided that the projectiles are stopped by a suitable backstop and provided further that the shooting does not occur within five hundred (500) feet of a public park or trail or within five hundred (500) feet of a building, or a stockade or corral containing livestock, unless such building or livestock is owned by that person, or unless that person has the owner's written permission carried on his/her person. If permission is oral, the person must be able to provide immediately the name, address, and phone number of the owner or lessee from whom permission was obtained, and if requested, must be able to produce written verification of that permission within seventy-two (72) hours.

(8) By any person hunting with a firearm; provided, that no shooting occurs within five hundred (500) feet of a public park or trail or five hundred (500) feet of a building a, or a stockade or corral containing livestock, unless such building or

livestock is owned by that person, or unless that person has the owner's written permission carried on his/her person. If permission is oral, the person must be able to provide immediately the name, address, and phone number of the owner or lessee from whom permission was obtained, and if requested, must be able to produce written verification of that permission within seventy-two (72) hours.

(9) By any person hunting with a bow and arrow; provided that no shooting occurs within two hundred (200) feet of a public park or trail or within two hundred (200) feet of a building or a stockade or corral containing livestock, unless such building or livestock is owned by that person, or unless that person has the owner's written permission carried on his/her person. If permission is oral, the person must be able to provide immediately the name, address, and phone number of the owner or lessee from whom permission was obtained, and if requested, must be able to produce written verification of that permission within seventy-two (72) hours.

(10) By any person for target practice with a controlled weapon, provided that the projectiles are stopped by a suitable backstop. Notwithstanding the foregoing, no shooting for the purpose of target practice shall occur within one hundred (100) feet of a public park or trail or within one hundred (100) feet of a building or a stockade or corral containing livestock, unless such building or livestock is owned by that person, or unless that person has the owner's written permission carried on his/her person. If permission is oral, the person must be able to provide immediately the name, address, and phone number of the owner or lessee from whom permission was obtained, and if requested, must be able to produce written verification of that permission within seventy-two (72) hours. Target practice may also take place within the confines of a building if a suitable backstop is used.

(11) By any person participating in a special hunting season, which season may not conflict with state law or regulations, established by the city council for the purpose of wildlife management. The season shall be established by the city council when, based upon competent professional advice such as a conservation officer, a season is needed to reduce an animal population. The council may authorize the use of single projectiles as part of the special hunt regulations set forth in the resolution.

(12) By any person slaughtering farm animals which they own or with the owner's permission.

Sec. 22 – 5. Prohibitions:

(1) The shooting of a firearm or controlled weapon is prohibited except as allowed in this ordinance.

(2) Unless otherwise permitted by State Statute, it shall be unlawful for any person to possess, carry, or have under his control any firearm or controlled weapon upon the land of another without the written permission, oral permission, or be in the presence of, the owner or lessee of that land. The person must have in their possession the written permission. If permission is oral, the person must be able to provide immediately the name, address, and phone number of the owner or lessee from whom permission was obtained, and if requested, must be able to produce written verification of that permission within seventy-two (72) hours.

(3) It is unlawful for any minor under the age of fourteen (14) years of age to handle, or have in his possession or under his control, except while accompanied by or under the immediate charge of his parents or guardian, or certified safety-training instructor, any firearm, controlled weapon, or dangerous weapon of any kind for hunting or target practice or any other purpose, within the city.

(a) Any person aiding or knowingly permitting any such minor to violate subsection (3) of this section violates the same and shall be guilty of a misdemeanor.

(4) It shall be unlawful for any person to be in possession of, carry, or transport any firearm or other controlled weapon while under the influence of alcohol or a controlled substance.

Sec. 22 – 6. Dangerous Weapons:

No person shall keep, carry, or have in his possession, concealed or otherwise, any dangerous weapon when on any public street or in any public place, or when they are trespassing upon the premises or property of another person, within the city. This does not apply to military or police personnel engaged in their duties, or those who hold permits to possess and carry on their person said weapon.

Sec. 22 – 7. Penalty:

Any person violating the provisions of this ordinance shall be guilty of a misdemeanor.

Sec. 22 – 8—35. Reserved.

State law references: Dangerous weapons, Minnesota Statutes § 609.66; authority of cities to regulate the discharge of firearms, Minnesota Statutes § 471.633.

(ORDINANCE NO. 2010-07)

ARTICLE II. CURFEW

Sec. 22-36. Established.

(a) *Minors 14 years and under.* It shall be unlawful for any minor of the age of 14 years or under to loiter, idle or be in or upon the public streets, highways, parks, playgrounds or other public grounds, public places, places of entertainment or refreshment, or any other unsupervised place within this city between the hours of 10:00 p.m. on any day and 5:00 a.m. the following day.

(b) *Minors 15 and 16 years.* It shall be unlawful for any minor of the age 15 years or 16 years to loiter, idle or be in or upon the public streets, highways, parks, playgrounds or other public grounds, public places, places of entertainment, or refreshment or any other unsupervised place within this city between the hours of 11:00 p.m. on any day and 5:00 a.m. the following day.

(c) *Minors 17 years of age.* It shall be unlawful for any minor of the age of 17 years to loiter, idle or be in or upon the public streets, highways, parks, playgrounds or other public grounds, public places, places of entertainment, or refreshment or any other unsupervised place within this city between the hours of 1:00 a.m. and 5:00 a.m. on any day.

Sec. 22-37. Defenses.

This article shall not apply to such minor accompanied by his parent, guardian or any other adult person having the care and custody of the minor or when the minor is upon some necessary errand by permission or direction of his parent, guardian or other adult person having the care and custody of the minor, which permission shall be in writing and signed by the parent, guardian or other adult person having the care and custody of the minor.

Sec. 22-38. Adult's liability.

It shall be unlawful for the parent, guardian or other adult person having the care and custody of a minor of the ages set forth in this article to permit such minor to loiter, idle or be in or upon public streets, highways, parks, playgrounds, or other public grounds, public places, parks or entertainment, or refreshment or any other unsupervised place within this city during the hours prohibited in this article.

Sec. 22-39. School nights.

The mayor may designate certain nights during the school year as school nights. The provisions of this article shall not apply to any student under the age of 18 years or to his parents, guardian or other adult person having the care and custody of the minor who is lawfully going to, attending or returning from any school function on any designated school night.

Sec. 22-40. Penalty.

Any minor of the ages set forth in this article or any person having care and custody of such minor who shall violate the provisions of this article shall, upon adjudication, be guilty of a misdemeanor.

(Ord. No. 11-18-91, § 425.05, 11-18-1991)

ARTICLE III PUBLIC INDECENCY.

Sec. 22 – 50. Purpose.

The purpose of this Division is to prohibit public indecency in order to deter criminal activity, to promote societal order and public health, and to protect children.

Sec. 22 – 51. Findings.

(1) General. The City Council of the City of Wyoming makes the following findings regarding the need to prohibit public indecency:

(a) Public indecency can increase the incidence of criminal activity, including but not limited to prostitution, disorderly conduct, and sexual assault.

(b) Public indecency can expose children to an unhealthy environment.

(c) Public indecency can disrupt the orderly operation of public events and public accommodations, thereby fostering societal disorder,

(d) Public indecency can present health concerns in places of public accommodation and other public settings

Sec. 22 – 52. Definitions.

The following words and terms when used in the Article shall have the following meanings, unless the context clearly indicates otherwise:

(1) Nudity. The showing of the human male or female genitals or pubic area or buttocks with less than a fully opaque covering or the showing of the female breast with less than a fully opaquely coved female breast below a point immediately above the top of the areola; or the depicting or showing of the covered male genitals in a discernibly turgid state. Nudity shall not include the public breast feeding of a child by his or her mother.

(2) Person. A natural person twelve (12) years of age or older, including employees or agents of a public accommodation

Sec. 22 – 53. Public indecency prohibited.

(1) A person, who knowingly or intentionally in a public setting or place:

(a) appears in a state of nudity;

(b) fondles the genitals or himself or herself; or

(c) fondles the genitals of another person.

Commits public indecency and is guilty of a misdemeanor under Minnesota Law

Sec. 22 – 54. Severability.

If any section, subsection, sentence, clause or phrase of this Article is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Article The City Council hereby declares that it would have adopted the Article and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid

Sec. 22 – 55. Effective Date.

The foregoing Article III of Chapter 22 of the City's Code of Ordinances shall take effect upon its passage and publication as required by law.

ORDINANCE NO. 02-03-03C

Chapter 23 RESERVED

Chapter 24 PEDDLERS AND SOLICITORS*

_____

***Cross references:** Businesses, ch. 12; streets, sidewalks and other public places, ch. 30.

State law references: Hawkers, peddlers and transient merchants, Minnesota Statutes § 329.02 et seq.; municipal authority to regulate, Minnesota Statutes § 329.06.

_____

Sec. 24-1. License required.

Sec. 24-2. Application for license.

Sec. 24-3. License issuance fee.

Sec. 24-4. Consumer fraud.

Sec. 24-1. License required.

No solicitor, peddler, hawker or a transient vendor of merchandise shall, without having been requested or invited to do so by the owner or occupant of such private residence, go upon any private residence of the city for the purpose of soliciting orders for the sale of goods, wares or merchandise, or for the purpose of disposing of or peddling or hawking, without first obtaining a license.

Sec. 24-2. Application for license.

Before any license shall be issued to any person to vend, sell, hawk or peddle goods, the person desiring such license shall file a written application with the city clerk-administrator. The application shall show:

(1) The name of the applicant and the persons associated with him in his business;

(2) The type of business for which the license is desired;

(3) The length of time for which the license is to be desired;

(4) A general description of the things to be sold; and

(5) The present place of business of the applicant.

Sec. 24-3. License issuance fee.

Every application for a license under this chapter shall bear the written approval of the chief of police after an investigation of the moral character of the applicant. When the applicant presents to the city clerk-administrator an application in proper form for any business not prohibited by law, he shall annually pay the currently required fee as set out in appendix A to cover the cost of the application. The city clerk-administrator may issue to the applicant a license to conduct, pursue, or carry on the business for which the license was required for the period requested if, in his opinion, the public health, safety or peace will not suffer and the public will not be defrauded.

Sec. 24-4. Consumer fraud.

Any peddler who is found guilty of referral selling as defined in Minnesota Statutes § 38.04(6), or of any other consumer fraud regulation, shall have his license revoked.

Chapter 25 RESERVED

Chapter 26 SOLID WASTE MANAGEMENT*

***Cross references:** Buildings and building regulations, ch. 10; environment, ch. 16; utilities, ch. 36.

State law references: Solid waste generally, Minnesota Statutes § 115A.01 et seq.

Article I. In General

Sec. 26-1. Flytight containers.

Sec. 26-2. Accumulation.

Sec. 26-3. Dumping.

Sec. 26-4. Can placement.

Secs. 26-5--26-35. Reserved.

Article II. Collection

Division 1. Generally

Sec. 26-36. Definitions.

Sec. 26-37. Insurance.

Sec. 26-38. Trucks and motor vehicles.

Sec. 26-39. Disposition of garbage.

Sec. 26-40. Regulations compliance.

Sec. 26-41. Inspection of vehicles.

Sec. 26-42. Bond.

Secs. 26-43--26-65. Reserved.

Division 2. License

Sec. 26-66. Required.

Sec. 26-67. License.

Sec. 26-68. Revocation.

ARTICLE I. IN GENERAL

Sec. 26-1. Flytight containers.

Every household or occupant of any dwelling house, boardinghouse, restaurant or any place of business, having garbage to dispose of, who does not otherwise provide for the disposal of garbage in a sanitary manner, shall provide himself with one or more flytight containers sufficient to receive all garbage which may accumulate between the times of collection.

Sec. 26-2. Accumulation.

No person shall fail or refuse to dispose of garbage and rubbish accumulated upon property owned or occupied by the person in a sanitary manner at least once per week.

Sec. 26-3. Dumping.

All garbage and rubbish accumulating between the times of collection shall be placed in flytight containers as required by section 26-1.

Sec. 26-4. Can placement.

Garbage cans shall be kept at or near the back door of the building using the cans or at the rear of the property if there is an alley and shall be accessible to collectors at all reasonable times.

Secs. 26-5--26-35. Reserved.

ARTICLE II. COLLECTION*

***State law references:** Mandatory collection, Minnesota Statutes § 115A.941.

DIVISION 1. GENERALLY

Sec. 26-36. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Garbage and rubbish means garbage and rubbish of all kinds that accumulate in the ordinary operation of a household, grass trimmings, ashes, tree branches, leaves and other refuse small enough to go into a 20-gallon garbage can.

Cross references: Definitions generally, § 1-2.

Sec. 26-37. Insurance.

A licensee under this article shall show financial responsibility or a certificate of insurance coverage whereby each vehicle to be used by the licensee shall be covered against loss or injury in the currently required amounts as stated in appendix A. Such insurance policy shall be for the full period of the license and shall provide for the giving of ten days' prior notice to the city of the termination or cancellation of the policies. In case any policies are terminated, the license shall be automatically revoked on the day the policy is terminated, unless another policy complying with this section is immediately obtained.

Sec. 26-38. Trucks and motor vehicles.

All trucks or motor vehicles used by a licensee under this article shall be watertight so as not to allow the leakage of liquids or refuse while being hauled, and shall be covered with a metal covering to prevent the scattering of its contents upon the public streets or private properties in the city.

Cross references: Traffic, ch. 34.

Sec. 26-39. Disposition of garbage.

A licensee under this article may dispose of such garbage as it deems advisable, but garbage may not be disposed of within the city without the specific authorization of the council. The licensee shall advise the city, in writing, of the place and method of disposal of such garbage and rubbish, what provision has been made for its continued use, and of any changes in the place or method of disposal.

Sec. 26-40. Regulations compliance.

Licensees under this article shall comply with all health regulations and provisions of this Code and the state.

Sec. 26-41. Inspection of vehicles.

All vehicles used for hauling and collecting garbage or rubbish shall be made available for inspection within the city once every three months at such times and places as the council shall designate.

Sec. 26-42. Bond.

A licensee under this article shall furnish a surety bond in the currently required amount, as stated in appendix A to this Code, running to and approved by the council, guaranteeing faithful and continuous compliance with the terms of the license and of this Code. This bond is not transferable.

Secs. 26-43--26-65. Reserved.

DIVISION 2. LICENSE*

***State law references:** Licensing of solid waste collection, Minnesota Statutes § 115A.93.

Sec. 26-66. Required.

No person may collect or dispose of garbage for hire within the city without first receiving a license from the city clerk-administrator.

Sec. 26-67. License.

The city clerk-administrator may issue a license to any person to collect or dispose of garbage upon receipt of a fee, and upon a showing of compliance with the provisions of this article. The license so issued shall be for a term of one year.

Sec. 26-68. Revocation.

The license issued under section 26-67 may be revoked or suspended for a violation of this article, upon a showing that the licensee has engaged in practices which are unsanitary or detrimental to health, for failing to pick up garbage once a week, or for other good cause shown.

Chapter 27 RESERVED

Chapter 28 SPECIAL ASSESSMENTS*

***Cross references:** Streets, sidewalks and other public places, ch. 30.

State law references: Local improvements and special assessments, Minnesota Statutes § 429.011 et seq.

Sec. 28-1. Legislative intent.

Sec. 28-2. General assessment policies.

Sec. 28-3. Classification of projects.

Sec. 28-4. Financing improvements.

Sec. 28-5. Distribution of assessments.

Sec. 28-6. Assessment procedures.

Sec. 28-7. Federal, state and county aid use; application.

Sec. 28-8. Water and sewer stubs; installation.

Sec. 28-9. Assessment policy manual.

Sec. 28-1. Legislative intent.

The policies contained in this chapter establish a procedure for making public improvements and levying special assessments pursuant to the requirements of Minnesota Statutes. When an improvement conveys special benefit to properties in a definable area, the city intends to levy special assessments on the benefited properties to finance such improvements. It is the policy of the city that the amount of the assessment for public improvements should not exceed the special benefit to the property. The city has adopted this chapter and will use the assessment policies adopted to ensure that assessments have a reasonable relationship to benefits. Public improvements include but are not limited to the construction or reconstruction of streets, sidewalks, storm sewers or ditches, sanitary sewers, waterworks, streetlighting or any other public improvements allowed by state law.

(Ord. No. 12-15-97C, § 800, 12-15-1997)

Sec. 28-2. General assessment policies.

(a) *Initiation of improvements.* Improvements may be initiated by the city council or by petition of the owners of not less than 35 percent in frontage of the real property abutting on the streets named in the petition as the location of the improvement. Petitions requesting improvements must be substantially on a form as approved by the city clerk-administrator and will be received by the city council until November 15 of the year prior to the year of the requested construction. Petitions presented after this date will be received only upon special consent from the city council. The city council shall, by resolution, determine whether or not the petition has been signed by the required percentage of owners of the property affected by such petition.

(b) *Project cost.* The project cost of an improvement shall be deemed to include the cost of all necessary construction work required to accomplish the improvement plus expenses incurred or to be incurred in making the improvement, including engineering, legal, administration, financing, right-of-way acquisition and other contingent costs.

(c) *City cost.* Where the project cost of an improvement is not entirely attributable to the need for service to the area served by the improvement, or where unusual conditions beyond the control of the property owners in the area served by the improvements would result in inequitable distributions of special assessments, the city, through the use of other funds, may pay such city costs which, in the opinion of the city council, represent those costs not directly attributable to the area served.

(d) *Assessable cost.* The assessable cost of an improvement shall be defined as those costs which, in the opinion of the city council, are attributable to the need for service in the area served by the improvement and are not in excess of the special benefit conveyed to the property by the improvements. The assessable cost shall be equal to the project cost of the current project, minus city cost, minus other financial assistance applied to the project.

(e) *City property.* City-owned property, including building sites, parks and playgrounds, but not including public streets and alleys, shall be regarded as being assessable on the same basis as if such property was privately owned.

(f) *Distribution of assessments.* Several methods exist for assessing property benefited by local improvement projects. It is the policy of the city to use the method that most equitably distributes the project costs. The assessable costs of the improvement shall be distributed among the affected property owners as determined by one or more of the methods described in the city assessment manual, adopted by this section.

(g) *Application of policy.* If the literal application of the provisions outlined in this section would result in an inequitable distribution of special assessments, the city council reserves the right to adjust the policy so as to achieve a more equitable distribution. Such adjustments may be based on current or anticipated land use.

(Ord. No. 12-15-97C, § 805, 12-15-1997)

Sec. 28-3. Classification of projects.

(a) *Generally.* Public improvements are divided into three classes specified in subsections (b)--(d) of this section according to their respective benefit to the whole city and to property specially served by the improvement and taking into account past city practices.

(b) *Class A improvements.* Class A improvements are those which are of general benefit to the city at large, including:

(1) Public buildings, except a building which is part of an improvement described in subsection (c) or (d);

(2) Any public park, playground or recreational facility;

(3) The installation and maintenance of streetlighting systems; and

(4) Any improvement not described in Minnesota Statutes § 429.021, subd. 1, or Minnesota Statutes § 429.101, subd. 1. Any such improvement shall be financed from general city funds and not from special assessments.

(c) *Class B improvements.* Class B improvements are those which are of both general benefit and special benefit to abutting or nearby property. Class B improvements include:

(1) Trunk water mains ten inches or larger in diameter;

(2) Trunk sanitary sewer mains eight inches or larger in diameter;

(3) Permanently surfacing arterial-collector street;

(4) Storm sewers; and

(5) The construction of off-street facilities.

(d) *Class C improvements.* Class C improvements are those which are primarily, if not exclusively, a benefit to property abutting or in the area of improvement, including:

(1) The construction of sidewalks;

(2) The construction of water mains no larger than eight inches in diameter;

(3) The construction of curbs and gutters;

(4) Grading, graveling, oiling and applying nonpermanent surfacing to streets;

(5) Permanently surfacing residential streets; and

(6) The abatement of nuisances and the drainage and filling of swamps, marshes and ponds on public or private property.

(Ord. No. 12-15-97C, § 810, 12-15-1997)

Sec. 28-4. Financing improvements.

It is the policy of the city to finance improvements by the methods described in the city assessment policy manual. The apportionment of the cost between benefited property and the city at large and the method of levying assessments prescribed in the manual shall be followed in each case unless the city council, by resolution, finds that because of special circumstances stated in the resolution a different policy is necessary or desirable in the particular case. Any local improvement described in Minnesota Statutes § 429.02 and not meeting the requirements of class A, B or C by section 28-3 shall be financed as the city council determines to be most feasible and equitable in each case. In each case the city council shall examine the assessment roll before approval and adjust any assessment which exceeds the benefit received by the property assessed.

(Ord. No. 12-15-97C, § 815, 12-15-1997)

Sec. 28-5. Distribution of assessments.

Distribution of assessments will be conducted according to the provisions outlined in the city assessment manual.

(Ord. No. 12-15-97C, § 820.01, 12-15-1997)

Sec. 28-6. Assessment procedures.

Assessment procedures such as those described in this chapter are explained in detail in the city assessment manual.

(Ord. No. 12-15-97C, § 825.01, 12-15-1997)

Sec. 28-7. Federal, state and county aid use; application.

If the city receives financial assistance from the federal government, the state or the county, to defray a portion of the cost of a public improvement project, such aid shall be used first to reduce the share of the project cost which would be met from general city funds according to the assessment procedures contained in this chapter and the city assessment policy manual. If such aid is more than the amount of the improvement cost to be borne by the city, the remainder of the aid so received shall be used to reduce assessments as deemed appropriate and equitable by the city council.

(Ord. No. 12-15-97C, § 835.01, 12-15-1997)

Sec. 28-8. Water and sewer stubs; installation.

Water and sewer service stubs shall be installed from the main to the property line of property to be served before any permanent street surfacing is constructed in the street. If any property owner fails to connect to such water and sewer service lines within one year after notice from the city engineer, the city council shall proceed to have water and sewer service installed and to assess the cost against the property.

(Ord. No. 12-15-97C, § 840.01, 12-15-1997)

Sec. 28-9. Assessment policy manual.

The specific manner of applying the general policies as set forth in this chapter shall be detailed in a document entitled "City of Wyoming Assessment Policy Manual," which may be adopted by the city council by resolution and is found in appendix D to this Code. The city assessment policy manual may be modified from time to time by further resolution of the city council, and all references to the city assessment policy manual in this chapter shall mean the city assessment policy manual as so modified.

(Ord. No. 12-15-97C, § 845, 12-15-1997)

Chapter 29 RESERVED

Chapter 30 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*

***Cross references:** Any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing, vacating, etc., any street or public way in the city saved from repeal, § 1-9(5); buildings and building regulations, ch. 10; environment, ch. 16; peddlers and solicitors, ch. 24; special assessments, ch. 28; subdivisions, ch. 32; traffic, ch. 34; utilities, ch. 36; vegetation, ch. 38; zoning, ch. 40.

State law references: Authority to regulate, open, change, etc., streets and sidewalks, Minnesota Statutes § 412.221, subd. 6.

Article I. In General

Sec. 30-1. Refuse.

Sec. 30-2. Council regulations.

Secs. 30-3--30-35. Reserved.

Article II. Sidewalk Repair

Sec. 30-36. Duty of owner of abutting premises.

Sec. 30-37. Notice of disrepair.

Sec. 30-38. Failure to repair.

Sec. 30-39. Cost of repairs.

Secs. 30-40--30-70. Reserved.

Article III. Excavations and Street Openings

Sec. 30-71. Licenses.

Sec. 30-72. License conditions.

Sec. 30-73. Penalties.

Secs. 30-74--30-105. Reserved.

Article IV. Street Naming and Numbering

Sec. 30-106. Uniform naming and numbering system.

Sec. 30-107. Assignment of names and numbers.

Sec. 30-108. Administration.

Article V. Right-of-Way Management.

Sec. 30-109: Findings, Purpose, and Intent .

Sec. 30-110: Election to Manage the Public Rights-of-Way.

Sec. 30-111: Definitions.

Sec. 30-112: Administration.

Sec. 30-113: Registration and Right-of-Way Occupancy.

Sec. 30-114 Registration Information.

Sec. 30-115 Reporting Obligations.

Sec. 30-116 Permit Requirement.

Sec. 30-117 Permit Applications.

Sec. 30-118 Issuance of Permit; Conditions.

Sec. 30-119 Permit Fees.

Sec. 30-120 Right-of-Way Patching and Restoration.

Sec. 30-121 Joint Applications.

Sec. 30-122 Supplementary Applications.

Sec. 30-123 Other Obligations.

Sec. 30-124 Denial of Permit.

Sec. 30-125 Installation Requirements.

Sec. 30-126 Inspection.

Sec. 30-127 Work Done Without a Permit.

Sec. 30-128 Supplementary Notification.

Sec. 30-129 Revocation of Permits.

Sec. 30-130 Mapping Data.

Sec. 30-131 Location and Relocation of Facilities.

Sec. 30-132 Pre-excavation Facilities Location.

Sec. 30-133 Damage to Other Facilities.

Sec. 30-134 Right-of-Way Vacation.

Sec. 30-135 Indemnification and Liability.

Sec. 30-136 Abandoned and Unused Facilities.

Sec. 30-137 Appeal.

Sec. 30-138 Severability.

Sec. 30-139 Waiver.

Sec. 30-140 Franchise Required.

ARTICLE I. IN GENERAL

Sec. 30-1. Refuse.

No person shall throw or deposit any glass, metal, garbage or other refuse upon any public way.

Sec. 30-2. Council regulations.

The council may, by resolution, prohibit the operation of vehicles or impose restrictions as to weight of vehicles to be operated upon any street, whenever such street, by reason of deterioration, rain, snow, other climactic conditions, or for any reason would be seriously damaged or destroyed unless the use of vehicles on such street is prohibited or the permissible weight on the street is reduced.

Secs. 30-3--30-35. Reserved.

ARTICLE II. SIDEWALK REPAIR

Sec. 30-36. Duty of owner of abutting premises.

It is the duty of the owner of the premises abutting any public sidewalk to maintain the sidewalk in a condition that permits the safe use of the sidewalk by the public.

Sec. 30-37. Notice of disrepair.

Whenever any public sidewalk becomes broken, cracked, raised or otherwise disrepaired so as to constitute a hazard to the public passage, the street commissioner shall give notice in writing of such condition to the owner of the premises abutting the sidewalk.

Sec. 30-38. Failure to repair.

If the owner of the premises fails to make the necessary repairs within 30 days of being so notified, the council shall order the necessary repairs made.

Sec. 30-39. Cost of repairs.

The cost of repairs shall constitute a lien against the premises. If the cost of such repair is not paid to the city clerk-administrator by September 15 following the making of the repairs, the cost shall be certified to the county auditor as a special assessment against the premises, to be collected in the same manner as any other special assessments.

Secs. 30-40--30-70. Reserved.

ARTICLE III. EXCAVATIONS AND STREET OPENINGS

Sec. 30-71. Licenses.

(a) No person shall excavate in any municipal street, right-of-way, sidewalk or public ground within the city without first obtaining a license to carry on such excavation from the city. Application for licenses shall be filed with the city clerk-administrator and shall be reviewed and subject to the approval of the city.

(b) All licenses required in this section shall be renewed annually. The annual license fee shall be set from time to time and a schedule of such fees is on file and available in the city offices, as stated in appendix A. Applications for such license shall be made annually on a form furnished by the city clerk-administrator. Licenses shall be in effect from January 1 to December 31 of that year.

(c) The applicant shall file with the city clerk-administrator the currently required performance bond guaranteeing the conformance and compliance of work with this section. The city shall hold the bond for one year following the license period. Failure to comply with provisions and requirements of this section shall result in forfeiture of the bond. The applicant shall file with the city clerk-administrator policies of public liability and property damage insurance in the currently required amount, which shall remain in force and effect during the entire term of the license and which contain a provision that they shall not be canceled without ten days' written notice to the city. No work shall be done under license until the insurance policies have been filed and approved by the city.

(d) Any work by a licensee in violation of any provision of this section or refusal on the part of a licensee to correct defective work is cause for revocation of or refusal to renew a license. The license may be revoked or refused for renewal by the city at any time for cause which shall be documented in writing. Before any license issued under the provisions of this section may be revoked or its renewal refused, the licensee shall be given a hearing by the council to show cause why such license should not be revoked or refused. Notice of the time, place and purpose of such hearing shall be in writing.

Sec. 30-72. License conditions.

Each licensee under this article shall comply with the following conditions:

(1) That the licensee shall do the work in accordance with the "Standard Specifications for Street Opening Permits" as promulgated by council resolution, which shall be kept on file in the office of the city clerk-administrator.

(2) That the licensee shall refill the excavation as soon as reasonably possible and shall guarantee that if within one year after such filling the city representative shall find any defects caused by the street opening, that he will remedy such defects on reasonable notice. If the licensee fails to remedy such defects after notice, the city may cause the work to be done and shall proceed against the licensee and/or his license bond to recover the costs.

Sec. 30-73. Penalties.

(a) Any person violating any provision of this article shall be served by the building official with written notice stating the nature of the violation and providing a reasonable time limit for its satisfactory correction. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(b) Any person who continues any violation beyond the time provided for in the written notice shall be guilty of a misdemeanor for each violation.

(c) Any person violating any of the provisions of this article is liable to the city for the expense, loss or damage occasioned the city by reason of the violation.

Secs. 30-74--30-105. Reserved.

ARTICLE IV. STREET NAMING AND NUMBERING*

***Cross references:** Buildings and building regulations, ch. 10.

State law references: Authority to name the streets and number lots and buildings, Minnesota Statutes § 412.221, subd. 18.

Sec. 30-106. Uniform naming and numbering system.

A uniform system of naming streets and numbering properties and principal buildings as shown in the manual of procedures identified by the title "Uniform Street Naming and Property Numbering System," which is filed in the county courthouse is adopted for use in the city. This map and all explanatory matter on the map is adopted and made a part of this section.

Sec. 30-107. Assignment of names and numbers.

(a) *Uniform numbering system.* All properties or parcels of land within the city shall be identified by reference to the uniform numbering system adopted in this article. The names of all streets in the city shall be as designated by the uniform street naming system.

(b) *Number location.* Each principal building shall exhibit the number assigned it on the frontage on which the front entrance is located. If a principal building is occupied by more than one business or family dwelling unit, each separate front entrance of such principal building shall bear a separate number.

(c) *Visibility required.* Numerals indicating the official numbers for each principal building or each front entrance to such building shall be posted in a manner as to be visible from the street on which the property is located.

Sec. 30-108. Administration.

(a) *Number system maintenance.* The city clerk-administrator shall be responsible for maintaining the numbering system. In the performance of this responsibility, he shall be guided by the provisions of section 30-108.

(b) *Record of numbers assignments.* The city clerk-administrator shall keep a record of all numbers assigned under this article.

(c) *Assigning numbers.* The city clerk-administrator shall assign to any property owner in the city upon request a number for each principal building or separate front entrance to such building. In doing so, he shall assign only the numbers assigned to such building under the provisions of this article. However, the city clerk-administrator may assign additional numerals in accordance with the official numbering system whenever a property has been subdivided, a new front entrance opened, or undue hardship is worked on any property owner.

(d) *Retaining prior street names.* Street names in existence prior to the passage of this article may be retained subject to approval by the council.

ARTICLE V. RIGHT-OF-WAY MANAGEMENT

Sec. 30-109. Findings, Purpose, and Intent

To provide for the health, safety and welfare of its citizens, and to ensure the integrity of its streets and the appropriate use of the rights-of-way, the city strives to keep its rights-of-way in a state of good repair and free from unnecessary encumbrances.

Accordingly, the city hereby enacts this new chapter of this code relating to right-of-way permits and administration. This chapter imposes reasonable regulation on the placement and maintenance of facilities and equipment currently within its rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies. Under this chapter, persons excavating and obstructing the rights-of-way will bear financial responsibility for their work. Finally, this chapter provides for recovery of out-of-pocket and projected costs from persons using the public rights-of-way.

This chapter shall be interpreted consistently with 1997 Session Laws, Chapter 123, substantially codified in Minnesota Statutes Sections 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the "Act") and the other laws governing applicable rights of the city and users of the right-of-way. This chapter shall also be interpreted consistent with Minnesota Rules 7819.0050 – 7819.9950 where possible. To the extent any provision of this chapter cannot be interpreted consistently with the Minnesota Rules, that interpretation most consistent with the Act and other applicable statutory and case law is intended. This chapter shall not be interpreted to limit the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

Sec. 30-110. Election to Manage the Public Rights-of-Way

Pursuant to the authority granted to the city under state and federal statutory, administrative and common law, the city hereby elects, pursuant Minn. Stat. 237.163 Subd. 2(b), to manage rights-of-way within its jurisdiction.

Sec. 30-111. Definitions

The following definitions apply in this chapter of this code. References hereafter to "sections" are, unless otherwise specified, references to sections in this chapter. Defined terms remain defined terms, whether or not capitalized.

"Abandoned Facility" means a facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service. A facility is not abandoned unless declared so by the right-of-way user.

"Applicant" means any person requesting permission to excavate or obstruct a right-of-way.

City" means the City of Wyoming, Minnesota. For purposes, "city" means its elected officials, officers, employees and agents.

"Commission" means the State Public Utilities Commission.

"Congested Right-of-Way" means a crowded condition in the subsurface of the public right-of-way that occurs when the maximum lateral spacing between existing underground facilities does not allow for construction of new underground facilities without using hand digging to expose the existing lateral facilities in conformance with Minnesota Statutes, section 216D.04. Subdivision 3, over a continuous length in excess of 500 feet.

"Construction Performance Bond" means any of the following forms of security provided at permitee's option:

A. Individual project bond;

B. Cash deposit;

C. Security of a form listed or approved under Minn. Stat. Sec. 15.73, subd. 3;

D. Letter of Credit, in a form acceptable to the city;

E. Self-bond, in a form acceptable to the city;

F. A blanket bond for projects within the city, or other form of construction bond, for a time specified and in a form acceptable to the City.

G. A permitee may submit a single bond covering all projects done by that company.

"Degradation" means a decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation or disturbance did not occur.

"Degradation Cost" subject to Minnesota Rules 7819.1100 means the cost to achieve a level of restoration, as determined by the city at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minnesota Rules parts 7819.9900 to 7819.9950.

"Degradation Fee" means the estimated fee established at the time of permitting by the city to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost.

"Department" means the department of public works of the city.

"Department Inspector" means any person authorized by the city to carry out inspections related to the provisions of this chapter.

“Delay Penalty” is the penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.

“Emergency” means a condition that (1) poses a danger to life or health or of a significant loss of property; or (2) requires immediate repair or replacement of facilities in order to restore service to a customer.

“Equipment” means any tangible asset used to install, repair, or maintain facilities in any right-of-way.

“Excavate” means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

“Excavation permit” means the permit that, pursuant to this chapter, must be obtained before a person may excavate in a right-of-way. An Excavation permit allows the holder to excavate that part of the right-of-way described in such permit.

“Excavation permit fee” means money paid to the city by an applicant to cover the costs as.

“Facility” or “Facilities” means any tangible asset in the right-of-way required to provide Utility Service.

“Five-year project plan” shows projects adopted by the city for construction within the next five years.

“High Density Corridor” means a designated portion of the public right-of-way within which telecommunications right-of-way users having multiple and competing facilities may be required to build and install facilities in a common conduit system or other common structure.

“Hole” means an excavation in the pavement, with the excavation having a length less than the width of the pavement.

“Local Representative” means a local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this chapter.

“Management Costs” means the actual costs the city incurs in managing its rights-of-way, including such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, the fees and cost of litigation relating to the interpretation of Minnesota Session Laws 1997, Chapter 123; Minnesota Statutes Sections 237.162 or 237.163; or any ordinance enacted under those sections, or the city fees and costs related to appeals taken pursuant to Section 4-6-29 of this chapter.

“Obstruct” means to place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.

“Obstruction Permit” means the permit that, pursuant to this chapter, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way, for the duration specified therein.

“Obstruction Permit Fee” means money paid to the city by a permitee to cover the costs as provided.

“Patch” or “Patching” means a method of pavement replacement that is temporary in nature. A patch consists of (1) the compaction of the subbase and aggregate base, and (2) the replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions. A patch is considered full restoration only when the pavement is included in the city’s five-year project plan.

“Pavement” means any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.

“Permit” has the meaning given “right-of-way permit” in Minnesota Statutes, Section 237.162.

“Permitee” means any person to whom a permit to excavate or obstruct a right-of-way has been granted by the city under this chapter.

“Person” means an individual or entity subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.

“Registrant” means any person who (1) has or seeks to have its equipment or facilities located in any right-of-way, or (2) in any way occupy or uses, or seeks to occupy or use, the right-of-way or place its facilities or equipment in the right-of-way.

“Restore” or “Restoration” means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition and life expectancy that existed before excavation.

“Restoration Cost” means the amount of money paid to the city by a permitee to achieve the level of restoration according to plates 1 to 13 of Minnesota Public Utilities Commission rules.

“Public Right-of-Way” means the area on, below, or above a public roadway, highway, street, cartway, bicycle lane or public sidewalk in which the city has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the city. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other non-wire telecommunications or broadcast service.

"Right-of-Way Permit" means either the excavation permit or the obstruction permit, or both, depending on the context, required by this chapter.

"Right-of-Way User" means (1) a telecommunications right-of-way user as defined by Minnesota Statutes, Section 237.162, Subd. 4; or (2) a person owning or controlling a facility in the right-of-way that is used or intended to be used for providing utility service, and who has a right under law, franchise, or ordinance to use the public right-of-way.

"Service" or "Utility Service" includes (1) those services provided by a public utility as defined in Minn. Stat. 216B.02, Subds. 4 and 6; (2) services of a telecommunications right-of-way user, including transporting of voice or data information; (3) services of a cable communications systems as defined in Minn. Stat. Chapter. 238; (4) natural gas or electric energy or telecommunications services provided by the city; (5) services provided by a cooperative electric association organized under Minn. Stat., Chapter 308A; and (6) water, and sewer, including service laterals, steam, cooling or heating services.

"Service Lateral" means an underground facility that is used to transmit, distribute, or furnish gas, electricity, communications, or water from a common source to an end-use customer. A service lateral is also an underground facility that is used in the removal of wastewater from a customer's premises.

"Supplementary Application" means an application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.

"Temporary Surface" means the compaction of subbase and aggregate base and replacement, in kind, of the existing pavement only to the edges of the excavation. It is temporary in nature except when the replacement is of pavement included in the city's two-year plan, in which case it is considered full restoration.

"Trench" means an excavation in the pavement, with the excavation having a length equal to or greater than the width of the pavement.

"Telecommunication right-of-way user" means a person owning or controlling a facility in the right-of-way, or seeking to own or control a Facility in the right-of-way, that is used or is intended to be used for transporting telecommunication or other voice or data information. For purposes of this chapter, a cable communication system defined and regulated under Minn. Stat. Chap. 238, and telecommunication activities related to providing natural gas or electric energy services whether provided by a public utility as defined in Minn. Stat. Sec. 216B.02, a municipality, a municipal gas or power agency organized under Minn. Stat. Chaps. 453 and 453A, or a cooperative electric association organized under Minn. Stat. Chap. 308A, are not telecommunications right-of-way users for purposes of this chapter.

"Two Year project Plan" shows projects adopted by the city for construction within the next two years.

Sec. 30-112. Administration

The City Engineer is the principal city official responsible for the administration of the rights-of-way, right-of-way permits, and the ordinances related thereto. The City Engineer may delegate any or all of the duties hereunder.

Sec. 30-113. Registration and Right-of-Way Occupancy

Subd. 1. Registration. Each person who occupies or uses, or seeks to occupy or use, the right-of-way or place any equipment or facilities in or on the right-of-way, including persons with installation and maintenance responsibilities by lease, sublease or assignment, must register with the city. Registration will consist of providing application information and paying a registration fee.

Subd. 2. Registration Prior to Work. No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof, in any right-of-way without first being registered with the city.

Subd. 3. Exceptions. Nothing herein shall be construed to repeal or amend the provisions of a city ordinance permitting persons to plant or maintain boulevard plantings or gardens in the area of the right-of-way between their property and the street curb. Persons planting or maintaining boulevard plantings or gardens shall not be deemed to use or occupy the right-of-way, and shall not be required to obtain any permits or satisfy any other requirements for planting or maintaining such boulevard plantings or gardens under this chapter. However, nothing herein relieves a person from complying with the provisions of the Minn. Stat. Chap. 216D, Gopher One Call Law, or other provisions of City Code.

Sec. 30-114. Registration Information

Subd. 1. Information Required. The information provided to the city at the time of registration shall include, but not be limited to:

(a) Each registrant's name, Gopher One-Call registration certificate number, address and e-mail address, if applicable, and telephone and facsimile numbers.

(b) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available in person or by telephone at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

(c) A certificate of insurance or self-insurance:

(1) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the State of Minnesota, or a form of self-insurance acceptable to the city;

(2) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the (i) use and occupancy of the right-of-way by the registrant, its officers, agents, employees and permitee's, and (ii) placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees and permitee's, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property;

(3) Naming the city as an additional insured as to whom the coverage's required herein are in force and applicable and for whom defense will be provided as to all such coverage's;

(4) Requiring that the city be notified thirty (30) days in advance of cancellation of the policy or material modification of a coverage term; and

(5) Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the city in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this chapter.

(d) The city may require a copy of the actual insurance policies.

(e) If the person is a corporation, a copy of the certificate is required to be filed under Minn. Stat. 300.06 as recorded and certified to by the Secretary of State.

(f) A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other applicable state or federal agency, where the person is lawfully required to have such certificate from said commission or other state or federal agency.

(g) An updated and current plat or drawing showing the location of all existing underground utilities and appurtenances located within state highways, county roads, city streets, alleys, public grounds and easements.

Subd. 2. Notice of Changes. The registrant shall keep all of the information listed above current at all times by providing to the city information as to changes within fifteen (15) days following the date on which the registrant has knowledge of any change.

Sec. 30-115. Reporting Obligations

Subd. 1. Operations. Each registrant shall, at the time of registration and by March 1 of each year, file a construction and major maintenance plan for underground facilities with the city. Such plan shall be submitted using a format designated by the city and shall contain the information determined by the city to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights-of-way.

The plan shall include, but not be limited to, the following information:

(a) The locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (in this section, a "next-year project"); and

(b) To the extent known, the tentative locations and estimated beginning and ending dates for all projects contemplated for the five years following the next calendar year (in this section, a "five-year project").

The term "project" in this section shall include both next-year projects and five-year projects.

By March 1 of each year, the city will have available for inspection in the city's office a composite list of all projects of which the city has been informed of the annual plans. All registrants are responsible for keeping themselves informed of the current status of this list.

Thereafter, by March 1, each registrant may change any project in its list of next-year projects, and must notify the city and all other registrants of all such changes in said list. Notwithstanding the foregoing, a registrant may at any time join in a next-year project of another registrant listed by the other registrant.

Subd. 2. Additional Next-Year Projects. Notwithstanding the foregoing, the city will not deny an application for a right-of-way permit for failure to include a project in a plan submitted to the city if the registrant has used commercially reasonable efforts to anticipate and plan for the project.

Sec. 30-116. Permit Requirement

Subd. 1. Permit Required. Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way without first having obtained the appropriate right-of-way permit from the city to do so.

(a) **Excavation Permit.** An excavation permit is required by a registrant to excavate that part of the right-of-way described in such permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.

(b) **Obstruction Permit**. An obstruction permit is required by a registrant to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

Subd. 2. Permit Extensions. No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless (i) such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and (ii) a new permit or permit extension is granted.

Subd. 3. Delay Penalty. In accordance with Minnesota Rule 7819.1000 subd. 3 and notwithstanding subd. 2 of this Section, the city shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by city council resolution.

Subd. 4. Permit Display. Permits issued under this chapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the city.

Sec. 30-117. Permit Applications

Application for a permit is made to the city. The City requires a digital image file (pdf, jpg.etc.) and three hard copies of the plan for the permit. Right-of-way permit applications shall contain, and will be considered complete only upon compliance with, the requirements of the following provisions:

(a) Registration with the city pursuant to this chapter;

(b) Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities.

(c) Payment of money due the city for:

(1) permit fees, estimated restoration costs and other management costs;

(2) prior obstructions or excavations;

(3) any undisputed loss, damage, or expense suffered by the city because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city;

(4) franchise fees or other charges, if applicable.

(d) Payment of disputed amounts due the city by posting security or depositing in an escrow account an amount equal to at least 110% of the amount owing.

(e) Posting an additional or larger construction performance bond for additional facilities when applicant requests an excavation permit to install additional facilities and the city deems the existing construction performance bond inadequate under applicable standards.

Sec. 30-118. Issuance of Permit; Conditions

Subd. 1. Permit Issuance. If the applicant has satisfied the requirements of this chapter, the city shall issue a permit.

Subd. 2. Conditions. The city may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use.

Sec. 30-119. Permit Fees

Subd. 1. Excavation Permit Fee. The city shall establish an Excavation permit fee in an amount sufficient to recover the following costs:

(a) the city management costs;

(b) degradation costs, if applicable.

Subd. 2. Obstruction Permit Fee. The city shall establish the obstruction permit fee and shall be in an amount sufficient to recover the city management costs.

Subd. 3. Payment of Permit Fees. No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction permit fees. The city may allow applicant to pay such fees within thirty (30) days of billing.

Subd. 4. Non Refundable. Permit fees that were paid for a permit that the city has revoked for a breach as stated in Section 4-6-21 are not refundable.

Subd. 5. Application to Franchises. Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

Subd. 6. Fee Resolution. Fees will be set from time to time by resolution by City Council.

Sec. 30-120. Right-of-Way Patching and Restoration

Subd. 1. Timing. The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permitee or when work was prohibited as unseasonal or unreasonable under Section 30-123 or if the permitee is granted a new permit or extension.

Subd. 2. Patch and Restoration. Permitee shall patch its own work. The city may choose either to have the permitee restore the right-of-way or to restore the right-of-way itself.

(a) **City Restoration**. If the city restores the right-of-way, permitee shall pay the costs thereof within thirty (30) days of billing. If, following such restoration, the pavement settles due to permitee's improper backfilling, the permitee shall pay to the city, within thirty (30) days of billing, all costs associated with correcting the defective work.

(b) **Permitee Restoration**. If the permitee restores the right-of-way itself, it shall at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minnesota Rule 7819.3000.

(c) **Degradation Fee in Lieu of Restoration.** In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

Subd. 3. Standards. The permitee shall perform excavation, backfilling; patching and restoration according to the standards and with the materials specified by the city and shall comply with Minnesota Rule 7819.1100.

Subd. 4. Duty to Correct Defects. The permitee shall correct defects in patching or restoration performed by permitee or its agents. The permitee, upon notification from the city, shall correct all restoration work to the extent necessary, using the method required by the city. Said work shall be completed within five (5) working days of the receipt of the notice from the city (or such longer period as is specified by the City in the notice), not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable under Section 30-123.

Subd. 5. Failure to Restore. If the permitee fails to restore the right-of-way in the manner and to the condition required by the city, or fails to satisfactorily and timely complete all restoration required by the city, the city at its option may do such work. In that event the permitee shall pay to the city, within thirty (30) days of billing, the cost of restoring the right-of-way. If permitee fails to pay as required, the city may exercise its rights under the construction performance bond.

Sec. 30-121. Joint Applications

Subd. 1. Joint application. Registrants may jointly apply for permits to excavate or obstruct the right-of-way at the same place and time.

Subd. 2. Shared fees. Registrants who apply for permits for the same obstruction or excavation, which the city does not perform, may share in the payment of the obstruction or excavation permit fee. In order to obtain a joint permit, registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

Subd. 3. With city projects. Registrants who join in a scheduled obstruction or excavation performed by the city, whether it is a joint application by two or more registrants or a single application, are not required to pay the excavation or obstruction and degradation portions of the permit fee, but a permit is still required.

Sec. 30-122. Supplementary Applications

Subd. 1. Limitation on Area. A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permitee may do any work outside the area specified in the permit, except as provided herein. Any permitee that determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area (i) make application for a permit extension and pay any additional fees required thereby, and (ii) be granted a new permit or permit extension.

Subd. 2. Limitation on Dates. A right-of-way permit is valid only for the dates specified in the permit. No permitee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permitee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

Sec. 30-123. Other Obligations

Subd. 1. Compliance with Other Laws. Obtaining a right-of-way permit does not relieve permitee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the city or other applicable rule, law or regulation. A permitee shall comply with all requirements of local, state and federal laws, including but not limited to Minnesota Statutes, Section 216D.01-.09 (Gopher One Call Excavation Notice System) and Minnesota Rules Chapter 7560. A permitee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

Subd. 2. Prohibited Work. Except in an emergency, and with the approval of the city, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

Subd. 3. Interference with Right-of-Way. A permitee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with. Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with city parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.

Subd. 4. Trenchless Excavation. As a condition of all applicable permits, permitee's employing trenchless excavation methods, including but not limited to Horizontal Directional Drilling, shall follow all requirements set forth in Minnesota Statutes, Chapter 216D

and Minnesota Rules Chapter 7560, and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the director.

Sec. 30-124. Denial of Permit

The city may deny a permit for failure to meet the requirements and conditions of this chapter or if the city determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

Sec. 30-125. Installation Requirements

The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minnesota Rules 7819.1100 and 7819.5000 and other applicable local requirements, in so far as they are not inconsistent with the Minnesota Statutes, Sections 237.162 and 237.163. Installation of service laterals shall be performed in accordance with Minnesota Rules Chapter 7560 and City Code. Service lateral installation is further subject to those requirements and conditions set forth by the city in the applicable permits and/or agreements referenced in Section 30-130 subd. 2. Utility companies must install dual mains in all new projects.

All traffic control will comply with the latest Mn/DOT Field Traffic Control Manual.

Sec. 30-126. Inspection

Subd. 1. Notice of Completion. When the work under any permit hereunder is completed, the permitee shall furnish a completion certificate in accordance Minnesota Rule 7819.1300.

Subd. 2. Site Inspection. Permitee shall make the work-site available to the city and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

Subd 3. Authority of Director.

(a) At the time of inspection, the director may order the immediate cessation of any work that poses a serious threat to the life, health, safety or well-being of the public.

(b) The director may issue an order to the permitee for any work that does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the permitee shall present proof to the director that the violation has been corrected. If such proof has not been presented within the required time, the director may revoke the permit pursuant to Sec. 30-114.

Sec. 30-127. Work Done Without a Permit

Subd. 1. Emergency Situations. Each registrant shall immediately notify the director of any event regarding its facilities that it considers to be an emergency. The registrant must take whatever actions are necessary to respond to the emergency. Excavators' notification to Gopher State One Call regarding an emergency situation does not fulfill this requirement. Within two (2) business days after the occurrence of the emergency, the registrant shall apply for the necessary permits, pay the fees associated therewith, and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency. The permitee requirements shall not apply if the repair is caused by another permitee's work in the right-of-way.

If the city becomes aware of an emergency regarding a registrant's facilities, the city will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the city may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

Subd. 2. Non-Emergency Situations. Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit and, as a penalty, pay double the normal fee for said permit, pay double all the other fees required by the city code, deposit with the city the fees necessary to correct any damage to the right-of-way, and comply with all of the requirements of this chapter.

Sec. 30-128. Supplementary Notification

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permitee shall notify the city of the accurate information as soon as this information is known.

Sec. 30-129. Revocation of Permits

Subd. 1. Substantial Breach. The city reserves its right, as provided herein, to revoke any right-of-way permit without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permitee shall include, but shall not be limited to, the following:

(a) The violation of any material provision of the right-of-way permit;

(b) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;

(c) Any material misrepresentation of fact in the application for a right-of-way permit;

(d) The failure to complete the work in a timely manner, unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permitee's control; or

(e) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to Sec. 30-126.

Subd. 2. Written Notice of Breach. If the city determines that the permitee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit, the city shall make a written demand upon the permitee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the city, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

Subd. 3. Response to Notice of Breach. Within 5 working days of receiving notification of the breach, permitee shall provide the city with a plan, acceptable to the city, that will cure the breach. Permitee's failure to so contact the city, or permitee's failure to timely submit an acceptable plan, or permitee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.

Subd. 4. Reimbursement of city costs. If a permit is revoked, the permitee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable Attorneys' fees and other consultant fees incurred in connection with such revocation.

Sec. 30-130. Mapping Data

Subd. 1. Information Required. Each registrant and permitee shall provide mapping information required by the city in accordance with Minnesota Rules 7819.4000 and 7819.4100. Within one calendar year following completion of any work pursuant to a permit, the permitee shall provide the director accurate maps or drawings certifying the "as-built" location of all equipment installed, owned and maintained by the permitee in both digital and hard copy. As-built drawings shall be submitted in the following three forms:

(1) Digital: CAD or GIS (dwg or shp)

(2) Digital: Image File (pdf, jpg, etc.)

(3) Hard copy

Such maps or drawings shall include the horizontal and vertical location of all facilities and equipment and shall be provided consistent with the city's electronic mapping system, when practical or as a condition imposed by the director. Failure to provide maps or drawings pursuant to this subdivision shall be grounds for revoking the permit holder's registration.

Subd. 2. Service Laterals. All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minnesota Rules 7560.0150 subpart 2, shall require the permitee's use of appropriate means of establishing the horizontal locations of installed service laterals, and the service lateral vertical locations in those cases where the director reasonably requires it. Permitee's or their subcontractors shall submit to the director evidence satisfactory to the director of the installed service lateral locations. Compliance with this subdivision 2 and with applicable Gopher State One Call law and Minnesota Rules governing service laterals installed after December 31, 2005, shall be a condition of any city approval necessary for 1) payments to contractors working on a public improvement project including those under Minnesota Statutes, Chapter 429, and 2) city approval of performance under development agreements, or other subdivision or site plan approval under Minnesota Statutes, Chapter 462. The director shall reasonably determine the appropriate method of providing such information to the city. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or for future permits to the offending permitee or its subcontractors.

Subd. 3. As-Builts. As-builts will be required in hard copy and electronically if the project permitted deviates two (2') feet or more from the original plans submitted to the City. Failure to submit an as-built will be a certification by the permitee that the project as constructed does not deviate two (2') feet or more from the original plan submitted.

Sec. 30-131. Location and Relocation of Facilities

Subd. 1. Placement, location, and relocation of facilities must comply with the Act, with other applicable law, and with Minnesota Rules 7819.3100, 7819.5000 and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.

Subd. 2. Corridors. The city may assign a specific area within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities that is or, pursuant to current technology, the city expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the city involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.

Any registrant who has facilities in the right-of-way in a position at variance with the corridors established by the city shall, no later than at the time of the next reconstruction or excavation of the area where the facilities are located, move the facilities to the assigned position within the right-of-way, unless this requirement is waived in writing by the city for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the registrant.

Subd. 3. Nuisance. One year after the passage of this chapter, any unregistered facilities that are found in the right-of-way and that are required by this chapter to be registered shall be deemed to be a nuisance. The city may exercise any remedies

or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the facilities and restoring the right-of-way to a useable condition.

Subd. 4. Limitation of Space. To protect health, safety, and welfare, or when necessary to protect the right-of-way and its current use, the city shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making such decisions, the city shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future city plans for public improvements and development projects that have been determined to be in the public interest.

Sec. 30-132. Pre-excavation Facilities Location

In addition to complying with the requirements of Minn. Stat. 216D.01-.09 ("One Call Excavation Notice System") before the start date of any right-of-way excavation, each registrant who has facilities or equipment in the area to be excavated shall mark the horizontal and the approximate vertical placement (or assumed vertical placement if accurate data is not available) of all said facilities. Any registrant whose facilities are less than twenty (20) inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor to establish the exact location of its facilities and the best procedure for excavation.

Sec. 30-133. Damage to Other Facilities

The provisions of Minn. Stat. 216D shall apply to all situations involving damages to facilities during excavation operations. Each registrant shall be responsible for the cost of repairing or the value of damage to any facilities in the right-of-way that it or its facilities damages. This provision includes costs for damages to boulevard amenities, such as trees, landscaping, irrigation systems and invisible fences, placed by property owners. It is the registrant's responsibility to provide immediate notice of such damages to the affected property owners. Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the City's response to an emergency occasioned by that registrant's facilities.

Sec. 30-134. Right-of-Way Vacation

Reservation of right. If the city vacates a right-of-way that contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minnesota Rules 7819.3200.

Sec. 30-135. Indemnification and Liability

By registering with the city, or by accepting a permit under this chapter, a registrant or permitee agrees to defend and indemnify the city in accordance with the provisions of Minnesota Rule 7819.1250.

Sec. 30-136. Abandoned and Unusable Facilities

Subd. 1. Discontinued Operations. A registrant who has determined to discontinue all or a portion of its operations in the city must provide information satisfactory to the city that the registrant's obligations for its facilities in the right-of-way under this chapter have been lawfully assumed by another registrant.

Subd. 2. Removal. Any registrant who has abandoned facilities in any right-of-way shall remove it from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the city.

Sec. 30-137. Appeal

A right-of-way user that: (1) has been denied registration; (2) has been denied a permit; (3) has had a permit revoked; (4) believes that the fees imposed are not in conformity with Minn. Stat. § 237.163, Subd. 6; or (5) disputes a determination of the director regarding Section 30-114 subd. 2 of this ordinance may have the denial, revocation, fee imposition, or decision reviewed, upon written request, by the city council. The city council shall act on a timely written request within 45 days of receipt, provided the right-of-way user has submitted its appeal with sufficient time to include the appeal as a regular agenda item. A decision by the city council affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

Sec. 30-138. Severability

If any portion of this chapter is for any reason held invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof. Nothing in this chapter precludes the city from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.

Sec. 30-139. Waiver

The City may waive any or all requirements of Section 30-113, 30-114, 30-115, 30-116, 30-117, 30-118, 30-119 and 30-120 if compliance is not deemed reasonably necessary in the direction of the City Administrator or the Administrator's designee, to serve the purposes of this Chapter. The decision of the Administrator not to waive any such requirements is not subject to appeal to the City Council. Waiver of the provisions of Sections 30-113, 30-114, 30-115 and 30-116 may be rescinded by the City Administrator at anytime upon written notice to the person subject to the requirement.

Sec. 30-140. Franchise Required

After May 27, 2005, no permits will be issued for installation of gas pipes and mains to entities that do not hold a current franchise from the city. This prohibition does not apply to installation of gas transmission mains that are not designed, intended or used for local service or local distribution, or to installation of gas pipes and mains to serve areas of the city to which existing gas franchisees cannot or will not extend service.

(ORDINANCE NO. 08-06-01)

Chapter 31 RESERVED

Chapter 32 SUBDIVISIONS*

***Cross references:** Buildings and building regulations, ch. 10; environment, ch. 16; streets, sidewalks and other public places, ch. 30; utilities, ch. 36; vegetation, ch. 38; zoning, ch. 40.

State law references: Authority to regulate subdivisions, Minnesota Statutes § 462.358.

Chapter 32 SUBDIVISIONS

Article I General Provisions

Sec. 32 – 1 Reference

Sec. 32 – 2 Application

Sec. 32 – 3 Purpose

Sec. 32 – 4 Interpretation

Sec. 32 – 5 Conflict

Sec. 32 – 6 Registered Land Surveys

Sec. 32 – 7 Conveyance by Metes and Bounds

Sec. 32 – 8 Exceptions for Single Lot Division

Sec. 32 – 9 Lot Splits

Sec. 32 – 10 Amendments

Sec. 32 – 11 Government Filings

Sec. 32 – 12 Separability

Sec. 32 – 13 Rules

Sec. 32 – 14 Building Permits

Sec. 32 – 15 Enforcement and Penalty

Secs. 32 – 16—32 – 19. Reserved.

Article II Definition of Terms

Sec. 32 – 20 Definitions

Secs. 32 - 21—32 – 29. Reserved.

Article III Platting Procedure

Division 1 The Sketch Plan

Sec. 32 – 30 Sketch Plan

Secs. 32 - 31—32 – 39. Reserved.

Division 2 The Preliminary Plat

Sec. 32 – 40 Preparing and Submitting the Preliminary Plat

Sec. 32 – 41 Preliminary Plat Review Committee

Sec. 32 – 42 Preliminary Plat Review Process

Sec. 32 – 43 Identification and Description

Sec. 32 – 44 Existing Conditions

Sec. 32 – 45 Design Features

Sec. 32 – 46 Other Information

Sec. 32 – 47 Preparation of Environmental Assessments

Secs. 32 - 48—32 – 49. Reserved.

Division 3. The Final Plat

Sec. 32 – 50 Preparing and Submitting the Final Plat

Sec. 32 – 51 Review of the Final Plat

Secs. 32 – 52 —32 – 49. Reserved.

Article IV Park Trail and Open Space Dedication

Sec. 32 – 60 Public Sites and Open Spaces

Sec. 32 – 61 Park, Trail, and Open Space Dedication

Sec. 32 – 62 Parkland Dedication

Sec. 32 – 63 Residential Platted Subdivisions

Sec. 32 – 64 Application to Planned Unit Developments (PUD's)

Sec. 32 – 65 Application to Resubdivision

Sec. 32 – 66 Commercial Industrial Parkland Dedication

Sec. 32 – 67 Required Improvements

Sec. 32 – 68 Standards for Accepting Dedication of Land for Public Park Purposes

Sec. 32 – 69 Agreement as to Dedication

Sec. 32 – 70 Joint Park Planning Board

Secs. 32 – 71 —32 – 79. Reserved.

Article V Minimum Standards

Sec. 32 – 80 Application

Sec. 32 – 81 Land Requirements

Sec. 32 – 82 Soil and Drainage Plans

Sec. 32 – 83 Street Plan

Sec. 32 – 84 Cul-de-Sac Streets

Sec. 32 – 85 Street Design

Sec. 32 – 86 Restriction of Access

Sec. 32 – 87 Intersection Spacing

Sec. 32 – 88 Deflections

Sec. 32 – 89 Grades

Sec. 32 – 90 Vertical and Horizontal Curves

Sec. 32 – 91 Intersections

Sec. 32 – 92 Curb and Gutter on Urban Street Designs

Sec. 32 – 93 Utilities

Sec. 32 – 94 Drainage

Sec. 32 – 95 Easements

Sec. 32 – 96 Street Names

Sec. 32 – 97 Block Requirements

Sec. 32 – 98 Lot requirements

Secs. 32 – 99 —32 – 109. Reserved.

Article VI Improvements

Sec. 32 – 110 Required Improvements

Sec. 32 – 111 Sewer and Water in Areas with Municipal Sewer/Water Availability

Sec. 32 – 112 Sewer and Water in Rural and Urban Areas where Municipal Systems are not Currently Available

Sec. 32 – 113 Street Signs

Sec. 32 – 114 Miscellaneous Facilities

Sec. 32 – 115 Payment for Installation of Improvements

Sec. 32 – 116 Agreement Providing for the Installation of Improvements

Sec. 32 – 117 Release of Letter of Credit

Sec. 32 – 118 Insurance

Sec. 32 – 119 Construction Plans and Inspections

Sec. 32 – 120 Improvements Completed Prior to the Approval of the Plat

Sec. 32 – 121 Alternate Installation and Incomplete Improvements

Sec. 32 – 122 Acceptance of Improvements

Secs. 32 – 123 —32 – 129. Reserved.

Article VII Other Types of Developments

Sec. 32 – 130 Planned Unit Developments and Cluster Developments

Sec. 32 – 131 Condominium Plats

Secs. 32 – 132 —32 – 139. Reserved.

Article VIII Repeal and Date of Effect

Sec. 32 – 140 Repeal of Previous Subdivision Ordinance

Sec. 32 – 141 Date of Effect

ARTICLE I. GENERAL PROVISIONS

Sec. 32 - 1. Reference.

This Ordinance shall be known, cited, and referred to as the City of Wyoming Subdivision Ordinance except as referred to herein, where it shall be known as "this ordinance."

Sec. 32 - 2. Application.

The rules and regulations governing plat and subdivision of land contained herein shall apply within the City and other land as permitted by statute.

Except in the case of resubdivision, this ordinance shall not apply to any lot or lots forming a part of a subdivision recorded in the office of the County Recorder prior to the date of adoption of this Subdivision Ordinance, nor is it intended by this ordinance to repeal, annul or in any way impair or interfere with existing provisions of other laws or ordinances except those specifically repealed by, or in conflict with this ordinance, or with private restrictions placed upon property by deed, covenant, or other private agreement or with restrictive covenants running with the land. Where this ordinance imposes a greater restriction upon the land than is imposed or required by such existing provisions of law, ordinance, contract, or deed, the provisions of this ordinance shall control.

Sec. 32 - 3. Purpose.

Adequate, up to date Subdivision Regulations, along with good administration and enforcement, are used to control the change in land use. The process of dividing raw land into home sites, or parcels for other uses, is an important factor in the growth of a community. Each new subdivision becomes a permanent unit in the basic physical structure of the city. Once the land is subdivided into lots and streets, and homes and other structures are constructed, the character of the community becomes firmly established. It is then virtually impossible to alter the basic character without substantial expense. Therefore, it is to the interest of the general public, the developer, and the future lot owners that subdivisions be designed and developed in accordance with sound rules and proper standards. The purpose of these regulations is to:

(1) Encourage well-planned, efficient, and attractive subdivisions with adequate standards for design and construction.

(2) Provide for the health and safety of residents by requiring properly designed streets and adequate sewage and water systems.

(3) Place the cost of improvements against those benefiting from their construction.

(4) Secure the rights of the public with respect to public lands and waters.

(5) Set the minimum requirements necessary to protect the health, safety, comfort, convenience, and general welfare.

Sec. 32 - 4. Interpretation.

In the interpretation and application, the provisions of this ordinance shall be the minimum requirements adopted for the protection of the public health, safety, and general welfare.

Sec. 32 - 5. Conflict.

This chapter is not intended to annul or interfere with any other official regulations or provisions of this Code; however, when there is a difference between minimum standards or dimensions in this chapter and those contained in other official regulations or Code provisions, the highest standards shall prevail.

Sec. 32 - 6. Registered Land Surveys.

All registered Land Surveys shall be filed subject to the same procedure as required for the filing of a plat for platting purposes. The standards and requirements set forth in these regulations shall apply to all Registered Land Surveys and, also the requirements of State Statutes, Section 508.47.

Sec. 32 - 7. Conveyance by Metes and Bounds.

A copy of each survey by a registered land surveyor shall be filed with the Zoning Administrator. The standards and requirements set forth herein shall apply to all land surveys. Unless approved as being in conformance with the provisions hereof, building permits shall not be issued, lands set aside for or dedicated to the public shall not be accepted, and no public money may be spent for the installation of utilities or other public improvements. Conveyance by metes and bounds shall be prohibited where the parcel/parcels involved or created is:

(1) Is a single parcel of residential or agricultural land of less than twenty (20) acres, less than five hundred (500) feet in width, and having less than five hundred (500) feet of frontage on a public road, and its conveyance results in the division of the parcel into two or more lots or parcels, any one of which is less than twenty (20) acres in area, or five hundred (500) feet in width, or having less than five hundred (500) feet of frontage on a public road

(2) Is a single parcel of commercial or industrial land of less than five (5) acres, less than three hundred (300) feet in width, and having less than three hundred (300) feet of frontage on a public road, and its conveyance results in the division of

the parcel into two or more lots or parcels, any one of which is less than five (5) acres in area, or three hundred (300) feet in width, or having less than three hundred (300) feet of frontage on a public road.

Anytime a subdivision requires the construction of a new road to serve one or more parcels of land, the platting procedure must be followed regardless of lot sizes.

Sec. 32 - 8. Exceptions for Single Lot Division.

Upon recommendation of the Planning Commission, the City Council may waive some of the platting requirements for a single lot subdivided from a large parcel. This provision is not intended to allow piecemeal subdivision of land; rather, it is intended to allow one-time exceptions to some of the requirements of this Ordinance for one-time single lot divisions. Under these circumstances, the City may limit ordinance and platting requirements to the parcel being separated and exempt the larger remnant from surveying, topographic or wetland delineation, and other platting requirements.

Sec. 32 - 9. Lot Splits.

The Zoning Administrator is hereby authorized to approve a division of land where a portion of a lot of record is conveyed to the owners of the adjoining lot of record for the purpose of enlarging the latter provided the size of the remaining lot meets the minimum lot size and area requirements for the zoning district. The Zoning Administrator may require such restrictive language on the document of conveyance as is deemed appropriate to protect and maintain the provisions of this ordinance or any other City ordinance. The Zoning Administrator shall verify his approval of the conveyance by stating thereon: "Approved under Sec. 32 – 9". Upon approval, the document may be recorded with the County Recorder.

Sec. 32 - 10. Amendments.

Nothing within this Ordinance shall be construed so to deny any property owner his right to apply for an amendment to this Ordinance. Amendments to this ordinance shall be in accordance with Chapter 40, Article V, Division 9, of the City Code.

Sec. 32 - 11. Government Filings.

A certified copy of every ordinance resolution, amendment, map, or regulation adopted under this chapter shall be filed with the Chisago County Recorder's office. Copies of all subdivisions and/or plats of land subject to Subdivision regulations shall be filed with the zoning office of the City of Wyoming.

Sec. 32 - 12. Separability.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Sec. 32 - 13. Rules.

The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction.

(1) The singular number includes the plural, and the plural the singular.

(2) The present tense includes the past and the future tenses, and the future the present.

(3) The word "shall" is mandatory while the word "may" is permissive.

(4) The masculine gender includes the feminine and neuter.

Sec. 32 - 14. Building Permits.

No building permit shall be issued for any construction, alteration, enlargement, repair, demolition, or moving of any building or structure on any lot or parcel until all the requirements of this ordinance have been fully met.

Sec. 32 - 15. Enforcement and Penalty.

Until and unless approved as a Final Plat conforming to the provisions of this ordinance, no subdivision shall be entitled to be recorded in the office of the County Recorder nor otherwise be developed. The Building Official shall not issue a building permit for any lot unless the Final Plat is recorded in the office of the County Recorder. No public improvements may be installed prior to the approval of the Preliminary Plat, and then only after receiving written authorization. The City shall neither permit nor provide any services for a subdivision requiring platting prior to recording the Final Plat unless authorized in writing by the City Council. Any firm, person or corporation who violates any of the provisions of these regulations, or who sells, or leases any lot, block, or tract land herewith regulated before all the requirements of this ordinance have been complied with shall be guilty of a misdemeanor. Each day that the violation is permitted to exist constitutes a separate offense.

Secs. 32 – 16—32 – 19. Reserved.

ARTICLE II. DEFINITION OF TERMS

Sec. 32 - 20. Definitions.

Unless the context indicates a different meaning, for the purpose of this ordinance certain words, phrases and terms shall be constructed as follows:

(1) Alley: A dedicated public right-of-way providing a secondary means of access to abutting property, and which is not intended for general traffic circulation.

(2) Applicant: The owner, their legal agent or person having legal control, ownership and/or interest in land for which the provisions of this Chapter are being considered or reviewed. Consent shall be required from the legal owner of the premises.

(3) Attorney: The City Attorney of Wyoming, Minnesota or his authorized representative.

(4) Block: An area of land within a subdivision which is entirely bounded by streets or by street, railroad right-of-way, waterway or exterior boundary of the subdivision.

(5) Surety: Any form of security including a bond, cash deposit, collateral, property, or instrument of credit in an amount and form satisfactory to the City Council. All sureties shall be approved by the City Council wherever a surety is required by these regulations.

(6) Boulevard: The portion of the street right-of-way between the traveled road surface and the property line.

(7) Buildable Land: An area of land excluding surface waters, wetlands or floodplains; and when the property is served by a subsurface sewage treatment system where the depth to mottled soils is at least one (1) foot.

(8) Building: Any structure used or intended for supporting or sheltering any use or occupancy.

(9) Butt lot: A lot perpendicular to another in which the rear lot line adjoins the side lot line of the other.

(10) Certificate of Survey: A graphic representation of the boundary survey of a parcel of real property along with the description of the land and the signed certification of a Registered Minnesota Land Surveyor.

(11) Cluster Development: A subdivision development planned and constructed so as to group housing units into relatively tight patterns while providing a unified network of open space and wooded area, and meeting the overall density regulations of this ordinance and the Zoning Ordinance.

(12) Collector Street or Road: A road intended to move traffic from local roads to secondary roads. It includes the principal entrance streets of a residential development, and streets for circulation within such a development.

(13) Comprehensive Plan: The plan or plans for orderly growth of the City of Wyoming as adopted and amended from time to time by the Planning Commission and City Council.

(14) Condominium Plats: The condominium law given in State Statutes Chapter 515 specified procedures for surveying condominium subdivisions.

(15) Contour Lines: A line connecting points that are at the same elevation.

(16) Contour interval: Is the vertical height between contour lines.

(17) Corner Lot: A lot bordered on at least two (2) adjacent sides by streets.

(18) Council: The City Council of Wyoming.

(19) County: Chisago County, Minnesota.

(20) Cul-de-sac: A minor street, designed as a permanent dead end with only one outlet, having a turn-a-round.

(21) Double Frontage Lot: A lot which has a front line abutting on one street and a back or rear line abutting on another street.

(22) Drainage Course: A watercourse or indenture for the drainage of surface water. This includes natural waterways as well as man-made waterways.

(23) Easement: A grant by an owner of land for the specific use by persons other than the owner, or the public.

(24) Engineer: The registered engineer employed by the City of Wyoming, unless otherwise stated.

(25) Escrow: A deposit of cash with the local government in lieu of an amount required and still in force on a performance or maintenance bond. Such escrow funds shall be deposited by the clerk or treasurer in a separate account.

(26) Final Plat: Is the final map, drawing, or chart of a subdivision and any accompanying materials, which is presented to the City Council for approval and which if approved, will be submitted to the County Recorder. Said plans must conform to all state laws.

(27) Grade: The slope of a road, street, or other public way, and specified in percentage terms.

(28) Land Survey: The process of determining boundaries and areas of tracts of land. Also called property survey; boundary survey.

(29) Lot: An area, parcel, tract of portion of land which is separate from other parcels of land, and has been legally described as an individual parcel by metes and bounds description in a recorded instrument of conveyance; or by a recorded plat; or by government survey. The words "lot", "parcel" and "tract" are synonymous and may be used interchangeable. For the purpose of this ordinance a "single lot" or a "single parcel" or a " single parcel of record" shall be the whole parcel that is identified by at least one of the above definitions.

(30) Marginal Access Street: A minor street usually parallel with and adjacent to high volume thoroughfares, railroads or other lands, which restrict access; thus normally providing access to abutting properties on one side only.

(31) Metes and Bounds: A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineates a fractional portion of a section, lot or area by described lines or portions thereof.

(32) Minimum Subdivision Design Standards: The guides, principles and specifications for the preparation of subdivision plans indicting among other things, the minimum and maximum dimensions of the various elements set forth in the preliminary plan.

(33) Minor Street: A street of limited continuity used primarily for access to the abutting properties and the local needs of a neighborhood.

(34) Outlot: A lot remnant or any parcel of land included in a plat which may be used for open space or otherwise unsuitable for development and therefore not usable as a building site as it currently exists.

(35) Owner: An individual, firm, association, syndicate, co-partnership, corporation, trust, or other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under these regulations.

(36) Parkland: Public land, trails, and open spaces in the City dedicated or reserved for recreation purposes.

(37) Pedestrian Way: A public right-of-way across or within a block, to be used by pedestrians.

(38) Person: Any individual, firm, association, syndicate or partnership, corporation, trust or any other legal entity.

(39) Planning Commission: The Planning Commission of the City of Wyoming.

(40) Preliminary Plat: A map or drawing indicating the proposed layout of the subdivision, to be submitted to the City Planning Commission and City Council for their consideration, in compliance with the goal and objectives of the City Comprehensive Plan and the provisions of this ordinance.

(41) Private Street: A privately owned street not dedicated to the public which serves two or more lots.

(42) Protective Covenants: Contracts entered into between private parties and constituting a restriction on the use of all private property within a subdivision for the benefit of the property owners, and to provide a mutual protection against undesirable aspects of development which would tend to impair stability of values.

(43) Registered Land Survey: A method of surveying Torrens (or Registered) land following the procedures in State Statues Chapter 508.47.

(44) Remnant Parcel: A small irregular tract of land not suitable for a lot. Remnant parcels shall not be permitted; they must be attached to adjoining lots or disposed of in some other acceptable way.

(45) Reserve Strip: A narrow strip of land placed between lot lines and streets to control access.

(46) Resubdivision: A change in a map of an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved therein for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

(47) Right-of-way: The land dedicated for public or private vehicular or pedestrian use, or for certain uses such as land over which a railroad or utility line passes.

(48) Riparian: Pertains to land connected with or adjacent to the banks of a stream, lake, or other body of water. A riparian owner owns the bank or banks. Riparian rights entitle that owner to have reasonable use of the water and of the shoreline by virtue of his riparian ownership. Riparian rights are sometimes referred to as littoral rights.

(49) Service Street: A frontage road or marginal access street parallel with and adjacent to high volume arterial streets and highways, which provide access to abutting properties and protects through traffic.

(50) Sketch Plan: A drawing preceding the Preliminary Plat which shows the proposed subdivision of property. This plan is not necessarily drawn to scale and exact accuracy is not a requirement. Its purpose is to enable the subdivider to save time and expense in reaching general agreement with the local community and Planning Department as to the form of the plat and the objectives of these regulations.

(51) Street: A way for vehicular traffic, whether designated as a street, highway, thoroughfare, arterial, parkway, throughway, road, boulevard, drive, court, circle, avenue, lane, place or otherwise designated.

(52) Street Width: The shortest distance between the lines delineating the right-of-way of a street.

(53) Subdivider: The owner, agent, or person having control of such land as the term is used in this ordinance.

(54) Subdivision: The division of a parcel of land after the effective date of this Ordinance into two or more lots or parcels, for the purpose of transfer of ownership or building development. The term includes resubdivision and when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

(55) Surveyor: A land surveyor registered under Minnesota state laws.

(56) Thoroughfare: A street primarily designated to carry large volumes of traffic and provide for vehicular movement between and among large areas.

(57) Vicinity Map: Also known as key map or location map. A map drawn to comparatively small scale which shows the area proposed to be platted in relation to known geographical features, i.e., City centers, lakes, roads.

(58) Water Course: A passage way in the surface of the earth so situated having such a topographical nature that surface water flows through it from other areas before reaching a final ponding area. The term includes both natural passageways and drainage structures that have been constructed or placed for the purpose of conducting water from one place to another.

(59) Wetland Delineation Report: Wetland delineation report contents must be in conformance with MN Rules 8420.0405, as it may be amended from time to time, and additional information as requested and deemed necessary by the City to render the application complete per the Minnesota Wetland Conservation Act (MN Rules 8420).

(60) Zoning Ordinance: A zoning ordinance controlling the use of land adopted by the City.

Secs. 32 – 21—32 – 29. Reserved.

ARTICLE III. PLATTING PROCEDURE

DIVISION 1. THE SKETCH PLAN

Sec. 32 - 30. Sketch Plan.

In order to ensure that all applicants for subdivision are informed of the platting procedure and the requirements of the Subdivision Ordinance and other related ordinances, the subdivider is required to consult with the City Zoning Administrator. At the time of this initial conference, the subdivider should present his Sketch Plan for review. The plan need not be drawn to scale, but should show the proposed subdivision of the property, the street layout, significant topographical and physical features, and adjacent land use. The Sketch Plan will be considered as the basis of discussion and the exchange of information between the subdivider and the City Planning Commission and City Zoning Administrator. Submission of such Sketch Plan shall not constitute a formal filing of a preliminary plan.

(1) Prior to the submittal of a Preliminary Plat, the applicant shall submit a request for the review of the Sketch Plan by the Planning Commission. The Zoning Administrator will put the Sketch Plan on the next regular Planning Commission meeting agenda after receipt of all of the following items:

(a) An application for a Sketch Plan Review shall be made to the Zoning Administrator on forms provided by the City;

(b) Evidence of ownership or an interest in the property must be provided;

(c) Eleven (11) full size copies of the Sketch Plan, or two (2) reduced copies no larger than eleven (11) inches by seventeen (17) inches shall be submitted;

(d) Complete legal description and the Parcel Identification Number of the parcel to be subdivided;

(e) The Sketch Plan application fee specified in Appendix A of the City Code.

(2) After receiving all the information needed, the planning commission shall determine whether or not the intended layout conforms satisfactorily with the requirements of this chapter and shall so advise the subdivider, giving the subdivider whatever suggestions and information may be needed for preparation of the subdivision's Preliminary Plat.

(3) Subdividers creating four (4) or more lots shall meet with the City of Wyoming Joint Park Planning Board to determine Parkland Dedication Requirements.

(a) Subdividers creating less than four (4) lots shall make a Parkland Cash Dedication for each lot created, in the amount specified in Appendix A of the City Code, or they shall meet with the City of Wyoming Joint Park Planning Board to determine Parkland Dedication Requirements.

(b) Subdividers adjacent to existing parklands, or where a proposed park, playground, public access to a waterfront, school site, highway, historic site, or other public site as shown on the Comprehensive Plan is embraced in part or in whole by the boundary of a proposed subdivision and such public sites are not dedicated to the public shall meet with the City of Wyoming Joint Park Planning Board to determine Parkland Dedication Requirements.

Secs. 32 – 31—32 – 39. Reserved.

DIVISION 2. THE PRELIMINARY PLAT

Sec. 32 - 40. Preparing and Submitting the Preliminary Plat.

(1) When the subdivider has his plan for the subdivision in order, he shall have his surveyor and/or planner draft the Preliminary Plat which is in conformity with the requirements of this Ordinance.

(2) The owner or subdivider shall submit to the Zoning Administrator:

(a) A completed Preliminary Plat application form for the proposed subdivision;

(b) The Preliminary Plat application fee as set by the City Council in appendix A;

(c) Fifteen (15) full size copies of the Preliminary Plat (scale not less than one (1) inch equals one hundred (100) feet, or eight (8) full size copies of the Preliminary Plat (scale not less than one (1) inch equals one hundred (100) feet and one (1) electronic version of the plans, compatible with the City's and City Engineer's computers, developed for 11" x 17" printable format with sufficient detail so that all the features are legible;

(d) Two (2) reduced copies no larger than eleven (11) inches by seventeen (17) inches;

(e) Drainage and erosion plans;

(f) Wetland Delineation Report;

(g) Copies of permit application submittals to all agencies with jurisdiction over wetlands or water bodies and channels on the development site;

(h) If the proposed development falls into a mandatory Environmental Assessment category, an Environmental Assessment Worksheet must be submitted;

(i) A binding letter of intent or other document by which the applicant agrees to pay the City's legal, engineering, administrative and related costs and expenses incurred in the subdivision review process, with the form of such letter of intent or other agreement to be satisfactory to the City Attorney;

(j) The escrow amount specified in Appendix A of the City Code;

(k) A copy of the proposed protective covenants if applicable;

(l) A list of any special assessments levied against any portion of the property to be subdivided;

(m) Plats not connected to municipal or community sewer and water systems: Soil tests on a minimum of twenty percent (20%) of the proposed lots on those plats which will have over five (5) lots. The Zoning Administrator shall reserve the right to specify the lots which are to be tested. On those plats with less than five (5) lots, percolation tests and soil borings shall be done on each proposed lot. Additional tests may be required if the Zoning Administrator deems it necessary;

(n) Complete applications, as defined by the City of Wyoming Zoning Ordinance, for any necessary variances, conditional use permits, or rezoning of the property to be subdivided.

(3) If the subdivider requests, or the City requires that any existing special assessments which have been levied against the premises described in the subdivision be divided and allocated to the respective lots in the subdivision plat, the Assessor shall estimate the clerical cost of preparing the revised assessment roll, filing the same with the County Auditor, and making such division and allocation, and upon approval by the City of such estimated cost the same shall be paid to the County Treasurer in addition to the fee mentioned in paragraph (2) above, to cover the cost of preparing and filing such revised agreement.

Sec. 32 - 41. Preliminary Plat Review Committee.

(1) Prior to a public hearing on the Preliminary Plat the subdivider shall meet with the members of the City Plat Review Committee.

(2) The purpose of the plat review committee is to protect the general welfare of the citizens of the City of Wyoming by reviewing the proposed plats for conformance with the City Standards and for checking the accuracy and completeness of the technical data.

(3) The members of the committee are:

(a) The City Zoning Administrator;

(b) The City Engineer;

(c) Any additional technical reviewers deemed necessary.

(4) Additional Technical Advisors may be:

(a) City Building Official;

(b) City Public Works Superintendent;

(c) City Attorney;

(d) Chisago Soil and Water Conservation District;

(e) Minnesota Department of Natural Resources;

(f) Watershed District Representative;

(g) Utility Companies;

(h) Minnesota Department of Transportation.

Sec. 32 - 42. Preliminary Plat Review Process.

(1) Upon receipt of the Preliminary Plat, and all other required information as listed in Sec. 32 – 40, the Zoning Administrator shall refer copies of the Preliminary Plat as follows:

(a) One (1) copy to each member of the Planning Commission;

(b) One (1) copy to the City Engineer;

(c) One (1) copy to each member of the City Council;

(d) One (1) copy to each member of the Park Board;

(e) One (1) copy retained by the Zoning Administrator;

(f) If the proposed subdivision abuts and federal or state trunk highway, three (3) copies to the Minnesota Department of Transportation;

(g) If the proposed subdivision abuts any county highway, one (1) copy to the Chisago County Highway Department;

(h) If the proposed subdivision is located in any shoreland district or any flood plain district as defined in Minnesota Statutes, Sections 103.205 and 103F.111 respectively, one copy to the Minnesota Department of Natural Resources;

(i) If the proposed subdivision is located in a watershed district, one copy to the watershed district;

(j) The City of Wyoming plat review committee may need additional copies for review by those members not listed above.

(2) The Zoning Administrator on behalf of the Planning Commission shall set a date for a public hearing on the Preliminary Plat, such hearing to be held after all required information has been submitted. The Zoning Administrator shall cause notice of said hearing to be published in the official newspaper at least ten (10) days prior to the hearing date. Written notice will also be sent to all property owners within five hundred (500) feet of the property to be subdivided. A copy of the list of property owners to which the notice was sent shall be attested to by the City Clerk and made part of the official record. The failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision ordinance has been made.

(3) The Planning Commission shall consider the application and hold a public hearing at its next available regular meeting (at least ten days after the publication of notice) as determined by the Zoning Administrator. The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed subdivision.

(4) In considering the Preliminary Plat, the Planning Commission shall consider the following factors: (also see Article 5, Minimum Standards)

(a) Consistency with the design standards and other requirement of this ordinance.

(b) Consistency with the City's Comprehensive Plan, Stormwater Management Plan, and any other development plans officially adopted by the City.

(c) The physical characteristics of the site, including but not limited to topography, erosion, flooding potential, development, and major vegetation.

(d) The proposed development's fiscal impact and environmental impact.

(e) Whether the proposed subdivision is in conflict with applicable general and specific plans (e.g. growth management system goals and policies, capital improvement programs, ordinances).

(f) Whether the design or improvement of the proposed subdivision is in conflict with applicable development plans.

(g) That the site is physically suitable for the proposed density of the development.

(h) Whether the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage.

(i) Whether the design of the subdivision or the type of improvements are likely to cause serious public health problems.

(j) Whether the design of the subdivision or the type of improvements will conflict with easements of record or of easements established by judgment of a court.

(5) The Planning Commission and City staff shall have the authority to request additional information from the applicant or to retain expert testimony at the expense of the applicant if said information to be declared necessary by the City to review the application or to establish compliance with all pertinent sections of this ordinance.

(6) Upon receiving the report and recommendation of the Planning Commission, the City Council shall place the report and recommendation on the agenda for the next available regular meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.

(7) Upon receiving the report and recommendation of the Planning Commission, the City Council shall either:

(a) Approve or disapprove the application as recommended by the Planning Commission, or

(b) Approve or disapprove the recommendation of the Commission with modifications, alterations, or differing conditions. Such modifications, alterations, or differing conditions shall be in writing and made part of the City Council's records, or

(c) Refer the recommendation back to the Planning Commission for future consideration. This procedure shall be followed only one time on a singular action.

(d) Should the City Council approve or deny the applicant’s application contrary to the Planning Commission’s recommendation, the City Council shall include in their Findings of Fact the reason for their differing decision.

(8) The recommendation of the Planning Commission shall be advisory to the City Council. Approval of an application shall require passage by majority vote of the City Council. The Zoning Administrator shall notify the applicant of the City Council's action. The decision of the City Council shall be final, subject to judicial review.

(9) The Zoning Administrator shall notify the applicant of the City Council's action and reasons thereof.

(a) If the Preliminary Plat is not approved, the reasons for such action shall be recorded in the proceedings and transmitted to the applicant. If the Preliminary Plat is approved, such approval shall not constitute final acceptance of the subdivision. All conditions required by the City Council shall be submitted in writing to the applicant.

(10) Should the subdivider desire to amend the Preliminary Plat as approved, he/she may resubmit the amended plat which shall follow the same procedure except for the hearing and fee unless the amendment is, in the opinion of the Planning Commission, of such scope as to constitute a new plat; then it shall be re-filed through the same procedures as though it were a new subdivision.

(11) A new subdivision review application and new Preliminary Plat, together with the payment of the fee required by Sec. 32 – 40, 2, (b) shall be required if:

(a) The Final Plat does not substantially conform to the Preliminary Plat; or

(b) The Final Plat is not submitted within the time period specified under

Sec. 32 –50.

Sec. 32 - 43. Identification and Description.

The Preliminary Plat of the proposed subdivision shall contain and have attached thereto the following information:

(1) Proposed name of the subdivision, which name shall not duplicate or be similar in pronunciation of the name of any other plat on record in the county;

(2) Legal description of property;

(3) Names and addresses of the owner, and any agent having control of the land, subdivider, surveyor, engineer and designer of the plat;

(4) Graphic scale not less than one (1) inch to one hundred (100) feet, except for large subdivisions where a smaller scale may be acceptable;

(5) North point and vicinity map of area showing well known geographical points for orientation within a one-half mile radius;

(6) Date of preparation.

Sec. 32 - 44. Existing Conditions.

The Preliminary Plat shall have the following information concerning the property in and surrounding the proposed subdivision:

(1) The outside boundary lines of the subdivision clearly shown;

(2) Existing zoning classifications for land in and abutting the subdivision;

(3) Total acreage;

(4) Location, right-of-way width and names of existing or platted streets or other public ways, parks and other public lands, permanent buildings and structures, easements and section and corporate lines within the Preliminary Plat and to a distance of one hundred (100) feet beyond shall also be indicated;

(5) Location and size of existing sewers, water mains, culverts or other underground facilities within the Preliminary Plat area and to a distance of one hundred (100) feet beyond. Such data as grades, locations of catch basins, manholes, hydrants and street pavement width and type shall also be shown;

(6) Boundary lines of adjoining unsubdivided or subdivided land, within one hundred (100) feet, identified by name and ownership, and including all contiguous land owned or controlled by the subdivider;

(7) Topographic data, including contours at vertical intervals of not more than two (2) feet except where the horizontal contour interval is one hundred (100) feet or more, a one (1) foot vertical interval shall be shown. Watercourses, wetlands, wooded areas, rock outcrops, power transmission poles and lines, and other significant features shall also be shown. National Geodetic Vertical Datum 1929 adjustment shall be used for elevations and topographic mapping, unless deemed unnecessary by the City. The source of the topographic contours shall be given, whether done by survey crew methods, aerial photography, or using existing topographical maps and then only by identifying the source and date of such maps;

(8) A copy of all proposed private restrictions (also known as Protective Covenants);

(9) Soil test results demonstrating the adequacy of the property for proposed development in terms of ground water level, load bearing quality, and

(a) In the case of developments that will not be served by the municipal sewer and water system the depth to redoximorphic features and soil percolation rate. Soil tests must be done for each proposed lot on plats containing less than five (5) lots. A minimum of twenty percent (20%) of the lots must have soil tests completed on all plats containing five (5) or more lots. These tests must be located so as to give a sampling of the entire plat. If a lot appears to be questionable the Planning Commission or the Zoning Administrator will reserve the right to require additional tests.

(10) On all lakes, ponds, wetlands, river and other waterways, present water surface elevations, natural ordinary high water elevations (if known), proposed 100-year flood elevations (if available) and emergency overflows shall be denoted.

Sec. 32 - 45. Design Features.

The following design features of the proposed subdivision shall be shown on the Preliminary Plat as follows:

(1) Layout of proposed streets, showing right-of-way widths and proposed names of streets. Street names shall conform to the Chisago County uniform street naming and property numbering system as applicable;

(2) Locations and widths of proposed alleys, pedestrian ways and utility easements;

(3) Lot and block numbers and preliminary dimensions of lots and blocks and area of each lot;

(4) Minimum front, side and rear building setback lines, including setback lines from lake and river shores;

(5) Bluff lines and minimum setback lines from the bluff line;

(6) Location and size of proposed sanitary sewer lines and water mains;

(7) Gradients of proposed streets, sewer lines, and water mains. Plans and profiles showing locations and typical cross-sections of street pavement including curbs, gutters, sidewalks, drainage easements, servitude right-of-ways, manholes and catch basins;

(8) Areas, other than streets, alleys, pedestrian ways and utility easements, intended to be dedicated or reserved for public use, including the size of such areas;

(9) Grading and drainage plan for entire subdivision. If any fill or excavation is proposed in a wetland or lake, approval must be obtained from the Minnesota Department of Natural Resources, the Army Corps of Engineers, the Comfort Lake – Forest Lake Watershed District and the City of Wyoming, if applicable;

(10) Erosion and sediment control plan, as needed;

(11) In subdivisions where public water and sewer services are not presently available, the City may require the developer to submit a preliminary re-subdivision plan showing a potential and feasible way in which the lot or lots may be re-subdivided in future years when public facilities may be provided. The undeveloped lots may be conveyed to other

persons or entities and building development may be permitted on the previously undeveloped lots at the setbacks described in the district in which it is located;

Sec. 32 - 46. Other information.

The following additional information shall be provided concerning the proposed subdivision:

(1) A statement of the proposed use of lots stating the type of residential buildings with number of proposed dwelling units; type of business or industry so as to reveal the effect of the development on traffic, fire hazards, and congestion of population;

(2) Source of water supply;

(3) Provisions for sewage disposal, surface water drainage, and flood control;

(4) If any zoning changes are contemplated, the proposed zoning plan for the areas including dimensions;

(5) Such other information as may be requested by the Zoning Administrator, City Engineer, or Planning Commission;

(6) Where the subdivider owns property adjacent to that which is being proposed for the subdivision, the Planning Commission may require that the subdivider submit a Preliminary Plat of the remainder of the property so as to show the possible relationships between the proposed subdivision and future subdivision. In any event, all subdivisions must be shown to relate well with existing or potential adjacent subdivisions and land use.

Sec. 32 - 47. Preparation of Environmental Assessments.

(1) A Minnesota Environmental Assessment Worksheet may be required for projects which may have the potential for significant environmental effects. The Minnesota Environmental Policy Act of 1973 and Chapter 4410.0200 to 4410.7800 requires the preparation of an Environmental Impact Statements (EIS) or Environmental Assessment Worksheets (EAW) by State mandate or at the request of the City for certain developments.

(2) No Preliminary Plat may be approved until such EAW or EIS, if mandated by the State or requested by the City, has been prepared, submitted, and considered by the City.

(3) The developers shall prepare at their own expense any state mandated or requested EAW or EIS for the project.

Secs. 32 – 48—32 – 49. Reserved.

DIVISION 3. THE FINAL PLAT

Sec. 32 - 50. Preparing and Submitting the Final Plat.

(1) After the approval and endorsement of a Preliminary Plat, the procedures set for in this section shall be followed. The Final Plat shall be prepared by a land surveyor who is registered in the State of Minnesota and shall conform to all the requirements of State and City law.

(2) Unless an extension of time is requested by the subdivider and granted by the City Council upon recommendation of the Planning Commission, the subdivider shall within one (1) year, following approval of the Preliminary Plat, submit to the Zoning Administrator:

(a) A completed Final Plat application form for the proposed subdivision;

(b) The Final Plat application fee as set by the City Council in appendix A;

(c) Fifteen (15) full size copies of the Final Plat (scale not less than one (1) inch equals one hundred (100) feet, or eight (8) full size copies of the Preliminary Plat (scale not less than one (1) inch equals one hundred (100) feet and one (1) electronic version of the plans, compatible with the City's and City Engineer's computers, developed for 11" x 17" printable format with sufficient detail so that all the features are legible;

(d) Two (2) reduced size copies of the Final Plat (no larger than 11 x 17 inches);

(e) An up-to-date abstract of title, Certificate of Title, or title opinion by the subdivider's attorney

(f) Plats not connected to municipal or community sewer and water systems: Soil tests on each lot must be submitted to prove that each lot has a buildable site, and an alternate septic site.

(g) A receipt proving the taxes on the parcel(s) of land being platted have been paid in full in the year that the plat is recorded;

(h) Protective covenants, if any;

(i) Deeds for all easements required but not shown on the Final Plat, including parkland dedications;

(3) If the subdivider fails to submit the Final Plat to the Zoning Administrator within the designated period without requesting and receiving an extension of time, the approval and endorsement of the Preliminary Plat, including any rezoning necessitated by the Preliminary Plat, will be deemed void, and the subdivider shall initiate a new proceeding in the manner provided in Sec. 32 – 40. Prior to the expiration of the Preliminary Plat approval, the City Council, upon recommendation of the Planning Commission, may extend the approval period for an additional twelve (12) months. The extension shall be in writing, specifically designating the expiration date. The extension shall not be subject to additional fee, and only one extension may be granted.

(4) Extensions of the period in which to file the Final Plat may be granted where the Preliminary Plat, because of its size, is to be developed in stages. The subdivider must submit an estimated time schedule for future staging of the platting and recording of each stage of the development. Final Plats for the portion of the approved plan which is proposed for immediate development, conforming to all requirements of this ordinance, must be filed in the required time, and the Final Plat for each succeeding stage of the development must be filed in accordance with the extensions granted by the City Council Each Final Plat shall incorporate all changes, modifications, and revisions of the Preliminary Plat as recommended by the Planning Commission and approved by the City Council. Except as so modified, the Final Plat shall conform to the Preliminary Plat. Where the subdivision is developed in stages, the Final Plat may constitute only that portion of the Preliminary Plat which the subdivider proposed to record and develop at that time.

(5) The Final Plat shall comply with the provisions of Chapter 505 of Minnesota Statues.

(6) The taxes on the parcels of land being platted must be paid in full in the year the plat is recorded. Along with submission of the Final Plat, the subdivider shall furnish proof of payment of these taxes. If the tax rolls for the current year are not yet established by Chisago County, then an estimate of the taxes must be paid.

(7) All improvements must be completed and accepted by the City Council. A developer's agreement may be accepted in lieu of completions of all improvements. If a developer's agreement is accepted this agreement must be recorded along with the plat at the Chisago County Recorder's Office. Proof of this recording must be provided to the City prior to any building permits being issued.

(8) The land surveyor shall certify on the plat that the plat is a correct representation of the survey, that all distances are correctly shown on the plat, that all monuments have been correctly placed on the ground as shown, that the outside boundary lines are correctly designated on the plat, and if there are no drainage easements or roadway easements to be designated in accordance with Minnesota Statutes, Section 505.02, he shall so state.

Sec. 32 - 51. Review of the Final Plat.

(1) After receipt of the Final Plat, the Zoning Administrator shall refer one paper print of the plat to the City Engineer, one to the Planning Commission, and one to the City Attorney. The City Attorney shall also receive an up-to-date abstract of title or a Certificate of Title and opinion of title prepared by the subdivider's attorney and addressed to the City of Wyoming City Council. If the plat adjoins or involves a County or State highway, one copy of will be sent to the Chisago County Highway Engineer or Minnesota Department of Transportation.

(2) Report to City Council and Planning Commission.

The following reports shall be submitted to the City Council and Planning Commission after the submission of the Final Plat and all necessary supporting documents to the Zoning Administrator.

(a) The City Engineer shall state whether the Final Plat and the proposed improvements conform to all engineering standards, including the requirements of the Chisago County Highway Engineer or Minnesota Department of Transportation, if applicable.

(b) The City Attorney shall state whether the fee simple title to the platted property is in the names of the subdividers.

(c) The Zoning Administrator shall confirm that the Final Plat substantially conforms to the Preliminary Plat as modified and approved by the City Council.

(d) The predetermined parkland dedication shall be satisfied.

(e) All known legal, engineering, and any other costs associated with the plat shall be paid to the City prior to approval.

(f) Plats not connected to municipal or community sewer and water systems: Soil tests on each lot must be submitted to prove that each lot has a buildable site, and an alternate septic site.

(3) Approval of the Planning Commission: The City staff shall examine the final plat and prepare a recommendation to the Planning Commission. Nature of approval, disapproval, or any delay in decision of the final plat will be conveyed to the subdivider within ten (10) days after the meeting of the Planning Commission at which such plat was considered.

(4) Approval of the City Council: After review of the final plat by the Planning Commission, such final plat, together with the recommendations of the Planning Commission and the City staff shall be submitted to the City Council for approval. If accepted, the final plat shall be approved by resolution, providing for the acceptance of all agreements for basic improvements, public dedication and other requirements as indicated by the City Council. If disapproved, the grounds for any refusal to approve a plat shall be set forth in the proceedings of the council and reported to the person or persons applying for such approval.

(5) Prior to the approval of the Final Plat, the subdivider shall either have installed all required improvements or executed a developer's agreement with the City for their installation. Required improvements shall conform to standards set forth in this ordinance or other applicable standards. When the Final Plat is approved by the City Council, the subdivider shall submit for recording, to Chisago County, two (2) 22” x 34” reproducible copies (media type limited to four mil transparent reproducible film or the equivalent) for M.S. 505 plats and CIC plats (M.S. 515B). One (1) 14” x 17” hardshell and two (2) 14” x 17” reproducible copies for a Registered Land Survey.

(6) It is the responsibility of the subdivider to file the plat and any developer agreements with the appropriate county offices. The subdivider shall record the Final Plat and developer's agreement in the office of the County Recorder within twelve (12) months after approval by the City Council. Any plat not recorded within the prescribed period shall be void and will require a new Preliminary Plat. This new Preliminary Plat must be reviewed in accordance with the procedure set out in this chapter to ensure compliance with any new requirements.

(7) After the plat is recorded in the County Recorder's Office, two signed paper copies of the Final Plat and a receipt for recording of any developer's agreement must be given to the Zoning Administrator. No building permits will be issued until these are in the office of the Zoning Administrator.

(8) Appeals from any order, requirement, decision, or determination made by an administrative official or other body upon these regulations may be brought pursuant to and in accordance with Chapter 40, Article V, Division 8, of the City Code.

Secs. 32 – 52—32 – 59. Reserved.

ARTICLE IV. PARK, TRAIL AND OPEN SPACE DEDICATION

Sec. 32 - 60. Public Sites and Open Spaces.

Where a proposed park, playground, public access to water front, school site, highway, historic site, or other public site is shown on the Comprehensive Plan is embraced in part or in whole by the boundary of a proposed subdivision and such public sites are not dedicated to the public, such public ground shall be reserved and no action taken toward approval of preliminary or Final Plat for a period not to exceed ninety (90) days to allow the opportunity to consider and take action toward acquisition of such public ground or park by purchase or other method.

Sec. 32 - 61. Park, Trail, and Open Space Dedication.

Introduction.

The City Council recognizes it is essential to the health, safety and welfare of the residents of Wyoming and persons visiting or working in Wyoming City, that the character and quality of the environment to be considered to be of major importance in the Planning and development of the City. In this regard, the manner in which land is developed and used is of high priority. The preservation of land for park, playground, trail and public open space purposes as it relates to the use and development of land for residential, and commercial/industrial purposes is essential to the maintaining of a healthful and desirable environment for all citizens of the City. The City must not only provide these necessary amenities for our citizens today, but also be insightful to the needs of our future citizens.

It is recognized by the City Council that the demand for parks, playgrounds, trails, and public open space within a municipality is directly related to the density and intensity of development permitted and allowed within any given area. Urban type developments mean greater numbers of people and higher demands for park, playground, and public open space. To disregard this principle is to inevitably overburden existing facilities and thus, diminish the quality of the environment for all.

The City Comprehensive Plan has established minimum community criteria for meeting the needs of the residents of the City of Wyoming.

It is the policy of the City of Wyoming that the following standards and guidelines for the dedication of land or contribution of cash for park, playground, trail, and public open space purposes in the subdividing and developing of land within the City shall be related to the density of development.

Sec. 32 - 62. Parkland Dedication.

Whenever any land is being developed in Wyoming under the provisions of this Subdivision Ordinance, the developer shall be required to dedicate a portion of the land in the proposed subdivision for park, playground, trail, public open space, or cash in lieu of land as authorized in State Statute 462.358, Subd. 2b as amended.

Sec. 32 - 63. Residential Platted Subdivisions.

The amount of land to be dedicated by a subdivider for residential development shall be based on the gross area of the proposed subdivision. The amount of cash in lieu of land dedication to be contributed by a subdivider for residential development shall be based upon the fair market value of the raw undeveloped land, or at a minimum based upon the actual proposed density determined by the number of building lots or the number of dwelling units.

For the purpose of relating park dedication requirements to the density of development, the following density/rate schedule shall apply to all residential platted subdivisions. These rates represent the total land and cash contribution.

DENSITY/RATE SCHEDULE	
Building Lots or Dwelling Units per Acre	**Land Dedication Percentage Based Upon Buildable Land**
0 – 2.5	8 percent
2.5+ – 4	9 percent
4+ – 6	9.5 percent
6+ – 8	10 percent
8+ – 10	11 percent
10+	11 percent – 12 percent

(1) The City may require the subdivider to contribute cash in lieu of part or all of the land dedication. The minimum amount of cash contribution in lieu of land dedication to be accepted by the City shall be the park fee per dwelling unit or building lot. The maximum amount of the cash contribution shall be the greater of these two amounts.

(a) Eight percent (8%) to twenty percent (12%) of the fair market value of the undeveloped land before Final Plat approval as determined by the Density/Rate Schedule.

(b) A cash contribution determined by multiplying the park fee by the number of proposed building lots or dwelling units.

(2) The fair market value of the land shall be determined as listed below. When an agreement is reached which is acceptable to the subdivider, and City Council, no further procedures on the list need be pursued.

(a) The Joint Park Planning Board and the Subdivider may agree upon a recommendation to the City Council as to the fair market value.

(b) The fair market value may be determined by obtaining the most recent property tax statement(s) for the property. Due consideration must be given to cases where the proposed development and the tax statement(s) are not exactly the same parcel and where only part of a tax statement parcel is being subdivided, but the two parts are not of equal value per acre.

(c) The subdivider may present to the Joint Park Planning Board acceptable purchase agreements, transaction records or other pertinent documents to assist in establishing the Fair Market Value.

(d) A land appraisal may be undertaken by a firm acceptable to both the developer and the City Council, with said appraisal of the property may be accepted by the City Council at their discretion.

(3) Combination of Land Dedication and Cash Contribution.

In cases where a combination of land and cash is required the following procedure shall be used to determine the amount of cash to be contributed.

(a) If the percent required by the Density/Rate Schedule is dedicated as land, this represents a one hundred percent (100%) land contribution.

(b) If the percent (based on the fair market value) required by the Density/Rate Schedule is dedicated as cash, this represents a one hundred percent (100%) cash contribution.

(c) The current Park Fee times the number of building lots or number of dwelling units represents a one-hundred percent (100%) cash contribution.

(d) The cash contribution will be prorated so the total contribution of land and cash equals a one hundred percent (100%) contribution.

(4) The City Council, upon review and recommendation of the Joint Park Planning Board shall determine by ordinance the minimum park fee per residential unit in Appendix A of the City Code.

(5) If, at the option of the City Council, it is determined that a cash contribution shall be made, said cash shall be placed in a special fund for Park Acquisition and Development use and deposited by the developer with the City prior to Final Plat approval.

Sec. 32 - 64. Application to Planned Unit Developments (PUD's).

In addition to those special requirements for common open space in the Zoning and Subdivision Ordinances, dedication for public open space will be required.

(1) Planned Unit Developments in Residential Zones shall dedicate land or cash for parks playgrounds, trails, and public open space as prescribed in Sec. 32 – 63.

(2) Planned Unit Developments In Commercial/ Industrial Zones shall dedicate land or cash for parks, playgrounds, trails, and public open space as described in Sec. 32 – 66.

Sec. 32 - 65. Application to Resubdivision.

In the event of a resubdivision of a parcel when park dedication requirements have previously been met for said parcel, and which creates a new building site, additional park contribution shall be made for each new lot created by resubdivision. In cases of resubdivision the park contribution shall be the current park fee and be based upon the current zoning category of the plat or subdivision, unless negotiated arrangements are made to dedicate land to create a new park or enlarge an existing park.

Sec. 32 - 66. Commercial/Industrial Parkland Dedication.

Subdividers of commercial/industrial land, including commercial/industrial portions of Planned Unit Developments, shall be required at the time the Final Plat is approved to dedicate to the City for park, playground, and public open space purposes, five percent (5%) of the gross

land area, or five percent (5%) of the value of the raw undeveloped land in lieu of land or a prorated combination of land and cash as described in Sec. 32 – 63, (3).

Sec. 32 - 67. Required Improvements and Park Dedication Credit.

Subdividers shall be responsible for making certain improvements to the parkland they dedicate within their development for park, playground, trail, and public open space purposes as follows. Improvements to parkland will be negotiated prior to the work being done, and credit will be given for costs incurred but not to exceed the cash contribution.

(1) Provide general and finish grading and turf establishment for all park, playground, trail, and public open spaces and provide landscape screening in accordance with City Policy.

(2) Complete, construct, and pave trails and bikeways which are identified in the City Comprehensive Plan or required in any proposed plat. These trails shall be constructed according to standards adopted by the City. Park dedication credit may be given for right-of-way used for trail construction which uses land outside of the standard road and utility easement, unless such land is a trail easement which does not affect lot size, setbacks, or other critical zoning and subdivision requirements.

(3) Establish and clearly mark all park boundary corners.

(4) Provide adequate public road access for neighborhood parks. In addition, a safe convenient trail easement will be required.

(5) Where improvements are to be made, the subdivider shall confer with the Joint Park Planning Board and the City Engineer, and where deemed necessary, submit a site plan prepared in consultation with an engineer or landscape architect to the City for approval during the Preliminary Plat process.

Sec. 32 - 68. Standards for Accepting Dedication of Land for Public Park Purposes.

(1) Land proposed to be dedicated for public purposes shall meet the identified needs of the City and be consistent with the Comprehensive Plan.

(2) To be eligible for park dedication credit, any land to be dedicated shall be usable for park and recreational purposes and shall be at a location convenient to the people to be served. Some unbuildable land, such as natural areas, may be accepted for credit if it meets the goals of the Comprehensive Plan and approval of the City.

(3) The removal of trees, topsoil, storage of construction equipment, burying of construction debris, or stockpiling of surplus soils is strictly forbidden without the written approval of the City Council.

(4) Prior to Final Plat approval, the subdivider shall deliver to the City Attorney, an abstract of title or registered property abstract for such dedication and the subdivider shall provide a warranty deed to the City for land being dedicated for public use. Such title shall vest in the City good and marketable title, free and clear of any mortgages, liens, encumbrances, assessments, and taxes. The conveyance documents shall be in such form acceptable to the City Council.

(5) The required dedication shall be made at time of Final Plat approval.

Sec. 32 - 69. Agreement as to Dedication.

Agreements as to the requirements of Chapter 32, Article IV shall be made prior to Preliminary Plat approval. Failure of the City Council and subdivider to reach agreement regarding the matters in Chapter 32, Article IV shall constitute denial of the Preliminary Plat.

Sec. 32 - 70. Joint Park Planning Board.

A Joint Park Planning Board is hereby established to promote the systematic, comprehensive, and effective planning of park development and the integration of new land developments into the City's park system.

(1) Composition.

The Joint Park Planning Board shall consist of five (5) voting members. Two (2) of these members shall currently be serving on the City Park Board, of which one shall be either the Chair or Vice-chair of the Park Board. Two (2) of the Joint Park Planning Board members shall currently be serving on the Planning Commission, of which one shall be either the Chair or Vice-chair of the Planning Commission. In addition, the City Council shall appoint a liaison from among its members to the Joint Park Planning Board, who shall serve as a voting member in the event of a tie or lack of quorum.

(a) Terms of Office: The terms of the voting members of the Joint Park Planning Board shall be consistent with their terms on the Park Board or Planning Commission.

(b) Removal: Members shall be subject to removal for cause by a three-fifths vote of the City Council.

(c) Compensation: All members shall serve with such compensation as may be set by resolution of the City Council.

(2) Organization.

The Joint Park Planning Board shall elect a chair from among its members for a term of one year. The Joint Park Planning Board may create and fill such other offices, as it may deem necessary for its own administration. All actions of the Joint Park Planning Board shall require a majority vote of the members.

(3) Meetings.

The Joint Park Planning Board shall hold meetings the second Tuesday of each month as necessary. When a meeting is necessary, it shall be convened on the same day as, and immediately before the City Planning Commission convenes. Meetings of the Joint Park Planning Board shall be open to the public and shall be subject to the state open meeting law. The Joint Park Planning Board shall adopt rules for the transaction of business and shall keep a record of its actions and findings. If there are no special rules adopted by the Joint Park Planning Board, Roberts' Rules of Order shall be applied, except where inconsistent with this ordinance.

(4) Powers and Duties of the Joint Park Planning Board.

(a) The Joint Park Planning Board shall review each Sketch Plan application for subdivisions submitted to the City. The purpose of this review is to establish findings and prepare a recommendation to the City Council concerning park dedication requirements pursuant to Chapter 32 of the City Code and which are consistent with the City of Wyoming Comprehensive Plan.

(b) The Joint Park Planning Board in cooperation with and under the advisement of the Park Board shall study and make recommendations concerning long range park planning, and park acquisition.

Secs. 32 – 71—32 – 79. Reserved.

ARTICLE V. MINIMUM STANDARDS

Sec. 32 - 80. Application.

The following land subdivision principles, standards and requirements will be applied by the Planning Commission in evaluating plans for proposed subdivisions:

(1) Where literal compliance with the standards herein specified is clearly impractical, variances may be requested from the City Council in accordance with Chapter 40, Article V, Division 7 of the City Code.

(2) Variances shall be permitted only when the subdivider can show that by reason of the exceptional topography or other physical conditions the strict compliance to these regulations could cause an undue hardship on the enjoyment of a substantial property right. Such relief may be granted by the City Council provided there is no detriment to the public welfare and no impairment of intended purposes of this ordinance.

(3) In recommending any variance, the Planning Commission shall take into account the following:

(a) Terrain, beauty, and conservation practices. The features of the natural terrain and consideration of preservation of scenic beauty and conservation practices.

(b) Location. The location of the proposed subdivision, proposed land use, and existing use of land in the vicinity.

(c) Density and traffic. The number of persons to reside and work in the proposed subdivision and the potential effect of the proposed subdivision upon traffic conditions in the vicinity.

(d) Preservation of intent and spirit of regulations. Those variances that will allow the subdivider to develop his property in a reasonable manner and at the same time preserve the general intent and spirit of this chapter and protect the public welfare and interests of the neighboring cities, townships, and the county.

(4) The proposed subdivision shall conform to the Comprehensive Plan and policies as adopted by the City Council.

Sec. 32 - 81. Land Requirements.

(1) Land shall be suited to the purpose for which it is to be subdivided. No Preliminary Plat shall be approved if the site is not suitable for the proposed purposes. Some reasons for rejecting a Preliminary Plat are potential flooding, adverse earth or rock formations or unusual topography.

(2) Land subject to hazards to life, health, or property shall not be subdivided for residential purposes until all such hazards have been eliminated or unless adequate safeguards against such hazards are provided by the subdivision plan.

(3) Proposed subdivisions shall be coordinated with existing nearby municipalities or neighborhoods so that the community as a whole may develop harmoniously.

(4) Proposed land uses shall conform to the City of Wyoming Zoning Ordinance in effect.

Sec. 32 - 82. Soil Erosion and Drainage Plans.

(1) The topsoil (a minimum of three inches) shall be replaced and vegetation shall be re-established to minimize soil erosion.

(2) During and after construction, slopes shall be protected from erosion by a quick establishment of vegetative cover, benches, terraces, mulches, or other acceptable protection devices or practices. Stands of existing vegetation adequate to control erosion should be preserved wherever possible.

(3) Subdivisions located within shoreland areas must also refer to Article VI, Division 16, of the Wyoming Zoning Ordinance.

(4) The City Council may require that a sufficient surety be posted and payable to the City for use in correcting problems on public or private lands caused by erosion and runoff from the development during the construction phase. Such surety shall be maintained until completion of the development or until vegetative cover has been re-established and other measures have been taken to protect the development site to the approximate extent existing before vegetation removal, land shaping and improvement construction were commenced.

(5) Plans for surface water runoff and drainage shall be required and reviewed by the City Engineer, Planning Commission, and City Council prior to Final Plat approval.

(6) The subdivision should be so designed for the drainage system to utilize to the greatest extent possible existing natural overland flows, open channels and drainage routes.

(7) The drainage system shall be constructed and operational during the initial phase of construction.

Sec. 32 - 83. Street Plan.

(1) Proposed streets shall conform to State, County, and City street plans and specifications as have been prepared, adopted and/or filed as prescribed by law.

(2) Streets shall be logically related to topography so as to produce usable lots and reasonable grades.

(3) Access shall be given to all lots and portions of the tract in the subdivision, and easement to adjacent unsubdivided territory unless the topography clearly indicates that such connection is not feasible. Reserved strips and land-locked areas shall not be created.

(4) Minor streets shall be laid out to discourage their use by through traffic and where possible, thoroughfares shall be protected for use by through traffic by marginal access streets, lots served by an interior street or other means.

(5) Half or partial streets will not be permitted, except where essential to reasonable subdivision of a tract in conformance with the other requirements and standards of these regulations and, in addition, satisfactory assurance for dedication of the remaining part of the street can be secured.

(6) Wherever a tract to be subdivided borders an existing half or partial street the other part of the street shall be platted within such tract.

(7) Dead-end streets shall be prohibited, except as stubs to permit future streets extension into adjoining tracts, or when designed as cul-de-sac roads.

(8) Private streets and reserve strips shall be prohibited and no public improvements shall be approved for any private street. All streets shall be dedicated for public use.

(9) The arrangement of streets in new subdivisions shall make provision for the appropriate continuation of the existing streets in adjoining areas.

(10) Where adjoining areas are not subdivided, but are suitable for future subdivision, the arrangements of streets shall make provision for the proper projection of streets into adjoining areas by carrying the new streets to the boundaries of the new subdivision at appropriate locations. To the extent possible, link streets to other developable properties in all four cardinal directions.

(11) Where a subdivision abuts or contains an existing or planned right-of-way of a major thoroughfare, or railroad, the proposed new streets which parallel the right-of-way may be required to be designed with adequate separation from such thoroughfare or railroad. The service streets shall be located at a distance suitable for appropriate use of the intervening land for park purposes or for commercial or industrial purposes if in appropriate districts. The distances shall be determined considering the requirements of approach grades.

(12) Street arrangements shall not cause hardship to owners or adjoining properties in platting their own land and providing convenient access to it.

Sec. 32 - 84. Cul-De-Sac Streets.

(1) Unless future extension is clearly impractical or undesirable, the street right-of-way shall be continued with the same right-of-way width to the property line to permit future extension of the street into the adjoining tract. A temporary turnaround right-of-way shall be provided at an appropriate location near the property line.

(2) Lots with frontage at the turnaround section of the cul-de-sac shall have a usable amount of road frontage, but in no case less than sixty (60) feet, and shall meet the lot width requirement at the building setback line for the zoning district in which the property is located.

(3) The maximum length of a cul-de-sac street is six hundred (600) feet.

Sec. 32 - 85. Street Design.

(1) General Design. The design of all streets shall be considered in their relation to: public safety; existing and planned streets; efficient circulation of traffic; topographical conditions; run-off of stormwater; and proposed uses of the land to be served by such streets. The arrangement of streets in new subdivisions shall make provisions for the appropriate continuation of existing streets in adjoining unsubdivided land, and when required, the new streets shall be carried to the boundaries of such unsubdivided land. All new streets shall also conform to the Comprehensive Plan and other adopted Planning documents.

(2) Pavement Width. Decisions regarding pavement width have significant consequences for a number of characteristics including resultant vehicle speeds, visual scale, and the cost of construction and maintenance, and therefore are of great importance in designing a community. The width of a street should be based upon both the volume and type of expected traffic and the amount of on-street parking that will be generated, as well as upon the place of the street in the street hierarchy: cul-de-sac, local street, collector and arterial. The selection of appropriate pavement widths must account for probable peak traffic volume and type of road usage, parking needs and controls, likely vehicle speeds, limitations imposed by sight distances, climate, terrain, and maintenance requirements. The minimum width that will reasonably satisfy all realistic needs shall be selected, thereby minimizing construction and average annual maintenance costs.

Right-of-Way and Pavement Widths		
Street Classification	**Right-of-Way Width**	**Pavement Width (between curb faces)**
Local	60	28
Collector	66 to 80	36
Minor Arterial	80 to 120	Varies

(a) The right-of-way width shall be sufficiently wide to accommodate the street pavement and other facilities and uses, including sidewalks, utilities, drainage, boulevard trees, snow storage, and grading. The City may require the right-of-way to be wider if circumstances merit it.

(b) Removal of Trees. In developments built upon wooded land, the removal of trees shall be minimized to only that which is necessary for the safety of the traveling public, and for reasonable street maintenance.

(3) Where a subdivision abuts or contains an existing street of inadequate width, sufficient additional width shall be provided to meet the above standards.

(4) Additional right-of-way and roadway width may be required to promote public safety and convenience when special conditions require it or to provide parking space in areas of intensive use.

(5) Extensions of existing roads with lesser right-of-way than prescribed above may be permitted exceptions in special cases.

(6) Roads with potential for future continuation into undeveloped adjoining property must be improved to within fifty (50) feet of the property line of the subdivision.

(7) Mailboxes. Mailboxes shall be placed as required by the US Postal Service.

Sec. 32 - 86. Restriction of Access.

(1) Access of minor streets onto State and County State Aid Highways shall not be allowed at intervals of less than five hundred (500) feet.

(2) The Planning Commission may recommend and the City Council may require that the right of access from any portion or lot of platted land to any property in which the public has or will have an interest, including, but not limited to public roads, be dedicated to the state, county or City. When required, the plat shall contain a full and accurate description of the dedication of the right of access, and indicate thereon that said right of access has been dedicated. The dedication shall thereafter become a condition of any transfer or conveyance of a parcel or lot affected by the dedication.

Sec. 32 - 87. Intersection Spacing.

Street jogs with centerline offsets of less than one hundred fifty (150) feet shall not be permitted.

Sec. 32 - 88. Deflections.

When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a centerline radius of not less than one hundred (100) feet.

Sec. 32 - 89. Grades.

Center lines gradients shall not exceed the following:

Street Classification	Gradient (in percent)
Collector	5
Minor or local	8

Sec. 32 - 90. Vertical and Horizontal Curves.

Different connecting street gradients or alignments shall be connected with vertical or horizontal curves. The minimum length, in feet, of these curves shall be consistent with Minnesota State-Aid Street Standards.

Sec. 32 - 91. Intersections.

(1) Angle of Intersection: The angle formed by the intersection of streets shall be ninety (90) degrees.

(2) Intersections of more than four corners shall be prohibited.

(3) Constructed roadways of street intersections shall be rounded by a radius of not less than fifteen (15) feet. Corners at the entrances to the turnaround portions of cul-de-sacs shall be rounded by a radius of not less than fifteen (15) feet.

Sec. 32 - 92. Curb and Gutter on Urban Design Streets.

Curb and gutter shall be included as a part of the required street surface improvements for installation along both sides of urban-designed streets.

Sec. 32 - 93. Utilities.

(1) When available, extensions of the public water supply system shall be designed so as to provide public water service to each lot.

(2) When available, extensions of the public sanitary sewer system shall be designed to provide public sewer service to each lot.

(3) Buried utilities. Buried utilities shall be required of all new developments and shall consist of electrical distribution lines, cable television, telephone cable and gas pipelines. All such utilities shall be installed to the utility companies' specifications at a minimum depth of 18 inches. Open cutting of streets to bury utilities shall not be permitted. Except for street crossings, all utilities shall be located in a ten-foot-wide easement outside the platted street right-of-way. All junction and distribution boxes shall be within the ten-foot-wide easement and one foot behind City right-of-way.

Sec. 32 - 94. Drainage.

(1) A complete and adequate drainage system shall be required for the subdivision and may include a storm sewer system or system of open ditches, culverts, pipes, and catch basins, or both systems. The subdivision should be designed to utilize existing natural flow and drainage routes. Stormwater ponds and conveyance systems shall be sized to ensure there is no net increase in the rate of stormwater runoff from the development.

(2) Runoff design must conform to the requirements of the Comfort Lake – Forest Lake Watershed District and the City's Comprehensive Surface Water Management Plan.

(3) Where existing stormwater from adjacent areas naturally pass through a subdivision, adequate provision shall be included in the subdivision to route the stormwater through the subdivision.

Sec. 32 - 95. Easements.

(1) Utility Easements: Easements shall be provided for utilities where necessary.

(a) A five (5) foot wide side, or rear yard easement will be required.

(b) On residential streets a fifteen (15) foot wide front yard easement will be required, a ten (10) foot wide front yard easement will be required on all other streets.

(c) On State and County Highways additional right-of-way width shall be dedicated as deemed necessary by Minnesota Department of Transportation and/or the County Engineer. No utility easement will be given adjacent to the highway (whether on the front, side or rear yard of any lot) unless approved by the above-described agencies.

(2) Drainage Easements: Easements shall be provided for drainage where necessary as determined by the City Engineer. In addition, easements shall be provided along each side of the centerline of any watercourse or drainage channel to a sufficient width to provide proper maintenance and protection and to provide for storm water run-off an installation and maintenance of storm sewers.

(3) Dedication: Utility and drainage easements shall be dedicated on the Final Plat for the required use.

Sec. 32 - 96. Street Names.

Names of new streets shall not duplicate existing or platted street names unless a new street is a continuation or in alignment with the existing or platted street. In that event, it shall bear the same name of the existing or platted street; so in alignment, street names shall conform to the Chisago County Street Naming and Property Numbering System as applicable.

Sec. 32 - 97. Block Requirements.

Blocks shall meet the following standards:

(1) Block size and dimensions within bounding streets shall be such as to accommodate the size of residential lots required in the area by the zoning ordinance and shall provide for convenient access, circulation control and safety of street traffic.

(2) In residential areas, other than water fronting, blocks shall not be less than six hundred (600) feet nor more than one thousand three hundred twenty (1320) feet in length measured along the greatest dimensions of the enclosed block area, unless minor exceptions are necessitated by topography or conformance with adjoining plat.

(3) Blocks for commercial and industrial areas may vary from the elements of design contained in this section if the nature of the use requires other treatment. In such cases, off street parking for employees and customers shall be provided along with safe and convenient limited access to the street system. Space for off-street loading shall also be provided with similar access. Extensions of right-of-way for roads, railroads, and utilities shall be provided as necessary.

(4) Blocks shall be wide enough to allow two tiers of lots with a minimum depth as required by the City Zoning Ordinance except when adjoining a lake, stream, railroad, or thoroughfare or where one tier of lots is necessary because of topographic features.

Sec. 32 - 98. Lot Requirements.

(1) The number of lots that are accessed directly by a collector or arterial street shall be minimized.

(2) Side lot lines shall be substantially at right angles to straight road lines or radial to curved road lines or radial to lake or stream shores unless topographic conditions necessitate a different arrangement.

(3) Each lot shall front upon a public street for the minimum lot width required.

(4) No lot shall have less area or width than is required by the zoning regulations applying to the area in which it is located, except as herein provided.

(5) Lots designed for commercial or industrial purposes shall provide adequate off-the-street service, loading and parking facilities.

(6) Corner lots shall be platted at least fifteen (15) feet wider than interior lots.

(7) Butt lots in any subdivision are to be discouraged.

(8) Through or double frontage lots shall not be permitted except where such lots abut a thoroughfare or major highway. Such lots shall have an additional depth of ten (10) feet for screen planting along rear lot line.

(9) Lots abutting upon a watercourse, drainageway, channel, or stream shall have an additional depth or width, as required to obtain the height necessary to assure building sites that are not subject to flooding.

(10) Lots with lakeshore frontage shall be designed so that the lot lines extended shall maintain the closest approximation to riparian rights.

(11) In the subdividing of any land, regard shall be shown for all natural features, such as tree growth, water courses, historic spots, or similar conditions, which if preserved will add attractiveness and stability to the proposed development.

(12) All remnants of lots below minimum size left over after subdividing a larger tract must be added to adjacent lots, or a plan shown as to future use rather than be allowed to remain as unusable parcels.

(13) In the case where a proposed plat is adjacent to a limited access highway, other major highway, or thoroughfare, there shall be no direct vehicular access from individual lots to such streets and roads. In the platting of small tracts of land fronting on limited access highways or thoroughfares where there is no other alternative, a temporary entrance may be granted; as neighboring land becomes subdivided and a preferable access arrangement becomes possible, such temporary access permits shall become void.

(14) Lots extending over school district lines are prohibited.

(15) Lots extending over political subdivision boundaries are prohibited.

(16) The lot size, width, shape and orientation shall be appropriate for the proposed type of development and shall meet the minimum requirements of the zoning district according to the City Zoning Ordinance in effect on approval of the Preliminary Plat.

(17) The depth of a lot shall not be greater than four times the width.

Secs. 32 – 99—32 – 109. Reserved.

ARTICLE VI. IMPROVEMENTS

Sec. 32 – 110. Required Improvements.

Prior to the approval of a plat by the City, the subdivider shall agree to install in conformity with all applicable standards and ordinances the following improvements on the site:

(1) Survey Monuments. All subdivision boundary corners, block and lot corners, road intersection corners and points of tangency and curvature shall be marked with survey monuments meeting the minimum requirements of state law. All U.S., State, County and other official bench marks, monuments or triangulation stations in or adjacent to the property shall be preserved in their precise position unless a relocation is approved by the controlling agency.

(2) All streets must conform to the City of Wyoming's road specifications in force at the time of the approval of the Preliminary Plat. All new City roads are required to be blacktopped before acceptance.

(3) A one-year warranty bond shall be provided for all final wear courses on streets in the plat.

(4) All materials and workmanship on improvements in the plat must be warrantied for one year.

(5) Storm Water Drainage: A drainage system design shall be required, and may include a storm sewer system or a system of open ditches, culverts, pipes, catch basins, and ponding areas, swales and “rain gardens.” Such facilities and easements shall be installed so as to adequately provide for the drainage of surface waters, as needed in the public interest for purposes of flood plain management, property drainage, prevention of erosion, pedestrian access to water bodies, or other public purposes. If there is a watershed district, that Board must approve all surface water drainage as well.

(6) Street System: Streets must meet the minimum requirements set forth in Article 5 of this ordinance. Streets shall not be accepted until they have been inspected and approved by the City.

(7) Utilities: Trunk Facilities. Where a larger size water main, sanitary sewer, storm drain, or similar facility is required to serve areas outside the subdivision, the larger facility must be constructed. Additional cost is to be borne by the City of Wyoming or the owners of benefiting properties through assessments determined and levied by the City.

Sec. 32 – 111. Sewer and Water in Areas with Municipal Sewer/Water Availability.

(1) Sewer lines. No public sanitary sewer facilities shall be extended which are not in conformance with the existing sewer lines or with the Comprehensive Plan.

(2) Where trunk line sanitary sewer facilities are available, the subdivider shall install sanitary sewers and connect such sanitary sewers to trunk line sewers. Extensions of the public sewer system shall be designed to provide public sewer service to each lot.

(3) Water mains. No public water main facilities shall be extended that are not in conformance with the existing watermain or with the Comprehensive Plan.

(4) Where mains from a public water system are available, the subdivider shall install water mains in the plat and connect such mains to the public water system. Extensions of the public water supply system shall be designed to provide public water service to each lot.

(5) Where the subdivision is located within the service area of a public water supply system, water mains not less than eight (8) inches in diameter shall be constructed throughout the entire subdivision in such a manner as to serve adequately all lots and tracts with connection to such public system together with shut-off valves and fire hydrants at intervals in accordance with recommendations of the Fire Insurance Underwriters Bureau.

Sec. 32 – 112. Sewer and Water in Rural and Urban Areas where Municipal Systems are not Currently Available.

(1) Where lots cannot be connected with a public sewage system, provisions must be made for sanitary sewage facilities, consisting of central treatment plant or individual disposal devices for each lot. This does not mean that the installation of individual disposal devices shall be at the expense of the subdivider.

(2) Any subdivision or lot not provided with off-site water and off-site sewer facilities shall be subject to soil and percolation tests to determine whether or not the proposed lot size will meet minimum standards of health and sanitation due to limitations of soils. Such tests shall be made at the expense of the subdivider after consultation with the Zoning Administrator. The Preliminary Plat or a sketch map shall identify the specific locations where tests were made. All sewage disposal systems shall comply with standards of the City of Wyoming, Chisago County, the Minnesota Department of Health, and Minnesota Pollution Control Agency.

(3) A water supply system for all areas shall be designed to meet the regulations and standards of the City, County, and the Minnesota Department of Health. Where connection with a public water system is feasible, the public water facilities shall be utilized.

(4) An individual well shall be constructed according to Minnesota State Code.

Sec. 32 – 113. Street Signs.

All street signs shall be provided and installed by the subdivider and at the expense of the subdivider. Signs shall conform with City standards.

Sec. 32 – 114. Miscellaneous Facilities.

Tree planting, traffic controls signs, over-sized utility trunk lines, pedestrian ways, and other improvements may be required.

Sec. 32 – 115. Payment for Installation of Improvements.

The required improvements as listed elsewhere are to be furnished and installed at the sole expense of the subdivider. However, if by general policy the cost of an improvement is paid out of general tax levy, provisions may be made for the payment of a portion of the cost by the community. Further, if any improvements installed within the subdivision will be of substantial benefit to lands beyond the boundaries of the subdivision, provision may be made for causing a portion of the cost of the improvements, representing the benefit to such lands, to be assessed against the same. In this situation, the subdivider will be required to pay only for that portion of the whole cost that represents the benefit to his subdivision.

Sec. 32 – 116. Agreement Providing for the Installation of Improvements.

(1) Prior to the installation of any required improvements and prior to approval of the plat, the subdivider shall enter into a contract in writing, requiring the subdivider to furnish and construct said improvements at his sole cost and in accordance with plans and specifications and usual contract conditions. This shall include provisions for supervision of details of construction by the City Engineer and shall grant to the City Engineer authority to correlate the work to be done under said contract by any subcontractor authorized to proceed thereunder and with any other work that is done or contracted by the community in the vicinity. The agreement shall require the subdivider to make an escrow deposit, a performance bond, or a letter of credit from a bank or corporate surety, as the case may be, equal to one hundred and fifty percent (150%) of the City Engineers estimate of the total cost of the improvements showing the subdivider has adequate financial backing.

(2) The City shall allow, upon approval by the City council of the Final Plat and recording of the Final Plat, the issuance of a building permit if the grading, drainage, subbase and base on all roads and streets have been accepted by the City engineer. The subdivider has one year from the date of issuance of the irrevocable letter of credit to complete all remaining work or the City shall complete the work and draw upon the irrevocable letter of credit. No certificate of occupancy shall be issued until the acceptance of all roads and streets by the City council.

(3) No subdivider shall be permitted to start work on any other subdivision without special approval of the City if he has previously defaulted on work or commitments.

Sec. 32 – 117. Release of Financial Securities.

Upon acceptance of the City Council of the completed project and any warranty items, the remaining balance of monies, letters of credit, or other financial securities shall be released and returned to the subdivider.

Sec. 32 – 118. Insurance.

The subdivider shall provide evidence to the City of the builder's risk and liability insurance in sufficient amounts to cover the work and satisfy state and county requirements.

Sec. 32 – 119. Construction Plans and Inspection.

Construction plans for the required improvements shall conform in all respects with the standards and ordinances of the City and shall be prepared at the subdivider's expense by the appropriate professional engineer, architect, land surveyor or landscape architect who is registered in the State of Minnesota, and said plans shall contain his certificate. Such plans together with the quantities of construction items shall be submitted to the City Engineer for his approval and for his estimate of the total costs of the required improvements. Upon approval, such plans shall become a part of the required contract. Two prints of the approved plans shall be furnished to the City to be filed as a public record and an additional print shall be given to Chisago County.

(1) All required improvements on the site that are to be installed under the provisions of this regulation shall be inspected during the course of construction by the City Engineer and paid for by the developer.

Sec. 32 – 120. Improvements Completed Prior to Approval of the Plat.

Improvements within a subdivision which have been completed prior to application for approval of the plat or execution of the contract for installation of the required improvements shall be accepted as equivalent improvements in compliance with the requirements only if the engineer shall certify that he is satisfied that the existing improvements conform to applicable standards.

Sec. 32 – 121. Alternate Installation and Incomplete Improvements.

The City may elect to install any or all of the required improvements pursuant to a cash escrow agreement or other financial arrangements with the subdivider.

(1) It is the policy of the City that full and complete utility systems be installed in all needed areas as soon as it is practicable and feasible. Accordingly, the City shall proceed as soon as it is practical after approval of a Preliminary Plat with installation within the subdivision of such improvements as may be determined to be necessary. In the event of small subdivisions or in subdivisions in which development may proceed slowly, or in other events in which construction of surface streets, sidewalks, utility lines, or other improvements is clearly not feasible immediately following the approval of the plat, the City may elect to commence assessment proceedings, utilize funds of a cash escrow agreement, or otherwise move to finance and install improvements when the subdivision is developed to the point of warranting the improvements. Such improvements are required in order to provide greater assurance of public health, assure reliability of water supply, provide for economy of installation, provide more effective firefighting through hydrants, and otherwise protect the public health, safety, convenience and general welfare.

Sec. 32 – 122. Acceptance of Improvements.

Unless constructed and reviewed according to the provisions provided in this article, no new road or upgraded existing street shall be accepted by the City as a public street or road.

Secs. 32 – 123—32 – 129. Reserved.

ARTICLE VII. OTHER TYPES OF DEVELOPMENTS

Sec. 32 - 130. Planned Unit Developments and Cluster Developments.

Upon receiving a report from the Planning Commission, the City may accommodate planned unit developments or cluster developments as defined in the Zoning Ordinance, provided that the City shall find that the proposed development is fully consistent with the purpose and intent of these regulations. This provision is intended to provide the necessary flexibility for new land Planning and land development trends and techniques.

(1) A detailed plan must be submitted for any proposed cluster or planned unit development, showing all proposed structures, uses, trafficways, sidewalks, landscaping, off-street parking, common open spaces and other features and facilities prior to approval by the City.

Sec. 32 – 131. Condominium Plats.

In the City condominium plats shall conform to Minnesota Statute 515A Uniform Condominium Act.

Secs. 32 – 133—32 – 139. Reserved.

ARTICLE VIII. REPEAL AND DATE OF EFFECT

Sec. 32 - 140. Repeal of Previous Subdivision Ordinance.

The City of Wyoming Subdivision Ordinance, Chapter 32, adopted by the City Council of the City of Wyoming on the 16th day of February 1999, and all amendments and extensions thereof are hereby repealed.

Sec. 32 – 141. Date of Effect.

Passed and approved by the City Council of the City of Wyoming this 15th day of June, 2010.

(ORDINANCE NO.2010-08)

Chapter 33 RESERVED

Chapter 34 TRAFFIC*

***Cross references:** Any ordinance establishing traffic or parking regulations on any street or public way, including traffic schedules saved from repeal, § 1-9(10); junked and abandoned vehicles, § 16-61 et seq.; law enforcement, ch. 20; offenses and miscellaneous provisions, ch. 22; trucks and motor vehicles for collection of solid waste, § 26-38; streets, sidewalks and other public places, ch. 30.

State law references: Traffic regulations, Minnesota Statutes § 169.01 et seq.; local authority, Minnesota Statutes § 169.04.

Article I. In General

Sec. 34-1. State act adopted by reference.

Secs. 34-2--34-30. Reserved.

Article II. Operation

Sec. 34-31. Unnecessary acceleration.

Secs. 34-32--34-60. Reserved.

Article III. Parking

Division 1. Generally

Sec. 34-61. Definitions.

Sec. 34-62. Parking during snow removal.

Sec. 34-63. Owner responsible.

Sec. 34-64. Moving of vehicle required.

Sec. 34-65. Impounding vehicles.

Sec. 34-66. Trucks.

Sec. 34-67. Parking and Storage Prohibition.

Sec. 34-68. Penalties.

Secs. 34-68--34-100. Reserved.

Division 2. Snow Removal

Sec. 34-101. Personal properties.

Sec. 34-102. Prohibition.

Secs. 34-103--34-135. Reserved.

Article IV. Snowmobiles and Off-Road Vehicles Rules and Regulations

Division 1. Snowmobiles

Sec. 34-136. Definitions.

Sec. 34-137. Uses specifically prohibited.

Sec. 34-138. Crossing a public road right-of-way.

Sec. 34-139. Traffic ordinances applicable.

Sec. 34-140. Yielding right-of-way.

Sec. 34-141. Operation; persons under 18.

Sec. 34-142. Equipment required.

Sec. 34-143. Ignition lock.

Sec. 34-144. Emergencies, operation permitted.

Sec. 34-145. Uses prohibited; animals.

Sec. 34-146. Established Riding Area.

Sec. 34-147. Exemptions

Division 2. Off Road Vehicles

Sec. 34-160. Definitions.

Sec. 34-161. Uses specifically prohibited.

Sec. 34-162. Crossing a public road right-of-way.

Sec. 34-163. Traffic ordinances applicable.

Sec. 34-164. Yielding right-of-way.

Sec. 34-165. Youthful Operators.

Sec. 34-166. Equipment required.

Sec. 34-167. Ignition lock.

Sec. 34-168. Emergencies, operation permitted.

Sec. 34-169. Uses prohibited; animals.

Sec. 34-170. Established Riding Area.

Sec. 34-171. Exemptions

Article V. Recreational Motor Scooter, Motorized Push Scooter and Motorized Skateboard Rules and Regulations

Sec. 34-200. Purpose and intent.

Sec. 34-201. Unlawful Operation - 50 CC Motors or Less.

Secs. 34 – 202—34 – 299. Reserved.

ARTICLE I. IN GENERAL

Sec. 34-1. State act adopted by reference.

Minnesota Statutes ch. 169, known as the Highway Traffic Regulation Act, is adopted as a traffic ordinance regulating the use of streets and is incorporated and made a part of this chapter as completely as if set out in full in this section.

State law references: Traffic regulations, Minnesota Statutes ch. 169; local authority, Minnesota Statutes § 169.04.

Secs. 34-2--34-30. Reserved.

ARTICLE II. OPERATION

Sec. 34-31. Unnecessary acceleration.

Any person who accelerates a motor vehicle in the city at an unnecessarily great rate, or in a manner that causes the wheels to spin upon the roadway, or causes illegal exhaust noise is guilty of a petty misdemeanor.

Secs. 34-32--34-60. Reserved.

ARTICLE III. PARKING*

_____

***Cross references:** Off-street parking and loading, § 40-601 et seq.

_____

DIVISION 1. GENERALLY

Sec. 34-61. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Motor vehicle means all vehicles propelled by any means other than muscular power.

Cross references: Definitions generally, § 1-2.

Sec. 34-62. Parking during snow removal.

Upon notice by any police officer, employee or official of the city or when special signs declaring a snow removal emergency are posted along and/or on a street, highway or alley, no person shall park a motor vehicle on that street, highway or alley within the city until the snow removal has been completed. Notice means a written warning ticket placed on the vehicle involved or actual personal notice to the registered owner of the vehicle. An unsuccessful attempt to locate the registered owner by telephone or personal contact of the need to move the vehicle or informing a person of suitable age and discretion who is normally at the registered owner's place of business or residence of the need to move the vehicle shall be deemed sufficient notice.

Sec. 34-63. Owner responsible.

The presence of a vehicle in or upon any public street, alley or highway in the city, stopped, standing or parked in violation of this article shall be prima facie evidence that the person in whose name the vehicle is registered as owner has committed or authorized the commission of such violation.

Sec. 34-64. Moving of vehicle required.

Notwithstanding any other provision in this article, upon order of an authorized peace officer, the owner or operator of any vehicle shall remove his vehicle from where it is parked immediately upon receiving the order. If the owner or operator fails to move the vehicle, the peace officer may have it removed at the expense of the owner or operator, who shall be liable for the cost of removal and storage.

Sec. 34-65. Impounding vehicles.

Any vehicle left parked or standing on any public street, alley or highway in the city in violation of any of the provisions of this division is declared to be a nuisance and may be removed by means of towing or otherwise, under the direction of or at the request of a police officer. The vehicle shall be surrendered to the duly identified owner or his agent only upon payment of all necessary costs and expenses in towing, removing and storage. Impounding a vehicle pursuant to this section does not prevent or preclude the institution and prosecution of proceedings for violation of this division against the owner or operator of such impounded vehicle. The city is not responsible for any damage to the vehicle removed and impounded in accordance with the provisions of this section.

Sec. 34-66. Trucks.

(a) *Parking trucks restricted.* It is unlawful for any person owning, driving or in charge of a vehicle of any of the types specified in subsection (a)(1)--(4) to cause or permit the vehicle to be parked on any residential property or on any public street in the city. This prohibition applies to the following vehicles and other similar vehicles:

(1) Any bus designed to carry more than nine persons.

(2) Any motor vehicle licensed for more than 12,000 pounds gross weight.

(3) Any tractor, truck tractor, truck trailer or any type of truck trailer.

(4) Any cube type, step-van/step/truck type, flat bed, tow truck or dump box type pickup truck, or similar type vehicles.

(b) *Exceptions.* Subsection (a) of this section does not apply to the following vehicles:

(1) Any motor truck, pickup or similar vehicle being used by a public utility, moving company or similar vehicle being used by a public utility, moving company or similar company, which is actually being used to service a residence not belonging to or occupied by the operator of the vehicle.

(2) Any vehicle which is actually making a pickup or delivery at the location where it is parked. Parking shall not be for any period of time beyond that reasonably necessary to make such pickup or delivery.

(3) Recreational vehicles and equipment.

(4) Any vehicle with respect to which a permit has been issued by the city.

(c) *Trucks prohibited.* No truck licensed for over 12,000 pounds gross weight may be driven on any street in the city unless a permit is obtained from the city clerk-administrator, except that:

(1) Any truck properly licensed by the state may be driven on East Viking Boulevard, Fallbrook Street, Railroad Boulevard from East Viking Boulevard to the sanitary landfill, and all state highways and county roads.

(2) The following vehicles may be driven on any other street:

a. Vehicles being operated under a license from the city.

b. Utility maintenance and service trucks.

(d) Permanent weight restrictions.

(1) Except as otherwise provided in this ordinance or as posted, no vehicle having an axle weight in excess of five tons shall use or travel upon any road under the jurisdiction of the city. The public works Superintendent shall post any roads under the jurisdiction of the city which have a weight limit of less than five tons per axle with appropriate signs.

(2) The restrictions imposed in (1) do not apply to municipal vehicles, public safety vehicles, septic trucks, delivery trucks with a residential delivery address on the posted city road, garbage or recycling vehicles while on their collection routes, school buses or agricultural equipment servicing adjacent property.

(e) Seasonal Weight Restrictions.

(1) The public works Superintendent shall determine the seasonal weight restrictions to be applied to all roads under the jurisdiction of the city and the dates during which such limitations shall apply. The public works Superintendent shall post city roads with signs indicating the applicable weight limitations and make that information available through such other means as may be appropriate, including on the city's website.

(2) The restrictions imposed in subdivision (1) do not apply to municipal vehicles, public safety vehicles, septic trucks, delivery trucks with a residential delivery on the posted city road, garbage or recycling vehicles while on their collection routes, school buses or agricultural equipment servicing adjacent property. All such vehicles and equipment shall be posted tons per axle during the period of seasonal weight limits.

(f) Administrative regulation of roads.

The public works Superintendent shall monitor the condition of all roads under the jurisdiction of the city. Whenever the public works Superintendent determines that the use of any city road has or is likely to endanger public health or safety or that such use has or may damage or destroy the road due to any condition, including but not limited to road deterioration, rain, snow, climatic conditions, or soil or subsurface conditions, the public works Superintendent may regulate, restrict, or prohibit traffic on the road. The public works Superintendent may set conditions or limitations on the use of the road to protect public health and safety or to prevent damage to the road, including requiring that a letter of credit or other financial guarantee be posted to compensate the city for damage to the road, establishing haul routes and restricting hours of operation. Any person aggrieved by a decision of the public works Superintendent regarding regulation of traffic under this section may appeal that decision to the city council. The city council may continue, modify or terminate the regulations as it deems appropriate in order to protect public health and safety and to prevent or minimize damage to city roads.

(g) 915.09. Minnesota Statutes, Chapters 168, 169 and 171 adopted by reference.

(1) Except as otherwise provided in this ordinance, the regulatory and procedural provisions of Minnesota Statutes, Chapter 168, Chapter 169 and Chapter 171, as amended, are hereby incorporated herein and adopted by reference.

(h) Violations and liabilities for damages.

(1) Any person violating this ordinance shall be guilty of a misdemeanor for each such violation. In addition to the driver or operator, the owner of any vehicle operated with the owner's permission or consent shall also be liable for any violation of this ordinance. Any person who violates a duly established weight or other vehicle restriction shall be liable to the city for the full amount of the damages caused by such violation.

Sec. 34-67. Parking and Storage Prohibition.

(1) No person shall park any motorized vehicle or non-motorized vehicle on any street, highway, road or thoroughfare within the City of Wyoming between the times of 2:00 a.m. and 6:00 a.m.

(2) No person shall place or store roll-off refuse containers within any city right-of-way.

ORDINANCE NO. 06-18-01B & 2013-03

Sec. 34-68. Penalties.

Any person violating any provision of this article shall be guilty of a petty misdemeanor.

Secs. 34-68--34-100. Reserved.

DIVISION 2. SNOW REMOVAL

Sec. 34-101. Personal properties.

(a) Mailboxes damaged during snow removal will be evaluated on a case-by-case basis. Only the mailboxes that are damaged by actual contact with city equipment will be repaired at city expense.

(b) The city will not be liable for damage to fences, vehicles and other objects parked or placed on city rights-of-way.

Sec. 34-102. Prohibition.

(a) No person shall park or leave standing any vehicle upon any street in the city after a snowfall of two or more inches, nor upon any street which is covered or had deposited on it two or more inches of snow, until snow has been plowed from curb to curb. If any vehicles are removed under the direction of any peace officer, city maintenance department employee, or the city clerk-administrator, within 72 hours of the removal or impounding, notice shall be given by the peace officer or city employee to the owner of record of such vehicle. Notice may be given in person, by telephone, or, if necessary, by letter. No vehicle will be released until all fines and towing charges has been paid in full. The city does not assume any responsibility for any damage done during towing or impounding of such vehicles.

(b) No person shall remove snow from private driveways or parking lots and deposit snow onto or across any public street. However, the city council may grant permission in exceptional circumstances.

(c) The owner or resident of any property abutting any public sidewalk shall be obligated to remove all ice and snow. All ice and snow from the sidewalk shall be removed within 24 hours after the ice or snow has ceased to fall.

(d) It shall be the responsibility of the owner or resident of any property to remove snow around mailboxes.

(e) There shall be no temporary obstructions such as garbage containers, rubbish, etc., placed on the boulevard or street in such a manner as to interfere with snowplowing operations by the city.

Secs. 34-103--34-135. Reserved.

ARTICLE IV. SNOWMOBILES AND OFF-ROAD VEHICLES RULES AND REGULATIONS

DIVISION 1. SNOWMOBILES

Sec. 34-136. Definitions.

The following words, terms and phrases, when used in this Division , shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

(1) **Commissioner:** The Commissioner of the Department of Natural Resources.

(2) **Deadman throttle or safety throttle:** A device which when pressure is removed from the engine accelerator or throttle, causes the motor to be disengaged from the driving mechanism.

(3) **Established Riding Area:** Means trails or area on a lot used by a snowmobile.

(4) **Natural terrain:** Areas other than roadways, driveways (private or public), parking lots and other areas the surface of which has been intentionally modified for motor vehicle operation thereon.

(5) **Operate:** To ride in or on and have control of the operation of a snowmobile.

(6) **Operator:** Every person who operates or is in actual physical control of a snowmobile.

(7) **Owner:** A person, other than a lienholder, having the property in, or title to, a snowmobile entitled to the use or possession of the snowmobile.

(8) **Public Roads:** Any city, municipal, county, state or federal road or highway.

(9) **Residential Subdivision:** A plat that legally describes parcels by lot and block numbers.

(10) **Right–Of-Way:** The entire strip of land traversed by any highway, street, county road or roadway easement for the purpose of vehicle travel, and includes the entire width of the land dedicated or acquired by law for right-of-away purposes.

(11) **Roadway:** That portion of the improved right-of-way designed or ordinarily used for vehicle travel, including the shoulder.

(12) **Snowmobile:** A self-propelled vehicle designed for travel on snow or ice and steered by skis or runners.

Sec. 34-137. Uses specifically prohibited.

Except as specifically permitted and authorized in this Division, it is unlawful for any person to operate a snowmobile not licensed as a motor vehicle under the following conditions within the city:

(1) On the portion of any right-of-way of any public highway, street, road, trail or alley used for motor vehicle travel; except:

(a) A snowmobile may operate upon the right-hand lane of a municipal street or alley and may in passing or making a left turn operate on other lanes which are used for vehicle traffic in the same direction, for purposes of going to or returning from a nonhighway area of permissible operation, by the most direct route. Snowmobiles may also be operated upon the ditch bottom or the outside bank of trunk, county state-aid, and county highways where such highways are so configured within the corporate limits.

(b) Nothing in this ordinance is intended to prohibit the crossing of a City or County Right-of-Way, which is otherwise allowed by Minnesota Statues § 84.87 and 84.928.

(c) Nothing in this ordinance is intended to prohibit the operation of a snowmobile upon a waterway, the shoulder, inside bank, or slope of any public highway, street, road, trail, or alley as permitted by Minnesota Statute s § 84.87, Subd. 3.

(2) No person shall operate a snowmobile on any street in the city between the hours of 10:00 p.m. and 6:00 a.m. Sunday through Thursday, or between the hours of 12:00 midnight and 6:00 a.m. on Friday and Saturday, except going to or from their usual place of residence at a reduced speed and using the most direct route.

(3) On a public sidewalk provided for pedestrian travel.

(4) On private property of another without lawful authority or permission of the owner or occupant.

(5) On public grounds, park property, playgrounds, recreational areas without the express provision or permission to do so by the city.

(6) Snowmobiles shall not exceed a speed of 20 M.P.H. on local city streets.

(7) At a rate of speed greater than reasonable or proper under all surrounding circumstances.

(8) At any place in a careless, reckless or negligent manner or heedlessly in disregard of the rights or safety of others, or in a manner so as to endanger or be likely to endanger or cause injury or damage to any person or property.

(9) In a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of another person.

(10) To tow any person or thing except through use of a rigid tow bar attached to the rear of the snowmobile.

(11) At any place while under the influence of alcohol or drugs as defined in Minnesota Statutes § 169A.

(12) Within one hundred (100) feet of any fisherman, pedestrian, skating rink, or sliding area where the operation would conflict with use, or endanger other persons or property.

(13) On boulevards within any public right-of-way.

(14) On a trail not specified for snowmobile use.

Sec. 34-138. Crossing a public road right-of-way.

A snowmobile may make a direct crossing of a public road right-of-way, other than an interstate highway or freeway, provided:

(1) The crossing is made at an angle of approximately ninety (90) degrees to the direction of the road and at a place where no obstruction prevents a quick and safe crossing.

(2) The snowmobile first comes to a complete stop at the edge of the shoulder or the main-traveled way of the road.

(3) The operator yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.

(4) In crossing a divided road, the crossing is made only at an intersection of the road with another public road; and

(5) If the crossing is made between the hours of one-half hour after sunset to one-half hour before sunrise or, in conditions of reduced visibility, only if both front and rear lights are on.

Sec. 34-139. Traffic ordinances applicable.

(1) City and State traffic regulations shall apply to the operation of snowmobile upon streets and highways, except for those relating to required equipment, those, which by their nature have no application, and those inconsistent with the provisions in this article.

Sec. 34-140. Yielding right-of-way.

No snowmobile shall enter any intersection without yielding the right-of-way to any vehicles or pedestrians at the intersection, or so cross the intersection as to constitute an immediate hazard.

Sec. 34-141. Operation; persons under 18.

No person under fourteen (14) years of age shall operate a snowmobile on streets or the roadway surface of highways or make a direct crossing of a trunk, county state-aid, county highway, or city streets. A person fourteen (14) years of age or older, but less than eighteen (18) years of age, may operate a snowmobile as permitted under this Division and make a direct crossing of the streets and highways only if he has in his immediate possession a valid safety certificate issued by the Commissioner, as provided by Minnesota Statutes § 84.872 or 84.9256.

Sec. 34-142. Equipment required.

It is unlawful for any person to operate a snowmobile any place within the limits of the city unless it is equipped with the following:

(1) Standard mufflers which are properly attached and which reduce the noise of operation of the motor to the minimum necessary for operation.

(a) No person shall use a muffler cutout, bypass straight pipe, or similar device on a snowmobile motor.

(2) Brakes adequate to control the movement of and to stop and hold the snowmobile under any condition of operation.

(3) A safety, or so-called deadman throttle in operating condition.

(4) When operated between the hours of one-half hour after sunset and one-half hour before sunrise or at a time of reduced visibility, at least one clear lamp attached to the front, with sufficient intensity to reveal persons and vehicles at a distance of at least one hundred (100) feet ahead during the hours of darkness and under normal atmospheric conditions. The headlamp shall be so aimed that glaring rays are not projected into the eyes of an oncoming snowmobile operator. It shall also be equipped with at least one red tail lamp having a minimum candlepower of sufficient intensity to exhibit a red light plainly visible from a distance of five hundred (500) feet to the rear during hours of darkness under normal atmospheric conditions.

(5) Reflective material at least sixteen (16) square inches on each side, forward of the handlebars or steering device of a snowmobile and at the highest practical point on any towed object, as to reflect light at a 90-degree angle.

Sec. 34-143. Ignition lock.

Every person leaving a snowmobile on a public place or way shall lock the ignition, and remove and take the keys with him.

Sec. 34-144. Emergencies, operation permitted.

Notwithstanding any other provisions in this article, a snowmobile may be operated on a public thoroughfare in an emergency during the period of time and at locations where snow upon the roadway renders travel by automobile impractical.

Sec. 34-145. Uses prohibited; animals.

It is unlawful to intentionally drive, chase, run over, or kill any animal with a snowmobile.

Sec. 34-146. Established Riding Area.

(1) The use of a snowmobile within an established riding area is not allowed on a lot or parcel of land of less than two (2) acres in size or within residential subdivisions.

(2) A snowmobile established riding area may be used on lots of two (2) acres or greater in size located within the City on the condition that the riders shall adhere to the following:

(a) The established riding area for a snowmobile is to be located no closer than three hundred (300) feet of a building occupied by humans or livestock, unless the building is also owned by the owner of the established riding area.

(b) Dust and noise control measures are to be maintained by the property owner or occupant. These dust and noise control measures are to be enforced by the City if other properties are adversely affected by dust and noise due to snowmobile use. The owners affected must file a written complaint with the City.

1. Dust control measures shall include, but are not limited to, the planting of twelve (12) foot high coniferous trees planted ten (10) feet on center, or the construction of a six (6) foot minimum board on board style fence, as approved by the City.

2. A snowmobile must have a factory approved exhaust. The noise emission may not exceed one hundred five (105) decibels at a distance of 20 inches during operation, and mufflers may not be altered to increase motor noise, or have a cut out bypass, or similar device.

(c) No more than four (4) riders may operate a snowmobile on the property. A snowmobile may only be operated on the property during the following times: Monday through Friday, 9:00 a.m. through 7:00 p.m.; and Saturdays and Sundays, 10:00 a.m. through 7:00 p.m. Operation of a snowmobile must cease for a minimum of one (1) hour after every two hours of riding.

(d) Operation of a snowmobile shall not be allowed on either primary or secondary septic sites.

Sec. 34-147. Exemptions

With the exception of Sec. 32 – 146, the following uses are exempt from this Ordinance:

(1) Any snowmobile used for the purpose of property maintenance.

(2) Any agent or employee of any road authority, law enforcement or public safety agency, or any agent or employee of the Minnesota Department of Natural Resources or any other governmental body in conducting official business.

(3) Any organized track-racing event that is required to be registered with the Department of Natural Resources.

Secs. 34 – 148—34 – 159. Reserved.

DIVISION 2. OFF ROAD VEHICLES

Sec. 34-160. Definitions.

The following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

(1) **All-terrain vehicle:** A motorized vehicle of not less than three, but not more than six low pressure or non-pneumatic tires, that is limited in engine displacement of less than 1,000 cubic centimeters and includes a class 1 all-terrain vehicle and class 2 all-terrain vehicle.

(a) **Class 1 all-terrain vehicle:** An all-terrain vehicle that has a total dry weight of less than 1,200 pounds.

(b) **Class 2 all-terrain vehicle:** all-terrain vehicle that has a total dry weight of 1,200 to 1,800 pounds.

(2) **Commissioner:** The Commissioner of the Department of Natural Resources.

(3) **Deadman throttle or safety throttle:** A device which when pressure is removed from the engine accelerator or throttle, causes the motor to be disengaged from the driving mechanism.

(4) **Established Riding Area:** Means trails or area on a lot used by an off-road vehicle.

(5) **Go-Cart:** A motorized miniature vehicle capable of achieving speeds in excess of ten miles per hour and commonly used on courses or racetracks specifically designed for such vehicles.

(6) **Golf Cart:** A motor vehicle that is designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour. Golf carts shall have no increased power, wheel base or tire modifications from a standard manufactured gas or electric golf cart.

(7) **Motorized Dirt Bike:** A two (2) wheeled vehicle being capable of cross-country travel on natural terrain without benefit of a road or trail.

(8) **Natural terrain:** Areas other than roadways, driveways (private or public), parking lots and other areas the surface of which has been intentionally modified for motor vehicle operation thereon.

(9) **Off-Highway Motorcycle:** a motorized, off-highway vehicle traveling on two wheels and having a seat or saddle designed to be straddled by the operator and handlebars for steering control, including a vehicle that is registered under MN Statutes Chapter 168 for highway use if it is also used for off-highway operation on trails or unimproved terrain.

(10) **Off-Road Vehicle:** Any motor vehicle which can be operated cross-country without benefit of a road or trail over land, snow, and other natural terrain, and includes, but is not limited to, all of the following: Multi-track and multi-wheeled vehicles, all-terrain vehicles (ATV), off-highway motorcycles, go-carts, and related two (2), three (3), and four (4)-wheeled vehicles, amphibious machines (water to land, and back), hovercraft, and any other vehicles that use mechanical power, including two (2) and four (4)-wheel drive (4WD) vehicles that are highway registered, when operated off highways and roads. This definition does not include snowmobiles.

(11) **Operate:** To ride in or on and have control of the operation of an off-road vehicle.

(12) **Operator:** Every person who operates or is in actual physical control of an off-road vehicle.

(13) **Owner:** A person, other than a lienholder, having the property in, or title to, an off-road vehicle, entitled to the use or possession of the off-road vehicle.

(14) **Public Roads:** Any city, municipal, county, state or federal road or highway.

(15) **Residential Subdivision:** A plat that legally describes parcels by lot and block numbers.

(16) **Right–Of-Way:** The entire strip of land traversed by any highway, street, county road or roadway easement for the purpose of vehicle travel, and includes the entire width of the land dedicated or acquired by law for right-of-away purposes.

(17) **Roadway:** That portion of the improved right-of-way designed or ordinarily used for vehicle travel, including the shoulder.

(18) **Snowmobile:** A self-propelled vehicle designed for travel on snow or ice and steered by skis or runners.

Sec. 34-161. Uses specifically prohibited.

Except as specifically permitted and authorized in this Division, it is unlawful for any person to operate an off-road vehicle not licensed as a motor vehicle under the following conditions within the city:

(1) On the portion of any right-of-way of any public highway, street, road, trail or alley used for motor vehicle travel unless in accordance with Minnesota Statues § 84.928.

(a) Nothing in this ordinance is intended to prohibit the crossing of a City or County Right-of-Way, which is otherwise allowed by Minnesota Statues § 84.928.

(2) On a public sidewalk provided for pedestrian travel.

(3) On private property of another without lawful authority or permission of the owner or occupant.

(4) On public grounds, park property, playgrounds, recreational areas without the express provision or permission to do so by the city.

(5) Class 1 ATVs shall not exceed a speed of 20 M.P.H. on local city streets.

(6) At a rate of speed greater than reasonable or proper under all surrounding circumstances.

(7) At any place in a careless, reckless or negligent manner or heedlessly in disregard of the rights or safety of others, or in a manner so as to endanger or be likely to endanger or cause injury or damage to any person or property.

(8) In a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of another person.

(9) To tow any person or thing except through use of a rigid tow bar attached to the rear of the off-road vehicle.

(10) At any place while under the influence of alcohol or drugs as defined in Minnesota Statutes § 169A.

(11) Within one hundred (100) feet of any fisherman, pedestrian, skating rink, or sliding area where the operation would conflict with use, or endanger other persons or property.

(12) On boulevards within any public right-of-way.

(13) On a trail not specified for ATV use.

Sec. 34-162. Crossing a public road right-of-way.

An off-road vehicle may make a direct crossing of a public road right-of-way, other than an interstate highway or freeway, provided:

(1) The crossing is made at an angle of approximately ninety (90) degrees to the direction of the road and at a place where no obstruction prevents a quick and safe crossing.

(2) The off-road vehicle first comes to a complete stop at the edge of the shoulder or the main-traveled way of the road.

(3) The operator yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.

(4) In crossing a divided road, the crossing is made only at an intersection of the road with another public road; and

(5) If the crossing is made between the hours of one-half hour after sunset to one-half hour before sunrise or, in conditions of reduced visibility, only if both front and rear lights are on.

Sec. 34-163. Traffic ordinances applicable.

(1) City and State traffic regulations shall apply to the operation of off-road vehicle upon streets and highways, except for those relating to required equipment, those, which by their nature have no application, and those inconsistent with the provisions in this article.

(2) Golf carts and Class 1 ATVs for the physically handicapped persons may be operated on city streets with a city permit. The permit is a period not to exceed one year and may be renewed annually. The permits are exempt from registration tax, but must display the triangular slow-moving vehicles emblem. A driver's license is not required.

Sec. 34-164. Yielding right-of-way.

No off-road vehicle shall enter any intersection without yielding the right-of-way to any vehicles or pedestrians at the intersection, or so cross the intersection as to constitute an immediate hazard.

Sec. 34-165. Youthful Operators.

No person less than eighteen (18) years of age, may operate an off-road vehicle except as provided by Minnesota Statutes § 84.9256, 84.793, 84.802, or 84.872.

Sec. 34-166. Equipment required.

It is unlawful for any person to operate an off-road vehicle any place within the limits of the city unless it is equipped with the following:

(1) Standard mufflers which are properly attached and which reduce the noise of operation of the motor to the minimum necessary for operation.

(a) No person shall use a muffler cutout, bypass straight pipe, or similar device on an off-road vehicle motor.

(2) Brakes adequate to control the movement of and to stop and hold the off-road vehicle under any condition of operation.

(3) A safety, or so-called deadman throttle in operating condition.

(4) When operated between the hours of one-half hour after sunset and one-half hour before sunrise or at a time of reduced visibility, at least one clear lamp attached to the front, with sufficient intensity to reveal persons and vehicles at a distance of at least one hundred (100) feet ahead during the hours of darkness and under normal atmospheric conditions. The headlamp shall be so aimed that glaring rays are not projected into the eyes of an oncoming snowmobile or off-road vehicle operator. It shall also be equipped with at least one red tail lamp having a minimum candlepower of sufficient intensity to exhibit a red light plainly visible from a distance of five hundred (500) feet to the rear during hours of darkness under normal atmospheric conditions.

(5) Reflective material at least sixteen (16) square inches on each side, forward of the handlebars or steering device of an off-road vehicle and at the highest practical point on any towed object, as to reflect light at a 90-degree angle.

Sec. 34-167. Ignition lock.

Every person leaving an off-road vehicle on a public place or way shall lock the ignition, and remove and take the keys with him.

Sec. 34-168. Emergencies, operation permitted.

Notwithstanding any other provisions in this article, an off-road may be operated on a public thoroughfare in an emergency during the period of time and at locations where snow upon the roadway renders travel by automobile impractical.

Sec. 34-169. Uses prohibited; animals.

It is unlawful to intentionally drive, chase, run over, or kill any animal with an off-road vehicle.

Sec. 34-170. Established Riding Area.

(1) The use of an off-road vehicle within an established riding area is not allowed on a lot or parcel of land of less than two (2) acres in size or within residential subdivisions.

(2) An off-road vehicle established riding area may be used on lots of two (2) acres or greater in size located within the City on the condition that the riders shall adhere to the following:

(a) The established riding area for an off-road vehicle is to be located no closer than three hundred (300) feet of a building occupied by humans or livestock, unless the building is also owned by the owner of the established riding area.

(b) Dust and noise control measures are to be maintained by the property owner or occupant. These dust and noise control measures are to be enforced by the City if other properties are adversely affected by dust and noise due to off-road vehicle use. The owners affected must file a written complaint with the City.

1. Dust control measures shall include, but are not limited to, the planting of twelve (12) foot high coniferous trees planted ten (10) feet on center, or the construction of a six (6) foot minimum board on board style fence, as approved by the City.

2. An off-road vehicle must have a factory approved exhaust. The noise emission may not exceed one hundred five (105) decibels at a distance of 20 inches during operation, and mufflers may not be altered to increase motor noise, or have a cut out bypass, or similar device.

(c) No more than four (4) riders may operate an off-road vehicle on the property. An off-road vehicle may only be operated on the property during the following times: Monday through Friday, 9:00 a.m. through 7:00 p.m.; and Saturdays and Sundays, 10:00 a.m. through 7:00 p.m. Operation of a snowmobile or off-road vehicle must cease for a minimum of one (1) hour after every two hours of riding.

(d) Operation of an off-road vehicle shall not be allowed on either primary or secondary septic sites.

Sec. 34-171. Exemptions

With the exception of Sec. 34 – 170, the following uses are exempt from this Ordinance:

(1) Any off-road vehicle used for the purpose of property maintenance.

(2) Any agent or employee of any road authority, law enforcement or public safety agency, or any agent or employee of the Minnesota Department of Natural Resources or any other governmental body in conducting official business.

(3) Any organized track-racing event that is required to be registered with the Department of Natural Resources.

Secs. 34 – 172—34 – 199. Reserved.

ARTICLE V. RECREATIONAL MOTOR SCOOTER, MOTORIZED PUSH SCOOTER AND MOTORIZED SKATEBOARD RULES AND REGULATIONS

Sec. 34-200. Purpose and intent.

The purpose of this Article is to provide rules for the regulation of motor scooters, motorized push scooters and motorized skateboards, excluding motor scooters that meet the criteria for or could otherwise be defined as a motorcycle under Minn. Stat. § 169.01 subd. 4 and requiring for its lawful operation on any street or highway a valid standard driver's license with a two-wheeled vehicle endorsement under Minn. Stat. § 169.974, on public and private property. It is intended to protect life, property and to prevent public nuisances. Nothing in this Article shall be construed to minimize regulations set forth in Minn. Stat. § 168, 169 and 171 and other regulations as they may pertain to motor scooters, motorized push scooters and motorized skateboards with a piston displacement capacity of 50 cubic centimeters or greater.

Sec. 34-201. Unlawful Operation - 50 CC Motors or Less.

It is a misdemeanor for any person to operate a motor scooter, motorized push scooter or motorized skateboard with a motor that has a piston displacement capacity of less than 50 cubic centimeters:

(1) On public property, including, but not limited to, parks, whether leased or owned, schools, playgrounds, sidewalks, walkways or other areas designated for pedestrian use, on designated bicycle paths and recreation areas except those areas specifically designated by the council. Provided, however, that parking is permitted in parking areas designated by the council.

(2) On private property without the prior written permission of the owner or tenant having control of such property.

(3) In a careless, reckless or negligent manner so as to endanger or be likely to endanger any person or property or to cause damage or injury thereto.

(4) Performing stunts, drills, acrobatics, racing or playing games of any sort unless as a part of an organized event that has been authorized by the City Council.

(5) In a manner so as to create a loud, unnecessary noise which unreasonably disturbs or interferes with the peace and quiet of other persons.

(6) To intentionally drive, chase, run over or kill any animal, wild or domestic.

(7) On City streets before 10 a.m. and after 7 p.m. or dusk.

(8) On City streets at speeds in excess of 20 m.p.h.

(9) No person less than eighteen (18) years of age, may operate a motor scooter, motorized push scooter and motorized skateboard except as provided by Minnesota Statutes § 169.011, 169.225, and 169.974.

Secs. 34 – 202—34 – 299. Reserved.

(ORDINANCE NO. 2015-02)

Chapter 35 RESERVED

Chapter 36 UTILITIES*

***Cross references:** Administration, ch. 2; buildings and building regulations, ch. 10; businesses, ch. 12; environment, ch. 16; solid waste management, ch. 26; streets, sidewalks and other public places, ch. 30; subdivisions, ch. 32.

State law references: Authority to build, construct, etc., waterworks systems and sewage disposal plants, Minnesota Statutes § 444.075.

Article I. In General

Secs. 36-1--36-30. Reserved.

Article II. Water

Sec. 36-31. Curb stop connection permit.

Sec. 36-32. Permit applications.

Sec. 36-33. Tapping charge.

Sec. 36-34. Meters.

Sec. 36-35. Charges reserved.

Sec. 36-36. Location.

Sec. 36-37. Ownership.

Sec. 36-38. Unlawful to tamper with meter.

Sec. 36-39. Implied consent to rules, regulations and rates.

Sec. 36-40. Meter reading, billing and penalties.

Sec. 36-41. Faulty meters.

Sec. 36-42. Leak in service line.

Sec. 36-43. Connection availability.

Sec. 36-44. Installation of meters.

Sec. 36-45. City not liable.

Sec. 36-46. Billing regulations.

Sec. 36-47. Turning on water.

Sec. 36-48. Property assessments.

Sec. 36-49. Water rates.

Sec. 36-50. Discontinuance of service for violations.

Sec. 36-51. Deficiency of water and shutting off water.

Sec. 36-52. Turning on water limited.

Sec. 36-53. Supply from one service.

Sec. 36-54. Tapping of mains prohibited.

Sec. 36-55. Repair of leaks.

Sec. 36-56. Abandoned services; penalties.

Sec. 36-57. Service pipes.

Sec. 36-58. Use of fire hydrants.

Sec. 36-59. Private water supplies.

Sec. 36-60. Restricted hours for sprinkling.

Sec. 36-61. Water fee required.

Secs. 36-62--36-90. Reserved.

Article III. Sewer

Sec. 36-91. Connection required.

Sec. 36-92. Use of certain buildings restricted.

Sec. 36-93. Existing wastewater disposal.

Sec. 36-94. Types of waste prohibited.

Sec. 36-95. Interceptors.

Sec. 36-96. Industrial wastes.

Sec. 36-97. Discharge of surface waters prohibited.

Sec. 36-98. Certain connections prohibited.

Sec. 36-99. Entry upon private property.

Sec. 36-100. Rates and charges.

Sec. 36-101. Payment of charges.

Sec. 36-102. Action to collect charges.

Sec. 36-103. Supervision of connections.

Sec. 36-104. Connection permits.

Sec. 36-105. Property assessments before connection.

Sec. 36-106. Sewer connections.

Sec. 36-107. Material and construction requirements to be observed.

Sec. 36-108. Materials.

Sec. 36-109. Grades.

Sec. 36-110. Alignment.

Sec. 36-111. Trenching and backfilling.

Sec. 36-112. Use of old house sewers.

Sec. 36-113. Connections at Y only.

Sec. 36-114. Tunneling.

Sec. 36-115. Independent system required.

Sec. 36-116. Exception to requirement of independent system.

Sec. 36-117. Repair of public right-of-way.

Sec. 36-118. Costs and expenses.

Sec. 36-119. Owner responsibility.

Sec. 36-120. Enforcement.

Secs. 36-121--36-150. Reserved.

Article IV. Surface Water Management Utility

Sec. 36-151. General operation.

Sec. 36-152. Definitions.

Sec. 36-153. Establishment of fees.

Sec. 36-154. Factors for determining fees for various land uses.

Sec. 36-155. Adjustment of fees.

Sec. 36-156. Undeveloped land.

Sec. 36-157. Exemptions.

Sec. 36-158. Mailing statement of charges.

Sec. 36-159. Fee appeal.

Sec. 36-160. Penalties for delinquent payments of fees.

Sec. 36-161. Annual certification of delinquent accounts.

Article V. Subsurface Sewage Treatment Systems

Division 1. Title

Sec. 36 – 181. Title.

Secs. 36 – 182 – 190. Reserved

Division 2. Purpose

Sec. 36 – 190. Purpose.

Secs. 36 – 192 – 200. Reserved

Division 3. Authority

Sec. 36 – 200. Authority

Secs. 36 – 202 – 210. Reserved

Division 4. Definitions and Acronyms

Sec. 36 – 210. Definitions.

Secs. 36 – 212 – 220. Reserved

Division 5. General Provisions

Sec. 36 – 221. Scope.

Sec. 36 – 222. Management.

Sec. 36 – 223. Indemnification.

Secs. 36 – 224 – 230. Reserved

Division 6. General Requirements

Sec. 36 – 231. Effective Date.

Sec. 36 – 232. Minimum Soil Test Area Requirements.

Sec. 36 – 233. Upgrade, Repair, and Replacement Requirements.

Sec. 36 – 234. SSTS in Floodplains.

Sec. 36 – 235. Class V Injection Wells.

Sec. 36 – 236. SSTS Licensing.

Sec. 36 – 237. Prohibitions.

Sec. 36 – 238. Maintenance.

Secs. 36 – 239 – 250. Reserved

Division 7. SSTS Standards

Sec. 36 – 251. Standards Adopted by Reference.

Sec. 36 – 252. Amendments to the Adopted Standards.

Sec. 36 – 253. Determination of Hydraulic Loading Rate and SSTS Sizing.

Sec. 36 – 254. Holding Tanks.

Secs. 36 – 255 – 260. Reserved

Division 8. SSTS Construction Permits

Sec. 36 – 261. Permits Required.

Sec. 36 – 262. Activities Not Requiring a Permit.

Sec. 36 – 263. SSTS Permit Required to Obtain Building Permit.

Sec. 36 – 264. Permit Application Requirements.

Sec. 36 – 265. Application Review and Response.

Sec. 36 – 266. Appeal.

Sec. 36 – 267. Permit Expiration.

Sec. 36 – 268. Extensions and Renewals.

Sec. 36 – 269. Suspension or Revocation.

Sec. 36 – 181. Posting.

Secs. 36 – 271 – 280. Reserved

Division 9. Management Plans

Sec. 36 – 281. SSTS Requiring Management Plans.

Sec. 36 – 282. Required Contents of a Management Plan.

Secs. 36 – 183 – 190. Reserved

Division 10. Operating Permit

Sec. 36 – 291. Operating Permit Required.

Sec. 36 – 292. SSTS Requiring an Operating Permit.

Sec. 36 – 293. Operating Permit Application Requirements.

Sec. 36 – 294. Operating Permit Expiration and Renewal.

Sec. 36 – 295. Transfers.

Sec. 36 – 296. Monitoring.

Sec. 36 – 297. Issuance of Certificate of Completion.

Secs. 36 – 298 – 300. Reserved

Division 11. Abandonment Certification

Sec. 36 – 301. Abandonment Requirements.

Secs. 36 – 302 – 310. Reserved

Division 12. Compliance Inspections

Sec. 36 – 311. Compliance Inspections.

Sec. 36 – 312. Circumstances Which Require a Compliance Inspection.

Sec. 36 – 313. Compliance Inspection Requirements.

Sec. 36 – 314. Compliance Criteria for Existing SSTS.

TABLE 1. Compliance Criteria for Existing Systems

Sec. 36 – 315. Certificate of Compliance.

Sec. 36 – 316. Point of sale requirements: Existing Private Wells.

Sec. 36 – 317. Contaminated wells.

Secs. 36 – 318 – 320. Reserved

Division 13. Construction Inspections

Sec. 36 – 321. New Construction or Replacement General Requirements.

Sec. 36 – 322. Trench, Pressure Bed, and Chamber Systems.

Sec. 36 – 323. Holding Tank.

Sec. 36 – 324. At-Grade and Mound Systems.

Sec. 36 – 325. Reusing Tank.

Sec. 36 – 326. Point of Sale Inspection Requirements for Transfer of Property.

Secs. 36 – 327 – 330. Reserved

Division 14. Land Application of Septage

Sec. 36 – 331. Definitions.

Sec. 36 – 332. Scope and Jurisdiction.

Sec. 36 – 333. General Provisions.

Sec. 36 – 334. Permit.

Sec. 36 – 335. Requirements for Land Application Sites.

Sec. 36 – 336. Required Land Application Methods.

TABLE 2. Slope Restrictions

TABLE 3. Setbacks

TABLE 4. Application Rates

TABLE 5. Waiting Period for Crops

Sec. 36 – 337. Grease Trap Wastes.

Sec. 36 – 338. Record Keeping and Reporting.

Secs. 36 – 339 – 340. Reserved

Division 15. Enforcement and Violations

Sec. 36 – 341. Access.

Sec. 36 – 342. Stop Work Orders.

Sec. 36 – 343. Violation.

Sec. 36 – 344. Civil and Other Action.

Secs. 36 – 345 – 350. Reserved

Division 16. Costs and Reimbursements

Sec. 36 – 351. Cost and reimbursements.

Secs. 36 – 352 – 360. Reserved

Division 17. Administration

Sec. 36 – 361. Fees.

Sec. 36 – 362. Interpretation.

Sec. 36 – 363. Variances and Appeals.

Sec. 36 – 364. Severability.

Sec. 36 – 365. Abrogation and Greater Restrictions.

Sec. 36 – 366. Repealer.

Sec. 36 – 367. Date of Effect.

Secs. 36 – 368 – 400. Reserved

ARTICLE I. IN GENERAL

Secs. 36-1--36-30. Reserved.

ARTICLE II. WATER*

_____

***State law references:** Authority to regulate the use of wells, waterworks and other means of water supply, Minnesota Statutes § 412.221, subd. 11.

_____

Sec. 36-31. Curb stop connection permit.

A permit must be obtained to connect to existing water service leads at the curb stop. The connection permit fee shall be set from time to time, and a schedule of such fees is on file and available in the city offices and is given in appendix A.

Sec. 36-32. Permit applications and fees.

The city council has determined that in order to pay for the cost of construction, reconstruction, repair, enlargement, improvement or other obtainment and the maintenance, operation and use of the city waterworks system, the cost of compliance with state and federal regulations and the principal and interest to become due on obligations issued or to be issued, it is necessary to impose just and equitable charges for the use and for the availability of the municipal water facilities and for connections with them pursuant to Minn. Stats. § 444.075, subd. 3. The city council shall annually review and establish charges for the connection to the city facilities by resolution.

Upon approval of any application for connection of any premises to the city waterworks system, the customer must pay for such waterworks service, including availability and connection charges, and for water usage on the basis of the charges and rates fixed by resolution of the city council, and the charges and rates so established may be amended at any time by duly adopted resolution of the council or as is stated in Appendix A, whichever is greater.

Sec. 36-33. Tapping charge.

The city clerk-administrator is authorized and directed to set and collect additional charges for tapping water mains using city personnel where curb stop and service leads have not previously been installed. Such charges shall be uniform based upon the costs of material, labor, equipment and overhead involved; and a listing of such charges shall be placed on file in the city hall. Each charge is to be paid at the time of making application for connection to the city water system. Charges shall include the incorporation stop and saddle.

Sec. 36-34. Meters.

Before any water conveyed through the municipal water system shall be used or utilized on the land or the premises of any person or before water is taken from a municipal hydrant by any person, there shall first be installed a water meter that will accurately measure the water consumed on the premises, except and unless such installation shall be exempt by the city.

Sec. 36-35. Charges reserved.

Any charges for water use shall be reserved by the city at this time.

Sec. 36-36. Location.

All water users must have meters, and every water use shall provide a suitable and protected place where a meter can be installed which shall be reasonably convenient for its reading and service. The duly authorized agents for the city shall have the right of entry at any reasonable hour for the purpose of reading meters.

Sec. 36-37. Ownership.

The city shall remain the sole owner of all water meters installed at residences, and it shall be the obligation of the city to maintain the meters and to make the repair made necessary by ordinary wear and tear. However, if the meter is destroyed or damaged by freezing or other unreasonable use, the property owner where the meter is installed shall be responsible for its repair or replacement.

Sec. 36-38. Unlawful to tamper with meter.

It shall be unlawful for any person to tamper with, alter, bypass, or in any manner whatsoever interfere with the proper use and functioning of any water meter within the city.

Sec. 36-39. Implied consent to rules, regulations and rates.

Every person applying for water service and every owner of property for which any such application is made shall be deemed upon making such application to consent to all rules and regulations set forth in this article, and such further rules, regulations and rates as may thereafter be set forth and adopted by the council pursuant to resolution or ordinance.

Sec. 36-40. Meter reading, billing and penalties.

(a) The city may provide a system of water meter reading by postcard, meter or any other method deemed suitable. The city may also establish billing areas of districts and provide for the reading of meters and billing of charges by calendar quarters, monthly quarters or such periodic intervals as the council shall determine suitable and necessary. The owner of record of the property to which the water service has been provided shall be responsible for the payment of charges. A statement of charges shall be rendered quarterly in January, April, July and October of each year. If the statement is not paid within 30 days following presentment of the bill, a penalty shall be assessed and collected at the time of payment.

(b) The council shall establish by resolution such penalties and charges as deemed appropriate for estimating water usage bills and late payment of bills.

(c) The city reserves the right to discontinue water service to any customer without notice when necessary for repairs, additional connection or reconnection, or for nonpayment of charges or bills or for disregard of any rules or regulations in connection with the use or operation of the system. Whenever any service has been discontinued for nonpayment of charges or bills or for disregard of any rule or regulation or for any other purpose, it shall not be resumed except upon payment of the charges or bills accrued, together with interest in the amount of eight percent per annum or compliance with the rules or regulations previously violated and payment to the city of a restoration fee established by council resolution.

(d) If a water or sewer bill is unpaid at the end of the calendar quarter or the billing period under which the billing is sent out, the bill shall be considered delinquent and the service may be discontinued as provided in subsection (c) of this section; and the council may cause the charges noted on such billing to become a lien against the property served by certifying to the county the amount of the delinquent bill in accordance with Minnesota Statutes §§ 442.15 and 443.16.

Sec. 36-41. Faulty meters.

If a meter fails to register or accurately measure the water, the charge for water consumed shall be paid for at the established rate based upon past average billings as determined by the city clerk-administrator.

Sec. 36-42. Leak in service line.

Any owner, occupant or user of a premises who shall discover a leak in a service line to the premises shall notify the city within 24 hours. Any water wasted due to failure of such person to comply with this section shall be estimated by the city clerk-administrator and be charged for against the user at such premises at the established rate.

Sec. 36-43. Connection availability.

It is mandatory that each and every household and industry connected to the city water system allow for the installation of a water meter, subsequent to the effective date of the ordinance from which the article derives.

Sec. 36-44. Installation of meters.

All meters and connections to the city water system shall be performed by a licensed plumber contracted to do so by the city; and in that regard, the city by any authorized employee or agent shall have the right to enter and be admitted to any land and property in the city for the purposes of installation and inspection of water meters and connections used in and for the purposes of reading the meters; and the city shall not be liable as it relates to the connections of the meters.

Sec. 36-45. City not liable.

The city shall not be held liable at any time for any deficiency or failure in the supply of water to the customers, whether occasioned by shutting off the water for repairs or connections or for any cause whatsoever.

Sec. 36-46. Billing regulations.

The council shall have the authority to prescribe the rates to be charged for water service to the customer and may prescribe the date of billing, length of time, and such further rules and regulations relative to the use and operation of such systems as it may deem necessary.

Sec. 36-47. Turning on water.

For turning on water where service has been turned off for nonpayment of water bill, failure to repair a leak, discontinuance of service, cross connections or any other cause, a service charge as stated in appendix A will be made.

Sec. 36-48. Property assessments.

No permit shall be issued to connect with any water main either directly or indirectly from any lot or tract of land unless:

(1)Such tract or lot to be served by such connection has paid or been assessed for the cost of construction of the water main with which the connection is to be made; or

(2)If no assessment has been levied for such construction cost, proceedings which have been petitioned for by the property owner for levying such assessment are in process; or

(3)If no assessment has been levied and no assessment proceedings are in process, a sum equal to the cost of constructing the water main which would be assessable against the lot or tract has been paid to the city

Sec. 36-49. Water rates.

(a) The rate due and payable to the city by each water unit within the city shall be set by council resolution.

(b) Water bills shall be rendered quarterly and shall be due and payable when rendered. If payment is not made within 20 days of mailing the bill, a second notice shall be given. If not paid in ten days, a third notice shall be given. If not paid within 15 days after the third notice, a final notice may be given that the water service will be shut off as of the first of the following month. Thereafter, the city clerk-administrator may shut off the water service without further notice.

(c) On or before September 1 of each year, the city clerk-administrator shall list the total unpaid charges against each lot to which they are attributable under this section. The council may then spread the charges against the property involved as a special assessment under Minnesota Statutes ch. 429, and other pertinent statutes, for certification to the county auditor and collection the following year along with current taxes. Such assessment shall be payable in a single installment, pursuant to Minnesota Statutes § 429.101, subd. 2.

Sec. 36-50. Discontinuance of service for violations.

Water service may be shut off at any curb stop for the following reasons:

(1) The owner or occupant of the premises served or any persons working on any pipes or equipment which are connected with the city water supply system has violated any of the requirements of this Code relative to the water system or connections with such system.

(2) The owner or occupant of the premises served violates or causes to be violated any of the provisions of this article.

(3) Any charge for water, service, meter or any other financial obligations imposed on the present or any former owner or occupant of the premises served by the provisions of this article is delinquent, except that the procedures of this section shall be followed.

(4) There is fraud or misrepresentation by the owner or occupant in connection with an application for service.

Sec. 36-51. Deficiency of water and shutting off water.

The city shall not be liable for any deficiency or failure in the supply of water to consumers, whether occasioned by shutting the water off for the purpose of making repairs or connections, or by any other cause whatever. In case of fire, or alarm of fire, water may be shut off to ensure a supply for firefighting; or, in making repairs or construction of new works, water may be shut off at any time and kept shut off so long as may be necessary.

Sec. 36-52. Turning on water limited.

No person, except an authorized agent or employee of the city, shall turn any water supply on or off at the curb stop or water hydrant.

Sec. 36-53. Supply from one service.

No more than one residence or place of business shall be supplied from one service connection.

Sec. 36-54. Tapping of mains prohibited.

No person except authorized agents or employees of the city shall tap any distributing main or pipe of the city water supply or insert stopcocks or ferrules in such main or pipe.

Sec. 36-55. Repair of leaks.

It is the responsibility of the consumer or owner to maintain the service pipe from the curb stop into the house or building. In case of failure of the consumer or owner to repair any leak occurring in his service pipe within 24 hours after oral or written notice has been given the owner or occupant of the premises, the water will be shut off and will not be turned on until a sum as stated in appendix A has been paid. When the loss of water is great, or when damage is likely to result from the leak, the water may be turned off if the repair is not proceeded with immediately.

Sec. 36-56. Abandoned services; penalties.

All service installations connected to the water system that have been abandoned, or for any reason have become useless for further service, shall be disconnected at the main by the city; and all pipe and appurtenances removed from the street right-of-way shall

become the property of the city. The owner or his agent shall make all necessary excavations for the disconnection. When new buildings are erected on the site of old ones, and it is desired to increase or change the old water service, no connections with the mains shall be made until all of the old service shall have been removed and the main plugged. No contractor, worker or employee upon such building shall cause or allow any service pipe to be hammered together at the ends to stop the flow of water, or to save expense in removing such pipe from the main.

Sec. 36-57. Service pipes.

(a) Every service pipe must be laid in such manner as to prevent rupture by settlement. The service pipe must be placed not less than seven feet below the surface and in all cases so arranged as to prevent rupture and stoppage by freezing. Frozen service pipes between the curb stop and the building shall be the responsibility of the owner.

(b) Service pipes must extend from the curb stop to the inside of the building, or if not taken into a building then to the hydrant or other fixtures they are intended to supply. A gate valve, the same size as the service pipe, shall be placed close to the inside wall of the building, and well protected from freezing, Type K copper tubing or comparable material shall be used up to and including two-inch services. Joints on copper tubing shall be flared and kept to a minimum. Not more than one joint shall be used for the service up to 70 feet in length. All joints shall be left uncovered until inspected. All services of more than two inches shall be cast iron. Minimum size connection with the water mains shall be one inch in diameter.

Sec. 36-58. Use of fire hydrants.

No person other than an agent, employee or member of the water, sewer, street or fire department shall operate fire hydrants or interfere in any way with the city water system. When contractors or individuals wish to use water from hydrants for construction, they shall make application to the city clerk-administrator.

Sec. 36-59. Private water supplies.

No water pipe of the city water supply shall be connected with any pump, well, pipe, tank or any device that is connected with any other source of water supply; and when such are found, the city clerk-administrator shall notify the owner or occupant to disconnect the device; and, if not immediately done, the water supply shall be turned off. Before any new connection to the city system is permitted, the city clerk-administrator shall ascertain that no cross connections will exist when the new connection is made. When a building is connected to city water, the private water supply may be used to serve outside hose connections only.

Sec. 36-60. Restricted hours for sprinkling.

(a) The council may impose emergency regulations pertaining to the conservation of water by resolution of the council or by giving notice by publication or by posting at the city hall and at such public places as the council may direct.

(b) Any water customer or other person who shall cause or permit water to be used in violation of the provisions of such resolution shall, in addition to being subject to the penalties otherwise provided for, be charged $25.00 for each day of such violation, which charge shall be added to his next water bill. Continued violation is prohibited and shall be cause for discontinuance of water service.

Sec. 36-61. Water fee required.

Every residence and business establishment which has city water available shall be charged the same rate as those which are connected to the water system from and after July 1, 1979.

Sec. 36 - 62. Lawn Watering Regulations.

The purpose of this section is to promote a higher awareness of the use of municipal water for lawn irrigation, to maintain the quality of the municipal water supply and to regulate the watering of lawns, grass seed, and sod. This section is enacted in part pursuant to MN Stat. 412.221 subd. 11.

(1) Watering Restrictions.

(a) Odd/Even Schedule. At all times during the year, sprinklers or other devices used to hydrate lawns with water from the municipal water system, or a community well system, shall not be used on properties with even-numbered street addresses on odd-numbered calendar days and shall not be used on properties with odd-numbered street addresses on even-numbered calendar days. Hand watering of bushes, trees, and shrubs shall be permitted on all days.

(b) Hours Lawn Watering Prohibited. No lawn watering with water from the municipal water system, or a community well system, is permitted between the hours of 10:00 a.m. and 6:00 p.m.

(c) New Sod or Seed Permit Required. A permit may be issued by the City for watering new sod or seed for thirty (30) consecutive days with water from the municipal water system, or a community well system, in periods where there is no declared water emergency.

1. Every application for a permit under this section shall be made only on the forms provided by the City of Wyoming Department of Building Safety and shall be accompanied by plans, specifications and such other information as desired by the Building Official and City Engineer together with the permit fee.

2. The permit fee for a new sod or seed-watering permit shall be as stated in Appendix A of the City Code.

3. A separate permit shall be obtained for each property to be watered.

(2) Underground Sprinkling Systems.

(a) Rain Sensors.

1. All automatically operated landscape irrigation systems shall have furnished and installed technology that inhibits or interrupts operation of the landscape irrigation system during periods of sufficient moisture. The technology must be adjustable by either the end user or a professional practitioner of landscape irrigation services.

2. All rain sensors shall be maintained and replaced as necessary.

(b) Public Right of Way. Lawn watering systems may be permitted in the public right of way. The maintenance and repair of all private systems placed in public rights of way shall be the responsibility of the system owner. Any damage to lawn watering systems placed in the public right of way shall be the responsibility of the system owner. Any damage to public utilities or City equipment caused by the placement of lawn watering systems in the public right of way shall be the responsibility of the system owner. Private systems interfering with scheduled City projects in the public right of way, shall, upon notification, be moved by the system owner within seventy-two (72) hours. Any costs incurred as a result of private systems that are not removed after notification shall be the responsibility of the system owner. Private lawn watering systems shall be designed and installed so that they do not spray across public streets, sidewalks or improved trails.

(c) Setbacks. Lawn watering system components and piping shall be setback a minimum distance from the following features:

1. Septic system soil treatment areas,

primary sites, and alternate sites. 10 feet from all sites.

2. Public road, paved, with curb and gutter. 1 foot from curb.

3. Public road, paved, with rural ditch. 2 feet from pavement.

4. Public road, gravel, with rural ditch. 2 feet from gravel.

(d) Permit Required. Any person installing or repairing an in ground sprinkler or lawn watering system shall apply to the City for a permit.

1. Every application for a permit under this section shall be made only on the forms provided by the City Administrator and shall be accompanied by plans, specifications and such other information as desired by the City Engineer and Building Inspector together with a permit and inspection fee.

2. The permit and inspection fee shall be as stated in Appendix A of the City Code.

3. Underground sprinkling or lawn watering systems shall be installed to the specifications of State Building Code.

(3) Alternate Water Sources.

(a) Use for Irrigation Purposes.

1. Any person using an alternate water source for irrigation purposes that is not connected to the municipal water system or a community well system, shall obtain an alternate water source watering permit for such use and an alternate water source watering permit sign that shall be displayed in the public right-of-way in front of the property.

i Exception: Properties that receive water solely from a private well and do not have access to the municipal water system or a community well system.

2. Any person who installs an alternate water source or equipment for obtaining water from an alternate water source shall obtain a permit prior to using the alternate water source for irrigation purposes.

i Exception: Properties that receive water solely from a private well and do not have access to the municipal water system or a community well system.

3. An alternate water source watering permit may not provide sprinkling water for more than one residence.

4. Every application for a permit under this section shall be made only on the forms provided by the City of Wyoming Department of Building Safety and shall be accompanied by plans, specifications and such other information as desired by the Building Official and City Engineer together with the permit fee.

5. The permit and inspection fee for an alternate water source permit shall be as stated in Appendix A of the City Code.

(4) Cross Connections.

(a) Cross connections to the municipal water system or a community well system that circumvent the water system's metering system or otherwise make unlicensed or impermissible use of the water supply are strictly prohibited. Violations of this section shall result in termination of water services until such impermissible cross connections are disconnected by a licensed plumber and the City has inspected the property for compliance with this section.

(b) The inspection fee shall be as stated in Appendix A of the City Code.

(5) Administrative Fines.

(a) For the first instance of noncompliance with the regulations imposed by subparts (1), (2), and (3) of this section, the property owner will receive a warning from the City.

(b) Thereafter, for each instance of noncompliance with the regulations imposed by subparts (1), (2), and (3) of this section, the property owner shall be fined and shall receive notice of the fine being assessed against the property on which the violation occurred. Said fine shall increase with each subsequent violation and shall be as stated in Appendix A of the City Code and added to the water bill for such premises.

(c) The fifth violation of subparts (a), (b) and (c) of this section within a twelve (12) month period, shall, upon proper notice, be cause for discontinuance of water service.

(6) Penalty for Violation of this Section.

(a) Failure to comply with the regulations imposed by this section shall constitute a misdemeanor pursuant to Chapter 1, Section 1-13 of this code.

(ORDINANCE NO. 2010-10)

Secs. 36-63--36-90. Reserved.

ARTICLE III. SEWER*

***State law references:** Wastewater services in the metropolitan government area, Minnesota Statutes § 473.501 et seq.

Sec. 36-91. Connection required.

Any building used for human habitation and located on property adjacent to a sewer main, or in a block along which the system extends, shall be connected to the municipal sanitary sewer system. All buildings constructed on property adjacent to a sewer main or in a block along which the system extends shall be provided with a connection to the municipal sanitary sewer system for the disposal of all human wastes. A permit must be obtained to connect to existing municipal sanitary sewer system. The amount of the permit fee shall be set from time to time as stated in appendix A.

Sec. 36-92. Use of certain buildings restricted.

No person shall use any building, nor allow any other person to use a building, if the building is not connected to the municipal sanitary sewer system as required by this article.

Sec. 36-93. Existing wastewater disposal.

If a public sanitary sewer is not available, the building sewer must be connected to a private wastewater disposal system complying with the state plumbing code and the regulations of the state pollution control agency pertaining to individual sewage disposal systems (Minnesota Rules ch. 9080).

Sec. 36-94. Types of waste prohibited.

Except as otherwise provided, it is unlawful to discharge any of the following waters or wastes into the municipal sanitary sewer system:

(1) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit.

(2) Any water or waste containing more than 100 parts per million by weight of fat, oil or gas.

(3) Any garbage that has not been properly shredded.

(4) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, plastic, wood, paunch manure, or any other solid or viscous substances capable of causing obstruction to the flow in sewers or other interference with the proper operation of the system.

(5) Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process or which constitutes a hazard to humans or animals or creates any hazard in the receiving waters of the sewage treatment plant.

(6) Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.

(7) Any noxious or malodorous gas or substance capable of creating a public nuisance.

Sec. 36-95. Interceptors.

Grease, oil and sand interceptors shall be provided when, in the opinion of the city engineer, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private dwelling units which discharge only normal wastes. Such grease and oil interceptors shall be of substantial construction, watertight, and equipped with easily removable covers which when bolted in place shall be gastight and watertight. All grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times.

Sec. 36-96. Industrial wastes.

It is unlawful to discharge into the municipal sanitary sewer system any industrial wastes without prior city approval. The city may permit the discharge of industrial wastes if it finds that the proposed wastes will not be of an unusual amount or character.

Sec. 36-97. Discharge of surface waters prohibited.

No person shall discharge into the municipal sanitary sewer system, either directly or indirectly, any roof water, stormwater, surface water or groundwater of any type or kind, or cooling water discharged from any air conditioning unit or system.

Sec. 36-98. Certain connections prohibited.

No buildings located on property lying outside the city limits shall be connected to the municipal sanitary sewer system unless express authorization is obtained from the council.

Sec. 36-99. Entry upon private property.

The officers and duly authorized agents of the city bearing proper credentials and identification shall at reasonable times be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing in connection with the operation of the municipal sanitary sewer system.

Sec. 36-100. Rates and charges.

The annual charge for the use of the municipal sanitary sewer system shall be based upon a unit system, with the charge per unit to be set by annual council resolution.

(1) *Specified structures and business charges.* Structures or business shall be charged a per-unit charge as set by resolution of the council. The current schedule of such charges is on file and available in the city offices and stated in appendix A.

(2) *Other business charges.* Industrial and commercial businesses not listed in subsection (1) of this section shall install a meter of a type approved by the city engineer for individual metering of the waste discharge.

(3) *Waiving individual metering.* If the industrial or commercial business does not discharge considerable waste as a part of its essential operation, the requirement of individual metering in subsection (2) may be waived upon recommendation of the city engineer and approval of the council.

(4) *Dates effective.* The rates and charges stated in this section are in effect from and after connection to and use of the municipal sewer system.

Sec. 36-101. Payment of charges.

Statements for sewer charges for the preceding quarterly period shall be mailed to each customer on or before January 10, April 10, July 10, and October 10 of each year. The statement is due and payable to the city clerk-administrator on or before 30 days from the date of the statement. There shall be added to all statements not paid when due, a penalty charge as stated in appendix A.

Sec. 36-102. Action to collect charges.

Any amounts due for sewer charges under this article may be collected in an action brought for that purpose in the name of the city; or the city clerk-administrator may certify to the county auditor the amounts due together with a legal description of the premises served; and the county auditor shall enter such amount as part of the tax levy on the premises to be collected during the ensuing year. Water service may also be turned off for nonpayment of sewer charges.

Sec. 36-103. Supervision of connections.

The city clerk-administrator shall supervise all house sewer connections made to the municipal sanitary sewer system and excavations for the purpose of installing or repairing the connections. The installer shall notify the building official when the connection is ready for inspection. The installer shall not backfill prior to approval by the building official.

Sec. 36-104. Connection permits.

Any person desiring a connection to the municipal sanitary sewer system for property not previously connected with the system shall apply to the city for a permit. The application shall be submitted on forms furnished by the city clerk-administrator and shall be accompanied by plans, specifications and such other information as is desired by the city engineer, together with a permit and inspection fee as stated in appendix A. When re-inspection is necessary, a re-inspection fee as stated in appendix A shall be charged. The city council shall annually review and establish charges for the connection to the city's sanitary sewer facilities by resolution. When an application is made for a house sewer connection permit, an application for a changeover, perm it shall also be submitted and both permits may be issued at the same time. Upon approval of any application for connection of any premises to the city's sanitary sewer system, the customer must pay for such sanitary sewer service, including availability and connection charges, and for usage on the basis of the charges and rates fixed by resolution of the city council, and the charges and rates so established may be amended at any time by duly adopted resolution of the council or as is stated in Appendix A, whichever is greater.

Sec. 36-105. Property assessments before connection.

The permit fee for connection to the municipal sanitary sewer system shall be paid for each connection together with a trunk charge and any other charges not previously included in the assessment in an amount set by the council based on the original assessment rate for similar property plus interest. In addition, before any permit shall be issued, the following conditions shall be complied with 36-104

(1) Connection permit requirements. No permit shall be issued to connect with any sanitary sewer system of the city directly or indirectly from any lot or tract of land unless the city clerk-administrator shall have certified:

a. That such lot or tract of land has been assessed for the cost of construction of the sanitary sewer main with which the connection is made

b. If no assessment has been levied for such construction cost, the proceedings for levying such assessments has been petitioned for by the property owner and the proceedings have been or will be completed in due course; or

c. If no assessment has been levied, and no assessment proceedings will be so completed in due course, a sum equal to the portion of cost of constructing such sanitary sewer main which would be assessable against the lot or tract has been paid to the city.

(2) Additional connection fee without permit. If no such certificate can be issued by the city, no permit to connect to any sanitary sewer main shall be issued unless the applicant shall pay an additional connection fee which shall be equal to the portion of the cost of construction of the sanitary sewer main which would be assessable against the lot or tract to be served by such connection plus interest. The assessable cost is to be determined by the city upon the same basis as any assessment previously levied against other property for the main. If no assessment has been levied, the assessable cost will be determined upon the basis of the uniform charge which may have been or which shall be charged for similar connection with the main, determined on the basis of the total assessable cost of the main, allocated on the same basis as the original assessment plus interest.

Sec. 36-106. Sewer connections.

(a) *Permit required.* No person may alter, repair, install or construct a sanitary sewer connection without a permit from the city clerk-administrator. Permits may be issued to property owners who will do the work themselves or to licensed installers.

(b) *License application.* An applicant for an installer's license shall file with the city clerk-administrator policies of public liability and property damage insurance in the currently required amount, which shall remain in force and effect during the entire term of the license and which shall contain a provision that they shall not be canceled without ten days' written notice to the city. No work shall be done under this license until such insurance policies have been filed and approved by the city.

(c) *Surety bond.* The applicant shall file with the city clerk-administrator the currently required surety bond guaranteeing the confirmation and compliance of work with this article. The city shall hold the bond for one year following the license period. Failure to comply with provisions and requirements of this section shall result in forfeiture of the bond.

(d) *License filing.* Application for licenses shall be filed with the city clerk-administrator and shall be reviewed and be subject to the approval of the city.

(e) *Violation.* Any installation, construction or alteration of a sanitary sewer connection by a licensee in violation of any provision of this section or refusal on the part of a licensee to correct such defective work shall be cause for revoking or refusing to renew a license. The license may be revoked or not renewed by the city at any time for cause, which shall be documented in writing.

Sec. 36-107. Material and construction requirements to be observed.

The material and construction methods specified in this article shall be exclusively used in making sewer connections to the municipal sewer system.

Sec. 36-108. Materials.

Building sewer pipe and fitting materials and construction shall be in accordance with the current state plumbing code, which is adopted by reference and made a part of this section as if fully set forth. If polyvinyl chloride (PVC) is used, it shall meet the current requirements of the American Society for Testing and Materials Designation D3034-73A, SDR-35 extra-heavy wall thickness (minimum wall thickness: four inches--0.125 inches, six inches--0.180 inches, eight inches--0.240 inches). Where a building sewer is laid across or over an existing cesspool or septic tank, one continuous piece of service weight cast iron soil pipe shall be used for that portion of the building sewer which is laid across or over the existing cesspool or septic tank.

Sec. 36-109. Grades.

Unless otherwise authorized, all house sewers shall have a grade of not less than one-eighth inch per foot. Whenever possible, the connecting sewer shall join the building at an elevation which is below the basement floor of such building. Any variation shall be subject to the approval of the building official. The service stub and the building drain shall be uncovered and the differential elevation determined before construction is begun.

Sec. 36-110. Alignment.

(a) No connecting sewer shall contain bends which at any point shall be greater than 45 degrees; and no more than two bends, regardless of angle, shall be permitted in any single house connection, except where manholes or cleanouts are constructed at such points and in the manner as directed by the city engineer. In any case, a cleanout shall be installed at least every 75 feet.

(b) No connecting sewer shall be laid parallel to any bearing wall or footing unless located further than three feet from any such bearing wall or footing. No connecting sewer shall be laid within 20 feet of any existing wall unless cast iron soil pipe is used.

Sec. 36-111. Trenching and backfilling.

All excavations shall be open trench work unless otherwise authorized by the city engineer. Backfilling shall not be done until the section to be backfilled has been inspected and approved by the city clerk-administrator.

Sec. 36-112. Use of old house sewers.

Old house sewers or portions of such sewers may be approved for use by the city engineer. The city engineer may request that the old sewer be excavated for the purpose of facilitating inspection. No house sewer shall be laid across or over any existing cesspool or septic tank unless the existing cesspool or septic tank shall first be pumped clean and filled with earth to the surrounding ground level.

Sec. 36-113. Connections at Y only.

Every connecting sewer shall be connected to the municipal sewer at the Y designated for the property served by the connection, except where otherwise expressly authorized by the city engineer. All connections made at points other than the designated Y shall be made only under the direct supervision of the city engineer and in such manner as he may direct.

Sec. 36-114. Tunneling.

Tunneling for a distance of not more than six feet is permissible in yards, courts or driveways of any building site. When pipes are driven, the drive pipe shall be at least one size larger than the pipe to be laid.

Sec. 36-115. Independent system required.

The drainage and plumbing system of each new building and of any new work installed in an existing building shall be separate from and independent of that of any other building except as provided in this article, and every building shall have an independent connection with a public sewer when available.

Sec. 36-116. Exception to requirement of independent system.

Where one building stands to the rear of another building on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building drain from the front building may be extended to the rear building; and the whole will be considered as one building drain. Where such a building drain is extended, a cleanout shall be provided immediately inside the rear wall of the front building.

Sec. 36-117. Repair of public right-of-way.

No connection to the municipal sanitary sewer system shall be finally approved until all streets, pavements, curbs and boulevards or other public improvements have been restored to their former condition to the satisfaction of the city engineer.

Sec. 36-118. Costs and expenses.

All costs and expenses incident to installation and connection to the municipal sewer system shall be borne by the owner; and the owner shall indemnify the city for any loss or damage that may, directly or indirectly, be caused by the installation of the sewer connection, including restoring streets and street surface.

Sec. 36-119. Owner responsibility.

The property owner is responsible for the maintenance of the building sewer line from his residence or building to the main sanitary sewer line. The building sewer line includes the building sewer stub within the street or easement right-of-way.

Sec. 36-120. Enforcement.

The city may enforce this article by injunction or by any other available legal remedy, including the right to prohibit the use of the municipal sewer system by any person violating or operating contrary to the provisions of this article.

Secs. 36-121--36-150. Reserved.

ARTICLE IV. SURFACE WATER MANAGEMENT UTILITY*

_____

***State law references:** Metropolitan groundwater management plan, Minnesota Statutes § 103B.255.

_____

Sec. 36-151. General operation.

The city municipal surface stormwater runoff system shall be operated as a public utility pursuant to Minnesota Statutes § 444.075, from which revenues will be derived subject to the provisions of this article and Minnesota Statutes.

Sec. 36-152. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Quarterly surface water management utility budget – means the estimated quarterly expenditures for planning and inventories, capital expenditures, personnel and equipment, and operation of the surface water utility, in accordance with established city policy. This budget shall be established by city council resolution.

Residential Equivalency Factor (REF) – ratio comparing runoff from a particular land use with a single family residential unit.

Surface water management fee – means the quarterly charge developed for each parcel of land pursuant to city regulations and zoning classifications and shall be established by city council resolution.

Utility factor - means the ratio of runoff volume, in inches, for a particular land use, to the runoff volume, in inches, for a one-third acre residential lot, assuming a two-inch rainfall and Soil Conservation Service (SCS) type B soil conditions.

Sec. 36-153. Establishment of fees.

Surface water management fees shall be established by city council resolution. The following table shows the zoning designations and the corresponding Resident Equivalency Factor (REF) and quarterly storm water utility fee. The $2/unit for a single family residential and $6/acre rate were developed in 1997 with the initial storm water utility ordinance.

SWU Designation	REF	Quarterly Rate
Agricultural/Single Family Residential/One and Two Family Residential/Rural Residential	1.0	$2/unit
High Density Residential/Manufactured Homes	2.7	$16.20/acre
Commercial	2.7	$16.20/acre
Central Business	2.7	$16.20/acre
Office and Health Care	2.7	$16.20/acre
Industrial (Urban)	3.5	$21.00/acre
Industrial (Non-Urban)	1.0	$2/unit
Carlos Avery WMA (Exempt)	-	-

Sec. 36-154. Adjustment of fees.

The city council may, by resolution, adopt policies for adjustment of the surface water management fees. Information to justify a fee adjustment must be supplied by the property owner. Surface water management fees will be adjusted under the following conditions:

(1) *Revision of quarterly surface water revenue.* The estimated expenditures for the management of surface water shall be revised at a frequency specified in this article. The fees will be adjusted accordingly and will follow established city procedures for this adjustment of utility (water and sewer) rates.

(2) *Changes.* Changes in developed conditions of parcels.

(3) *Stormwater retention.* If it can be demonstrated that an individual parcel retains all or a portion of the rainfall that it receives, the surface water management fee will be reduced by a percentage equal to that percent of the parcel which produces no external runoff. A fee reduction of 20 percent or greater must be demonstrated.

Sec. 36-155. Exemptions.

The following land uses are exempt from the surface water management fee:

(1) Public right-of-way;

(2) Lakes; and

(3) Parks.

Sec. 36-156. Mailing statement of charges.

Statements for the preceding quarterly surface water management service shall be mailed to each property owner in accordance with procedures developed by the city.

Sec. 36-157. Fee appeal.

If a property owner or person responsible for paying the surface water management fee believes that a particular assigned fee is incorrect, such a person may request that the fee be recomputed. Appeals will be heard by the council once a year in accordance with the schedule established for credit applications in established city policy.

Sec. 36-158. Penalties for delinquent payments of fees.

In addition to any other penalty available under the city's ordinances or state law, a penalty equal to ten percent of the amount due shall be added to accounts not paid in full on or before the first day of the second month following the billing periods and to each quarterly billing thereafter until the amount of the delinquent account plus accrued penalty is paid in full or otherwise certified to the county auditor as a delinquent account.

Sec. 36-159. Annual certification of delinquent accounts.

Each year the city clerk-administrator shall prepare a list of delinquent surface water management service charge accounts, including accrued penalties, in the form of an assessment roll. On or before October 1 of each year, the city council shall review the delinquent surface water management service charge assessment roll and adopt an appropriate resolution directing that the assessment roll be certified to the county auditor as a lien against the premises served and directing the county auditor to collect the assessment as part of the ensuing year's tax levy. All delinquent surface water management service charge assessments shall bear interest, at a rate determined by the city council, from the date on which the delinquent surface water management service charge assessment resolution is adopted until December 31 of the following year.

(ORDINANCE NO. 12-15-97B

ARTICLE V SUBSURFACE SEWAGE TREATMENT SYSTEMS

DIVISION 1. TITLE

Sec. 36 – 181. Title.

This Ordinance shall be known, cited, and referred to as the SUBSURFACE SEWAGE TREATMENT SYSTEM ORDINANCE except as referred to herein, where it shall be known as "this Ordinance."

Secs. 36 – 182 – 190. Reserved

DIVISION 2. PURPOSE

Sec. 36 – 191. Purpose.

The purpose of this Ordinance is to establish minimum requirements for regulation of subsurface sewage treatment systems (hereafter known as SSTS, and including both individual SSTS and midsize MSTS). This Ordinance regulates the treatment and dispersal of sewage within the City to protect public health and safety, groundwater quality, and prevent or eliminate the development of public nuisances. It is intended to serve the best interests of the City's citizens by protecting its health, safety, general welfare, and natural resources through promotion of the following:

(1) The protection of lakes, rivers and streams, wetlands, and groundwater in the City of Wyoming essential to the promotion of public health, safety, and welfare of the City.

(2) The regulation of SSTS construction, reconstruction, repair, and maintenance to prevent the entry and migration of contaminants into surface waters and groundwater.

(3) The identification of contamination, the control of its consequences and the abatement of its source and migration.

(4) The provision of technical services, including education, plan review, inspection, SSTS surveys and complaint investigations to prevent, control and abate water-borne diseases, degradation of surface waters, groundwater related hazards, and public nuisance conditions.

Secs. 36 – 192 – 200. Reserved

DIVISION 3. AUTHORITY

Sec. 36 – 201. Authority

This Ordinance is adopted pursuant to Minnesota Statutes, Section 115.55; Minnesota Statutes, Section 471.62 or successor statutes that are consistent with this Ordinance; and Minnesota Rules, Chapter 7080, Chapter 7081, Chapter 7082, or successor rules that are consistent with this Ordinance. Through adoption of this Ordinance the Wyoming City Council designates the City of Wyoming Building Official and/or his agents as the enforcement authority.

Secs. 36 – 202 – 210. Reserved

DIVISION 4. DEFINITIONS AND ACRONYMS

Sec. 36 – 211. Definitions.

The following words and terms found within this Ordinance shall be defined as follows:

(1) **As-Built Drawing:** A set of drawings, completed on a form provided by the City, which documents the final in-place location, size, and type of all SSTS components including the type and result of any testing performed during construction of the system.

(2) **Certified:** Certified means an individual is included on the agency's SSTS certification list and is qualified to design, install, maintain, repair, pump, operate, or inspect an SSTS as appropriate with the individual's qualifications. A certified individual who is working under a license is subject to the obligations of the license. Certified individuals were previously known as registered professionals.

(3) **CFR:** Code of Federal Regulations.

(4) **City:** The City of Wyoming, Minnesota.

(5) **City Council:** The City of Wyoming City Council.

(6) **Class V Injection Well:** A shallow well used to place a variety of fluids directly below the land surface. This includes SSTS that are designed to receive sewage or nonsewage from a two-family dwelling or greater or receive sewage or nonsewage from another establishment that serves more than 20 persons per day. The US Environmental Protection Agency and delegated state groundwater programs permit these wells to inject wastes below the ground surface provided they meet certain requirements and do not endanger underground sources of drinking water. Class V motor vehicle waste disposal wells and large-capacity cesspools are specifically prohibited (see 40 CFR Parts 144 & 146).

(7) **Community System:** A SSTS under some form of common ownership that collects wastewater from two or more dwellings or buildings and conveys it to a treatment and dispersal system located on an acceptable site near the dwellings or buildings.

(8) **County:** Chisago County, Minnesota.

(9) **Department:** The City of Wyoming Department of Building Safety.

(10) **Design Flow:** The daily volume of wastewater for which an SSTS is designed to treat and discharge.

(11) **(DCI) Designated Certified Individual:** A person certified with the MPCA SSTS program who has attended training, passed exams, and gained experience in the specialty area for which he is seeking licensure.

(12) **Dwelling:** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

(13) **Failure to Protect Groundwater:** Any sewage treatment system that poses a threat of contamination to ground water because of failure, improper or non-compliant design, or construction. At a minimum this definition shall include: any cesspool, drywell, seepage pit, or leaching pit; any SSTS with less than the required vertical separation distance required by MR Chapter 7080.1500 Subp. 4, D and E; any SSTS not abandoned in accordance with part 7080.2500; or any other condition posing an imminent threat to ground water, as determined by a Qualified Employee of the Department or an independent certified inspector.

(14) **Imminent Threat to Public Health and Safety:** Any sewage system that discharges sewage or sewage effluent to the ground surface, surface water, or any water drainage system; causes a sewage backup into a building or structure; or causes any other situation with the potential to immediately and adversely affect or threaten public health or safety.

(15) **(ISTS) Individual Subsurface Sewage Treatment System:** A subsurface sewage treatment system or part thereof, as set forth in Minnesota Statutes, sections 115.03 and 115.55, that employs sewage tanks or other treatment devices with final discharge into the soil below the natural soil elevation or elevated final grade that are designed to receive a sewage design flow of 5,000 gallons per day or less.

(16) **Management Plan:** A plan that describes the necessary and routine operational and maintenance requirements of an SSTS and MSTS.

(17) **Minor Repair:** Minor repairs may include but are not limited to: the installation of a riser; the repair or replacement of an existing damaged or faulty riser, baffle, or pump of the same size; and maintenance of inspection caps. Any such repair shall not alter the original area, dimensions, design, specifications, or concept of the SSTS.

(18) **(MSTS) Midsized Subsurface Sewage Treatment System:** An individual sewage treatment system, or part thereof, as set forth in Minnesota Statutes, sections 115.03 and 115.55, that employs sewage tanks or other treatment devices with final discharge into the soil below the natural soil elevation or elevated final grade and that is designed to receive sewage from dwellings or Other Establishments with a design flow of greater than 5,000 gallons per day to 10,000 gallons per day.

(19) **Notice of Noncompliance:** A document issued by the City of Wyoming notifying the responsible party that the sewage treatment system has been determined to be noncompliant with this Ordinance.

(20) **MPCA:** Minnesota Pollution Control Agency.

(21) **Other Establishment:** Any public or private structure other than a dwelling that generates sewage and discharges to a MSTS.

(22) **Owner:** Owner means any person having possession of, control over, or title to property.

(23) **Pretreatment:** The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater before discharging. The reduction or alteration may be obtained by physical, chemical, or biological processes.

(24) **Privy:** An aboveground structure with an underground cavity meeting the requirements of part 7080.2280 that is used for the storage or treatment and dispersal of toilet wastes, excluding water for flushing and graywater. A privy also means a nondwelling structure containing a toilet waste treatment device.

(25) **Qualified Employee:** A state or local government employee, who designs, installs, maintains, pumps, or inspects SSTS as part of the person's employment duties.

(26) **Separation:** The vertical distance between the bottom of a system (rock or media bed) and saturated soil and bedrock.

(27) **Service Provider:** A licensed service provider business is authorized to measure scum and sludge depths for the accumulation of solids; identify problems related to sewage tanks, baffles, effluent screens, maintenance hold covers, extensions, and pumps and make the repairs; evaluate sewage tanks, dosing chambers, distribution devices, valve boxes, or drop boxes for leakage; and clean supply pipes and distribution pipes. Service provider businesses are also authorized to assess, adjust, and service systems for proper operation; take, preserve, store, and ship samples for analysis; interpret sampling results and report results for an SSTS; and operate sewage collections systems discharging to an SSTS.

(28) **Sewage:** Waste from toilets, bathing, laundry, or culinary activities or operations or from the floor drains associated with these sources. "Sewage" shall include household cleaners and other constituents in amounts normally used for domestic purposes.

(29) **(SSTS) Subsurface Sewage Treatment System:** Either an individual subsurface sewage treatment system or a midsized subsurface sewage treatment system as defined in 7081.0020, subpart 4, as applicable.

(30) **State:** The State of Minnesota.

(31) **SWF:** Systems in shoreland areas or wellhead protection areas or systems serving food, beverage, or lodging establishments; or "SWF" means the following three categories of systems: SSTS constructed in shoreland areas where land adjacent to public waters has been designated and delineated as shoreland by local ordinance as approved by the Department of Natural Resources; SSTS constructed in wellhead protection areas regulated under Minnesota Statutes, chapter 103I; and SSTS serving food, beverage, and lodging establishments that are required to obtain a license under Minnesota Statutes, section 157.16, subdivision 1, including manufactured home parks and recreational camping areas licensed according to Minnesota Statutes, chapter 327.

(32) **Type I System:** Any SSTS that is constructed in accordance with a standard trench, bed, at-grade, or mound system design, in accordance with Minnesota Rules, Chapter 7080.2200 through 7080.2240.

(33) **Type II System:** Any SSTS or sewage containment system having approved modifications that may be permitted for use on a site not meeting the conditions acceptable for a standard Type I system. These include systems on in floodplains and privies or holding tanks as defined in Chapter 7080. Any SSTS designed in accordance with Minnesota Rules Chapter 7080.2260 to 7080.2290.

(34) **Type III System:** Any custom-designed SSTS having approved flow restriction devices, in order to allow its use on a lot that cannot accommodate a standard Type I soil treatment and dispersal system.

(35) **Type IV System:** Any SSTS, having an approved pretreatment device, and which incorporates pressure distribution and dosing, that is capable of providing suitable treatment for use where the separation distance to a shallow saturated zone is less than the minimum allowed.

(36) **Type V System:** Any SSTS, which has a custom-engineered design to accommodate a specific site, taking into account pretreatment effluent quality, loading rates, loading methods, groundwater mounding, and other soil and other relevant soil, site, and wastewater characteristics, in such a way that groundwater contamination by viable fecal coliform is prevented.

Secs. 36 – 212 – 220. Reserved

DIVISION 5. GENERAL PROVISIONS

Sec. 36 – 221. Scope.

(1) This Ordinance regulates the siting, design, inspection, installation, alteration, operation, maintenance, monitoring, and management of all SSTS and sewage within the City's jurisdiction; or imported for land application purposes from outside the City's boundaries. All sewage generated within the City's jurisdiction shall be treated and dispersed by a compliant SSTS or a municipal sewage treatment facility.

(2) The provisions of this Ordinance shall apply to all lands, properties, buildings and other structures or use of land within the City of Wyoming, Minnesota that are served or are proposed to be served by a SSTS.

Sec. 36 – 222. Management.

Administration
The Department shall administer the SSTS program and all provisions of this Ordinance and retain Qualified Employees to do so. The Department shall be the final arbiter on any disputes regarding periodically saturated soils.

Sec. 36 – 223. Indemnification.

No liability or responsibility may be imposed upon the Department or any of its officials, employees, or other contract agent, for damage resulting from defective construction, operation, or abandonment of any SSTS regulated under this Ordinance, provided the Department employees and/or agents acted in good faith, under the authority expressly granted to the City by Statute and Ordinance.

Secs. 36 – 224 – 230. Reserved

DIVISION 6. GENERAL REQUIREMENTS

Sec. 36 – 231. Effective Date.

(1) Effective Date for Provisions of This Ordinance
This Ordinance shall be in full force and effect after its approval and publication as provided by law, pursuant to Sec. 36 – 367 of this Ordinance.

(2) Permits Approved Prior to Effective Date.
Unexpired permits that were issued prior to the effective date of this Ordinance shall remain valid under the terms and conditions of the original permit until the original expiration date.

Sec. 36 – 232. Minimum Soil Test Area Requirements.

(1) Lots created prior to November 2, 1987 shall be required to demonstrate 5,000 square feet of percolation tested soils capable of supporting a Type I SSTS.

(2) Lots created between November 2, 1987 and July 16, 1997 by means of a platted subdivision shall require 10,000 square feet of area tested and suitable for a Type I septic system, to provide for a primary as well as a secondary site.

(3) All lots created after January 23, 1996, whether platted or not, must have a minimum of two soil treatment and dispersal areas that can support trenches, seepage beds, mounds, and at-grade systems as described in Minnesota Rules, Chapters 7080.2200 through 7080.2230 or site conditions described in 7081.0270, Subp. 3 through 7.

(4) All lots created after July 16, 1997 shall require one acre of buildable soil (as defined by the City of Wyoming Zoning Ordinance) to be identified on each lot, in addition to 10,000 square feet of percolation tested soils, which are suitable for a Type I SSTS and reserved as the primary and secondary installation sites.

(5) At any time that new construction is proposed on property previously undeveloped for residential purposes, site conditions and soils capable of supporting a Type I SSTS shall be proven to exist.

Sec. 36 – 233. Upgrade, Repair, and Replacement Requirements.

(1) Upgrade, Repair and Replacement. The following situations shall require an SSTS upgrade, repair, or replacement, as determined to be necessary by the City.

(a) SSTS Capacity Expansions. Expansion of an existing SSTS shall include any upgrades that are necessary to bring the entire system into compliance with the prevailing provisions of this Ordinance at the time of the expansion.

(b) Building Permits. Upon application for a building permit for a construction project which requires an upgrade, repair, replacement, or abandonment of an existing SSTS, a Permit for said upgrade, repair, replacement or abandonment of the existing system shall be applied for and approved, prior to approval of the building permit.

(c) Bedroom Additions. Any bedroom addition to a residence shall require a determination of the existing SSTS size. Upsizing of the system shall be required in accordance with the appropriate gallons per day design flow calculation.

(d) Failure to Protect Groundwater. An SSTS that is determined to pose a failure to protect groundwater pursuant to Minnesota Rules, Chapter 7080.1500, Subp. 4, B, shall be upgraded, repaired, replaced, or abandoned by the owner in accordance with the provisions of this Ordinance within one (1) year of receipt of a Notice of Noncompliance. A determination of the threat to groundwater quality for other conditions must be made by a Qualified Employee or licensed inspection business.

(e) Imminent Threat to Public Health or Safety. An SSTS that is determined to be an imminent threat to public health or safety pursuant to Minnesota Rules, Chapter 7080.1500, Subp. 4A, shall be upgraded, repaired,

replaced, or abandoned by the owner in accordance with the provisions of this Ordinance within sixty (60) days of receipt of a Notice of Noncompliance.

(f) Tank. If a sewage tank is cracked or otherwise unsound, it shall be replaced upon determination of the Qualified Employee.

(2) Limited Upgrade, Repair and Replacement Exemptions

(a) A system that has been identified by the City as non-compliant (exclusive of imminent threats to public health) may be allowed a limited exemption from the upgrade, repair and replacement requirements, provided it can be reliably verified that municipal or other community sewage treatment availability is imminent. Financial surety shall be required in an amount sufficient to guarantee installation of an SSTS within a specified time period should the provision of the municipal/community sewage treatment service fail to occur. A recorded Affidavit of Understanding shall be provided to the City, guaranteeing connection to city sewer when that service is available.

Sec. 36 – 234. SSTS in Floodplains.

(1) New Construction
SSTS for new homes shall not be located in a floodway or any part of a floodplain.

(2) Replacement Systems
SSTS shall not be located in a floodway, and wherever possible, location within any part of a floodplain shall be avoided. If no option exists to locate SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements in Minnesota Rules, Chapter 7080.2270 and all relevant local requirements are met.

Sec. 36 – 235. Class V Injection Wells.

All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the Code of Federal Regulations, title 40, part 144, shall submit SSTS inventory information to the Environmental Protection Agency as described in CFR40 part 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures. Class V motor vehicle waste disposal wells and large-capacity cesspools are specifically prohibited (see 40 CFR Parts 144 & 146).

Sec. 36 – 236. SSTS Licensing.

(1) No person shall engage in site evaluation, design, installation, construction, alteration, extension, repair, maintenance, pumping, or inspection of SSTS without an appropriate and valid license issued by MPCA in accordance with Minnesota Rules, Chapter 7083.

(2) Inspections of new, replacement or expansion of SSTS within the City's jurisdiction shall only be performed by a Qualified Employee.

(3) Compliance inspections of existing SSTS shall be performed by a Qualified Employee or an independent certified inspector.

(4) A property owner who wishes to construct an SSTS to treat wastewater generated solely by his own dwelling or seasonal residence is exempt from the licensing requirement if a site evaluation and system design are provided by licensed individuals as part of the permit process.

Sec. 36 – 237. Prohibitions.

(1) Sewage Discharge to Ground Surface or Surface Water.
It is unlawful for any person to construct, maintain, or use any sewage system that discharges raw or partially treated wastewater onto the ground surface or into any surface water. Any surface discharging system shall have an approved permit under the National Pollutant Discharge Elimination System program administered by the MPCA.

(2) Sewage Discharge to a Well or Boring.
It is unlawful for any person to discharge raw or treated wastewater into any well or boring as described in Minnesota Rules, Chapter 4725.2050 or any other excavation in the ground that is not in compliance with this Ordinance.

(3) Discharge of Hazardous or Harmful Materials.
It is unlawful for any person to discharge into any treatment system regulated under this Ordinance any hazardous or harmful material that adversely affects the treatment or dispersal performance of the system or groundwater quality.

Sec. 36 – 238. Maintenance.

The City shall mail a Maintenance Report Form by April 1 of each year to properties containing subsurface sewage disposal systems due to have maintenance checks. All systems shall have maintenance checks triennially. Those on-site sewage disposal systems found to have permitted, through misuse or abuse, sludge and/or scum to exit past the last septic tanks outlet baffle shall have biennial maintenance checks until such time that it has been demonstrated that such misuse or abuse has been abated.

(1) Each property owner receiving a Maintenance Report Form shall at their sole expense, provide for the pumping and maintenance of the system. The completed Maintenance Report Form and an Administrative Fee as specified in Appendix A of the City Code shall be returned to the City by October 1 of the same year.

(2) The above-described system maintenance shall include, but not be limited to, pumping and cleaning of the septic tank, evaluation of the condition of the tank, baffles, and system, and an examination of the drain field for evidence of system failure.

(3) Evaluation of the on-site septic tank and system shall be made by a licensed service provider. A listing of licensed service providers is available from the MPCA and shall also be available from the City.

(4) In the event a property owner fails to complete the Maintenance Report Form and return it to the City as required herein; the City shall contract for the property owner's septic system to be pumped, cleaned and evaluated and all costs associated thereto shall be assessed against each property as outlined in Minn. Stat. §§ 429.101, et seq.

(5) Upon evaluation, if the system is found to be an imminent threat to public health, the owner of the property shall have the system pumped and repaired or replaced pursuant to the requirements of this Ordinance.

(6) Any on-site inspection conducted by the City shall be invoiced to the property owner in an amount established by ordinance.

(7) Pursuant to Minn. Stat. § 429.101, the City Council hereby authorizes the City staff to certify any unpaid costs or charges imposed pursuant to this section, to the County Auditor for collection as other taxes.

Secs. 36 – 239 – 250. Reserved

DIVISION 7. SSTS STANDARDS

Sec. 36 – 251. Standards Adopted by Reference.

The City hereby adopts by reference Minnesota Rules, Chapters 7080, 7081, 7082, and 7083 in their entirety as now constituted, and any amendments that are consistent with this Ordinance.

Sec. 36 – 252. Amendments to the Adopted Standards.

(1) SSTS which fall into the category of Type IV or Type V are permitted to be installed to serve existing dwellings or Other Establishments where it can be proven that a Type I system cannot be installed either with or without a variance. Such systems must be monitored by a Certified Service Provider.

(2) Approved pretreatment devices are permitted on Type I, II, or III SSTS for new dwellings. For administrative purposes such systems shall be classed as a Type IV and an operating permit shall be required. If the design report submitted at application did not require pressure distribution the addition of pretreatment will not require the system to be pressurized. No reduction in separation will be allowed.

(3) Newly installed tanks shall be kept as shallow as possible for maintenance purposes. Tanks may exceed four feet in depth except that tank placement shall not exceed the manufacturer's maximum designed depth for the tank.

(4) MN Chapter 7080.1930 subpart 1, Table V is amended to read:
4 bedrooms or fewer 1500 gallon tank, 5 - 6 bedrooms 2000 gallon tank, 7- 9 bedrooms 2500 gallon tank

(5) The riser, pump, pump controls, and pump discharge line shall be installed to allow access for servicing or replacement from grade, without entering the tank or riser.

(6) All properties served by an SSTS shall require a compliance inspection, and/or arrangements for an upgrade, repair, or replacement in accordance with Division 12 prior to the time of property transfer.

(7) Each site evaluation submitted for approval in support of a Permit application shall include four (4) soil profile assessments and two (2) percolation tests per site. Soil profile assessments conducted in frozen soil conditions shall not be accepted in support of an SSTS Permit application.

Sec. 36 – 253. Determination of Hydraulic Loading Rate and SSTS Sizing.

Table IXa from Minnesota Rules, Chapter 7080.2150, Subp. 3(E) is herein adopted by reference and shall be used to determine the hydraulic loading rate and infiltration area for all SSTS Permitted under this Ordinance.

Sec. 36 – 254. Holding Tanks.

(1) For dwellings, holding tanks may be allowed as replacements for existing non-compliant SSTS only when it can be shown conclusively that a SSTS cannot be installed according to this Ordinance upon receipt of a certified statement submitted by a Certified Designer stating that a fully compliant SSTS is not possible to design or install on the subject property.

(2) Upon approval of the Department, holding tanks may be used in certain circumstances, to serve buildings other than residential dwellings, provided the gallons per day water use is determined to be limited.

(3) In no case shall holding tanks receiving sewage be allowed for new food, beverage, lodging facilities, and Other Establishments.

(4) All holding tanks shall be installed in accordance with Minnesota Rules Chapter 7080.2290.

(5) For a dwelling the minimum size of a holding tank is 1,000 gallons, or 400 gallons times the number of bedrooms, whichever is greater.

(6) The owner of a property served by a holding tank shall maintain a valid contract with a Certified Maintainer to regularly pump and haul the holding tank waste to a Municipal Sewage Treatment Facility, or an approved land application site.

(7) Bedroom additions to a dwelling with an existing holding tank shall be allowed upon prior approval of the Department.

Secs. 36 – 255 – 260. Reserved

DIVISION 8. SSTS CONSTRUCTION PERMITS

Sec. 36 – 261. Permits Required.

(1) It is unlawful for any person to construct, install, modify, repair, or replace a SSTS without the appropriate Permit from the Department. The issuing of any Permit, variance, or conditional use under the provisions of this Ordinance shall not relieve the applicant of the responsibility to obtain all other required Permits.

(2) A SSTS Permit is required for all activities regulated in Chapters 7080 and 7081.

Sec. 36 – 262. Activities Not Requiring a Permit.

A SSTS Permit is not required for minor repairs as defined in this Ordinance. However, notification to the City may be required, as determined to be necessary by the Department.

Sec. 36 – 263. SSTS Permit Required to Obtain Building Permit.

For any project for which an SSTS is required, approval of a valid SSTS Permit must be obtained in conjunction with the building or land use permit.

Sec. 36 – 264. Permit Application Requirements.

SSTS Permit applications shall be made on forms provided by the Department and signed by the owner/agent. The following submittals are required at time of application as determined to be necessary:

(1) Site Evaluation Report as described in Minnesota Rules, Chapter 7080.1730, and Sec. 36 – 252, (7) of this Ordinance.

(2) Design Report as described in Minnesota Rules, Chapter 7080.2430, including formula and/or calculation worksheets, design, and proposed tank depth in accordance with Sec. 36 – 252 of this Ordinance.

(3) Management Plan as described in Minnesota Rules, Chapter 7082.0600.

(4) The permit fee specified in Appendix A of the City Code.

(5) Any other information determined to be necessary by the Department.

Sec. 36 – 265. Application Review and Response.

(1) The Department shall review all complete Permit applications and supporting documents, and conduct soil verifications. Upon approval, the Department shall issue a written Permit authorizing construction of the SSTS as designed.

(2) In the event of a significant change to an approved application, the applicant shall file an amended application for approval, which details the proposed changes, and make payment according to the City fee schedule. The City shall review and approve the amendments to the Permit application prior to the initiation or continuation of the installation. If a Permit application is incomplete the Department shall reject it as incomplete pursuant to MN Statute 15.99. If the permit application does not meet the requirements of this Ordinance, the Department shall deny the application, stating the reasons for denial in writing.

Sec. 36 – 266. Appeal.

The applicant may appeal the Department's decision to deny the SSTS Permit pursuant to the City of Wyoming Zoning Ordinance Article V, Division 3.

Sec. 36 – 267. Permit Expiration.

The SSTS Permit shall be valid for a period of not more than one year from its date of issue unless associated with a building permit. In such cases, the SSTS Permit validity shall be concurrent with the validity of the building permit.

Sec. 36 – 268. Extensions and Renewals.

(1) The Department may, upon written request of the owner/applicant, grant an extension of the SSTS Permit if the construction has commenced prior to the original expiration date of the Permit.

(2) If construction is not commenced within one (1) year from the date of issuance, the Permit may be renewed upon payment of a renewal fee as per the City fee schedule, provided site conditions or design requirements have not changed.

Sec. 36 – 269. Suspension or Revocation.

The Department may suspend or revoke an SSTS Permit for any false statements or misrepresentations of facts, upon which Permit approval had been based; or any unauthorized changes to the system design. A notice of suspension or revocation and the reasons therefore shall be conveyed in writing to the Permit holder. If suspended or revoked, the installation or modification of the SSTS may not commence or continue until a valid SSTS Permit is reissued.

Sec. 36 – 270. Posting.

The SSTS Permit and approved design shall be posted in a visible and accessible location on the property. The Permit and design shall remain on-site and available for inspection until construction is completed, and all inspections have been performed. Failure to maintain the Permit and approved design on-site shall result in a reinspection fee pursuant to the City fee schedule.

Secs. 36 – 271 – 280. Reserved

DIVISION 9. MANAGEMENT PLANS

Sec. 36 – 281. SSTS Requiring Management Plans.

Management plans are required for all new and replacement SSTS. The management plan shall be written by the Certified Designer and submitted to the Department with the Permit application. The Certified Designer must provide a copy of the management plan to the system owner.

Sec. 36 – 282. Required Contents of a Management Plan.

Management plans shall include submittals and data pursuant to Minnesota Rules, Chapter 7082.0600, Subp. 1, and other requirements as determined by the Department to be necessary.

Secs. 36 – 182 – 190. Reserved

DIVISION 10. OPERATING PERMIT

Sec. 36 – 291. Operating Permit Required.

Operating Permits are required upon completion of installation of holding tanks or SSTS as provided below:

Sec. 36 – 292. SSTS Requiring an Operating Permit.

An Operating Permit shall be required for all holding tanks, privies, MSTS, or Type II, III, IV, or V system installed after the date of this Ordinance, which is deemed by the Department to require operational monitoring. Sewage shall not be discharged to such holding tank, privy or system until the Department certifies that the system or holding tank was installed in accordance with the approved plans, receives the as-built drawings of the SSTS, and a valid Operating Permit is issued to the owner.

Sec. 36 – 293. Operating Permit Application Requirements.

(1) Application for an Operating Permit shall be made on a form provided by the Department, and the following submittals may also be required:

(a) As-built drawings of the treatment system

(b) Holding Tank or Privy Disposal Contract

1. Owners of holding tanks or privies must submit a valid, executed pumping contract with a Certified Maintainer.

(c) Monitoring and Mitigation Plan shall include:

1. Monitoring locations, procedures and recording requirements.
2. Maintenance requirements and schedules.
3. Compliance limits and boundaries.
4. Reporting requirements.
5. Department notification requirements for non-compliant conditions.

(d) System performance and operating requirements.

(e) Valid contract between the owner and a Certified Maintainer.

(f) Parcel Identification Number, owner's name, mailing address, site address, and number of years monitoring is required.

(g) All monitoring and mitigation reports shall be sent to the Department.

Sec. 36 – 294. Operating Permit Expiration and Renewal.

(1) Operating Permits shall be valid for one (1) year.

(2) An Operating Permit must be renewed prior to its expiration; the owner must apply for renewal at least thirty (30) calendar days before the expiration date.

(3) Application for renewal shall be made on a form provided by the Department. The following shall also be provided to the Department:

(a) All Compliance Monitoring Reports as required by the Operating Permit.

(b) Any revisions made to the operation and maintenance manual.

(c) Payment of application fee pursuant to the schedule fee specified in Appendix A of the City Code.

Sec. 36 – 295. Transfers.

The Operating Permit shall be transferable to a new owner. Notification to the Department and addition of the new owner's original signature on the Operating Permit is required.

Sec. 36 – 296. Monitoring.

(1) Monitoring of a SSTS shall be performed by the holder of the Operating Permit, or their Certified Maintainer or Service Provider in accordance with the monitoring frequency and parameters stipulated in the Permit. Any monitoring that requires sampling of effluent, as well as Type IV and Type V SSTS must be monitored by a Certified Service Provider.

(2) The monitoring report shall be submitted to the Department on or before the reporting date stipulated in the Operating Permit.

Sec. 36 – 297. Issuance of Certificate of Completion.

Upon completion of the specified term of required monitoring and reporting on the SSTS permit the City shall issue a Certificate of Completion for the SSTS.

Secs. 36 – 298 – 300. Reserved

DIVISION 11. ABANDONMENT CERTIFICATION

Sec. 36 – 301. Abandonment Requirements.

(1) Whenever the use of a SSTS or any system component is discontinued as the result of a system repair, modification, replacement, or decommissioning further use of the system or any system component for sewage discharge or any purpose under this Ordinance is not permitted. Any discontinuation terminates all Permits associated with the system.

(2) If existing tanks will be reused, a statement from a Certified Inspector or a Qualified Employee must be submitted with an application for an Operating Permit prior to use of the existing tanks as holding tanks.

(3) Abandonment shall be completed upon the discontinued use of the system in accordance with Minnesota Rules, Chapter 7080.2500. A pumping receipt and a report of abandonment shall be submitted to the Department on a form provided, within 90 days of abandonment.

Secs. 36 – 302 – 310. Reserved

DIVISION 12. COMPLIANCE INSPECTIONS

Sec. 36 – 311. Compliance Inspections.

All compliance inspections required under the jurisdictional authority of this Ordinance must be performed by Qualified Employees of the Department or an independent certified inspector.

Sec. 36 – 312. Circumstances Which Require a Compliance Inspection.

A compliance inspection is required by the City of Wyoming:

(1) Before issuance of a building permit for the addition of a bedroom or other project or improvement which may impact the performance or sizing of an existing SSTS.

(2) At the time of property sale or transfer in accordance with Sec. 36 – 314 of this Ordinance.

(3) In conjunction with variances for projects that may potentially impact future need for additional septic area, performance, or sizing, of an existing SSTS.

(4) In shoreland areas before issuance of a building permit for projects other than routine maintenance, such as replacement of windows, doors, siding, roofing, gas conversions; and the repair of decks.

(5) Any time there is an increase or change in occupancy group as classified in the State Building Code, or an expansion or intensification of use of the building being served by an existing SSTS which may impact the performance or sizing of the system as determined by the Department.

(6) Any time there is a change in use of the property being served by an existing SSTS, which may impact the performance or sizing of the system;

(7) At any time the Department deems it necessary or appropriate in the interest of public safety.

Sec. 36 – 313. Compliance Inspection Requirements.

Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by MPCA. The following conditions must be assessed, and/or verified:

(a) Assessment of watertightness of all tanks at or below the operating level. This assessment shall include a leakage report which may be a visual observation. The tank must be pumped as clean as possible through the manhole;

(b) Vertical separation distance between the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock. This assessment shall include a vertical separation verification report. The verification to be made through soil borings performed by a Qualified Employee and may include a record of borings performed during a previous inspection;

(c) Sewage backup, surface seepage, or surface discharge. This assessment shall include a hydraulic function report, which may be a visual assessment.

(d) The size of the existing SSTS shall be determined when the compliance inspection is performed for a bedroom addition or other project or improvement that may impact the performance or sizing of the SSTS.

Sec. 36 – 314. Compliance Criteria for Existing SSTS.

(1) SSTS located outside of areas designated as SWF

(a) Installed Prior to April 1, 1996
SSTS built with a valid Permit prior to April 1, 1996, outside of areas designated as shoreland areas, wellhead protection areas, or SSTS providing sewage treatment for food, beverage or lodging establishments must have at least two feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock.

(b) Installed April 1, 1996 or Thereafter
SSTS built with a valid Permit on or after April 1, 1996, outside of areas designated as shoreland areas, wellhead protection areas, or SSTS providing sewage treatment for food, beverage or lodging establishments must have at least three feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock.

1. Existing systems that have no more than a 15 percent reduction in this separation distance (a separation distance no less than 30.6 inches) to account for settling of sand or soil, normal variation of separation distance measurements and interpretation of limiting layer characteristics may be considered compliant under this Ordinance. The vertical separation measurement shall be made outside the area of system influence but in an area of similar soil.

(2) SSTS located within areas designated as SWF

(a) SSTS in a Shoreland area, Wellhead Protection area, or serving a food, beverage, or lodging establishment as defined under 7080.1100, Subp. 84 shall have a three-foot vertical separation between the bottom infiltrative surface and the periodically saturated soil and/or bedrock.

1. Existing systems that have no more than a 15 percent reduction in this separation distance (a separation distance no less than 30.6 inches) to account for settling of sand or soil, normal variation of separation distance measurements and interpretation of limiting layer characteristics may be considered compliant under this Ordinance. The vertical separation measurement shall be made outside the area of system influence but in an area of similar soil.

(3) Determination of Compliant, Failing or Imminent Health Threat
At the time of inspection the Qualified Employee or an independent certified inspector will determine if a system is compliant, failing, or an imminent threat to public health and safety.

(a) In accordance with 7082.0700, Subp. 4, C, an independent certified inspector shall submit to the Department for review the inspection report form no later than fifteen (15) days after the compliance inspection.

(b) If the system is found to be compliant a Certificate of Compliance shall be issued by the Department.

1. Any new septic installation permitted and inspected by the City shall be considered to have a valid certification for five (5) years following the original installation unless evidence is found identifying an imminent threat to public health and safety.

2. Existing systems which have been certified by the City as being code compliant shall have the certification considered valid for a three (3) year period of time following the certification unless evidence is found identifying an imminent threat to public health and safety.

(c) If the system is found to be failing, noncompliant, or an imminent threat to public health and safety, an upgrade shall be required as follows:

1. Systems determined to be an imminent health threat to public health and safety shall be upgraded, replaced, repaired, or the use discontinued, within sixty (60) days of a Notice of Noncompliance from the Department.

2. An SSTS that is determined to pose a threat of failure to protect groundwater shall be upgraded upon the sale or transfer of property, or in conjunction with the issuance of the associated building permit, or not more than one (1) year after a Notice of Noncompliance from the Department, whichever is sooner.

TABLE 1 – COMPLIANCE CRITERIA FOR EXISTING SYSTEMS				
Separation Distances	**PRIOR** to April 1996		**AFTER** April 1996	
	In SWF	Out of SWF	In SWF	Out of SWF
Less than 12 inches	Non-Compliant	Non-Compliant	Non-Compliant	Non-Compliant
12 – 24 inches	Non-Compliant if less than 30.6 inches	Non-Compliant if less than 24 inches	Non-Compliant if less than 30.6 inches	Non-Compliant if less than 30.6 inches
24 inches or Greater	Non-Compliant if less than 30.6 inches	Compliant	Non-Compliant if less than 30.6 inches	Non-Compliant if less than 30.6 inches

(4) Point of Sale – Transfer of Properties with Existing SSTS

(a) No owner of a property served by an SSTS located in the City of Wyoming, which is not served by public sewer, shall transfer such property by conveyance or contract for conveyance without providing for an inspection of the septic system by a Qualified Employee of the Department or an independent certified inspector, prior to the time of sale. The owner of the property must disclose in writing, to the buyer, all known information about the status and location of any SSTS on the property.

1. Time of sale shall mean when a written purchase agreement or contract is executed by the buyer or in the absence of a purchase agreement, the time of the execution of any document providing for the conveyance by deed or contract.

2. If the seller fails to provide a Certificate of Compliance issued by the City, buyer and seller shall arrange for sufficient security to be established in the form of an escrow agreement to assure the installation of a complying SSTS.

i. This escrow procedure, along with a signed Affidavit of Understanding with the City may be used to allow for a transfer of property to occur during winter months, until such time conditions allow for the inspection to be performed.

(5) No Guarantee or Warranty Implied

(a) Neither the issuance of Permits, certificates of compliance, nor notices of noncompliance as requested or issued shall be construed to represent a guarantee or warranty of the system's operation or effectiveness by the City. Such certificates signify that the subject SSTS is or has been designed and installed in compliance or non-compliance with the provisions of these standards and regulations.

Sec. 36 – 315. Certificate of Compliance.

The Certificate of Compliance must include a certified statement by a Qualified Employee or an independent certified inspector indicating whether the SSTS is in compliance with the Ordinance requirements. If the SSTS is determined noncompliant with the applicable requirements, a Notice of Noncompliance must include a statement specifying those Ordinance provisions with which the SSTS does not comply. A SSTS Permit application must be submitted to the Department if the required corrective action is not a minor repair.

The Department shall deliver the Certificate of Compliance or Notice of Noncompliance to the owner or the owner's agent within 15 days of the determination by the Qualified Employee.

Sec. 36 – 316. Point of sale requirements: Existing Private Wells.

No owner of a building located in the City of Wyoming, which is served by a private well, shall sell such building by conveyance or contract for conveyance without providing to the City the results of a current test of the property's well water for fecal coliform and nitrates. The purpose of the water test is to develop a database of the condition of the City's well water resources.

Sec. 36 – 317 Contaminated wells.

(1) **Septic system inspection required**. If a known well has exceeded the standards set by the MN State Dept. of Health for fecal coliform or nitrates, all SSTS within a radius of 1500 feet shall, within 60 days of receiving notice from the City, be required to submit to the City a current Certificate of Compliance for their SSTS.

(2) **Temporary Waiver.** The City may temporarily waive the certificate of compliance requirement when a well has been found to be contaminated during the period from November 1 to April 30, provided that an inspection of the system is performed by the following June 1 and the property owner submits a certificate of compliance by the following September 30.

(3) **Failure to provide Certificate of Compliance.** In the event a property owner fails to provide a Certificate of Compliance within the sixty (60) days the Department, or the City will hire an independent certified inspector, to conduct a compliance inspection and all costs associated thereto shall be assessed to the property as outlined in Sec. 36 – 351 of this ordinance.

(4) **Failure to abate.** In the event a property owner fails to upgrade, replace or repair such failed system or discontinue its use within the time limits stated above, the City shall contract for the property owner's septic system to be upgraded, replaced or repaired and all costs associated thereto shall be assessed to the property as outlined in Sec. 36 – 351 of this ordinance.

(5) **Well water test required.** All property owners that are required to provide a certificate of compliance shall also provide to the City the results of a current test of the property's well water for fecal coliform and nitrates. The purpose of the water test is to develop a database of the condition of the City's well water resources.

Secs. 36 – 318 – 320. Reserved

DIVISION 13. CONSTRUCTION INSPECTIONS

Sec. 36 – 321. New Construction or Replacement General Requirements.

Inspections must be performed by a Qualified Employee for all new or replacement SSTS to determine conformance with Minnesota Rules, Chapters 7080 or 7081.

(1) It is the responsibility of the SSTS owner or the owner's agent to provide the Department at least twenty four (24) hours notice to schedule an inspection prior to any permitted work on the SSTS.

(2) A Certificate of Compliance for new SSTS shall be issued by the Department if the Department has reasonable assurance that the system was built in accordance with the applicable requirements as specified in the Permit.

(3) No SSTS shall be placed into operation until a valid Certificate of Compliance has been issued for the system.

(4) A temporary Certificate of Occupancy may be issued for a residence to allow the use of the septic tank as a holding tank, during winter months until the remainder of the SSTS can be installed when weather permits. A deposit according to the City fee schedule will be required and a pumping contract must be submitted to the Department prior to the issuance of the temporary Certificate of Occupancy.

(5) In addition to the inspection requirements listed in this Division 13, additional inspections may be required. Any variation from the required inspection schedule requires prior approval from the Department.

Sec. 36 – 322. Trench, Pressure Bed, and Chamber Systems.

(1) Observation Pit

(a) Prior to the installation of a below-grade SSTS, an observation pit shall be excavated for purposes of viewing the soil profile.

1. The tank pit may be used as the observation pit at the discretion of the Qualified Employee.

(2) Tank Inspection

(a) The top of all tanks shall be exposed for viewing tank levelness, tank depth, and pipe connections. The tank size stamp shall be visible.

(b) Manhole risers and inspection pipes shall be in place. All wiring and pumps shall be in place.

(3) Trench/Pressure Bed/Chamber Inspection

(a) Rock, chambers or any product listed on the MPCA approved product list shall be in place and leveled in each trench or bed.

(b) Laterals, distribution pipe and drop boxes shall be exposed for the purpose of inspecting connections, lateral sizes, and lateral lengths. Casting over the center of a trench or chamber or any product listed on the MPCA approved product list is permitted.

(c) All pipes shall be left uncovered for inspection. Geotextile fabric shall be placed over all rock or other approved products before covering.

(4) Final Inspection

(a) The minimum depth of soil cover, including topsoil borrow, over the distribution medium is twelve (12) inches.

(b) Trenches and seepage beds shall be backfilled and crowned above finished grade to allow for settling. The top six (6) inches of the backfill shall have the same texture as the adjacent soil.

(c) Final grade over any tank shall be crowned for settling and sloped to provide drainage away from the tanks.

(d) All wiring, pumps, and alarms shall be in place and in working order.

(e) If erosion is likely, a vegetative cover such as seed or mulch shall be established over the entire area of drainfield, pressure bed, or chamber, as required by the Qualified Employee.

(f) The drainfield or pressure bed shall be protected against erosion and freezing until a vegetative cover is established. The vegetative cover shall not interfere with the hydraulic performance of the system, and shall provide adequate frost and erosion protection.

(g) Manhole covers shall be brought to final grade with sufficient insulation established to protect from freezing.

(5) As-Built Drawing

(a) The as-built must be completed by the installer or homeowner who performed the installation, and submitted to the Department. A Certificate of Compliance shall only be issued following submittal of the as-built.

Sec. 36 – 323. Holding Tank.

(1) The top of tanks shall be exposed for viewing tank levelness, tank depth, and pipe connections. Maintenance hole risers and inspection pipes shall be in place. Tank size stamp, electrical wiring, and alarm shall be visible. Final approval shall not be issued until system is fully operational, and as-built drawing has been received by the Department.

(2) Final inspection requires positive drainage away from tanks.

(3) Manhole covers shall be brought to final grade with sufficient insulation established to protect from freezing.

Sec. 36 – 324. At-Grade and Mound Systems.

(1) Scarification
Soil surface must be prepared in the following manner:

(a) All vegetation longer than two (2) inches is to be cut and removed from the site.

(b) Soil surface is to be roughened to a depth of eight (8) inches and shall not be moved more than one foot from its original location.

(c) The plastic limit of the soil shall not be exceeded; if the soil can be rolled into a wire one-eighth (1/8) inch or less the moisture content is too high for installation of a sewage treatment system.

(d) Scarification shall be inspected prior to covering with clean washed sand or the media bed.

(2) Media Bed Inspection

(a) The media bed shall be level; the distribution lines, laterals, and manifold shall be completely exposed for inspecting.

(b) Holes in laterals shall be facing downward and laterals must extend to the surface.

(c) Upon completion of the inspection, geotextile fabric shall be placed over the entire media bed.

(3) Tank Inspection

(a) The top of all tanks shall be exposed for viewing tank levelness, tank depth, and pipe connections. The tank size stamp shall be visible.

(b) Manhole risers and inspection pipes shall be in place. All wiring and pumps shall be in place.

(4) Final Inspection
Fill cover depth on the system shall be as follows:

(a) A twelve (12) inch sand to loam cover at center of media bed, running the length of the media bed, sloping to a depth of six (6) inches at media bed edges.

(b) Six (6) inches of non-peat topsoil shall be placed over the entire system.

(c) The total depth of soil at the center of the media bed, running the length of the media bed, shall be eighteen (18) inches, and the cover depth shall be not less than twelve (12) inches at the media bed edges.

(d) All wiring, pumps, and alarms shall be in place and in working order.

(e) Final grade over any tank must be crowned for settling and sloped to provide drainage away from the tanks. Manhole covers shall be brought to final grade with sufficient insulation established to protect from freezing.

(f) A seed or mulch cover shall be established over the entire mound or at-grade area.

(g) The mound or at-grade must be protected against erosion and freezing until a vegetative cover is established. The vegetative cover shall not interfere with the hydraulic performance of the system and shall provide adequate frost and erosion protection.

(5) As-Built Drawing

(a) The as-built must be completed by the installer or homeowner who performed the installation, and submitted to the Department. A Certificate of Compliance shall only be issued following submittal of the as-built.

Sec. 36 – 325. Reusing Tank.

(1) Tanks being proposed for re-use shall meet all criteria stated in Chapter 7080 and this Ordinance. Tanks shall be opened and pumped as clean as possible through the manhole for inspection.

(2) For a tank being reused with installation of a new SSTS, submittal of a statement from a Certified Inspector, Certified Designers, or a Qualified Employee certifying the integrity of the tank after pumping and inspecting is acceptable.

(3) If a sewage tank is cracked, or otherwise unsound, it must be replaced.

Sec. 36 – 326. Point of Sale Inspection Requirements for Transfer of Property.

The following are the requirements for point of sale inspections:

(1) The SSTS area shall be free of snow during winter months, and shall be mowed during the growing season.

(2) The tank(s) shall be opened by removing the manhole cover and pumped at the time of the inspection.

(3) The ground around the SSTS shall not be frozen, or shall be thawed to allow soil borings when necessary.

(4) Access to the dwelling or Other Establishment shall be provided if deemed necessary by the Qualified Employee or an independent certified inspector.

Secs. 36 – 327 – 330. Reserved

DIVISION 14. LAND APPLICATION OF SEPTAGE

Sec. 36 – 331. Definitions.

(1) **Cover Crop:** Grasses, small grains, or other close growing vegetation not grown for harvest.

(2) **Department:** The City of Wyoming Department of Building Safety

(3) **EPA:** Environmental Protection Agency

(4) **Feed Crops:** Crops produced primarily for consumption by animals.

(5) **Food Crops:** Crops consumed by humans.

(6) **Grease Trap Waste:** Septage removed from a grease retention device serving an Other Establishment. Does not include petroleum product grease traps.

(7) **Incorporation:** The mixing of septage with the topsoil such as discing, moldboard plowing, or chisel plowing to a minimum depth of six (6) inches.

(8) **Injection:** The direct flow of septage from the injector tank or injector vehicle into the soil below the surface.

(9) **Intermittent Stream:** A drainage channel that provides for runoff flow to any surface water during snow melt or rainfall events.

(10) **Maintainer:** A person or business licensed by the MPCA as a Maintainer in accordance with MN Rules Chapter 7083.

(11) **MPCA:** Minnesota Pollution Control Agency

(12) **Non Public Contact Site:** Land with a low potential for contact with the public, including, but not limited to agricultural land, forest, and remote areas.

(13) **Pathogens:** Organisms that are capable of producing an infection or disease on a susceptible host.

(14) **Public Contact Site:** Land with a high potential for contact by the public, including, but not limited to public parks, recreation areas, and golf courses.

(15) **Restrictive Layer:** The point in depth in the soil were anaerobic conditions exist in the profile, indicated by redoximorphic features, bedrock, water or other evidence of saturation.

(16) **Seasonal High Water Table:** The highest level the water table reaches during a given year.

(17) **Septage:** Solids and liquids removed during the periodic maintenance of a SSTS, or solids and liquids that are removed from toilet waste treatment devices.

(18) **Shoreland District:** Land located within one thousand (1000) feet from the ordinary high water mark of a lake, pond, or flowage; three hundred (300) feet from a river or stream, or the landward extent of a floodplain on such a river or stream, whichever is greater.

(19) **Vectors:** Organisms such as flies, mosquitoes, and rats that have the potential to carry diseases.

Sec. 36 – 332. Scope and Jurisdiction.

This Division shall regulate the application of all septage that is applied to any land within the City of Wyoming. This section shall regulate land suitability, establish methods and procedures required, and establish limits for land application of septage within the City.

Sec. 36 – 333. General Provisions.

(1) It is unlawful to discharge septage to any surface water or well, or on any land within the City that has not been issued a valid Land Application Permit.

(2) Maintainers License Required.
Land application of septage must be conducted by a Maintainer licensed by the MPCA.

(3) Permit Required.
Septage shall be disposed of at a licensed municipal sewage treatment facility or land applied on land which has been issued a valid Permit.

(4) Specified Method of Application.
Land application of septage may only be applied in the manner, method, and amount; and under the conditions which are specified in the Permit.

(5) Application Prohibited.
No person shall dispose of septage in a manner that:

(a) Contaminates the ground water, or surface water in any way.

(b) Results in pathogens or other contaminates coming into contact with humans through direct contact, vectors, or through the food chain.

(c) Is dangerous, or a hazard to humans or animals, both wild and domestic.

(d) That restricts or inhibits the soils ability to support viable plant growth.

Sec. 36 – 334. Permit.

A Permit is required for each parcel of land to which septage is applied.

(1) Permit application.
An application for a Permit to land apply septage on a specific parcel of land shall be made to the Department on forms provided by the Department. At a minimum the application must contain the following information:

(a) The legal description and the Parcel Identification Number for the proposed receiving site.

(b) The name and address of the landowner, and a signed copy of the agreement with the landowner for land application on the specified parcel of land.

(c) The exact location within the parcel where land application is proposed to take place.

(d) Information regarding the nutrient suitability for land application of the proposed site, including current soil nutrient levels and proposed nutrient loading rates.

(e) Information regarding the drainage, slope, absorption rates, and separation distance from the water table or restrictive layer of the proposed site. A soil test may be required to verify the appropriateness of a questionable soil type for septage application purposes.

(f) The location and depth of any tile lines and drainage patterns.

(g) The proposed application rates, method of application, incorporation, time period in which application may take place, and limiting conditions to application.

(h) The cover crop and/or proposed cropping information.

(i) A description of the pathogen and vector control methods to be used.

(j) A description of how public access to the site will be controlled.

(k) Parcel Identification Numbers and addresses of the properties that are the sources of the septage proposed to be land applied.

(2) Duration of Permit.
A Permit shall be valid for five (5) years from the date of issue.

(3) Exemption.
A farm, as defined by the State, is exempt only from the permitting requirements of this section for the land application of their own septage on land farmed by them per §115.56 Subd 2 (b), (3).

(4) Septage may be disposed of at a municipal wastewater treatment facility with permission of the municipality, and after obtaining a Permit from the Department, if required.

Sec. 36 – 335. Requirements for Land Application Sites.

To be approved as a Land Application site the following minimum requirements shall be met:

(1) The site shall:

(a) be a non-public contact site;

(b) not be within any Shoreland District;

(c) be located in the Agricultural Zoning District;

(d) contain soils suitable for Land Application that have twenty-four (24) inches of separation from the application depth to the highest known restrictive layer, and are not rapidly permeable;

(e) be free of flooding hazards and not be located in a flood way or flood plain; and

(f) not contain slopes greater than 12%.

(2) No septage shall be applied to fractured bedrock, caves, sinkholes, or wetlands.

(3) Injection or incorporation may be required methods of land application depending on the site conditions.

(4) The minimum setback for each site and the method of incorporation listed in Table 2 must be maintained.

Sec. 36 – 336. Required Land Application Methods.

(1) Land application methods must comply with EPA 40 CFR Part 503 Rules & Regulations for pathogen reduction, vector attraction reduction, and for maximum volume of septage that may be applied to any site during a 365 day period.

(a) Three Options for Required Vector Attraction Reduction.
One of the vector attraction reduction requirements in items a through c must be met when septage is land applied.

1. Injection
Septage may be injected into the soil. No significant amount of septage can be present on the soil surface within one hour after injection has taken place.

2. Immediate Incorporation
Septage may be incorporated by tillage within six hours after surface application. No significant amount of septage can be present on the soil surface within one hour after incorporation has taken place.

3. Lime Stabilization
The pH of the septage must be raised to 12.0 or greater by alkali addition, and that level maintained for 30 minutes without further addition of alkali.

(2) Septage application rates must not supply more available nitrogen in the cropping year than allowed in EPA 40 CFR Part 503.

(3) The boundaries of land application sites must be identified and marked during septage application, unless the boundaries are apparent such as roads, fences, tree or vegetation lines, or steep slopes.

(4) Land application shall be performed in a manner so as to provide uniform application and timing. Rates and methods of application shall ensure that the septage remains where it was applied.

(5) Septage shall not be applied by spraying from a public road or across road right-of-ways.

(6) The application vehicle must be moving at all times during application.

(7) A distribution device such as a splash plate or a spreader shall be used to evenly distribute the septage.

(8) The application shall be screened to remove large objects which must be removed and disposed of properly.

(9) Soils must dry between applications.

(10) Soils wetter than the plastic limit shall not be driven on.

(11) When soils are snow covered or frozen, the application rate is limited to 10,000 gallons per acre or less, and application is only allowed on slopes of 2 percent or less. Each area of the site may be covered only once. No further application is allowed until the previous application has infiltrated the soil.

(12) Septage must not be applied on areas with ponding water or septage.

(13) Slope Restrictions
Land application methods shall be determined by percentage of slope and are listed in Table 2.

TABLE 2		
Slope (percent)	Surface Application	Incorporation within 6 hours or Injection
0-6	Allowed	Allowed
>6-12	Not allowed	Allowed
>12	Not allowed	Not allowed
Septage may only be applied on areas with a slope of 2% or less when the soil is snow covered or frozen.		

(14) Setbacks in Table 3 shall be maintained.

TABLE 3 (Distances in Feet)				
		Separation Distances in Feet		
		Surface Applied	Incorporated within 6 hours	Injected
Private drinking water supply wells		200	200	200
Public drinking water supply wells [1]		1000	1000	1000
Irrigation wells		50	25	25
Residences		300	100	100
Residential developments		600	600	300
Public contact sites		600	600	300
Down gradient lakes, rivers, streams, wetlands, intermittent streams, or tile inlets connected to these surface water features, and sinkholes.	Slope 0 % to 6 %	200	50	50
	Slope 6% to 12 %	Not Allowed	100	100
	Winter 0 % to 2%	600	Not Applicable	Not Applicable
Grassed Waterways	Slope 0 % to 6 %	100	33	33
	Slope 6% to 12 %	Not Allowed	33	33
Shoreland		Not Allowed	Not Allowed	Not Allowed
[1.] There may be special requirements if the land application site is within the boundaries of a wellhead protection area.				

(15) Daily surface application rates of liquid septage on non-frozen, non-snow covered sites are found in Table 4.

TABLE 4	
Soil Texture	**Maximum daily application rate Gallons/Acre/Day**
fine sand and loamy sand	25,000
Sandy loam, loam silt or silt loam	15,000
sandy clay loam, clay loam, sandy clay or silty clay loam	10,000

(16) Land application sites shall not be used for crops for direct human consumption unless the waiting period on Table 5 is followed.

TABLE 5	
Restricted Activity	**Waiting Period**
Food crops whose harvested part may touch the soil/septage mixture (melons, squash, tomatoes, etc)	14 months
Food Crops with harvested parts below the surface (potatoes, carrots etc)	38 months
Feed, food, or fiber crops that do not touch the soil surface (field corn, sweet corn, hay, flax, etc)	30 days
Turf harvest	1 year
Grazing of animals	30 days
Public access to land:	
high potential for exposure	1 year
low potential for exposure	30 days

Sec. 36 – 337. Grease Trap Wastes.

Land application of grease trap waste or grease trap wastes mixed with non-grease trap septage, must follow the most restrictive provision as follows:

(1) Grease trap waste must be incorporated into the soil within six hours of surface application. The application rate shall not exceed 15,000 gallons per acre per year.

(2) Grease trap waste must be injected into the soil and is limited to an application rate of 15,000 gallons per acre per year.

(3) Grease trap waste from a tank designed for the purpose of removing fats, oils and greases from effluent before discharge to an SSTS must be mixed with domestic septage prior to land application. The quantity of grease trap waste mixed with septage cannot exceed twenty-five (25) percent of the mixture by volume. Maximum application rates of this mixture are limited to 60,000 gallons per acre per year.

(4) When no separate grease trap is in place to collect greases, fats and oils, the septic tank that receives effluent shall be considered the grease trap. The grease trap waste from this first septic tank must be combined with domestic septage and mixed prior to land application. The quantity of grease trap waste mixed with septage cannot exceed fifty (50) percent of the mixture by volume. The source of the septage used for diluting the grease trap waste can be from the other tanks in series with this first tank or from tanks from another SSTS. Maximum application rates of this mixture are limited to 30,000 gallons per acre per year.

Sec. 36 – 338. Record Keeping and Reporting.

In addition to EPA recording keeping requirements, the Maintainer shall develop a record keeping system that provides the information required by this section and retain such records for a minimum of five years. The reporting year will run from September 1 of each year through August 31 of the following year. Such report shall be submitted to the Department no later than November 1 of each year. The following information is required to be reported:

(1) Daily land application activities including:

(a) Each site where septage was applied, the date of application, Permit number for the site, and Parcel Identification number.

(b) The exact location on the site septage was applied, and the number of acres to receive septage.

(c) The quantity of septage applied.

(d) The method of application.

(e) Vector attraction reduction and pathogen reduction method used. If alkali addition is used, records must indicate the pH of each load.

(f) A description of any additional management practices and site restrictions that were used.

(g) Grease trap waste methods of disposal and incorporation.

(2) Any other analysis of information as required the Department.

Secs. 36 – 339 – 340. Reserved

DIVISION 15. ENFORCEMENT AND VIOLATIONS

Sec. 36 – 341. Access.

No person shall hinder or otherwise interfere with the Department's employees in the performance of their duties and responsibilities pursuant to this Ordinance.

Sec. 36 – 342. Stop Work Orders.

(1) Stop work orders may be issued when the Department has probable cause to believe that an activity regulated by this or any other City Ordinance is being or has been undertaken without a Permit, or in violation of the provisions of a Permit. When work has been stopped by a red tag, the Permit shall be suspended and the work shall not resume until the reason for the work stoppage has been completely satisfied, any administrative fees paid, the stop work order lifted, and the Permit reinstated.

(2) To continue work or resume work is in effect is a violation of this Ordinance and a separate violation from the violation which caused the stop work order.

Sec. 36 – 343. Violation.

Any person, firm, agent, corporation, or government subdivision that violates any of the provisions of this Ordinance, shall be guilty of a misdemeanor. Each day that a violation exists shall constitute a separate offense, which may result in a citation.

Sec. 36 – 344. Civil and Other Action.

In the event of a violation or imminent violation of this Ordinance, the City may, in addition to other remedies, initiate appropriate civil action or proceedings to prevent, prosecute, restrain, correct, or abate such violations or imminent violations. The City Attorney shall have authority to commence such civil action. The Department and City Attorney may take such actions as may be necessary to enforce the provisions of this Ordinance.

Secs. 36 – 345 – 350. Reserved

DIVISION 16. COSTS AND REIMBURSEMENTS

Sec. 36 – 351. Cost and reimbursements.

If the Department is required to remove or abate an imminent threat to public health or safety, the Department may recover all costs incurred in removal or abatement in a civil action, including legal fees, at the discretion of the City Council in addition thereto.

(1) Authority for assessments. Pursuant to M.S. §429.101, Subd. 1(3), The City may provide for the collection of unpaid special charges for all or any part of the cost of the inspection, upgrade, repair or replacement of a failing septic system or contaminated well and all cost associated thereto shall be assessed to the property.

(2) The procedure for assessments. The assessment procedure under this ordinance shall be as established under M.S. §§429.061, 429.071 and 429.081.

Secs. 36 – 352 – 360. Reserved

DIVISION 17. ADMINISTRATION

Sec. 36 – 361. Fees.

The City Council shall adopt a fee schedule for activities undertaken by the Department pursuant to this Ordinance. Fees shall be due and payable at a time and in a manner to be determined by the Department.

Sec. 36 – 362. Interpretation.

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any other powers granted by Minnesota Statutes.

Sec. 36 – 363. Variances and Appeals.

(1) Variance Requests

(a) An owner may request a variance from the standards specified in this Ordinance pursuant to the City of Wyoming Zoning Ordinance, Article V, Division 7.

(2) Appeals

(a) An owner may make an administrative appeal from a decision made by the Department, pursuant to City of Wyoming Zoning Ordinance, Article V, Division 3.

(3) Planning Commission.

(a) The Planning Commission shall not have the authority to consider variances from technical standards, system sizing, or vertical separation as specified by Chapters 7080, 7081, 7082, and 7083.

Sec. 36 – 364. Severability.

Sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any phrase, clause, sentence, paragraph of section of this Ordinance shall be declared unconstitutional, invalid, or unenforceable, such unconstitutionality, invalidity, or unenforceability shall not affect the validity of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

Sec. 36 – 365. Abrogation and Greater Restrictions.

It is not intended by this Ordinance to repeal, abrogate, or impair any other existing City Ordinance, easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other Ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

Sec. 36 – 366. Repealer.

This Ordinance repeals the City of Wyoming Sewage and Wastewater Treatment Ordinance #2008-06 adopted August 19, 2008, and all amendments thereto.

Sec. 36 – 367. Date of Effect.

This Ordinance shall be in full force and effect after its approval and publication as provided by law. The City of Wyoming Subsurface Sewage Treatment Program Ordinance Number 2011-01 is hereby adopted by the City Council of the City of Wyoming on this 18th day of January, 2011.

Secs. 36 – 368 – 400. Reserved

(ORDINANCE NO. 2011-01)

Chapter 37 RESERVED

Chapter 38 VEGETATION*

***Cross references:** Buildings and building regulations, ch. 10; environment, ch. 16; streets, sidewalks and other public places, ch. 30; subdivisions, ch. 32; zoning, ch. 40.

Article I. In General

Secs. 38-1--38-30. Reserved.

Article II. Control of Invasive Species Tree Pests

Division 1. Generally

Sec. 38 – 31 Definitions.

Sec. 38 – 32 Nuisances declared.

Sec. 38 – 33 Nuisance prohibited.

Sec. 38 – 34 Inspections; right to enter.

Sec. 38 – 35 Abatement on public property.

Sec. 38 – 36 Abatement on private property.

Sec. 38 – 37 Collection of assessment.

Sec. 38 – 38. Interference prohibited.

Sec. 38 – 39 Reporting discovery of invasive species tree pests.

Sec. 38 – 40. Registration of tree care firms.

Secs. 38 – 41—38 – 99. Reserved

ARTICLE I. IN GENERAL

Secs. 38-1--38-30. Reserved.

ARTICLE II. CONTROL OF INVASIVE SPECIES TREE PESTS

DIVISION 1. GENERALLY

Sec. 38-31. Definitions.

As used herein the terms:

(a) *"Invasive Species"* means any invertebrate animal, plant pathogen, parasitic plant or similar or allied organism which can cause a tree to be diseased and is determined by either the commissioner of agriculture of the State of Minnesota or the commissioner of the department of natural resources of the State of Minnesota to be a pest causing economic or environmental harm and disease to tree in Minnesota.

(b) *"Tree"* means deciduous and coniferous trees.

(c) *"Pest"* means any living agent capable of reproducing itself that causes or may potentially cause economic or environmental harm to trees through infection and/or infestation.

(d) *"Department of Public Works"* means the City of Wyoming Department of Public Works.

(e) *"Disease"* means either an infection or an infestation.

(f) *"Infection"* means a tree that is: (1) contaminated with pathogenic microorganisms; (2) being parasitized; (3) a host or carrier of an infectious, transmissible, or contagious pest; or (4) so exposed to a tree listed in clause (1), (2), or (3) that one of those conditions can reasonably be expected to exist and the tree may pose a risk of contamination to other trees or the environment.

(g) *"Infestation"* means a tree that has been overrun by pests.

Sec. 38-32. Nuisances declared.

The following things are public nuisances whenever they may be found within the city:

(a) Any living or standing tree or part thereof infected to any degree or infested with any invasive species pest; or

(b) Any dead tree or part thereof, including logs, branches, stumps, firewood or other tree material from which the infected and/or infested part has not been removed and burned or sprayed with an effective pesticide or otherwise effectively treated.

Sec. 38-33. Nuisance prohibited.

It is unlawful for any person to permit any public nuisance as defined in section Sec. 38 – 32 to remain on any premises owned or controlled by said person within the city. Such nuisance may be abated in the manner described in this chapter.

Sec. 38-34. Inspections; right to enter.

(a) All premises and places within the city shall be inspected by employees or agents of the Department of Public Works as often as practicable to determine whether any condition described in section Sec. 38 – 32 exists therein. All reported incidents of an infection or infestation by an invasive species tree pest shall be investigated.

(b) Entry may be made upon private premises by said employees or agents of the Department of Public Works at any reasonable time upon notification to the property owner or tenant for the purpose of carrying out any of the duties and responsibilities under this chapter.

(c) Upon finding conditions indicating an invasive species tree pest infection and/or infestation, appropriate specimens or samples shall be taken and sent to the commissioner of agriculture (bureau of plant industry), State of Minnesota, for analysis, or such other steps shall be taken for diagnosis as may be recommended by the commissioner of agriculture. No action to remove infected or infested trees or wood shall be taken until positive diagnosis of the disease has been made.

(d) Within five (5) days of receipt of the diagnosis, the owner of the property from which the specimen was obtained shall be notified of the result by personal delivery or first class mail.

Sec. 38-35. Abatement on public property.

In abating the nuisances defined in section Sec. 38 – 32, the infected or infested tree or wood shall be removed and burned or otherwise effectively treated to destroy and prevent as fully as possible the spread of the invasive species tree pest. Such abatement procedures shall be carried out in accordance with the current technical and expert methods and plans as may be designated by the commissioner of agriculture of the State of Minnesota or by the commissioner of natural resources of the State of Minnesota. Specifications for tree removal and disposal methods consistent therewith shall be established by the Supervisor of the Department of Public Works or other appropriate designee of the Department of Public Works.

Sec. 38-36. Abatement on private property.

(a) Whenever it is found with reasonable certainty that the infection and/or infestation defined in Sec. 38 – 32 exits in any tree or wood located on private property, outside of any public way in the city, the owner or person in occupancy or control of such property on which the nuisance is found shall be notified by personal delivery or first class mail of the infection and/or infestation, and be directed that the infection and/or infestation shall be removed and burned, or otherwise effectively treated in a manner as set forth in Sec. 38 – 35, by such owner or person in occupancy or control within ten (10) days after receipt of such notice. The notice shall also state that if such nuisance shall not have been abated by the owner or person in control of the property within the time provided, the owner or person in charge may be charged with a violation of this chapter for maintaining a nuisance and that the nuisance may be abated by the Department of Public Works and the costs of such abatement assesses against the property.

(b) Said notice shall be accompanied by a postcard, returnable to the Department of Public Works, upon which the owner or person occupying or in control of the property shall indicate whether he intends to remove and effectively treat the infection and/or infestation.

(c) In the event that said postcard is not returned to the Department of Public Works within ten (10) days, the Department of Public Works shall post upon the property in a conspicuous place a notice indicating that the infection and/or infestation exists on said property. The posted notice shall contain the same information as set forth in subsection (a) of this section.

(d) If the owner or person occupying or in control of any private premises upon which a tree or wood is situated fails to have such tree or wood so removed and burned or otherwise effectively treated, after having elected to do so himself within ten (10) days after return of the postcard or fails to remove and burn or otherwise effectively treat the tree or wood within ten (10) days of the posting of notice on said property, then the removal and burning or other effective treatment of such tree or wood may be undertaken by the Department of Public Works and any expense incurred by Department of Public Works in so doing shall be a charge and a lien upon said property and shall be collected as a special assessment in the manner prescribed in Minnesota Statutes Section 429.091 and Minnesota Statutes Section 429.101.

Sec. 38-37. Collection of assessment.

The cost of the abatement of any such nuisance done by the Department of Public Works at the election and approval of the owner or person occupying or in control of the private premises and not reimbursed by the owner on or before September 1st of the year shall be reported to the Department of Public Works and the Wyoming City Council shall assess and levy and cause to be collected the amount of such cost as a special assessment upon and against said premises and property upon which said nuisance existed in the manner prescribed in Minnesota Statutes Section 429.091 and Minnesota Statutes Section 429.101.

Sec. 38-38. Interference prohibited.

It shall be unlawful for any person to prevent, delay, or interfere with the Department of Public Works, its officers, employees, or agents while they are engaged in the performance of duties imposed by this chapter.

Sec. 38-39. Reporting discovery of invasive species tree pests.

Any owner or occupier of land or any person engaged in tree trimming or removal who becomes aware of the existence of a public nuisance caused by a shade tree pest as defined under Sec. 38 – 31 shall report the same to the city.

Sec. 38-40. Registration of tree care firms.

Any person, firm, or corporation that provides tree care, tree trimming, or removal of trees, limbs, branches, brush, or shrubs for hire must be registered with the Minnesota commissioner of Agriculture under Minn. Stat. § 18G.07.

Secs. 38 – 41—38 – 99. Reserved

(ORDINANCE NO. 2011-02)

Chapter 39 RESERVED

Chapter 40 ZONING*

_____

***Cross references:** Any zoning map amendment saved from repeal, § 1-9(12); buildings and building regulations, ch. 10; environment, ch. 16; streets, sidewalks and other public places, ch. 30; subdivisions, ch. 32; vegetation, ch. 38.

State law references: Authority to regulate zoning and land use, Minnesota Statutes § 462.357.

_____

Article I. Title

Sec. 40 – 1. Reference

Sec. 40 – 2. Provisions

Secs. 40 – 3 – 40 – 9 Reserved

Article II. Intent and Purpose

Sec. 40 – 10. Defined

Secs. 40 – 11- 40-19 Reserved

Article III. Application

Sec. 40 – 20. Relation to Comprehensive Plan

Sec. 40 – 21. Standard Requirement

Sec. 40 – 22. Minimum Requirements

Sec. 40 – 23. Conformity with Provisions

Sec. 40 – 24. Building Permits

Sec. 40 – 25. Conditional Use, Variances, Amendments

Sec. 40 – 26. Uses Not Provided for Within Zoning Districts

Sec. 40 – 27. Separability

Sec. 40 – 28. Rules

Secs. 40 – 29 – 40 – 39 Reserved

Article IV. Definition of Terms

Sec. 40 – 40. Definitions

Secs. 40 – 41 – 40 – 49 Reserved

Article V. Administration and Enforcement

Division 1. Administration

Sec. 40 – 50. Administrative Officer

Sec. 40 – 51. Duties of the Zoning Administrator

Sec. 40 – 52. Zoning, Building and Construction Permits Required

Sec. 40 – 53. Permits, Applications, Licenses and Administrative Services

Sec. 40 – 54. Certificate of Occupancy

Sec. 40 – 55. Administrative Costs

Secs. 40 – 56 – 40 – 59 Reserved

Division 2. Planning Commission

Sec. 40 – 60 Membership and Terms

Sec. 40 – 61 Function of the Planning Commission

Secs. 40 – 62 – 40 – 69 Reserved

Division 3. Board of Appeals

Sec. 40 – 70. Creation of Board of Appeals

Sec. 40 – 71. Duties of Board of Appeals

Secs. 40 – 72 – 40-79 Reserved

Division 4. Site Plan Review

Sec. 40 – 80. Site Plan Review

Sec. 40 – 81. Approval Required

Sec. 40 – 82. Applications

Sec. 40 – 83. Environmental Review

Sec. 40 – 84. Planning Commission Review

Sec. 40 – 85. City Council Review

Sec. 40 – 86. General Criteria and Standards for Site Plan Review

Sec. 40 – 87. Security Deposit Required

Sec. 40 – 88. Terms of Approval

Sec. 40 – 89. Amendments to an Approved Site Plan

Sec. 40 – 90. Review of Minor Amendments

Sec. 40 – 91. Review of Major Amendments

Secs. 40 – 92 – 40 – 99 Reserved

Division 5. Mixed Use Developments

Sec. 40 – 100. Master Development Plan Review

Sec. 40 – 101. Application

Sec. 40 – 102. Public Hearing and Planning Commission

Sec. 40 – 103. City Council Review

Sec. 40 – 104. General Criteria and Standards for Master Development Plan Review

Sec. 40 – 105. Environmental Review

Secs. 40 – 106 – 40-109 Reserved

Division 6. Conditional Use Permits

Sec. 40 – 110. Procedure

Sec. 40 – 111. Application

Sec. 40 – 112. Public Hearing and Disposition

Sec. 40 – 113. Lapse of Conditional Use Permit by Non-Use

Sec. 40 – 114. Amended Conditional Use Permit

Sec. 40 – 115. Revocation of a Conditional Use Permit

Sec. 40 – 116. Performance Bond

Secs. 40 – 117 – 40 – 119 Reserved

Division 7. Variances

Sec. 40 – 120. Procedures

Sec. 40 – 121. Lapse of Variance

Sec. 40 – 122. Performance Bond

Secs. 40 – 123 – 40 – 129 Reserved

Division 8. Appeals

Sec. 40 – 130. Appeals, Procedures

Sec. 40 – 131. Lapse of Appeal

Secs. 40 – 132 – 40 – 139 Reserved

Division 9. Zoning Amendments

Sec. 40 – 140. Initiation of Amendments

Sec. 40 – 141. Procedure

Secs. 40 – 142 – 40 – 149 Reserved

Division 10. Enforcement

Sec. 40 – 150. Penalties and Violations

Secs. 40 – 151 – 40 – 159 Reserved

Article VI. Zoning District Provisions

Division 1. Generally

Sec. 40 – 160. Established Districts

Sec. 40 – 161. Map

Sec. 40 – 162. Alterations of City Boundaries

Sec. 40 – 163. Zoning District Boundaries

Sec. 40 – 164. District Regulations

Secs. 40 – 165 – 40 – 169 Reserved

Division 2. Agriculture District (A)

Sec. 40 – 170. Purpose

Sec. 40 – 171. Permitted Use

Sec. 40 – 172. Conditional Uses

Sec. 40 – 173. Interim Conditional Uses

Sec. 40 – 174. Accessory Uses

Sec. 40 – 175. Height, Yard Area and Lot Width and Depth Regulations

Sec. 40 – 176. Architectural Standards

Sec. 40 – 177. Landscape Standards

Secs. 40 – 178 – 40 – 179 Reserved

Division 3. Rural Residential I District (R-1)

Sec. 40 – 180. Purpose

Sec. 40 – 181. Permitted Uses

Sec. 40 – 182. Conditional Uses

Sec. 40 – 183. Interim Conditional Uses

Sec. 40 – 184. Accessory Uses

Sec. 40 – 185. Heights, Yard, Area and Lot Width and Depth Regulations

Sec. 40 – 186. Architectural Standards

Sec. 40 – 187. Landscape Standards

Secs. 40 – 188 – 40 – 189 Reserved

Division 4. Rural Residential II District (R-2)

Sec. 40 – 190. Purpose

Sec. 40 – 191. Remitted Uses

Sec. 40 – 192. Conditional Uses

Sec. 40 – 193. Interim Conditional Uses

Sec. 40 – 194. Accessory Uses

Sec. 40 – 195. Heights, Yard, Area and Lot Width and Depth Regulations

Sec. 40 – 196. Architectural Standards

Sec. 40 – 197. Landscape Standards

Secs. 40 – 198 – 40 – 199 Reserved

Division 5. Single-Family Residential District (R-3)

Sec. 40 – 200. Purpose

Sec. 40 – 201. Permitted Uses

Sec. 40 – 202. Conditional Uses

Sec. 40 – 203. Interim Conditional Uses

Sec. 40 – 204. Accessory Uses

Sec. 40 – 205. Heights, Yard, Area and Lot Width and Depth Regulation

Sec. 40 – 206. Architectural Standards

Sec. 40 – 207. Landscape Standards

Secs. 40 – 208 – 209 Reserved

Division 6. One-& Two- Family Residential District (R-4)

Sec. 40 – 210. Purpose

Sec. 40 – 211. Permitted Uses

Sec. 40 – 212. Conditional Uses

Sec. 40 – 213. Interim Conditional Uses

Sec. 40 – 214. Accessory Uses

Sec. 40 – 215. Heights, Yard, Area and Lot Width and Depth Regulations

Sec. 40 – 216. Architectural Standards

Sec. 40 – 217. Landscape Standards

Secs. 40 – 218 – 40-219 Reserved

Division 7. Manufactured Home District (MHD

Sec. 40 – 220. Purpose

Sec. 40 – 221. Conditional Use Permit Required

Sec. 40 – 222. Applications

Sec. 40 – 223. General Provisions

Sec. 40 – 224. Design Standards

Sec. 40 – 225. Operating Conditions

Secs. 40 – 226 – 40 – 229 Reserved

Division 8. Medium & High-Density Housing District (R-6)

Sec. 40 – 230. Purpose

Sec. 40 – 231. Permitted Uses

Sec. 40 – 232. Conditional Uses

Sec. 40 – 233. Accessory Uses

Sec. 40 – 234. Heights, Yard, Area and Lot Width and Depth Regulations

Sec. 40 – 235. Architectural Standards

Sec. 40 – 236. Landscape Standards

Secs. 40 – 237 – 40 – 239 Reserved

Division 9. Central Business District (CBD)

Sec. 40 – 240. Purpose
Sec. 40 – 241. Special Requirements: Enclosure of Uses
Sec. 40 – 242. Permitted Uses
Sec. 40 – 243. Conditional Uses
Sec. 40 – 244. Accessory Uses
Sec. 40 – 245. Heights, Yard, Area and Lot Width and Depth Regulations
Sec. 40 – 246. Architectural Standards
Sec. 40 – 247. Landscape Standards
Secs. 40 – 248 – 40 – 249 Reserved
Division 10. Commercial District (C)
Sec. 40 – 250. Purpose
Sec. 40 – 251. Permitted Uses
Sec. 40 – 252. Conditional Uses
Sec. 40 – 253. Accessory Uses
Sec. 40 – 254. Dimensional Requirements for Uses with Public Sewer Service
Sec. 40 – 255. Dimensional Requirements for Uses without Public Sewer Service
Sec. 40 – 256. Architectural Standards
Sec. 40 – 257. Landscape Standards
Secs. 40 – 258 – 40 – 259 Reserved
Division 11. Office and Health Care District (OHC)
Sec. 40 – 260. Purpose
Sec. 40 – 261. Service Agreement
Sec. 40 – 262. Permitted Uses
Sec. 40 – 263. Conditional Uses
Sec, 40 – 264. Accessory Uses
Sec. 40 – 265. Heights, Yard, Area and Lot Width and Depth Regulation
Sec. 40 – 266. Architectural Standards
Sec. 40 – 267. Landscape Standards
Secs. 40 – 268 – 40 – 269 Reserved
Division 12. Mixed Use District (MXD)
Sec, 40 – 270. Purpose
Sec. 40 – 271. Permitted Uses
Sec. 40 – 272. Conditional Uses
Sec. 40 – 273. Interim Conditional Uses
Sec. 40 – 274. Accessory Uses
Sec. 40 – 275. Design and Review Process
Sec. 40 – 276. Design Requirements
Sec. 40 – 277. Dimensional Requirements
Secs. 40 – 278 – 40 – 279 Reserved
Division 13. Industrial District (I)
Sec. 40 – 280. Purpose
Sec. 40 – 281. Permitted Uses

Sec. 40 – 282. Conditional Uses

Sec. 40 – 283. Interim Conditional Uses

Sec. 40 – 284. Accessory Uses

Sec. 40 – 285. Dimensional Requirements for Uses with Public Sewer Service

Sec. 40 – 286. Dimensional Requirements for Uses without Public Sewer Service

Sec. 40 – 287. Architectural Standards

Sec. 40 – 288. Landscape Standards

Sec. 40 – 289 Reserved

Division 14. Highway 8 Corridor Overlay District (HO)

Sec. 40 – 290. Purpose

Sec. 40 – 291. District Application

Sec. 40 – 292. Access Management

Sec. 40 – 293. Permitted Uses

Sec. 40 – 294. Lot Sizes

Sec. 40 – 295. Lot Width

Sec. 40 – 296. Structure Setbacks

Secs. 40 – 297 – 40 – 299 Reserved

Division 15. Carlos Avery Wildlife District

Sec. 40 – 300. Purpose

Sec. 40 – 301. District Application

Sec. 40 – 302. Permitted Uses

Sec. 40 – 303. Lot Sizes

Sec. 40 – 304. Lot Width

Sec. 40 – 305. Setbacks from Carlos Avery Wildlife Management Area Boundary

Secs. 40-306 – 40-309 Reserved

Division 16. Shoreland District

Sec. 40 – 310. Purpose

Sec. 40 – 311. District Application

Sec. 40 – 312. Boundaries

Sec. 40 – 313. Water Bodies Included in the Shoreland District

Sec. 40 – 314. Shoreland Classification System and Land Use Districts

Sec. 40 – 315. Permits Required

Sec. 40 – 316. Planned Unit Developments

Sec. 40 – 317. Revision and Amendments to Land Use District Boundaries

Sec. 40 – 318. Lot Area and Width Standards

Sec. 40 – 319. Structure and Sewage System Minimum Setback from the Ordinary High Water Level

Sec. 40 – 320. Additional Structure Setbacks

Sec. 40 – 321. Accessory Structures and Uses

Sec. 40 – 322. Shoreland Alterations

Sec. 40 – 323. Placement and Design of Roads

Sec. 40 – 324. Agricultural Use Standards

Sec. 40 – 325. Forest Management Standards

Sec. 40 – 326. Extractive Use Standards

Sec. 40 – 327. Standards for Commercial, Industrial, Public, and Semi-Public Uses

Sec. 40 – 328. Stormwater Management

Sec. 40 – 329. Mining of Metallic Minerals and Peat

Sec. 40 – 330. Projections in Water

Sec. 40 – 331. Elevation of Lowest Floor

Sec. 40 – 332. Maximum Building Height

Sec. 40 – 333. Notification of Variances and Condition Uses

Sec. 40 – 334. Water Supply and Sewage Treatment

Sec. 40 – 335. Substandard Lots

Sec. 40 – 336. Surface Zoning of Heims Lake

Secs. 40337 – 40 – 339 Reserved

Division 17. Floodplain District

Sec. 40 – 340. Statutory Authorization, Finding of Fact, and Purpose

Sec. 40 – 341. General Provisions

Sec. 40 – 342. Establishment of Zoning Districts

Sec. 40 – 343. Floodway District (FW)

Sec. 40 – 344. Flood Fringe District (FF)

Sec. 40 – 345. General Flood Plain District

Sec. 40 – 346. Subdivisions

Sec. 40 – 347. Public Utilities, Railroad, Roads, and Bridges

Sec. 40 – 348. Manufactured Homes and Manufactured Home Parks and Placement of Travel Trailers and Travel Vehicles

Sec. 40 – 349. Administration

Sec. 40 – 350. Nonconforming Uses

Sec. 40 – 351. Penalties for Violation

Sec. 40 – 352. Amendments

Secs. 40 – 353 – 40 – 359 Reserved

Division 18. Planned Unit Overlay District (PUD)

Sec. 40 – 360. Purpose and Scope

Sec. 40 – 361. Authorization

Sec. 40 – 362. Conditional Use Permit Required

Sec. 40 – 363. Allowed uses

Sec. 40 – 364. Required standards; city considerations

Sec. 40 – 365. Coordination with subdivision regulations; simultaneous review

Sec. 40 – 366. Revisions and/or changes

Sec. 40 – 367. General Regulations

Sec. 40 – 368. Site Design

Sec. 40 – 369. Standards for Common Open Space

Sec. 40 – 370. Conveyance and Maintenance of Common Open Space

Sec. 40 – 371. Required Covenants, Easements, and Provisions in Plan

Sec. 40 – 372. Guarantee the Provision of Common Open Space.

Sec. 40 – 373. Guarantee of performance

Sec. 40 – 374. Phased development

Sec. 40 – 375. Final Approval

Sec. 40 – 376. Final Action by Applicant

Sec. 40 – 377. Control of Planned Unit Development Following Acceptance

Sec. 40 – 378. Amendments to the Final Development Plan

Sec. 40 – 379. Failure to Begin Planned Unit Development

Secs. 40 – 380 – 40 – 399 Reserved

Division 19. Residential Cluster Developments in the Agriculture District.

Sec. 40 – 400. Purpose

Sec. 40 – 401. Density and Lot Requirements

Sec. 40 – 402. Conditional Use Required

Sec. 40 – 403. Height, Yard, Area and Lot Width and Depth Regulations

Sec. 40 – 404. Subdivision Design

Sec. 40 – 405. Development Planning

Sec. 40 – 406. Common Open Space

Secs. 40 – 407 – 40 – 409 Reserved

Article VII. General Building and Performance Requirements

Division 20 – Closed Landfill Restricted (CLR) District

Sec. 40 – 407. Purpose.

Sec. 40 – 408. Uses and Regulations.

Sec. 40 – 409. Amendments.

Division 1. Accessory Structures and Uses

Sec. 40 – 410. Residential and Shoreland Zones

Sec. 40 – 411. Sanitary Facilities

Sec. 40 – 412. Accessory Buildings Prior to Principal Building

Sec. 40 – 413. Height Elevation of Non-Agricultural Accessory Buildings

Sec. 40 – 414. Size of Non-Agricultural Accessory Buildings

Sec. 40 – 415. Building Permit Required

Sec. 40 – 416. Commercial Storage

Sec. 40 – 417. Building Design Standards

Secs. 40 – 418 – 40 – 419 Reserved

Division 2. Adult Uses

Sec. 40 – 420. Purpose

Sec. 40 – 421. Definitions

Sec. 40 – 422. General Provisions

Sec. 40 – 423. Sexually Oriented Uses, Principal

Sec. 40 – 424. Sexually Oriented Uses, Accessory

Secs. 40 – 425 – 40 – 429 Reserved

Division 3. Agricultural Operations

Sec. 40 – 430. Nonconforming Agricultural Operations

Sec. 40 – 431. Irrigation Systems Permits

Secs. 40 – 432 – 40 – 439 Reserved

Division 4. Antennas

Sec. 40 – 440. Satellite Dish Antennas

Sec. 40 – 441. C.U.P. Application Requirements, Amateur Radio Antenna

Secs. 40 – 442 – 40-449 Reserved

Division 5. Architectural Standards

Sec. 40 – 450. Scope

Sec, 40 – 451. Architectural Standards

Sec. 40 – 452. Additions and Repairs to Existing Buildings

Secs. 40 – 453 – 40-459 Reserved

Division 6. Building requirements

Sec. 40 – 460. Building Size and Architectural Requirements

Secs. 40 – 461 – 40 – 469 Reserved

Division 7. Development in Fire Prone Areas

Sec. 40 – 470. Purpose

Sec. 40 – 471. Fire Prone Areas

Sec. 40 – 472. Regulations for Developments in Fire Prone Areas

Secs. 40 – 473 – 40 – 479 Reserved

Division 8. Drive-in or Drive-through Businesses

Sec. 40 – 480. Purpose

Sec. 40 – 481. Site Plan Requirements

Sec. 40 – 482. Design Standards

Sec. 40 – 483. General

Sec. 40 – 484. Location

Sec. 40 – 485. Drive-In Theater

Sec. 40 – 486. Lighting

Secs. 40 – 487 – 40 – 489 Reserved

Division 9. Environmental Effects

Sec. 40 – 490. Environmental Effects

Sec. 40 – 491. Protection

Sec. 40 – 492. Noise

Sec. 40 – 493. Odor

Sec. 40 – 494. Glare

Sec. 40 – 495. Exterior lighting

Sec. 40 – 496. Smoke, dust, fumes or gases

Sec. 40 – 497. Hazard

Sec. 40 – 498. Water supply

Sec. 40 – 499. Waste

Sec. 40 – 500. Testing

Secs. 40 – 501 – 40 – 509 Reserved

Division 10. Essential Services

Sec. 40 – 510. Permit Required

Sec. 40 – 511. Conditional Use Permit Required

Secs. 40 – 512 – 519 Reserved

Division 11. Exterior Storage

Sec. 40 – 520. Storage or Screening Requirements

Sec. 40 – 521. Conditional Use Permit May Be Required

Sec. 40 – 522. Bulk Storage Liquid

Sec. 40 – 523. Explosive Materials

Secs. 40 – 524 – 40 – 529 Reserved

Division 12. Fences

Sec. 40 – 530. Special Requirements

Sec. 40 – 531. Fences Located in Residential Districts

Sec. 40 – 532. Fences Located in Non-Residential Districts

Sec. 40 – 533. Prohibited Fences

Sec. 40 – 534. Swimming pool fencing

Sec. 40 – 535. Swimming pool fencing exceptions

Secs. 40 – 536 – 40-539 Reserved

Division 13. Home Occupations

Sec. 40 – 540. Purpose

Sec. 40 – 541. Permitted Home Occupations

Sec. 40 – 542. Interim Use Permit Required

Sec. 40 – 543. Performance Standards

Sec. 40 – 544. Review by Planning Commission

Secs. 40 – 545 – 40 – 549 Reserved

Division 14. Landscaping and Woodland Preservation

Sec. 40 – 550. Landscaping on a Lot

Sec. 40 – 551. Landscaping in all Districts

Sec. 40 – 552. Landscaping Maintenance

Sec. 40 – 553. Double Front Lots

Sec. 40 – 554. Vegetated Buffers

Sec. 40 – 555. Landscaping Regulations

Sec. 40 – 556. Woodland Preservation Regulations

Secs. 40 – 557 – 40 – 559 Reserved

Division 15. Lighting

Sec. 40 – 560. Purpose

Sec. 40 – 561. Exemptions

Sec. 40 – 562. Non-Conforming Uses

Sec. 40 – 563. Intensity

Sec. 40 – 564. Method of Measuring Light Intensity

Sec. 40 – 565. Performance Standards

Sec. 40 – 566. Outdoor Recreation

Sec. 40 – 567. Submission of Plans

Secs. 40 – 568 – 40 – 569 Reserved

Division 16. Lots of record

Sec. 40 – 570. Lots of Record

Secs. 40 – 571 – 40 – 579 Reserved

Division 17. Mineral Extraction

Sec. 40 – 580. Purpose

Sec. 40 – 581. Definitions

Sec. 40 – 582. Mineral Extraction Permit Required

Sec. 40 – 583. Exceptions from Permit Requirements

Sec. 40 – 584. Permit Application Requirements

Sec. 40 – 585. Application

Sec. 40 – 586. Security

Sec. 40 – 587. Annual Certification

Sec. 40 – 588. Use Restrictions

Sec. 40 – 589. Mineral Extraction Performance Standards

Sec. 40 – 590. Land Rehabilitation Plans

Secs. 40 – 591 – 40 – 599 Reserved

Division 18. Motor Vehicle Dealerships

Sec. 40 – 600. Purpose

Sec. 40 – 601. Conditional Use Permit Required

Sec. 40 – 602. Surface Drainage Plans and Improvements

Sec. 40 – 603. Lot Requirements

Sec. 40 – 604. Access Driveways

Sec. 40 – 605. Screening

Sec. 40 – 606. Landscaping

Sec. 40 – 607. Curbing

Sec. 40 – 608. Surfacing

Sec. 40 – 609. Parking

Sec. 40 – 610. Signage

Sec. 40 – 611. Lighting

Secs. 40 – 612 – 40 – 619 Reserved

Division 19. Motor Vehicle Reduction / Salvage Yards

Sec. 40 – 620. Purpose

Sec. 40 – 621. Conditional Use Permit Required

Sec. 40 – 622. Operation Plan

Sec. 40 – 623. Location

Sec. 40 – 624. Area

Sec. 40 – 625. Automobile Reduction/Salvage Yards

Sec. 40 – 626. Screening

Secs. 40 – 627 – 40 – 629 Reserved

Division 20. Motor Vehicle Service Stations

Sec. 40 – 630. Drainage Plans

Sec. 40 – 631. Parked Vehicles

Sec. 40 – 632. Exterior Storage

Sec. 40 – 633. Storage Areas

Sec. 40 – 634. Related Business Activities

Sec. 40 – 635. Access to any Service Station

Sec. 40 – 636. Lighting

Secs. 40 – 637 – 40 – 639 Reserved

Division 21. Natural Resource Management

Sec. 40 – 640. Vegetation Removal

Sec. 40 – 641. Drainage Requirements

Sec. 40 – 642. Surface water Management

Sec. 40 – 643. Wetland Protection and Management

Sec. 40 – 644. Erosion and Sedimentation Control

Sec. 40 – 645. Developments

Sec. 40 – 646. Stop Work Order

Secs. 40 – 647 – 40 – 649 Reserved

Division 22. Nonconformities

Sec. 40 – 650. Purpose

Sec. 40 – 651. General Provisions

Sec. 40 – 652. Substandard Lots

Sec. 40 – 653. Substandard Lots of Record in Combination

Sec. 40 – 654. Substandard Lots: Accessory Structures

Sec. 40 – 655. Uses under Conditional Use Permits

Sec. 40 – 656. Maintenance of Non-Conforming Structures

Sec. 40 – 657. Alterations of Non-Conforming Structures

Sec. 40 – 658. Non-Conforming Structures in Progress at Time of Adoption

Secs. 40 – 659 – 40 – 669 Reserved

Division 23. Off-Street Parking, Loading, and Storage

Sec. 40 – 670. Purpose

Sec. 40 – 671. Scope of Regulations

Sec. 40 – 672. Calculating Space

Sec. 40 – 673. Site Plan

Sec. 40 – 674. Site Plan Criteria

Sec. 40 – 675. Reduction and Use of Parking and Loading Space

Sec. 40 – 676. Parking of Large Vehicles or Equipment

Sec, 40 – 677. Parking of Recreational Vehicles and Placement Thereof

Sec. 40 – 678. Maintenance

Sec. 40 – 679. Use of Parking Facilities

Sec. 40 – 680. Control of Off-Street Parking Facilities

Sec. 40 – 681. Parking Space, Aisle and Driveway Design

Sec. 40 – 682. Number of Required Parking and Loading Spaces

Sec. 40 – 683. Joint Facilities

Sec. 40 – 684. Off-Street Loading Facilities

Sec. 40 – 685. Central Loading

Sec. 40 – 686. Snow Parking

Sec. 40 – 687. Bicycle Parking

Secs. 40 – 688 – 40 – 689 Reserved

Division 24. Pedestrian Circulation and Access

Sec. 40 – 690. Pedestrian Circulation and Access

Sec. 40 – 691. Conflicts

Sec. 40 – 692. Design Standards

Secs. 40 – 693 – 40 – 699 Reserved

Division 25. Recreational Camping Areas

Sec. 40 – 700. Purpose

Sec. 40 – 701. License Required

Sec. 40 – 702. Conditional Use Permit Required

Sec. 40 – 703. Camping Area Spacing Requirements

Sec. 40 – 704. Utilities

Sec. 40 – 705. Water Supply, Sewage Disposal and Toilet, Bathing, Laundry Facilities and lighting

Sec. 40 – 706. Plumbing

Sec. 40 – 707. Garbage and Refuse - Handling and Disposal

Sec. 40 – 708. Swimming Areas

Sec. 40 – 709. Barbecue Pits, Fireplaces, Stoves, Incinerators

Sec. 40 – 710. Bottled Gas

Sec. 40 – 711. Prohibited Activities

Sec. 40 – 712. Caretakers/Operator Duties

Secs. 40 – 713 – 40-719 Reserved

Division 26. Screening

Sec. 40 – 720. Commercial Uses, and Non-Residential Uses in Residential Districts

Sec. 40 – 721. Residential Uses

Sec. 40 – 722. All Districts

Sec. 40 – 723. Trash Storage Screening

Sec. 40 – 724. Mechanical Screening

Sec. 40 – 725. Screening Materials and Maintenance

Secs. 40 – 726 – 40 – 729 Reserved

Division 27. Sewage Sludge and/or Ash Sludge Land Application

Sec. 40 – 730. Purpose

Sec. 40 – 731. Requirements

Secs. 40 – 732 – 40 – 739 Reserved

Division 28. Signs

Sec. 40 – 740. Purpose

Sec. 40 – 741. Definitions

Sec. 40 – 742. General Regulations

Sec. 40 – 743. Maintenance of Signs

Sec. 40 – 744. Legally Established Nonconforming Permanent Signs

Sec. 40 – 745. Basic Design Elements for Specific Identification Signs

Sec. 40 – 746. Sign Permit

Sec. 40 – 747. Sign Plan

Sec. 40 – 748. Prohibited Signs

Sec. 40 – 749. Residential Districts – Permitted Signs

Sec. 40 – 750. Non-Residential – Permitted Signs

Sec. 40 – 751. Nonconforming Signs

Secs. 40 – 752 – 40-759 Reserved

Division 29. Swimming Pools

Sec. 40 – 760. Permits

Sec. 40 – 761. Construction of Pools

Sec. 40 – 762. Swimming Pool Fencing

Sec. 40 – 763. Swimming Pool Fencing Exceptions

Sec. 40 – 764. Miscellaneous Pool Regulations

Sec. 40 – 765. Existing Swimming Pools and Special Purpose Pools

Secs. 40 – 766 – 40 – 769

Division 30. Telecommunications Towers

Sec. 40 – 770. Telecommunication Towers

Sec. 40 – 771. Permits

Sec. 40 – 772. Location Requirements for New Facilities

Sec. 40 – 773. Towers in Residential Zoning Districts

Sec. 40 – 774. Antennas in the Public Right-of-Way

Sec. 40 – 775. Co-Location Requirements

Sec. 40 – 776. Tower and Antenna Design Requirements

Sec. 40 – 777. Tower Setback

Sec. 40 – 778. Tower Height

Sec. 40 – 779. Tower Lighting

Sec. 40 – 780. Signs and Advertising

Sec. 40 – 781. Associated Equipment

Sec. 40 – 782. Abandoned or Unused Towers or Portions of Towers

Sec. 40 – 783. Antennas Mounted on Roofs, Walls, and Existing Towers

Sec. 40 – 784. Interference with Public Safety Telecommunications

Sec. 40 – 785. Tower Construction Requirements

Sec, 40 – 786. Additional Submittal Requirements

Sec. 40 – 787. Maintenance and Inspection

Sec. 40 – 788. Antenna Design and Mounts

Sec. 40 – 789. Variances

Secs. 40 – 790 – 40 – 799 Reserved

Division 31. Temporary Manufactured Home Permit

Sec. 40 – 800. Purpose

Sec. 40 – 801. Temporary Manufactured Home Permit Required

Sec. 40 – 802. Conditions for Issuance of Temporary Manufactured Home Permit

Secs. 40 – 803 – 40-809 Reserved

Division 32. Traffic and Parking Studies

Sec. 40 – 810. Traffic and Parking Studies

Sec. 40 – 811. Traffic Management Plans

Secs. 40 – 812 – 40 – 819 Reserved

Division 33. Underground Utilities

Sec. 40 – 820. Underground Utilities

Secs. 40 – 821 – 40-829 Reserved

Division 34. Yard Regulations

Sec. 40 – 830. General Statement

Sec. 40 – 831. Yard Requirements

Secs. 40 – 832 – 40 – 839 Reserved

Article VIII. Repeal and Date of Effect

Sec. 40 – 840. Repeal of Previous Zoning Ordinance

Sec. 40 – 841. Date of Effect

Secs. 40 – 842 – 40 – 849 Reserved

ARTICLE I. TITLE

Sec. 40 – 1. Reference.

This Ordinance shall be known, cited and referred to as the City of Wyoming Zoning Ordinance except as referred to herein, where it shall be known as "this Ordinance."

Sec. 40 – 2. Provisions.

The provisions of this Ordinance shall apply to all lands, properties, buildings, and other structures and use of land within City of Wyoming, Chisago County, Minnesota.

Secs. 40 - 3—40 - 9. Reserved.

ARTICLE II. INTENT AND PURPOSE

Sec. 40 – 10. Defined.

The general intent and purpose of this Ordinance is to guide future development of the City, to ensure it is orderly, protect its natural and environmental resources, and to promote the public health, safety, and general welfare of the City residents.

Secs. 40 - 11—40 - 20 Reserved.

ARTICLE III. APPLICATION

Sec. 40 – 20. Relation to Comprehensive Plan.

It is the policy of the City of Wyoming that the enforcement, amendment, and administration of this Ordinance be accomplished in harmony with the City's Comprehensive Plan.

Sec. 40 – 21. Standard Requirement.

Where the conditions imposed by any provisions of this Ordinance are either more or less restrictive than comparable conditions imposed by other ordinance, rule, or regulation of the City, County, State, or Federal governments, the ordinance, rule or regulation which imposes the more restrictive condition standard or requirements, shall prevail. In the event of any conflict between this Ordinance with any private restrictions, protections, and covenants, the provisions of this Ordinance shall apply.

Sec. 40 – 22. Minimum Requirements.

In their interpretation and application, the provisions of this Ordinance shall be at least the minimum requirements for the promotion of the public health, safety, and welfare.

Sec. 40 – 23. Conformity with Provisions.

No structure shall be erected, converted, enlarged, reconstructed, altered, or placed, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with the provisions of this Ordinance.

Sec. 40 – 24. Building Permits.

Except as herein provided, no building, structure, or premises shall hereinafter be used, occupied, or moved, and no building permit shall be granted that does not conform to the requirements of this Ordinance.

Sec. 40 – 25. Conditional Uses, Variances, and Amendments.

Nothing within this Ordinance shall be construed so to deny any property owner his right to apply for a conditional use permit, variance, or amendment to this Ordinance.

Sec. 40 – 26. Uses Not Provided for Within Zoning Districts.

Whenever in any zoning district a use is neither specifically permitted nor denied, the use shall be considered prohibited. In such case the City Council or the Planning Commission, on their own initiative or upon request, may conduct a study to determine the appropriate zoning district and conditions and standards for the development of the use, the cost of the study will be borne by those making the requests. The City Council, the Planning Commission, or property owner shall, if appropriate, initiate the amendment to the Zoning Ordinance to provide for the particular use under consideration or shall find that the use under consideration is not compatible for development within the City.

Sec. 40 – 27. Separability.

It is hereby declared to be the intention of the City that the separate provisions of this Ordinance are separable in accordance with the following:

(1) If any court of law shall judge any provision of this Ordinance to be invalid, such judgment shall not affect any other provision of this Ordinance not specifically included in said judgment.

(2) If any court of competent jurisdiction shall judge invalid the application of any provision of the Ordinance to a particular property, building, or structure, such judgment shall not affect the application of said provision to any other property, building, or structure not specifically included in said judgment.

Sec. 40 – 28. Rules.

The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction.

(1) The singular number includes the plural, and the plural the singular.

(2) The present tense includes the past and the future tenses, and the future the present.

(3) The word "shall" is mandatory while the word "may" is permissive.

(4) The masculine gender includes the feminine and neuter.

Secs. 40 - 29—40 - 39. Reserved.

ARTICLE IV. DEFINITION OF TERMS

Sec. 40 – 40. Definitions.

The following words and terms, wherever they occur in this Ordinance, shall be interpreted as herein defined.

(1) **Adult Use:** See Chapter 40, Article VII, Division 2 for adult use definitions.

(2) **Accessory Storage:** The cumulative storage space footprint of all accessory storage structures on a given lot, including attached and detached garages.

(3) **Accessory Structure:** A subordinate structure which is located on the same lot on which a principal building is situated and is reasonably necessary and incidental to the conduct of the primary or principal use of such building.

(4) **Accessory Use:** A subordinate use which is located on the same lot on which the principal use is situated and is reasonably necessary and incidental to the conduct of the primary or principal use.

(4.1) **Accessory Use or Structure:** A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

(5) **Agricultural Building:** A structure on land that is used for commercial agriculture which is designed, constructed, and used to house farm implements, livestock, or agricultural produce or products used by the owner, lessee, and sub lessee of the building and members of their immediate families, their employees, and persons engaged in the pickup or delivery of agricultural produce or products.

(6) **Agriculture Uses:** Those uses commonly associated with the growing of produce on farms. These include field crop farming; pasture for hay; fruit growing; tree, plant, shrub or flower nursery without building; truck gardening, roadside stand for sale in season; and livestock raising and feeding; but not including commercial animal feed lots and kennels.

(7) **Animal Feedlot:** A lot or building or a group of lots and buildings intended for the confined feeding, breeding, raising or holding of animals, and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. Open lots used for the feeding and rearing of poultry shall be considered feedlots.

(8) **Antenna, Amateur Radio:** Any equipment or device used to transmit, receive, or transmit/receive electromagnetic signals for "Amateur Radio Service" communications as defined in 47 C.F.R. part 97.15(a).

(9) **Antenna, Building Mounted:** Any antenna directly attached or affixed to a building, tank, tower or structure other than a telecommunications tower; or, an antenna attached to a support structure that is an integral part of an electrical transmission tower and not a telecommunications tower.

(10) **Basement:**

(a) Any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story as defined herein.

(b) Floodplain – Means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

(11) **Bedroom:** An area that is either a room designed or potentially used for sleeping, with a minimum floor area of seventy (70) square feet, access gained from the living area, and legal means of egress.

(12) **Bluff:** Any area where the average slope of the land is equal to or greater than fifteen percent (15%) as measured over horizontal distances of fifty (50) feet or more.

(13) **Bluff Impact Zone:** A bluff and land located within twenty (20) feet from the top of a bluff.

(14) **Bluff, Toe of:** The lower point of a fifty (50) foot segment with an average slope exceeding eighteen percent (18%).

(15) **Bluff, Top of:** The higher point of a fifty (50) foot segment with an average slope exceeding eighteen percent (18%).

(16) **Bluffline:** A line along the top of a bluff connecting the points at which the bluff, proceeding away from the river, lake or adjoining watershed channel becomes less than a fifteen percent (15%) incline from the horizontal. The location of the bluffline for any particular property shall be determined by the Zoning Administrator. More than one bluffline may be encountered proceeding away from the river or adjoining watershed channel; all setbacks required herein shall be applicable to each bluffline.

(17) **Board of Appeals:** A board created by the City Council to hear appeals from administrative actions.

(18) **Boathouse:** A structure designed and used solely for the storage of boats and boating equipment.

(19) **Buffer:** The use of land, topography, difference in elevation, space, fences or landscape plantings to screen or partially screen a use or property from another use or property or to shield or mitigate noise, lights or other impacts.

(20) **Buffer Yard:** A strip of land utilized to screen or partially screen a use of property from another use or property or to shield or mitigate noise, lights, or other impacts.

(21) **Buildable Area:** An area of land excluding surface waters, wetlands or floodplains; and when the property is served by a subsurface sewage treatment system where the depth to mottled soils is at least one (1) foot.

(22) **Building:** Any structure used or intended for supporting or sheltering any use or occupancy.

(23) **Building Height:** A distance to be measured from the mean ground level to the top of a flat roof, to the mean distance of the highest gable on a pitched or hip roof, to the deckline of a mansard roof, to the uppermost point on other roof types.

(24) **Building Height, Shoreland:** The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

(25) **Building Line:** A line running parallel with the bluffline, ordinary high water mark or lot line, whichever is applicable, at the required setback beyond which a structure may not extend.

(26) **Building Setback:** The minimum horizontal distance between the building and the specified lot line as prescribed in this Ordinance.

(27) **Business:** Any establishment, occupation, employment or enterprise where merchandise is manufactured, exhibited or sold, or where services are offered for compensation.

(28) **Channel:** A natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct water either continuously or periodically.

(29) **Church:** A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

(30) **Clear-cutting:** The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

(31) **Club or Lodge:** A non-profit association of persons who are bona fide members paying some form of dues or membership fee to use the premises, with the use of premises being restricted to members and their guests.

(32) **Cluster Development:** A pattern of subdivision development which places housing units into compact groupings while providing commonly owned open space.

(33) **Commercial Building:** A building used for business activities that include, but are not limited to, stores, offices, schools, churches, gymnasiums, libraries, museums, hospitals, clinics, motor vehicle repair shops, body shops, and cabinet shops.

(34) **Commercial Planned Unit Development:** Are typically uses that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.

(35) **Commercial Recreation:** The use of the land or building for which fees are charged for a recreational activity.

(36) **Commercial use:** The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

(37) **Commissioner:** The commissioner of the Department of Natural Resources.

(38) **Common Open Space:** Land owned by a group or corporation but used by two or more property owners or tenants for recreation or visual amenity.

(39) **Community Sewage Treatment Facility:** Any public or private system for the treatment of gray water and effluent from more than one dwelling unit, business, or other contributing unit.

(40) **Communication Tower:** Any tower supporting wireless communication apparatus.

(41) **Comprehensive Plan:** The comprehensive development plan prepared and adopted by the City, indicating the goals, objectives, and land use map for guiding the present and future development of the City.

(42) **Conditional Use:** A use, which because of potential problems of control the use presents, requires reasonable, but special, unusual, and extraordinary limitations peculiar to the use for protection of the public welfare and the integrity of the City Comprehensive Plan.

(43) **Conditional Use Permit:** A permit issued by the City in accordance with procedures specified in this Ordinance, as well as its compatibility with the City Comprehensive Plan, as a flexible device to enable the City to assign dimensions to a proposed use or conditions surrounding it after consideration of adjacent uses and their functions and the special problems or potential conflicts which the proposed use presents.

(44) **Congregate Living Facilities:** A building or part thereof that contains sleeping units where residents share bathroom and/or kitchen facilities.

(45) **Conservancy:** The implementation of policies for the protection and preservation of the natural character of lands for their value to scenic enjoyment, native vegetation, wildlife, water and soil conservation, flood plain management, forestry and other such purposes.

(46) **Convenience Store:** A retail business that sells gasoline and also offers prepackaged food items, candy, coffee, pastries, soft drinks, and a small selection of goods. It is intended to attract a large volume of short visits by automobile.

(47) **Contractor, Home Based:** A self-employed person who uses their home as the base of operations for their business but whose work takes place off the premises.

(48) **Deck:** A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a building and extending more than one foot above ground.

(48.1) **Designated Residential Property:** Any property within the City that is:

(a) Used residentially or subdivided for residential use; and

(b) Zoned residentially; and

(c) Guided residentially by the Comprehensive Plan.

(49) **District:** A section or sections of the City for which the regulations and provisions governing the use of buildings and lands are uniform for each class of use permitted therein.

(50) **Diversion:** A channel that intercepts surface water runoff and that changes the accustomed course of all or part of a stream.

(51) **Dog Kennel, Commercial:** Any place where four (4) or more dogs or domestic pets, over four (4) months of age are kept, boarded, bred, trained and/or offered for sale, except in the case of a veterinary clinic.

(52) **Dog Kennel, Residential:** Any place where four (4) or more dogs or domestic pets, over four (4) months of age are kept.

(53) **Dormitory:** A space in a building where group sleeping accommodations are provided in one room, or in a series of closely associated rooms, for persons not members of the same family group, under joint occupancy and single management, as in college dormitories or fraternity houses.

(54) **Double-front lots:** A lot that has a front line abutting on one street and a back or rear line abutting on another street.

(55) **Drive-in / Drive-through Establishment:** An establishment which accommodates the patron's motor vehicle, from which products may be purchased and consumed either on-site in the motor vehicle, or off-site; or from which business may be transacted.

(56) **Dwelling:** A structure or portion thereof, designed for short or long term living quarters for one or more persons, but not including hotels and motels or boarding houses.

(57) **Dwelling-Single Family:** A detached dwelling unit designed for occupancy of one (1) family.

(58) **Dwelling-Two-Family:** A dwelling designed exclusively for occupancy by two (2) families living independently of each other.

(59) **Dwelling Site:** A designated location for residential use by one or more persons utilizing temporary or movable shelter. Examples include camping and recreational vehicle sites.

(60) **Dwelling Unit:** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

(61) **Equal Degree of Encroachment:** A method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

(62) **Essential Services:** Gas, underground electrical, steam or water distribution systems, collection, communication, supply or disposal system including poles, wires, mains, drains, sewer, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants or other similar equipment and accessories in conjunction therewith.

(63) **Established Riding Area:** Means trails or area on a lot used by a motorized dirt bike, go-cart, snowmobile, and/or all-terrain vehicle.

(64) **Expansion:** Any increase in a dimension, size, area, volume, or height; any increase in the area of use; any placement of a structure or part thereof where none existed before; any addition of a site feature such as a deck, patio, fence, driveway, parking area or swimming pool; any improvement that would allow the land to be more intensely developed; any relocation of operations on the property; or any increase in intensity of use based on a review of the original nature, function or purpose of the use, the hours of operation, traffic, parking, water use, effluent, noise, exterior storage, signs, exterior lighting, types of operations, types of goods or services offered, odors, area of operation, number of employees, air emissions, or other factors deemed relevant.

(65) **Extractive Use:** The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statues, Sections 93.44 to 93.51. See also Chapter 40, Article VII, Division 17.

(66) **Family:** An individual or two or more persons related by blood, or marriage or legal adoption, or a group of not more than five unrelated persons living together on the premises or in a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, hotel, club, lodge, sorority or fraternity house, as herein described.

(67) **Farm:** A tract of land five (5) or more acres which is principally used for commercial agriculture, all of which is owned and operated by a single family, farm corporation, individual or corporation.

(68) **Farm Dwelling:** A single-family dwelling located on a farm which is used or intended for use by the farm's owner, a relative of the owner, or a person employed thereof.

(69) **Fence:** A barrier forming a boundary to, or enclosing some area.

(70) **Finished Living Area:** An area within a residential dwelling which has finished walls and ceilings (e.g. sheetrock, taped, and sanded).

(71) **First Story:** The lowest story in a building which qualifies as a story, as defined herein, except that a floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than four (4) feet below grade, as defined herein, for more than fifty percent (50%) of the total perimeter, or not more than eight (8) feet below grade, as defined herein, at any point.

(72) **Flood:** A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

(73) **Flood Frequency**: The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

(74) **Flood Fringe:** That portion of the floodplain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study, Chisago County, Minnesota, and Incorporated Areas.

(75) **Floodplain:** The beds proper and the areas adjoining a wetland, lake, or watercourse which have been or hereafter may be covered by the regional flood.

(76) **Flood Proofing:** A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

(77) **Floodway:** The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

(78) **Floor Area:** The floor area from the outside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The floor area shall not include shafts with no openings or interior courts.

(79) **Forestry:** The management, including logging, of a forest, woodland, or plantation, and related research and educational activities, including the construction, alteration, or maintenance of wood roads, skid roads, landing area and fences.

(80) **Garage – Private:** An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the residents.

(81) **Grade (Adjacent Ground Elevation):** The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between a building and the property line, or when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.

(82) **Grading:** Changing the natural or existing topography of land.

(83) **Guest Room:** A room occupied by one (1) or more guests for compensation and in which no provision is made for cooking, but not including rooms in a dormitory primarily for sleeping purposes.

(84) **Habitable Living Space:** Space in a structure for living, sleeping, eating, cooking or bathing, not including garages or crawl spaces.

(85) **Hardship:** means the same as that term is defined in Minnesota Statutes, Chapter 462.

(86) **Home Occupation:** Any occupation carried on by a homeowner or family member residing on the premises, such that the use is incidental and secondary to the use of the dwelling for dwelling purposes, that it does not change the character of the dwelling or neighborhood, and that no appreciable increase in traffic is generated.

(87) **Impervious Surface:** An artificial or natural surface through which water, air, or roots cannot penetrate.

(88) **Industry – Light:** All uses which include the compounding, processing, packaging, treatment, or assembly of products and materials provided such use will not generate offensive odors, glare, smoke, dust, noise, vibration or other objectionable influences that extend beyond the lot on which use is located, and that does not require outside storage of goods or materials, and that does not generate (in the opinion of the City Zoning Administrator) excessive amounts of truck traffic.

(89) **Industry – Heavy:** Land uses engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using, flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous conditions. "Heavy industry" shall also mean those uses engaged in the operation, parking, and maintenance of vehicles, cleaning of equipment or work processes involving solvents, solid waste or sanitary waste transfer stations, recycling establishments, truck terminals, public works yards, and container storage.

(90) **Interim Use:** A temporary use of property until a certain date or until the use in no longer permitted.

(91) **Landscaping:** Planting and maintaining trees, shrubs, and ground cover, such as grass.

(92) **Lot:** A parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation thereof. For the purposes of this Ordinance, a lot shall be considered to be an individual parcel, which shall be occupied, by no more than one principal building or use and its accessory buildings.

(93) **Lot Area:** The area of a horizontal plane within the lot lines.

(94) **Lot Frontage:** The frontage of a lot shall be the length of that boundary abutting a public road right-of-way. When a lot abuts two public roads, the frontage shall be the narrower side.

(95) **Lot of Record:** A parcel of land, whether subdivided or otherwise legally described of record prior to the adoption of zoning ordinances by the City of Wyoming or approved by the City as a lot subsequent to such date and which is occupied by or intended for occupancy by one (1) principal building or principal use together with any accessory buildings and such open spaces as required by this Ordinance and having its principal frontage on a street, or a proposed street approved by the City.

(96) **Lot, Corner:** A lot situated at the junction of and abutting on two (2) or more intersecting streets; or a lot at the point of deflection in alignment of a single street, the interior angle of which is one hundred thirty-five (135) degrees or less.

(97) **Lot, Interior:** Including through lots, excluding corner lots.

(98) **Lot, Line:** A property boundary line of any lot held in single or separated ownership, except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right-of-way.

(99) **Lot, Through:** A lot fronting on two parallel streets.

(100) **Lot, Width:** The shortest horizontal distance between the side lot lines measured at the right angles at the building line associated with structure setback requirements.

(101) **Lowest Floor:** The lowest floor of the lowest enclosed area (including basement).

(102) **Manufactured Home:** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."

(103) **Manufactured Home Park:** Any site, lot, field, or tract of land upon which two or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of the manufactured home park.

(104) **Mining Operation:** The removal of stone, gravel, sand, clay, soil, coal, salt, iron, copper, nickel, granite, petroleum products or other material from the land for commercial, industrial, or governmental purposes. See also Article VII, Division 17.

(105) **Motel:** A building or group of buildings used primarily for the temporary residence of motorists or travelers. (A motel is considered the same as a hotel.)

(106) **Mottled Soil:** A color pattern in a soil profile formed by oxidation and reduction of iron, indicating seasonal saturation of the soil by groundwater, considered to be a restrictive layer for purposes of septic system design and for determination of buildable area.

(107) **Motor Vehicle:** Automobiles, trucks, motorcycles, snowmobiles, off-road recreational vehicle, or motorboat.

(108) **Motor Vehicle Repair:** General repair, rebuilding or reconditioning engines, motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; overall painting or paint job; vehicle steam cleaning; upholstering.

(109) **Motor Vehicle Service Station:** A place where motor vehicle fuels, stored only in underground tanks, motor oil and lubricants for operation of motor vehicles, are related directly for retail sale to the public on premises; and including minor accessories and services for motor vehicles, but not including major repairs and rebuilding of motor vehicles.

(110) **Motor Vehicle Reduction / Salvage Yard:** Any place where any vehicles not in running condition and/or not licensed, or parts thereof are stored in the open and are not being restored to operation for a period of more than thirty (30) days; or land, building or structure used for wrecking or storing of such motor vehicles or parts thereof; and including any commercial salvaging and scavenging of any other goods, articles or merchandise.

(111) **Motor Vehicle Dealership:** Any place or parcel of land where three (3) or more new and/or used motor vehicles are sold or offered for sale in any twelve month period. It may also provide maintenance services for cars, thus employing automobile mechanics; it also may stock and sell spare automobile parts, and process warranty claims.

(112) **Motorized Dirt Bike:** A two (2) wheeled vehicle being capable of cross-country travel on natural terrain without benefit of a road or trail.

(113) **Natural Drainage System:** All land surface areas which by nature of their contour configuration, collect, store, and channel surface water run-off.

(114) **Natural Obstruction:** Any rock, tree, gravel, or analogous natural matter that is an obstruction and has been located within a water body, watercourse, or wetland by a non-human cause.

(115) **Nonconforming Structure, Use, or Parcel:** Any legal use, structure, or parcel of land already of existence, recorded, or authorized before the adoption of official controls or amendments that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized.

(116) **Nursery:** A place where plants are grown for sale, transplanting, or experimentation.

(117) **Nursing Home:** A building having accommodations where care is provided for two (2) or more invalids, infirmed, aged, convalescent, memory-impaired or physically disabled persons that are not of the immediate family, but not including hospitals, clinics, sanitariums, or similar institutions as defined by Minnesota Statute 144.50.

(118) **Obstruction:** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

(119) **Offices:** A room, set of rooms, or building used as a place for commercial or professional work.

(120) **Off-Street Loading Space:** A space accessible from the street, alley, or way, in a building or on the lot, for the use of trucks while loading or unloading merchandise or materials. Such space shall be of such size as to accommodate one (1) truck of the type typically used in the particular business.

(121) **Open Sales Lot:** Any land used or occupied for the purpose of buying, selling and/or renting merchandise including the storing of such merchandise prior to sale.

(122) **Open Space:** Land used for agriculture, natural resource protection, wildlife habitat corridors, and/or recreational purposes, which is undivided.

(123) **Operate:** To ride in or on and have control of the operation of the motorized dirt bike, go-cart, snowmobile, or ATV.

(124) **Ordinary High Water Level (O.H.W.L.):** Ordinary high water level means the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level shall be the operating elevation of the normal summer pool.

(125) **Parking Space:** An area sufficient in size to store one (1) motor vehicle which has adequate access to a public street or alley and permitting satisfactory ingress and egress of an motor vehicle.

(126) **Permitted Use:** A use, which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and performance standards (if any) of such districts.

(127) **Person:** An individual, firm, partnership, association, corporation, or organization of any kind.

(128) **Pervious Surface:** A surface that allows water to filter into the ground, which enables natural groundwater to recharge, helps with the filtration of pollutants, and reduces erosion and flooding.

(129) **Planned Unit Development:** A development in which there are permitted to be mixed or the same land uses and housing types, in which dwellings or other buildings are allowed at a density that is calculated on a project-wide basis, in which dimensional requirements may be waived to permit the clustering of buildings, and which provides a result of higher quality and benefit to the city than standard zoning controls would.

(130) **Planning Commission:** The planning body of the City, designated by the City Council to act in an official capacity on its behalf to review, hold public hearings, and make recommendations on new ordinances, amendments, environmental reviews, and all other planning applications.

(131) **Pole Building:** A building, which is primarily supported by poles rather than by, a framework of dimension lumbers. The sides generally consist of a steel product.

(132) **Principal Building:** A building or structure in which is conducted, or in which is intended to be conducted, the main or principal use of the lot on which it is located.

(133) **Principal Use:** The primary or main use of land or buildings as distinguished from subordinate, incidental, or accessory uses.

(133.1) **Principal Use or Structure (floodplain):** Means all uses or structures that are not accessory uses or structures.

(134) **Public Hearing:** An official public meeting for which notice has been published in the official newspaper and where public verbal or written testimony is taken.

(135) **Public Meeting:** An official public meeting for which notice has been published in the official newspaper.

(136) **Public Roads:** Any City, municipal, county, state, or federal road or highway.

(137) **Public Uses:** Uses owned or operated by City municipal, school districts, county, state or other governmental units.

(138) **Public Waters:** Any waters as defined in Minnesota Statutes.

(139) **Reach:** A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

(140) **Recreation, Active:** An activity that is organized and related to scheduled programs with specifically designed goals or outcomes such as school sports, local league play, and tournaments.

(141) **Recreation, Passive:** An activity that is not organized, programmed, or scheduled including such leisure pursuits as a walk in a park, a bike ride, shooting baskets, or playing tennis at a local park.

(142) **Recreational Camping Area:** Any area, whether privately or publicly owned, used on a daily, nightly, weekly, or longer basis for the accommodation of tents or recreational camping vehicles.

(143) **Recreational Structure:** One-story detached residential accessory buildings used as tool and storage sheds, playhouses, and similar uses not including garages or other buildings used for motor vehicle or recreational vehicle storage. Includes fish houses, dark houses, and similar structures.

(144) **Recreational Vehicle:** A vehicle that is built on a single chassis, is four-hundred (400) square feet or less when measured at the largest projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this Ordinance, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.

(145) **Regional Flood:** A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in a flood insurance study.

(146) **Regulatory Flood Protection Elevation:** The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

(147) **Residential District:** The (R-1) Rural Residential I Zoning District, the (R-2) Rural Residential II Zoning District, the (R-3) Single-Family Residential District, the (R-4) One- and Two Family Residential District, the (R-5) Manufactured Homes Zoning District, the (R-6) Limited Multiple Dwelling Zoning District, are intended to be considered Residential Districts in this Ordinance. The (A) Agricultural District is primarily intended to provide areas for agricultural uses, but for zoning purposes shall also be considered a residential district. Areas within the (MXD) Mixed Use Zoning District containing housing shall be considered a residential district for zoning purposes.

(148) **Residential planned unit development:** A use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments. In the shoreland district to qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.

(149) **Resort:** A development consisting of buildings, camping spaces, parking areas, recreation areas, recreational equipment, for lease or rent for temporary residence or less, on one tract of land, under one ownership for the purpose of recreation.

(150) **Restaurant:** An establishment that serves food in or on nondisposable dishes, to be consumed primarily while seated at tables or booths within the building. A restaurant also includes a takeout and/or delivery only food establishment, which does not include a drive through service.

(151) **Retail:** Sale from an ordinary store or at the regular customer price and in small amounts rather than in bulk.

(152) **Right–Of-Way:** The entire strip of land traversed by any highway, street, county road or roadway easement for the purpose of vehicle travel, and includes the entire width of the land dedicated or acquired by law for right-of-away purposes.

(153) **Roadside Stand:** A temporary business that sells farm produce from a makeshift structure or a truck during growing season.

(154) **Rowhouse:** A dwelling unit sharing a sidewall with another dwelling unit, having no other unit above or below it, having two or more stories, having a front entrance near ground level and built in a structure with two or more additional similar units. Often called a townhouse.

(155) **School:** A public or private entity providing instruction in academic subjects to children or adults, in group settings, in a designated building and meeting the requirements of the laws of the state.

(156) **Screening:** The presence of vegetation, topography, fences, or other human-made objects which reduces the visual presence of a structure.

(157) **Selective Cutting:** The removal of a single tree or scattered trees where the original density and crown cover of the stand is essentially unchanged from pre-cutting conditions.

(158) **Service and Repair Business:** A facility for the servicing or minor mechanical repair of appliances or equipment.

(159) **Setback:** The minimum horizontal distance between a structure or sewage treatment system and the ordinary high water level, or between a structure or sewage treatment system and a bluff, road, highway, or property line.

(160) **Setback, Front Yard:** The minimum horizontal distance between a structure and a platted roadway or the right-of-way of a road.

(161) **Sewage Disposal System:** Any system for the collection, treatment, and dispersion of sewage including but not limited to septic tanks, soil absorption systems, and drain fields.

(162) **Shore Impact Zone:** The land located between the ordinary high water level of a public water, and a line parallel to it at a setback of fifty percent (50%) of the structure setback.

(163) **Shoreland:** Land located within the following distances from public water:

(a) 1,000 feet from the ordinary high water level of a lake, pond, or flowage.

(b) 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on such a river or stream, whichever is greater.

(c) The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the commissioner of the Minnesota Department of Natural Resources.

(164) **Sign:** The use of any words, numerals, figures, devices or trademarks by which anything is made known such as are used to show an individual, firm, profession, or business, and are visible to the general public. See also Chapter 40, Article VII, Division 28.

(165) **Slope:** The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees.

(166) **Slope, steep:** Steep slope means land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this Ordinance. Where specific information is not available, steep slopes are lands having average slopes exceeding twelve percent (12%) over distances of 50 feet or more, measured on the ground, that are not bluffs.

(167) **Solid Waste:** Solid waste means garbage, refuse, construction and demolition debris, sludge from a water supply treatment plant or air contaminant treatment facility, and other discarded waste materials and sludges, in solid, semisolid, liquid, or contained gaseous form. Solid waste does not include hazardous waste, animal waste, earthen fill, and rock; sewage sludge, industrial wastewater effluents, dissolved materials in irrigation return flows, or nuclear material.

(168) S**pecial-purpose pool:** Any basin for holding water designed for human use, 100 square feet or less in water surface area. This definition includes but is not limited to treatment pools, therapeutic pools, whirlpools, spa pools, hot tubs, and wading pools, which includes any portable version of these pools.

(169) **Story:** That portion of a building included beneath the upper surface of a floor and upper surface of floor next above, except that the topmost story shall be that portion of a building, included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar, or unused under floor space is more than six (6) feet above grade as defined herein for more than fifty percent (50%) of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such basement, cellar, or unused under floor space shall be considered as a story.

(170) **Structure:**

(a) Any building or appurtenance, including attached decks, except aerial or underground utility lines, such as a sewer, electric, telephone, telegraph, or gas lines, including towers, poles, and other supporting facilities.

(b) Floodplain – Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in Sec. 40 – 348, (3), (a) of this Ordinance and other similar items.

(171) **Subdivision:** The separation of one or more portions of a lot from another portion of that lot by deed, metes and bounds description, devise, intestacy, lease, map, plat or other document, whether recorded or unrecorded, which vests or otherwise contracts for the conveyance of title, or any interest therein, of any such portion or portions to a person, persons or an entity other than the owner of record; provided that the term subdivision shall not be construed to apply to a mortgage against a parcel complying with the minimum dimensional requirements herein: scenic easements; easements for the installation, construction and maintenance of public utilities; and easements of road access.

(172) **Substandard Lot:** Any lot which does not meet the minimum lot area, frontage, setbacks, length, or other dimensional standards of this or any other ordinance, rule, or law.

(173) **Substandard Use:** Any use which is permitted within the applicable zoning district that fails to meet the minimum lot area, frontage, setbacks, water frontage length, or other dimensional standards of this Ordinance.

(174) **Substandard Structure:** Any structure established before the effective date of this Ordinance which is permitted within a particular zoning district but does not meet the structure setbacks or other dimensional standards of this Ordinance.

(175) **Substantial Damage:** Means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

(176) **Substantial Improvement:** Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

(b) Any alteration of an “historic structure,” provided that the alteration will not preclude the structure’s continued designation as an “historic structure.” For the purpose of this Ordinance, “historic structure” shall be as defined in 44 Code of Federal Regulations, Part 59.1.

(177) **Supervised Living Facility:** Provides supervision, lodging and (in accordance with the Department of Human Services) counseling and developmental habilitative or rehabilitative services to five or more persons who are mentally handicapped, chemically dependent, adult mentally ill, or physically handicapped.

(178) **Swimming Pool:** Any basin for holding water designed for human use with a water volume of 5,000 or more gallons and a depth of 24 inches or more, intended or used for swimming, wading or other recreational use by the owner or tenant of the property upon which the pool is constructed, or by the family or invited guests. The term "swimming pool" includes portable pools.

(179) **Telecommunication Facility:** A facility that transmits and/or receives electromagnetic signals. The facility may be comprised of a single telecommunication tower or building supporting one or more antennas, dishes, or similar devices owned or used by one or more entity and/or may be comprised of multiple telecommunication towers or buildings supporting one or more antennas, microwave dishes, horns and other types of equipment for the transmission or receipt of such signals; telecommunication towers or similar supporting equipment; equipment buildings and other necessary development and/or improvements.

(180) **Telecommunications Tower:** A mast, pole, monopole, guyed tower, lattice tower, free-standing tower, or structure designed and primarily used to support antennas.

(181) **Tower:** Any ground or roof mounted pole, spire, structure, or combination thereof, taller than fifteen (15) feet, including supporting lines, cables, wires, braces, and mast, intended primarily for the purpose of mounting an antenna, meteorological device or similar apparatus above grade.

(182) **Townhouse:** See rowhouse.

(183) **Transient:** Occupancy of a dwelling unit or sleeping unit for not more than thirty (30) days.

(184) **Transmission Services:** Electric power, telephone and telegraph lines, cables and conduits that are used to transport large blocks of power, convey intelligence or transport material between two points. A distribution line, cable or conduit used to provide power, water, gas or other essential services locally to utility customers is not a transmission service.

(185) **Tutoring Service:** A business that provides after-school, individualized instruction in academic subjects on an hourly basis.

(186) **Use:** The purpose or activity for which the land or building thereon is designated, arranged, or intended, or for which it is occupied, utilized or maintained, and shall include the performance of such activity as defined by the performance standards of this Ordinance.

(187) **Useable Open Space:** A required ground area or terrace area on a lot which is graded, developed, landscaped and equipped and intended and maintained for either active or passive recreation or both, available and accessible to and useable by all persons occupying a dwelling unit or rooming unit on the lot and their guests. Roofs, driveways, and parking areas shall not constitute useable open space.

(188) **Variance:**

(a) Any modification, variation, or exception to official controls, where it is determined that, by reason of unique and exceptional circumstances, the strict enforcement of the official controls would cause unnecessary hardship. A variance is not intended to be granted for uses which are not listed as permitted or conditionally permitted within a zoning district.

(b) Floodplain – Means a modification of a specific permitted development standard required in an official control including this Ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.

(189) **Vegetation:** The sum total of plant life in some area; or a plant community with distinguishable characteristics.

(190) **Water body:** A body of water (lake, pond) in a depression of land or expanded part of a river, or an enclosed basin that holds water and is surrounded by land.

(191) **Watercourse:** A channel or depression through which water flows, such as rivers, streams, or creeks, and may flow year around or intermittently.

(192) **Watershed:** The area drained by the natural and artificial drainage system, bounded peripherally by a bridge or stretch of high land dividing drainage areas.

(193) **Watershed Management or Flood Control Structure:** A dam, floodwall, wing dam, dike, diversion channel, or an artificially deepened or widened stream channel following the same or approximately the same course as the natural channel, or any other structure for altering or regulating the natural flow condition of a river or stream. The term "watershed management or flood control structure" does not include pilings, retaining walls, gabion baskets, rock riprap, or other facilities intended primarily to prevent erosion and which must be authorized by permit from the Commissioner of the Minnesota Department of Natural Resources.

(194) **Wetlands:** An area where water stands near, at, or above the soil surface during a significant portion of most years, saturating the soil and supporting a predominantly aquatic form of vegetation and which may have the following characteristics.

(a) Vegetation belonging to the marsh (emergent aquatic) bon, fen, sedge meadow, scrub or shrub land, southern lowland forest (lowland hardwood), and northern lowland forest (conifer swamp) communities. (These communities correspond roughly to wetland types 1, 2, 3, 4, 5, 6, 7, and 8 described by the United States Fish and Wildlife Service, Circular 39, "Wetlands of the U.S.", l956).

(b) Mineral soils with gray horizons or organic solids belonging to the Histosol order (peat and muck).

(c) Soil which is water logged or covered with water at least three months of the year. Swamps, bogs, marshes, potholes, wet meadows, and sloughs are wetlands, and properly, may be shallow water bodies, the waters of which are stagnant or actuated by very feeble currents, and may at times be sufficiently dry to permit tillage but would require drainage to be made arable. The edge of a wetland is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

(195) **Wholesaling:** The sale of goods or merchandise to retailers, to industrial, commercial, institutional, or other professional business users, or to other wholesalers and related subordinated services.

(196) **Wind Energy Conversion System:** Any device commonly or technically referred to as a wind charger, windmill, wind turbine, or wind generator which converts wind energy to a usable form of energy. These terms shall include all associated support structures.

(197) **Yard:** An open space on the lot which is unoccupied and unobstructed from its lowest level to the sky. A yard extends along a lot line at right angles to such lot line to a depth or width specified in the yard regulations for the zoning district in which such lot is located.

(198) **Yard – Front:** A yard extending across the road side of the lot between the side lot lines and lying between road and the nearest line of the structure.

(199) **Yard – Rear:** A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building.

(200) **Yard – Side:** A yard between the side line of the lot and the nearest line of the building and extending from the front line of the lot to the rear yard.

(201) **Zoning Administrator:** A person appointed by the City Council to interpret, administer, and enforce the Zoning Ordinance.

(202) **Zoning Map:** The map or maps incorporated into this Ordinance as part thereof, and as amended, designating the zoning districts.

Secs. 40 - 41—40 - 49. Reserved.

ARTICLE V. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. ADMINISTRATION

Sec. 40 – 50. Administrative Officer.

This Ordinance shall be administered and enforced by the Zoning Administrator who shall be appointed by the City Council.

Sec. 40 – 51. Duties of the Zoning Administrator.

The Zoning Administrator shall enforce the provisions of this Ordinance and shall perform the following duties:

(1) To directly administer the Zoning Ordinance, Individual Sewage Treatment System Ordinance, and the Subdivision Ordinance, and other ordinances relating to planning and/or zoning.

(2) To work with the Building Official in the issuance of building permits, certificate of occupancy and any other permits as required by the terms of this Ordinance.

(3) To receive and forward to the City Council, City Planning Commission, City Board of Appeals, and other appropriate agencies all applications, documents, and proposed actions.

(4) Conduct inspections of land, buildings, or structures at reasonable times, to determine compliance with and enforce the provisions of this Ordinance.

(5) Maintain all records necessary for the enforcement of this Ordinance; including, but not limited to all maps, amendments, and conditional use permits, variances, appeal notices, and applications thereof.

(6) Institute in the name of the City, any appropriate actions, or proceedings to enforce this Ordinance.

(7) To act as an adviser to the appropriate boards and committees as determined by the City Council.

(8) Any other duties relating to the purposes of this or related ordinances which may be delegated to the position by the City Council.

Sec. 40 – 52. Zoning, Building and Construction Permits Required.

(1) Scope. From and after the effective date of this Ordinance, it shall be unlawful to proceed with the construction, alteration, repair, or enlargement of any building or structure, or part thereof; or alteration of any site or use without first obtaining the appropriate permits.

(2) Application. Requests for permits shall be filed with the Zoning Administrator only on official application forms. Each application for a permit shall be accompanied by such information deemed necessary for the proper review and enforcement of this Ordinance and any other applicable building codes or City Ordinances.

(3) Issuance of Permits. The Building Official shall issue building permits upon approval of the Zoning Administrator only when the plans comply with this Ordinance and other applicable City Ordinances.

Sec. 40 – 53. Permits, Applications, Licenses and Administrative Services.

(1) Building/Construction Permits

(a) Building Permit: Building permits are issued to cover all proposed structures regulated by the Building Code.

(b) Site Permit: Site permits are issued for agricultural buildings to insure proper setbacks.

(c) Grading and Filling Permit: Grading or filling permits are issued to regulate the grading, placing of fill, or any alterations of the natural topography in the Shoreland Management Overlay District.

(d) Septic Permit: Septic permits are issued to regulate the installation, repair, or alteration of subsurface sewage treatment systems.

(e) Driveway Permit: Driveway permits are issued to regulate the installation of new driveways accessing City roads.

(f) Manufactured Home Set Up: Inspections and permits are required prior to the occupancy of a manufactured home in a manufactured home park.

(g) Sign Permits: Sign permits are issued to regulate signs as set forth in the Zoning Ordinance.

(h) Fence Permits: Fence permits are issued to regulate fences as set forth in the Zoning Ordinance.

(2) Zoning and Planning Applications:

(a) Site Plan Application: A site plan is an exact and detailed drawing showing the proposed layout of buildings, parking, open space, roads, grading and drainage for a specific development.

(b) Master Plan Application: The master plan is an overall, general layout of parcels and buildings for a Mixed-Use Development. It must be followed by one or more preliminary plats and sites plans.

(c) Conditional Use Permit: A conditional use permit application requests a use permitted in a particular zoning district, but regulated and controlled through conditions placed upon it by the City Council after review by the Planning Commission.

(d) Variance Application: A variance application allows for a request to vary from the terms of the Ordinance and is heard by the Planning Commission who will make a recommendation to the City Council. The City Council will make the final decision.

(e) Preliminary Plat: The preliminary plat is an application and plan to subdivide property in accordance with the City's Subdivision Ordinance.

(f) Zoning Amendment: A zoning amendment requests a change in the zoning district boundaries or provisions of the Zoning Ordinance.

(g) Appeal Application: An appeal application allows for the appealing of a zoning decision of the Zoning Administrator or Building Official to the Board of Appeals for their review on some provisions of this Ordinance.

(3) License Fees:

(a) Septic Installer. Persons engaging in the installation of septic systems must be licensed by the State of Minnesota.

(b) Septic Pumper/ maintainer. Persons engaged in the pumping of septic tanks or holding tanks must be licensed by the State of Minnesota.

(c) Gas Installers License. Persons engaged in the installation, or repair of natural gas lines must be licensed by the City.

(d) Business License. This license is required whenever a use requires a permit or license under any county, state or federal, ordinance, statute or regulation except those under Sec. 40 – 53, (3), (c).

(4) Administrative Services.

(a) Gas Pressure Test. Inspections are made on natural gas lines when they are air tested.

(b) On-Site Inspection of Structures. Inspections made by building inspectors of structures scheduled to be moved into the City for compliance with codes.

Sec. 40 – 54. Certificate of Occupancy.

A certificate of occupancy shall be obtained from the Building Official before any building hereafter erected or structurally altered is occupied, or the use of any such building is altered. No fee shall be charged.

Sec. 40 – 55. Administrative Costs.

(1) To defray the costs associated with administrative requests and actions, the City of Wyoming shall charge fees and administrative costs for applications and other administrative actions as established within this Ordinance. These fees and administrative charges are set forth on the current fee schedule adopted by the City Council.

(2) In order to defray the additional cost of processing applications (amendment, conditional use, variance, appeal) for developments, all applicants shall pay the total cost of staff and/or consulting time spent exclusively in producing materials for the applicant's request, and all materials for said request.

(a) "Materials" shall include, but not be limited to maps, graphs, charts, drawings, etc., and all printing or reproduction of same.

(b) "Staff and/or Consulting Time" shall include any time spent in either researching for or actual production of materials.

(c) The hourly rate for "staff and/or consulting time" shall be established and made available to the applicant by the Zoning Administrator prior to production of any materials and the applicant shall be given a reasonable estimate of project time and/or materials costs.

(d) All legal and engineering fees incurred by the City relating to a specific application, administrative acts, etc., will be charged back to the applicant.

(3) Fees shall be payable at the time applications are filed with the Zoning Administrator and are not refundable unless application is withdrawn prior to referral to the Planning Commission. The refund will be less any expenses incurred prior to withdrawal. An escrow deposit to cover staff or consulting time, engineering fees, legal fees, and special materials will be established and required by the Zoning Administrator at the time the base fee is paid.

Secs. 40-56--40-59. Reserved.

DIVISION 2. PLANNING COMMISSION

Sec. 40 – 60. Membership and Terms.

(1) The City Council hereby establishes the City of Wyoming Planning Commission. Such Planning Commission shall consist of five (5) or seven (7) members appointed by the City Council.

(2) The term of each member shall be for three years for seven members. The term of each member for Appointments shall be made for a seven member Planning Commission so that no more than three and no fewer than two terms are filled in January of each calendar year. Appointments shall be made for a five member Planning Commission so that no more than two and no less than one terms are filled in January of each calendar year. Each member may be eligible at the discretion of the City Council for reappointment.

(3) No voting member of the Planning Commission shall have received, during the two years prior to appointment, more than twenty percent (20%) of his or her income from business operations involving the development of land within the City of Wyoming.

(4) The City Council may call for the removal of any member for non-performance of duty or misconduct in office. If a member has three consecutive unexcused absences in any one year, the secretary shall certify this fact to the Commission and the Commission shall notify the City Council along with suggested action. The City Council may appoint a replacement for the unexpired term, as if the member had resigned.

(5) Should any vacancy occur among the members of this Planning Commission by reason of death, resignation, and disability or otherwise, immediate notice thereof shall be given to the Mayor. Should any vacancy occur among the officers of the Planning Commission, the vacant office shall be filled in accordance with the By-laws of this commission, such officer to serve the unexpired term of the office in which such vacancy shall occur.

(6) The members of the Commission will be compensated in an amount determined by the City Council.

(7) The Planning Commission shall each year at the first meeting in January elect a Chairman and Vice Chairman from among its members. Rules of order and operating policies for the year are to be established at this meeting.

Sec. 40 – 61. Function of the Planning Commission.

(1) The Planning Commission shall adopt rules for the transaction of its business and shall keep public record of its transactions, findings, and recommendations, as defined in its by-laws.

(2) The Planning Commission shall cooperate with the Zoning Administrator and other employees of the City in preparing and recommending to the City Council for adoption, comprehensive plans, and recommendations for plan execution in the form of official controls and other measures, and amendments thereto.

(3) The Planning Commission shall provide assistance to the City Council and Zoning Administrator in the administration of this Ordinance and shall review, hold public hearings, and make recommendations to the City Council on all applications for zoning amendments, variances, and conditional use permits using the criteria in this and other City Ordinances.

Secs. 40 - 62—40 - 69. Reserved.

DIVISION 3. BOARD OF APPEALS

Sec. 40 – 70. Creation of Board of Appeals.

(1) The City Council hereby establishes the City of Wyoming Board of Appeals.

(2) The Board shall consist of five (5) members; each shall be appointed by the Mayor with approval of the City Council by majority vote. The term shall be for three years, however, first appointments shall be for 1, 2, and 3 year terms. Two members of the Board shall be members of the City Planning Commission, two members of the Board shall be members of the City Council, and the other shall be a resident of the City who is not an elected City official or employee of the City.

(3) The Board of Appeals shall elect a chairman and vice-chairman from among its members. Secretarial duties shall be assumed by the City staff. It shall adopt rules for the transaction of its business and such rules may include provisions for the giving of oaths to witnesses and the filings of written briefs by the parties. The Board shall provide a record of its findings, and the action taken on each matter heard by it, including the final order.

(4) Meetings of the Board of Appeals shall be held as needed.

Sec. 40 – 71. Duties of Board of Appeals.

The Board of Appeals shall be responsible for the following:

(1) To hear and take action on appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of the Zoning Ordinance.

(2) To hear and decide appeals from any action of the Zoning Administrator or Building Official in granting or denying a building permit.

(3) Such other duties and responsibilities assigned to it by the Zoning Ordinance or the City Council.

Secs. 40 - 72—40 - 79. Reserved.

DIVISION 4. SITE PLAN REVIEW

Sec. 40 – 80. Site Plan Review.

All applications for nonresidential uses in the Agricultural, Rural Residential I, Rural Residential II, Single-Family Residential, One- and Two-Family Residential Districts, and all applications in the Manufactured Homes, Multiple Family Dwelling, Central Business, Commercial, Industrial, Office and Health Care or Mixed-Use Districts shall be reviewed under the site plan approval process as set forth in this Division. Site plan review will be coordinated with the review of applications for Preliminary Plats, Rezoning, Conditional Use Permits, Variances, and Environmental Assessment Worksheets.

Sec. 40 – 81. Approval required.

It shall be unlawful to do any of the following without first obtaining site plan approval:

(1) Construct a building;

(2) Move a building to any lot within the City;

(3) Expand or change the use of a building or lot or modify a building, accessory structure, or site or land feature in any manner which results in an increasing intensity of use, including the requirement for additional parking; and

(4) Take actions to prepare a lot for development, including grading or removing or adding soils to a site, except in conformance with a permit or an approved plan which complies with the City's comprehensive surface water management plan or has received a variance from the appropriate water management organization as necessary.

(5) Exception:
Notwithstanding the above, site plan approval shall not be required for enlargement of a building by five percent (5%) or less of its gross floor area or changes in the leasable space of a multi-tenant building, provided no variances are required and the modifications do not intensify use of the site. In these instances an administrative site plan review shall be performed and suitable documentation of such be placed in the property files maintained by the City.

Sec. 40 – 82. Application.

Application for a site plan review shall be made to the Zoning Administrator on forms provided by the City and shall be accompanied by the following:

(1) Evidence of ownership or an interest in the property;

(2) Evidence that there are no delinquent property taxes, special assessments, penalties, interest and/or municipal utility fees due on the property;

(3) Accurate and current certificate of survey;

(4) Accurate legal description;

(5) Eight full-size legible plans regarding the following aspects of the project (All submitted plans shall be signed by a registered architect, civil engineer, landscape architect or other appropriate design professional):

(a) Site plan with existing conditions;

(b) Site plan showing proposed building and parking areas;

(c) Building elevations;

(d) Landscaping, screening and tree protection plan;

(e) Grading plan;

(f) Drainage plan;

(g) Storm water management, wetland protection and erosion control plan;

(h) Utility plan;

(i) Traffic impact and mitigation analysis;

(j) Sidewalk plan;

(k) Lighting plan;

(l) Signage plan;

(6) All plans must contain the following information:

(a) A title block stating the name, address telephone number and e-mail address of the applicant;

(b) A North arrow and graphic scale;

(c) Property lines, setbacks, and lot dimensions;

(d) Building dimensions, height;

(e) Building coverage;

(f) Impervious surface coverage (buildings + hard surface/lot size);

(g) Access to parcel;

(h) Street locations, right-of-way, driveway and drive aisle widths;

(i) Existing & proposed topography with spot grades & slopes in excess of 3:1;

(j) Parking lot layout;

(k) Location of underground storage tanks and major utilities;

(l) Sidewalk/trail alignment plan;

(m) Easement documents; and

(n) Significant trees lost and preserved.

(7) The type of plans and number of copies required may be adjusted by staff based on the particular project. The City reserves the right to request additional plans or information as necessary.

(8) The fee specified in Appendix A of the City Code.

Sec. 40 – 83. Environmental Reviews.

If an Environmental Assessment Worksheet, an Environmental Impact Statement or an Alternative Urban Areawide Review (AUAR) is required, an application for Site Plan Review or Planned Unit Development Review shall not be considered complete until the City Council has either issued a Findings of Fact and EIS Need Decision (for an EAW) or issued a Finding of Adequacy (for an EIS or AUAR). The City staff may begin to review an application and communicate to the applicant its findings prior to a Findings of Fact or a Finding of Adequacy even though the application may not be considered complete.

Sec. 40 – 84. Planning Commission Review.

After receipt of a completed application, a date shall be set for a review by the Planning Commission. The Planning Commission shall make a recommendation to the City Council regarding the application.

Sec. 40 – 85. City Council review.

After receipt of the recommendation of the Planning Commission, the Council shall make the final determination on the application, and in doing so shall make findings regarding its review. The Council may impose conditions and require guarantees on the granting of the permit in order to insure compliance with the conditions designated in connection therewith. The Council shall make a decision within the time period required by State law. If the Council fails to make a timely decision, the application shall be deemed to have been approved.

Sec. 40 – 86. General criteria and standards for site plan review.

In evaluating a site plan, the Planning Commission and Council shall consider its compliance with the following:

(1) Consistency with the various elements and objectives of the City's long range plans, including, but not limited to, the Comprehensive Plan;

(2) Consistency with the purposes of this Code;

(3) Preservation of the site in its natural state, insofar as practicable, by minimizing tree and soil removal, and designing any grade changes so as to be in keeping with the general appearance of neighboring developed or developing areas;

(4) Creation of a harmonious relationship of buildings and open spaces with the terrain and with existing and future buildings having a visual relationship to the proposed development;

(5) Creation of a functional and harmonious design for structures and site features including;

(a) Creation of an internal sense of order for the various functions and buildings on the site and provision of a desirable environment for occupants, visitors and the general community;

(b) Appropriateness of the amount and arrangement of open space and landscaping to the design and function of the development;

(c) Appropriateness of the materials, textures, colors and details of construction as an expression the design concept of the project and the compatibility of the same with the adjacent and neighboring structures and functions; and

(d) Adequacy of vehicular, cycling and pedestrian circulation, including walkways, interior drives and parking, in terms of location and number of access points to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian, cycling and vehicular traffic and arrangement and amount of parking so as to be safe, convenient and, insofar as practicable, compatible with the design of proposed buildings, structures and neighboring properties.

(6) Creation of an energy-conserving design through design, location, orientation and elevation of structures, the use and location of glass in structures, and the use of landscape materials and site grading; and

(7) Protection of adjacent and neighboring properties through reasonable provisions for such matters as surface water drainage, sound and sight buffers, preservation of views, light and air, and those aspects of design, not adequately covered by other regulations, which may have substantial effects on neighboring land uses.

Sec. 40 – 87. Security deposit required.

(1) When screening, landscaping, parking lot or other similar improvements to property are required a security deposit acceptable to the City shall be supplied by the owner in an amount equal to one-hundred percent (100%) of the value of such screening, landscaping, parking lot or other improvements. The security deposit shall be for the purpose of reimbursing the City for all expenses incurred by it in connection with making or completing such improvements. The security deposit shall be provided prior to the issuance of any building permit and shall be valid for a period of time equal to one full growing season after the date of installation of the landscaping. In the event construction of the project is not completed within the time prescribed by building permits and other approvals, the City may, at its option, complete the work required at the expense of the owner and the surety.

(2) The Building Official may require a completion performance bond, in an amount of one-hundred twenty-five percent (125%) of the cost of the work remaining to be done, prior to issuance of a temporary certificate of occupancy. A specific date for completion must be set.

(3) The City may allow an extended period of time for completion of all landscaping if the delay is due to conditions that are reasonably beyond the control of the developer. Extensions may be granted due to seasonal or weather conditions. When an extension is granted, the City shall require such additional security, as it deems appropriate.

(4) Upon completion of the improvements and final inspection and approval by the City, the security deposit shall be released.

Sec. 40 – 88. Terms of approval.

(1) A building permit shall be obtained and construction of the project shall begin no later than one year following the date on which site plan approval is granted, unless a different time period is approved by the Council in granting site plan approval or in a developer's agreement with the City. After the expiration of such period, site plan approval shall lapse unless the Council grants an extension of time or a building permit has been issued and substantial work performed on the project. Upon request by the applicant, the Council may grant an extension of time for commencement of a project having site plan approval.

(2) The Council may impose conditions in granting approval to site plans to promote the intent of this Division or to protect adjacent properties.

(3) Site plans shall be valid only for the project for which approval is granted.

(4) If the project is not in compliance with the approved plans, the project shall be subject to review as specified in Sec. 40 – 89.

Sec. 40 – 89. Amendments to an approved site plan.

Amendments to an approved site plan shall be administered as follows.

(1) Minor Amendments. Minor amendments to a site plan are:

(a) Increased signage not in accordance with Article VII, Division . (All changes to signage require a sign permit.)

(b) Landscape changes not made in accordance with Article VII, Division 15.

(c) Parking lot configuration changes (not change in number of spaces).

(d) Less than ten percent (10%) change in floor area in any one structure.

(e) Less than ten percent (10%) change in the approved separation of buildings.

(f) Less than five percent (5%) change in the ground area covered by the project.

(g) Less than five percent (5%) change in the number of residential units.

(h) Less than five percent (5%) change in the number of parking spaces.

(2) Major Amendments. Major amendments to a site plan are:

(a) Those greater than the thresholds listed for minor amendments above.

(b) Any minor amendment that is judged by the Zoning Administrator to substantially affect the terms of the original approval or is judged to result in significant adverse impacts on the surrounding properties or the City at-large.

Sec. 40 – 90. Review of minor amendments.

Proposed minor amendments (as specified in Sec. 40 – 89, (1)) to a site plan shall be reviewed and decided by the Zoning Administrator. Decisions of the Zoning Administrator may be appealed to the Board of Appeals. The Zoning Administrator may determine that a proposed minor amendment is in fact a major amendment and may refer such proposed amendments to the Planning Commission and Council according to the procedure established in Sec. 40 – 91, below. Application fees for a minor amendment to a site plan are set forth in Appendix A of this code.

Sec. 40 – 91. Review of major amendments.

Any major amendment to a site plan shall be considered by the Planning Commission at a public hearing. The recommendation of the Planning Commission shall be considered by the City Council. Any major amendment shall require a majority vote of the Council. The Council may hold such hearings on a proposal to amend a site plan, as it may consider necessary; but at least one public hearing shall be held. Application fees for a minor amendment to a site plan are set forth in Appendix A of this code.

Secs. 40-92-40-99. Reserved.

DIVISION 5. MIXED USE DEVELOPMENTS

Sec. 40 – 100. Master Development Plan Review.

Any development in a Mixed-Use District shall be required to submit and have approved a master development plan. The master plan shall illustrate the general plan for subdivision, streets, building placement, surface water management, exterior architectural character, and major landscaping. It shall be the guide and basis for future reviews of plats and site plans on the site. No building approval is conferred by the approval of a master development plan however.

Sec. 40 – 101. Application.

(1) Application for a master development plan review shall be made to the Zoning Administrator on forms provided by the City and shall be accompanied by the following:

(2) Evidence of ownership or an interest in the property;

(3) Accurate and current certificate of survey and legal description;

(4) The fee specified in Appendix A of the City Code.

(5) Four large prints and ten 11 x 17 prints regarding the following aspects of the project (all submitted plans shall be signed by a registered architect, civil engineer, landscape architect or other appropriate design professional):

(a) Site plan showing existing conditions.

(b) Site plan showing the conceptual footprints of building and locations of parking areas.

(c) Conceptual landscaping plan.

(d) General grading plan.

(e) General drainage plan.

(f) Conceptual storm water management plan.

(g) General utility plan.

(h) Traffic impact and mitigation report.

(i) Building height and exterior appearance.

(6) The type of plans and number of copies required may be adjusted by staff based on the particular project. The City reserves the right to request additional plans or information as necessary.

Sec. 40 – 102. Public Hearing and Planning Commission review.

After receipt of a completed application, a date shall be set for a public hearing. Not less than 10 days prior to the public hearing, notice shall be published once in the official newspaper and sent by mail to all the owners of properties located wholly or partially within 500 feet. The Planning Commission shall make a recommendation to the City Council regarding the application.

Sec. 40 – 103. City Council review.

After receipt of the recommendation of the Planning Commission, the Council shall make the final determination on the application, and in doing so shall make findings regarding its review. The Council may impose conditions and require guarantees on the granting of the permit in order to insure compliance with the conditions designated in connection therewith.

Sec. 40 – 104. General Criteria and standards for master development plan review.

(1) The criteria for review of a master development plan are the same as those for the review of a site plan, listed previously in this Code.

(2) An application to amend a master development plan may be approved by the City Council after review and recommendation by the Planning Commission. The review criteria shall be the same as for the review of a site plan.

Sec. 40 – 105. Environmental Review.

(3) If the need for a Minnesota EAW or EIS is triggered by a master plan, one shall be completed before the master development plan is reviewed by the Planning Commission.

Secs. 40 - 106—40 - 109. Reserved.

DIVISION 6. CONDITIONAL USE PERMITS

Sec. 40 – 110. Procedure.

Request for a conditional use permit, as provided within this Ordinance, shall be filed with the Zoning Administrator on an official application form. Such application shall also be accompanied by complimentary copies of detailed written and graphic materials fully explaining the proposed change, development, or use. The Zoning Administrator shall refer said application, along with all related information, to the City Planning Commission for consideration.

Sec. 40 – 111. Application.

The application shall be accompanied by a site plan of the proposed use showing such information as may be necessary or desirable, including, but not limited to Items 1 through 11 below. After receipt of all of the following items, the Zoning Administrator, on behalf of the Planning Commission, shall set a date for a public hearing. Notice of such hearing shall be published in the official newspaper of the City.

(1) Application for a Conditional Use Permit shall be made to the Zoning Administrator on forms provided by the City.

(2) Evidence of ownership or an interest in the property;

(3) Accurate and current certificate of survey and legal description;

(4) The fee specified in Appendix A of the City Code;

(5) Four large prints and ten 11 x 17 prints regarding the following aspects of the project (all submitted plans shall be signed by a registered architect, civil engineer, landscape architect or other appropriate design professional):

(a) Site plan drawn at scale showing parcel and building dimensions.

(b) Locations of all proposed and existing buildings and their square footages.

(c) Curb cuts, driveways, access roads, parking spaces, and off-street loading areas.

(d) Existing topography.

(e) Finished grading and drainage plan.

(f) Type of business or activity and proposed number of employees.

(g) Proposed floor plan of any building and use indicated.

(h) Sanitary sewer and water plan with estimated use per day.

(i) Soil type and soil limitations for the intended use. If severe soil limitations for the intended use are noted, a plan or statement indicating the soil conservation practice or practices to be used to overcome said limitation or limitations, shall be made part of the permit application.

(j) A location map showing the general location of the proposed use within the City.

(k) A map showing all principal land uses within 250 feet of the parcel for which application is being made.

(6) The type of plans and number of copies required may be adjusted by staff based on the particular project. The City reserves the right to request additional plans or information as necessary.

Sec. 40 – 112. Public Hearing and Disposition.

The Zoning Administrator, on behalf of the Planning Commission, shall set a date for a public hearing. Notice of such hearing shall be published in the official newspaper of the City at least ten (10) days prior to the date of the hearing. Written notice shall be sent to all property owners of record within five hundred (500) feet of the affected property in incorporated areas and to property owners within one-quarter (1/4) mile of the affected property in unincorporated areas. A copy of the notice and a list of the property owners and addresses to which the notice was sent shall be attested to by the Zoning Administrator and made part of the official record. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made.

(1) The Planning Commission shall consider the request and hold a public hearing at its next available regular meeting (at least ten days after the publication of notice). The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed conditional use.

(2) The Planning Commission shall consider the possible effects of the proposed conditional use. Its judgment shall be based upon (but not limited to) the following general factors and any other relevant requirements set forth in the General Building and Performance Requirements chapter of this Ordinance, whether:

(a) The use is in conformity with the Comprehensive Plan and development policies of the City.

(b) The use will not create an excessive demand on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.

(c) The use will be sufficiently compatible or separated by distance or screening from adjacent development or land so that existing development will not be depreciated in value and there will be no deterrence to development of vacant land.

(d) The structure and site will have an appearance that will not have an adverse effect upon adjacent properties.

(e) The use in the opinion of the City is reasonably related to the overall needs of the City and to the existing land use.

(f) The use will be consistent with the purpose of this and other City Ordinances.

(g) The use will be located, designed, maintained, and operated to be compatible with the existing or intended character of the zoning district in which it is to be located.

(h) The use will generate only minimal vehicular traffic on local streets and shall not create traffic hazards or unsafe access or parking needs.

(i) Existing businesses nearby will not be adversely affected because of the curtailment of customer trade brought about by intrusion of noise, glare, or general unsightliness.

(j) The establishment or maintenance of the use shall not be detrimental to the public health, safety, or general welfare.

(k) The use will not be hazardous, detrimental, or disturbing to present and potential surrounding land use due to water pollution, odor, fumes, general unsightliness, or other nuisances.

(l) The use will preserve and incorporate the site's important natural and scenic features into the development design.

(m) The use will cause minimal adverse environmental effects.

(3) The Planning Commission and City staff shall have the authority to request additional information from the applicant or to retain expert testimony at the expense of the applicant if said information is declared to be necessary by the City to review the request or to establish performance conditions in relation to this Ordinance.

(4) After the receipt of a complete (as defined in Sec. 40 – 111) Conditional Use Permit application, the Planning Commission shall make a finding of fact and recommend such actions and/or conditions relating to the request to the City Council. The City may impose such additional restrictions or conditions as deemed necessary to protect the public interest. When appropriate, restrictive covenants may be entered into regarding such matters. These conditions, in addition to those specific requirements set forth in the General Building and Performance Requirements chapter of this Ordinance, may include, but are not limited to the following:

(a) Matters relating to the architecture or appearance.

(b) Establishing hours of operation.

(c) Increasing the required lot size or yard dimension.

(d) Limiting the height, size, or location of buildings.

(e) Controlling the location and number of vehicle access points.

(f) Increasing the street width.

(g) Increasing the number of required off-street parking spaces.

(h) Limiting the number, size, location, or lighting of signs.

(i) Requiring diking, fences, screening, landscaping or other facilities to protect adjacent or nearby property.

(j) Designating sites for open space.

(k) Limiting the duration of the use by establishing a date or event by which the operation must cease. Where the City Council establishes an event after which operation must cease, the event must be identified with certainty, and such event may be the re-zoning of the land or a change in the uses permitted with the district. The City Council may also set forth a period of time after an event by which the operation must cease. Where the City Council or the applicant desires to limit the duration of a conditional use, such use will be deemed an interim use pursuant to Minnesota Statutes #462.3597. Every conditional use permitted in a district may be permitted as an interim use either by request of the applicant at the time of application or by motion of the Planning Commission or City Council. Prior to granting a conditional use as an interim use, the City Council shall consider, in addition to all other factors required to obtain a conditional use, the following:

1. Whether the use conforms to the zoning regulation;

2. Whether a date or event for the termination of the use can be identified with certainty.

3. Whether the permission of the use will impose additional costs on the public if it is necessary for the public to take the property in the future; and

4. Whether the landowner will agree to the conditions that the City Council deems appropriate for permission of the use.

(l) If the landowner requests that the application be considered as an interim use on the initial application, the notice of public hearing shall state the use is proposed as an interim use and state the duration requested by the applicant. If the Planning Commission or City Council moves to consider the application as an interim use, a new public hearing shall be held and the notice of such public hearing shall state that the purpose of the hearing is to consider the application as an interim use and to establish the duration of the use.

(5) Upon receiving the report and recommendation of the Planning Commission, the City Council shall place the report and recommendation on the agenda for the next available regular meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.

(6) Upon receiving the report and recommendation of the Planning Commission, the City Council shall either:

(a) Approve or disapprove the request as recommended by the Planning Commission.

(b) Approve or disapprove the recommendation of the Planning Commission with modifications, alterations, or differing conditions. Such modifications, alterations or differing conditions shall be in writing and made part of the City Council's records, or

(c) Refer the recommendation back to the Planning Commission for future consideration. This procedure shall be followed only one time on a singular action.

(d) Should the City Council approve or deny the applicants request contrary to the Planning Commission's recommendation, the City Council shall include in their Findings of Fact the reason for their differing decision.

(7) The recommendation of the Planning Commission shall be advisory to the City Council. Approval of a request shall require passage by majority vote of the City Council. The Zoning Administrator shall notify the applicant of the City Council's action. The decision of the City Council shall be final, subject to judicial review.

(8) After receipt of a complete (as defined in Sec. 40 – 111) Conditional Use Permit application, the City Council shall approve or deny the application. If the application is not complete, the Zoning Administrator shall submit a written notice of missing material.

Sec. 40 – 113. Lapse of Conditional Use Permit by Non-Use.

Whenever within one (1) year after granting a conditional use permit, the work as permitted by the permit shall not have been completed, then such permit shall become null and void unless a petition for extension of time in which to complete the work has been granted by the City Council. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original conditional use permit. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the conditional use permit. Such petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision and shall be requested only one time on a singular action.

Sec. 40 – 114. Amended Conditional Use Permit.

Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the Conditional Use permit issued shall require an amended conditional use permit and all procedures shall apply as if a new permit were being issued.

Sec. 40 – 115. Revocation of a Conditional Use Permit.

A conditional use permit shall be deemed to authorize only one (1) particular conditional use. Such permit may be revoked by the issuing body if:

(1) The applicant or his agent has not commenced work upon the subject property within one year.

(2) An existing conditional use ceases operation for a period of one (1) year.

(3) The conditional use is being operated and maintained in a manner contrary to this Ordinance, the approved conditional use permit, or its conditions.

(4) An existing conditional use does not complete its bi-annual certification. Bi-annual certification is intended to maintain an updated listing of active conditional uses in the City and to decertify any conditional use permits where the activity has ceased. CUP holders must complete and return certification forms provided by the City. Failure to maintain certification shall cause the CUP to become null and void.

Sec. 40 – 116. Performance Bond.

The Planning Commission and City Council shall have the authority to require a performance bond or other security when it is deemed necessary and appropriate.

(1) Except in the case of non-income producing residential property, upon approval of a conditional use permit the City may be provided with a surety bond, cash escrow, certificate of deposit, securities, letter of credit or cash deposit prior to the issuing

of building permits or initiation of work on the proposed improvements or development. Said security shall guarantee conformance and compliance with the conditions of the conditional use permit and the ordinances of the City.

(2) The security may be in the amount of the City Council's estimated costs of labor and materials for the proposed improvements or development. Said project can be handled in stages upon the discretion of the City Council.

Secs. 40 - 117—40 - 119. Reserved.

DIVISION 7. VARIANCES

Sec. 40 – 120. Procedure.

(1) Requests for variances, as provided within this Ordinance, shall be filed with the Zoning Administrator on an official application form. Such application shall also be accompanied by complimentary copies of detailed written and graphic materials fully explaining the proposed change, development, and use. The Zoning Administrator shall refer said application, along with all related information, to the Planning Commission for consideration.

(2) The application shall be accompanied by a site plan of the proposed variance showing such information as may be necessary or desirable, including, but not limited to Items 1 through 7 below. After receipt of all of the following items, the Zoning Administrator, on behalf of the Planning Commission, shall set a date for a public hearing. Notice of such hearing shall be published in the official newspaper of the City. The application shall include:

(a) Application for a Variance shall be made to the Zoning Administrator on forms provided by the City.

(b) The fee specified in Appendix A of the City Code.

(c) The names and addresses of the petitioner or petitioners, and their signatures to the petition.

(d) A specific description of the area for which the variance is requested and addresses of all owners of the property lying within five hundred (500) feet of such area, and a description of the property owned by each.

(e) Proposed use of land for which the variance is requested.

(f) A legal description of the property for which the variance is requested.

(g) A detailed map to scale of the property showing the location of proposed buildings, and dimensional variances requested, and existing land uses and buildings of adjacent properties within five hundred (500) feet.

(h) A letter to the Planning Commission explaining how the requested variance satisfies the ten (10) Items listed in Sec. 40 – 120, (5), (a) – (j).

(i) Pictures are to be provided of request showing locations, buildings, dimensional variance and existing land uses.

(j) Any other information deemed necessary by the Zoning Administrator or Planning Commission.

(3) The Zoning Administrator, on behalf of the Planning Commission, shall set a date for a public hearing. Notice of such hearing shall be published in the official newspaper of the City at least ten (10) days prior to the date of the hearing. Written notice shall be sent to all property owners within five hundred (500) feet of the affected property in incorporated areas and unincorporated areas. A copy of the notice and a list of the property owners and addresses and local governments to which the notices were sent shall be attested to by the Zoning Administrator and made part of the official record. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with the subdivision has been made.

(4) The Planning Commission shall consider the request and hold a public hearing at its next available regular meeting. The applicant or a representative thereof, shall appear before the Planning Commission in order to answer questions concerning the requested variance.

(5) A variance to the provisions of the Zoning Ordinance may be issued to provide relief to the landowner in those cases where the application of the strict letter of the ordinance imposes particular hardship or practical difficulties to the property owner in the use of this land. No variance may be granted that would allow any use that is prohibited in the zoning district in which the property is located. A variance may be granted only in the event that the following circumstances exist:

(a) The property is question cannot be put to a reasonable use if used under the conditions allowed by this Ordinance.

(b) Exceptional or extraordinary circumstances apply to the property which does not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of the property, since enactment of this Ordinance, have had no control.

(c) That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.

(d) The special conditions or circumstances do not result from actions of the applicant.

(e) That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures, or buildings in the same district.

(f) The variance requested is the minimum variance which would alleviate the hardship.

(g) The variance would not be materially detrimental to the purposes of this Ordinance, or to property in the same zone.

(h) Economic conditions or circumstances alone shall not be considered in the granting of a variance request if a reasonable use of the property exists under the terms of the ordinance.

(i) In the Flood Plain District, no variance shall be granted which permits a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area or permits standards lower than those required by state law.

(j) Variances shall be granted for earth sheltered construction by state statutes when in harmony with this Ordinance.

(6) In considering all requests for a variance, the Planning Commission shall make a finding of fact as appropriate that the proposed action will not:

(a) Impair an adequate supply of light and air to adjacent property.

(b) Unreasonably increase the congestion in the public right-of-way.

(c) Increase the danger of fire or endanger the public safety.

(d) Unreasonably diminish or impair established property values within the neighborhood.

(e) Cause an unreasonable strain upon existing municipal facilities and services.

(f) Be contrary in any way to the spirit and intent of this Ordinance.

(g) Have a negative direct or indirect fiscal impact upon the City or school district, unless the proposed use is determined to be in the public interest.

(7) The Planning Commission and City staff shall have the authority to request additional information from the applicant or to retain expert testimony with the consent and at the expense of the applicant if said information is declared to be necessary by the City to review the request or to establish performance conditions in relation to this Ordinance.

(8) After receipt of a complete application for a variance, the Planning Commission shall make preliminary findings of fact and recommend approval or disapproval or approval with modifications, alterations, or differing conditions. Such preliminary findings and recommendations with modifications, alterations, or differing conditions shall be in writing and made part of the Commission's records.

(9) All decisions of the Planning Commission shall be advisory to the City Council.

(10) Upon receiving the report and recommendation of the Planning Commission the City Council shall place the report and recommendation on the agenda at its next available regular meeting. Such reports and recommendations shall be entered in and made part of the permanent record of the City Council.

(11) Upon receiving the report and recommendation of the Planning Commission and after receiving such additional testimony as it may deem appropriate, the City Council shall either:

(a) Approve or disapprove the request as recommended by the Planning Commission, or

(b) Approve or disapprove the recommendation of the Planning Commission with modifications, alterations, or differing conditions. Such modifications, alterations, or differing conditions shall be in writing and made part of the records of the City Council; or

(c) Refer the recommendation back to the Planning Commission for further consideration. This procedure shall be followed only one time on a single action.

(d) Should the City Council approve or deny the applicants request contrary to the Planning Commission's recommendation, the City Council shall include in their Findings of Fact the reason for their differing decision.

(12) The Zoning Administrator or the City Clerk shall notify the applicant of the City Council's action in writing, and if the action relates to land located within a Shoreland District or a Floodplain District notice shall also be given to the Commissioner of the Minnesota Department of Natural Resources or his authorized representative within ten (10) days of the final decision.

(13) After receipt of a complete (as defined in Sec. 40 – 120, (2)) variance application, the City Council shall approve or deny the application. If the application is not complete, the Zoning Administrator shall submit a written notice of missing material.

Sec. 40 – 121. Lapse of Variance.

Whenever within one (1) year after granting a variance, the work as permitted by the variance shall not have been completed, then such variance shall become null and void unless a petition for extension of time in which to complete the work has been granted by the City Council. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of

the original variance or appeal. There shall be no charge for the filing of such petitions. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the variance or appeal. Such petition shall be presented to the Planning Commission for a decision, and shall be requested only one time on a singular action.

Sec. 40 – 122. Performance Bond.

The Planning Commission shall have the authority to recommend to the City Council, a performance bond, or other securities when it is deemed appropriate. The City Council will make the final determination.

(1) Except in the case of non-income producing residential property, upon approval of a variance the City will be provided with a surety bond, cash escrow certificate of deposit, securities or cash deposit prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said security shall guarantee conformance and compliance with the conditions of the variance and the ordinances of the City.

(2) The security may be in the amount of the City's estimated costs of labor and materials for the proposed improvements or development.

(3) The City may hold the security until completion of the proposed improvements or development and a certificate of occupancy indicating compliance with the variance and ordinances of the City have been issued by the Zoning Administrator.

(4) Failure to comply with the conditions of the variance and ordinances of the City may result in forfeiture of the security.

Secs. 40 - 123—40 - 129. Reserved.

DIVISION 8. APPEALS

Sec. 40 – 130. Appeals, Procedure.

(1) An appeal, as provided within this Ordinance, shall be filed with the Zoning Administrator on an official application form. The Zoning Administrator shall refer said application, along with all related information, to the Board of Appeals for consideration at its next meeting provided that adequate time exists between the filing date and meeting date to allow for notification of the hearing as required by State Law. If there is not adequate time between the filing date and meeting date, the request will be considered at the next following meeting of the Board of Appeals.

(2) The application shall be accompanied by information which may be necessary or desirable, including, but not limited to the following:

(a) Application for an Appeal shall be made to the Zoning Administrator on forms provided by the City.

(b) The particular order, requirement, decision, or determination from which the appeal is taken.

(c) The name and address of the appellant.

(d) The grounds for the appeal.

(e) The relief requested by the appellant.

(3) An appeal stops all proceedings in furtherance of the action appealed from unless the Board of Appeals, to whom the appeal is taken certifies that by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property.

(4) The Zoning Administrator on behalf of the Board of Appeals, shall set a date for a hearing of the appeal and give due notice thereof to the appellant and the officer from which the appeal is taken and to the public.

(5) The Board of Appeals shall consider the appeal and hold such hearing at its next meeting. The appellant and officer from which the appeal is taken shall appear before the Board of Appeals in order to answer questions concerning the appeal.

(6) After receipt of a complete application (as defined by Sec. 40 – 130, (2)) for an appeal, the Board of Appeals shall make findings of fact and order either to reverse or affirm, wholly or partly, or to modify the order, requirement, decision or determination appealed from. The Board's findings and reasons shall be stated in writing and be made part of the Board's records.

(7) All decisions of the Board of Appeals shall be deemed final in terms of exhausting local governmental remedies.

(8) The Zoning Administrator or the City Clerk shall notify the applicant of the Board's action in writing, and if the action relates to land located within a Shoreland District or a Flood Plain District, notice shall also be given to the Commissioner of the Minnesota Department of Natural Resources or his authorized representative, within ten (10) days of the final decision.

(9) After receipt of a complete appeals application (as defined in Sec. 40 – 130, (2)), the Board shall take action on the application. If the application is not complete, the Zoning Administrator shall submit a written notice of missing material.

Sec. 40 – 131. Lapse of Appeal.

Whenever within one (1) year after granting an appeal the work as permitted by the appeal shall not have been completed, then such appeal shall become null and void unless a petition for extension of time in which to complete the work has been granted by the Board of Appeals. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original appeal. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the appeal. Such petition shall be presented to the Board of Appeals for a decision, and shall be requested only one time on a singular action.

Secs. 40-132--40-139. Reserved.

DIVISION 9. ZONING AMENDMENTS

Sec. 40 – 140. Initiation of Amendments.

The City Council or Planning Commission may, upon their own motion, initiate a request to amend the text or the district boundaries of this Ordinance. Any person owning real estate within the City may initiate a request to amend the district boundaries or text of this Ordinance. All amendment requests must first be reviewed by the Planning Commission.

Sec. 40 – 141. Procedure.

(1) Requests for amendments as provided within this Ordinance, shall be filed with the Zoning Administrator on an official application form. The Zoning Administrator shall refer said application, along with all related information, to the City Planning Commission for consideration at its next regular meeting provided that adequate time exists between the filing date and meeting date to allow for notification of hearing as required by State law. If there is not adequate time between the filing and the meeting date, the request will be considered at the next following regular meeting of the Planning Commission. Such application shall be accompanied by written and graphic materials containing Items (a) through (e) below. Within two working days of receipt of all of the following items, the Zoning Administrator, on behalf of the Planning Commission, shall set a date for a public hearing. Notice of such hearing shall be published in the official newspaper of the City. As of the date of publication, the application shall be considered complete.

(a) Application for an Amendment shall be made to the Zoning Administrator on forms provided by the City.

(b) Stated reason for requested change.

(c) Statement of compatibility to the City Comprehensive Plan.

(d) Text of the portion of the existing ordinance to be amended.

(e) Proposed amended text and statements outlining any other effects that the amendment may have on other areas of this Ordnance.

(f) Additional information as may be requested by the Planning Commission.

(2) The Zoning Administrator on behalf of the Planning Commission shall set a date for a public hearing. Notice of such hearing shall be published in the official newspaper of the City at least ten (10) days prior to the date of the hearing. Written notice of public hearings for general ordinance amendments shall be sent to the governing bodies of all Cities, school districts, and any municipality located adjacent to Wyoming City. When application of the amendment is to specific properties, written notice shall also be sent to all property owners of record within five hundred (500) feet of the affected property in incorporated areas, to property owners within one-half (1/2) mile of the affected property in unincorporated areas and to affected school district(s). A copy of the notice and a list of the property owners and addresses and local governments to which the notices were sent shall be attested to by the Zoning Administrator and made part of the official record. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made.

(3) The Planning Commission shall consider the request and hold a public hearing at its next regular meeting. The applicant or a representative thereof, shall appear before the Planning Commission in order to answer questions concerning the requested amendment.

(4) The Planning Commission shall consider the possible effects of the proposed amendment. Its judgment shall be based upon, but not limited to, the following criteria:

(a) The City may adopt amendments to the zoning ordinance and zoning map in relation both to land uses within a particular district or to the location of the district lines. Such amendment shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the community as reflected in the Comprehensive Plan or changes in conditions in the City. The following factors shall also be considered:

1. Whether the amendment will create an excessive demand on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.

2. Whether the amendment is sufficiently compatible so that existing development will not be depreciated in value and there will be no deterrence to development of vacant land.

3. The amendment in the opinion of the City is reasonably related to the overall needs of the City.

4. The amendment is consistent with the intent and purposes of the zoning ordinance.

5. The amendment will not cause traffic hazard or congestion.

(5) The Planning Commission and City staff shall have the authority to request additional information from the applicant or to retain expert testimony with the consent and at the expense of the applicant if said information is declared to be necessary by the City in reviewing the request.

(6) Within thirty-five (35) days from the date of receipt of a complete application (as defined by Sec. 40 – 141, (1), (a) – (f)) for an amendment, the Planning Commission shall make a finding of fact and recommend such actions or conditions related to the request to the City Council.

(7) Upon receiving the report and recommendation of the Planning Commission, or within thirty-five (35) days of receiving the completed application, the City Council shall place the report and recommendation on the agenda for the next regular meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the City Council.

(8) Upon receiving the report and recommendation of the Planning Commission, the City Council shall either:

(a) Approve or disapprove the request as recommended by the Planning Commission, based upon whether the application meets the requirements stated in the Ordinance.

(b) Approve or disapprove the recommendation of the Planning Commission with modifications, alterations, or differing conditions. Such modifications, alterations, or differing conditions shall be in writing and made part of the City Council's records, or

(c) Refer the recommendation back to the Planning Commission for further consideration. This procedure shall be followed only one time on a singular action.

(d) Should the City Council approve or deny the applicants request contrary to the Planning Commission's recommendation, the City Council shall include in their Findings of Fact the reason for their differing decision.

(e) Approval of a request shall require a three-fifths majority vote of the full City Council. The adoption or amendment of any portion of the Ordinance which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a four-fifths majority vote of the full City Council. The Zoning Administrator shall notify the applicant of the City Council's action.

(9) The recommendation of the Planning Commission shall be advisory to the City Council. The decision of the City Council shall be final, subject to judicial review.

(10) Within sixty (60) days of receipt of a complete amendment application (as defined in Sec. 40 – 141, (1), (a) – (f)), the City Council shall approve or deny the application. If the application is not complete, the Zoning Administrator shall submit a written notice of missing material, and the sixty (60) day time limitation for review will then begin after receipt of the missing materials.

Secs. 40 - 142—40 - 149. Reserved.

DIVISION 10. ENFORCEMENT

Sec. 40 – 150. Penalties and Violations.

(1) Any firm, person, or corporation who violates any of the provisions of these regulations shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine and/or imprisonment as provided by law. Each day that a violation is permitted to exist shall constitute a separate offense.

(2) In the event of a violation or threatened violation of any of the terms of this Ordinance, the City may take appropriate action to enforce this Ordinance, including application for injunctive relief, action to compel performance or other appropriate action to court if necessary to prevent, restrain, correct or abate such violations or threatened violations. Upon motion, the court may award costs, disbursements and reasonable attorney's fees and witness fees, which costs and fees can be assessed against the property.

Secs. 40 - 151—40 - 159. Reserved.

ARTICLE V. ZONING DISTRICT PROVISIONS

DIVISION 1. ZONING DISTRICT PROVISIONS - GENERALLY

Sec. 40 – 160. Establishment of Districts.

The following zoning districts are hereby established within the City of Wyoming.

A	Agriculture
R-1	Rural Residential I
R-2	Rural Residential II
R-3	Single-Family Residential
R-4	One- and Two-Family Residential
R-5	Manufactured Homes
R-6	Limited Multiple Dwelling
CB	Central Business
C	Commercial
OHC	Office and Health Care
MXD	Mixed Use
I	Industrial
RCA	Residential Clusters in the Agricultural District
HO	Highway 8 Corridor Overlay
CO	Carlos Avery Wildlife Perimeter Overlay
SH	Shoreland Management Overlay
FP	Flood Plain Management Overlay
CLR	Closed Landfill Restricted District

Sec. 40 – 161. Map.

The location and boundaries of the districts established by this Ordinance are hereby set forth on the zoning map entitled "Zoning Map," a copy of which is on file with the Zoning Administrator. Said maps and all of the notations, references and other information shown thereon shall have the same force and effect as if fully set forth herein and thereby made a part of this Ordinance by reference.

Sec. 40 – 162. Alterations of City Boundaries.

In the event of changes in the City limits, adding or removing territory from the City, district boundaries shall be construed as moving with the City limits.

Sec. 40 – 163. Zoning District Boundaries.

(1) Boundaries indicated as approximately following the centerlines of roads, highways, alleys, or railroad lines shall be construed to follow such centerline.

(2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

(3) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerlines of streams, rivers, lakes, or other bodies of water shall be construed to following such centerlines.

(4) Boundaries indicated as approximately following the City limits shall be construed as following such City limits.

(5) Where a district boundary line divides a lot which was in a single ownership at the time of passage of this Ordinance, the extension of the regulations for either portion of the lot may be interpreted by the Zoning Administrator upon request of the owner.

(6) The exact location of all district boundaries shall be interpreted by the Zoning Administrator, subject to appeal as provided for within this Ordinance.

Sec. 40 – 164. District Regulations.

The regulations of this Ordinance within each district shall be minimum regulations, and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

(1) No buildings, structure, or land shall hereafter be used or occupied, and no building structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

(2) No buildings or other structures shall hereafter be erected or altered to: exceed the height or bulk; to accommodate or house a greater number of families; to occupy a greater percentage of lot area, to have narrower or smaller rear yards, or other open spaces, than herein required; or in any other manner contrary to the provisions of this Ordinance.

(3) No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

Secs. 40 - 165—40 - 169. Reserved.

DIVISION 2. AGRICULTURE DISTRICT (A)

Sec. 40 – 170. Purpose.

The (A) Agricultural District is intended to provide areas to be utilized for agricultural and Rural Residential II uses.

Sec. 40 – 171. Permitted Uses.

The following are permitted uses in Agricultural districts, except in residential subdivisions that have been conditionally permitted pursuant to, Article VI, Division 19, or subdivisions that have more than eighty percent (80%) of their lots with an area of less than 5 acres, all of which must comply with the permitted uses of the Rural Residential II District (See Article VI, Division 4).

(1) Antennae for amateur radio.

(2) Farm structures which are used for purposes related to the operation of the farm.

(3) Farm production which shall include the raising of crops and animals for sale, profit, or pleasure.

(4) The raising of animals for sale, profit, or pleasure on parcels of five (5) acres or larger. This land area requirement applies to animal kennels, but not to the keeping of dogs, cats and other animals customarily kept as pets. One animal unit is permitted per two acres. The animal units are as follows:

(a)	1 slaughter steer or heifer	= 1 animal unit
(b)	1 horse	= 1 animal unit
(c)	1 dairy cow	= 1 animal unit
(d)	2 swine over 55 lbs.	= 1 animal unit
(e)	5 sheep	= 1 animal unit
(f)	20 turkeys	= 1 animal unit
(g)	20 chickens	= 1 animal unit
(h)	10 ducks	= 1 animal unit

(5) Single family dwelling subject to the following provisions:

(a) Dwellings shall be allowed on lots of five (5) or more acres provided that the lot upon which the dwelling is located fronts an existing public road.

(b) Dwelling units shall not be permitted in areas classified as wetlands, flood plain, peat and muck areas, or areas of poor drainage. In areas where the standing water table is less than three feet the Zoning Administrator, at the recommendation of the Building Official, may require soil testing and borings, footing and foundation engineering and/or an alternate building design or location.

(6) Greenhouses or nurseries.

(7) Forestry.

(8) Wildlife areas, forest preserves, public parks owned or operated by a government agency or nonprofit organization, and other open space uses.

(9) Daycare as required by MN Statutes Ch 462.357, Subdivision 7.

(10) Residential facilities as required by Minnesota Statutes Ch 462.357, Subdivision 7 under these conditions:

(a) The residence structure shall be occupied by not more than six (6) persons under treatment.

(b) The use shall not be located within 1,500 feet of any other group homes.

(11) When a cluster housing development is proposed in the Agricultural District, the remaining open space can be used for alternative urban agricultural uses such as small crops, tree farms, vegetable farms, small organic dairy, horse farms, and community-supported agriculture.

Sec. 40 – 172. Conditional Uses.

The following uses may be conditionally permitted in Agricultural districts, except in residential subdivisions that have been conditionally permitted pursuant to Article VI, Division 19, or subdivisions that have more than eighty percent (80%) of their lots with an area of less than 5 acres, all of which must comply with the permitted uses of the Rural Residential II District (See Article VI, Division 4).

(1) One additional, non-rental, farm dwelling as an accessory use to the farm (See Article VII, Division 31).

(2) Agricultural oriented businesses such as grain and feed sales, grain drying and storage, implement sales, and agricultural machinery repair.

(3) Airstrip for personal use.

(4) Animal feedlots and sales.

(5) Athletic fields, illuminated.

(6) Churches, chapels, temples, synagogues, cemeteries with normal accessory buildings for education and living quarters.

(7) Commercial outdoor recreation areas that are similar to public recreation areas including recreational camping area, golf course, swimming pools, and resorts. Public parks owned and operated by a government agency or nonprofit organization.

(8) Community sewage treatment facilities.

(9) Essential services.

(10) Extraction of minerals, sand, gravel, rock, or any material from the earth and processing operations such as asphalt or concrete batch plants, rock crushing and washing, and recycling of pavement, in accordance with Article VII, Division 17.

(11) Government administration and service buildings.

(12) Heliports or helipads.

(13) Light construction equipment storage areas associated with a legal home occupation.

(14) Livestock feed and poultry lots subject to the requirements of the Minnesota Pollution Control Agency regulations, when any combination of the following animal units are present: 100 dairy animals, or 200 beef animals or 100 sows and boars used for farrowing purposes, or 1,000 pigs being fed for market, or 500 sheep, or 4,000 fowl.

(15) Livestock sales barns and accessory facilities.

(16) Planned Unit Developments in accordance with Article VI, Division 18.

(17) Public parks owned or operated by a government agency or non-profit organization.

(18) Regional pipelines, power transmission lines and relay towers up to fifty (50) feet in accordance with Article VII, Division 28.

(19) Schools or other educational facilities - public and private.

(20) Telecommunication Facility.

(21) Temporary equipment placement and operation.

(22) Other uses determined to be similar to those listed as permitted and conditional uses.

Sec. 40 – 173. Interim Conditional Uses.

The following uses may be conditionally permitted as interim uses in Agricultural districts:

(1) Commercial kennels, residential kennels, and non-profit animal shelters.

(2) Bed and breakfast inns.

(3) Home occupations which may require additional parking, an accessory building, or an attached garage, or generate a noticeable increase in traffic, and which are in accordance with Article VII, Division 13.

(4) Extraction of minerals, sand, gravel, rock, or any material from the earth and processing operations such as asphalt or concrete batch plants, rock crushing and washing, and recycling of pavement, in accordance with Article VII, Division 17.

(5) Roadside stands.

Sec. 40 – 174. Accessory Uses.

The following uses are permitted accessory uses in Agricultural districts:

(1) Any structure or use which is incidental to the permitted principal use including private garages and sheds, fencing, landscaping, playground equipment, non-illuminated athletic fields, and swimming pools.

(2) Farm drainage systems, flood control and watershed structures, and erosion control devices meeting all city, county, state, and Soil Conservation Service minimum standards.

(3) Home Occupations which do not require use of an attached garage, additional parking, an accessory building, or generate a noticeable increase in traffic, and which are in accordance with Article VII, Division 13.

(4) Operation or storage of vehicles, equipment, and machinery which is incidental to the permitted principal use.

(5) Recreational facilities which serve the residence of the principal use.

(6) Sump type livestock and/or poultry manure storage systems or other systems of manure storage that are of like and similar nature that prevents feed lot runoff provided they meet the standards for feed lots adopted by the Minnesota Pollution Control Agency.

(7) Temporary or seasonal roadside stands for sale of agricultural products - not to exceed one stand per farm, and no more than ninety (90) days per year.

(8) Wind energy conversion system, non-commercial.

Sec. 40 – 175. Height, Yard Area and Lot Width and Depth Regulations.

The following dimensional requirements apply in the Agricultural District.

(1) Lot Area Regulations:

(a) The minimum lot size shall be five (5) acres, at least one (1) acre of which must be buildable (See Sec. 40 – 40, (21)), except as provided for in Article VI, Division 19.

(b) Increased Lot Sizes. An increase of the minimum lot size may be required by the City if determined to be necessary by the Zoning Administrator for on-site sewer systems.

(c) If any portion of the lot area falls into any Shoreland District, Article VI, Division 16, will prevail where more restrictive.

(2) Lot Width Regulations:
Every lot or parcel of land shall have a minimum width at the building setback line and frontage on a public road of three hundred feet (300), except as provided for in Article VI, Division 19.

(a) Corner lots shall be platted at least fifteen (15) feet wider than interior lots.

(3) Lot Depth Regulations:
Except as provided for in Article VI, Division 19, every lot, or parcel of land shall have a minimum depth of three hundred (300) feet. The depth of the lot shall not be greater than four (4) times the lot width.

(4) Front Yard Regulations: (See also Article VII, Division 34)
There shall be a front yard setback of not less than:

(a) One hundred thirty-five (135) feet from the centerline of expressways, four lane highways, U.S. and State Highways, and County-State Aid Highways and one hundred fifty (150) feet from the right-of-way of Trunk Highway 8.

(b) One hundred thirty-five (135) feet from the centerline of all county roads.

(c) Seventy-three (73) feet from the centerline of all city streets or forty (40) feet from the road right-of-way, whichever is more restrictive. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the forty (40) foot setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(d) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot.

(5) Side Yard Regulations: (See also Article VII, Division 34)
There shall be a minimum interior side yard setback of not less than:

(a) Forty (40) feet for principal buildings.

(b) Forty (40) feet for farm buildings.

(c) Three (3) feet for non-farm accessory buildings.

(d) Five (5) feet for driveways.

(6) Rear Yard Regulations: (See also Article VII, Division 34)
There shall be a minimum rear yard setback of not less than:

(a) Fifty (50) feet for principal buildings.

(b) Fifty (50) feet for farm buildings.

(c) Three (3) feet for non-farm accessory buildings.

(7) Height Regulations: (See also Article VII, Division 6)

(a) No height regulation shall be required for agricultural buildings except as established in the General Building and Performance Requirements, Article VII.

(b) No other building erected or altered shall exceed three (3) stories or thirty-five (35) feet in height.

Sec. 40 – 176. Architectural Standards.

(1) All new buildings in Agricultural District areas shall be located and sited to preserve the sense of open space in the City and be visually compatible in character and scale with existing residential and agricultural buildings.

(2) See also Article VII, Division 6, Building Requirements.

Sec. 40 – 177. Landscape Standards.

All new residential subdivisions shall conform to the following standards:

(1) When new housing is clustered, vegetative buffers of trees, shrubs and herbaceous understory shall be planted in buffer zones of sufficient width from edge of any residential development (as determined by the Planning Commission), to provide privacy screening and minimize views of homes from exterior road and abutting properties. Such vegetated buffers should consist predominantly of hardy indigenous or native species. See Article VII, Division 12, Landscaping / Woodland Preservation.

(2) See also Article VI, Divisions 14 -17, Overlay Management Areas. See also Article VII, Division 14, Landscaping / Woodland Preservation; and Article VII, Division 26, Screening.

Secs. 40 - 178—40 - 179. Reserved.

DIVISION 3. RURAL RESIDENTIAL I DISTRICT (R-1)

Sec. 40 – 180. Purpose.

The Rural Residential I District is intended to provide an area for very low density housing with on-site wastewater systems in locations that are already predominately developed in a pattern similar to that described in this zoning district.

Sec. 40 – 181. Permitted Uses.

The following are permitted uses in R-1 districts:

(1) Single family dwellings subject to the following provisions: Dwelling units shall not be permitted in areas classified as wetlands, flood plain, peat and muck areas, or areas of poor drainage. In areas where the standing water table is less than three feet, the Zoning Administrator, at the recommendation of the Building Official, may require soil testing and borings, footing and foundation engineering and/or an alternate building design or location.

(2) Daycare as required by MN Statutes Ch 462.357, Subdivision 7.

(3) Residential facilities as required by MN Statutes Ch 462.357, Subdivision 7, under these conditions:

(a) The residence structure shall be occupied by not more than six persons under treatment.

(b) The use shall not be located within 1,500 feet of any other residential facilities.

(4) Public parks owned or operated by a government agency or non-profit organization.

Sec. 40 – 182. Conditional Uses.

The following uses may be conditionally permitted in R-1 districts:

(1) Antennae for amateur radio.

(2) Athletic fields, illuminated.

(3) Churches, chapels, temples, synagogues, cemeteries with normal accessory buildings for education and living quarters.

(4) Community sewage treatment facilities.

(5) Essential services.

(6) Government administration and service buildings.

(7) Open Space Development where fifty percent (50%) or more of the buildable land area is designated as undivided permanent open space and can be achieved in a density-neutral manner, i.e. the overall number of dwelling units allowed is the same as would be permitted in a conventional layout.

(8) Planned Unit Developments in accordance with Article VI, Division 18.

(9) Schools or other educational facilities - public and private.

(10) Telecommunication Facility.

(11) Other uses determined to be similar to those listed as permitted and conditional uses.

Sec. 40 – 183. Interim Conditional Uses.

The following uses may be conditionally permitted as interim uses in R-1 districts:

(1) Bed and breakfast inns.

(2) Dog Kennel, Residential.

(3) Home occupations which may require additional parking, an accessory building or an attached garage, or generate a noticeable increase in traffic, and which are in accordance with Article VII, Division 13.

Sec. 40 – 184. Accessory Uses.

The following uses are permitted accessory uses in R-1 districts:

(1) Any structure or use which is incidental to the permitted principal use including private garages and sheds, television antennae, fencing, playground equipment, landscaping, and swimming pools.

(2) Home Occupations which do not require use of an attached garage, additional parking, an accessory building, or generate a noticeable increase in traffic, and which are in accordance with Article VII, Division 13.

(3) Wind energy conversion system, non-commercial.

Sec. 40 – 185. Heights, Yard, Area and Lot Width and Depth Regulation.

The following dimensional requirements apply in the R-1 District.

(1) Lot Area Regulations:

(a) The minimum lot size shall be one (1) acre, at least one (1) acre of which must be buildable. See Sec. 40 – 40, (21).

(b) Increased Lot Sizes. An increase of the minimum lot size may be required by the City if determined to be necessary by the Zoning Administrator for on-site sewer systems.

(c) If any portion of the lot area falls into any Shoreland District, Article VI, Division 16, will prevail where more restrictive.

(2) Lot Width Regulations:
Every lot or parcel of land shall have a minimum width at the building setback line and frontage on a public road of two hundred (200) feet.

(a) Corner lots shall be platted at least fifteen (15) feet wider than interior lots.

(3) Lot Depth Regulations:
Every lot or parcel of land shall have a minimum depth of two hundred (200) feet. The depth of the lot shall not be greater than four (4) times the lot width.

(4) Front Yard Regulations: (See also Article VII, Division 34)
There shall be a front yard setback of not less than:

(a) One hundred thirty-five (135) feet from the centerline of expressways, four lane highways, U.S. and State Highways, and County-State Aid Highways and one hundred fifty (150) feet from the right-of-way of Trunk Highway 8.

(b) One hundred thirty-five (135) feet from the centerline of all county roads.

(c) Seventy-three (73) feet from the centerline of all city streets or forty (40) feet from the road right-of-way, whichever is more restrictive. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the forty (40) foot setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(d) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot.

(e) No building shall be erected, reconstructed, altered or moved nearer to the street line on which it faces than the average setback observed by the adjacent residential buildings on the same side of the street and fronting thereon within the same block. No building shall be closer than forty (40) feet to the edge of any street lot line, or utility/pedestrian easement if applicable. See also Sec. 40 – 40, (159).

(5) Side Yard Regulations: (See also Article VII, Division 34)
There shall be a minimum interior side yard setback of not less than:

(a) Ten (10) feet for principal buildings.

(b) Three (3) feet for accessory buildings.

(c) Five (5) feet for driveways.

(6) Rear Yard Regulations: (See also Article VII, Division 34)
There shall be a minimum rear yard setback of not less than:

(a) Thirty-five (35) feet for principal building.

(b) Three (3) feet for accessory buildings.

(7) Height Regulations: (See also Article VII, Division 6)

(a) No principal building erected or altered shall exceed three (3) stories or thirty-five (35) feet in height.

(b) No accessory building erected or altered shall exceed one (1) story or twenty-five (25) feet in height.

(8) General Regulations:

(a) In subdivisions where municipal water and sewer services are not presently available, the City Planning Commission may require that the developer submit a plan as to how the lots will be resubdivided when services become available as required by the City Subdivision Regulations.

Sec. 40 – 186. Architectural Standards.

All new residential developments shall conform to the following standards:

(1) New homes shall be located and sited to preserve the sense of open space in the city and be visually compatible in character and scale with existing residential buildings. See also Article VII, Division 6.

(2) Each living unit must provide space for a future garage with a minimum area of three hundred twenty (320) square feet.

(3) Accessory Buildings, see Article VII, Division 1.

(4) Non-residential buildings, see Article VII, Division 5.

Sec. 40 – 187. Landscape Standards.

(1) When new housing is clustered, vegetative buffers of trees, shrubs and herbaceous understory shall be planted in buffer zones of sufficient width from edge of any residential development (as determined by the Planning Commission), to provide privacy screening and minimize views of homes from exterior road and abutting properties. Such vegetated buffers should consist predominantly of hardy indigenous or native species.

(2) See also Article VI, Divisions 14 -17, Overlay Management Areas. See also Article VII, Division 14, Landscaping / Woodland Preservation; and Article VII, Division 26, Screening.

Secs. 40 - 188—40 - 189. Reserved.

DIVISION 4. RURAL RESIDENTIAL II DISTRICT (R-2)

Sec. 40 – 190. Purpose.

The Rural Residential II District is intended to provide for very low density housing with on-site wastewater systems in locations that are already predominately developed in a pattern similar to that described in this zoning district.

Sec. 40 – 191. Permitted Uses.

The following are permitted uses in R-2 districts:

(1) Single family dwellings subject to the following provisions: Dwelling units shall not be permitted in areas classified as wetlands, flood plain, peat and muck areas, or areas of poor drainage. In areas where the standing water table is less than three feet, the Zoning Administrator, at the recommendation of the Building Official, may require soil testing and borings, footing and foundation engineering and/or an alternate building design or location.

(2) Public parks owned or operated by a government agency or non-profit organization.

(3) Daycare as required by Minnesota Statutes Ch 462.357, Subdivision 7

(4) Residential facilities as required by Minnesota Statutes Ch 462.357, Subdivision 7, under these conditions:

(a) The residence structure shall be occupied by not more than six (6) persons under treatment.

(b) The use shall not be located within 1,500 feet of any other residential facilities.

(5) Horsekeeping on parcel five (5) acres or larger at a maximum density of one horse per two (2) acres.

Sec. 40 – 192. Conditional Uses.

The following uses may be conditionally permitted in R-2 districts:

(1) Antennae, amateur radio.

(2) Athletic fields, illuminated.

(3) Churches, chapels, temples, synagogues, cemeteries with normal accessory buildings for education and living quarters.

(4) Community sewage treatment facilities.

(5) Essential services.

(6) Government administration and service buildings.

(7) Planned Unit Developments in accordance with Article VI, Division 18.

(8) Schools or other educational facilities - public and private.

(9) Telecommunications facility.

(10) Other uses determined to be similar to those listed as permitted and conditional uses.

Sec. 40 – 193. Interim Conditional Uses.

The following uses may be conditionally permitted as interim uses in R-2 districts:

(1) Bed and breakfast inns.

(2) Residential Dog Kennel.

(3) Home occupations which may require additional parking, an accessory building or an attached garage, or generate a noticeable increase in traffic, and which are in accordance with Article VII, Division 13.

(4) Extraction of minerals, sand, gravel, rock, or any material from the earth and processing operations such as asphalt or concrete batch plants, rock crushing and washing, and recycling of pavement, in accordance with Article VII, Division 17.

(5) Temporary or seasonal roadside stands for sale of agricultural products - not to exceed one stand per farm, and no more than ninety (90) days per year.

Sec. 40 – 194. Accessory Uses.

The following uses are permitted accessory uses in R-2 districts:

(1) Any structure or use which is incidental to the permitted principal use including private garages and sheds, television antennae, fencing, playground equipment, landscaping, and swimming pools.

(2) Home Occupations which do not require use of an attached garage, additional parking, an accessory building, or generate a noticeable increase in traffic, and which are in accordance with Article VII, Division 13.

(3) Wind energy conversion system, non-commercial.

Sec. 40 – 195. Heights, Yard, Area and Lot Width and Depth Regulation.

The following dimensional requirements apply in the R-2 District.

(1) Lot Area Regulations:

(a) The minimum lot size shall be two (2) acres, at least one (1) acre of which must be buildable. See Sec. 40 – 40, (21).

(b) Increased Lot Sizes. An increase of the minimum lot size may be required by the City if determined to be necessary by the Zoning Administrator for on-site sewer systems.

(c) If any portion of the lot area falls into any Shoreland District, Article VI, Division 16, will prevail where more restrictive.

(2) Lot Width Regulations:
Every lot or parcel of land shall have a minimum width at the building setback line and frontage on a public road of two hundred (200) feet.

(a) Corner lots shall be platted at least fifteen (15) feet wider than interior lots.

(3) Lot Depth Regulations:
Every lot or parcel of land shall have a minimum depth of two hundred (200) feet. The depth of the lot shall not be greater than four (4) times the lot width.

(4) Front Yard Regulations: (See also Article VII, Division 34)
There shall be a front yard setback of not less than:

(a) One hundred thirty-five (135) feet from the centerline of expressways, four lane highways, U.S. and State Highways, and County-State Aid Highways and one hundred fifty (150) feet from the right-of-way of Trunk Highway 8.

(b) One hundred thirty-five (135) feet from the centerline of all county roads.

(c) Seventy-three (73) feet from the centerline of all city streets or forty (40) feet from the road right-of-way, whichever is more restrictive. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the forty (40) foot setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(d) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot.

(e) No building shall be erected, reconstructed, altered or moved nearer to the street line on which it faces than the average setback observed by the adjacent residential buildings on the same side of the street and fronting thereon within the same block. No building shall be closer than forty (40) feet to the edge of any street lot line, or utility/pedestrian easement if applicable. See also Sec. 40 – 40, (159).

(5) Side Yard Regulations: (See also Article VII, Division 34)
There shall be a minimum interior side yard setback of not less than:

(a) Ten (10) feet for principal buildings.

(b) Three (3) feet for accessory buildings.

(c) Five (5) feet for driveways.

(6) Rear Yard Regulations: (See also Article VII, Division 34)
There shall be a minimum rear yard setback of not less than:

(a) Thirty-five (35) feet for principal building.

(b) Three (3) feet for accessory buildings.

(7) Height Regulations: (See also Article VII, Division 6)

(a) No principal building erected or altered shall exceed three (3) stories or thirty-five (35) feet in height.

(b) No accessory building erected or altered shall exceed one (1) story or twenty-five (25) feet in height.

(8) General Regulations:

(a) In subdivisions where municipal water and sewer services are not presently available, the City Planning Commission may require that the developer submit a plan as to how the lots will be resubdivided when services become available as required by the City Subdivision Regulations.

Sec. 40 – 196. Architectural Standards.

All new residential developments shall conform to the following standards:

(1) New homes shall be located and sited to preserve the sense of open space in the city and be visually compatible in character and scale with existing residential buildings. See also Article VII, Division 6.

(2) Each living unit must provide space for a future garage with a minimum area of three hundred twenty (320) square feet.

(3) Accessory Buildings, see Article VII, Division 1.

(4) Non-residential buildings, see Article VII, Division 5.

Sec. 40 – 197. Landscape Standards.

(1) When new housing is clustered, vegetative buffers of trees, shrubs and herbaceous understory shall be planted in buffer zones of sufficient width from edge of any residential development (as determined by the Planning Commission), to provide privacy screening and minimize views of homes from exterior road and abutting properties. Such vegetated buffers should consist predominantly of hardy indigenous or native species.

(2) See also Article VI, Divisions 14 -17, Overlay Management Areas. See also Article VII, Division 14, Landscaping / Woodland Preservation; and Article VII, Division 26, Screening.

Secs. 40 - 198—40 - 199. Reserved.

DIVISION 5. SINGLE-FAMILY RESIDENTIAL DISTRICT (R-3)

Sec. 40 – 200. Purpose.

The R-3 district is intended to establish an area of one-family residential buildings served by public sewer and water lines.

Sec. 40 – 201. Permitted uses.

The following are permitted uses in R-3 districts:

(1) Single family dwellings subject to the following provisions: Dwelling units shall not be permitted in areas classified as wetlands, flood plain, peat and muck areas, or areas of poor drainage. In areas where the standing water table is less than three feet, the Zoning Administrator, at the recommendation of the Building Official, may require soil testing and borings, footing and foundation engineering and/or an alternate building design or location.

(2) Public parks owned or operated by a government agency or non-profit organization.

(3) Daycare as required by Minnesota Statutes Ch 462.357, Subdivision 7.

(4) Residential facilities as required by Minnesota Statutes Ch 462.357, Subdivision 7 under these conditions:

(a) The residence structure shall be occupied by not more than six (6) persons under treatment.

(b) The use shall not be located within 1,500 feet of any other group homes.

Sec. 40 – 202. Conditional uses.

The following uses may be conditionally permitted in R-3 districts:

(1) Antennae, amateur radio.

(2) Athletic fields, illuminated.

(3) Churches, chapels, temples, synagogues, cemeteries with normal accessory buildings for education and living quarters.

(4) Essential services.

(5) Government administration and service buildings.

(6) Planned Unit Developments in accordance with Article VI, Division 18.

(7) Schools or other educational facilities - public and private.

(8) Telecommunications facility.

(9) Other uses determined to be similar to those listed as permitted and conditional uses.

Sec. 40 – 203. Interim conditional uses

The following uses may be conditionally permitted as interim uses in R-3 districts:

(1) Bed and breakfast inns.

(2) Residential dog kennel.

Sec. 40 – 204. Accessory uses.

The following uses are permitted accessory uses in R-3 districts:

(1) Any structure or use which is incidental to the permitted principal use including private garages and sheds, television antennae, fencing, playground equipment, landscaping, and swimming pools.

(2) Home Occupations which do not require use of an attached garage, additional parking, an accessory building, or generate a noticeable increase in traffic, and which are in accordance with Article VII, Division 13.

Sec. 40 – 205. Heights, Yard, Area and Lot Width and Depth Regulation.

The following dimensional requirements apply in the R-3 District.

(1) Lot Area Regulations:

(a) The minimum lot size shall be fifteen thousand (15,000) square feet.

(b) If any portion of the lot area falls into any Shoreland District, Article VI, Division 16, will prevail where more restrictive.

(2) Lot Width Regulations:
Every lot or parcel of land shall have a minimum width at the building setback line and frontage on a public road of one hundred (100) feet.

(a) Corner lots shall be platted at least fifteen (15) feet wider than interior lots.

(b) The Council may grant a variance from this lot width requirement for lots abutting on a cul-de-sac or curves; however, no variance shall permit lots of less than seventy (70) feet on a cul-de-sac or eighty (80) feet on curves.

(3) Lot Depth Regulations:
Every lot or parcel of land shall have a minimum depth of one hundred fifty (150) feet. The depth of the lot shall not be greater than four (4) times the lot width.

(4) Front Yard Regulations: (See also Article VII, Division 34)
There shall be a front yard setback of not less than:

(a) One hundred thirty-five (135) feet from the centerline of expressways, four lane highways, U.S. and State Highways, and County-State Aid Highways and one hundred fifty (150) feet from the right-of-way of Trunk Highway 8.

(b) One hundred thirty-five (135) feet from the centerline of all county roads.

(c) Thirty (30) feet from the road right-of-way of a local street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(d) Forty (40) feet from the road right-of-way of a collector or arterial street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(e) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. The front yard setback may be reduced to the following distances on the non-address road or highway:

1. Twenty (20) feet from the road right-of-way of a local street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

2. Thirty (30) feet from the road right-of-way of a collector or arterial street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(f) No building shall be erected, reconstructed, altered or moved nearer to the street line on which it faces than the average setback observed by the adjacent residential buildings on the same side of the street and fronting thereon within the same block.

(g) No building shall be closer than twenty (20) feet to the edge of any street lot line, or utility/pedestrian easement if applicable. See also Sec. 40 – 40, (159).

(5) Side Yard Regulations: (See also Article VII, Division 34)
There shall be a minimum interior side yard setback of not less than:

(a) Ten (10) feet for principal buildings.

(b) Three (3) feet for accessory buildings.

(c) Five (5) feet for driveways.

(6) Rear Yard Regulations: (See also Article VII, Division 34)
There shall be a minimum rear yard setback of not less than:

(a) Thirty-five (35) feet for principal building.

(b) Three (3) feet for accessory buildings.

(7) Height Regulations: (See also Article VII, Division 6)

(a) No principal building erected or altered shall exceed three (3) stories or thirty-five (35) feet in height.

(b) No accessory building erected or altered shall exceed one (1) story or eighteen (18) feet in height.

(8) General Regulations:

(a) In subdivisions where municipal water and sewer services are not presently available, the City Planning Commission may require that the developer submit a plan as to how the lots will be resubdivided when services become available as required by the City Subdivision Regulations.

Sec. 40 – 206. Architectural Standards.

All new residential developments shall conform to the following standards:

(1) New homes shall be located and sited to preserve the sense of open space in the city and be visually compatible in character and scale with existing residential buildings. See also Article VII, Division 6.

(2) Each living unit must provide space for a future garage with a minimum area of three hundred twenty (320) square feet.

(3) Accessory buildings, see Article VII, Division 1.

(4) Non-residential buildings, see Article VII, Division 5.

Sec. 40 – 207. Landscape Standards.

(5) When new housing is clustered, vegetative buffers of trees, shrubs and herbaceous understory shall be planted in buffer zones of sufficient width from edge of any residential development (as determined by the Planning Commission), to provide privacy screening and minimize views of homes from exterior road and abutting properties. Such vegetated buffers should consist predominantly of hardy indigenous or native species.

(6) See also Article VI, Divisions 14 -17, Overlay Management Areas. See also Article VII, Division 14, Landscaping / Woodland Preservation; and Article VII, Division 26, Screening.

Secs. 40 - 208—40 - 209. Reserved

DIVISION 6 ONE- AND TWO-FAMILY RESIDENTIAL DISTRICT (R-4)

Sec. 40 – 210. Purpose.

The R-4 district is intended to establish an area for one- and two-family residential buildings served by public sewer and water facilities.

Sec. 40 – 211. Permitted uses.

The following are permitted uses in the R-4 district:

(1) One-family dwellings.

(2) Two-family dwellings.

(3) Public parks owned or operated by a government agency or non-profit organization.

(4) Daycare as required by Minnesota Statutes Ch 462.357, Subdivision 7.

(5) Residential facilities as required by Minnesota Statutes Ch 462.357, Subdivision 7 under these conditions:

(a) The residence structure shall be occupied by not more than six persons under treatment.

(b) The use shall not be located within 1,500 feet of any other group homes.

Sec. 40 – 212. Conditional uses.

The following uses may be conditionally permitted in R-4 districts:

(1) Antennae, amateur radio.

(2) Athletic fields, illuminated.

(3) Churches, chapels, temples, synagogues, cemeteries with normal accessory buildings for education and living quarters.

(4) Essential services.

(5) Government administration and service buildings.

(6) Planned Unit Developments in accordance with Article VI, Division 18.

(7) Schools or other educational facilities - public and private.

(8) Telecommunications facility.

(9) Other uses determined to be similar to those listed as permitted and conditional uses.

Sec. 40 – 213. Interim Conditional Uses.

The following uses may be conditionally permitted as interim uses in R-4 districts:

(1) Bed and breakfast inns.

(2) Residential dog kennel.

Sec. 40 – 214. Accessory uses.

The following uses are permitted accessory uses in R-4 districts:

(1) Any structure or use which is incidental to the permitted principal use including private garages and sheds, television antennae, fencing, playground equipment, landscaping, and swimming pools.

(2) Home Occupations which do not require use of an attached garage, additional parking, an accessory building, or generate a noticeable increase in traffic, and which are in accordance with Article VII, Division 13.

Sec. 40 – 215. Heights, Yard, Area and Lot Width and Depth Regulation.

The following dimensional requirements apply in the R-4 District.

(1) Lot Area Regulations:

(a) The minimum lot size for one-family buildings shall be ten thousand (10,000) square feet.

(b) The minimum lot size for two-family buildings shall be twelve thousand (12,000) square feet.

(c) If any portion of the lot area falls into any Shoreland District, Article VI, Division 16, will prevail where more restrictive.

(2) Lot Width Regulations:
Every lot or parcel of land shall have a minimum width at the building setback line and frontage on a public road of seventy-five (75) feet.

(a) Corner lots shall be platted at least fifteen (15) feet wider than interior lots.

(b) The Council may grant a variance from this lot width requirement for lots abutting on a cul-de-sac or curves; however, no variance shall permit lots of less than seventy (70) feet on a cul-de-sac or eighty (80) feet on curves.

(3) Lot Depth Regulations:
Every lot or parcel of land shall have a minimum depth of one hundred thirty five (135) feet. The depth of the lot shall not be greater than four (4) times the lot width.

(4) Front Yard Regulations: (See also Article VII, Division 34)
There shall be a front yard setback of not less than:

(a) One hundred thirty-five (135) feet from the centerline of expressways, four lane highways, U.S. and State Highways, and County-State Aid Highways and one hundred fifty (150) feet from the right-of-way of Trunk Highway 8.

(b) One hundred thirty-five (135) feet from the centerline of all county roads.

(c) Twenty five (25) feet from the road right-of-way of a local street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(d) Thirty (30) feet from the road right-of-way of a collector street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(e) Forty (40) feet from the road right-of-way of an arterial street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(f) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. The front yard setback may be reduced to the following distances on the non-address road or highway:

1. Twenty (20) feet from the road right-of-way of a local street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

2. Twenty-five (25) feet from the road right-of-way of a collector street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

3. Thirty-five (35) feet from the road right-of-way of an arterial street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(g) No building shall be erected, reconstructed, altered or moved nearer to the street line on which it faces than the average setback observed by the adjacent residential buildings on the same side of the street and fronting thereon within the same block.

(h) No building shall be closer than twenty (20) feet to the edge of any street lot line, or utility/pedestrian easement if applicable. See also Sec. 40 – 40, (159).

(5) Side Yard Regulations: (See also Article VII, Division 34)
There shall be a minimum interior side yard setback of not less than:

(a) Ten (10) feet for principal buildings.

(b) Three (3) feet for accessory buildings.

(c) Five (5) feet for driveways.

(6) Rear Yard Regulations: (See also Article VII, Division 34)
There shall be a minimum rear yard setback of not less than:

(a) Thirty-five (35) feet for principal building.

(b) Three (3) feet for accessory buildings.

(7) Height Regulations: (See also Article VII, Division 6)

(a) No principal building erected or altered shall exceed three (3) stories or thirty-five (35) feet in height.

(b) No accessory building erected or altered shall exceed one (1) story or eighteen (18) feet in height.

Sec. 40 – 216. Architectural Standards.

All new residential developments shall conform to the following standards:

(1) New homes shall be located and sited to preserve the sense of open space in the city and be visually compatible in character and scale with existing residential buildings. See also Article VII, Division 6.

(2) Each living unit must provide space for a future garage with a minimum area of three hundred twenty (320) square feet.

(3) Accessory buildings, see Article VII, Division 1.

(4) Non-residential buildings, see Article VII, Division 5.

Sec. 40 – 217. Landscape Standards.

(1) When new housing is clustered, vegetative buffers of trees, shrubs and herbaceous understory shall be planted in buffer zones of sufficient width from edge of any residential development (as determined by the Planning Commission), to provide privacy screening and minimize views of homes from exterior road and abutting properties. Such vegetated buffers should consist predominantly of hardy indigenous or native species.

(2) See also Article VI, Divisions 14 -17, Overlay Management Areas. See also Article VII, Division 14, Landscaping / Woodland Preservation; and Article VII, Division 26, Screening.

Secs. 40 - 218—40 - 219. Reserved

DIVISION 7. MANUFACTURED HOME DISTRICT (R-5)

Sec. 40 – 220. Purpose.

The purpose of this Division is to provide for manufactured housing and assure quality development by providing a safe, well serviced, and attractive environment.

Sec. 40 – 221. Conditional Use Permit Required.

It shall be unlawful for any person to construct, enlarge, or operate any manufactured housing park unless he holds a valid conditional use permit issued by the City for the specific manufactured housing park. All conditional uses shall be subject to the requirements of this Division and Article V, Division 6.

Sec. 40 – 222. Applications.

(1) Each conditional use application shall include the following information:

(a) Legal description and size in acres of the proposed manufactured housing park.

(b) Location and size of all manufactured housing sites, dead storage areas, recreation areas, laundry drying areas, roadways, parking sites, and all setback dimensions (parking spaces, exact manufactured home sites, etc.).

(c) Detailed landscaping plans and specifications.

(d) Location and width of sidewalks, if any.

(e) Plans for sanitary sewage disposal, solid waste disposal, surface drainage, water system, electrical service, gas service, telephone service, other utilities, plumbing and fire protection, the sewage disposal plans to include a detailed report and estimate of projected pollutants entering surface and underground water.

(f) Location and size of all streets abutting the mobile home court and all driveways from such streets to the manufactured housing park.

(g) Road construction plans and specifications for all road construction within the park or directly related to park operation.

(h) Plans for any and all structures, including tornado shelter provisions.

(i) Such other information as required or implied by these manufactured housing park standards or requested by public officials.

(j) Name and address of developer.

(k) Detailed description of maintenance procedures and ground supervisions.

(l) Detailed description of lighting to be installed.

(m) Topographical map, on a meaningful scale.

(n) Proposed rules and regulations promulgated by the owners or operators which set forth the obligation of the owner or operator to the tenants and of the tenants to the owner or operator which shall be approved by the City prior to the occupancy of the manufactured housing park.

(o) A plan for fire protection within the court including volunteer firefighting organizations, drills, alternative water sources, and other planning.

(2) Occupancy Permit Required: After issuance of a conditional use permit, the park may be constructed but may not be occupied until it has been inspected by the Zoning Administrator and an occupancy permit issued. An occupancy permit may be issued by the administrator when it is found that construction is complete and that all the terms thereof have been complied with. A temporary occupancy permit may be issued allowing occupancy of the completed portion if the developer furnished the City with a public contractors performance bond, with corporate surety in an amount equal to the total cost of the uncompleted portion of the project as estimated by the Zoning Administrator. The bond shall be approved by the City Attorney and filed with the Clerk.

(3) Agreements: The City Council requires the operator to enter into an agreement with the City at the time the City Council issues a permit and such agreement with all its terms, conditions, and provisions shall be essential to the permit and shall be enforceable as part of this Ordinance.

(4) Inspections:

(a) Manufactured housing parks permitted under this Ordinance or established prior to the adoption of this Ordinance shall be subject to annual inspections commencing January 1st of the year following adoption of this Ordinance. These inspections will be conducted by the Minnesota Department of Health. A copy of the

inspection report will be filed with the Zoning Administrator. Periodic inspections may also be conducted by the Zoning Administrator.

(b) Notification of the City Building Official shall be made twenty-four (24) hours prior to locating or relocating of any manufactured home in the park for purposes of inspection for compliance with plumbing, electrical, and other requirements.

(5) Compliance:
Compliance with the terms of this Ordinance shall be a condition precedent to the issuance of a State license and shall run with the license so as to be an essential part thereof. Upon revocation of a permit by the State, no further occupancy of the homes in the park shall be allowed, but the City may allow a reasonable time for termination of occupancy. This Section shall apply in all respects to any violation of provisions previously in effect that continue to control existing occupied manufactured housing parks.

Sec. 40 – 223. General Provisions.

(1) Building Permit Required:
All structures shall require a building permit. The provisions of this Section shall be enforced in addition to and in conjunction with the provisions of the Building Code.

(2) Manufactured Home:
No manufactured homes shall be located in the manufactured housing parks that do not conform to the requirements of the most current Minnesota State Uniform Manufactured Home Standards Code and has the State Seal of Compliance affixed to it. No manufactured home shall be allowed therein which is in an unsanitary condition or which has an exterior in bad repair, or which is structurally unsound, or which fails to protect the inhabitants of said manufactured home against all the elements.

(3) Allowable Land Uses:
Land in the manufactured home park shall be used for residential purposes only.

(4) Access:
Manufactured housing parks shall be located only in such areas as will permit readily available access to a collector or given street as designated by the City Engineer.

(5) Central Sewer:
All manufactured housing parks shall be provided with an approved centralized sewage disposal system and water supply system. If a municipal system exists, the park shall be required to use the public system. The capacity of the water supply shall be sufficient to provide for fire protection in addition to an adequate household supply system for the park.

(6) Central Community Building:
Each manufactured housing park shall have one (1) or more central community buildings with central heating which must be maintained in a safe, clean and sanitary condition. Said buildings shall be adequately lighted during all hours of darkness and shall contain laundry washers, dryers and drying areas, public telephones and public mail boxes, in addition to public toilets, and lavatory. For each one hundred (100) home lots or fractional part thereof, there shall be one (1) flush toilet and one (1) lavatory for each gender.

(7) Tornado Shelter.
A tornado shelter shall be provided within a building or buildings at a convenient site, within the manufactured housing park, or an evacuation plan approved by the State which allows for the expedient movement of residents to nearby places of shelter. Shelter accommodations shall be sufficient for the full population of the development.

(8) Central Fuel Supply:
Each manufactured home lot shall be served by a central fuel supply system such as natural gas or a central LP system. No separate private fuel containers, such as fuel or oil tanks or LP tanks shall be allowed in the park.

(9) Dead Storage:
All manufactured housing parks shall have an area or areas set aside for dead storage. Boats, boat trailers, hauling trailers and all other equipment not generally stored within the home or within the utility enclosure that may be provided, shall be stored in a separate place provided by the park owner. This storage place shall be screened. Such equipment shall not be stored upon a lot which is occupied by a home nor upon the streets within the park.

(10) Safety:
Every structure in the manufactured housing park shall be developed and maintained in a safe, approved and substantial manner. The exterior of every such structure shall be kept in good repair. Portable fire extinguishers rated for electrical and liquid fires shall be kept in all service buildings and other locations conveniently and readily accessible for use by all occupants.

(11) Sales:
No sales lot for new or used manufactured homes shall be permitted within the park.

(12) Advertising:
Advertising shall be limited to one sign not to exceed twenty-five (25) square feet with lighting, height, and location as approved by the governing body. Signs shall be set at least fifteen (15) feet from the front lot line.

(13) Areas Beneath Homes:
The area beneath all manufactured homes shall be enclosed with a fire resistant material that shall be generally uniform throughout the entire park, except that such an enclosure must be so constructed that it is subject to reasonable inspection. No obstruction shall be permitted that impedes the inspection of plumbing, electrical facilities, and related equipment.

(14) State Requirements:
All requirements and specifications of State Statutes, Minnesota Department of Health and the Minnesota Pollution Control Agency, and the City of Wyoming shall be fully met.

Sec. 40 – 224. Design Standards.

(1) Site:

(a) Each manufactured home site shall contain at least six thousand (6,000) square feet of land area for the exclusive use of the occupant, and having an average width no less than fifty (50) feet and having an average depth no less than one hundred (100) feet.

(b) Any site to be occupied by a manufactured home wider than fourteen (14) feet shall contain at least nine thousand (9,000) square feet of land area for the exclusive use of the occupant, and having an average width of no less than sixty (60) feet, and having an average depth no less than one hundred (100) feet.

(c) Each manufactured home site shall have frontage on an approved roadway, owned and maintained by the manufactured housing park.

(d) The corners of each manufactured home lot shall be clearly marked and each site shall be numbered.

(e) Each home lot shall be so designed that automobiles may not be parked within five (5) feet of the front or back of the home.

(f) The area occupied by a manufactured home shall not exceed fifty percent (50%) of the total area of a home site; land may be occupied by a home, a vehicle, a building, a carport, an awning, or any structure.

(g) Lot dimensions may be reduced up to a maximum of ten percent (10%) and compensated for by increasing the community recreational area to the same amount.

(2) Setbacks:

(a) No manufactured home shall be parked closer than ten (10) feet to the side lot lines nor closer than twenty (20) feet to the front lot line, nor within ten (10) feet of the rear lot line.

(b) There shall be an open space of at least twenty (20) feet between the sides of adjacent homes, except where units are angled; the minimum distance may be reduced to ten (10) feet.

(c) Automobiles may not be parked nearer than five (5) feet to any side lot line, except where parking spaces of two abutting lots are designated as a single unit.

(d) No manufactured home, off-street parking space, or building shall be located within thirty (30) feet of the exterior boundary of any manufactured housing park.

(e) Manufactured home sites with access to public streets shall conform to all setback and other requirements of the zoning district in which said site is located.

(3) Parking:

(a) Each manufactured home site shall have a hard surfaced off-street parking space for at least two (2) automobiles. Each space shall be ten (10) feet by twenty (20) feet minimum.

(b) Each home site shall maintain hard surfaced off-street parking spaces for guests of occupants in the amount of one (1) space for each three (3) home sites, in addition to requirements of above.

(c) Access drives off roads to all parking spaces and home sites shall be hard surfaced.

(4) Utilities:

(a) All manufactured homes shall be connected to a central water supply and central sanitary sewer system that shall meet the minimum standards as set forth by the Minnesota Department of Health, Pollution Control Agency, and the City of Wyoming. An engineering report shall be submitted giving an analysis of the system and including a detailed report of estimate of all projected pollutants entering surface and underground waters.

(b) Storm water drainage shall be handled under a system separate from the sanitary sewer with design of facilities based on local rainfall curves and the five (5) year storm frequency. Natural drainageways, streams, ponding, and other holding areas shall be preserved for recharge of ground water resource.

(c) All utilities, such as sewer, water, fuel, electric, telephone and television antenna lead-ins, shall be buried to a depth specified by the City and there shall be no overhead wires or support poles except those essential for street or other lighting purposes. All utility connections shall be approved by the Zoning Administrator prior to connection and electrical service shall be at least one hundred ten (110) volt, fifty (50) ampere capacity. Plans for the disposal of surface storm water shall be approved by the City.

(d) Fire hydrants shall be placed within three hundred (300) feet of any manufactured home unit.

(5) Access, Internal Roads and Streets:

(a) Each manufactured housing park shall have at least two (2) access roadways, one of which shall be a paved primary roadway to serve the entire park.

(b) Roads and access drives to parking spaces shall be hard surfaced, as approved by the governing body.

(c) All internal roads shall have a hard surfaced (mountable, roll type) curb and gutter.

(d) Right-of-ways shall be no less than forty (40) feet in width.

(e) All streets shall be developed with a minimum of a twenty-four (24) foot roadbed. Wider roadbeds may be required for collector streets within the park.

(6) Landscaping:

(a) All lot area not utilized for structures or designated parking facilities shall be adequately landscaped, with sodding or seeding programs completed before occupancy of the manufactured home unit.

(b) Trees shall be planted to provide shading and aesthetic value to the residential area at a ratio of not less than two (2) trees per home site.

(c) Screening and buffering of the manufactured housing park with plantings shall be required where the park fronts on a major highway or abuts developed property.

(7) Lighting:

(a) Artificial light shall be maintained during all hours of darkness in all community service buildings containing public toilets, laundry equipment, and the like.

(b) Lighting plans shall include light standards at all roadway intersections, but not more than three hundred (300) feet apart. All parking areas and occupant used facility buildings within the court shall be properly lighted to insure safe pedestrian and vehicular movements.

(8) Recreation:

(a) All manufactured housing parks shall have one (1) or more recreational areas which shall be easily accessible to all park residents. Recreational areas shall be so located as to be free of traffic hazards and should, where the topography permits, be centrally located. The size of such recreational area shall be based upon a minimum of fifteen percent (15%) of the land area (exclusive of street), but no outdoor recreational area shall contain less than two thousand (2,000) square feet. All equipment installed in such an area shall be owned and maintained by the owner or operator at his own expense

Sec. 40 – 225. Operating Conditions.

(1) Lighting:
The manufactured housing park office shall be clearly marked and illuminated during all hours of darkness. An illuminated map of the park noting all roads and location of each unit shall be displayed outside and adjacent to the office.

(2) Caretaker:
An adult caretaker must be on duty at all times in the park.

(3) Register:
The operator of every manufactured housing park shall maintain a register in the office of the park indicating the name and address of each permanent resident.

(4) Refuse:
All land areas shall be adequately drained and properly maintained free of dust, refuse, garbage, rubbish or debris. The proposed method of garbage, waste and trash disposal must be approved by the community and must conform to the regulations of the State Pollution Control Agency. Refuse collection stands shall be provided for all refuse containers. Such stands shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration, and to facilitate cleaning around them. The storage, collections and disposal of refuse in the park shall be

so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution.

(5) Structure Permits:
No person shall erect, place, construct, relocate, alter, maintain, use or occupy a structure in a manufactured housing park without the written consent of the owner or operator of said park.

(6) Animals:
Dogs and animals shall not be permitted to run at large within the park.

(7) Loudspeakers:
No public address or loudspeaker system shall be permitted.

(8) Tents:
No tents shall be erected or occupied, and there shall be no outdoor camping anywhere in the park.

(9) Laundry:
Laundry and clothes shall be hung out to dry only on lines located in approved areas established and maintained exclusively for that purpose.

(10) Inoperable Automobiles:
No person shall bring or keep an automobile into the manufactured housing park that does not have a current license and is not in operable condition.

(11) Fire Extinguishers:
Each home shall be equipped with an approved fire extinguisher.

(12) Open Fires:
No open fires shall be permitted within the park and no fires in burners or incinerators shall be left unattended at any time. The operator shall provide safe, adequate incinerator service in full compliance with any state laws or local ordinances pertaining thereto.

Secs. 40 - 226—40 - 229. Reserved

DIVISION 8. MEDIUM- AND HIGH-DENSITY HOUSING DISTRICT (R-6)

Sec. 40 – 230. Purpose.

The R-6 district is intended to establish an area for attached housing units and narrow-lot detached housing units.

Sec. 40 – 231. Permitted uses.

The following are permitted uses in the R-6 district:

(1) Buildings with two or more housing units.

(2) Buildings with one housing unit.

(3) Buildings or complexes that combine age-restricted housing with health care services and facilities.

(4) Public parks owned or operated by a government agency or non-profit organization.

(5) Home Occupations which do not require use of an attached garage, additional parking, an accessory building, or generate a noticeable increase in traffic, and which are in accordance with Article VII, Division 13.

(6) Daycare as required by Minnesota Statutes Ch 462.357, Subdivision 7

(7) Residential facilities as required by Minnesota Statutes Ch 462.357, Subdivision 8, under these conditions:

(a) The residence structure shall be occupied by not more than sixteen (16) persons under treatment.

(b) The use shall not be located within 1,500 feet of any other group homes.

Sec. 40 – 232. Conditional uses.

The following uses may be conditionally permitted in the R-6 district:

(1) Amateur radio antennae.

(2) Apartments in existing single-family buildings.

(3) Athletic fields, illuminated.

(4) Churches, chapels, temples, synagogues, cemeteries with normal accessory buildings for education and living quarters.

(5) Essential services.

(6) Government administration and service buildings.

(7) Planned Unit Developments in accordance with Article VI, Division 18.

(8) Schools or other educational facilities - public and private.

(9) Telecommunications facility.

(10) Other uses determined to be similar to those listed as permitted and conditional uses.

Sec. 40 – 233. Accessory uses.

The following uses are permitted accessory uses in R-6 districts:

(1) Any structure or use which is incidental to the permitted principal use including private garages and sheds, television antennae, fencing, playground equipment, landscaping, and swimming pools.

(2) Home Occupations which do not require use of an attached garage, additional parking, an accessory building, or generate a noticeable increase in traffic, and which are in accordance with Article VII, Division 13.

Sec. 40 – 234. Heights, Yard, Area and Lot Width and Depth Regulation.

The following dimensional requirements apply in the R-6 District.

(1) Lot Area Regulations:

(a) The minimum lot size for one-family buildings shall be five thousand (5,000) square feet.

(b) The minimum lot size for two-family buildings shall be four thousand five hundred (4,500) square feet, per unit.

(c) The minimum lot size for a rowhouse shall be four thousand (4,000) square feet per unit.

(d) The minimum lot size for an apartment building shall be two thousand five hundred (2,500) square feet. Not more than twenty (20) dwelling units per net acre are permitted.

1. Add 500 square feet for each bedroom over one.

2. Subtract 400 square feet for each parking stall in or under the building; the total subtracted may not exceed 800 square feet per unit.

3. Subtract 200 square feet for each unit with a balcony of not less than 50 square feet.

4. Wetlands, floodplains and soils where the water table is less than 3 feet from the surface may not be counted as part of the minimum lot size for purpose of these calculations.

(e) If any portion of the lot area falls into any Shoreland District, Article VI, Division 16, will prevail where more restrictive.

(2) Lot Width Regulations:
Every lot or parcel of land shall have a minimum width at the building setback line and frontage on a public road of one hundred (100) feet.

(a) Corner lots shall be platted at least fifteen (15) feet wider than interior lots.

(b) The Council may grant a variance from this lot width requirement for lots abutting on a cul-de-sac or curves; however, no variance shall permit lots of less than seventy (70) feet on a cul-de-sac or eighty (80) feet on curves.

(c) The minimum unit width shall be thirty-five (35) feet for single-family, thirty-three (33) feet for two-family, and twenty-five (25) feet for rowhouses.

(3) Lot Depth Regulations:
Every lot or parcel of land shall have a minimum depth of one hundred thirty five (135) feet. The depth of the lot shall not be greater than four (4) times the lot width.

(4) Front Yard Regulations: (See also Article VII, Division 34)
There shall be a front yard setback of not less than:

(a) One hundred thirty-five (135) feet from the centerline of expressways, four lane highways, U.S. and State Highways, and County-State Aid Highways and one hundred fifty (150) feet from the right-of-way of Trunk Highway 8.

(b) One hundred thirty-five (135) feet from the centerline of all county roads.

(c) Twenty five (25) feet from the road right-of-way of a local street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(d) Thirty (30) feet from the road right-of-way of a collector street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(e) Forty (40) feet from the road right-of-way of an arterial street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(f) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. The front yard setback may be reduced to the following distances on the non-address road or highway:

1. Fifteen (15) feet from the road right-of-way of a local street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

2. Twenty (20) feet from the road right-of-way of a collector street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

3. Thirty (30) feet from the road right-of-way of an arterial street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(g) No building shall be erected, reconstructed, altered or moved nearer to the street line on which it faces than the average setback observed by the adjacent residential buildings on the same side of the street and fronting within the same block.

(h) No building shall be closer than fifteen (15) feet to the edge of any street lot line, or utility/pedestrian easement if applicable. See also Sec. 40 – 40, (159).

(5) Side Yard Regulations: (See also Article VII, Division 34)
There shall be a minimum interior side yard setback of not less than:

(a) One-half the height of the building.

(b) If there is no lot line between buildings, the average distance between buildings may not be less than 2/3 the height of the taller building (measured to the top of the wall)

(c) Three (3) feet for accessory buildings.

(d) Fifteen (15) feet for parking and driveways.

(6) Rear Yard Regulations: (See also Article VII, Division 34)
There shall be a minimum rear yard setback of not less than:

(a) Thirty-five (35) feet for principal building.

(b) Three (3) feet for accessory buildings.

(7) Height Regulations: (See also Article VII, Division 6)

(a) No principal building erected or altered shall exceed three (3) stories or forty-five (45) feet in height.

(b) No accessory building erected or altered shall exceed one (1) story or eighteen (18) feet in height.

Sec. 40 – 235. Architectural Standards.

All new residential developments shall conform to the following standards:

(1) New homes shall be located and sited to preserve the sense of open space in the city and be visually compatible in character and scale with existing residential buildings. See also Article VII, Division 6.

(2) Each living unit must provide space for a future garage with a minimum area of three hundred twenty (320) square feet. Parking for apartment buildings shall be in accordance with Article VII, Division 23.

(3) Accessory buildings, see Article VII, Division 1.

(4) Non-residential buildings, see Article VII, Division 4.

Sec. 40 – 236. Landscape Standards.

(1) When new housing is clustered, vegetative buffers of trees, shrubs and herbaceous understory shall be planted in buffer zones of sufficient width from edge of any residential development (as determined by the Planning Commission), to provide privacy screening and minimize views of homes from exterior road and abutting properties. Such vegetated buffers should consist predominantly of hardy indigenous or native species.

(2) See also Article VI, Divisions 14 -17, Overlay Management Areas. See also Article VII, Division 14, Landscaping / Woodland Preservation; and Article VII, Division 26, Screening.

Secs. 40 - 237—40 - 239. Reserved.

DIVISION 9. CENTRAL BUSINESS DISTRICT (CBD)

Sec. 40 – 240. Purpose.

The Central Business district is designed and intended as a specialized district directed to serve the pedestrian in a compact central area of the city. The CBD district will provide for high-density shopping and stressing interaction of people and businesses rather than being heavily oriented toward the use of automobiles.

Sec. 40 – 241. Special requirements; enclosure of uses.

Every use, unless expressly exempted by this chapter or allowed by a conditional use permit, shall operate in its entirety within a completely enclosed structure. The exemption of a use from the requirement of enclosure will be indicated by the phrase "need not be enclosed" appearing after any use exempted or in the case of a permitted establishment by the granting of a conditional use permit, subject to the conditions in article VII of this chapter.

Sec. 40 – 242. Permitted uses.

The following are permitted uses in the CBD district:

(1) Motor vehicle fuel sales; need not be enclosed.

(2) Bars.

(3) Clinics, health.

(4) Convenience stores with fuel sales.

(5) Day care.

(6) Funeral homes.

(7) Government administration and service buildings.

(8) Hotels and motels.

(9) Retail sales or service businesses.

(10) Eating and drinking establishments.

(11) Office buildings.

(12) Personal services.

(13) Professional service businesses.

(14) Restaurants.

(15) Tutoring services.

Sec. 40 – 243. Conditional uses.

The following uses may be conditionally permitted in the CBD district:

(1) Car wash.

(2) Essential services.

(3) Heliports or helipads.

(4) Planned Unit Developments in accordance with Article VI, Division 18.

(5) Restaurants, drive-in, or drive-through.

(6) Shoreland Districts: The permitted uses listed in Sec. 40 – 242 shall be conditional uses in shoreland districts.

(7) Telecommunication towers and antennas.

(8) Other uses determined to be similar to those listed as permitted and conditional uses.

Sec. 40 – 244. Accessory uses.

The following uses are permitted accessory uses in CBD districts:

(1) Antennas; amateur radio and television.

(2) Automatic teller, freestanding.

(3) Donation drop-off containers.

(4) Drive-through services.

(5) Fences or walls.

(6) Garages, private.

(7) Incidental light industrial uses.

(8) Minor accessory structures (under 120 square feet).

(9) Playground equipment.

(10) Retail sales.

(11) Storm shelters.

(12) Swimming Pools.

(13) Sexually Oriented Uses, Accessory, in accordance with Article VII, Division 2.

Sec. 40 – 245. Heights, Yard, Area and Lot Width and Depth Regulation.

The following dimensional requirements apply in the CBD District.

(1) Lot Area Regulations:

(a) The minimum lot size shall be six thousand five hundred (6,500) square feet.

(b) All planned unit developments shall only be permitted on an area of at least one acre.

(c) If any portion of the lot area falls into any Shoreland District, Article VI, Division 16, will prevail where more restrictive.

(2) Lot Width Regulations:
Every lot or parcel of land shall have a minimum width at the building setback line and frontage on a public road of fifty (50) feet.

(a) Corner lots shall be platted at least fifteen (15) feet wider than interior lots.

(3) Front Yard Regulations: (See also Article VII, Division 34)
There shall be a front yard setback of not less than zero (0) feet.

(4) Side Yard Regulations: (See also Article VII, Division 34)
There shall be a minimum interior side yard setback of not less than:

(a) Zero (0) feet for principal and accessory buildings.

1. Five (5) feet for principal and accessory buildings adjacent to a residential district.

(5) Rear Yard Regulations: (See also Article VII, Division 34)
There shall be a minimum rear yard setback of not less than:

(a) Zero (0) feet for principal and accessory buildings.

1. Five (5) feet for principal and accessory buildings adjacent to a residential district.

(6) Height Regulations: (See also Article VII, Division 6)

(a) No principal building erected or altered shall exceed four (4) stories or forty-five (45) feet in height.

(b) No accessory building erected or altered shall exceed one (1) story or twenty five (25) feet in height.

Sec. 40 – 246. Architectural Standards.

All buildings shall conform to the standards contained in Article VII, Division 5.

(1) In addition to other restrictions of Article VII, Division 5, pole buildings, metal-sided buildings, agricultural buildings or similar structures are not permitted as principal or accessory uses in the CBD district.

Sec. 40 – 247. Landscape Standards.

(1) See also Article VI, Divisions 14 -17, Overlay Management Areas. See also Article VII, Division 14, Landscaping / Woodland Preservation; and Article VII, Division 26, Screening.

Secs. 40 - 248—40 - 249. Reserved

DIVISION 10. COMMERCIAL DISTRICT (C)

Sec. 40 – 250. Purpose.

The Commercial (C) district is designed and intended to promote the development of retail and service business that require volumes of automobile traffic. This district encourages many uses that reinforce and complement uses permitted in the CBD district.

Sec. 40 – 251. Permitted uses.

The following are permitted uses in the C district:

(1) Bars.

(2) Business that provides goods or services on a retail basis to individual customers except those limited by Sec. 40-252, Conditional Uses, or Article VII, Division 2, Adult Uses.

(3) Car washes.

(4) Clinics, health.

(5) Convenience stores with fuel sales.

(6) Day care.

(7) Funeral homes.

(8) Government administration and service buildings.

(9) Hotels or motels.

(10) Nursing or convalescent homes.

(11) Office buildings.

(12) Personal services.

(13) Restaurants.

(14) Restaurants, drive-in, or drive-through.

(15) Retail sales or service businesses.

(16) Tutoring services.

(17) Motor vehicle fuel sales.

(18) Motor vehicle mechanical or body repair.

(19) Veterinary facilities (neighborhood).

Sec. 40 – 252. Conditional uses.

The following uses may be conditionally permitted in the C district:

(1) Antennas, Amateur Radio.

(2) Dog Kennels.

(3) Churches, chapels, temples, synagogues, cemeteries with normal accessory buildings for education and living quarters.

(4) Clubs and Lodges.

(5) Essential Services.

(6) Motor vehicle sales or rental.

(7) Planned Unit Developments in accordance with Article VI, Division 18.

(8) Shoreland Districts: The permitted uses listed in Sec. 40 – 251 shall be conditional uses in shoreland districts.

(9) Telecommunication towers and antennas.

(10) Other uses determined to be similar to those listed as permitted and conditional uses.

Sec. 40 – 253. Accessory uses.

The following uses are permitted accessory uses in the C district:

(1) Antennas, amateur radio, television.

(2) Automatic teller, freestanding.

(3) Donation drop-off containers.

(4) Drive-through services.

(5) Fences or walls.

(6) Garages, private.

(7) Incidental light industrial uses.

(8) Minor accessory structures (under 120 square feet).

(9) Retail sales.

(10) Storm shelters.

(11) Swimming Pools.

(12) Sexually Oriented Uses, Accessory, in accordance with Article VII, Division 2.

(13) Wind energy conversion system, non-commercial.

Sec. 40 – 254. Dimensional Requirements for Uses with Public Sewer Service

The following dimensional requirements apply in the C District for buildings with public sewer and water service.

(1) Lot Area Regulations:

(a) The minimum lot size shall be twenty thousand (20,000) square feet.

(b) If any portion of the lot area falls into any Shoreland District, Article VI, Division 16, will prevail where more restrictive.

(2) Lot Width Regulations:
Every lot or parcel of land shall have a minimum width at the building setback line and frontage on a public road of one hundred (100) feet.

(a) Corner lots shall be platted at least fifteen (15) feet wider than interior lots.

(3) Front Yard Regulations: (See also Article VII, Division 34)
There shall be a front yard setback of not less than:

(a) One hundred thirty-five (135) feet from the centerline of expressways, four lane highways, U.S. and State Highways, and County-State Aid Highways and one hundred fifty (150) feet from the right-of-way of Trunk Highway 8.

(b) Twenty (20) feet from the road right-of-way of a local street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(c) Twenty (20) feet from the road right-of-way of a collector street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(d) Thirty-five (35) feet from the road right-of-way of an arterial street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(e) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. The front yard setback may be reduced to the following distances on the non-address road or highway.

1. Twenty (20) feet from the road right-of-way of a local street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

2. Twenty (20) feet from the road right-of-way of a collector street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

3. Twenty-five (25) feet from the road right-of-way of an arterial street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(f) Parking areas shall be setback a minimum of ten (10) feet from all right-of-ways.

(4) Side Yard Regulations: (See also Article VII, Division 34)
There shall be a minimum interior side yard setback of not less than:

(a) Zero (0) feet for principal buildings.

1. Twenty (20) feet for principal buildings adjacent to a residential district.

(b) Three (3) feet for accessory structures.

1. Six (6) feet for accessory structures adjacent to a residential district.

(c) Ten (10) feet for parking areas.

1. Twenty (20) feet for parking areas adjacent to residential districts.

(d) Five (5) feet for driveways.

(5) Rear Yard Regulations: (See also Article VII, Division 34)
There shall be a minimum rear yard setback of not less than:

(a) Twenty (20) feet for principal buildings.

(b) Three (3) feet for accessory buildings.

1. Six (6) feet for accessory buildings adjacent to a residential district.

(c) Ten (10) feet for parking areas.

1. Twenty (20) feet for parking areas adjacent to residential districts.

(6) Height Regulations: (See also Article VII, Division 6)

(a) No principal building erected or altered shall exceed four (4) stories or forty-five (45) feet in height.

(b) No accessory building erected or altered shall exceed one (1) story or twenty-five (25) feet in height.

Sec. 40 – 255. Dimensional Requirements for Uses without Public Sewer Service

The following dimensional requirements apply in the C District for buildings without public sewer and water service.

(1) Lot Area Regulations:

(a) The minimum lot size shall be two and one-half (2.5) acres, at least one (1) acre of which must be buildable. See Sec. 40 – 40, (21).

(b) Increased Lot Sizes. An increase of the minimum lot size may be required by the City if determined to be necessary by the Zoning Administrator for on-site sewer systems.

(c) If any portion of the lot area falls into any Shoreland District, Article VI, Division 16, will prevail where more restrictive.

(2) Lot Width Regulations:
Every lot or parcel of land shall have a minimum width at the building setback line and frontage on a public road of two hundred (200) feet.

(a) Corner lots shall be platted at least fifteen (15) feet wider than interior lots.

(3) Lot Depth Regulations:
Every lot or parcel of land shall have a minimum depth of two hundred (200) feet. The depth of the lot shall not be greater than four (4) times the lot width.

(4) Front Yard Regulations: (See also Article VII, Division 34)
There shall be a front yard setback of not less than:

(a) One hundred thirty-five (135) feet from the centerline of expressways, four lane highways, U.S. and State Highways, and County-State Aid Highways and one hundred fifty (150) feet from the right-of-way of Trunk Highway 8.

(b) One hundred thirty-five (135) feet from the centerline of all arterial streets. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(c) Seventy-three (73) feet from the centerline of all local and collector streets or forty (40) feet from the right-of-way, whichever is more restrictive. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the forty (40) foot setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(d) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot.

(e) No building shall be erected, reconstructed, altered or moved nearer to the street line on which it faces than the average setback observed by the adjacent residential buildings on the same side of the street and fronting thereon within the same block. No building shall be closer than forty (40) feet to the edge of any street lot line, or utility/pedestrian easement if applicable. See also Sec. 40 – 40, (159).

(f) Parking areas shall be setback a minimum of ten (10) feet from all right-of-ways.

(5) Side Yard Regulations: (See also Article VII, Division 34)
There shall be a minimum interior side yard setback of not less than:

(a) Ten (10) feet for principal buildings.

1. Twenty (20) feet for principal buildings adjacent to residential districts.

(b) Three (3) feet for accessory buildings.

1. Six (6) feet for accessory buildings adjacent to a residential district.

(c) Ten (10) feet for parking areas.

1. Twenty (20) feet for parking areas adjacent to residential districts.

(d) Five (5) feet for driveways.

(6) Rear Yard Regulations: (See also Article VII, Division 34)
There shall be a minimum rear yard setback of not less than:

(a) Twenty (20) feet for principal buildings.

1. Forty (40) feet for principal buildings adjacent to residential districts.

(b) Three (3) feet for accessory buildings.

1. Six (6) feet for accessory buildings adjacent to a residential district.

(c) Ten (10) feet for parking areas.

1. Twenty (20) feet for parking areas adjacent to residential districts.

(7) Height Regulations: (See also Article VII, Division 6)

(a) No principal building erected or altered shall exceed four (4) stories or forty-five (45) feet in height.

(b) No accessory building erected or altered shall exceed one (1) story or twenty-five (25) feet in height.

Sec. 40 – 256. Architectural Standards.

All buildings shall conform to the standards contained in Article VII, Division 5.

(1) In addition to other restrictions of Article VII, Division 5, pole buildings, metal-sided buildings, agricultural buildings or similar structures are not permitted as principal or accessory uses in the C district.

Sec. 40 – 257. Landscape Standards.

(1) See also Article VI, Divisions 14 -17, Overlay Management Areas. See also Article VII, Division 14, Landscaping / Woodland Preservation; and Article VII, Division 26, Screening.

Secs. 40 - 258—40 - 259. Reserved

DIVISION 11. OFFICE AND HEALTH CARE DISTRICT (OHC)

Sec. 40 – 260. Purpose.

The OHC District is established to promote the development of regional health, wellness, and related community services by creating a localized district in which to locate uses to carry out these goals. The district regulations are also designed to provide detailed standards for appearance and landscaping.

Sec. 40 – 261. Services Agreement.

(1) All nonprofit or other organizations or other entities which are exempt from the payment of real estate taxes must, as a condition to the operation of a permitted or conditional use in the OHC District, enter into a services agreement with the City whereby such organization will agree to pay for various services provided by the City out of its general fund, including without limitation police, fire, park, maintenance and administrative services.

(2) The City may refuse to issue a building permit, conditional use permit, certificate of occupancy, or other permit required by the City or may refuse to sign a development or other agreement with such organization or other entity until such time as a services agreement has been negotiated and signed by the City and the nonprofit organization or other entity.

(3) If such nonprofit organization or other entity acquires ownership of improved property within the OHC District after the construction of improvements on the property then, notwithstanding any other requirement under this article, the City shall require that such organization or other entity execute a services agreement as a condition to the organization's ownership or use of such property in the OHC District. The services agreement referred to in this subsection shall be in a form approved by the City and, without limiting any other terms required by the City, shall:

(a) Provide a mechanism for reimbursement to the City of increases in the cost of services provided by the City.

(b) Provide that in no event will the payments required under the services agreement be higher than the amount which would have been paid by such organization or entity except for its tax-exempt status regarding the payment of real estate taxes

(c) Provide that if the organization or entity loses its tax-exempt status regarding the payment of real estate taxes, such services agreement shall terminate effective as of the date the organization or entity actually begins paying real estate taxes with respect to such property.

Sec. 40 – 262. Permitted uses.

The following are permitted uses in the OHC District:

(1) Clinic, health.

(2) Day care.

(3) Fitness center open to the public.

(4) Funeral home.

(5) Hospital.

(6) Hotel or motel.

(7) House of worship.

(8) Housing restricted to the elderly including independent living, assisted living, memory care, and convalescent (nursing) care.

(9) Office building.

(10) Personal services.

(11) Restaurant.

(12) Tutoring service.

Sec. 40 – 263. Conditional uses.

The following uses may be conditionally permitted in the OHC District:

(1) Ambulance service.

(2) Antennas, amateur radio.

(3) Essential services.

(4) Heliports or helipads.

(5) Planned Unit Developments in accordance with Article VI, Division 18.

(6) Schools, public or private.

(7) Shoreland Districts: The permitted uses listed in Sec. 40 – 262 shall be conditional uses in shoreland districts.

(8) Other uses determined to be similar to those listed as permitted and conditional uses.

Sec. 40 – 264. Accessory uses.

The following uses are permitted accessory uses in the OHC district:

(1) Accessory uses incidental to and on the same lot as the principal use in the OHC District are allowed (in a hospital, for example, food services, florist, drug store, medical supply stores, ambulance services, helipad operations and radio transmission towers would be deemed to be accessory uses) subject to the following conditions:

(a) Accessory uses shall not be located in any required side or front yard.

(b) Accessory uses not located in the building out of which the primary use is conducted may only be located at a location approved by the City, which shall consider the location's potential impact on the City's overall plan of development and alternative sites for locating the accessory use.

(2) Antennas; amateur radio and television.

(3) Automatic teller, freestanding.

(4) Donation drop-off containers.

(5) Drive-through services.

(6) Fences or walls.

(7) Garages, private.

(8) Minor accessory structures (under 120 square feet).

(9) Retail sales.

(10) Storm shelters.

(11) Swimming Pools.

(12) Sexually Oriented Uses, Accessory, in accordance with Article VII, Division 2.

Sec. 40 – 265. Heights, Yard, Area and Lot Width and Depth Regulation.

The following dimensional requirements apply to the OHC district.

(1) Lot Area Regulations:

(a) The minimum lot size shall be twenty thousand (20,000) square feet.

(b) If any portion of the lot area falls into any Shoreland District, Article VI, Division 16, will prevail where more restrictive.

(2) Lot Width Regulations:
Every lot or parcel of land shall have a minimum width at the building setback line and frontage on a public road of one hundred (100) feet.

(a) Corner lots shall be platted at least fifteen (15) feet wider than interior lots.

(3) Front Yard Regulations: (See also Article VII, Division 34)
There shall be a front yard setback of not less than:

(a) One hundred thirty-five (135) feet from the centerline of expressways, four lane highways, U.S. and State Highways, and County-State Aid Highways.

(b) Forty (40) feet from the road right-of-way of a local street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(c) Forty (40) feet from the road right-of-way of a collector street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(d) Forty (40) feet from the road right-of-way of an arterial street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(e) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot.

(f) Parking areas shall be setback a minimum of fifteen (15) feet from all right-of-ways.

(4) Side Yard Regulations: (See also Article VII, Division 34)
There shall be a minimum interior side yard setback of not less than:

(a) Fifteen (15) feet for principal buildings.

(b) Three (3) feet for accessory buildings.

1. Six (6) feet for accessory buildings adjacent to a residential district.

(c) Fifteen (15) feet for parking areas.

(5) Rear Yard Regulations: (See also Article VII, Division 34)
There shall be a minimum rear yard setback of not less than:

(a) Twenty (20) feet for principal buildings.

(b) Three (3) feet for accessory buildings.

1. Six (6) feet for accessory buildings adjacent to a residential district.

(c) Fifteen (15) feet for parking areas.

(6) Height Regulations: (See also Article VII, Division 6)

(a) No principal building erected or altered shall exceed four (4) stories or forty-five (45) feet in height.

(b) No accessory building erected or altered shall exceed one (1) story or twenty-five (25) feet in height.

Sec. 40 – 266. Architectural Standards.

All buildings shall conform to the standards contained in Article VII, Division 5.

(1) In addition to other restrictions of Article VII, Division 4, pole buildings, metal-sided buildings, agricultural buildings or similar structures are not permitted as principal or accessory buildings in the OHC district.

Sec. 40 – 267. Landscape Standards.

(1) See also Article VI, Divisions 14 -17, Overlay Management Areas. See also Article VII, Division 14, Landscaping / Woodland Preservation; and Article VII, Division 26, Screening.

Secs. 40 - 268—40 - 269. Reserved

DIVISION 12. MIXED USE DISTRICT (MXD)

Sec. 40 – 270. Purpose.

The purpose of the Mixed-Use District is to accommodate two or more types of land use, which may include office buildings, single family residential, multiple-family housing, retail businesses, or service businesses. Developers will be required to negotiate with the City a unified and comprehensively design plan of high quality. Any development in this category is required to obtain a conditional use permit. See also Article V, Division 5.

Sec. 40 – 271. Permitted uses.

There are no permitted uses in the Mixed-Use District.

Sec. 40 – 272. Conditional uses.

The following uses may be conditionally permitted in the MXD district:

(1) Antennas, amateur radio.

(2) Attached (multiple-family) housing.

(3) Motor Vehicle fuel sales.

(4) Bars.

(5) Churches, chapels, temples, synagogues, with normal accessory buildings for education and living quarters.

(6) Clinics, medical or dental.

(7) Convenience stores with fuel sales.

(8) Day care.

(9) Detached (single-family) housing.

(10) Essential services.

(11) Funeral Homes.

(12) Hotels or motels.

(13) Housing restricted to the elderly including independent living, assisted living, memory care, and convalescent (nursing) care.

(14) Office buildings.

(15) Public parks owned or operated by a government agency or non-profit organization.

(16) Personal services.

(17) Restaurants.

(18) Restaurants, drive-in, or drive-through.

(19) Retail or service businesses.

(20) Schools, public or private.

(21) Social, fraternal, or charitable organizations.

(22) Tutoring service.

(23) Wind energy conversion system, non-commercial.

(24) Other uses determined to be similar to those listed as permitted and conditional uses.

Sec. 40 – 273. Interim conditional uses.

The following uses may be conditionally permitted as interim uses in MXD districts:

(1) Bed and breakfast inns.

Sec. 40 – 274. Accessory uses.

(1) The following uses are permitted accessory uses in the MXD district:

(a) Home Occupations which do not require use of an attached garage, additional parking, an accessory building, or generate a noticeable increase in traffic, and which are in accordance with Article VII, Division 13.

(2) The following uses may be conditionally permitted accessory uses in the MXD district:

(a) Antennas; amateur radio and television.

(b) Automatic teller, freestanding.

(c) Donation drop-off containers.

(d) Drive-through services.

(e) Fences or walls.

(f) Garages, private.

(g) Minor accessory structures (under 120 square feet).

(h) Non-illuminated athletic fields.

(i) Playground equipment

(j) Retail sales.

(k) Storm shelters.

(l) Swimming pools.

(m) Sexually Oriented Uses, Accessory, in accordance with Article VII, Division 2.

Sec. 40 – 275. Design and review process.

Any application for development in a Mixed-Use District shall follow this process:

(1) Staff Meeting. Meet with City staff to discuss site conditions and the requirements of the Comprehensive Plan, the Zoning Ordinance, and the Subdivision Ordinance.

(2) Sketch Plan. Review with the City staff a preliminary (sketch) plan for the site. Review of this plan with the Planning Commission is optional but recommended.

(3) Master Plan. Submit to City staff and review with the Planning Commission and City Council an overall master plan for site development. Requirements for a master plan submittal are presented in Article V, Division 5.

(4) Preliminary Plat. Submit to City staff and review with the Planning Commission a preliminary plat creating two or more building parcels plus necessary public rights-of-way and drainage or utility easements. Large outlots may be created for subsequent resubdivision. The preliminary plat may be reviewed at the same time as the master plan.

(5) Site Plans. Submit to City staff and review with the Planning Commission and the City Council a site plan for one or more buildings. A site plan may be reviewed at the same time as a preliminary plat. Individual site plans and plats may be submitted for subsequent development stages and must conform with the approved master plan. Requirements for a site plan submittal are presented in Article V, Division 4.

Sec. 40 – 276. Design requirements.

(1) Developments in the Mixed-Use District should result in combination of two or more land uses that are compatibly related either horizontally and/or vertically to one another and adjacent, off-site properties.

(2) The site design must result in a higher quality of development, increased density, and greater benefit to the community than might be possible if the site were developed under individual applications for the various land uses.

(3) The development application must include overall, unified plans for external architecture, access, internal circulation, grading, surface water management, signs, landscaping, lighting, and parking. Photos and sketches must be submitted to illustrate the proposed appearance of the completed project. The Planning Commission and City Council will decide whether individual site plans are consistent with the master plan.

(4) Space devoted to surface parking should be minimized through shared use of parking.

(5) If a proposed development in a location planned Mixed Use abuts an area either planned or developed as housing, the design for the Mixed Use site must be compatible with the nearby residential site.

(6) The site design must indicate how the project can be built in stages and how each stage can be sustainable if subsequent stages are not built in a timely fashion or abandoned.

Sec. 40 – 277. Dimensional requirements.

Developments in the Mixed-Use District shall conform with the dimensional requirements established in other Divisions of this Article for residential or commercial land uses unless exceptions are negotiated with the City during the review process.

Secs. 40 - 278—40 - 279. Reserved

DIVISION 13. INDUSTRIAL DISTRICT (I)

Sec. 40 – 280. Purpose.

The Industrial district is established to provide standards of development for certain industrial or manufacturing uses that prefer to be located in choice or strategic sites and to prevent serious problems of compatibility with other non-industrial types of land uses.

Sec. 40 – 281. Permitted uses.

The following are permitted uses in I districts:

(1) Antenna, amateur radio.

(2) Motor vehicle, mechanical or body repair.

(3) Motor vehicle fuel sales.

(4) Day care.

(5) Dog kennels.

(6) Manufacturing, light.

(7) Office buildings.

(8) Self-storage facilities.

(9) Veterinary facilities (rural).

(10) Veterinary facilities (neighborhood).

(11) Warehousing.

(12) Wholesale sales.

Sec. 40 – 282. Conditional uses.

The following uses may be conditionally permitted in I districts:

(1) Adult-oriented businesses in accordance with Article VII, Division 2.

(2) Athletic field, illuminated.

(3) Essential services.

(4) Heliports or helipads.

(5) Manufacturing, heavy.

(6) Planned Unit Developments in accordance with Article VI, Division 18.

(7) Recycling collection center.

(8) Shoreland Districts: The permitted uses listed in Sec. 40 – 281 shall be conditional uses in shoreland districts.

(9) Telecommunication towers and antennas.

(10) Other uses determined to be similar to those listed as permitted and conditional uses.

Sec. 40 – 283. Interim conditional uses.

The following uses may be conditionally permitted as interim uses in I districts:

(1) Motor vehicle reduction / salvage yards.

Sec. 40 – 284. Accessory Uses.

The following uses are permitted accessory uses in I districts:

(1) Retail sales which are ancillary to the primary use are allowed at the primary use location so long as such retail sales do not create substantial traffic or safety problems as determined in the City's reasonable discretion. Businesses whose primary use involves the sale of products to the public at any location within the Industrial district shall not be permitted.

(2) Antennas; amateur radio and television.

(3) Automatic teller, freestanding.

(4) Donation drop-off containers.

(5) Drive-through services.

(6) Fences or walls.

(7) Garages, private.

(8) Incidental light industrial use.

(9) Minor accessory structures (under 120 square feet).

(10) Retail sales.

(11) Storm shelters.

(12) Sexually Oriented Uses, Accessory, in accordance with Article VII, Division 2.

(13) Wind energy conversion system, non-commercial.

Sec. 40 – 285. Dimensional Requirements for Uses with Public Sewer Service

The following dimensional requirements apply in the I District for buildings with public sewer and water service.

(1) Lot Area Regulations:

(a) The minimum lot size shall be twenty thousand (20,000) square feet.

(b) If any portion of the lot area falls into any Shoreland District, Article VI, Division 16, will prevail where more restrictive.

(2) Lot Width Regulations:
Every lot or parcel of land shall have a minimum width at the building setback line and frontage on a public road of one hundred (100) feet.

(a) Corner lots shall be platted at least fifteen (15) feet wider than interior lots.

(3) Front Yard Regulations: (See also Article VII, Division 34)
There shall be a front yard setback of not less than:

(a) One hundred thirty-five (135) feet from the centerline of expressways, four lane highways, U.S. and State Highways, and County-State Aid Highways and one hundred fifty (150) feet from the right-of-way of Trunk Highway 8.

(b) Twenty-five (25) feet from the road right-of-way of a local street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(c) Thirty-five (35) feet from the road right-of-way of a collector street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(d) Thirty-five (35) feet from the road right-of-way of an arterial street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(e) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot. The front yard setback may be reduced to the following distances on the non-address road or highway.

1. Twenty (20) feet from the road right-of-way of a local street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

2. Twenty (20) feet from the road right-of-way of a collector street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

3. Twenty-five (25) feet from the road right-of-way of an arterial street. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(f) Parking areas shall be setback a minimum of ten (10) feet from all right-of-ways.

(4) Side Yard Regulations: (See also Article VII, Division 34)
There shall be a minimum interior side yard setback of not less than:

(a) Fifteen (15) feet for principal buildings.

1. Thirty (30) feet for principal buildings adjacent to a residential district.

(b) Three (3) feet for accessory structures.

1. Six (6) feet for accessory structures adjacent to a residential district.

(c) Fifteen (15) feet for parking areas.

1. Twenty (20) feet for parking areas adjacent to residential districts.

(d) Five (5) feet for driveways.

(5) Rear Yard Regulations: (See also Article VII, Division 34)
There shall be a minimum rear yard setback of not less than:

(a) Fifteen (15) feet for principal buildings.

(b) Three (3) feet for accessory buildings.

1. Six (6) feet for accessory buildings adjacent to a residential district.

(c) Fifteen (15) feet for parking areas.

1. Twenty (20) feet for parking areas adjacent to residential districts.

(6) Height Regulations: (See also Article VII, Division 6)

(a) No principal building erected or altered shall exceed four (4) stories or forty-five (45) feet in height.

(b) No accessory building erected or altered shall exceed one (1) story or twenty-five (25) feet in height.

Sec. 40 – 286. Dimensional Requirements for Uses without Public Sewer Service

The following dimensional requirements apply in the I District for buildings without public sewer and water service.

(1) Lot Area Regulations:

(a) The minimum lot size shall be two and one-half (2.5) acres, at least one (1) acre of which must be buildable. See Sec. 40 – 40, (21).

(b) Increased Lot Sizes. An increase of the minimum lot size may be required by the City if determined to be necessary by the Zoning Administrator for on-site sewer systems.

(c) If any portion of the lot area falls into any Shoreland District, Article VI, Division 16, will prevail where more restrictive.

(2) Lot Width Regulations:
Every lot or parcel of land on which a residential dwelling is erected shall have a minimum width at the building setback line and frontage on a public road of two hundred (200) feet.

(a) Corner lots shall be platted at least fifteen (15) feet wider than interior lots.

(3) Lot Depth Regulations:
Every lot or parcel of land shall have a minimum depth of two hundred (200) feet. The depth of the lot shall not be greater than four (4) times the lot width.

(4) Front Yard Regulations: (See also Article VII, Division 34)
There shall be a front yard setback of not less than:

(a) One hundred thirty-five (135) feet from the centerline of expressways, four lane highways, U.S. and State Highways, and County-State Aid Highways and one hundred fifty (150) feet from the right-of-way of Trunk Highway 8.

(b) One hundred thirty-five (135) feet from the centerline of all arterial streets. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the front yard setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(c) Seventy-three (73) feet from the centerline of all local and collector streets or forty (40) feet from the right-of-way, whichever is more restrictive. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the forty (40) foot setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(d) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot.

(e) No building shall be erected, reconstructed, altered or moved nearer to the street line on which it faces than the average setback observed by the adjacent residential buildings on the same side of the street and fronting thereon within the same block. No building shall be closer than forty (40) feet to the edge of any street lot line, or utility/pedestrian easement if applicable. See also Sec. 40 – 40, (159).

(f) Parking areas shall be setback a minimum of ten (10) feet from all right-of-ways.

(5) Side Yard Regulations: (See also Article VII, Division 34)
There shall be a minimum interior side yard setback of not less than:

(a) Twenty (20) feet for principal buildings.

1. Forty (40) feet for principal buildings adjacent to a residential district.

(b) Three (3) feet for accessory buildings.

1. Six (6) feet for accessory buildings adjacent to a residential district.

(c) Fifteen (15) feet for parking areas.

(d) Five (5) feet for driveways.

(6) Rear Yard Regulations: (See also Article VII, Division 34)
There shall be a minimum rear yard setback of not less than:

(a) Thirty-five (35) feet for principal buildings.

1. Seventy (70) feet for principal buildings adjacent to residential districts.

(b) Three (3) feet for accessory buildings.

1. Six (6) feet for accessory buildings adjacent to a residential district.

(c) Fifteen (15) feet for parking areas.

(7) Height Regulations: (See also Article VII, Division 6)

(a) No principal building erected or altered shall exceed four (4) stories or forty -five (45) feet in height.

(b) No accessory building erected or altered shall exceed one (1) story or twenty-five (25) feet in height.

Sec. 40 – 287. Architectural Standards.

All buildings shall conform to the standards contained in Article VII, Division 5.

(1) In addition to other restrictions of Article VII, Division 5, pole buildings, metal-sided buildings, agricultural buildings or similar structures are not permitted as principal or accessory uses in the I district.

Sec. 40 – 288. Landscape Standards.

(1) See also Article VI, Divisions 14 -17, Overlay Management Areas. See also Article VII, Division 14, Landscaping / Woodland Preservation; and Article VII, Division 26, Screening.

Sec. 40 - 289. Reserved

DIVISION 14. HIGHWAY 8 CORRIDOR OVERLAY DISTRICT (H0)

Sec. 40 – 290. Purpose.

To preserve the natural, scenic and functional value of the United States Highway 8 corridor through Chisago County.

Sec. 40 – 291. District Application.

The Highway 8 Overlay (HO) District is established over an area five hundred (500) feet either side of the Highway 8 road easement or right-of-way line from the border of Washington County to the border of the State of Wisconsin. Access management standards apply throughout the HO District.

Sec. 40 – 292. Access Management.

The Minnesota Department of Transportation (Mn/DOT) completed the *Trunk Highway 8 Corridor Study* in 1995 and the *Trunk Highway 8 Scoping Study* in 2008. Those studies identified design criteria and access management guidelines which promote the safe and efficient use of the highway. In approving subdivisions of land, development site plans and building permits, the City of Wyoming will require, to the maximum extent of its authority, any or all of the following access management techniques, as well as other recommendations in the *Trunk Highway 8 Corridor Study* or the *Trunk Highway 8 Scoping Study*.

(1) Access Spacing. The spacing of access points in the HO District shall be limited to one-quarter mile at a minimum and one-half mile where practical.

(2) Shared Access. Existing parcels and parcels resulting from future subdivision shall be required to share common access points within the HO District, consistent with spacing guidelines. Cross easements within the HO District setback area of the highway may be required to implement shared access opportunities.

(3) Access Alignment. To the extent practical, new accesses shall align directly with existing accesses on the opposite side of the highway or be offset consistent with access spacing guidelines.

(4) Frontage Roads / Indirect Access. All new subdivisions of land within the HO District shall be required to limit access to a single location, consistent with the guidelines in this section. Access to individual parcels resulting from subdivision shall be provided via frontage roads, internal streets, common driveways, or roadway easements. Parcels which abut Highway 8 and have access to a highway or street which intersect Highway 8 shall be restricted from gaining direct access to Highway 8.

(5) Restricted Turning Movements. There may be circumstances which will prohibit left-handed turning movements at certain access points on the highway to protect the safe and efficient use of the highway. In these instances, access shall be limited to right-hand inbound and right-hand outbound turning movements.

(6) Turn Lanes / Acceleration Lanes / Bypass Lanes / Signalization. Chisago County will recommend left-hand turns, right-hand turn lanes, acceleration lanes, by-pass lanes, and signalization be constructed at new or existing access locations, when traffic impact studies indicate such improvements are warranted.

(7) Traffic Impact Studies. Development proposals which result in traffic trip generation in excess of fifty (50) trips per day shall include a traffic impact study, which is consistent with recommendations in the "Trunk Highway 8 Corridor Study".

Sec. 40 – 293. Permitted Uses.

Uses permitted by right or condition include those allowed in the underlying zoning district.

Sec. 40 – 294. Lot Size.

Lot area requirements shall meet the minimums established in the underlying zoning district.

Sec. 40 – 295. Lot Width.

The minimum lot width at the building setback and along any frontage of Highway 8 shall be three hundred (300) feet.

Sec. 40 – 296. Structure Setbacks.

The minimum setbacks for buildings, signs, parking areas or other structures from the right-of-way easement line on Highway 8 shall be one hundred fifty (150) feet.

Secs. 40 - 297—40 - 299. Reserved

DIVISION 15. CARLOS AVERY WILDLIFE DISTRICT

Sec. 40 – 300. Purpose.

The purpose of the (CO) Carlos Avery Overlay District is to protect and preserve the natural and scenic and recreational values of the Carlos Avery Wildlife Management Area and to provide for development activities which do not detract from these values.

Sec. 40 – 301. District Application.

The CO District is established over that area between the Carlos Avery Wildlife Management Area property boundary and five hundred (500) feet from the property boundary.

Sec. 40 – 302. Permitted Uses.

Uses permitted by right and condition shall be those allowed in the underlying zoning district.

Sec. 40 – 303. Lot Size.

Lot area requirements shall meet the minimums established in the underlying zoning districts.

Sec. 40 – 304. Lot Width.

The minimum lot width at the building setback and along any frontage of the Wildlife Management Area shall be three hundred (300) feet

Sec. 40 – 305. Setbacks from Carlos Avery Wildlife Management Area Boundary.

(1) Minimum structure setbacks from the Carlos Avery boundary shall be fifty (50) feet.

(2) The minimum private on-site sewage treatment system setback from the Carlos Avery boundary shall be fifty (50) feet.

Secs. 40 - 306—40 - 309. Reserved

DIVISION 16. SHORELAND DISTRICT

Sec. 40 – 310. Purpose.

The major purpose of the Shoreland Districts is to control the density and location of developments in the shorelands adjacent to the public waters of the City of Wyoming in order to preserve the water quality and the natural characteristics of the shorelands and the public waters in the City of Wyoming. This shoreland ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103, Minnesota Regulations, Parts 6120.2500-6120,3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462.

Sec. 40 – 311. District Application.

The shoreland districts shall be applied to and superimposed upon all zoning districts as contained herein as existing or amended by the text and map of this Ordinance. The regulations and requirements imposed by the Shoreland Districts shall be in addition to those established in the underlying district. Under the joint application of districts, the more restrictive requirements shall apply, except for lot requirements established herein for waterfront lots within the shoreland districts.

Sec. 40 – 312. Boundaries.

The boundaries of the shoreland districts are established within the following distances from the normal ordinary high water mark of the surface water depending on the size of the surface water; greater than ten (10) acres - 1,000 feet: rivers and streams; 300 feet. The practical limits of shorelands may be less than the statutory limits whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and which are approved by the Commissioner of The Department of Natural Resources. Where the boundaries of the district are in question, the Zoning Administrator shall make the necessary interpretation. If any boundary is disputed, the burden of proof shall rest with the applicant.

Sec. 40 – 313. Water Bodies Included in the Shoreland District.

The regulations in the Shoreland Zoning Districts will apply to all rivers and lakes classified as Natural Environment (NE), Recreational Development (RD), General Development (GD), River Development (RV), {Transition River, (TRAN) or Tributary River (TRIB)}. General Development and Recreational Development lakes are larger in size and potentially more suitable for all around development and recreation purposes and can thus support a density of residential development on the shoreland. Natural Environment Lakes are smaller, often marshy in character and require stricter shoreland standards to protect the quality of the lake resource. River Classifications are done in five-mile segments based upon the predominant use along the river.

THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK

Sec. 40 – 314. Shoreland Classification System and Land Use Districts.

The public waters of the City of Wyoming have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Public Water Inventory Map for Chisago County, Minnesota. The Shoreland area for the water bodies listed below shall be as defined in Sec. 40 - 312, and as shown on the Official Zoning Map.

Protected Waters

			Inventory I.D. #	O.H.W.L.	H.K.W.L.
(1)	Natural Environment Lakes.				
	(a)	Higgins	02-02	None available	None available
	(b)	Sam	13-45	None available	None available
	(c)	Shallow Pond	13-55	None available	None available
	(d)	Sunrise Pools	13-59	None available	None available
	(e)	Unnamed	13-52	None available	None available
	(f)	Tyra	13-137	None available	None available
(2)	Recreational Development Lakes.				
	(a)	Ashton	13-51	898.2	897.47
	(b)	Heims	13-56	898.6	898.8
	(c)	White Stone	13-48	895.1	None available
(3)	General Development Lakes.				
	(a)	Comfort	13-53	887.2'	888.32'
	(b)	Little Comfort	13-54	887.2	888.32
(4)	Transition River.				
	(a)	Sunrise River - from Comfort Lake north to the Sunrise Pools located in Carlos Avery, City of Wyoming.			
(5)	Tributary Rivers				
	(a)	Sunrise River -from Birch Lake north to School Lake north to Comfort Lake.			
	(b)	Sunrise River - from the Washington County line north to Comfort Lake.			
	(c)	Sunrise River – from the Anoka County line northeast to the Sunrise Pools located in Carlos Avery, City of Wyoming.			
(6)	Public Waters Wetlands.				
	(a)	Houle Marsh	13-136	None available	None available
	(b)	Smiths	13-109	None available	None available
	(c)	Unnamed	13-62	None available	None available

Sec. 40 – 315. Permits Required.

(1) A permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by Sec. 40 - 322 of this Ordinance. Application for a permit shall be made to the Zoning Administrator on the forms provided. The application shall include the necessary information so that the Zoning Administrator can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

(2) A building permit, conditional or interim use permit, or variance, authorizing an addition to, or construction within, an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by the City of Wyoming Sewage and Wastewater Treatment Ordinance, shall be re-constructed or replaced in accordance with the provisions of this Ordinance.

(a) Exception: Minor building permits for roofing, siding, handicap accessible ramps, fences, and mechanical systems shall not require a septic compliance inspection.

(3) A reinspection of the sewage treatment system shall be waived if the system has been approved within the past thirty-six (36) months.

Sec. 40 – 316. Planned Unit Developments.

In addition to the Planned Unit Development standards contained in Article VI, Division 18, the following additional standards apply to all Planned Unit Developments in shoreland areas:

(1) Open Space Requirements. Planned unit developments must contain open space meeting all of the following criteria:

(a) At least fifty percent (50%) of the total project area must be preserved as open space;

(b) The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means; and

(c) The shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUD's, at least fifty percent (50%) of the shore impact zone area of existing developments or at least seventy percent (70%) of the shore impact zone area of new developments must be preserved in its natural or existing state. For commercial PUD's, at least fifty percent (50%) of the shore impact zone must be preserved in its natural state.

(2) Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, and depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

(3) Stormwater Treatment. Planned unit developments must provide onsite stormwater control for both rate and volume, to match that required by the Comfort Lake/Forest Lake Watershed District.

Sec. 40 – 317. Revisions and Amendments to Land Use or District Boundaries.

(1) If the land use districts as adopted by this Ordinance, as they apply to shoreland areas, and their delineated boundaries on the Official Zoning Map, are not consistent with the land use district designation criteria specified in Article VI, Division 1, within this code, these inconsistent land use district designations may continue until revisions are proposed to change either the land use district boundary shown on the Official Zoning Map, or to modify the boundary of an existing land use district shown on the Official Zoning Map.

(2) When a revision is proposed to an inconsistent land use district provision, the following additional criteria and procedure shall apply:

(a) For Lakes.
When a revision to a land use district designation on a lake is considered, the land use district boundaries and use provisions therein for all the shoreland areas within the jurisdiction of this Ordinance on said lake must be revised to make them substantially compatible within the framework of Article VII, Division 22, of this Ordinance.

(b) For Rivers and Streams.
When a revision to a land use district designation on a river or stream is proposed, the land use district boundaries and the use provisions there for all shoreland on both sides of the river or stream within the same classification, within the jurisdiction of the shoreland ordinance must be revised to make them substantially compatible with the framework in Article VII, Division 22 of this Ordinance. If the same river classification is contiguous for more than a five mile segment only the shoreland for a distance of 2.5 miles upstream and downstream, or to the class boundary if closer need to be evaluated and revised.

(3) When an interpretation question arises about whether a specific land use fits within a given "use" category, the interpretation shall be made by the Planning Commission and confirmed by the City Council. When a question arises as to whether a land use district's boundaries are properly delineated on the Official Zoning Map, this decision shall be made by the City Council.

(4) When a revision is proposed to an inconsistent land use district provision by an individual party or landowner, this individual party or landowner will only be responsible to provide the supporting and/or substantiating information for the specific parcel in question. The City Council will direct the Zoning Administrator to provide such additional information for this water body as is necessary to satisfy Items (1) and (2).

(5) The City Council must make a detailed finding of fact and conclusion when taking final action that this revision, and the upgrading of any inconsistent land use district designations on said water body are consistent with the criteria and use provisions of Article VI of the Zoning Ordinance and the Comprehensive Plan as adopted by the City of Wyoming.

(6) All procedures of Article V, Division 9, of the City of Wyoming Zoning Ordinance will be followed to amend the shoreland district boundaries or ordinances.

Sec. 40 – 318. Lot Area and Width Standards.

The minimum lot area in square feet, and lot width standards for lots created after the date of enactment of this Ordinance for the lake and river classifications are as follows (only land above the ordinary high water level of public waters can be used to meet these lot area standards):

	Unsewered Lakes				Sewered Lakes			
	Riparian Lots		Nonriparian Lots		Riparian Lots		Nonriparian Lots	
	Area (sq. ft.)	Width* (ft)	Area (sq. ft.)	Width* (ft)	Area (sq. ft.)	Width* (ft)	Area (sq. ft.)	Width* (ft)
Natural Environment								
Single	80,000	200	87,120	200	40,000	125	20,000	125
Duplex	120,000	300	160,000	400	70,000	225	35,000	220
Triplex	160,000	400	240,000	600	100,000	325	52,000	315
Quad	200,000	500	320,000	800	130,000	425	65,000	410
Recreational Development								
Single	60,000	150	87,120	200	20,000	75	15,000	75
Duplex	80,000	225	80,000	265	35,000	135	26,000	135
Triplex	120,000	300	120,000	375	50,000	195	38,000	190
Quad	160	375	160,000	490	65,000	255	49,000	245
General Development								
Single	43,560	125	43,560	200	15,000	75	10,000	75
Duplex	43,560	180	80,000	265	26,000	135	17,500	135
Triplex	60,000	260	120,000	375	38,000	195	25,000	190
Quad	80,000	340	160,000	490	49,000	255	32,500	245
Transition River								
Single	87,120	250	**	250	**	250	**	250
Duplex	87,120	375	**	375	**	375	**	375
Triplex	87,120	500	**	500	**	500	**	500
Quad	87,120	625	**	625	**	625	**	625
Tributary River								
Single	**	100	**	**	**	75	**	**
Duplex	**	150	**	**	**	115	**	**
Triplex	**	200	**	**	**	150	**	**
Quad	**	250	**	**	**	190	**	**
PWW	**	**	**	**	**	**	**	**

*Lot widths apply to the width at the ordinary high water level of public waters, building setback lines, and road frontage line.

**Same as the underlying Zoning District

(1) Controlled Access Lots:
Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and must meet or exceed the following standards:

(a) They must meet the width and size requirements for residential lots and be suitable for the intended uses of controlled access lots.

(b) If docking, mooring or on-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

Controlled Access Lot Frontage Requirements

Ratio of lake size to shore length (acres)	Required increase in frontage (percent)
Less than 100	25
100 – 200	20
201 – 300	15
301 – 400	10
Greater than 400	5

(c) They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of non-riparian lots in the subdivision who are provided riparian access rights on the access lot and;

(d) Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of non-significant conflict activities include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water assuming summer leaf-on conditions.

Sec. 40 – 319. Structure and Sewage System Minimum Setback from the Ordinary High Water Level.

	Structures*	Sewage Systems	Structures with public sewer
Natural Environment	150 ft.	150 ft	150 ft
Recreational Development	100 ft	75 ft	75
General Development	75 ft	75 ft**	50
Transition River	150 ft	100 ft	150
Tributary River	100 ft	75 ft	50
Protected Water Wetland	75	75	50

* One water-oriented accessory structure designed in accordance with Sec. 40 – 321 (2), may be setback a minimum distance of ten (10) feet from the Ordinary High-water Level.

** Parcels and principal structures existing prior to 6/27/96 need only meet a 50-foot setback for sewage systems if it is not possible to meet the 75-foot setback requirement.

Sec. 40 – 320. Additional Structure Setbacks.

The following additional structure setbacks apply regardless of classification of the water body:

(1) Setback from — Setback in feet

(a)	Top of bluff:	30’
(b)	Unplatted cemetery:	50’
(c)	Right-of-Way line of federal, state, or county highway:	50’
(d)	Right-of-Way line of city street, public street, or other roads or streets not classified:	40’

(2) Bluff Impact Zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

(3) Uses without Water-oriented Needs. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or if located on lots or parcels with public water frontage, must either be set back double the normal high water level setback or be substantially screened from view from water by vegetation or topography, assuming summer, leaf-on conditions.

Sec. 40 – 321. Accessory Structures and Uses.

(1) Any structure or use which is incidental to the principal use including private garages and sheds, fencing, landscaping, playground equipment, and swimming pools is permitted.

(2) Each buildable lot may have one water-oriented accessory structure not meeting the normal structure setback in Sec. 40 – 319, if this water oriented accessory structure complies with the following provisions:

(a) The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above the grade at any point.

(b) The setback of the structure or facility from the ordinary high water mark must be at least ten feet.

(c) The structure of facility must be treated to reduce visibility as viewed from the public waters and adjacent shoreland by vegetation, topography, increased setbacks, or color, assuming summer leaf-on conditions.

(d) The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area.

(e) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.

(f) As an alternative for general development and recreational development water bodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.

(3) Stairways, Lifts and Landings: Stairways, lifts and landings are the preferred, to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following requirements.

(a) Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, and public open space recreational properties.

(b) Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, and public open-spaced recreational properties.

(c) Canopies or roofs are not allowed on stairways, lifts, and landings.

(d) Stairways, lifts and landings may be either constructed above the ground on posts or pilings or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.

(e) Stairways, lifts and landings must be located in the most visually inconspicuous portions of lots as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and

(f) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of sub items 1 and 5 are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.

(g) Decks, except as provided in Sec. 40 – 321, (2), must meet the structure setback standards. Decks that do not meet setback requirements from public waters, may be allowed without a variance, to be added to structure existing on the date of the shoreland structure setbacks were established by ordinance, if all of the following criteria and standards are met:

1. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure,

2. The deck encroachment toward the ordinary high water level does not exceed fifteen percent (15%) of the existing shoreline setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive and,

3. The deck is constructed primarily of wood and is not roofed or screened.

(4) Significant Historic Sites:
No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

(5) Steep Slopes:
The Zoning Administrator must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer leaf-on vegetation.

(6) Height of Structures:
All structures in residential districts except churches and non-residential agriculture structures must not exceed twenty-five (25) feet.

Sec. 40 – 322. Shoreland Alterations.

Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, and preserve shoreland aesthetics, preserve historic values, prevent bank slumping and protect fish and wildlife habitat.

(1) Vegetation Alterations.

(a) Vegetation alteration necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities are exempt from the vegetative alteration standards in this Section and separate permit requirements for grading and filling. However, the grading and filling conditions of this subpart must be met for issuance of permits for structures and sewage treatment systems.

(b) The construction of public roads and parking areas regulated by this Ordinance are exempt from the vegetation alteration standards that follow.

(c) Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in this Ordinance is allowed subject to the following standards:

1. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forestland conversion to another use outside of these areas is allowable as a conditional use if an erosion and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.

2. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting and pruning and trimming of trees is allowed to provide a view to the water from the principal building site and to accommodate the placement of stairways, landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities provided that:

i The screening of structures, vehicles or other facilities as viewed from the water, assuming summer leaf-on conditions, is not substantially reduced:

ii Along rivers, existing shading of water surfaces is preserved: and

iii The above provisions are not applicable in the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

(2) Grading and Filling Permits. Before grading or filling on steep slopes, or within shore or bluff impact zones, involving the movement of more than ten (10) cubic yards of material or anywhere else in a shoreland area involving movement of more than fifty (50) cubic yards of material, it must be established by local official permit issuance that all of the following conditions will be met. The following conditions must also be considered during the subdivision, variance, building permit and other conditional use permit reviews.

(a) Before authorizing any grading or filling of wetlands local officials must consider how extensively the proposed activity would affect the following functional qualities of the wetland:

1. Sediment and pollutant trapping and retention;

2. Storage of surface runoff to prevent or reduce flood damage;

3. Fish and wildlife habitat;

4. Recreational use;

5. Shoreline or bank stabilization or

6. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals or others;

7. Functional qualities of a natural wetland.

(b) This evaluation must also include a determination of whether the alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or, the United States Army Corps of Engineers.

(c) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.

(d) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible.

(e) Methods to minimize soil erosion and to trap sediment before they reach any surface water feature must be used.

(f) Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service.

(g) Fill or excavated material must not be placed in a manner that creates an unstable slope.

(h) Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of thirty percent (30%) or greater.

(i) Fill or excavated material must not be placed in bluff impact zones.

(j) Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, Section 103G-245.

(k) Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.

(l) Placement of natural rock riprap, including associated grading of the shoreline:

1. The riprap must not cover emergent aquatic vegetation, unless authorized by an aquatic plant management permit from the DNR's Division of Fisheries.

2. Only natural rock (cannot average less than 6 inches or more than 30 inches in diameter) may be used that is free of debris that may cause pollution or siltation. Concrete is not allowed.

3. A filter of crushed rock, gravel, or filter fabric material must be placed underneath the rock.

4. The riprap must be no more than 6 feet waterward of the ordinary high-water level (OHWL; see sidebar on page 1).

5. The riprap must conform to the natural alignment of shore and must not obstruct navigation or the flow of water.

6. The minimum finished slope waterward of the OHWL must be no steeper than 3 to 1 (horizontal to vertical).

7. The riprapped area must be no more than 200 linear feet of shoreline along lakes and wetlands or, along shorelines of streams, must be less than five times the average width of the affected watercourse.

8. The site must not be a posted fish spawning area.

(3) Connections to Public Waters: Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the commissioner has approved the proposed connection to public waters.

Sec. 40 – 323. Placement and Design of Roads.

Public and private roads, driveways, and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. They must be designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

(1) Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

(2) Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met.

Sec. 40 – 324. Agricultural Use Standards.

The agricultural use standards for shoreland areas are as follows:

(1) The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the high water level.

(2) General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service.

(3) Animal feedlots as defined by the Minnesota Pollution Control Agency, where allowed by zoning district designations, must be reviewed as conditional uses and must meet the following standards:

(a) New feedlots must not be located in the shoreland watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public waters basins.

(b) Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone, are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.

(c) A certificate of compliance, interim permit, or animal feedlot permit, when required by parts 7020.0100 to 7020.1900, must be obtained by owner or operator of an animal feedlot.

(4) The use of fertilizer, pesticides, or animal wastes within shorelands must be done in such a way as to minimize impact on the shore impact zone or public water by proper application or use of earth or vegetation.

Sec. 40 – 325. Forest Management Standards.

The harvesting of timber and associated reforestation or conversion of forested use to a non-forested use must be conducted consistent with the following standards:

(1) Timber harvesting and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management "Best Management Practices in Minnesota."

(2) If allowed by the City Council, forest land conversion to another use requires issuance of conditional use permit and adherence to the following standards:

(a) Shore and bluff impact zones must not be intensively cleared of vegetation, and;

(b) An erosion and sediment control plan is developed and approved by the local soil and water conservation district before issuance of a conditional use permit for the conversion.

(3) Use of fertilizer, pesticides, or animal wastes within shore-lands must be done in such a way as to minimize impact on the shore impact zone or public water by proper application or use of earth or vegetation.

Sec. 40 – 326. Extractive Use Standards.

(1) Processing machinery must be located consistent with setback standards for structures from Ordinary High Water levels of public waters and from bluffs.

(2) An extractive use site development and restoration plan must be developed, approved by the City Council, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours, and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, (particularly erosion), must clearly explain how the site will be rehabilitated after extractive activities end and must comply with Article VII, Division 17.

Sec. 40 – 327. Standards for Commercial, Industrial, Public, and Semi-Public Uses.

Surface water-oriented commercial uses and industrial, public, or semi-public uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the public waters normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer leaf-on conditions. Those with water-oriented needs must meet the following standards:

(1) In addition to meeting impervious coverage limits, setbacks, and other zoning standards presented elsewhere in parts 6120.2500 to 6120.3900, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.

(2) Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.

(3) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public subject to the following general standards:

(a) No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff.

(b) Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.

(c) Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

Sec. 40 – 328. Stormwater Management.

The following standards will apply to stormwater management in the shoreland district.

(1) Commercial and Industrial uses within all shoreland districts must provide onsite stormwater control for both rate and volume, to match that required by the Comfort Lake/Forest Lake Watershed District.

(2) When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.

(3) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

(4) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

(5) The following specific standards apply:

(a) Impervious surface coverage of lots must not exceed twenty-five percent (25%) of the buildable lot area. Credit may be given for those areas which are not considered buildable, yet which are permeable surfaces

(b) When constructed facilities are used for stormwater management, they must be designed and installed consistent with the field office technical guide of the local soil and water conservation districts.

(c) New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

Sec. 40 – 329. Mining of Metallic Minerals and Peat, as Defined by Minnesota Statues, Section 93.44 to 93.51.

Mining of metallic mineral and peat shall be a permitted use provided the provisions of Minnesota Statutes, Sections 93.44 to 93.51, and the provisions of Article VII, Division 17, of this Ordinance are met

Sec. 40 – 330. Projections in Water.

Docks and piers shall be exempt from the setbacks for shorelands except that projections into the water shall maintain a side yard setback equal to that required in the applicable zoning district and shall be parallel with an extension of the side yard lot line. Projections into the water shall not exceed a distance greater than one-third (1/3) the lakeshore frontage, and shall in no case extend one hundred (100) feet beyond the high water mark.

Sec. 40 – 331. Elevation of Lowest Floor.

No structure except piers and docks shall be placed at an elevation such that the lowest floor, including a basement, is less than three (3) feet above the highest known water level. In those instances where sufficient data on known high water levels are not available, the elevation of the line of permanent terrestrial vegetation shall be used as the estimated high water elevation. When fill is required to meet this elevation, the fill shall be allowed to stabilize before construction is begun. Structures shall be placed at an elevation consistent with any applicable local flood plain management ordinances.

Sec. 40 – 332. Maximum Building Height.

(1) Non-agricultural structures - 35 feet.

(2) Agricultural structures - no height limitations.

Sec. 40 – 333. Notification of Variances and Conditional Uses.

(1) The Zoning Administrator shall submit a copy of the application for a variance or conditional use permit where a hearing is to be held to consider such application. The Commissioner of the Department of Natural Resources shall receive the copy of the application at least ten (10) days in advance of the hearing. Such notice shall specify a time, place, and subject matter of the hearing and shall be accompanied by such supporting information as necessary to indicate the nature and effect of the proposed use.

(2) A copy of all decisions granting a variance or a conditional use to the provisions of the Shoreland District shall be forwarded by the Zoning Administrator to the Commissioner of the Department of Natural Resources within ten (10) days of such action.

(3) Conditional uses allowed within shoreland areas shall be subject to review and approval procedures, criteria, and conditional for review as established in Article V, Division 6, of this Ordinance. The following additional evaluation criteria and conditions apply within shoreland areas:

(a) Prevention of soil erosion or other possible pollution of public waters, both during and after construction.

(b) The visibility of structures and other facilities as viewed from public waters is limited.

(c) The site is adequate for water supply and on-site sewage treatment.

(d) The types, uses, and number of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercrafts.

Sec. 40 – 334. Water Supply and Sewage Treatment.

(1) Water Supply. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency. All wells must be constructed in accordance with the current State Code.

(2) Sewage Treatment. Any premises used for human occupancy must be provided with an adequate method of sewage treatment as follows:

(a) Publicly-owned sewer systems must be used where available.

(b) All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards, chapters 7080 – 7083.

(c) On-site sewage treatment systems must be setback from the ordinary high water level in accordance with the setbacks contained in this Ordinance.

(d) All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in sub-items 1 - 4. If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.
Evaluation criteria:

1. Depth to the highest known or calculated ground water table or bedrock;

2. Soil conditions, properties and permeability;

3. Slope;

4. The existence of lowlands, local surface depressions and rock outcrops;

(e) Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with Sec. 40 - 335.

Sec. 40 – 335. Substandard Lots.

All legally established substandard lots as of the date of this Ordinance may continue, but they will be managed according to Minnesota Statutes, Chapter 462.357, other applicable state statutes, and other regulations of the City of Wyoming for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply in shoreland areas:

(1) Construction on substandard lots of record.

(a) Lots of record in the office of the county recorder on the date of enactment of local shoreland controls that do not meet the requirements of Article VI, Division 16, may be allowed as building sites without variances from

the lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this Ordinance are met.

(b) A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the Planning Commission shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

(c) If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Article VI, Division 16, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of Article VI, Division 16, as much as possible.

(2) Additions/expansions to substandard structures.

(a) All additions or expansions to the outside dimensions of an existing substandard structure must meet the setback, height, and other requirements of Article VI, Division 16. Any deviation from these requirements must be authorized by a variance pursuant to Article V, Division 7.

(b) Deck additions may be allowed without a variance to a structure not meeting the required setback from ordinary high water level if all of the following criteria and standards are met:

1. The structure existed on the date the structure setbacks were established;

2. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;

3. The deck encroachment toward the ordinary high water level does not exceed fifteen percent (15%) of the existing setback of the structure from the ordinary high-water level or does not encroach closer than 30 feet, whichever is more restrictive; and

4. The deck is constructed primarily of wood, and is not roofed or screened.

(3) Substandard sewage treatment systems.

(a) A sewage treatment system not meeting the requirements of Sec. 40 – 335, (3) (d), must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

(b) The City Council of the City of Wyoming has by formal resolution notified the commissioner of its program to identify nonconforming sewage treatment systems and as found in the City of Wyoming's Sewage and Wastewater Treatment Ordinance

(c) The City of Wyoming will require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of time, not to exceed two years.

(d) Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, Section 105.485, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits or other deep disposal methods, or system with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapters 7080 – 7083 for design of subsurface sewage treatment systems, shall be considered nonconforming.

Sec. 40 – 336. Surface Zoning of Heims Lake.

(1) No person shall operate a motorboat on Heims Lake. "Motorboat" means any watercraft propelled in any respect by machinery, including watercraft temporarily equipped with detachable motors.

(2) Enforcement: The primary responsibility for enforcement of this subdivision shall rest with the Chisago County Sheriff's Department. This, however, shall not preclude enforcement by other licensed peace officers.

(3) Exemptions: All authorized Resource Management, Emergency, and Enforcement Personnel, while acting in the performance of their assigned duties are exempt from the foregoing restrictions.

Secs. 40 - 337—40 - 339. Reserved

DIVISION 17. FLOODPLAIN DISTRICT

Sec. 40 – 340. Statutory authorization, findings of fact and purpose.

(1) Statutory Authorization: The legislature of the State of Minnesota has, in Minnesota Statutes, Chapters 103F and 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of the City of Wyoming, Minnesota does ordain as follows:

(2) Findings of Fact:

(a) The flood hazard areas of Wyoming, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(b) Methods Used to Analyze Flood Hazards. This Ordinance is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

(c) National Flood Insurance Program Compliance. This Ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 - 78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

(3) Statement of Purpose: It is the purpose of this Ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Item (2), (a) above by provisions contained herein.

Sec. 40 – 341. General provisions.

(1) Lands to Which Ordinance Applies: This Ordinance shall apply to all lands within the jurisdiction of the City of Wyoming, Minnesota shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the General Floodplain District.

(2) Establishment of Official Zoning Map: The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Ordinance. The attached material shall include the Flood Insurance Study, Chisago County, Minnesota, and Incorporated Areas and Flood Insurance Rate Map panels therein numbered 27025C0275D, 27025C0350D, 27025C0360D, and 27025C0375D, all dated April 17, 2012 and prepared by the Federal Emergency Management Agency. The Official Zoning Map shall be on file in the Office of the City Clerk and the Zoning Administrator.

(3) Regulatory Flood Protection Elevation: The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

(4) Interpretation:

(a) In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the City Council and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

(b) The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Appeals shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the Community adopted its initial floodplain ordinance or on the date of the first National Flood Insurance Program map showing the area within the 100-year floodplain if earlier, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board of Appeals and to submit technical evidence.

(5) Abrogation and Greater Restrictions: It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

(6) Warning and Disclaimer of Liability: This Ordinance does not imply that areas outside the floodplain district or land uses permitted within such district will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Wyoming or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

(7) Severability: If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

(8) Definitions: Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application.

(a) Accessory Use or Structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

(b) Basement - means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

(c) Equal Degree of Encroachment - a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

(d) Flood - a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

(e) Flood Frequency - the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

(f) Flood Fringe - that portion of the floodplain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study, Chisago County, Minnesota, and Incorporated Areas.

(g) Floodplain - the beds proper and the areas adjoining a wetland, lake, or watercourse which have been or hereafter may be covered by the regional flood.

(h) Flood Proofing - a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

(i) Floodway - the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

(j) Lowest Floor - the lowest floor of the lowest enclosed area (including basement).

(k) Manufactured Home - a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include the term “recreational vehicle.”

(l) Obstruction - any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

(m) Principal Use or Structure - means all uses or structures that are not accessory uses or structures.

(n) Reach - a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

(o) Recreational Vehicle – a vehicle that is built on a single chassis, is four-hundred (400) square feet or less when measured at the largest projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this Ordinance, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.

(p) Regional Flood - a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in a flood insurance study.

(q) Regulatory Flood Protection Elevation - The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

(r) Structure - anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in Sec. 40 – 348, (3), (a) of this Ordinance and other similar items.

(s) Substantial Damage – means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

(t) Substantial Improvement – within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the “start of

construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

2. Any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure." For the purpose of this Ordinance, "historic structure" shall be as defined in 44 Code of Federal Regulations, Part 59.1.

(u) Variance - means a modification of a specific permitted development standard required in an official control including this Ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.

(9) Annexations: The Flood Insurance Rate Map panels adopted by reference into Sec. 40 – 341, (2) above may include floodplain areas that lie outside of the corporate boundaries of the City of Wyoming at the time of adoption of this Ordinance. If any of these floodplain land areas are annexed into the City of Wyoming after the date of adoption of this Ordinance, the newly annexed floodplain lands shall be subject to the provisions of this Ordinance immediately upon the date of annexation into the City of Wyoming.

Sec. 40 – 342. Establishment of zoning districts.

(1) General Floodplain District: The General Floodplain District shall include those areas designated as Zone A on the Flood Insurance Rate Map adopted in Sec. 40 – 341, (2). The General Floodplain District shall be considered an overlay zoning district to all existing land use districts in this community. The uses permitted in Sec. 40 – 342, (2) below shall only be allowable if not prohibited by any existing underlying zoning district regulations of the City of Wyoming. The requirements of this Ordinance shall apply in addition to other legally established regulations of the City of Wyoming and where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall apply.

(2) Permitted Uses In The General Floodplain District:

(a) The following uses shall be permitted uses in both the floodway and flood fringe portions of the General Floodplain District provided they do not involve structures, fill, obstructions, excavations or storage of materials or equipment:

1. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

2. Industrial-commercial loading areas, parking areas, and airport landing strips.

3. Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.

4. Residential lawns, gardens, parking areas, and play areas.

(b) All uses that would involve structures, fill, obstructions, excavations or storage of materials or equipment shall only be permissible in the flood fringe portion of the General Floodplain District and shall**:**

1. be subject to the floodway/flood fringe evaluation criteria pursuant to Sec. 40 – 342, (3) below***;*** and

2. be subject to the performance standards of Sec. 40 – 344 of this Ordinance.

(3) Procedures for Floodway and Flood Fringe Determinations Within the General Floodplain District.

(a) Upon receipt of an application for a permit or other approval for a use within the General Floodplain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the floodway or flood fringe:

1. A typical valley cross-section(s) showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.

2. Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill, or storage elevations, the size, location, and spatial arrangement of all proposed and existing structures on the site, and the location and elevations of streets.

3. Photographs showing existing land uses, vegetation upstream and downstream, and soil types.

4. Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.

(b) The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the floodway or flood fringe and to determine the regulatory flood protection elevation. If a 100-year flood elevation is provided in the Flood Insurance Study adopted in Sec. 40 – 341, (2) of this Ordinance, then this elevation must be used in calculating the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations, Parts 6120.5000 - 6120.6200 and 44 Code of Federal Regulations, Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:

1. Estimate the peak discharge of the regional flood.

2. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.

3. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 feet. A lesser stage increase than 0.5 feet shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

(c) The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the City Council. The City Council must formally accept the technical evaluation and the recommended floodway and/or flood fringe boundary or deny the permit application. The City Council, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the floodway and flood fringe boundaries have been determined, the City Council shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable provisions of Sections 40 – 342 and 40 – 344 of this Ordinance.

(4) Compliance: No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance. Within the floodway and flood fringe portions of the General Floodplain District, all uses not listed as a permitted use in Sec. 40 – 342, (2) shall be prohibited. In addition, a caution is provided here that:

(a) New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Ordinance and specifically Sec. 40 – 348.

(b) Modifications, additions, structural alterations, normal maintenance and repair**,** or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Ordinance and specifically Sec. 40 – 350.

(c) As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this Ordinance.

Sec. 40 – 343. Reserved for future use.

Sec. 40 – 344. Standards for flood fringe permitted uses.

(1) Permitted Uses: Permitted uses involving structures, fill, obstructions, excavations or storage of materials or equipment shall be subject to the following standards:

(a) All structures, including accessory structures, additions to existing structures and manufactured homes, must be elevated on fill so that the lowest floor, including basement floor, is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.

(b) The cumulative placement of fill where at any one time in excess of one-thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only when said fill is specifically intended to elevate a structure in accordance with Sec. 40 – 344, (1), (a) of this Ordinance.

(c) The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.

(d) All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the Board of Appeals must specify limitations on the period of use or occupancy of the structure for times of flooding and

only after determining that adequate flood warning time and local flood emergency response procedures exist.

(e) Commercial Uses - accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times the velocity (in feet per second) the product number exceeds four (4) upon occurrence of the regional flood.

(f) Manufacturing and Industrial Uses - measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Sec. 40 – 344, (1), (e), above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.

(g) Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

(h) Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.

(i) Standards for recreational vehicles are contained in Sec. 40 – 348, (3).

(j) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse, and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

Sec. 40 – 345. Reserved for future use.

Sec. 40 – 346. Subdivisions.

(1) Review Criteria: No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply, or sewage treatment facilities. All lots within the General Floodplain District shall be able to contain a building site outside of the floodway at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Ordinance and have road access both to the subdivision and to the individual building sites no lower than two (2) feet below the regulatory flood protection elevation. For all subdivisions in the floodplain, the floodway and flood fringe boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

(2) Floodway/Flood Fringe Determinations in the General Floodplain District: In the General Floodplain District, applicants shall provide the information required in Sec. 40 – 342, (3), of this Ordinance to determine the 100-year flood elevation, the floodway and flood fringe (district) boundaries, and the regulatory flood protection elevation for the subdivision site.

(3) Removal of Special Flood Hazard Area Designation: The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

Sec. 40 – 347. Public utilities, railroads, roads, and bridges.

(1) Public Utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain shall be flood proofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.

(2) Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the General Floodplain District shall be permissible if placed in accordance with Minnesota Regulations, Parts 6120.5000 – 6120.6200. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

(3) On-site Sewage Treatment and Water Supply Systems: Where public utilities are not provided:

(a) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and

(b) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

Sec. 40 – 348. Manufactured homes and manufactured home parks and placement of recreational vehicles.

(1) New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Sec. 40 - 346 of this Ordinance.

(2) The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in floodplain districts will be treated as a new structure and may be placed only if elevated in compliance with Sec. 40 - 344 of this Ordinance. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Sec. 40 – 344, (1), (d), then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the City Council.

(a) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse, and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

(3) Recreational vehicles that do not meet the exemption criteria specified in Item (a) below shall be subject to the provisions of this Ordinance and as specifically spelled out in Items (c) and (d) below.

(a) Exemption - Recreational vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in Item (b) below and further they meet the following criteria:

1. Have current licenses required for highway use.

2. Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it.

3. The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

(b) Areas Exempted For Placement of Recreational Vehicles:

1. Individual lots or parcels of record.

2. Existing commercial recreational vehicle parks or campgrounds.

3. Existing condominium type associations.

(c) Recreational vehicles exempted in Item (a) above lose this exemption when development occurs on the parcel exceeding $500 for a structural addition to the recreational vehicle or exceeding $500 for an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation requirements and the use of land restrictions specified in Sections 40 – 342 and 40 – 344 of this Ordinance. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.

(d) New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:

1. Any new or replacement recreational vehicle will be allowed in the General Floodplain District provided said recreational vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with Sec. 40 – 344, (1), (d) of this Ordinance. No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100-year or regional flood.

2. All new or replacement recreational vehicles not meeting the criteria of Item 1. above may, as an alternative, be allowed if in accordance with the following provisions. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100 year flood. Said plan shall be prepared by a registered engineer or other qualified individual, shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate the provisions of Sections 40 – 348, (3), (a), 1 and 2, of this Ordinance will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or

constructed so as to not be impaired or contaminated during times of flooding in accordance with Sec. 40 – 347, (3) of this Ordinance.

Sec. 40 – 349. Administration.

(1) Zoning Administrator: A Zoning Administrator or other official designated by the Governing Body shall administer and enforce this Ordinance. If the Zoning Administrator finds a violation of the provisions of this Ordinance, the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Sec. 40 – 351 of the Ordinance.

(2) Permit Requirements:

(a) Permit Required. A permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source***;*** and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.

(b) Application for Permit. Application for a permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

(c) State and Federal Permits. Prior to granting a permit or processing an application for a conditional use permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary state and federal permits.

(d) Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Ordinance.

(e) Construction and Use to be as Provided on Applications, Plans, Permits, Variances, and Certificates of Zoning Compliance. Permits or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by Sec. 40 - 351 of this Ordinance.

(f) Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Ordinance. Flood proofing measures shall be certified by a registered professional engineer or registered architect.

(g) Record of First Floor Elevation. The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood proofed.

(h) Notifications for Watercourse Alterations. The Zoning Administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

(i) Notification to FEMA When Physical Changes Increase or Decrease the 100-year Flood Elevation. As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

(3) Board of Appeals and the Planning Commission:

(a) Rules. The Board of Appeals and the Planning Commission shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State law.

(b) Administrative Review. The Board of Appeals shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this Ordinance.

(c) Variances. The Planning Commission may recommend to the City Council, and the City Council may authorize in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the City Council shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this Ordinance, any other zoning regulations in the Community, and in the respective enabling legislation that justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district; permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

1. Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

2. Variances shall only be issued by a community upon:

(i) a showing of good and sufficient cause,

(ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and

(iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(d) Hearings. Upon filing with the Board of Appeals of an appeal from a decision of the Zoning Administrator; or upon filing with the Planning Commission an application for a variance, the Zoning Administrator shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Zoning Administrator shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.

(e) Decisions. The Board of Appeals shall arrive at a decision on such appeal or variance within sixty (60) days. In passing upon an appeal, the Board of Appeals may, so long as such action is in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision, or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the City Council may prescribe appropriate conditions and safeguards which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance punishable under Sec. 40 – 351. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

(f) Appeals. Appeals from any decision of the Board of Appeals may be made, and as specified in this community's official controls and also by Minnesota Statutes.

(g) Flood Insurance Notice and Record Keeping. The Zoning Administrator shall notify the applicant for a variance that:

1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and;

2. Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

Sec. 40 – 350. Nonconforming uses.

(1) A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions. Historic structures, as defined in Sec. 40 – 341, (8), (t), 2, of this Ordinance, shall be subject to the provisions of Sections 40 – 350, (a) – (e) of this Ordinance.

(a) No such use shall be expanded, changed, enlarged, or altered in a way that increases its nonconformity.

(b) Any structural alteration to a nonconforming structure or nonconforming use in the floodway or flood fringe which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the flood proofing techniques (i.e., FP-1 thru FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in Sec. 40 – 350, (1), (c) and Sec. 40 – 350 (1), (f) below. A structural addition to a non conforming structure must be located outside of the floodway and must be elevated on fill to the regulatory flood protection elevation in accordance with Sec. 40 – 344, (1), (a) of this Ordinance.

(c) The cost of all structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed fifty (50) percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds fifty (50) percent of the market value of the structure, then the structure must be located outside of the floodway and must meet the standards of Sec. 40 – 344 of this Ordinance for new structures.

(d) If any nonconforming use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this Ordinance. The Assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses that have been discontinued for a period of twelve (12) months.

(e) If any nonconforming use or structure is substantially damaged, as defined in Sec. 40 – 341, (8), (s) of this Ordinance, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in Sections 40 -342 and 40 - 344 of the Ordinance will apply depending upon whether the use or structure is in the floodway or flood fringe portion of the General Floodplain District. A substantially damaged non conforming structure shall not be repaired/reconstructed if said nonconforming structure is located in the floodway.

(f) If a substantial improvement occurs, as defined in Sec. 40 – 341, (8), (t) of this Ordinance, from any combination of a structural addition to the outside dimensions of the existing structure or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming structure, then the structural addition and the existing nonconforming structure must meet the requirements of Sec. 40 – 344 of this Ordinance for new structures, depending upon whether the structure is in the floodway or flood fringe portion of the General Floodplain District. A nonconforming structure shall not be substantially improved if said structure is located in the floodway.

Sec. 40 – 351. Penalties for violation.

(1) Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.

(2) Nothing herein contained shall prevent the City of Wyoming from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

(a) In responding to a suspected Ordinance violation, the Zoning Administrator and the City Of Wyoming may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The Community must act in good faith to enforce these official controls and to correct Ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

(b) When an Ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.

(c) The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the City of Wyoming. If the construction or development is already completed, then the Zoning Administrator may either:

1. issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or

2. notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed thirty (30) days.

(d) If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be

prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.

Sec. 40 – 352. Amendments.

(1) The floodplain designation on the Official Zoning Map shall not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use.

(2) All amendments to this Ordinance, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given ten (10) days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the Ordinance amendment or technical study under consideration.

Secs. 40 - 354—40 - 359. Reserved

ORDINANCE NO. 2012-01

DIVISION 18. PLANNED UNIT OVERLAY DISTRICT (PUD)

Sec. 40 – 360. Purpose and Scope.

The purpose of this Division is to allow variation from the conventional standards and dimensional criteria of this Ordinance, when it is demonstrated that a Planned Unit Development provides more creativity in development of the land, greater flexibility in development, including private ownership of common areas, and provides greater natural resource protection.

The Planned Unit Development (hereinafter referred to as PUD) is intended for use especially where the usual application of bulk and density controls:

(1) Would not provide adequate environmental protection;

(2) Would allow design standards detrimental to the natural aesthetic and physical characteristics of the site;

(3) Would not provide an efficient and feasible use of the land.

Sec. 40 – 361. Authorization.

Planned unit development authorization may, but is not required to, allow some or all of the following:

(1) Variety.
Within a comprehensive site design concept, a mixture of land uses, housing types and densities.

(2) Sensitivity.
By departing from the strict application of required setbacks, yard areas, lot sizes, minimum house sizes, minimum requirements, and other performance standards associated with traditional zoning, planned unit development can maximize the development potential of land while remaining sensitive to its unique and valuable natural characteristics.

(3) Efficiency.
The consolidation of area for recreation and reductions in street lengths and other utility related expenses.

(4) Density transfer.
The project density may be clustered, basing density on number of units per acre instead of specific lot dimensions.

(5) District integration.
Various combinations of uses which are allowed in separate zoning districts, such as:

(a) Mixed residential, allowing both densities and unit types to be varied within the project; or

(b) Mixed commercial, industrial, residential or institutional land use with the integration of compatible land uses within the project.

Sec. 40 – 362. Conditional Use Permit Required

A conditional use permit shall be required for any planned unit developments. Planned unit developments may be allowed within the Agricultural, Rural Residential I, Rural Residential II, Single-Family Residential, One- and Two-Family Residential, Multiple Family Dwelling, Central Business, Commercial, Industrial, and Office and Health Care Districts.

The applicant for a PUD shall simultaneously follow the City Subdivision Ordinance to secure both preliminary and final design approval from the Planning Commission and City Council.

Sec. 40 – 363. Allowed uses.

(1) Allowed uses and changes.
Uses within the PUD may include only those uses generally considered associated with the general land use category shown for the area on the official city zoning map and as such category is defined in this chapter. Specific allowed uses and performance standards for each PUD shall be delineated in a resolution and development agreement. The PUD development agreement shall identify all of the proposed land uses, and those uses shall become permitted uses with the acceptance of the development agreement. Any change in the uses presented in the development agreement will be considered an amendment to the PUD and will follow the procedures specified in Sec. 40 – 366. If necessary, where the PUD development agreement does not, in the city's opinion, sufficiently describe and define future development in the PUD district, the city may require that such future development be addressed in one or more subsequent development agreements between the city and the developer. Nothing in this subsection shall allow a development agreement to include a use not permitted within the underlying zoning classification.

(2) Density.
The density of development within a PUD shall be the same as would be allowed in the underlying zoning district under typical development standards. If the property involved in the PUD includes land in more than one zoning district, the number of dwelling units or the square footage of commercial, industrial or institutional uses in the PUD shall be proportional to the amount that would be allowed separately on the parcels located in each of the underlying zoning districts.

Sec. 40 – 364. Required standards; city considerations.

The city shall consider the proposed PUD from the point of view of all standards and purposes of the comprehensive land use plan to achieve a maximum coordination between the proposed development and the surrounding uses, the conservation of woodlands and wetlands, the protection of health, safety and welfare of the community and residents of the PUD. To these ends, the City Zoning Administrator, Planning Commission, and City Council shall consider the following:

(1) Location of the buildings, compatibility, parking areas and other features with respect to the topography of the area and existing natural features such as streams and large trees;

(2) Efficiency, adequacy and safety of the proposed layout of internal streets and driveways;

(3) Adequacy and location of green areas;

(4) Adequacy, location and screening of parking areas; and

(5) Such other matters as may be found to have a material bearing upon the stated standards and objectives of the comprehensive land use plan.

Sec. 40 – 365. Coordination with subdivision regulations; simultaneous review.

Subdivision review under the city's subdivision regulations shall be carried out simultaneously with the review of the PUD. The plans required under this and Sec. 40 – 366 shall be submitted in a form which will satisfy the requirements of the Subdivision Ordinance for the preliminary and final plat. Additional subdivisions of any outlots or other portions of the PUD development area shall require compliance with such subdivision ordinances.

Sec. 40 – 366. Revisions and/or changes.

(1) Minor changes.
Minor changes to the PUD relating to the location, placement and height of structures may be authorized by the zoning administrator or other individual, subcommittee or committee appointed by the City Council to undertake such task and only if required by engineering or other circumstances not foreseen at the time the final development agreement for such PUD was approved and filed with the zoning administrator.

(2) Other changes.
Changes to the PUD relating to uses, significant changes in the location, size or height of structures, any rearrangement of lots, blocks and building tracts, changes in the provision of common open spaces, and all other changes to the approved final development agreement may be made only after a public hearing conducted by the City Council. Any changes shall be recorded as amendments to the recorded copy of the final development agreement or in the discretion of the City Council, in one or more separate, additional, and consistent development agreements, which shall be recorded in the office of the county recorder.

(3) Continued applicability.
All of the provisions of this section applicable to the original district within which the PUD district is established shall apply to the PUD district except as otherwise provided in approval of the final development agreement.

(4) Review.
After approval of the PUD zoning district, if substantial development has not occurred within the time period set forth in the final development agreement, the City Council may instruct the Planning Commission to initiate revocation of the conditional use permit. It shall not be necessary for the City Council to find that the conditional use permit was in error.

Sec. 40 – 367. General Regulations.

(1) All other development regulations of the appropriate Zoning District not specified in this Division or specified as a condition to the Conditional Use Permit shall apply to a Planned Unit Development.

(2) The application for a Conditional Use Permit shall state precisely the reasons for requesting the consideration of the property for Planned Unit Development.

(3) Each living unit must have at least nine hundred sixty (960) square feet of floor area excluding the basement.

(4) Each living unit must have a garage with minimum area of three hundred twenty (320) square feet.

(5) The land which is to be set aside as open or common area shall be clearly indicated on the plan. Provisions for recreational area and for continual maintenance of that area not dedicated and accepted by the City shall be required.

(6) No conveyance of property within the Planned Unit Development shall take place until the property is platted in conformance with the provisions of this Division and applicable to the City Subdivision Ordinance. All by-laws, Property Owner's Association Articles of Incorporation, and Protective Covenants must be approved by the City Attorney and filed with the record plat. These covenants must be adhered to and cannot be changed without the approval of the City Council.

(7) The uses in the PUD shall be those uses allowed for in the Zoning District in which the PUD is located.

(8) There is to be provided within the tract, or immediately adjacent thereto, parking spaces in private garages or off-street parking areas in accordance with the requirement of Article VII, Division 23.

(9) Private drives, access ways, and common parking areas must be developed to a standard equal to that required for public use by Article VII, Division 23. Such drives and access ways must be protected by recorded deed covenants assuring their availability to all residents of the project.

Sec. 40 – 368. Site Design.

(1) The number of principal use structures which may be constructed within the PUD shall be determined by dividing the net buildable acreage of the project area by the required lot area per unit which is required in the district in which the Planned Unit Development is located. The net buildable acreage shall be defined as the project area less the land area dedicated for public streets, and land which is not deemed as buildable by this Ordinance. The project area includes all the land within the Planned Unit Development which is allocated for residential and for common open space as required by this Division. Land to be dedicated for public streets is to be excluded from the project area.

(2) The common open space, any other common properties, individual properties, and all other elements of the Planned Unit Development shall be so planned that they will achieve a unified scheme of integrated planning and a harmonious selection and efficient distribution of uses.

(3) The proposed PUD shall be of such size, composition, and arrangement that its construction, marketing, and operation is feasible as a complete unit, without dependence on any subsequent unit or development.

(4) All PUD's shall be served by public sewer and water, or private central sewer and water facilities unless all individual lots are large enough to support on site individual systems. The private central facilities must be designed to meet current MPCA and state health standards. At the time of preliminary plat consideration, the developer shall provide to the City written acceptance from the public entity that will own, maintain, and operate the private central sewer and water facilities.

(5) Planned unit development (PUD) dwelling units should have a character and scale that relate to the heritage of the city, similar to design standards for the residential districts.

(6) Vegetated buffers of native trees, shrubs and understory shall be planted in buffer zones of sufficient area from edge of the PUD so as to provide residential privacy and minimize views of house lots from exterior road and abutting properties.

Sec. 40 – 369. Standards for Common Open Space.

No open area may be accepted as a common open space under the provisions of this Division unless it meets the following standards:

(1) The location, shape, size, and character of the common open space must be suitable for the PUD.

(2) Common open space must be used for amenity or recreational purposes. The uses authorized for the common open space must be appropriate to the scale and character of the Planned Unit Development, considering its size, density, expected population, topography, and the number and type of structures to be provided.

(3) Common open space must be suitably improved for its intended use, but common open space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must conserve and enhance the amenities of the common open space, having regard to its topography and unimproved condition.

(4) The development plan must coordinate the improvement of the common open space and the construction of buildings, structures, and improvements in the common open space, with the construction of the permitted structures of the Zoning District in which the Planned Unit Development is located.

(5) If the final development plan provides for buildings or structure improvements in the common open space, the developer must provide a bond or other adequate assurance that the buildings, structures, and improvements will be completed. The City Council shall release the bond or other assurance when the buildings, structures, or improvements have been completed according to the development plan.

(6) The construction and provision of all of the common open spaces and public and recreational facilities which are shown on the final development plan must proceed at the same rate as the construction of the principal structures of the PUD.

(7) Common open space will be designated in areas that can become part of the City of Wyoming Comprehensive Plan's Parks, Open Space, and Trails Plan, where site design and conditions allow.

(8) The open space development design process will be applied in conjunction with the development density calculations for the PUD, whereby primary open space areas and secondary open space areas are delineated before house lot yields are calculated, to ensure maximum open space protection while maximizing house lot yield.

Sec. 40 – 370. Conveyance and Maintenance of Common Open Space.

(1) All land shown on the final development plan as common open space must be conveyed under one of the following options:

(a) It may be conveyed to a public agency (State, County, or City) to maintain the common open space and any buildings, structures, or improvements which have been placed on it.

(b) It may be conveyed to trustees provided in an indenture establishing an association or similar organization for the maintenance of the planned development. The common open space must be conveyed to the trustees; subject to covenants to be approved by the Planning Commission and the City Attorney which restrict the common open space to the uses specified on the final development plan, and which provide for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose. Interest in the common open space shall be undivided and such interest shall not be transferable.

(c) A percentage agreed to by the developer and the City Council may be dedicated to the City as a public open space or park. This public dedication can be credited toward the park dedication requirements of the City Subdivision Ordinance. Only this portion will be maintained by the City. The remaining portion of the open space will be maintained by the association or similar organization.

(2) No common open space may be put to any use not specified in the final development plan unless the final development plan has been amended to permit that use. However, no change of use may be considered as a waiver of any of the covenants limiting the use of common open space areas, and all rights to enforce these covenants against any permitted use are expressly reserved.

(3) For any portion of common open space which is not conveyed to a public agency, either one of the following methods of enforcement must be provided:

(a) The legal right to develop the common open space for the uses not specified in the final development plan must be conveyed to a public agency.

(b) The restrictions governing the use, improvement, and maintenance of the common open space must be stated as conditions to the conveyance of the common open space, the fee title to the common open space to vest in a public agency in the event of a substantial default in the stated conditions.

(4) For any portion of common open space which is not conveyed to a public agency, the covenants governing the use, improvement and maintenance of the common open space may authorize a public agency to enforce their provisions.

Sec. 40 – 371. Required Covenants, Easements, and Provisions in Plan.

(1) The development plan shall contain such proposed covenants, easements and other provisions relating to the bulk, location, and density of permitted structures, accessory uses thereto, and public facilities as may be necessary for the welfare of Planned Unit Development and not inconsistent with the best interest of the entire City.

(2) The applicant may be required to dedicate land for street or park purposes and, by appropriate covenants, to restrict areas perpetually (or for the duration of the Planned Development) as open space for common use. The development shall be subject to all conditions so imposed, and shall be exempted from other provisions of this Ordinance only to the extent specified in the authorization.

Sec. 40 – 372. Guarantee the Provision of Common Open Space.

The City Council may require adequate assurance, in a form and manner which it approves, that the common open space shown in the final development plan will be provided. The following methods of assurance are intended as illustrative, and they may be used singularly or in combination:

(1) The City Council may accept a bond, corporate surety, or other acceptable financial guarantee, in a form which complies with the provisions of the City Subdivision Ordinance, and in an amount sufficient to purchase the common open space shown in the final development plan or alternative acreage which is equivalent in size and character.

Sec. 40 – 373. Guarantee of performance.

A performance bond, letter of credit, or other security acceptable to the city shall be required to guarantee performance by the developer. The amount of this bond, letter of credit, or other security, and the specific elements of the development program that it is intended to guarantee, will be stipulated in the final development agreement.

Sec. 40 – 374. Phased development.

When the PUD is to be constructed in stages, units, or phases, at the preliminary plan stage and as updated thereafter through the final plan stage, the applicant shall submit to the city the following:

(1) Schedule.
A schedule for the development of such stages, units or phases stating the approximate beginning and completion date for each such stage, unit or phase and the overall chronology of development to be followed from stage to stage.

(2) Additional or amended documentation.
Such additional or amended documentation, including plats, development agreements and the documentation required during the preliminary plan stage and the final plan stage, as shall be required, in the city's discretion, to adequately describe the development during a given stage, unit or phase and ensure that such construction is performed in accordance with the PUD and other city ordinances. The need for such additional or amended documentation shall be addressed in the development agreement agreed upon during the final plan stage; however, the requirements of this and the previous article shall apply to any developer of property within the PUD whether or not such developer is the applicant or the applicant's successor or assign.

(3) Waiver.
If the city determines that the stages, units or phases of the construction of the PUD are sufficiently addressed in the final development agreement, the city may waive any of the requirements of this chapter as to any particular stage, unit or phase; however, a waiver of any requirements as to such stage, unit or phase shall not serve as a waiver of any other requirement under this chapter or a waiver of any requirements as to any other stage, unit or phase.

Sec. 40 – 375. Final Approval.

(1) No final development plan shall be considered by the Planning Commission prior to approval by the City Attorney of the common open space conveyance documents.

(2) When the City Council gives final approval, a Certificate of Completion shall be issued for the Planned Unit Development even though the size of lots, depth of yards, and the required distance between grouped buildings and the building height, may not conform in all respects to the regulations of the district in which the project is to be located.

Sec. 40 – 376. Final Action by Applicant.

The applicant shall then review his application and plan in its final approved form and sign a statement that the Planned Unit Development Plan in its final form shall be made binding on the applicant, any successors in interest and assigns.

Sec. 40 – 377. Control of Planned Unit Development Following Acceptance.

(1) Governing agreement.
After the certificate of completion has been issued, the use of the land and the construction, modification or alteration of any buildings or structures within the planned development shall be governed by the final development agreement.

(2) Changes.
After the certificate of occupancy has been issued, no changes shall be made in the approved final development agreement except upon written application as follows:

(a) Minor changes.
Any minor extensions, alterations or modifications of existing buildings or structures may be authorized by the zoning administrator or other individual, subcommittee or committee appointed by the City Council to undertake such task if they are consistent with the purposes and intent of the final development agreement. No change authorized by this subsection (b) may increase the cubic volume of any building or structure by more than ten percent (10%).

(b) Destruction.
Any building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the final development agreement unless an amendment to the final development agreement or a separate supplemental development agreement is approved under Sec. 40 – 366.

(c) Open space changes.
Changes in the use of the common open space may be authorized by an amendment to the final development agreement or by a separate supplemental development agreement under Sec. 40 – 366.

(d) Other changes.
Any other changes in the final development agreement must be authorized by an amendment to the final development agreement or by a separate supplemental development agreement under Sec. 40 – 366.

Sec. 40 – 378. Amendments to the Final Development Plan.

All changes in use, or re-arrangement of lots, blocks, and building tracts, any changes in the provision of common open spaces, and all other changes in the approved final plan must be submitted to the Planning Commission and approved by the City Council. No amendments may be made in the approved final plan unless they are shown to be required by changes in conditions that have occurred since the final plan was approved or by changes in the development policy of the City.

Sec. 40 – 379. Failure to Begin Planned Unit Development.

If no construction has begun or no use established in the Planned Unit Development within one (1) year from the final approval of the final development plan, the final development plan shall lapse and be of no further effect.

In its discretion and for good cause, the City Council may extend for one additional year the period for the beginning of construction.

Secs. 40 - 380—40 - 399. Reserved

DIVISION 19. RESIDENTIAL CLUSTER DEVELOPMENT IN THE AGRICULTURE DISTRICT.

Sec. 40 – 400. Purpose:

The purpose of this Division is to allow flexibility in the subdivision of land in the Agriculture District, which results in the preservation of productive farmland, natural resources, wildlife habitat and open space in the County and will not result in service burden to the city, will not create land use conflicts, and will not adversely impact the environment.

Sec. 40 – 401. Density and Lot Requirements:

The density of development shall not exceed one (1) home per five (5) acres of gross land area unless the subdivision is served by community utility systems. Land used to determine maximum building eligibility must be contiguous and under single control. Any lot without a community pretreatment sewer system and community water supply system shall have a minimum one (1) acre buildable area. Any lot less than five (5) acres in size shall meet the requirements of the clustering options listed in Sec. 40 – 402, (6) or Sec. 40 – 402, (7).

Sec. 40 – 402. Conditional Use Permit Required:

A conditional use permit shall be required to allow for residential subdivisions in the "A" district. All subdivisions are also subject to the requirements of the City's Subdivision Ordinance. A conditional use permit shall be issued only if the project area meets the following conditions and those set forth in Article V, Division 6, of this code.

(1) Transportation Accessibility.

(2) The project area has direct access to the following transportation systems:

(a) The project must front or have access to a federal, state, county, or city street existing and maintained at the time of application.

(b) Road must have a minimum right-of-way of four (4) rods (66 feet) and conform with the City's Road Specifications.

(3) Adjacent Land Use. The project shall not result in the location of residence at a distance less than:

(a) One-fourth (1/4) mile from permitted feedlots.

(b) One-half (1/2) mile from a public airport.

(4) Local Plans, Projects. The proposed project does not conflict with adopted local plans or projects (i.e. sewage lagoons, parks, transportation facilities, etc.)

(5) Development Density Calculation. In any Standard Clustering Option, the maximum density shall be determined by creating a conventional five-acre lot layout concept for the land to be subdivided. The area, lot dimension, street frontage, and minimum building area requirements of the Ordinance. The Planning Commission shall determine the total number of buildable lots for the area to be subdivided on the basis of conceptual layout and requirements of this Ordinance. The total number of residential lots eligible under the Standard Clustering Option shall be based upon this determination. The number based upon this determination will also be utilized to calculate the density within a Clustering Option with Community Utility Systems (Sec. 40 – 402, (7)).

(6) Standard Clustering Option. The five (5) acre minimum lot size requirement in the A District may be reduced to one (1) acre, subject to the following conditions:

(a) The minimum buildable area is one (1) acre.

(b) The minimum lot width is two hundred (200) feet.

(c) A covenant, deed restriction or development contract is recorded against the subdivided property and all property included in the development density calculation to verify the building eligibility of all land involved in the subdivision or density calculation. The principle tool for protecting open space areas shall be a conservation easement. The conservation easement shall be recorded against the open space as reviewed and approved by the Planning Commission and City Council.

(d) A conservation easement is provided as required by Sec. 40 – 402, (6), (c).

(e) The total number of lots in the clustered subdivision is consistent with the criteria established in Sec. 40 – 402, (5).

(f) Private communal utility systems may be considered by the City in lieu of private individual systems.

(7) Clustering Option with Community Utility Systems
Private Community Utility Systems utilizing common water supply and pretreatment sewage collection and disposal systems may be considered by the City in lieu of private individual systems and the Standard Clustering Option. The five (5) acre minimum lot size requirement in the A District may be reduced to 33,560 sq. ft. Subject to the following conditions.

(a) The minimum buildable area is 33,560 square feet.

(b) The minimum lot width is one hundred fifty (150) feet.

(c) A covenant, deed restriction, development contract, homeowners association, or conservation easement is recorded against the subdivided property and all included in development density calculation to manage and protect community utility systems, trails, picnic areas, resting areas, and all other open space areas. A public entity shall own and be responsible for maintenance of community well and sewer system, open space areas, and any other recreational facilities. The principle tool for protecting open space areas shall be a conservation easement. The conservation easement shall be recorded against the open space reviewed and approved by the Planning Commission and City Council.

(d) A conservation easement is provided as required by Sec. 40 – 402, (7), (c).

(e) The total number of lots in Clustering Option with Community Utility System shall be calculated by first determining the density calculation as established in Sec. 40 – 402, (5). Then by taking this number of units and multiplying that number by 1.3 to get a total number of units or maximum density for the proposed subdivision.

(f) In order to preserve and maximize the usefulness of open space areas and to encourage trails, picnic areas, and resting areas within the development, a building envelope must be determined to concentrate development within a specific area. This areas calculation can be determined by establishing an area using the total number of lots in the Clustering Option with Community Utility Systems and multiplying it by 1.3 acres per lot. A building envelope can be defined by as the gross acreage of lots and the total proposed Right of Way.

(g) If certain lots within the subdivision are not connected to the community utility systems, then these lots shall be deducted from the density calculation.

(8) Environmental Impacts. The proposed project will not have an adverse impact on the following environmental factors. An Environmental Assessment can be required by the Planning Commission or requested by a petition of surrounding landowners per Section 4410.11000 of The Minnesota Environmental Quality Board Environmental Review Program. An Environmental Assessment Worksheet (EAW) may be prepared if a further assessment of environmental impact is needed.

(a) The project will not exceed local service capabilities.

(b) The project will not have a significant impact on wildlife habitat.

(c) The project will not have a significant impact on the vegetation of the area.

(d) The project will not have a significant impact on the hydrology of the area.

(e) The project will not have a significant impact on the area's water resources.

(f) The project will not significantly impact historical and cultural resources.

(9) Compliance with Applicable Federal, State, and County Development Regulations. The proposed project concept plan must meet any applicable federal, state, or county development regulations applicable to the proposed project, including but not limited to, the City's Zoning Ordinance, subdivision regulations, and sewer ordinance.

Sec. 40 – 403. Height, Yard, Area, and Lot Width and Depth Regulations:

(1) Height Regulations: No building hereafter erected or altered shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height.

(2) Front Yard Regulations: (See also Article VII, Division 34)
There shall be a front yard setback of not less than:

(a) One hundred thirty-five (135) feet from the centerline of expressways, four lane highways, U.S. and State Highways, and County-State Aid Highways and one hundred fifty (150) feet from the right-of-way of Trunk Highway 8.

(b) One hundred thirty-five (135) feet from the centerline of all county roads.

(c) Seventy-three (73) feet from the centerline of all city streets or forty (40) feet from the road right-of-way, whichever is more restrictive. If a utility easement exists along the front of the property, and that easement is specifically intended to be used for pedestrian trails or walkways in addition to utilities, then the forty (40) foot setback shall be measured from the easement. See also Sec. 40 – 40, (159).

(d) Where a lot is located at the intersection of two or more roads or highways, there shall be a front yard setback on each road or highway side of each corner lot.

(e) No building shall be erected, reconstructed, altered or moved nearer to the street line on which it faces than the average setback observed by the adjacent residential buildings on the same side of the street and fronting

thereon within the same block. No building shall be closer than forty (40) feet to the edge of any street lot line, or utility/pedestrian easement if applicable. See also Sec. 40 – 40, (159).

(3) Side Yard Regulations: (See also Article VII, Division 34)
There shall be a minimum interior side yard setback of not less than:

(a) Ten (10) feet for principal buildings.

(b) Three (3) feet for accessory buildings.

(c) Five (5) feet for driveways

(4) Rear Yard Regulations: (See also Article VII, Division 34)
There shall be a minimum rear yard setback of not less than:

(a) Thirty-five (35) feet for principal building.

(b) Three (3) feet for accessory buildings.

(5) Lot Area and Width Regulations: Shall be in accordance with Sec. 40 – 402, (6), or Sec. 40 – 402, (7), as applicable.

Sec. 40 – 404. Subdivision Design.

(1) All subdivision designs shall take into account surrounding land uses and shall be so designed that the layout of lots and streets and the placement of structures shall result in the minimum disruption of conflict in the adjacent land uses and agricultural operations.

(2) Residential Cluster Development dwelling units should have a character and scale that relate to the rural heritage of the former township similar to the guidelines for Rural Residential I and II.

(3) Vegetated buffers of native trees, shrubs and understory shall be planted in buffer zones of sufficient area from edge of the cluster development so as to provide residential privacy and minimize views of house lots from exterior road and abutting properties.

Sec. 40 – 405. Development Planning.

The entire project site, which must include a minimum of 20 acres, must receive preliminary plat approval at the same time. However, the development may be completed in phases as regulated by the City Subdivision Ordinance.

Sec. 40 – 406. Common Open Space.

(1) No residential subdivision will be approved without the provision of dedicated open space at the time of platting. The open space must be conveyed to an association of the landowners within the subdivision, or according to some other method approved by the City at the time of platting. The open space shall constitute a minimum of twenty percent (20%) of the gross acreage of the project site, half of which shall be buildable land as defined in Sec. 40 – 40, (21) of this Ordinance.

(2) Common open space will be designated in areas that can become part of the Open Space, Parks, and Trails Overlay District, where site design and conditions allow.

(3) The open space development design process will be applied in conjunction with the development density calculation requirement for standard clustering, whereby primary open space areas and secondary open space areas are delineated before house lot yields are calculated, to ensure maximum open space protection (minimum 20%) while maximizing house lot yield through the cluster option.

(4) No final development plan shall be considered by the Planning Commission prior to approval by the City Attorney of the common open space conveyance documents.

Secs. 40 - 407—40 - 409. Reserved

DIVISION 20 – CLOSED LANDFILL RESTRICTED (CLR) DISTRICT

Sec. 40 – 407. Purpose.

The Closed Landfill Restricted (CLR) District is intended to apply to former landfills that are qualified to be under the Closed Landfill Program of the Minnesota Pollution Control Agency (MPCA). The purpose of the district is to limit uses of land within the closed landfill, both actively filled and related lands, to minimal uses in order to protect the land from human activity where response action systems are in place and, at the same time, are protective of human health and safety. This district shall only apply to the closed landfill's Land Management Area, the limits of which are defined by the MPCA, and is legally described as shown on the Zoning Map amendment. This district shall apply whether the landfill is in public (MPCA, County, City, Township), Indian tribal, or private ownership.

(1) For purposes of this ordinance the Land Management Area for the Pine Lane Landfill is described as:
That part of the Southeast Quarter of Section 17, the Southwest Quarter of the Southwest Quarter of Section 16, and the Northeast Quarter of the Northeast Quarter of Section 20, all in Township 33 North, Range 21 West, 4th Principal Meridian, Chisago County, Minnesota, described as follows:
Beginning at the Southeast corner of said Section 17; thence South 00 degrees 39 minutes 24 seconds West, assumed bearing, along the east line of the Northeast Quarter of the Northeast Quarter of said Section 20, a distance of 248.78 feet to the northerly right-of-way line of the former Northern Pacific Railroad; thence southwesterly a distance of 528.99 feet along a non-tangential curve concave to the north having a radius of 2831.79 feet, a central angle of 10 degrees 42 minutes 11 seconds and a chord that bears South 81 degrees 03 minutes 10 seconds West, said curve also being said northerly right-of-way line of the former Northern Pacific Railroad; thence South 86 degrees 24 minutes 16 seconds West along said northerly right-of-way line of the former Northern Pacific Railroad, a distance of 325.71 feet; thence North 02 degrees 43 minutes 54 seconds West, a distance of 413.17 feet; thence North 89 degrees 54 minutes 37 seconds West, a distance of 436.93 feet to the west line of the east half of the Southeast Quarter of said Section 17; thence North 00 degrees 40 minutes 35 seconds East along said west line of the east half of the Southeast Quarter of Section 17, a distance of 107.51 feet to the north line of the south 167.50 feet of the west half of said Southeast Quarter of Section 17; thence North 89 degrees 54 minutes 36 seconds West along said north line of the south 167.50 feet of the west half of the Southeast Quarter of Section 17, a distance of 105.01 feet to the west line of the east 105.00 feet of the west half of said Southeast Quarter of Section 17; thence North 00 degrees 40 minutes 35 seconds East along said west line of the east 105.00 feet of the west half of the Southeast Quarter of said Section 17, a distance of 1266.01 feet to the south line of the north 1220.00 feet of said Southeast Quarter of Section 17; thence North 89 degrees 49 minutes 07 seconds East along said south line of the north 1220.00 feet of the Southeast Quarter of said Section 17, a distance of 1416.76 feet to the east line of said Southeast Quarter of Section 17; thence South 00 degrees 51 minutes 38 seconds West along said east line of the Southeast Quarter of Section 17, a distance of 110.04 feet to the northwest corner of the Southwest Quarter of the Southwest Quarter of Section 16; thence South 89 degrees 10 minutes 57 seconds East along the north line of said Southwest Quarter of the Southwest Quarter of Section 16, a distance of 450.00 feet to the east line of the west 450.00 feet of said Southwest Quarter of the Southwest Quarter of Section 16; thence South 00 degrees 51 minutes 38 seconds West along said east line of the west 450.00 feet of the Southwest Quarter of the Southwest Quarter of Section 16, a distance of 61.00 feet to the south line of the north 61.00 feet of said Southwest Quarter of the Southwest Quarter of Section 16; thence South 89 degrees 10 minutes 57 seconds East along said south line of the north 61.00 feet of the Southwest Quarter of the Southwest Quarter of Section 16, a distance of 397.60 feet to the traveled centerline of East Viking Boulevard (formerly known as County Road 84); thence South 31 degrees 51 minutes 30 seconds West along said traveled centerline of East Viking Boulevard, a distance of 1382.25 feet; thence southwesterly 95.98 feet along a tangential curve concave to the southeast having a radius of 1000.00 feet and a central angle of 05 degrees 29 minutes 57 seconds to the south line of said Southwest Quarter of the Southwest Quarter of Section 16, said curve also being said traveled centerline of East Viking Boulevard; thence North 89 degrees 27 minutes 58 seconds West along said south line of said Southwest Quarter of the Southwest Quarter of Section 16, a distance of 90.33 feet to the southeast corner of Section 17, also being the point of beginning.
Containing 2,877,837 square feet or 66.07 acres, more or less, including road right of way.
Containing 2,827,560 square feet or 64.91 acres, more or less, excluding road right of way.
Subject to any easements, restrictions, reservations, or rights-of-way of record.

Sec. 40 – 408. Uses and Regulations.

(1) Permitted Uses.

(a) Closed Landfill Management.

(2) Accessory Uses.

(a) Accessory uses allowed in this district include outdoor equipment or small buildings used in concert with gas extraction systems, other response action systems, monitoring wells or any other equipment designed to protect, monitor or otherwise ensure the integrity of the landfill monitoring or improvement systems. Fences and gates are permitted under these provisions.

(b) Accessory buildings for uses other than the landfill management must be located outside of the Methane Gas Area of Concern.

(3) Conditional Uses.
Conditional uses shall be limited to uses that do not damage the integrity of the Land Management Area and that continue to protect any person from hazards associated with the landfill.
Any application for a conditional use must be approved by the Commissioner of the MPCA and the City of Wyoming. Detailed site plan and management plans shall be required with Conditional Use Permit applications. Such approved use shall not disturb or threaten to disturb, the integrity of the landfill cover, liners, any other components of any containment system, the function of any monitoring system that exists upon the described property, or other areas of the Land Management Area that the Commissioner of the MPCA deems necessary for future response actions.

(a) Solar Energy Conversion

(4) Prohibited Uses and Structures.
All other uses and structures not specifically allowed as conditional uses, or that cannot be considered as accessory uses, shall be prohibited in the CLR District.

(5) General Regulations.
Requirements for site design and other regulations related to the uses of the property are included, but not limited to, those specified in Article VII, General Building and Performance Requirements, within the City of Wyoming Zoning Ordinance.

Sec. 40 – 409. Amendments.

Any amendment to this ordinance must be approved by the Commissioner of the MPCA and the City of Wyoming.

ORDINANCE NO. 2013-01

ARTICLE VII. GENERAL BUILDING AND PERFORMANCE REQUIREMENTS.

DIVISION 1. ACCESSORY STRUCTURES AND USES.

Sec. 40 – 410. Residential and Shoreland Zones.

Two detached accessory buildings shall be allowed per lot in the R-1, R-2, R-3, R-4, R-5, R-6, and MXD (residential uses) districts. For accessory building and structures in Shoreland Zones, refer to Article VI, Division 16 of this Ordinance.

Sec. 40 – 411. Setback Requirements

For setback requirements of accessory buildings and structures, refer to the appropriate zoning district.

(1) Wetlands
No structure shall be erected, reconstructed, altered, or moved nearer than twenty (20) feet from a delineated wetland.

Sec. 40 – 412. Sanitary Facilities

No sanitary facilities are permitted within an accessory building prior to the construction of the principal structure.

Sec. 40 – 413. Accessory Buildings Prior to Principal Building.

No accessory building or structure other than a fence or a temporary construction office shall be permitted on any lot prior to the time of construction of the principal building to which it is accessory except a private garage, which prior to construction of the residence can be used only for storage purposes, pertaining to, and until the completion of the principal structure. A building permit must be issued for the principal structure at the same time as the building permit for the accessory building.

Sec. 40 – 414. Size of Non-Agricultural Accessory Buildings.

The total ground area of non-agricultural accessory buildings in the R-1, R-2, R-3, R-4, R-5, R-6, and MXD (residential use) districts may be one thousand (1,000) square feet or up to five percent (5%) of the total gross lot area, whichever is greater, but in no case shall the building exceed a maximum of two thousand (2,000) square feet.

Sec. 40 – 415. Building Permit Required.

Accessory buildings larger than one hundred twenty square feet require a building permit.

Sec. 40 – 416. Commercial Storage.

The commercial storage of recreational structures, including fish houses shall be considered a commercial use and subject to the requirements for commercial use.

Sec. 40 – 417. Building Design Standards.

(1) The architectural design and appearance of all residential accessory buildings and structures shall comply with the following standards:

(a) The exterior finish and roofing materials of all accessory buildings shall match as closely as possible the construction materials and appearance of the principal structure on the lot.

(b) Boxed eves and rakes on accessory buildings shall be required where they occur on the principal structure.

(c) Brick, stucco, stone, cedar shakes, and tile roofs on principal structures shall justify exception, although materials shall comply with architectural requirements of Article VII, Division 5 of this code.

(d) The use of a galvanized exterior finish and roofing material is prohibited in all districts except for farm buildings in the Agricultural District.

(e) Unpainted metal buildings are prohibited in all zoning districts, except agricultural buildings in the Agricultural District.

(f) Exceptions. Metal lawn or storage sheds one hundred twenty (120) square feet or less in floor area shall be exempt from these standards.

(g) The exterior finish and roofing materials of detached accessory buildings must be completed within six (6) months of the date that the building permit was issued.

(2) The architectural design and appearance of all non-residential accessory buildings and structures shall comply with the standards contained in Article VII, Division 5.

Secs. 40 - 418—40 - 419. Reserved

DIVISION 2. ADULT USES.

Sec. 40 – 420. Purpose.

The purpose of this Division is to establish provisions for the opportunity as well as controls of sexually oriented uses within the City.

Sec. 40 – 421. Definitions.

(1) Sexually Oriented Uses: Uses which include adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, and other premises, enterprises, establishments, businesses or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas" which are capable of being seen by members of the public. Activities classified as "obscene" as defined by Minnesota Statutes Section 617.241 are not included.

(a) Specified Anatomical Area:

1. Human genitals, pubic region, buttock, anus, or female breast(s), below a point immediately above the top of the areola, unless completely and opaquely covered.

2. Human Male genitals in a discernible turgid state, even if completely and opaquely covered.

(b) Specified Sexual Activities: Includes any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

3. Masturbation, actual or simulated; or

4. Excretory functions as part of or in connection with any of the activities set forth in subsections (1), (b), 1 through (1), (b), 3 of this definition.

(2) Sexually Oriented Uses, Accessory: The offering of retail goods for sale which are classified as sexually oriented uses on a limited scale and which are incidental to the primary activity and goods and/or services offered by the establishment. Examples of such items include the sale of adult magazines, the sale and/or rental of adult motion pictures, the sale of adult novelties, and the like.

(3) Sexually Oriented Uses, Principal: The offering of goods and/or services which are classified as sexually oriented uses as a primary or sole activity of a business or establishment and include, but are not limited to, the following:

(a) Escort: A person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(b) Escort Agency: A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes, for a fee, tip, or other consideration.

(c) Establishment: Means and includes any of the following:

1. The opening or commencement of any sexually oriented business as a new business;

2. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

3. The addition of any sexually oriented business to any other existing sexually oriented business; or

4. The relocation of any sexually oriented business.

(d) Nude Model Studio: Any place where a person who appears in a state of nudity or displays "specified anatomical area" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

(e) Nudity Or State Of Nudity: Nudity or state of nudity is described as follows:

1. The appearance of a human bare buttock, anus, male genitals, female genitals, or female breast; or

2. A state of dress which fails to opaquely cover a human buttock, anus, male genitals, female genitals, or areola of the female breast.

(f) Seminude: A state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

(g) Sexual Encounter Center: A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

1. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

2. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or seminude.

(h) Sexually Oriented Arcade: Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas".

(i) Sexually Oriented Bookstore, Sexually Oriented Video Store, Or Sexually Oriented Store: A commercial establishment which as a principal business purpose offers for sale or rental for any form of consideration any one or more of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes or video reproductions, compact discs, computer software, digital recordings, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or

2. Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities".

(j) Sexually Oriented Cabaret: A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

1. Persons who appear in a state of nudity; or

2. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

3. Films, motion pictures, videocassettes, slides, compact discs, computer software, digital recordings or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

(k) Sexually Oriented Conversation/Rap Parlor: A conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk, or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

(l) Sexually Oriented Massage Parlor: A massage parlor which excludes minors by reasons of age, or which provides for any form of consideration, the rubbing, stroking, kneading, tapping, or rolling of the body, if the service provided by the massage parlor is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

(m) Sexually Oriented Motel: A hotel, motel or similar commercial establishment which:

1. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexually activities" or "specified anatomical areas" and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or

2. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

3. Allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less than ten (10) hours.

(n) Sexually Oriented Motion Picture Theater: A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

(o) Sexually Oriented Sauna: A sauna which excludes minors by reason of age, or which provides for any form of consideration, a steam bath or heated bathing room used for the purpose of bathing, relaxing, or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

(p) Sexually Oriented Theater: A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".

Sec. 40 – 422. General Provisions.

"Sexually oriented uses" as defined in this Division shall be subject to the following general provisions:

(1) Activities classified as "obscene" as defined by Minnesota Statutes Section 617.241 are not permitted and are prohibited.

(2) Sexually oriented uses, either principal or accessory, shall be prohibited from locating in any building which is also utilized for residential purposes.

(3) Sexually oriented uses, either principal or accessory, shall be prohibited from locating in any building which is also used to dispense or consume alcoholic beverages.

(4) A sexually oriented use which does not qualify as an accessory use shall be classified as a sexually oriented use, principal.

Sec. 40 – 423. Sexually Oriented Uses, Principal.

(1) Sexually oriented uses, principal shall be located at least three hundred (300) radial feet, as measured in a straight line from the closest point of the property line of the parcel upon which the sexually oriented use, principal is located to the property line of:

(a) Residentially zoned property.

(b) A licensed daycare center.

(c) A public or private educational facility classified as a preschool, elementary, junior high or senior high.

(d) A public library.

(e) A public park.

(f) Another sexually oriented use, principal.

(g) An on/off-sale liquor establishment.

(2) "Sexually oriented use, principal" activities, as defined by this Division, shall be classified as one use. No two (2) sexually oriented uses, principal shall be located in the same building or upon the same property, and each use shall be subject to subsection (1) of this Section.

(3) Sexually oriented uses, principal shall, in addition to other sign requirements established by this Code, also adhere to the following signing regulations:

(a) Sign messages shall be generic in nature and shall only identify the type of business which is being conducted.

(b) Shall not contain material classified as advertising.

(c) Shall comply with the requirements of size and number for the district in which they are located.

Sec. 40 – 424. Sexually Oriented Uses, Accessory.

(1) Sexually oriented uses, accessory shall:

(a) Comprise no more than ten percent (10%) of the floor area of the establishment in which it is located.

(b) Comprise no more than ten percent (10%) of the gross receipts of the entire business operation.

(c) Not involve or include any activity except the sale or rental of merchandise.

(2) Sexually oriented uses, accessory, shall be restricted from and prohibit access to minors by the physical separation of such items from areas of general public access:

(a) Movie Rentals: Display areas shall be restricted from general view and shall be located within a separate room, the access of which is in clear view and under the control of the persons responsible for the operation or shall be in catalogs under the direct control and distribution of the operator.

(b) Magazines: Publications classified or qualifying as sexually oriented uses shall not be physically accessible to minors and shall be covered with a wrapper or other means to prevent display of any material other than the publication title.

(c) Other Use: Sexually oriented uses, accessory, not specifically cited shall comply with the intent of this Chapter subject to the approval of the Zoning Administrator.

(3) Sexually oriented uses, accessory, shall be prohibited from both internal and external advertising and signing of sexually oriented materials and products.

(4) Sexually oriented uses, accessory, activities shall be prohibited at any public show, movie, caravan, circus, carnival, theatrical or other performance or exhibition presented to the general public where minors are admitted.

Secs. 40 - 425—40 - 429. Reserved

DIVISION 3. AGRICULTURAL OPERATIONS

Sec. 40 – 430. Nonconforming Agricultural Operations.

Nonconforming agricultural operations located on parcels not presently zoned for agricultural uses, provided the parcel was zoned for agriculture prior to the adoption of this Ordinance, may be continued and/or expanded, but shall not provide for a change to a different use, other than those permitted in the applicable district. If a substantial change in the use or a significant expansion of the operation is proposed, the Planning Commission may require a Conditional Use Permit.

Sec. 40 – 431. Irrigation System Permits.

(1) All proposed irrigation systems shall require a Conditional Use Permit from the City Council as well as a permit from the Department of Natural Resources (DNR). The County Soil and Water Conservation District shall also review any proposed irrigation use permit from the City. The Comfort Lake / Forest lake Watershed District shall review any proposed irrigation use permit within its borders. The applicant shall submit a permit from the DNR.

(2) In the case that any problems occur with the hydrologic system of the area due to the irrigation operations, the City has the right to revoke the Conditional Use Permit.

Secs. 40 - 432—40 - 439. Reserved

DIVISION 4. ANTENNAS

Sec. 40 – 440. Satellite Dish Antennas.

Dish antennas for the reception of electrical communications from earth satellites may be installed as accessory uses in the applicable zoning district and the following standards:

(1) The maximum diameter for satellite dish antennas in commercial districts shall be twelve (12) meters. On all other zoning districts, the maximum diameter for satellite dish antennas shall be twelve (12) feet.

(2) In all zoning districts satellite dish antennas exceeding three feet in diameter shall be ground mounted and required to meet the front yard setback requirement of any structure. The antenna installation shall be located to assure proper signal reception. The Zoning Administrator may permit roof mounted satellite dish antennas as alternatives to ground mounted antennas if it can be demonstrated that a ground-mounted location would result in obstruction of antenna reception window. All roof mounted satellite dish antenna installation shall be in conformance with the requirements of the building code and require a building permit.

(3) No signage shall be displayed on any satellite dish antenna.

(4) Satellite dish antenna installations existing on the effective date of this Division shall be allowed to continue, but shall not be moved, replaced or repaired if damaged by more than fifty percent (50%) of its fair market value without being brought into compliance with this Section.

Sec. 40 – 441. Conditional Use Permit Application Requirements, Amateur Radio Antenna.

(1) Amateur radio support structures must be installed in accordance with the instructions furnished by the manufacturer of that tower model.

(2) The support structures shall be limited to a height of fifteen (15) feet above the maximum permissible height of the principal structure permitted in the zoning district. No support structure may exceed fifty (50) feet in height whether free-standing or building mounted.

(3) The support structure shall be located in an area that minimizes off-site views of the antenna to the greatest extent possible.

(4) Advertising or identification of any kind on the support structure shall be prohibited.

(5) The setbacks for the support structure shall be double the principal structure setbacks, or a minimum of fifty-five (55) feet, whichever is greater.

(6) The antenna shall be subject to any state and federal regulations and proof of any required approvals, licensing, registration, and/or other requirements shall be submitted with application for Conditional Use Permit.

Secs. 40 - 442—40 - 449. Reserved

DIVISION 5. ARCHITECTURAL STANDARDS

Sec. 40 – 450. Scope.

The requirements contained within this Division shall apply to all nonresidential structures in the Agricultural, Rural Residential I, Rural Residential II, Single-Family Residential, One- and Two-Family Residential Districts, and all structures in the Manufactured Home, Multiple Family Dwelling, Central Business, Commercial, Industrial, Office and Health Care or Mixed-Use Districts.

(1) Architectural Standards for dwellings are contained in Article VII, Division 6.

Sec. 40 – 451. Architectural standards.

(1) Architectural plans shall be prepared by an architect or other qualified person (as determined by the Zoning Administrator) and shall show the following:

(a) Elevations of all sides of the building.

(b) Type and color of exterior building materials.

(c) Typical floor plans.

(d) Dimensions of all structures.

(e) The location of trash containers and of exterior electrical, heating, ventilation, and air conditioning equipment

(f) Utility plans including water, sanitary sewer, and storm sewer

(g) Additional plans deemed necessary by the Zoning Administrator.

(2) Exterior building materials shall be subject to Planning Commission approval and the following:

(a) Classes of materials. For the purposes of this subdivision, exterior materials shall be divided into Class I, Class II, Class III and Class IV categories as follows:

1. Class I consisting of brick, natural stone (or similar appearing, high quality manufactured stone), natural wood, glass curtain wall, copper, or other comparable or superior materials.

2. Class II consisting of specialty concrete block such as burnished, textured or rock face, pre-cast textured concrete panels, masonry stucco, other comparable or superior materials,

3. Class III consisting of exterior finish installation system (EIFS), opaque panels, ornamental metal, natural wood, or other comparable or superior materials.

4. Class IV consisting of smooth concrete block, scored concrete block, smooth concrete tilt-up panels, glazed block, glass block, wood, other comparable or superior materials.

(b) Commercial structures must provide a cohesive architectural appearance reflecting its functional purpose and must be composed of at least fifty-five percent (55%) Class I materials; not more than thirty-five percent (35%) percent Class II or Class III materials; and not more than ten percent (10%) of the building shall be Class IV.

(c) A distinctly different color of brick may be considered as a second Class I material, however, minor blended color combinations shall not be considered as a separate material.

(d) Buildings may be constructed primarily of one (1) specific Class I material provided that the design fits the purpose of the building and is obviously superior to the general intent of this division to provide visual interest, variation in detailing, and eliminate long wall sections without windows.

(e) Exposed roof materials shall be similar to, or an architectural equivalent of a high quality asphalt shingle (300# or better), wood shingle, standing seam metal roof or better.

(f) Garish or bright accent colors for awnings, trim, banding, walls, entries or any portion of the building shall be minimized, but in no case shall such coloring exceed five percent (5%) of each wall area.

(3) Exceptions – The following exceptions to the exterior building material requirements shall apply:

(a) Sides of a building which are not visible from any public road may not be required to comply, if approved by the Planning Commission and City Council. The applicant must be able to demonstrate that said side of building is not visible by the public.

(b) Buildings in the Industrial District must have the lower seventy-five percent (75%) of all exterior wall surfaces be at least one or a combination of the materials stated above. The remaining twenty-five percent (25%) of the building may be any material subject to final approval by the Planning Commission and City Council.

(4) The overall architectural character shall have a consistent architectural expression on all sides of the building and be compatible with its surroundings.

(5) Windows or simulated windows shall be used on the ground level of any wall parallel to or nearly parallel to a street.

(6) All structures, including parking ramps shall be designed to be architecturally integrated into the overall site and be made of comparable materials and decorative elements.

(7) All façade treatments shall be maintained so as to not be unsightly in appearance or in a state of disrepair, nor shall harmful health or safety conditions be present for the life of the project.

(8) Prohibited Exterior Materials:

(a) Vinyl Siding.

(b) Metal Siding.

(c) Formed Metal Panels.

(9) Pre-engineered post-frame structures with agricultural grade metal wall and roof panels, commonly called “pole barns” are not permitted.

Sec. 40 – 452. Additions and Repairs to Existing Buildings

(1) Nonconforming buildings existing as of February 2, 1998 and allowed under Article VII, Division 22, shall not be prohibited by this Division; however, additions to or enlargements of such structures or repairs or restorations for damage or destruction of the structure as described in Sec. 40 – 651, (5) shall be done in compliance with this Division.

(2) All subsequent additions and accessory buildings constructed after the erection of the original building or buildings shall be reviewed by the Planning Commission.

Secs. 40 - 453—40 - 459. Reserved

DIVISION 6. BUILDING REQUIREMENTS

Sec. 40 – 460. Building Size and Architectural Requirements.

The following building size and architectural standards shall apply to all districts unless otherwise specified.

(1) Height Exceptions.
The building height limits established shall not apply to belfries, cupolas, domes, spires, monuments, airway beacons, radio or television towers, flag poles, chimneys, or flues, nor to elevators, water tanks, poles, towers and other structures for essential services nor to similar structures for essential services nor to similar structures extending above the roof of any building and not occupying more than twenty-five percent (25%) of the total roof area shall be fifty (50) feet except as otherwise regulated herein.

(2) Architectural Requirements.
The following architectural requirements shall apply to all dwellings in the "A" and all residential districts, except in manufactured home parks. See Article VII, Division 5, for all nonresidential structures in the Agricultural, Rural Residential I, Rural Residential II, Single-Family Residential, One- and Two-Family Residential Districts, and all structures in the Manufactured Home, Multiple Family Dwelling, Central Business, Commercial, Industrial, Office and Health Care or Mixed-Use Districts.

(a) Dwellings shall have a width of not less than twenty-four (24) feet in width.

(b) Dwellings shall be placed on a permanent foundation forming a complete enclosure under exterior walls.

(c) Exterior walls shall have the appearance of wood or masonry regardless of their actual composition.

(d) All dwellings shall be constructed on site or be prefabricated. Additions to manufactured homes shall not be considered in determining dimensional requirements.

(e) The architectural character in all new residential and commercial shall be visually compatible in character and scale with existing buildings and incorporate design standards for each of the zoning districts.

(f) Dwellings that are constructed slab on-grade.

1. Provisions shall be made to provide for storm protection internally to the dwelling. Storm shelters internal to the dwelling shall be provided in a bathroom or laundry room so as to ensure accessibility and that the storm shelter is not obstructed by storage.

2. Compliance with this requirement shall be based upon Federal Emergency Management Agency (FEMA) guidelines and standards.

(3) Minimum Ground Floor Area.
The ground floor area for any dwelling shall be at least nine hundred sixty (960) square feet.

(4) Maximum Total Lot Coverage.

(a) The total area of all buildings shall not exceed more than twenty percent (20%) of the total buildable lot area. Credit may be given for those areas which are not considered buildable, yet which are permeable surfaces.

(b) The total area of all impervious surfaces on a lot shall not exceed thirty percent (30%) of the gross lot area for residential uses and fifty percent (50%) of the gross lot area for nonresidential uses. See Sec. 40 – 328, (4) for lots in a shoreland district. Credit may be given for those areas which are not considered buildable, yet which are permeable surfaces.

(5) Driveways.
Every principal structure shall have an all-weather surface driveway completed prior to issuance of a Certificate of Occupancy.

(6) Wetlands.
No structure shall be erected, reconstructed, altered, or moved nearer than twenty (20) feet from a delineated wetland.

Secs. 40 - 461—40 - 469. Reserved

DIVISION 7. DEVELOPMENT IN FIRE PRONE AREAS

Sec. 40 – 470. Purpose.

The purpose of this Division is to establish specific regulations for developments located in fire prone areas. These regulations are established to minimize the chances of loss of life and property due to wild fires.

Sec. 40 – 471. Fire Prone Areas.

Fire prone areas are areas which contain natural conifer stands or conifer plantations, in excess of five (5) acres, which due to flammability of the tree needles, associated ground vegetation, accumulation of dust on the ground, and presence of droughty soils, pose a great potential for rapidly spreading wildfires.

Sec. 40 – 472. Regulations for Developments in Fire Prone Areas.

The following regulations apply to developments proposed to be located in fire prone areas as determined by the Zoning Administrator:

(1) The solid portion of a conifer stand shall be removed for a distance of seventy-five (75) to one hundred (100) feet around the perimeter of the building. Single, well spaced (30 foot radius), non-conifer trees may be left in this buffer area.

(2) An alternate driveway shall be installed. Two driveways will allow an escape route to inhabitants of the building should one become blocked by fire. Driveways should be at least twenty-five (25) feet wide and kept as straight as possible to allow for free movement of traffic and provide a firebreak for control measures.

(3) Home construction materials shall conform to reflect the relative fire danger of the area. Roofs and exteriors of buildings should be of fire resistant nature. Non-fire retardant treated shingles or siding, or materials which are not innately flame resistant should be avoided.

   (a) Underground power lines shall be encouraged.

   (b) Screening of chimneys with non-flammable material with openings no larger than 1/2 inch in size shall be required.

(4) Each development consisting of multiple dwellings requires an alternate means of egress as an escape route for all inhabitants. Minimum width should equal the legal requirement of one ingress road.

Secs. 40 - 473—40 - 479. Reserved

DIVISION 8. DRIVE-IN OR DRIVE-THROUGH BUSINESSES

Sec. 40 – 480. Purpose.

The purpose of this Division is to allow drive-in businesses to be established in appropriate areas and developed in a manner as to not adversely impact surrounding land uses and to ensure the public safety. The Zoning Administrator may make determination of the applicability of this section.

Sec. 40 – 481. Site Plan Requirements.

(1) The site plan shall clearly indicate suitable storage containers for all waste material. All commercial refuse containers shall be screened.

(2) A landscaping plan shall be provided.

(3) Adequate area shall be designated for snow storage such that clear visibility shall be maintained from the property to any public street.

(4) The design of any structure shall be compatible with other structures in the surrounding area or future planned uses.

(5) Electronic devices such as loudspeakers, automobile service order devices, drive-in theater car speakers and similar instruments shall not be located within two hundred (200) feet of any residentially zoned or used property, nor within one hundred (100) feet of any adjacent lot used or zoned non-residential.

(6) No service shall be rendered, deliveries made, or sales conducted within the required front yard. Customers served in vehicles shall be parked to the sides and/or rear of the principal structure.

(7) No permanent or temporary signs visible from the public street shall be erected without specific approval in the permit.

(8) No plan shall be approved which will in any way constitute a hazard to vehicular or pedestrian circulation.

Sec. 40 – 482. Design Standards.

(1) The entire area of any drive-in/drive-through business shall have an engineered drainage system approved by the City Engineer.

(2) The entire area other than that occupied by structures or planting shall be surfaced with concrete or blacktop.

(3) A fence or screen of an acceptable design to the Zoning Administrator shall be constructed along the property line abutting a residential district and such fence or screen shall be adequately maintained.

Sec. 40 – 483. General.

(1) Any drive-in/drive-through business serving food or beverages may also provide, in addition to vehicular service areas, in-door food and beverage seating areas.

(2) The hours of operation may be set forth as a condition of approval for drive-in/drive-through business.

(3) Each drive-in/drive-through business serving food may have outside seating.

(4) Each food or beverage drive-in/drive-through business shall place refuse receptacles at all exits as well as one (1) refuse receptacle per ten (10) vehicle parking spaces within the parking area.

Sec. 40 – 484. Location.

(1) No drive-in/drive-through business shall be located such that it may unduly increase traffic volumes on nearby residential streets.

(2) No drive-in/drive-through business shall be located on any street other than one designated as a thoroughfare on which businesses are located.

Sec. 40 – 485. Drive-in Theater.

In the case of a drive-in theater, a solid fence not less than eight (8) feet in height and extending at least to within two (2) feet of the ground shall be constructed around the property.

Sec. 40 – 486. Lighting.

The lighting shall be approved by the Zoning Administrator so as to limit light visible from public-rights-of-way. See also Article VII, Division 15, Exterior Lighting.

Secs. 40 - 487—40 - 489. Reserved

DIVISION 9. ENVIRONMENTAL EFFECTS

Sec. 40 – 490. Environmental Effects.

Consistent with the purpose set forth in Sec. 40- 10, this Division is intended to provide that commercial, industrial, manufacturing or related activities shall be established and maintained with proper appearance from streets and adjoining properties and to provide that each permitted or conditionally permitted use shall be a good neighbor to adjoining properties by the control of the operational aspects described in this Division.

Sec. 40 – 491. Protection.

No activity or operation shall be established or maintained that by reason of its nature or manner of operation will cause the emission of noise, odor, toxic or noxious fumes, smoke, dust or particulate matter in such concentrations as to be detrimental to or endanger the public health, welfare, comfort or safety, or cause injury to property or business.

Sec. 40 – 492. Noise.

Noise shall be measured at any property line of the tract on which the operation is located. Noise shall be muffled so as not to become objectionable due to intermittence, beat, frequency, shrillness or intensity. At any property line, the sound pressure level of noise radiated continuously from a facility shall not exceed the values set for in table A. The sound pressure level shall be measured with a sound level meter and an associated octave band analyzer, both of which are manufactured to specifications published by the American Standard Specifications, or an Octave Band Filter Set for the Analysis of Noise and Other Sound, Z24.10.1953, American Standards Association, Inc., New York, New York. Measurement shall be made using the flat network of the sound level master.

Sec. 40 – 492 Table A	
Band Cycles per Second ("Frequency")	Maximum Permitted Sound Level (Decibels)
20--75	72
75--150	67
150--300	59
300--600	52
600--1,200	46
1,200--2,400	40
2,400--4,800	34
Over 4,800	32

Sec. 40 – 493. Odor.

No activity or operation shall cause at any time the discharge of toxic, noxious or odorous matter beyond the limits of the immediate site where it is located in such concentrations as to be obnoxious or otherwise detrimental to or endanger the public health, welfare, comfort or safety, or cause injury to property or business.

Sec. 40 – 494. Glare.

Glare, whether directed or reflected, such as from floodlights, spotlights, or high-temperature processes, and as differentiated from general illumination, shall not be visible beyond the site of origin at any property line.

Sec. 40 – 495. Exterior lighting.

Any lights used for exterior illuminations shall be in accordance with Article VII, Division 15.

Sec. 40 – 496. Smoke, dust, fumes, or gases.

Every operation shall conform to state agency and applicable local standards, if any.

Sec. 40 – 497. Hazard.

Every operation shall be carried on in accordance with local fire and safety codes.

Sec. 40 – 498. Water supply.

The design and construction of water supply facilities and water supply sources shall be in accordance with local and state department of health standards and requirements.

Sec. 40 – 499. Waste.

All lots shall be maintained in a neat and orderly manner. All sewage and industrial wastes shall be treated and disposed in such manner as to comply with state department of health and state pollution control agency standards and requirements, and local codes. No rubbish, salvage materials, junk or miscellaneous refuse or wastes shall be stored or kept in the open or buried on or under the ground. Notwithstanding the foregoing, rubbish and refuse may be temporarily stored in commercially leased outside storage containers in a completely screened area in accordance with Article VII, Division 26, of this code requirements, and at all times kept in good repair. Outside storage of hazardous waste is prohibited. No waste materials shall be washed, deposited, or placed into public waters, wetlands, the city's storm sewer systems, and drainage easements. Any waste material which is found to be untreatable by the city's wastewater treatment system must be pretreated pursuant to a system for which a permit is granted by the state pollution control agency. All solid waste materials, debris or refuse must be properly contained within an enclosed building or container as approved by the city and must be properly disposed of within a reasonable period of time.

Sec. 40 – 500. Testing.

In order to assure compliance with the performance standards set forth in this article, the City Council may require the owner or operator of any permitted or conditionally permitted use to make such investigations and tests as may be required to show adherence to the performance standards required by this Division. Such investigation and tests as are required to be made shall be carried out by an independent testing organization as may be agreed upon by all parties concerned, or if there is failure to agree, by such independent testing organization as may be selected by the City Council after 30 days' notice. The costs incurred in having such investigations or tests conducted shall be paid by the owner or operator. The procedures stated above shall not preclude the City Council from making any tests and investigations it finds appropriate to determine compliance with this article.

Secs. 40 - 501—40 - 509. Reserved

DIVISION 10. ESSENTIAL SERVICES

Sec. 40 – 510. Permit Required.

(1) Authority.
In some cases, state and federal law may limit or preempt the City from regulating certain types or characteristics of essential services or transmission services. This Division shall be construed to provide the City with the maximum control consistent with such other laws.

(2) Notice Required.
Since essential and transmission services as defined by this Ordinance may have an effect upon urbanizing areas of the City, City land uses, highway location, park and recreation areas, preservation of natural environmental areas, lakes, streams and rivers, the proposed location of all such essential and transmission services in any zoning district shall be filed with the City prior to commencement or any condemnation action or construction by the owner.

Sec. 40 – 511. Conditional Use Permit Required.

Transmission services, essential services, or bulk gas or fuel facilities are conditional uses in all zoning districts and shall follow the following procedure.

(1) The owner shall file with the Zoning Administrator an application for a Conditional Use Permit, pursuant to Article V, Division 6. In addition to the submittal requirements in Article V, Division 6, the applicant shall file the following information:

(a) Environmental review documentation, which may be required under mandatory, discretionary, or special rules of the Environmental Quality Board.

(b) Certificate of Need, if required.

(c) Maps showing the proposed location, alignment and easement or right-of-way dimensions.

(d) List of all property owners within three hundred fifty (350) feet of the proposed easement or right-of-way.

(e) Maps showing the locations of all lakes, streams, rivers, drainage ditches, utilities, pipelines, essential services, transmission services, residences, businesses, public buildings, structures, parks and all existing land uses within three hundred fifty (350) feet of the proposed easement or right-of-way.

(f) Construction plans, grading plans, soil erosion and sedimentation control plans, wetland mitigation plans, street crossing plans and water body crossing plans.

(g) A description of the types and quantities of all vegetation removed during construction, within temporary and permanent easement areas.

(h) A facility management and site maintenance plan.

(i) An emergency response plan.

(2) All maps and accompanying data submitted to the Zoning Administrator shall be forwarded to the Planning Commission. The Planning Commission shall conduct a public hearing consistent with the procedure for conditional uses as set forth in Article V, Division 6.

(3) Following such hearing, the Planning Commission shall make a report of its findings and recommendations on the proposed transmission services regarding the relationship to urban growth, land uses, highways, the environment, water resources and park areas, and shall file such report with the City Council. In evaluating the factors set forth in Article V, Division 6, the Planning Commission and City Council shall consider the benefit of the proposed service to the City and the adverse impacts, if any, to the City, its residents, businesses, and landowners. A conditional use permit may be denied if the adverse impacts outweigh the benefits.

(4) Upon receipt of the report of the Planning Commission of the planned essential services, the City Council shall consider recommendations of the Planning Commission, maps, and accompanying data and shall grant or deny the application. If granted, the conditional use permit may include conditions or modifications to mitigate potential adverse impacts, including but not limited to:

(a) Requiring adequate setbacks from existing highway rights-of-way to guarantee adequate areas for highway improvements.

(b) Requiring adequate setbacks from or requiring the essential service or transmission service to be buried underground a minimum of three hundred-fifty (350) feet from any lake, river, stream, park, school, church or public building.

(c) Requiring tree replanting on a one for one, similar size basis, within areas identified by the City, of all trees removed from the proposed right-of-way.

(d) Requiring that the maintenance of the easement or right-of-way shall be accomplished by selective planting, manual trimming and without the use of chemicals.

(e) Such other reasonable conditions as may be necessary or appropriate to mitigate economic, aesthetic, environmental, health or safety impacts of the proposed service.

(5) Recognizing a need for timely and adequate service by owners of essential services, the City shall act upon all information filing within sixty (60) days of receipt by the Zoning Administrator and City Engineer. In the process of deliberation, the City can call upon such sources of information, public or private, as they deem necessary to clarify problems and otherwise provide information necessary to their decision.

Sec. 40 – 512. Solar Energy Systems – General Provisions.

(6) Purpose and Intent. The City of Wyoming finds that it is in the public interest to encourage the use and development of renewable energy systems that enhance energy conservation efforts, but result in limited adverse impact on nearby properties. As such, the City supports the use of solar energy collection systems. The City of Wyoming also finds that the development of solar energy systems should be balanced with the protection of the public health, safety and welfare. The City resolves that the following standards shall be adopted to ensure that solar energy systems can be constructed within the City of Wyoming while also protecting public safety and the natural resources of the City. Consistent with the City of Wyoming Comprehensive Plan, it is the intent of the City with this Division to create standards for the reasonable capture and use, by households, businesses and property owners, of their solar energy resource, and to encourage the development and use of solar energy.

(7) Severability. The provisions of this Division shall be severable and the invalidity of any paragraph, subparagraph or subdivision thereof shall not make void any other paragraph, subparagraph or subdivision of this Division.

(8) Applicability. These regulations shall apply to all solar energy systems and solar energy farms on properties and structures under the jurisdiction of the City of Wyoming. The City of Wyoming shall refer any application for a large electric power generating plant (LEPGP) to the Minnesota Public Utilities Commission (MN PUC) for approval. An LEPGP shall be defined as any solar energy system capable of producing 50 megawatts or more of power on one or more contiguous parcels contained within the corporate boundaries of the City of Wyoming.

Sec. 40 – 513. Definitions.

The following words, terms and phrases, when used in this Division, shall have the meaning provided herein, except where the context clearly indicates otherwise.

(1) Building or Other Architecturally Integrated Solar Energy System: An active solar energy system that is an integral part of a principal or accessory building and designed to supply energy principally for the property on which it is located, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include, but are not limited to, photovoltaic or thermal solar systems that are contained within roofing materials, windows, skylights and awnings.

(2) CSES: Community solar energy system.

(3) Community Solar Energy System (also called a “Solar Garden”): A solar-electric (photovoltaic) array that provides retail electric power (or a financial proxy for retail power) to multiple community members or community businesses residing on-site or located off-site from the location of the solar energy system. A CSES is not a solar energy system that has been primarily designed for export to the wholesale market. A CSES may be connected to the electrical transmission grid in order to sell excess power to the utility company. A CSES is a solar energy system that has a capacity of no more than 1 megawatt of power. All solar energy systems that are primarily designed for export to the wholesale market, regardless of megawatt capacity or land area, shall be regulated as a solar farm.

(4) Ground Mounted Panels: Freestanding solar panels mounted to the ground by use of stabilizers or similar apparatus.

(5) Individual User Rooftop or Individual User Ground-mount Solar Energy System: A solar energy system which is accessory to a principal use and to which its intended purpose is to supply energy only to that principal use to which it is accessory to.

(6) Large Energy Power Generating Plant (LEPGP): Any Solar Energy System capable of producing 50 megawatts or more of power on one or more contiguous parcels contained within the corporate boundaries of the City of Wyoming.

(7) MN PUC: The Minnesota Public Utilities Commission.

(8) Photovoltaic System: An active solar energy system that converts solar energy directly into electricity.

(9) Roof or Building Mounted Solar Energy System: A solar energy system that is mounted to the roof or building using brackets, stands or other apparatus.

(10) SES: Solar Energy System.

(11) Solar Access: A view of the sun, from any point on the collector surface that is not obscured by any vegetation, building, or object located on parcels of land other than the parcel upon which the solar collector is located, between the hours of 9:00 AM and 3:00 PM Standard time on any day of the year.

(12) Solar Collector: A device, structure or a part of a device or structure that the principal purpose is to transform solar radiant energy into thermal, mechanical, chemical or electrical energy.

(13) Solar Energy: Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

(14) Solar Energy System: An active solar energy system that collects or stores solar energy and transforms solar energy into another form of energy or transfers heat from a collector to another medium using mechanical, electrical, thermal or chemical means.

(15) Solar Farm: A commercial facility that converts sunlight into electricity, whether by photovoltaics, concentrating solar thermal devices, or other conversion technology, for the principal purpose of wholesale sales of generated electricity. All solar energy systems that are primarily designed for export to the wholesale market, regardless of megawatt capacity or land area, shall be regulated as a solar farm.

(16) Solar Garden: A community solar energy system.

(17) Solar Hot Water System: A system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs.

(18) Solar Site Permit: A land use permit required by the City for the installation of certain solar energy systems regulated by this Ordinance.

Sec. 40 – 514. Types of Solar Energy Systems.

This Ordinance identifies, defines and regulates the following types of solar energy systems:

(1) Individual User Rooftop or other Architecturally-Integrated Solar Energy Systems: Systems which are accessory to the principal land use, designed to supply energy for the principal use. Individual user rooftop or other architecturally-integrated systems shall be regulated as follows:

(a) Individual user rooftop or other architecturally-integrated systems are permitted accessory uses in all districts in which buildings and structures are permitted.

(b) No Solar Site Permit is required, but the owner or contractor shall obtain a Building and Electrical Permit before installing a rooftop or other architecturally-integrated solar energy system.

(c) Commercial rooftop or other architecturally-integrated systems shall be placed to limit visibility from the public right-of-way or to blend into the roof design, provided that minimizing visibility still allows the property owner to reasonably capture solar energy.

(2) Individual user Ground-Mount Solar Energy Systems: Systems which are accessory to the principal use and designed to supply energy for the principal use. Individual user ground-mount solar energy systems shall be regulated as follows:

(a) Individual user ground-mount solar energy systems are permitted accessory uses in all districts in which buildings and structures are permitted.

(b) Individual user ground-mount solar energy systems require a Solar Site Permit and a Building Permit.

(c) Individual user ground-mount solar energy systems shall be subject to the accessory use standards for the district in which they are located, including dimensional standards, such as yard setbacks.

(d) The height of ground-mounted components shall not exceed 10 feet.

(e) No Individual user ground-mount solar energy systems shall cover or encompass more than 10 percent of the total property area or lot size.

(3) Community Solar Energy Systems (Solar Gardens/CSES): Roof or other architecturally-integrated systems or ground-mount CSES's shall be allowed as a principal or accessory permitted use, in all districts unless otherwise regulated or prohibited in this Division:

(a) CSES's shall require a Solar Site Permit and a Building Permit, and are subject to the principal or accessory use standards, as applicable, for the district in which they are located.

(b) All CSES's and CSES components must meet the setback, height and coverage limitations for the district in which the system is located.

(c) Rooftop or other architecturally-integrated CSES's shall be placed to limit visibility from the public right-of-way or to blend into the roof design, provided that minimizing visibility still allows the CSES to reasonably capture solar energy.

(d) Ground Mount CSES's which are sited upon a contiguous or aggregate site area footprint larger than one (1) acre in size (whether commonly owned/controlled or not-so owned or operated) shall require a Conditional Use Permit in accordance with Sec. 40 – 519, Conditional Use Permit Requirements. The site area footprint size shall be computed by a determination of the Zoning Administrator.

(e) The height of ground-mounted components shall not exceed 10 feet.

(f) Prohibited Districts: The City prohibits ground mounted CSES's within the following districts:

1. Shoreland Districts as designated by the Department of Natural Resources (DNR) and the City of Wyoming Zoning Ordinance, Chapter 40, Article VI, Division 16, Shoreland District;

2. Within six hundred (600) feet of areas designated or formally protected from development by Federal, State or County agencies as wildlife habitat, wildlife management areas or designated as National Wild and Scenic land or corridor;

3. Wetlands, to the extent prohibited by the Minnesota Wetland Conservation Act;

4. The Floodplain District.

5. All residential zoning districts as designated on the City of Wyoming Zoning Map, which are the R1, R2, R3, R4, R5, and R6 zoning districts.

(g) Power and communication lines. All on-site power and communication lines running between banks of solar panels and buildings shall be buried underground on the subject premises. The Zoning Administrator may grant exemptions to this requirement in instances where shallow bedrock, water courses or other elements of the natural landscape practically preclude the ability to bury lines on the site.

(h) Decommissioning Plan: The owner/operator shall submit a decommissioning plan for ground-mounted CSES's to ensure that the owner or operator properly removes the equipment and facilities upon the end of project life or after their useful life. The owner or operator shall decommission solar panels in the event they are not in use for twelve (12) consecutive months. The plan shall include provisions for the removal of all structures and foundations, the removal of all electrical transmission components, the restoration of soil and vegetation and a reasonably_~~soundly~~ based plan ensuring financial resources will be available to fully decommission the site. The disposal of structures and/or foundations shall meet the requirements of Section 16 – 36 of the City Code. The owner/operator shall provide a current-day decommissioning cost estimate, and shall post a bond, letter of credit or establish an escrow account, including an inflationary escalator, in an amount determined by the City Council, to ensure proper decommissioning.

(4) Solar farms: All solar farms shall be a conditional use in the Closed Landfill Restricted (CLR) District and shall require a Conditional Use Permit, in accordance with Sec. 40 – 519, Conditional Use Permit Requirements. In all other zoning districts, solar farms are prohibited either as a principal or as an accessory use. Solar Farms shall be subject to the following:

(a) Solar Farms shall be located on parcels of land no less than five acres in size.

(b) Solar Farms shall require a Solar Site Permit and a Building Permit, and are subject to the principal use standards for the district in which they are located.

(c) All Solar Farm components must meet the setback, height and coverage limitations for the district in which the system is located.

(d) Prohibitions: The City prohibits Solar Farms within:

1. Shoreland Districts as designated by the Department of Natural Resources (DNR) and the City of Wyoming Zoning Ordinance, Chapter 40, Article VI, Division 16, Shoreland District;

2. Within six hundred (600) feet of areas formally designated or protected from development by Federal, State or County agencies as wildlife habitat, wildlife management areas or designated as National Wild and Scenic land or corridor;

3. Wetlands to the extent prohibited by the Minnesota Wetland Conservation Act;

4. The Floodplain District.

5. All residential zoning districts as designated on the City of Wyoming Zoning Map, which are the R1, R2, R3, R4, R5, and R6 zoning districts.

(e) Power and communication lines. All on-site power and communication lines running between banks of solar panels and buildings shall be buried underground on the subject premises. The Zoning Administrator may grant exemptions to this requirement in instances where shallow bedrock, water courses or other elements of the natural landscape practically preclude the ability to bury lines on the site.

(f) Decommissioning Plan: The owner/operator shall submit a decommissioning plan for ground-mounted CSES's to ensure that the owner or operator properly removes the equipment and facilities upon the end of project life or after their useful life. The owner or operator shall decommission solar panels in the event they are not in use for twelve (12) consecutive months. The plan shall include provisions for the removal of all structures and foundations, the removal of all electrical transmission components, the restoration of soil and vegetation and a reasonably based plan ensuring financial resources will be available to fully decommission the site. The disposal of structures and/or foundations shall meet the requirements of Section 16 – 36 of the

City Code. The owner/operator shall provide a current-day decommissioning cost estimate, and shall post a bond, letter of credit or establish an escrow account, including an inflationary escalator, in an amount determined by the City Council, to ensure proper decommissioning.

Sec. 40 – 515. Solar Energy System Overlay District.

A Solar Energy System Overlay District is established over the following:

(1) The east side Highway 61 / Forest Boulevard from 240th Street to 257th Street.

(2) County Road 30 / Forest Boulevard from 270th Street to the north border of the city, and to not extend past the right-of-way of I-35.

(3) The entire length of County Road 36 / 295th Street within the city.

(4) County Road 22 / East Viking Boulevard from the Anoka County border to the I-35 interchange.

(5) East Viking Boulevard where it turns north at Glen Oak Drive to the east border of the city.

(6) The future extension of Innsbrook Avenue as shown on the Comprehensive Plan map.

(7) The entire length of US Highway 8 within the city.

(8) County Road 22 / Wyoming Trail from Goodview Avenue to the east border of the city.

(9) Kettle River Boulevard from the Anoka County border to 261st Street, and to not extend past the right-of-way of I-35.

Sec. 40 – 516. Solar Energy System Overlay Standards.

In addition to the standards required above, the following standards shall apply to all Solar Energy Systems located within the boundaries of the Solar Energy System Overlay.

(1) Solar energy systems located within the boundaries of the Solar Energy System Overlay District shall be accessory to an existing principal use.

(2) Community Solar Energy Systems and Solar Farms and their accessory structures shall not be located within 1,000 feet of the centerline of the traveled right-of-way in order to allow for the creation of buildable parcels and a frontage road between the existing right-of-way and the solar energy system.

(3) Community Solar Energy Systems and Solar Farms located within the boundaries of the Solar Energy System Overlay District shall be a Conditional Use.

Sec. 40 – 517. Additional Standards.

In addition to the standards required above, the following standards shall apply to all Solar Energy Systems.

(1) Compliance with Building Code. All SES's shall require a Building Permit, shall be subject to the approval of the City Building Official, and shall be consistent with the State of Minnesota Building Code.

(2) Compliance with State Electric Code. All photovoltaic systems shall comply with the Minnesota State Electric Code.

(3) Compliance with State Plumbing Code. Solar thermal systems shall comply with applicable Minnesota State Plumbing Code requirements.

(4) Compliance with MN Energy Code. All SES's shall comply with HVAC-related requirements of the Energy Code.

(5) Utility Notification. No grid-intertied photovoltaic system shall be installed until the owner has submitted notification to the utility company of the customer's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.

(6) Security and equipment buildings. Security and equipment buildings on the site of solar farms shall be permitted uses accessory to the solar farm.

(7) Controlled Access. The owner or operator shall contain all unenclosed electrical conductors located above ground within structures that control access.

Sec. 40 – 518. Solar Site Permit Requirements.

(8) A Solar Site Permit application shall be filed for all Ground Mount Solar Energy Systems.

(9) Solar Site Permits shall require approval by the Zoning Administrator. Such approval shall be issued following an Administrative determination that the design requirements of this Ordinance have been met.

(10) Landscaping: Buffer screening from routine view of the public right-of-way and immediately adjacent residences shall be required to be screened in an attempt to minimize the visual impact of above grade site improvements and any extensive or imposing perimeter security fencing that is proposed. In addition, low lying screening, shrubbery, or other native vegetation shall be required around site perimeters or perimeter security fencing.

(11) Corridor Preservation: Natural wildlife, wetland, woodland or other lineal corridors shall remain open to travel by native fauna, reptilia and avialae. Perimeter fencing and security measures must accommodate unimpeded wildlife migration

through large solar array development sites and areas. Plan approval may require corridor replacement, relocation, removal, and/or protection as determined by the Zoning Administrator.

(12) Solar Site Permit applications for solar energy systems shall be accompanied by horizontal and vertical elevation drawings, drawn to scale. The drawings shall show the location of the system components on the property, as well as other elements, including but not limited to the following:

(a) Existing features;

(b) Proposed features;

(c) Property boundaries;

(d) Property zoning designation(s) including district property line and roadway setbacks;

(e) Solar arrays, connecting lines, and all affiliated installations and structures;

(f) Access points, drive aisles, security features, and fencing;

(g) Topography & surface water drainage patterns and treatment systems;

(h) Wetlands, Woodlands, Grasslands, Prairielands;

(i) Existing and proposed/preserved/protected wildlife corridors (wetland/woodland/topography connectivity);

(j) Landscape Plan, including required screening of site perimeter and/or perimeter security fencing;

(k) Floodplains;

(l) Soils;

(m) Historical features;

(n) Archeological features;

(o) Wildlife and ecological habitat;

(p) Environmental mitigation measures;

(q) Description of Project Staging (if applicable).

Sec. 40 – 519. Conditional Use Permit (CUP) Requirements.

(13) Solar Energy Systems requiring a Conditional Use Permit shall meet the requirements of this Section and the City of Wyoming Zoning Ordinance, Chapter 40, Article V, Division 6, Conditional Use Permits and shall be an Interim Use in accordance with Sec. 40 – 112, (4), (k).

(14) A Conditional Use Permit (CUP) shall be required for a Community Solar Energy System or a Solar Farm which is situated, (or which is staged to be eventually situated) on a contiguous or aggregate site area footprint larger than one (1) acre in size, whether commonly owned/controlled or otherwise.

(15) Landscaping: Buffer screening from routine view of the public right-of-way and immediately adjacent residences shall be required to be screened in an attempt to minimize the visual impact of above grade site improvements and any extensive or imposing perimeter security fencing that is proposed. In addition, low lying screening, shrubbery, or other native vegetation shall be required around site perimeters or perimeter security fencing.

(16) Corridor Preservation: Natural wildlife, wetland, woodland or other lineal corridors shall remain open to travel by native fauna, reptilia and avialae. Perimeter fencing and security measures must accommodate unimpeded wildlife migration through large solar array development sites and areas. Plan approval may require corridor replacement, relocation, removal, and/or protection as determined by the Zoning Administrator.

(17) Conditional Use Permit (CUP) Submittal Requirements. CUP applications for solar energy systems shall be accompanied by horizontal and vertical elevation drawings, drawn to scale. The drawings shall show the location of the system components on the property, as well as other elements, including but not limited to the following:

(a) Existing features;

(b) Proposed features;

(c) Property boundaries;

(d) Property zoning designation(s) including district property line and roadway setbacks;

(e) Solar arrays, connecting lines, and all affiliated installations and structures;

(f) Access points, drive aisles, security features, and fencing;

(g) Topography & surface water drainage patterns and treatment systems;

(h) Wetlands, Woodlands, Grasslands, Prairielands;

(i) Existing and proposed/preserved/protected wildlife corridors (wetland/woodland/topography connectivity);

(j) Landscape Plan, including required screening of site perimeter and/or perimeter security fencing;

(k) Floodplains;

(l) Soils;

(m) Historical features;

(n) Archeological features;

(o) Wildlife and ecological habitat;

(p) Environmental mitigation measures;

(q) Description of Project Staging (if applicable).

DIVISION 11. EXTERIOR STORAGE

Sec. 40 – 520. Storage or Screening Requirements.

In all districts, all materials and equipment shall be stored within a building or be fully screened Article VII, Division 26 requirements so as not to be visible from adjoining properties. Exceptions to these requirements are as follows:

(1) Agricultural equipment and materials intended to be used on the premises.

(2) Construction materials and equipment currently being used on the premises.

(3) Off street parking of passenger vehicles.

(4) Recreational equipment for use of residents of principal structure.

(5) Laundry drying equipment.

(6) Merchandise being displayed for sale.

Sec. 40 – 521. Conditional Use Permit May Be Required.

In all districts, the City may require a conditional use permit for any exterior storage if there exists a potential that such storage may be a hazard to the public health, safety, convenience, morals, or has a depreciating effect upon nearby property values, or impairs scenic views, or constitutes a threat to living amenities.

Sec. 40 – 522. Bulk Storage Liquid.

(1) All uses associated with the bulk storage of over two thousand (2,000) gallons of oil, gasoline, liquid fertilizer, chemicals and similar liquids shall require a conditional use permit in order that the Zoning Administrator may have the assurance that fire, explosion or water or soil contamination hazards are not present that would be detrimental to the public health, safety and general welfare.

(2) All existing, aboveground liquid storage tanks having a capacity in excess of two thousand (2,000) gallons shall secure a conditional use permit. The Building Official shall require the development of diking around said tanks, suitably selected to hold a leakage capacity equal to one hundred fifteen percent (115%) of the tank capacity. Any existing storage tank that, in the opinion of the Planning Commission, based upon expert opinion, constitutes a hazard to the public safety shall discontinue operations immediately.

(3) All bulk storage liquid facilities must comply with the requirements of the MN Pollution Control Agency.

Sec. 40 – 523. Explosive Materials.

Activities involving the commercial storage, use or manufacture of materials or products which could decompose by detonation shall be permitted only by conditional use. Such materials shall include but not be confined to all primary explosives such as lead azide and mercury fulminate, all high explosives and boosters such as TNT, tetryl and nitrates, propellants and components thereof such as nitrocellulose, black powder and nitroglycerin, blasting explosives such as dynamite and nuclear fuel and reactor elements such as uranium 235 and plutonium. Any handling or storage of explosive materials must comply with the requirements of the Minnesota State Fire Code.

Secs. 40 - 524—40 - 529. Reserved

DIVISION 12. FENCES

Sec. 40 – 530. Special requirements.

(1) Construction and maintenance.

(a) Every fence shall be constructed in a substantial, workmanlike manner and of substantial material reasonably suited for the purpose for which the fence is proposed to be used.

(b) That side of the fence considered to be the face (finished side as opposed to structural supports) shall face abutting property.

(c) Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private.

(2) Locations.

(a) All fences shall be located entirely upon the private property of the persons constructing or causing the construction of such fence unless the owner of the property adjoining agrees, in writing, that such fence may be erected upon the division line of the respective properties.

(b) No fence shall be permitted on public rights-of-way.

(c) The building official may require any applicant for a fence permit to establish the boundary lines of his property by a survey made by a registered land surveyor.

(3) Corner lots.
For the purpose of fence regulations, in the case of a corner lot, both yards abutting a street shall be considered a front yard.

(4) Permit required.

(a) No person shall construct or cause to be constructed or erected within the city any fence without first having been issued a fence permit.

(b) Fences over six (6) feet in height from the finished grade shall require a building permit in addition to any other required permits.

(c) The application fee for a fence permit is set forth in Appendix A of this code.

Sec. 40 – 531. Fences Located in Residential Districts.

(5) Fences may be placed along property lines provided no physical damage of any kind results to the abutting property.

(6) In residential districts, fences along or within the front non-buildable setback area shall not exceed forty-eight (48) inches in height from finished grade.

(7) In residential districts, fences along side and rear interior lot lines beginning at the front building line of the principal structure shall be a maximum of six (6) feet in height from finished grade.

(8) In residential districts, fences parallel to, and beginning at, the front building line of the principal structure shall be a maximum of six (6) feet from finished grade.

(9) In public parks, schools, or other educational facilities, public and private; fences for playgrounds, athletic fields, outdoor swimming facilities, and other similar uses are exempt from any height restrictions.

(10) In residential districts, fences located within the buildable area of a lot or eight (8) feet or more from the rear lot line may be up to eight feet in height.

Sec. 40 – 532. Fences Located in Non-Residential Districts.

(1) Fences may be placed along property lines provided no physical damage of any kind results to the abutting property.

(2) In commercial and industrial districts, fences, including a security arm for barbed wire, may be erected on the lot line to a height of eight (8) feet from finished grade.

(3) In Commercial and industrial districts, fences located within the buildable area for the principal structure and eight (8) feet or more from the rear lot line are exempt from any height restrictions.

(4) In public parks, schools, or other educational facilities, public and private; fences for playgrounds, athletic fields, outdoor swimming facilities, and other similar uses are exempt from any height restrictions.

Sec. 40 – 533. Prohibited Fences.

The following fence types and locations are prohibited in the city:

(1) Electrified fence in all districts except when containing livestock.

(2) Barbed wire in all residential districts except when containing livestock.

(3) Fences within a public right-of-way.

(4) Solid concrete or masonry walls over three feet in height.

Sec. 40 – 534. Swimming pool fencing.

(1) All outdoor pools shall be completely enclosed by a fence or wall of the nonclimbable type, so as to be impenetrable by toddlers, afford no external handholds or footholds, and be a minimum of four (4) feet in height.

(a) While being constructed, the pool or spa area must be fenced with a portable fence, such as a snow fence not less than four feet in height.

(2) All outdoor fence openings or outdoor points of entry into the pool area shall be equipped with self-closing and self-latching devices. The opening between the bottom of the fence and the ground or other surface shall not be more than three (3) inches.

(3) All outdoor special-purpose pools shall have either a fence as described in subsections (1) and (2) of this Division or a latchable cover. The cover shall be constructed of material impenetrable by toddlers and subject to inspection by city inspectors.

Sec. 40 – 535. Swimming pool fencing exception.

(1) Swimming pools are exempt from the requirement to install a safety fence if all three of the following standards are met:

(a) The property upon which the swimming pool is located is zoned Agricultural, and

(b) The property upon which the swimming pool is located was not created through a Conditional Use Permit process allowing a lot in the Agricultural Zoning District to be smaller than five (5) acres in size, and

(c) The swimming pool maintains a minimum rear and side lot line setback of three hundred (300) feet.

1. The three hundred (300) foot setback may be waived from one or all of the rear and side lot lines if a physical barrier exists (such as a lake, stream, or open water wetlands), which makes access to the swimming pool over that lot line from the adjacent property impossible or highly improbable.

Secs. 40 - 536—40 - 539. Reserved

DIVISION 13. HOME OCCUPATIONS

Sec. 40 – 540. Purpose.

It is the purpose of this Division to provide for the interim use of the home as a place for the operation of a business or profession provided the occupation is clearly secondary to the principal use of the home as a residence, and does not alter the character or appearance of the home or neighborhood.

Sec. 40 – 541. Permitted Home Occupations.

Home occupations which do not require use of an attached garage, additional parking, an accessory building, or generate a noticeable increase in traffic shall be permitted. Such home occupations as architects, artists, clergymen, clothing alterations, domestic crafts making and similar uses are permitted as Accessory Uses.

Sec. 40 – 542. Interim Conditional Use Permit Required.

Home occupations which have the potential for generating a noticeable increase in traffic, require additional parking, require the use of an accessory building or attached garage, shall require an Interim Conditional Use Permit. Such home occupations, such as barbershops, auto repair, clothing shops, bed-and-breakfast inns, museums, animal hospitals and kennels, schools, and similar uses shall require an Interim Conditional Use Permit.

Sec. 40 – 543. Performance Standards.

All home occupations shall conform to the following standards:

(1) Conduct of the home occupation does not require alterations to the exterior of the residence which substantially alters the appearance of the dwelling as a residence.

(2) Only those persons residing in the home and one other person may be employed on the site or report to the site on any one day.

(3) Signage consists of no more than one (1) single or double-faced sign with a maximum area of nine (9) square feet per side in the R-1, R-2, R-3, R-4, R-5, R-6 and MXD (residential uses) Districts and sixteen (16) square feet per side in the Agricultural (A) District.

(4) No outdoor display of goods.

(5) Any additional need for parking generated by the home occupation shall be met by off-street parking. Said parking area shall be limited to three (3) spaces.

(6) Should the occupation be teaching, classes shall not exceed ten (10) students at any one time.

(7) Should the home occupation be repair, the items repaired shall be of a size or nature that repair can occur within the home, or an accessory structure to the principal use as allowed by this Ordinance.

(8) No outside storage is permitted.

(9) An accessory structure may be utilized in conjunction with the home occupation only for the purpose of holding equipment used off the site, repair (as conditionally permitted pursuant to Sec. 40 – 543, (7), and/or for the storage of goods or articles produced or used by the occupant of the principle structure.

(10) The home occupation shall not generate sewage of a nature or type that cannot be treated by a standard on-site sewage system, or the municipal sewer system, or hazardous wastes without an approved plan for off site disposal.

Sec. 40 – 544. Review by Planning Commission..

When deemed appropriate, the Zoning Administrator may bring a proposal or existing home occupation to the attention of the Planning Commission at which time the Planning Commission may permit the use or hold such public hearings, request such information, or require such conditions as deemed necessary to ensure compliance with the performance criteria.

Secs. 40 - 545—40 - 549. Reserved

DIVISION 14. LANDSCAPING AND WOODLAND PRESERVATION

Sec. 40 – 550. Landscaping On A Lot.

Landscaping on a lot shall consist of a finish grade and a soil retention cover such as sod, seed and mulch, plantings, or as may be required by the Zoning Administrator to protect the soil and aesthetic values on the lot and adjacent property, and to protect public drainage systems and the City's natural resources. Such landscaping shall be completed within one growing season of the issuance of a Certificate of Occupancy.

Sec. 40 – 551. Landscaping in all Districts.

In all districts, all developed uses shall be sodded, seeded, or planted with native materials from the urban curb and gutter or edge of road surface to the road right-of-way lines and shall be completed within one growing season. This landscaped yard shall be kept clear of all structures, exterior storage, trees, brush, and off-street parking.

Sec. 40 – 552. Landscaping Maintenance.

Landscaping shall be provided and maintained on all required front and side yards in all developed districts except where pavement or crushed stone is used for walkways or driveways.

Sec. 40 – 553. Double Fronted Lots.

Double fronted lots must be landscaped on both fronts and not utilized for exterior storage

Sec. 40 – 554. Vegetated Buffers.

(1) Vegetated buffers used in all new residential, commercial and industrial developments shall consist predominantly of hardy indigenous or native plant material, to reflect the historical landscape and provide natural resource habitat for wildlife and birds.

(a) Hardy indigenous or native plant material is defined as:

1. Hardy: plant species rated for use in USDA Hardiness Zone 4a or colder (-30 to –25 F), are suited to the soil types and exposure as found on a given site, and are not presently under disease epidemic. Species hardy to Zone 4b and varieties of species documented as showing resistance to epidemic disease may be used in small quantities on a trial basis. (See also Sec. 40 – 640.)

2. Indigenous: plant species that occurred in Minnesota at the time of the Public Land Survey (1847-1907) which was conducted prior to significant European settlement.

3. Native: plant species indigenous to North America that meet the required degree of hardiness (see a. above).

(2) Planting patterns shall be selected from the following:

(a) Forest Cover – providing, over time, a very high level of tree cover in substantial blocks:

(b) Hedgerows – established as linkages between forest blocks:

(c) Access roads – incorporating placement of edge trees in linear patterns:

(d) Wetlands – can be created as new facilities or restored as part of a program of ecological restoration:

(e) Watercourses and Storm Water Management – should be integrated into the natural environment. Developed sites should be appropriately set back from these features:

(f) Rural Pattern – the spaces between buildings and the placement of buildings and landscape planting should contribute to an overall sense of place that is recognized as a rural pattern:

(3) Recommended plant lists, based on general plant community types, are included in Appendix C of the 2004 Wyoming Township Comprehensive Plan.

Sec. 40 – 555. Landscaping Regulations.

The purpose of this Section is to establish a standard that helps to implement and regulate open space within the City of Wyoming by establishing a protection of privacy and buffers between different land uses; increasing and maintaining property values; creating an urban forest, thereby controlling the urban heat island effect; preventing or reducing soil erosion, sedimentation, and storm water runoff; improving air quality and reducing noise pollutions; and enhancing energy conservation through natural insulation and shading.

(1) Landscape Plan.

(a) General Submission Requirements. A Landscape Plan required hereunder shall be submitted within:

1. All commercial uses, industrial uses, subdivisions, Planned Unit Developments, and non-residential uses in residential zoning districts; and

2. Any Preliminary Subdivision Plan as required within the Subdivision Ordinance; and

3. Any project for which a City Grading Permit is required by Article VI, Division 16, Shoreland Zoning District; and

4. When significant trees and/or woodlands exist on the site.

(b) Landscape plans shall be prepared by a licensed Landscape Architect in the State of Minnesota as required by state rules. Landscape plans drawn to scale of not less than one inch equals fifty feet (1" = 50') and shall show the following:

1. Boundary lines of the property with accurate dimensions;

2. Locations of existing and proposed buildings, parking lots, roads, and other improvements;

3. Proposed grading plan with two (2) foot contour intervals;

4. Location, approximate size, and common name of existing trees and shrubs;

5. A planting schedule containing symbols, quantities, common and botanical names, size of plant materials, root condition, and special planting instructions;

6. Planting details, illustrations, and proposed locations of all new plant material;

7. Locations and details of other landscape features including berms, fences, and planter boxes;

8. Details of restoration of disturbed areas including areas to be sodded, seeded, or planted with native materials;

9. Location and details of irrigation systems; and

10. Details and cross sections of all required screening in accordance with Article VII, Division 26.

(2) Minimum Landscaping Requirements.

(a) All Commercial, Industrial uses, Subdivisions, Planned Unit Developments, and non-residential uses in residential zoning districts.

1. All open areas of a lot surrounding or within a principal or accessory use which are not used or improved for required parking areas, drives, or storage, shall be landscaped with a combination of overstory trees, understory trees, shrubs, flowers, and groundcover materials within one (1) year following the date of building occupancy.

2. Minimum number of trees:

i Exclusive of classified wetlands, a minimum of one (1) overstory tree and two (2) understory trees per 1/10th acre must be provided.

3. Additional landscaping to provide screening required by Article VII, Division 26, is in addition to the requirements of this Division.

4. In instances where healthy plant materials of acceptable species exist on site prior to its development, the application of the standards in this Section may be adjusted by the City to allow credit for such material provided that such adjustment is consistent with the intent of this Division. The City may permit the seeding of areas reserved for future expansion of the development if consistent with the intent of this Division.

(b) Unless waived by the City, a Woodland Preservation Plan shall be submitted as per Sec. 40 - 556 of this Division to assess the best possible layout to preserve significant trees and woodlands, and to enhance the efforts to minimize damage to significant trees and woodlands. The Applicant shall meet with City staff and the Planning Commission prior to submission of the development application or prior to application for the Grading Permit, whichever is sooner, to determine the most feasible and practical placement of buildings, parking, driveways, streets, storage, and other physical features in order that the least number of significant trees and woodlands are destroyed or damaged.

(c) All new overstory trees shall be balled and burlapped or removed from the growing site by a tree spade. Deciduous trees shall have a minimum caliper of two and one-half (2½) inches. Coniferous trees shall be a minimum of six (6) feet in height. Ornamental trees shall have a minimum caliper of one and one-half (1½) inches.

(d) All site areas not covered by buildings, sidewalks, parking lots, driveways, patios or similar hard surface materials shall be covered with sod, native plantings, or an equivalent groundcover approved by the City. This requirement shall not apply to site areas preserved in a natural state.

(e) In order to provide for adequate maintenance of landscaped areas, an underground sprinkler system shall be provided as part of each new development, except areas to be preserved in a natural state and private areas of residential lots, and additions to existing structures that are equal to or less than the floor area of the existing structure.

1. Special consideration waiving these requirements shall be granted for native and drought-tolerant planting materials.

2. Irrigation systems required by this Division may be subject to restrictions by City ordinance.

(f) No more than fifty percent (50%) of the required number of trees shall be composed of one (1) species.

(g) Due to various ecological and maintenance related concerns, no more than twenty percent (20%) of the required number of trees shall be composed of the following:

1. Any species of the genus Fraxinus (Ash),

2. Douglas Fir,

3. Austrian Pine,

4. Colorado Blue Spruce,

5. Red & Pin Oak,

(h) Due to various ecological and maintenance related concerns, no required tree shall be any of the following:

1. Any species of the genus Ulmus (Elm), not compliant with i, 8) below,

2. European (Common) Buckthorn,

3. Glossy (Alder) Buckthorn,

4. Russian Olive,

5. Black Locust,

6. Box-elder,

7. Amur (Ginella) Maple,

8. Norway Maple,

9. Japanese Barberry,

10. Scotch (Scots) Pine,

11. Additional trees may be restricted from specific locations due to ecological and maintenance related issues. It is the responsibility of the landowner and/or Applicant to confirm with the City whether or not a specific tree species is appropriate.

(i) The following species of trees are desirable:

1. Big-toothed Aspen, Quaking Aspen (Poplar, Popple),

2. Basswood,

3. Bicolor Oak (Swamp White Oak),

4. Birch, Paper,
Birch, River,
Birch, Yellow,

5. Black Cherry,

6. Bur Oak,

7. Catalpa,

8. Any species of the genus Ulmus (Elm) bred to be resistant to Dutch Elm Disease,

9. Hackberry,

10. Hickory,

11. Ironwood,

12. Maple, Black (Hard Maple),
Maple, Freeman,
Maple, Red,

Maple, Silver,
Maple, Sugar,

13. Northern White Cedar

14. Serviceberry / Amelanchier / Juneberry,

15. Tamarack,

16. Walnut,

17. White Oak,

18. White Pine,

19. White Spruce,

20. Willow,

(3) Landscape Design.

(a) Plant materials should be used which demonstrate adaptability to harsh conditions, including salt spray, stormwater runoff, and reflected pavement glare and heat.

(b) Plant materials should be located so that no impacts occur to overhead or underground utilities, traffic flow or circulation, and emergency and maintenance access.

(c) All vegetation shall be appropriately protected by planters or other features as necessary. Plants shall be rated for USDA Zone 4A or colder hardiness.

(d) The spacing of trees along all local and collector streets shall be no more than thirty (30) feet apart. The spacing of trees along all arterials shall be no more than forty (40) feet apart.

(e) Landscaping design relating to parking lots is governed by Article VII, Divisions 23, and 26, including but not limited to Off-street Parking, Storage, and Screening.

(4) Maintenance of Landscaping.

(a) The owner and their respective agents shall be jointly and severally responsible for the maintenance of all landscaping in a condition presenting a healthy, neat, and orderly appearance and free from refuse and debris.

(b) Plants and groundcover which are required by an approved site or landscape plan and which are diseased or have died shall be replaced within three (3) months of notification by the City with like kind of the original size. However, the time for compliance may be extended up to nine (9) months by the City in order to allow for seasonal or weather conditions.

(c) Plantings placed upon public right-of-ways or major easements are subject to removal by the City or utility company if required for maintenance or improvement of the utility in accordance with state statutes. Trees on utility easements containing overhead wires shall not exceed fifteen (15) feet in height and shall be the property owner's responsibility to maintain.

(5) Landscape Guarantee.

(a) All new plants shall be guaranteed for one (1) full year from the time planting has been completed. All plants shall be alive and in satisfactory growth at the end of the guarantee period or be replaced.

(6) Retaining Walls.

(a) Retaining walls exceeding four (4) feet in height, including staged walls that cumulatively exceed four (4) feet in height, require a Building Permit and shall be constructed in accordance with plans prepared by a registered engineer. Retaining walls shall not restrict drainage or be placed in public right-of-ways, and must be in compliance with the traffic visibility requirements referenced in Article VII, Division 34, Yard Regulations.

(7) Landscaping Letter of Credit or Cash Escrow Required.

(a) When landscaping or other similar improvements to property are required by this Division, a letter of credit or cash escrow shall be supplied by the owner in an amount equal to at least one-hundred twenty-five percent (125%) of the approved estimated landscaping costs. The letter of credit or cash escrow, with security satisfactory to the City, shall be conditioned upon reimbursement of all expenses incurred by the City for engineering, legal, or other fees in connection with making or completing such improvements. The letter of credit or cash escrow shall be provided prior to the issuance of any Building Permit and shall be valid for a period of time equal to one (1) full growing season after the date of installation of the landscaping. In the event construction of the project is not completed within the time prescribed by Building Permits and other approvals, the City may, at its option, complete the work required at the expense of the owner and the surety.

(b) The City may allow an extended period of time for completion of all landscaping if the delay is due to conditions that are reasonably beyond the control of the developer. Extensions, not to exceed nine (9) months, may be granted due to seasonal or weather conditions. When extensions are granted, the City shall require such additional security as it deems appropriate.

Sec. 40 – 556. Woodland Preservation Regulations.

The purpose of this Section is to govern the preservation and protection of trees and woodlands within the City of Wyoming. The City recognizes the value of trees and woodlands for absorbing air pollutants, reducing noise, providing shade, providing wildlife habitat, providing visual amenity, and preventing soil erosion and siltation. This Section is adopted to ensure that development occurs in a manner that protects and preserves these valuable resources.

(1) Definitions

(a) Applicant: Any person or entity that is required to submit and implement an approved Woodland Preservation Plan under this Section.

(b) Caliper Inch: The diameter of a tree measured at four and one-half (4½) feet above ground level.

(c) Coniferous Trees: A wood plant which, at maturity, is at least twelve (12) feet or more in height and has foliage on the outermost portions of the branches year round.

(d) Construction Zone: Any area in which movement of earth, alteration in topography, soil compaction, disruption of vegetation, change in soil chemistry, or other change in the natural character of the land occurs as a result of the site preparation, grading, building construction, or any other construction activity.

(e) Critical Root Zone (CRZ): An imaginary circle surrounding the tree trunk radius distance of one (1) foot per one (1) inch of tree diameter, (i.e. a twenty (20) inch diameter tree has a CRZ with a radius of twenty (20) feet).

(f) Drip Line: The farthest distance away from the trunk that rain or dew will directly fall to the ground from the leaves or branches of the tree.

(g) Hardwood Deciduous Tree: Includes, but not limited to, ironwood, oak, maple (hard), walnut, hickory, birch, black cherry, hackberry, and basswood.

(h) Significant Woodland: A grouping or cluster of coniferous and/or deciduous trees with contiguous crown cover, occupying 15,000 or more square feet of property, and is comprised of deciduous trees of six (6) caliper inches or more, and coniferous trees over twelve (12) feet in height.

(i) Significant Tree: A healthy tree measuring a minimum of six (6) caliper inches for all hardwood deciduous trees, a minimum of twenty (20) caliper inches for all softwood deciduous trees, or a minimum of twelve (12) feet in height for all coniferous trees.

(j) Softwood Deciduous Trees: Includes, but not limited to, catalpa, poplars/aspen, willow, silver maple, and elm.

(k) Tree, Overstory: A self-supporting woody plant having one well defined stem or trunk and normally attaining a mature height and spread of at least 30 feet, and having a trunk that may, at maturity, be kept clear of leaves and branches at least 8 feet above grade.

(l) Tree, Understory: A self-supporting woody plant having at least one well-defined stem or trunk and normally attaining a mature height and spread of less than 30 feet, with branching less than 8 feet above grade.

(2) Woodland Preservation Plan.

(a) General Submission Requirements. A Woodland Preservation Plan required hereunder shall be submitted within:

1. Any Preliminary Subdivision Plan as required within the Subdivision Ordinance;

2. Any Landscape Plan as required by Sec. 40 – 555 of this Division unless otherwise waived by the City; and

3. Any project for which a City Grading Permit is required by Article VI, Division 16, Shoreland Zoning District, and

4. When significant trees and/or woodlands exist on the site.

(b) Residential Lot Requirements. Applicants of Residential Building Permits are required to prepare an individual lot Woodland Preservation Plan when significant trees and/or woodlands exist on site.

(c) Plan Requirements.

1. All Woodland Preservation Plans, with the exception of Residential lots, shall be certified by a forester, landscape architect, or other qualified professional retained by the Applicant.

2. All Applicants shall submit a Woodland Preservation Plan prepared in accordance with the provisions of this Section. The Woodland Preservation Plan shall include the following information:

i The name(s), telephone number(s), and address(es) of Applicants, property owners, developers, and/or builders;

ii Delineation of the buildings, structures, or impervious surfaces situated thereon or contemplated to be built thereon;

iii Delineation of all areas to be graded and limits of the construction zone;

iv Size, species, and location of all existing significant trees and woodlands located within the area to be platted or within the parcel of record. These significant trees and woodlands shall be identified in both graphic and tabular form;

v Identification of all significant trees and woodlands proposed to be removed within the construction zone. These significant trees and woodlands shall be identified in both graphic and tabular form;

vi Measures to protect significant trees and woodlands;

vii Size, species, and location of all replacement trees proposed to be planted on the property in accordance with the tree replacement schedule; and

viii Signature of the person preparing the plan.

(d) Review process. The Woodland Preservation Plan shall be reviewed by the City Staff to assess the best possible layout to preserve significant trees and woodlands, and to enhance the efforts to minimize damage to significant trees and woodlands. The Applicant shall meet with the City Staff prior to submission of the Development Application, or prior to application for the Grading Permit, whichever is sooner, to determine the most feasible and practical placement of buildings, parking, driveways, streets, storage, and other physical features in order that the fewest significant trees and woodlands are destroyed or damaged. Once a plan is approved by the City, the plan shall be recognized as the approved Woodland Preservation Plan.

(e) Performance guarantee. Any Applicant of a new development shall provide the required performance guarantee following preliminary approval of the Woodland Preservation Plan and prior to any construction and/or grading. The amount of the performance guarantee to be submitted, specific to the woodland preservation fulfillments, shall be calculated as follows:

1. An amount to guarantee preservation of all trees identified by the approved Woodland Preservation Plan to be preserved within the construction zone shall be deposited with the City. The amount shall be calculated by multiplying the total caliper inches of significant trees to be preserved by the rate of payment of seventy-five ($75.00) dollars per caliper inch and/or the total square feet of woodlands to be preserved at the rate of one and one-half ($1.50) dollars per square foot.

2. No performance guarantee shall be required for Applicants for building permits of single-family residential additions and accessory structures.

3. Following written request by the Applicant for acceptance, the performance guarantee will be released upon verification by the City that the Woodland Preservation Plan was followed and that the tree replacement schedule was complied with where necessary; in no event shall the performance guarantee be released earlier than one (1) year after the date of the project closure.

(f) Plan Compliance.

1. The Applicant shall implement the Woodland Preservation Plan prior to and during any construction. The woodland protection measures shall remain in place until all grading and construction activity is terminated, or until a request is made to, and approved by, the City.

2. No significant trees or woodlands shall be removed until a Woodland Preservation Plan is approved and accepted in accordance with the approved Woodland Preservation Plan. If a significant tree or woodland that was intended to be preserved is removed without permission of the City, or damaged so that it is in a state of decline within one (1) year from the date of project closure, the cash guarantee calculated per caliper inch of the removed/destroyed tree or per total square foot of woodlands in the amount set forth in Sec. 40 – 556, (2) (e), 1, shall be remitted to the City.

3. The City shall have the right to inspect the development and/or building site in order to determine compliance with the approved Woodland Preservation Plan. The City shall determine whether compliance with the Woodland Preservation Plan has been met.

(3) Permitted Tree Removals

(a) Removal of Existing Significant Trees. The City recognizes that a certain amount of tree removal is an inevitable consequence of the urban development process and therefore will likely result in the removal of

some significant trees. Consequently, the City requires that significant tree removal beyond the following thresholds shall require reforestation or restitution as described below in Sec. 40 – 556, (4).

1. Trees may be removed within fifteen (15) feet from the face of the foundation of buildings, required parking areas, driveways, well areas, drain fields, essential utility areas, essential drainage ways/easements, and right-of-ways.

2. Removal of Diseased Trees. All diseased, hazardous, dead and dying trees may be removed.

3. Up to ten percent (10%) of significant trees may be removed from existing improved parcels.

4. Shoreland Overlay District. Trees and woodlands within the Shoreland Overlay District are subject to the requirements stated in Secs. 40 – 322 and 40 - 325, in addition to the regulations of this Division.

5. After tree removal the parcel must still meet the minimum requirements of the Landscaping Regulations of this Division.

(4) Mitigation Procedures

(a) Trees or woodlands removed beyond the permitted threshold(s), as described above in 40 – 556, (3), shall be mitigated by the Applicant through either of the following methods as determined by the City:

1. Replace the trees or woodlands in accordance with the tree replacement provisions as outlined below in 40 – 556, (5); or

2. Repay to the City the sum per caliper inch calculated from the total amount of caliper inches of the required replacement trees in accordance with the tree replacement provision in 40 – 556, (5), (c). The fee per caliper inch shall be set forth in Appendix A, and the payment thereon shall be deposited into the Tree Replacement Fund,an account designated specifically for tree mitigation.

(5) Tree Replacement Provisions

(a) Schedule.

Size of Tree Damaged or Destroyed	Number of Replacement Trees		
	Category A	Category B	Category C
Coniferous, 12 to 24 feet high	1	2	4
Coniferous, 24 feet or higher	2	4	8
Hardwood Deciduous, 6 to 20 inches diameter	1	2	4
Hardwood Deciduous, 21 to 30 inches diameter	2	4	8
Softwood Deciduous, 20 to 30 inches diameter	1	2	4
Softwood Deciduous, greater than 30 inches diameter	2	4	8

(b) Significant Woodland Replacement. Where replacement of significant woodland is required, the Applicant shall be responsible for furnishing and installing one (1) Category A replacement tree or two (2) Category B replacement trees or four (4) Category C replacement trees for every 125 square feet of significant woodland damaged or destroyed, or any increment thereof.

(c) Size of Replacement Trees.

1. Category A trees shall be no less than the following sizes:

i Deciduous trees, not less than four (4) caliper inches.

ii Coniferous trees, not less than twelve (12) feet in height.

2. Category B trees shall be no less than the following sizes:

i Deciduous trees, not less than two and one-half (2½) caliper inches.

ii Coniferous trees, not less than six (6) feet in height.

3. Category C trees shall be no less than the following sizes:

i Deciduous trees, not less than one and one-half (1½) caliper inches.

ii Coniferous trees, not less than four (4) feet in height.

(d) Species Requirement. Where ten (10) or more replacement trees are required, not more than fifty percent (50%) of the replacement trees shall be of the same species of tree without the approval of the City.

(e) Warranty Requirement. Any replacement tree which is not alive or healthy, as determined by the City, or which subsequently dies due to construction activity within one (1) year after the date of project closure, shall be removed by the Applicant and replaced with a new healthy tree meeting the same minimum size requirements within eight (8) months of removal.

(f) The replanting of trees for mitigation shall be in addition to any other landscape requirements of the City.

(6) Required Protective Measures

(a) The following measures shall be utilized to protect significant trees and woodlands during any type of grading or construction:

1. Installation of snow fencing or polyethylene laminate safety netting placed at the drip line or at the perimeter of the critical root zone (CRZ), whichever is greater, of significant trees and woodlands to be preserved. No grade change, construction activity, or storage of materials shall occur within this fenced area.

2. Identification of any oak trees requiring pruning between April 15 and July 1. Any oak trees so pruned shall be required to have any cut areas sealed with an appropriate non-toxic tree wound sealant at the time of cutting.

3. Prevention of change in soil chemistry due to concrete washout and leakage or spillage of toxic materials, such as fuels or paints.

(7) Additional Protective Measures

(a) The following tree protection measures are suggested to protect significant trees and woodlands that are intended to be preserved:

1. Installation of retaining walls or tree wells to preserve trees.

2. Placement of utilities in common trenches outside of the drip line of significant trees, or use of tunneled installation.

3. Use of tree root aeration, fertilization, and/or irrigation systems.

4. Transplanting of significant trees into a protected area for later moving into permanent sites within the construction area.

5. Therapeutic pruning.

(8) Tree Replacement Fund.

(a) The City Council shall administer the Tree Replacement Fund. As approved by City Council the City shall use funds paid to the Tree Replacement Fund for the following activities within the City of Wyoming:

1. To purchase, plant, and maintain trees on public property,

2. To preserve wooded public property that remains in a naturalistic state in perpetuity,

3. Invasive species eradication directly linked to tree preservation and tree protection on public property;

4. To support programs for the public purpose of increasing or maintaining the tree canopy within the City of Wyoming,

5. Funds may be used for purchase of landscape materials or equipment necessary and proper for the preservation, maintenance, relocation or restoration of trees on any public land in the City.

(b) Proceeds from the Tree Replacement Fund shall not be used on private property to meet any requirements for preservation, mitigation, landscaping, buffering, streetscaping, or similar requirements in the Wyoming Zoning Ordinance and the Wyoming City Code.

Secs. 40 - 557—40 - 559. Reserved

DIVISION 15. LIGHTING

Sec. 40 – 560. Purpose.

It is the purpose of this Division to encourage the use of lighting systems that will reduce light pollution and promote energy conservation while increasing nighttime safety, utility, security, and productivity.

Sec. 40 – 561. Exemptions.

The provisions of this section do not apply to the following:

(1) This section does not prohibit the use of temporary outdoor lighting used during customary holiday seasons.

(2) This section does not prohibit the use of temporary outdoor lighting used for civic celebrations and promotions.

(3) Lighting required by a governmental agency for the safe operation of airplanes, or security lighting required on governmental buildings or structures.

(4) Emergency lighting by police, fire, and rescue authorities.

Sec. 40 – 562. Non-Conforming Uses.

(5) All outdoor light fixtures existing and legally installed prior to the effective date of this Division are exempt from regulations of this section but shall comply with the Ordinance requirements for glare as follows:

(a) Any lighting used to illuminate an off-street parking area, sign or other structure, shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, where from floodlights or from high temperature processes such as combustion or welding shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights which cast light on a public street shall not exceed one (1) foot-candle (meter reading) as measured from the right-of-way line of said street. Any light or combination of lights which cast light on residential property shall not exceed four-tenths (0.4) foot-candles (meter reading) as measured from said property.

(b) Whenever a light fixture that was existing on the effective date of this Division is replaced by a new outdoor light fixture, the provisions of this Division shall be complied with.

Sec. 40 – 563. Intensity.

No light source or combination thereof which casts light on a public street shall exceed one (1) foot candle (meter reading) as measured from the right-of-way line of said street nor shall any light source or combination thereof which casts light on adjacent residential property exceed four-tenths (0.4) foot candles (meter reading) as measured at the property line per the method outlined in Sec. 40 – 564.

Sec. 40 – 564. Method of Measuring Light Intensity.

The foot-candle level of a light source shall be taken after dark with the light meter held six (6) inches above the ground with the meter facing the light source. A reading shall be taken with the light source on, then with the light source off. The difference between the two readings will be identified as the light intensity.

Sec. 40 – 565. Performance Standards.

(1) Residential/Public/Semi-Public District Standards.

(a) In all residential, public, and semi-public districts, any lighting used to illuminate a structure, an off-street parking area, of other area shall be arranged as to deflect light away from any adjoining residential property or from any public right-of-way. All lighting shall be installed in accordance with the following provisions:

1. The light source shall be hooded or controlled so as not to light adjacent property in excess of the maximum intensity defined by this Division.

2. Bare light bulbs shall not be permitted in view of adjacent property or public right-of-way, unless part of a permanent or decorative fixture.

(2) Business/Industrial District Standards.

(a) Any lighting used to illuminate a structure, an off-street parking area, or other area shall be arranged so as to deflect light away from any adjoining residential property or from any public right-of-way. All lighting shall be installed in accordance with the following provisions:

1. The luminaire shall contain a cutoff which directs and cuts off the light at an angle of ninety (90) degrees or less.

2. Light sources shall not be permitted so as to light adjacent property in excess of the maximum intensity defined in Sec. 40 – 563.

3. Architectural/historical light fixtures that feature globes that are not shielded, or lighting of entire facades or architectural features of a building may be approved by the City Council. In no case shall the light affect adjacent property in excess of the maximum intensity defined in Sec. 40 – 563.

4. The maximum height of the fixture and pole above the ground grade permitted for light sources is twenty-five (25) feet. A light source mounted on a building shall not exceed the height of the building. In no case shall the height of a light source mounted on a pole or on a building exceed the height limits of the zoning district in which the use is located, unless allowed by Conditional Use Permit.

5. Location.

   i The light source of an outdoor light fixture shall be setback a minimum of ten (10) feet from a street right-of-way and five (5) feet from an interior or rear lot line.

   ii No light source shall be located on the roof unless said light enhances the architectural features of the building and is approved by a Conditional Use Permit.

6. Hours

   i The use of outdoor lighting for parking lots serving commercial and industrial businesses shall be turned off one (1) hour after closing, except for approved security lighting.

   ii All illuminated on-premise signs for advertising purposes shall be turned off between 12:01 AM and sunrise except that said signs may be illuminated while the business facility on the premise is open for service.

7. Direct or reflected glare from high temperature processes such as combustion or welding shall not be visible from any adjoining property.

Sec. 40 – 566. Outdoor Recreation.

Outdoor commercial or public recreational uses such as, but not limited to, baseball fields, football fields, hockey rinks, and tennis courts have special requirements for night time lighting. Due to these unique circumstances, a Conditional Use Permit shall be required for commercial and public outdoor recreation use lighting systems which do not comply with the regulations of this section.

(1) No outdoor recreational facility whether public or private shall be illuminated after 11:00 PM, except for required security lighting.

(2) Off-street parking areas for outdoor recreation uses which are illuminated shall meet the requirements stated for business or industrial application as found in Sec. 40 – 565, (2).

(3) The provisions for a Conditional Use Permit, Article V, Division 6, are considered and satisfactorily met.

Sec. 40 – 567. Submission of Plans.

All applications, except single family residential, that include outdoor lighting must include evidence the proposed outdoor lighting will comply with this Division. The application shall contain the following information, in addition to all other required information:

(1) Site plans indicating the location on the premises of all illuminating devices, fixtures, lamps, supports, reflectors, and other lighting devices.

(2) Description of the type of illuminating devices, fixtures, lamps, supports, reflectors, and other lighting devices (angle or cutoff). The description shall include, but is not limited to, catalog cuts by manufactures and drawings (including sections where required).

(3) Photometric plans illustrating the light emissions, and illumination field of the proposed site lighting.

Secs. 40 - 568—40 - 569. Reserved

DIVISION 16. LOTS OF RECORD

Sec. 40 – 570. Lots of Record.

A lot of record is a lot which is part of a subdivision or plat, and Auditor's Subdivision or a Registered Land Survey or a parcel of land not so platted, which has been approved by the County or meets the following conditions:

(1) Was a separate parcel of record April 1, 1945, or the date of adoption of subdivision regulations under Laws 1945, Chapter 287, whichever is later, or of the adoption of subdivision regulations pursuant to a home rule charter;

(2) Was the subject of a written agreement to convey entered into prior to such time;

(3) Was a separate parcel of not less than two and one-half (2.5) acres in area and 150 feet in width on January 1, 1966;

(4) Was a separate parcel of not less than five (5) acres in area and 300 feet in width on July 1, 1980;

(5) Is a single parcel of commercial or industrial land of not less than five acres and having a width not less than 300 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five acres in area or 300 feet in width;

(6) Is a single parcel of residential or agricultural land of not less than 20 acres and having a width not less than 500 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than 20 acres in area or 500 feet in width;

(7) Was consistent with the nonconforming uses and lot size requirements of the Shoreland Management regulations in all shoreland areas.

Secs. 40 - 571—40 - 579. Reserved

DIVISION 17. MINERAL EXTRACTION

Sec. 40 – 580. Purpose.

The purpose of this Division is to protect the public health, safety and welfare through the following:

(1) Identify areas in the community where mineral extraction is most appropriate and minimizes conflicts with other land uses.

(2) Establish permitting requirements, environmental review procedures, and performance standards to regulate mineral extraction.

(3) Establish standards which prevent or minimize environmental and aesthetic impacts on extracted properties, adjacent properties, and the community as a whole.

(4) Establish standards and financial guarantees that restore extracted land to a condition compatible with adjacent properties and suitable for future uses which are compatible with the Wyoming City Comprehensive Plan.

Sec. 40 – 581. Definitions.

When used in this Division, the following terms shall have the meaning associated with them:

(1) Accessory Uses: Accessory uses of a mineral extraction facility include the manufacture, storage, and sale of products made from minerals.

(2) City: The City of Wyoming.

(3) Commission: The Planning Commission of the City of Wyoming.

(4) Comprehensive Plan: The City Wyoming Comprehensive Plan.

(5) Council: The City Council of the City of Wyoming.

(6) County: The County of Chisago, Minnesota.

(7) Dust: Airborne mineral particulate matter.

(8) Excavation: The movement of minerals on a site.

(9) Mineral: Sand, gravel, rock, soil, clay, and similar higher density non-metallic natural minerals.

(10) Mineral Extraction: The removal of minerals from the ground and off the site.

(11) Mineral Extraction Facility: Any area used for mineral extraction and processing minerals.

(12) Mineral Extraction Permit: The permit required for mineral extraction facilities.

(13) Operator: Any person or persons, partnerships, or corporations or assignees, including public or governmental agencies, engaging in mineral extraction.

(14) Principal Use: The principal use of a mineral extraction facility is the extraction, crushing, screen, mixing, storage, and sale of minerals from the facility.

(15) Processing: Any activity which may include the crushing, screening, mixing, and stockpiling of sand, gravel, rocks, or similar mineral products into consumable products such as fill, construction grade sand, gravel, roadway mixes, and other similar granular products.

(16) Rehabilitation: To renew land to self-sustaining long-term use which is compatible with contiguous land uses, present and future, in accordance with the standards set forth in this Ordinance.

(17) Soil: A natural three-dimensional body of the earth's surface.

(18) Subject Property: The land on which mineral extraction is permitted.

(19) Topsoil: The upper portion of the soils present that is the most favorable material for plant growth.

(20) Zoning Ordinance: The City of Wyoming Zoning Ordinance.

Sec. 40 – 582. Mineral Extraction Permit Required.

A mineral extraction permit is required for all mineral excavation facilities. A mineral extraction permit is a conditional use and shall be processed in accordance with Article VI, Division 6, of this Zoning Ordinance and the additional procedures and requirements of this Division. Mineral extraction permits may be issued only for properties within the (A) Agricultural District, and (R-2) Residential II District. Said permit shall include an operation plan for a three (3) year period after which a new plan shall be required. If the new plan is not filed, the Conditional Use Permit shall be revoked. The City Council may also require a performance bond from the landowner. Legal

nonconforming mineral extraction facilities expanding on new parcels after adoption of this Ordinance shall be required to obtain a Mineral Extraction Permit consistent with the provisions of this Ordinance.

Sec. 40 – 583. Exceptions from Permit Requirements.

A mineral extraction permit shall not be required for the following:

(1) Excavation for a structure if a building permit has been issued.

(2) Excavation in a right-of-way or utility corridor by state, county, or city authorities in connection with construction or maintenance of public improvements.

(3) Excavations not exceeding four hundred (400) cubic yards annually.

(4) Excavation for agricultural purposes.

(5) Excavation for public utility purposes.

Sec. 40 – 584. Permit Application Requirements.

Application form. An application for a mineral extraction permit shall be submitted to the City on a form supplied by the City. Information shall include but not be limited to the following:

(1) The following maps of the entire site and to include areas within five hundred (500) feet of the site. All maps shall be drawn at a scale of one (1) inch to one hundred (100) feet unless otherwise stated below:

(a) Map A: Existing conditions to include:

1. Property boundaries.
2. Contour lines at five (5) foot intervals.
3. Existing vegetation.
4. Existing drainage and permanent water areas.
5. Existing structures.
6. Existing wells and private sewer systems of record.
7. Existing pipelines, power lines, and other utilities.
8. Easements.

(b) Map B: Proposed operations to include:

1. Property boundaries.
2. Structures to be erected.
3. Location of sites to be mined showing depth of proposed excavation.
4. Location of tailings deposits showing maximum height of deposits.
5. Location of processing areas and machinery to be used in the mining operation.
6. Location of storage of mined materials, showing height of storage deposits.
7. Location of vehicle parking.
8. Location of storage of explosives.
9. Erosion and sediment control structures.
10. Haul routes.

(c) Map C: End use plan to include:

1. Property boundaries.
2. Final grade of proposed site showing elevations and contour lines at five (5) foot intervals.
3. Location and species of vegetation to be replanted.
4. Location and nature of any structure to be erected in relation to the end use plan.
5. Turf Rehabilitation Plan.
6. A soil erosion and sediment control plan.
7. A plan for dust, noise and smoke control.

8. A full and adequate description of all phases of the proposed operation to include an estimate of duration of the mining operation.

9. Any other information requested by the Planning Commission or governing body.

10. Name, address, phone number, contact person for the operator.

11. Name, address, phone number of the landowner.

12. Names of the adjacent landowners including all those within a one-quarter (1/4) mile radius of the boundary line of the subject property.

13. Acreage and complete legal description of the subject property on which the facility will be located, including all contiguous property owned by the landowners.

14. A narrative outlining the type of material to be excavated, mode of operation, estimated quantity of material to be extracted, plans for blasting, and other pertinent information to explain the request in detail.

15. Phasing plan and estimated timeframe to operate the facility.

16. A description of all vehicles and equipment estimated to be used in the operation of the facility, including a description of the estimated average daily and peak daily number of vehicles accessing the facility.

17. Any other information or documentation required for issuance of a Conditional Use Permit under Article V, Division 6 of the City of Wyoming Zoning Ordinance.

(2) Supporting Documentation. Every application for a mineral extraction permit shall include submission of supporting documentation which shall include, but is not limited to the following:

(a) A description of existing land uses on the subject property and all properties within one-quarter (1/4) mile.

(b) A description of land use designations in the Comprehensive Plan and zoning classifications of the subject property and all properties within one-quarter (1/4) mile.

(c) A description of the soil, vegetation, mineral content, and topography of the subject property. A minimum of three (3) soil boring logs representative of the site and a description of the subsurface materials on the subject property must be submitted.

(d) A general description of surface waters, existing drainage patterns and groundwater conditions within one-quarter (1/4) mile of the subject property.

(e) A general description of the depth, quantity, quality and intended uses of the mineral deposits on the subject property.

(f) Copies of the MPCA application documents and operating permits.

(g) A description of the site hydrology and drainage characteristics during extraction for each phase of mineral extraction. Identify any locations where drainage of any disturbed areas will not be controlled on the subject property and plans to control erosion, sedimentation and water quality of the runoff.

(h) A description of the potential impacts to adjacent properties resulting from mineral extraction and off-site transportation, including but not limited to noise, dust, surface water runoff, groundwater contamination, traffic and aesthetics.

(i) A description of the plan to mitigate potential impacts resulting from mineral extraction.

(j) A description of site screening, landscaping, and security fencing.

(k) Site rehabilitation plans for each phase of operation and upon completion of mineral extraction on the subject property.

(l) A description of the method in which complaints about any aspect of the mineral extraction facility operation or off-site transportation are to be received and the method which complaints are to be resolved.

(m) A plan for groundwater quality protection. A minimum of three (3) cross-sections showing the extent of overburden, extent of sand and gravel deposits, the water table, and any evidence of the water table in the past. The Planning Commission reserves the right to require additional borings if necessary.

Sec. 40 – 585. Application.

(1) A request for a mineral extraction permit, as provided within this Ordinance, shall be filed with the Zoning Administrator on an official application form, the required application fee shall be paid, and a deposit made to reimburse the City for its out-of-pocket costs in processing the application. The application shall also be accompanied by ten (10) copies of detailed written and graphic materials fully explaining the proposed change, development, or use as specified under

Sec. 40 - 584. The Zoning Administrator shall refer the application along with all related information, to the Planning Commission for consideration.

(2) The Zoning Administrator, on behalf of the Planning Commission, shall set a date for a public hearing. Notice of such hearing shall be published in the official newspaper of the City at least ten (10) days prior to the date of the hearing. Written notice of public hearing shall be sent to the governing bodies of the affected Cities and any municipalities located within two (2) miles of the affected property. Written notice shall also be sent to all property owners of record within five hundred (500) feet of the affected property. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bonafide attempt to comply with this subdivision has been made.

(3) Additional Information. The Planning Commission and the Zoning Administrator shall have the authority to request additional information from the applicant or to retain expert testimony with the consent and at the expense of the applicant if said information is declared to be necessary by the City to review the request or to establish performance conditions in relation to this Ordinance.

(4) Referrals. The Planning Commission, the Zoning Administrator, and City Council may refer the application for review and comment to other agencies, including but not limited to the Soil and Water Conservation District and the Minnesota Pollution Control Agency.

(5) Recommendation. The Planning Commission shall make a finding of fact and recommend such actions or conditions relating to the request to the City Council. The City may impose such additional restrictions or conditions as deemed necessary to protect the public interest. These conditions may include, but are not limited to the following:

(a) Matters relating to the appearance.

(b) Hours of operation.

(c) Increasing setbacks.

(d) Limiting the height, size, or location of buildings.

(e) Controlling the location and number of vehicle access points.

(f) Increasing street width and improving access conditions.

(g) Requiring diking, berming, fencing, screening, landscaping, or other facilities to protect adjacent or nearby property.

(h) Limiting the area to be mined.

(i) Requiring phased rehabilitation.

(j) Requiring financial security to guarantee compliance with the conditions of approval.

(k) Water quality monitoring.

(6) City Council Action and Findings. The City Council shall approve, modify, or deny the request and state the findings of its actions. Approval of a Mineral Extraction Permit shall require passage by majority vote of the full City Council. The Zoning Administrator shall notify the applicant of the City Council's action.

(7) Reapplication/Lapse of Mineral Extraction Permit. Reapplication for the same or substantially same Mineral Extraction Permit shall not be accepted within six (6) months of denial by the City. Any Mineral Extraction Permit approved but not used within twelve (12) months of the date of approval shall be null and void.

(8) Amended Mineral Extraction Permit. Any change to the approved Mineral Extraction Permit shall require an amended Mineral Extraction Permit. Any expansion beyond the original boundaries shall not be considered an amended permit and shall require a new Mineral Extraction Permit.

Sec. 40 – 586. Security.

The City shall require the applicant or owner of the property on which the mineral extraction is occurring, to post a bond, letter of credit or cash escrow in such form and sum as determined by the City as part of the permit. The security shall be sufficient to reimburse the following costs:

(1) Costs of bringing the operation into compliance with the mineral extraction permit requirements, including site monitoring and enforcement costs.

(2) Extraordinary costs of repairing roads due to the special burden resulting from the hauling of materials and traffic associated with the operation. The amount of such cost shall be determined by the City Engineer.

(3) Costs of reclamation should the permitee fail to execute any part of a reclamation plan as required within this Ordinance or as a condition in the permit.

(4) Costs the City may incur in enforcing the terms of the Mineral Extraction Permit, including attorney's fees.

Sec. 40 – 587. Annual certification.

Annual certification of all mineral extraction permits is required. The purpose of the annual certification is to maintain an updated listing of active permits in the City, to decertify any permits where the activity has ceased, and to monitor compliance with the conditions of approval. Permit holders must complete and return certification forms provided by the City. Failure to maintain certification shall be cause for revocation of the permit.

Sec. 40 – 588. Use Restrictions.

The following uses are prohibited unless specifically authorized in the mineral extraction permit.

(1) The crushing, washing, refining, or processing other than the initial removal of material shall be considered a Conditional Use.

(2) The production or manufacturing of veneer stone, sills, lintels, cut flagstone, hearthstones, paving stone and similar architectural or structural stone, and the storing or stockpiling of such products on the site.

(3) The manufacture of concrete building blocks or other similar blocks, the production or manufacture of lime products, the production of ready-mixed concrete, asphalt and any similar production or manufacturing processes.

(4) The City may impose additional performance standards as part of the Conditional Use Permit.

Sec. 40 – 589. Mineral Extraction Performance Standards.

The following performance standards apply to all mineral extraction facilities in the City:

(1) Minimum Lot Size. The minimum lot size for which mineral extraction permits may be issued is twenty (20) acres.

(2) Hours of Operation. Mineral extraction facilities shall operate only between the hours of 6:00 a.m. and 8:00 p.m., Monday through Saturday.

(a) Operators are allowed a maximum of five (5) one-day extensions to the hours of operation for evening work in a calendar year. Operators must notify the City in advance of the proposed extension.

(b) Other exceptions to the hours of operation must be approved by the City. Approval may only be granted in conjunction with the furnishing of material for a public improvement project that is underway during hours that the mineral extraction facility is not otherwise allowed to operate. Approval will be limited to those functions that cannot occur during normal hours of operation.

(c) Other exceptions approved by the City Council.

(3) Fencing. Fencing, signs, and barriers are required around ponding areas and steep sloped excavation areas unless, because of their location, they are not deemed to create a safety hazard.

(4) Access. The location of the intersection of mining access roads with any public roads shall be selected such that traffic on the access roads will have a sufficient distance of the public road in view so that any turns onto the public road can be completed with a margin of safety.

(5) Roadway Dust Control. Operators shall be responsible for providing dust control on all gravel roads used by trucks hauling to or from a mineral excavation facility. Unless waived by the City Council in lieu of other remedies, watering roadways will be required when conditions warrant it.

(6) Mineral Extraction Facility Dust Control. The City may require watering in a facility when it is determined that airborne dust from extraction areas, processing activities, stockpiles or internal roadways creates a public nuisance. Other remedies to control dust may include berming, landscaping, and enclosures for processing equipment. All equipment used for mining operations shall be constructed, maintained, and operated in such a manner as to minimize dust conditions, as far as practicable. All access roads from mining operations to public highways, roads, or streets, or to adjoining property shall be paved or surfaced with gravel to minimize dust conditions.

(7) Noise. Maximum noise levels at the facility will be consistent with the standards established by the Minnesota Pollution Control Agency.

(8) Vibration. Operators shall use all practical means to eliminate adverse impacts on adjacent properties from vibration of equipment.

(9) Air Quality/Water Quality. All activities on the subject property will be conducted in a manner consistent with the Minnesota Pollution Control Agency's operating permits.

(10) Water Resources. The mineral extraction operation shall not allow surface water to leave the site in a manner that causes flooding, erosion, or alteration of natural drainage patterns. The mineral extraction operation shall not adversely affect the quality of surface or subsurface water. Surface water originating outside and passing through the mineral extraction facility shall, at its point of departure from the mining site, be of equal quality to the water at the point where it enters the mining site. The operator shall perform any water treatment necessary to comply with this provision.

(11) Screening

(a) To minimize problems of dust and noise and to shield mining operations from public view, a screening barrier may be required between the mining site and adjacent residential and commercial properties if deemed necessary by the Planning Commission. A screening barrier shall also be maintained between the mining site and any public road within five hundred (500) feet of any mining or processing operations. The screening barrier shall be planted with a species of fast growing trees such as green ash.

(b) Existing trees and ground cover along public road frontage shall be preserved, maintained (and supplemented), for the depth of the roadside setback except where traffic safety requires cutting and trimming.

(12) Unauthorized Storage. Vehicles, equipment, or materials not associated with the mineral extraction facility or not in operable condition may not be kept or stored at the facility, except as specifically authorized in the Mineral Extraction Permit.

(13) Setbacks.

(a) Processing of minerals shall not be conducted closer than one hundred (100) feet to the property line nor closer than five hundred (500) feet to any residential or commercial structures located prior to commencement of processing operations.

(b) Mining operations shall not be conducted closer than thirty (30) feet to the boundary of any zone where such operations are not permitted, nor shall such production or processing be conducted closer than thirty (30) feet to the boundary of an adjoining property line.

(c) Mining operations shall not be conducted closer than thirty (30) feet to the right-of-way line of any existing or platted street, road or highway, except that excavating may be conducted within such limits in order to reduce the elevation thereof in conformity to the existing or platted street, road or highway.

(d) In addition to the minimum setbacks listed in Items (a), (b), and (c) above, the top of cut slopes shall not be made nearer to a site boundary line than one fifth of the vertical height of the excavation.

(e) In addition to the minimum setbacks listed in Items (a), (b), and (c) above, the toe of a mineral stockpile shall be made not nearer than one half the height the height of the slope.

(f) Where mineral extraction is to be located near the site boundary and the adjacent off-site property is developed, special precautions shall be incorporated in the work as the City Engineer deems necessary to protect the adjoining property from damage a result of such work. These precautions may include but are not limited to:

1. Additional setbacks.
2. Provision for retaining or slough walls.
3. Mechanical or chemical treatment of the fill slope surface to minimize erosion.
4. Provisions for the control of surface waters.

(14) Phasing. Phasing plans must be prepared for all mineral extraction facilities. The plans shall include the details and schedule for rehabilitation in the transition of one phase to another.

(15) Minimum Disturbance. Existing trees and ground cover outside of mineral extraction areas shall be preserved to the maximum extent possible.

(16) Weed Control. The operators shall be required to control noxious weeds and mow or harvest other vegetation to maintain reasonable appearance of the site.

(17) Waste Disposal. Any waste generated from the mining operation, including waste from vehicle or equipment maintenance, shall be disposed of in accordance with Federal, State, and County requirements.

(18) Recycled Concrete and Asphalt. The importation of recycled concrete and asphalt may be considered an accessory use, at the discretion of the City Council, provided also that it is processed and prepared for construction reuse or sale.

(19) General Compliance. The operators must comply with all other federal, state, regional, county, and local laws and regulations applicable to the operation of the mineral extraction facility, including but not limited to floodplain management regulations, shoreland management regulations, and zoning ordinance regulations.

(20) Additional Regulations. The City may impose additional regulations and requirements to the mineral extraction permit to protect the public health, safety, and welfare.

Sec. 40 – 590. Land Rehabilitation Plans.

Land rehabilitation plans for mineral extraction permits must include the grading plans, topsoil replacement, seeding, mulching, erosion control, and sedimentation control specifications for each phase and the final site restoration. The following minimum standards and conditions apply:

(1) Final grades may not exceed a 3:1 ratio (33% slope), except for rehabilitated areas in existence at the time of adoption of this Ordinance. In completing final grading in each phase, the top of the slope may begin twenty (20) feet from property lines.

(2) A minimum of three (3) inches of topsoil shall be placed on all graded surfaces.

(3) Seeding and mulching shall be consistent with Minnesota Department of Transportation specifications for rights-of-way. Exceptions to seeding and mulching include areas returned to agricultural production.

(4) Soil restoration, seeding, and mulching must occur within each phase as soon as final grades, or interim grades identified in the phasing plans, have been reached. Exceptions to seeding and mulching include the processing, storage, and staging areas within each phase.

(5) Soil erosion and sedimentation control measures shall be consistent with MPCA's “Protecting Water Quality in Urban Areas.”

(6) Unless otherwise amended or approved by the City, all final grades and site restoration efforts shall be consistent with the Rehabilitation Plan.

(7) Within six (6) months after completion of mineral extraction or after termination of the permit, all equipment, vehicles, machinery, materials, and debris shall be removed from the subject property.

(8) Within twelve (12) months after completion of mineral extraction or after termination of the permit, site rehabilitation must be completed.

(9) All water areas resulting from excavation shall be eliminated upon rehabilitation of the site. In unique instances where the City Council has reviewed proposals for water bodies at the time of approval of the overall plan and has determined that such would be appropriate as an open space or recreational amenity in subsequent reuse of the site, water bodies may be permitted.

Secs. 40 -591—40 - 599. Reserved

DIVISION 18. MOTOR VEHICLE DEALERSHIP

Sec. 40 – 600. Purpose.

The purpose of this Division is to allow for automobile dealerships and open automobile sales lots to be established in appropriate areas and developed in a manner as to not adversely impact surrounding land uses and the public safety.

Sec. 40 – 601. Conditional Use Permit Required.

A Conditional Use Permit shall be required for the establishment or operation of an automobile dealership. All conditional uses shall be subject to the requirements of this Division and Article V, Division 6 of this code.

Sec. 40 – 602. Surface Drainage Plans and Improvements.

A drainage plan shall illustrate all paved area surface drainage flows including final deposition of runoff water. Catch basins and/or settling ponds shall be required to dispose of interior parking or display area drainage. Drainage plans must be approved by the City Engineer.

Sec. 40 – 603. Lot Requirements.

(1) Contiguous Site. Motor vehicle sales shall be on one (1) lot or contiguous lots not separated by a public street, alley, or other use.

Sec. 40 – 604. Access Driveways.

(1) Distance of Driveway from Street Intersection. The distance of the driveway from the street intersection shall not be less than fifty (50) feet, provided however, greater distances may be required to avoid reasonably anticipated traffic hazards.

(2) Minimum Distance between Driveways. Minimum distance between driveways shall be one hundred (100) feet at the curb cut.

(3) Minimum Driveway Angle to Street. Minimum driveway angle to street shall be sixty (60) degrees, unless otherwise approved by the City Engineer.

(4) Minimum distance between driveway and adjacent property shall be ten (10) feet at the curb cut.

(5) No driveway shall exceed twenty-five (25) feet in width, and no curb cut shall exceed thirty-two (32) feet in width.

(6) All access must conform with City guidelines pertaining to Highway 8 access and frontage roads.

Sec. 40 – 605. Screening.

A screen shall be erected and maintained along all property lines separating institutional, residential dwelling or business and professional office district or use. The screening required in this Section shall be not less than five (5) feet in height.

Sec. 40 – 606. Landscaping.

A landscaped yard shall be constructed and maintained on all areas of the site not devoted to the building or parking areas.

Sec. 40 – 607. Curbing.

Interior concrete or asphalt curbs shall be constructed within the property to separate driving and parking surfaces from landscaped areas. Interior curbs required by this Division shall be nominal six (6) inches in height.

Sec. 40 – 608. Surfacing.

The entire site on which motor vehicle sales is located, other than that devoted to buildings and structures or landscaped areas, shall be concrete or blacktopped before operation of the business begins.

Sec. 40 – 609. Parking.

(1) Parking. A minimum of a twenty-five (25) foot wide landscaped yard shall be required and maintained between any public street right-of-way and parking lots or buildings.

(2) Customer Parking. A minimum of sixteen (16) customer parking spaces shall be provided for every acre of total site area in a business district, and in addition, three (3) spaces for each one thousand (1000) square feet of gross floor area.

(3) Employee Parking. A minimum of two (2) employee parking spaces shall be provided for every three (3) employees.

Sec. 40 – 610. Signage.

Signs must comply with Article VII, Division 28.

Sec. 40 – 611. Lighting

The lighting shall be designed so as to have no direct source of light visible from the public right-of-way or adjacent land in residential use. See also Article VII, Division 15.

Secs. 40 - 612—40 - 619. Reserved

DIVISION 19. MOTOR VEHICLE REDUCTION / SALVAGE YARDS

Sec. 40 – 620. Purpose.

The purpose of this Division is to provide for automobile reduction/salvage yards in appropriate areas and establish performance standards to minimize visual impacts of such uses from adjacent properties and public rights-of-way.

Sec. 40 – 621. Conditional Use Permit Required.

A Conditional Use Permit is required for the establishment or operation of any automobile reduction/salvage yard in the City's Industrial (I) District. All conditional uses shall be subject to the requirements of this Division and Article V, Division 6 of this code.

Sec. 40 – 622. Operation Plan.

Operation shall be in accordance with an approved plan which shall become part of the zoning permit.

Sec. 40 – 623. Location.

Automobile reduction/salvage yards shall be located in accordance with the following:

(1) The site shall not be located within one thousand (1,000) feet of any public park.

(2) The site shall not be within four (4) miles of any other automobile reduction/salvage yard.

(3) The screened area must not be within one (1) mile of U. S. Highway 8 and six hundred sixty (660) feet from any state or county highway, or three hundred thirty (330) feet from any federal highway.

(4) The screened area must be a minimum of three hundred thirty (330) feet from any residential dwelling.

Sec. 40 – 624. Area.

The minimum site area shall be ten (10) acres.

Sec. 40 – 625. Automobile Reduction/Salvage Yards.

All automobile reduction/salvage yards shall be considered as and shall be subject to all provisions for industrial uses.

Sec. 40 – 626. Screening.

All automobile reduction/salvage yards shall be screened from view from all federal, state, and county roads, and from all parks and residences. All automobile reduction/recycling yards shall be screened from view from all federal, state, county, and city roads. A one hundred percent (100%) opaque fence must be constructed on all property boundaries for screening, to a maximum height of twelve (12) feet. Vehicles may not be stacked above the fence line.

Secs. 40 - 627—40 - 629. Reserved

DIVISION 20. MOTOR VEHICLE SERVICE STATIONS

Sec. 40 – 630. Drainage and Site Plans.

A drainage system, subject to approval by the City Engineer shall be installed. The entire site other than that taken up by a structure or planting, shall be surfaced with concrete or bituminous surface or other material approved by the Planning Commission. Pump islands shall not be placed in the required yards. The area around the pump island to a distance of eight (8) feet on each side shall be concrete. A box curb not less than six (6) inches above grade shall separate the public right-of-way from the motor vehicle service areas, except at approved entrances and exits. No driveways at a property line shall be less than fifty (50) feet from the intersection of two (2) street right-of-way lines. Each service station shall have at least two (2) driveways with a minimum distance of one hundred (100) feet between centerlines when located on the same street.

Sec. 40 – 631. Parked Vehicles.

No vehicles shall be parked on the premises other than those utilized by employees or awaiting service. No vehicle shall be parked or be awaiting service longer than five (5) days.

Sec. 40 – 632. Exterior Storage.

Exterior storage, besides vehicles, shall be limited to service equipment and items offered for sale on pump islands exterior storage of items offered for sale shall be within yard setback requirements and shall be located in containers such as the racks, metal trays and similar structures designed to display merchandise

Sec. 40 – 633. Storage Areas.

All areas utilized for the storage of vehicles and storage shall be fully screened. In no case shall the total area of exterior storage exceed ten percent (10%) the total lot area. All structures and ground shall be maintained in an orderly, clean, and safe manner.

Sec. 40 – 634. Related Business Activities.

Business activities not listed in the definition of service stations in this Ordinance are not permitted on the premises of a service station unless a Conditional Use Permit is obtained specifically for such business. Such activities include but are not limited to the following:

(1) Automobile car and truck wash. (These must comply with MPCA requirements.)

(2) Rental of vehicles, equipment, or trailers.

(3) General retail sales.

Sec. 40 – 635. Access to any Service Stations.

The access to any service stations within the proximity of U.S. Highway 8 must conform to any City guidelines pertaining to U. S. Highway 8 access.

Sec. 40 – 636. Lighting.

The lighting shall be designed so as to have no direct source of light visible from the public right-of-way or adjacent land in residential use. See also Article VII, Division 15.

Secs. 40 - 637—40 - 639. Reserved

DIVISION 21. NATURAL RESOURCE MANAGEMENT REQUIREMENTS

Sec. 40 – 640. Vegetation Removal.

The removal of vegetation for development purposes or harvesting of timber is regulated as follows:

(1) Development of property shall be in accordance with Article VII, Division 14, Landscaping / Woodland Preservation.

(2) Structures shall be located in such a manner that the maximum number of trees shall be preserved.

(3) Forestation, reforestation, or landscaping shall utilize a variety of tree species and shall not utilize any species presently under disease epidemic. Species planted shall be hardy under local conditions and compatible with the local landscape.

(4) Development, including grading and contouring shall take place in such a manner that the remaining trees and other vegetation shall be minimally affected.

Sec. 40 – 641. Drainage Requirements.

The following requirements shall apply when any development activity has the potential for impacting the natural or artificial drainage systems of the area.

(1) Engineer Approval: In the case of all residential, business, industrial and institutional developments; the drainage and erosion control plans shall be subject to the engineer's written approval. No modification in grade and drainage flow through fill, cuts, erection of retaining walls, or other such actions shall be permitted until such plans have been reviewed and received written approval from the City Engineer.

(2) No land shall be developed or altered and no use shall be permitted that results in surface water run-off causing unreasonable flooding, erosion, or deposit of minerals on adjacent properties or waterbodies.

(3) Such run-off shall be properly channeled into a storm drain, a natural watercourse or drainageway, a ponding area or other public facility subject to the review and approval of the City Engineer.

(4) Run-off channeling must be completed within one growing season of disturbance to the drainage system.

Sec. 40 – 642. Surfacewater Management.

Stormwater shall be managed in accordance with Wyoming Township Surface Water Management Plan (when applicable), the Nationwide Urban Runoff Program (NURP) standards for the design of new stormwater ponds and the Minnesota Pollution Control Agency's publication "Protecting Water Quality in Urban Areas", as may be amended, or as approved by the City Engineer and as applicable, with the management plan for the Comfort Lake / Forest Lake Watershed District.

(1) Stormwater Management: All residential, commercial, industrial, and institutional developments shall satisfy the provisions of the City's Subdivision Ordinance in regard to stormwater management.

(2) Existing natural drainageways, natural water storage retention areas, and vegetated soil surfaces should be used to the greatest extent possible to store, filter and retain stormwater runoff before discharge occurs into any public waters

(3) When natural features and vegetation are not available to handle stormwater runoff, constructed facilities such as diversions, settling basins, skimming devices, dikes and manmade waterways and ponds may be used. Preference shall be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and manmade materials and facilities.

(4) Shoreland regulations shall follow Article VI, Division 16.

Sec. 40 – 643. Wetland Protection and Management.

Wetlands shall be protected and managed in accordance with the Wetland Conservation Act of 1991, as amended.

Sec. 40 – 644. Erosion and Sedimentation Control.

No land occupant or developer in the City shall cause or conduct any land disturbing activity which causes excessive erosion or sedimentation, or which results in damage to water or soil resources. All development in the City shall conform to the natural limitations presented by the topography and soil types in order to minimize soil erosion and sedimentation. Every applicant for a building permit, subdivision approval, or a grading permit to allow land disturbing activities shall adhere to erosion control measure standards and specifications contained in the MPCA's "best management practices".

(1) Approval of Erosion Control Measures: Proposed erosion control measures shall be approved by the City Engineer as a part of the grading plan review. Erosion control may be specified by the City Engineer as part of a site survey for individual building permits. Erosion control measures may also be specified by the City Engineer as needed and deemed appropriate during the construction and post-construction periods separate from the above.

(2) Storm Sewer Inlets: All storm sewer inlets which are functioning during construction shall be protected so that sediment laden water not enter the conveyance system without first being filtered or otherwise treated to remove sediment.

(3) Stormwater Channels: All on-site stormwater conveyance channels shall be designed and constructed to withstand the design volume of stormwater with appropriate stabilization to prevent scour and erosion. Erosion controls must be provided at the outlets of all storm sewer pipes.

(4) Sediment Control Practices: All temporary and permanent erosion and sediment control practices shall be maintained and repaired to assure the continued performance of their intended function.

(5) Seeding: All disturbed ground left inactive for seven (7) or more days shall be stabilized by seeding or sodding or by mulching or covering or other equivalent control measure.

(6) Removal: All temporary erosion control devices including silt fence, gravel, hay bales, or other measures shall be removed from the construction site and properly disposed of or recycled. This removal and disposal must occur within thirty (30) days of the establishment of permanent vegetative cover on the disturbed area.

(7) Site Dewatering: Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-cyclones, swirl concentrators or other appropriate controls as appropriate. Water may not be discharged in a manner that causes erosion or flooding of the site or receiving channels of a wetland. All dewatering shall be in accordance with all applicable county, state, and federal rules and regulations. Minnesota Department of Natural Resources regulations regarding appropriate permits shall also be strictly adhered to.

(8) Waste and Material Disposal: All waste and unused building materials (including garbage, debris, cleaning wastes, waste water, toxic materials or hazardous materials) shall be properly disposed of off site and not allowed to be carried by runoff into a receiving channel or storm sewer system.

(9) Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday.

(10) Areas where natural vegetative barriers are not sufficient to contain erosion and sedimentation from water bodies, wetlands, watercourses, or neighboring properties shall be staked with silt fences and straw bales.

(11) Land disturbing activities shall occur in increments of workable size such that adequate erosion and sediment controls can be provided throughout all phases of the development. The smallest practical area of land shall be exposed or disturbed at any one period of time.

Sec. 40 – 645. Developments.

(1) Developments shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion.

(2) Erosion and siltation control measures shall be coordinated with the different stages of construction. Appropriate control measures shall be installed prior to development when necessary to control erosion.

(3) Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.

(4) When soil is exposed, the exposure shall be for the shortest feasible period of time, as specified in the development agreement.

(5) Where the topsoil is removed, sufficient topsoil shall be set aside for respreading over the developed area. Topsoil shall be restored or provided to a minimum depth of four inches (4") and shall be of a quality at least equal to the soil quality prior to development.

(6) Natural vegetation shall be protected wherever practical.

(7) Runoff water shall be diverted to a sedimentation basin before being allowed to enter the natural drainage system.

Sec. 40 – 646. Building Construction.

(1) Silt fence. All contractors or persons operating under a building permit for new construction shall install a silt fence and a temporary rock driveway at the building site on a timely basis. A detail drawing showing the required silt fence and driveway installation shall be attached to the building permit. The zoning administrator may waive these requirements upon the written recommendation of the building inspector and/or city engineer. Contractors or other persons operating under a building permit for any reason shall access the building site for which such permit was issued only from publicly dedicated rights-of-way and not from adjoining property. If the contractor or person operating under the building permit does not meet the requirements of this section, the building inspector may red tag the building site; and no further work may be done at the site until silt fence and a temporary rock driveway are installed.

(2) Escrow. Each applicant for a building permit for new construction shall deposit with the city as an escrow (the "building permit escrow") an amount stated in appendix A for any expense incurred by the city for the prevention, repair or

removal of damage to any city streets, curbs, utilities, drainage pipes or catch basins or any other city property or facility at or near the building site. The term "damage" also includes but is not limited to sand, dirt, gravel and any other kind of building material left in the street right-of-way. The zoning administrator, at his discretion, may likewise require all other applicants for building permits (building permits for the alteration, repair, enlargement, or removal of buildings) to deposit with the city the building permit escrow. The entire building permit escrow will be returned to any applicant if no damage to city property results from construction methods, grading, trenching, or deliveries and if the city has incurred no expense or cost to prevent, or remove repair damages. The city reserves the right to retain all or part of the building permit escrow for payment of prevention, repair, or removal of damage. The city also reserves the right to seek reimbursement from the applicant for any expenses or costs actually incurred by the city in excess of the building permit escrow for the prevention or repair of such damage. A certificate of occupancy will not be issued for a structure or property until the city has been reimbursed for all of the expenses and costs incurred by the city in excess of the building permit escrow for the prevention or repair of damages related to the property. The city may modify the building permit escrow by motion of the city council.

(3) Sodding. In order to minimize the damage caused to the city's storm sewer system by unnecessary erosion from building sites, all contractors or persons operating under a building permit for new construction shall, within 60 days of the issuance of such permit, sod all portions of the construction site which adjoin a dedicated and improved city street to a distance of four feet from the curb on such street. Such sodding shall be replaced as necessary during the construction process in order to carry out the intent of this section and shall remain in place until such time as an established lawn has been constructed on the site. The building permit escrow shall apply to the requirements of this section.

Sec. 40 – 647. Stop Work Order.

The City's Building Official or City Engineer may issue stop work orders for any violation of this Division.

Secs. 40 - 648—40 - 649. Reserved

DIVISION 22. NONCONFORMITIES

Sec. 40 – 650. Purpose.

It is the purpose of this Division to provide for the regulation of nonconforming buildings, structures, and uses and to specify those requirements, circumstances, and conditions under which nonconforming buildings, structures, and uses will be operated and maintained. The Zoning Ordinance establishes separate districts, each of which is an appropriate area for the location of uses which are permitted in that district. It is necessary and consistent with the establishment of these districts that nonconforming buildings, structures and uses not be permitted to continue without restriction. Furthermore, it is the intent of this Division to provide for the gradual elimination of nonconformities.

Sec. 40 – 651. General Provisions.

(1) Any structure or use lawfully existing upon the effective date of this Ordinance shall not be enlarged, but may be continued at the size and in the manner of operation existing upon such date except as hereafter specified or, subsequently amended.

(2) No nonconforming building, structure or use shall be moved to another lot or to any other part of the parcel, land upon which the same was constructed or was conducted at the time of this Ordinance adoption unless such movement shall bring the nonconformance into compliance with the requirements of this Ordinance.

(3) When any lawful nonconforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any nonconforming use.

(4) A lawful nonconforming use of a structure or parcel of land may be changed to lessen the nonconformity of use. Once a nonconforming structure or parcel of land has been changed, it will not thereafter be so altered to increase the nonconformity.

(5) If at any time a nonconforming building, structure or use shall be destroyed to the extent of fifty percent (50%) or more of its fair market value, said value to be determined by the County Assessor, then without further action by the City, the building and the land on which such building was located or maintained shall, from and after the date of said destruction, be subject to all the regulations specified by these zoning regulations for the district in which such land and buildings are located. Any building which is damaged to an extent of less than fifty percent (50%) of its value may be restored to its former size, but may not be enlarged.

(6) Whenever a lawful nonconforming use of a structure or land is discontinued for a period of one (1) year or following written notice from the Zoning Administrator, any future use of said structure or land shall be made to conform with the provisions of this Ordinance.

Sec. 40 – 652. Substandard Lots.

The minimum lot area requirements are set forth within the district provisions of the ordinance. Any lot not meeting the minimum requirements of the district it is located in, which was recorded after April 20, 1970, shall be considered a substandard lot.

A substandard lot may be allowed as a building site provided that all the following criteria are met:

(1) The lot is a lot of record recorded at the Chisago County recorder's office, prior to April 20, 1970.

(2) The lot is in separate ownership from abutting lands.

(3) The lot width or area is within sixty percent (60%) of the minimum requirements set forth in this Ordinance.

(4) The lot can be served by a standard on-site sewage system, or municipal sewer.

(5) All required setbacks for a structure can be met.

Sec. 40 – 653. Substandard Lots of Record in Combination.

If two or more lots or a combination of lots and portions of lots with continuous frontage of single ownership are of record at the time of passage or amendment of this Ordinance and if all or part of the lots with no buildings do not meet the requirements established by this Ordinance, for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division or any parcel be made which creates a lot with a width or area below the requirements stated in this Ordinance.

Sec. 40 – 654. Substandard Lots: Accessory Structures.

(1) Substandard lots containing a principal structure may add a permitted accessory structure, provided the accessory structure will meet all minimum setback requirements of this Ordinance, and will not cause the maximum percentage of lot area under roof requirement to be exceeded.

(2) Additions to principal and/or accessory structures located on substandard lots may be permitted, provided that any such additions will meet the minimum setback standards for the zone in which it is located.

Sec. 40 – 655. Uses under Conditional Use Permits.

Any use which is permitted as a conditional use in a district under the terms of this Ordinance shall not be deemed a non-conforming use in such district, but shall without further action be considered a conforming use.

Sec. 40 – 656. Maintenance of Non-Conforming Structures.

Normal maintenance of a building or other lawful non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not physically extend or intensify the nonconforming use, providing the necessary repairs shall not constitute fifty percent (50%) or more of fair market value of such structure. Said value shall be determined by the County Assessor.

Sec. 40 – 657. Alterations of Non-Conforming Structures.

Alterations may be made to a building or other lawful nonconforming residential units when they will improve the livability thereof, provided they will not increase the number of dwelling units or size or volume of traffic.

Sec. 40 – 658. Non-Conforming Structures in Progress at Time of Adoption.

Any proposed structure which will, under this Ordinance, become nonconforming but for which a building permit has been lawfully granted prior to the effective date of this Ordinance, may be completed in accordance with the approved plans.

Secs. 40 - 659—40 - 669. Reserved

DIVISION 23. OFF-STREET PARKING, LOADING, AND STORAGE

Sec. 40 – 670. Purpose.

It is the purpose of this Division to provide for the regulation of and design standards for off-street parking facilities within the City, to minimize congestion on the public right-of-ways, and to maximize the safety and general welfare of the public.

Sec. 40 – 671. Scope of Regulations.

No provision of any Article and Division of this Ordinance shall be less restrictive than those outlined in this Division. The off-street parking requirements and off-street loading requirements of this Division shall apply within all zoning districts.

Sec. 40 – 672. Calculating Space.

(1) Where calculations result in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.

(2) The term "Floor area" for the purpose of calculating the number of off-street parking spaces required shall be determined on the basis of the exterior floor area dimensions of the building structure or use times the number of floors, minus ten percent (10%).

(3) Should a building or structure contain two (2) or more types of uses, each should be calculated separately for determining the total off-street parking spaces required.

(4) The parking requirements for a use not specifically mentioned herein shall be the same as required for a use of similar nature as determined by the Planning Commission.

Sec. 40 – 673. Site Plan.

Except for single family dwellings, all applications for a building permit shall be accompanied by a site plan drawn to scale and dimensioned indicating the location of all off-street parking and loading spaces in compliance with the requirements of this Division. Such plan shall be reviewed by the Zoning Administrator in accordance to the criteria developed in Sec. 40 – 674. The site plan should include at least the following:

(1) Zoning, setbacks, and statement of use.

(2) North point and scale.

(3) All adjacent streets and alleys.

(4) Sidewalks, curbs, gutters, and street trees.

(5) Entire ownership of lot or parcel being developed.

(6) Completely dimensioned parking layouts.

(7) All parking spaces clearly marked.

(8) Owner's name and current address.

(9) The type and thickness of the paving.

Sec. 40 – 674. Site Plan Criteria.

Upon review by the Zoning Administrator, the plan for off-street parking shall meet the following site design standards:

(1) All areas devoted for parking space and driveways shall be surfaced with materials suitable to control dust and drainage as determined by the Zoning Administrator. All parking areas shall be designed to control surface runoff to adjacent properties with either curbing or grading techniques.

(2) All off-street parking areas shall be so designed and constructed that no part of any vehicle parked or access lanes be nearer than two (2) feet from the property line, unless a more restrictive setback distance is required by this ordinance.

(3) Any lighting used to illuminate off-street parking areas shall be directed away from abutting property and public right-of-way.

(4) No sign shall be so located as to restrict the sight, orderly operation, and traffic movement within any parking area.

(5) All parking lots with spaces for four (4) or more cars shall be screened and landscaped from abutting residential uses or districts by a wall, fence, or densely-planted compact hedge or tree cover not less than four (4) feet in height.

(6) The parking area shall meet the minimum design standards, and number of stalls required within this Section.

Sec. 40 – 675. Reduction and Use of Parking and Loading Space.

Off-street parking and loading facilities provided to comply with the provisions of this Ordinance shall not subsequently be reduced below the requirements of this Ordinance. No change of use or occupancy of land, or of use or occupancy of any building shall be made until there is furnished sufficient parking and loading space as required by this Division. In such case where reconstruction enlarges bulk or floor area or other such measurable unit prescribed in this Ordinance, parking and loading facilities shall be provided for that measurable unit beyond the original type use of structure.

Sec. 40 – 676. Parking of Large Vehicles or Equipment.

Except as provided below, it shall be illegal to park or store, or permit to be parked or stored on residential property any truck licensed for more than 12,000 ~~9,000~~ pounds gross vehicle weight, a truck-tractor, a semi-trailer or other large mobile equipment.

(1) Parking of Large Vehicles or Equipment.
No large vehicles, or equipment, exceeding twelve ~~nine~~ thousand (12,000 ~~9,000~~) pounds gross weight, shall be parked, stored, or otherwise continued in a residential district (Except as permitted in all zoning districts pursuant to Article VII, Division 11, and except as permitted in the (A) Agricultural District pursuant to Sec. 40 – 174, (4)) unless they are being used in conjunction with a legitimate service being rendered for the benefit of the residential premises.

(2) The City may grant a conditional use permit to allow the parking or storage of otherwise prohibited vehicles if the vehicle is owned or operated by a resident of the property, such vehicles are not parked or stored within 350 feet of a neighboring dwelling unit, and such use will not unreasonably impact surrounding property owners.

(3) Vehicles currently licensed as recreational vehicles are exempt from this Division, provided they meet the criteria of Sec. 40 – 677.

(4) Commercially licensed tax-exempt passenger buses are not subject to the provisions of this Division, when there is no more than one such vehicle per lot.

Sec. 40 – 677. Parking of Recreational Vehicles & Placement Thereof.

(1) Definition. Major recreational equipment shall include, but not be limited to: travel trailers, converted buses, coaches, pickup campers, motorized dwellings, racecars, and dune buggies. It shall not include vehicles which are used predominantly for domestic or employment-related transportation.

(2) Standards. Major recreational equipment in a residential district shall conform to the following standards:

(a) No major recreational vehicle shall be used for living, sleeping, or housekeeping purposes on the premises, except that one (1) major recreational vehicle shall be allowed for occasional living purposes to accommodate visitors.

(b) No major recreational equipment shall be stored on a public street right-of-way.

(c) There shall be no more than two (2) major recreational vehicles per residential dwelling unit, except for short-term periods, (for example family reunions, and visits which do not exceed a period of 48 hours).

Sec. 40 – 678. Maintenance.

It shall be the joint responsibility of the lessee and/or the owner of the principal use or building to maintain in a neat and adequate manner, the parking area, striping, landscaping and screening.

Sec. 40 – 679. Use of Parking Area.

Required off-street parking space in any District shall not be utilized for open storage of goods or for the storage of vehicles which are inoperable, for sale, or for rent.

Sec. 40 – 680. Control of Off-Street Parking Facilities.

When required accessory off-street parking facilities are provided elsewhere than on the lot in which the principal use served is located, they shall be in the same ownership or control, either by deed or long-term lease, as the property occupied by such principal use, and the owner of the principal use shall file a recordable document with the city requiring the owner and his/her heirs and assigns to maintain the required number of off-street spaces during the existence of said principal use.

Sec. 40 – 681. Parking Space, Aisle and Driveway Design.

(1) Each parking space shall contain a minimum of not less than three hundred (300) square feet including access drives, a width of not less than nine (9) feet, and a depth of not less than twenty (20) feet.

(2) Except in the case of single family or two family dwellings, parking areas shall comply with the following standards:

Angle of Parking	Stall Width	Stall Depth	Minimum Aisle Width
0 degrees (Along Curb)	9’	22’	12’*
30 degrees	9’	19’	11’
45 degrees	9’	21’	13’
60 degrees	9’	22’	18‘
90 degrees	9’	19’	24‘

*Two way traffic 24’

(3) Except in the case of single family and two-family dwellings, parking areas shall be designed so that circulation between parking aisles or driveways occurs within the designated parking lot and does not depend upon a public street or alley, and such design does not require backing into the public street.

(4) No curb cut access shall be located less than forty (40) feet from the intersection of two (2) or more street right-of-ways for residential uses, and sixty (60) feet for commercial and industrial areas. This distance shall be measured from the intersection of lot lines.

(5) Parking areas shall be designed so as to provide adequate means of access to a public alley or street. Such driveway access shall be a minimum of sixteen (16) feet in width and shall not exceed twenty-two (22) feet in width and shall be so located as to cause the least interference with traffic movement.

(6) Curb cut openings shall be a minimum of five (5) feet from the side property line.

(7) All property shall be entitled to at least one (1) curb cut. Single-family uses shall be limited to one (1) curb cut per access per property.

(8) All parking spaces shall be served by access aisle or driveway connecting to a public right-of-way.

(9) No signs shall be located in any parking area except as necessary for orderly operation of traffic movement and such signs shall not be a part of the permitted advertising space.

Sec. 40 – 682. Number of Required Parking and Loading Spaces.

The following minimum number of off-street parking and loading spaces shall be provided and maintained:

USE	NUMBER OF PARKING SPACES TO BE REQUIRED	OFF-STREET LOADING & UNLOADING & SPACES TO BE REQUIRED
RESIDENTIAL USES		
Single Family	2 Spaces per dwelling	N/A
Two - Family	2 Spaces per dwelling	N/A
Elderly Housing	1/2 Space per dwelling	N/A
Multiple Housing	2 Spaces per dwelling	N/A
INSTITUTIONAL USES		
Auditorium, stadium, gymnasium, community centers and religious institution (private of public)	1 space for each 4 permanent seats in the largest place of assembly plus 1 space for each 250 sq. ft. of gross office area.	1 for each structure over 100,000 sq. ft. of gross floor area.
Hospitals, rest homes, nursing homes, etc. major shift.	1 for each 4 beds plus one space per 2 employees	1 space for 100,000 sq. ft. of gross floor area.
Schools	2 spaces per 1,000 sq. room plus 1 space for every 200 students.	
COMMERCIAL USES		
Commercial Uses (except as below)	5 spaces per 1,000 sq. ft. of retail or sales of gross floor area and 1 space for each additional 50,000 sq. ft. of gross floor area.	1 space for the first 10,000 sq. ft.

USE	NUMBER OF PARKING SPACES TO BE REQUIRED	OFF-STREET LOADING & UNLOADING & SPACES TO BE REQUIRED
COMMERCIAL USES (continued)		
Automobile car wash	5 spaces plus 5 for each wash land.	N/A
Animal hospitals and kennels	6 spaces plus 1 space for each 200 sq. ft. of gross floor area over 10,000 sq. ft.	N/A
Automobile service stations	3 for each service stall plus 1 for each attendant on the major shift.	N/A
Bowling alleys	5 spaces for each lane or alley.	1 space for each structure over 20,000 sq. ft. in gross floor area.
Commercial uses with 50% or more of floor area devoted to storage, warehouse and/or industry	1 space per 200 sq. ft. of gross floor area devoted to sales or service plus 1 space per 500 sq. ft. of storage area.	Same as commercial use requirements for that portion used for commercial purposes. Additional space for storage as required.
Drive-In restaurants	5 spaces for each 100 sq. ft. of business area.	N/A
Furniture, automobile, marine, and appliance sales.	1 space for each 400 sq. ft. of floor area the first 25.000 sq. ft. and 1 space for each 600 sq. ft. thereafter.	1 space plus 1 additional space for 25,000 sq. ft. of gross floor area.
Miniature golf course, archery range, golf, driving range.	10 spaces respectively.	N/A
Motel, Hotel	1 space per dwelling unit	N/A
Office building, professional offices, banks.	1 space for each 250 sq. ft. of gross floor area.	1 space for buildings between 30,000 sq. ft. and 100,000 sq. ft. of gross floor area and 1 space for each additional 100,000 sq. ft. of gross floor area.
Restaurants and other food dispensing establishments except drive-in restaurants.	1 space for each 4 seats plus 1 for each 2 employees.	1 space for each structure over 10,000 sq. ft. of gross floor area.
Skating rink or dance hall.	1 space for each 200 sq. ft. of gross floor area.	N/A
Theater	1 space for four seats.	N/A
Undertaking establishments	1 space per 50 sq. ft. of gross floor area.	N/A
INDUSTRIAL USES		
Manufacturing, assembler, processing, research, experimental or testing stations.	1 space for each employee on the major shift or 1 space for each 400 sq. ft. whichever is greater.	1 space for each structure over 10,000 sq. ft. of gross floor area & 2 spaces for each structure over 100,000 sq. ft. of gross floor area.
Warehousing, and wholesale business establishments.	1 space for each employee on the major shift plus 1 space for each company vehicle.	1 space for each structure over 10,000 sq. ft. of gross floor area and 2 spaces for each structure over 100,000 sq. ft. of gross floor area.

Sec. 40 – 683. Joint Facilities.

Provision of joint parking areas for several uses within the same block or same vicinity is permissible providing that the number of stalls required shall be the sum of the individual requirements for those uses, upon application and approval by the Zoning Administrator.

(1) The Zoning Administrator may, approve a permit for one (1) or more businesses to provide the required off-street parking facilities by joint use of one (1) or more sites where the total number of spaces provided are less than the sum of the total required for each business, if the following conditions are satisfactorily met:

(a) The building or use for which the application is being made to utilize the off-street parking facilities provided by another building or use shall be located within three hundred (300) feet of such parking facilities.

(b) The applicant shall show that there is no substantial conflict in the operating hours of the two (2) buildings or uses for which joint uses of off-street parking facilities are proposed.

(c) The joint use of the parking facilities shall be protected by covenants that run with the lots housing all the joint users and the lots on which the parking facility that satisfies the parking requirement of this section is provided. Those covenants shall contain all of the conditions of the joint agreement and shall grant an

easement for parking to the joint principal use lots. The manner of execution and content of such covenants shall be in a form approved by the city attorney and the document containing the covenants shall be recorded with the county recorder. Parties to the covenant shall reimburse the city for the costs of legal review. Such covenants shall be provided prior to issuance of building or site permits.

(d) The provisions of this Division of this Ordinance are considered and satisfactorily met.

Sec. 40 – 684. Off-Street Loading Facilities.

Loading space required under this Division shall be at least fifty (50) feet long and ten (10) feet wide. Every lot used for commercial or industrial purposes and having a building or buildings with a total floor area of at least thirty thousand (30,000) square feet, shall be provided with an off-street loading space. An additional off-street loading space shall be required for lots used for commercial or industrial purposes where the floor area of all buildings exceeds one hundred thousand (100,000) square feet.

Sec. 40 – 685. Central Loading.

Central loading facilities may be substituted for loading berths on the individual zoning lots provided the following conditions are fulfilled:

(1) Each lot served shall have direct access to the central loading area without crossing streets or alleys at grade.

(2) Total berths provided shall meet the requirements based on the sum of the several types of uses served. (Area of types of uses may be totaled before computing number of loading berths.)

(3) No lot served shall be more than 500 feet removed from the central loading zone area.

Sec. 40 – 686. Snow Parking.

No owner of a motor vehicle, trailer, boat, snowmobile, or seasonal vehicle shall leave, park, or permit the same to stand on a street or alley between the hours of two o'clock (2:00) A.M. and twelve o'clock (12:00) Noon between November 1 and April 1 of the following year, or at any other time when the national weather service forecast accumulation is two (2) or more inches of snow until the street or alley has been plowed. Residences without an established driveway, to include new construction, are exempt from winter parking restrictions.

Sec. 40 – 687. Bicycle Parking.

In order to encourage and aid bicycling as a means of transportation for utilitarian and recreational trips, the Council finds that these requirements are necessary.

(1) Number of spaces required. For commercial, industrial, residential, or institutional motor vehicle parking lots with more than twenty (20) parking spaces, bicycle racks shall be provided in the ratio of two percent (2%) of the number of required off-street parking spaces.

(2) Location. Bicycling facilities shall be located conveniently near the major entrance to the building.

(3) Facilities. The bicycle facilities shall be designed to support the bicycle frame and not just one wheel and shall be usable for cable or U-shaped locks.

Secs. 40 - 688—40 - 689. Reserved

DIVISION 24. PEDESTRIAN CIRCULATION AND ACCESS

Sec. 40 – 690. Pedestrian circulation and access.

All uses, except single detached dwelling units, shall provide pedestrian access onto the site. Pedestrian access points shall be provided at all pedestrian arrival points to the development including the property edges, adjacent lots, abutting street intersections, crosswalks, and at transit stops. Pedestrian access shall be coordinated with existing development to provide circulation patterns between developments.

Sec. 40 – 691. Conflicts.

Pedestrian walkways shall form an on-site circulation system that minimizes the conflict between pedestrians and traffic at all points of pedestrian access to on-site parking and building entrances, and between buildings.

Sec. 40 – 692. Design Standards.

Pedestrian access and walkways shall meet the following minimum design standards:

(1) Access and walkways shall be well-lit and physically separated from driveways and parking spaces by landscaping, berms, barriers, grade separation or other means to protect pedestrians from vehicular traffic

(2) Access and walkways shall be a minimum of 6 feet of unobstructed width and meet City standards for surfacing of walkways or sidewalks

(3) Access shall be usable by mobility-impaired persons and shall be designed and constructed to be easily located by the sight-impaired pedestrian by either grade change, texture or other equivalent means

(4) A crosswalk shall be required when a walkway crosses a driveway or a paved area accessible to vehicles. Raised crosswalks or speed bumps may be required at all points where a walkway crosses the lane of vehicle travel.

Secs. 40 - 693—40 - 699. Reserved

DIVISION 25. RECREATIONAL CAMPING AREAS

Sec. 40 – 700. Purpose.

The purpose of this Division is to provide for areas to be used for recreational camping which will not detract from surrounding land uses or natural resources, and provide for the health and safety of the public using these areas.

Sec. 40 – 701. License Required.

No person, corporation, partnership, firm or other entity shall operate a recreational camping area unless a valid license issued by the Minnesota Department of Health for the current year has been obtained and is in the possession of the operator and posted in a conspicuous place in the office of the recreational vehicle park or recreational camping area.

Sec. 40 – 702. Conditional Use Permit Required.

(1) A conditional use permit shall be required for the construction or operation of a recreational camping area, in accordance with.

(2) Recreational camping areas shall be allowed only in the A district.

(3) All conditional uses shall be subject to the requirements of this Division and Article V, Division 6.

(4) Each Conditional use application shall include the submission of a site plan drawn to scale and when construction costs exceed thirty thousand ($30,000) dollars, they must be prepared by a registered engineer, architect, or land surveyor. The site plan shall include the following:

(a) The full name and address of the applicant or applicants or names and addresses of the partners, if the applicant is a partnership or the names and addresses of the officers, if the applicant is a corporation. The name and address of the project developer must also be indicated.

(b) A legal description of the site, lot, field, or tract of land upon which it is proposed to operate and maintain a recreational camping area.

(c) The proposed and existing sanitary facilities on and about said site, lot, field, or tract of land and the proposed construction or alteration of sanitary facilities including toilets, urinals, sinks, wash basins, slop sinks, and showers, drains, laundry facilities, source of water supply and sewage, garbage and waste removal. A detailed description of maintenance procedures, grounds supervision and method of fire protection shall also be submitted.

(d) The proposed method of lighting the structures and site, lot, field, or tract of land upon which said recreational vehicle park or recreational camping area is to be located.

(e) Location and size of all streets abutting the site and all driveways from such streets to the recreational vehicle park or recreational camping area. Road construction plans and specifications.

(f) Location, size, and characteristics of each campsite.

(g) Designate the calendar months of the year which applicant will operate said recreational vehicle park or recreational camping area. Details as to whether all of the area will be developed at once or whether it will be developed a portion at a time.

(h) Plans and drawings for new construction or alteration, including buildings, water systems, wells, plumbing and sewage disposal systems, surface drainage, electrical service and gas service.

Sec. 40 – 703. Camping Area Spacing Requirements.

Vehicle and structure spacing requirements shall be consistent with Minnesota Rules Chapter 4630.

Sec. 40 – 704. Utilities.

All utilities shall be underground and there shall be no overhead wires or supporting poles except those essential for street or other lighting purposes.

Sec. 40 – 705. Water Supply, Sewage Disposal, and Toilet, Bathing, Laundry Facilities, and Lighting.

Water Supply, sewage disposal, and toilet, bathing, laundry facilities, and lighting shall be consistent Minnesota Rules Chapter 4630.

Sec. 40 – 706. Plumbing.

All systems of plumbing shall be installed in accordance with the Minnesota Board of Health regulations and the provisions of the Minnesota Plumbing Code.

Sec. 40 – 707. Garbage and Refuse - Handling and Disposal.

The storage, collection, and disposal of refuse and garbage for recreational camping areas shall be consistent with Minnesota Rules Chapter 4630 and the Chisago County Solid Waste Ordinance.

Sec. 40 – 708. Swimming Areas.

Artificial swimming and wading pools shall be constructed and maintained in accordance with standards of Minnesota Department of Health Public Swimming Pool Regulation MDH 115 and the Minnesota Pollution Control Agency. Designated swimming areas shall be located at least seventy-five (75) feet (preferably 150 feet) from boat docks or boat landing slips and shall be roped off by floats and cables to designate the safe limits of the swimming area.

Sec. 40 – 709. Barbecue Pits, Fireplaces, Stoves, Incinerators.

(1) Cooking shelters, barbecue pits, fireplaces, wood burning stoves and incinerators shall be so located, constructed and maintained and used as to minimize fire hazards and smoke nuisance, both on the property on which used and on neighboring property.

(2) Incinerators shall be of a type acceptable to the Minnesota Pollution Control Agency.

(3) No open fire shall be permitted except in facilities provided.

(4) No open fire shall be left unattended.

(5) No fuel shall be used or no material burned which emits dense smoke or objectionable odors.

Sec. 40 – 710. Bottled Gas.

(1) In recreational camping areas where bottled gas is used, the container shall be firmly connected to the appliance by tubing of copper or other suitable metallic material.

(2) The container shall not be installed or stored even temporarily inside any recreational camping vehicle.

(3) No container may be permitted to stand free, but must be firmly mounted in accordance with manufacturer's instructions.

Sec. 40 – 711. Prohibited Activities.

(1) No animal washing, car washing or other slop-creating practices shall be carried on in any building, structure, or other place not designated for such purposes.

(2) No pets or domesticated animals shall be allowed to enter the buildings containing the sanitary or washing facilities for the recreational vehicle park or recreational camping area.

(3) No domestic animals or house pets shall be allowed to run at large or commit any nuisances within the limits of a recreational camping area.

(4) Any kennels, pens, or other facilities provided for such pets shall be maintained in a sanitary condition at all times.

Sec. 40 – 712. Caretaker/Operator Duties.

A responsible adult attendant or caretaker shall be in charge of every recreational camping area at all times and the duty of said attendant or caretaker shall be to maintain the park, its facilities maintain records of the park, and keep the facilities and the equipment in a clean, orderly and sanitary condition.

Secs. 40 - 713—40 - 719. Reserved

DIVISION 26. SCREENING

Sec. 40 – 720. Commercial Uses and Non-Residential Uses in Residential Districts.

Where a commercial use abuts a residential district or is separated from a residential district by only a street other than a collector or arterial, and for any non-residential use in a residential district, the use in that district shall provide screening and a twenty (20) foot wide landscaped yard along any adjacent side. The landscaped yard shall be increased to forty (40) feet if the use is over three (3) acres in size. The Planning Commission may waive these requirements when the use on the adjacent property is a non-residential use.

Sec. 40 – 721. Residential Uses.

(1) Where any multiple-family use with more than four (4) parking spaces adjoins another residential use, the off-street parking for such use shall be screened from adjoining properties. Parking for townhouses and two-family homes is exempt from this requirement.

(2) The light from automobile headlights and other sources shall be screened whenever it may be directed onto residential windows to the extent that it will cause an unreasonable disturbance.

Sec. 40 – 722. All Districts.

(1) Exterior storage of goods or materials which unreasonably annoys or endangers the property values of surrounding property users shall be screened.

(2) All parking areas containing more than four (4) spaces which adjoin a public street shall be screened with a hedge at least two (2) feet in height and four (4) feet on center.

Sec. 40 – 723. Trash Storage Screening.

(3) Trash containers provided in conjunction with institutional, public, commercial, or industrial uses, or with residential uses where a common collection location is designated for three (3) or more dwelling units shall be screened by an enclosure constructed on three (3) sides with break-off block, face brick, or masonry. For all residential uses where such screening is required, the fourth side shall consist of a durable gate.

(4) For all other uses requiring such screening, a durable gate shall be provided where the open side of the enclosure is visible from a public street or from an abutting residential zoning district. All gates shall provide one hundred percent (100%) opaqueness

(5) Enclosures for trash containers, including recycling containers, must be of sufficient size to accommodate the containers and any mechanical means of servicing the containers.

(6) Screening enclosures shall be located in the side or rear yard of the property in such a manner as to provide easy access thereto, and shall conform to the setback requirements for accessory structures.

Sec. 40 – 724. Mechanical Screening.

Except for mobile homes, townhouses, and single and two-family homes, all mechanical equipment on the ground or roof, such as heating and air conditioning, shall be screened on all sides so as not to be visible from public streets or adjoining property. Such screening shall be designed and constructed of a material that is compatible with the principal building.

Sec. 40 – 725. Screening Materials and Maintenance.

Requirements. The screening requirements of Sec. 40 – 720, Sec. 40 – 721, and Sec. 40 – 722, (1) shall be satisfied by the use of one or more of the following:

(1) Screening Fence.
A screening fence at least six (6) feet in height with a minimum opaqueness of eighty percent (80%). The fence shall be compatible with the principle building and surrounding properties. Screening fences shall be painted or stained, whenever necessary, to prevent fading, chipping or discoloration. Damaged or destroyed fences shall be repaired or restored.

(2) Planting Screen.

(a) A planting screen consisting of a row of alternating evergreen shrubs and deciduous trees shall be planted. The trees shall be a minimum two (2) inches in diameter and shall be spaced not more than fifteen (15) feet apart. The shrubs shall be a minimum of two (2) feet in height at the time of planting, with a mature height of four (4) to six (6) feet, and shall be spaced between the trees in such proximity as will form a screen.

(b) Alternately, a planting screen may consist of a continuous row of evergreen trees, no less than four (4) feet in height at the time of planting and ten (10) feet apart.

(c) Alternately, a planting screen may consist of a mixed planting of native trees and shrubs of sufficient width and diversity to be consistent with the goal of screening as outlined above, and consisting of enough plants in

sizes outlined above to achieve the same level of immediate screening. (See also Sec. 40 – 554, Vegetated Buffers)

(d) Planting screens shall be maintained in a neat and healthy condition. Dead materials shall be replaced.

(3) Berm.
A berm no less than six (6) feet in height with a side slope of no greater than one and one-half (1 1/2) to one (1). The berm shall be sodded or seeded, mulched, and maintained until sod develops. Slopes greater than one and one-half (1 1/2) to one (1) may be used if the slopes are stepped using retaining walls. Plant material resistant to erosion may be substituted for sod or seed with the prior approval of the Zoning Administrator. Dead plant materials shall be replaced.

(4) Others.
Topography, existing vegetation, permanent buildings, or other barriers may be substituted for the above if, in the determination of the Planning Commission, they provide equivalent screening.

Secs. 40 - 726—40 - 729. Reserved

DIVISION 27. SEWAGE SLUDGE AND/OR ASH SLUDGE LAND APPLICATION

Sec. 40 – 730. Purpose.

The purpose of this Division is to regulate the land application of sewage sludge generated by wastewater treatment facilities and to protect the health of the city's residents.

Sec. 40 – 731. Requirements.

The application of sewage sludge to lands is allowed only under the following conditions.

(1) The sewage sludge being applied is generated from wastewater facilities located in Chisago County.

(2) All necessary Minnesota Pollution Control Agency permits for the land application of sewage sludge have been issued.

(3) All sewage sludge and ash sludge must be applied pursuant to all state and county regulations.

(4) A license must be obtained from the City of Wyoming for each application.

Secs. 40 - 732—40 - 739. Reserved

DIVISION 28. Signs

Sec. 40 – 740. Purpose.

The sign ordinance is intended to establish a comprehensive and balanced system of sign control that accommodates the need for a well-maintained, safe, and attractive community, and the need for effective communications including business identification. It is the intent of this Division, to promote the health, safety, general welfare, aesthetics, and image of the community by regulating signs that are intended to communicate to the public, and to use signs which meet the city's goals by authorizing:

(1) Permanent signs which establish a high standard of aesthetics;

(2) Signs which are compatible with their surroundings;

(3) Signs which are designed, constructed, installed and maintained in a manner that does not adversely impact public safety or unduly distract motorists;

(4) Signs which are large enough to convey the intended message and to help citizens find their way to intended destinations;

(5) Signs that are proportioned to the scale of, and are architecturally compatible with, principal structures;

(6) Permanent signs which give preference to the on-premise owner or occupant; and

(7) Temporary commercial signs and advertising displays which provide an opportunity for grand openings and occasional sales events while restricting signs which create continuous visual clutter and hazards at public right-of-way intersections.

(8) Driveway/street intersections result in roadside clutter and obstruction of views of oncoming traffic. This creates a hazard to drivers and pedestrians and also adversely impacts a logical flow of information;

(9) Commercial signs are generally incompatible with residential uses and should be strictly limited in residential zoning districts; and

(10) The right to express noncommercial opinions in any zoning district must be protected, subject to reasonable restrictions of size, height, location, and number.

Sec. 40 – 741. Definitions.

Signs are a permitted accessory use in all districts. For purposes of this Division, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(1) Abandoned Sign: A sign which no longer identifies or advertises a bona fide business, tenant, service, owner, product or activity, and/or for which no legal owner can be found.

(2) Advertising Copy: The graphic content of a sign surface in either permanent or removable letter, pictographic, symbolic, or alphabetic form.

(3) Advertising Sign: A sign that directs attention to a business or profession or to a commodity, service, or entertainment not sold or offered upon the premises where the sign is located or to which it is attached.

(4) Animated Sign: A dynamic sign or display manifesting either kinetic or illusory motion occasioned by natural, manual, mechanical, electrical, or other means.

(5) Awning/Canopy/Umbrella Sign: A sign that is part of or attached to a canopy or awning, and/or a sign constructed of flexible translucent or fabric-type material that incorporates a written message or logo on the exterior.

(6) Balloon Sign: A sign consisting of a bag or similar device of lightweight material supported by helium, hot or pressurized air, which is greater than eighteen (18) inches in diameter.

(7) Banners, Pennants, Streamers, and Festoons: A temporary sign or attention-getting device generally made of flexible materials such as paper, cloth, plastic, or any non-rigid material with no enclosing framework. National and state flags shall not be included in this definition.

(8) Billboard Sign: A sign structure advertising an establishment, merchandise, service, social/political statement, or entertainment that is not sold, produced, manufactured, or furnished at the property on which the sign is located.

(9) Business Sign: Any sign which identifies a business or group of businesses either retail or wholesale, or any sign which identifies a profession or is used in the identification or promotion of any principal commodity or service, including entertainment, offered or sold upon the premise where such sign is located.

(10) Community Promotion Sign: An attention-getting device such as a banner or seasonal decorations that are installed and maintained by the city.

(11) Construction Sign: A non-illuminated sign announcing the names of architects, engineers, contractors, or other individuals or firms involved with the construction, alteration, or repair of a building (but not including any advertisement of any product) or announcing the character of the building enterprise, or the purpose for which the building is intended.

(12) Designated Sign: Changeable copy sign, electronic; dynamic display sign; electronic graphic display sign; flashing sign; multivision sign; shimmering sign video; display sign.

(13) Directional Sign: Signs which provide directions to businesses, churches, parks, and similar facilities for the benefit of the traveling public. The sign may include the name of the facility and direction, but shall not contain advertising.

(14) Dynamic Display Sign: See Moving Sign.

(15) Electrically Energized Sign: Signs whose motion or visual impression of motion is activated primarily by electrical means.

(16) Electronic Changeable Copy Sign: A sign or portion thereof that displays electronic, nonpictorial text information in which each alphanumeric character, graphic, or symbol is defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), film optics, light bulbs or other illumination devices within the display area. Electronic changeable copy signs include computer programmable, microprocessor controlled electronic displays. Electronic changeable copy signs include projected images or messages with these characteristics onto Buildings or objects. Electronic changeable copy signs do not include governmental signs.

(17) Electronic Graphic Display Sign: A sign or portion thereof that displays electronic, static images, static graphics or static pictures, with or without text information, defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the display area where the message change sequence is accomplished immediately or by means of fade, repixalization or dissolve modes. Electronic graphic display signs include computer programmable, microprocessor controlled electronic or digital displays. Electronic graphic display signs include projected images or messages with these characteristics onto buildings or other objects.

(18) Freestanding Sign: A sign that is self-supporting, affixed to a frame structure, and not attached to a building.

(19) Flashing Signs: A directly or indirectly illuminated sign or portion thereof that exhibits changing light or color effect by any means, so as to provide intermittent illumination that changes light intensity in sudden transitory bursts and creates the illusion of intermittent flashing light by streaming, graphic bursts showing movement, or any mode of lighting which resembles zooming, twinkling or sparkling.

(20) Front, Lot Line: This refers to the boundary of a lot that abuts an existing dedicated street. For lots abutting more than one (1) street, the front shall be that which is the minimum frontage. For lots abutting more than one (1) street with the same frontage, the city shall determine the front lot line.

(21) Governmental Sign: A sign which is erected by a governmental unit for the purpose of identification and directing or guiding traffic.

(22) Height of Sign: The vertical distance from the elevation at the centerline of the street upon which the sign fronts, measured at the nearest point to the sign and to the top of the sign structure, or from the elevation of the ground surface at the base of the sign to the top of the sign structure, whichever is higher.

(23) Identification Sign: Signs located in a residential district which identify a subdivision, apartment complex or similar identifications and set forth the address of the premises where the sign is located; and signs in all other districts which identify the business or owner and set forth the address of the premises where the sign is located.

(24) Illuminated Sign: Any sign that has characters, letters, figures, designs, or an outline illuminated by electric lights or luminous tubes as a part of the sign proper.

(a) Backlit Illuminated Sign: A light source contained within the sign element or sign cabinet that illuminates by shining through a translucent surface or sign face, except where only the letters of the sign copy are illuminated.

(b) External Illuminated Sign: A light source outside the sign element or sign cabinet that illuminates by directing light onto the sign surface, such as by floodlights or spotlight.

(c) Internal Illuminated Sign: A light source contained within the sign cabinet or sign element that illuminates by directing light onto the sign surface, or that illuminates only the letters of the sign copy, and which is not backlighting.

(d) Neon Illuminated Sign: A light source supplied by neon or other gas in which the light tube is bent to form letters, symbols, or other shapes.

(25) Illusionary Movement: Signs exhibiting the illusion of movement by means of a preprogrammed repetitious sequential switching action in which illuminated elements of the sign are turned on or off to simulate the impression of motion characteristics.

(26) Individual Property Sale or Rental Signs: Any on-premise sign announcing the name of the owner, manager, realtor, or other persons directly involved in the sale or rental of the property or announcing the purpose for which it is being offered.

(27) Informational Sign: Any sign giving information to employees, visitors, or delivery vehicles, but containing no advertising. May include name of business but must predominantly represent a directional or informational message.

(28) Institutional Sign: A sign or bulletin board that identifies the name and other characteristics of a public, semi-public, or private institution, including churches, hospitals, nursing homes, schools, and other non-profit and charitable organizations, on the site where the sign is located.

(29) Logo: An identifying graphic which may or may not be a registered trademark but which is the official graphic identifier for a business organization.

(30) Marquee Sign: A building sign painted on or attached to a marquee.

(31) Mechanically Energized: Signs manifesting a repetitious preprogrammed physical movement or rotation in either one or a series of planes activated by means of mechanically based drives.

(32) Moving Sign or Dynamic Display Sign: Any characteristics of a sign that appear to have movement or that appear to change, caused by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure or any other component of the sign. This includes displays that incorporate technology or methods allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components as well as any rotating, revolving, moving, flashing, blinking or animated display and any display that incorporates rotating panels, LED Lights manipulated through digital input, digital ink or any other method or technology that allows the sign face to present a series of images or displays.

(33) Multivision Sign: Any sign composed in whole or part of a series of vertical or horizontal slants or cylinders that are capable of being rotated at intervals so that partial rotation of the group of slats or cylinders produces a different image and when properly functioning allows on a single sign structure the display, at any given time, one of two *(2)* or more images.

(34) Naturally Energized: Signs whose motion is activated by wind or other atmospheric impingement, such as flags, banners, pennants, streamers, spinners, or metallic disks.

(35) Monument Sign: A sign not supported by exposed posts or poles which is architecturally designed and located directly at grade where the base width dimension is at least as wide as the sign.

(36) Multi-Tenant Center: A group of commercial, retail, service, or professional establishments with a designed occupancy of two (2) or more tenants with shared parking and visual appearance as a contiguous structure which may or may not be planned, constructed, or managed as a total entity.

(37) Nameplate: A sign indicating the name and address of a building or the name of an occupant therein.

(38) Noncommercial Opinion Sign: Any sign, which is not a commercial sign, which expresses an opinion and which is deemed by the courts to have greater protection under the First Amendment than a commercial sign.

(39) Nonconforming Sign: A sign that does not conform to the requirements of this section.

(a) Illegal: A sign which was constructed after the passage of this chapter or amendments thereto, but which does not conform to the regulations of this subchapter, or a sign which existed prior to the adoption of this chapter which did not conform to regulations then in effect.

(b) Legal: A sign which lawfully existed at the time of the passage of this chapter or amendments thereto, but which does not conform to the regulations of this subchapter.

(40) Off Premise Sign: A sign advertising a product, business, or company not located on the site where the sign is located.

(41) On-Premises Sign: A sign that pertains to the occupant of the premises and/or property on which it is located.

(42) Political Campaign Sign: Signs or posters announcing the candidate(s) seeking political office and/or political issues, and data pertinent thereto.

(43) Portable (Trailer) Sign: A sign with or without copy and/or graphics which is constructed or placed upon a chassis with wheels, legs, or skids in order to be movable from one location to another, such as may be mounted on an automobile or trailer. This definition does not include permanent identification signs painted directly on vehicles, principally used for transportation, but does include such signs if the vehicles are not used for transportation purposes but are intended rather as a structure to support a sign.

(44) Projecting Sign: A sign with a face perpendicular to the wall of a building upon which it is attached.

(45) Projection Sign: A sign that is projected by means of a light on an exterior wall or other exterior surface.

(46) Public Sign: Signs of a public, non-commercial nature to include safety signs, danger signs, trespassing signs, traffic signs, signs indicating scenic or historical points of interest, memorial plaques, and the like, and when said signs are erected by or on order of a public officer or employee in the performance of official duty.

(47) Interstate Pylon Sign or Pylon Sign: Any permanent, freestanding sign mounted on posts or columns.

(48) Real Estate Sign: A business sign placed upon a property advertising that particular property for sale, for rent, for lease, or sold.

(49) Real Estate Development Sign: A business sign placed on premises of a subdivision or other real estate development.

(50) Roof Sign: A sign which is mounted on the roof of a building or which projects above the top of the wall of a building with a flat, gambrel, gable or hip roof, or deck line of a building with a mansard roof.

(51) Shimmering Sign: A sign that reflects an oscillating, sometimes distorted, visual image.

(52) Sign: Any device, structure, fixture, or placard using graphics, symbols, and/or written copy for the primary purpose of identifying, providing directions, or advertising any establishment, product, goods, or services. This includes symbols, flags, pictures, wording, figures, or other forms of graphics painted on or attached to windows, walks, awnings, freestanding structures, suspended by balloons or kites, or on persons, animals, or vehicles.

(53) Sign Area:

(a) Area of Freestanding Sign: This means the area of the actual sign. It does not include embellishments such as the monument base, pole covers, framing, or decorative roofing, provided there is no advertising copy on or attached to the embellishments. If the freestanding sign is double-faced, only 1 face is used to calculate sign area.

(b) Area of Wall Sign: This means the total area of the sign, including all structures framing the sign, background embellishments, or area contained within a rectangle or square drawn completely around the display surface, even if the sign consists of individual letters and/or graphics.

(54) Sign Structure: The supports, foundations, uprights, bracing, and framework for a sign, including the sign area.

(55) Temporary Sign: A sign which is designed or intended to be displayed for a short period of time and is not permanently installed. This includes banners, sandwich board signs, pennants, and flags other than community promotion signs, garage sale signs and flyers, for-sale real estate signs, and curbs signs. Temporary signs may be used three (3) times a year for up to thirty (30) days at a time. The temporary sign shall not exceed thirty-two (32) square feet in area per surface, and no sign shall be so constructed as to have more than two (2) surfaces.

(a) Banner: A temporary sign made of cloth, flexible plastic, or other fabric.

(b) Construction Sign: A temporary sign identifying a building or construction site, architects, engineers, contractors, or suppliers.

(c) Pennant: Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind. Sometimes called “stringer”.

(d) Political Campaign Signs: Signs or posters announcing the candidate(s) seeking political office and/or political issues, and/or dates pertinent thereto. See Sec. 40 – 742 General Regulations.

(e) Portable Sign: A temporary sign designed to be movable from one location to another.

(f) Real Estate Sign: A temporary sign advertising the sale or lease of property or buildings.

(56) Time/Temperature Display Sign: A sign having electrically changing copy that exclusively displays current time and temperature, information and which is not a billboard.

(57) Vehicle Sign: Any sign exceeding ten square feet in area mounted, painted, placed on, attached or affixed to a trailer, watercraft, truck, automobile or other form of motor vehicle so parked or placed so that the sign thereon is discernable from a public street or right-of-way as a means of communication and which by its location, size, and manner of display is reasonably calculated to exhibit commercial advertising identifying an on-site business or supplying directional information to an off-site business. A vehicle sign may be defined as a vehicle that functions primarily as a sign rather than as a transportation device, as determined by any combination of the following factors:

(a) The absence of a current, lawful license plate affixed to the vehicle on which the sign is displayed;

(b) The vehicle on which the sign is displayed is inoperable as defined by this City Code;

(c) The vehicle on which the sign is displayed is not parked in a lawful or authorized location or is on blocks or other supports or is parked in a manner that is not in conformity with the identified parking space on the lot;

(d) The vehicle on which the sign is displayed is not regularly used for transportation associated with the use it advertises;

(e) The vehicle remains parked on the premises after normal business hours when customers and employees are not normally present on the premises; or

(f) The vehicle remains parked in the same vicinity on the property in a location which maximizes its visibility from the public street or right of way on a regular basis.

(58) Video Display Sign: A sign that changes its message or background in a manner or method of display characterized by motion or pictorial imagery, which may or may not include text and depicts action or a special effect to imitate movement, the presentation of pictorials or graphics displayed in a progression of frames that gives the illusion of motion, including, but not limited to, the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shapes, not including electronic changeable copy signs. Video display signs include projected images or messages with these characteristics onto buildings or other objects.

(59) Wall Mounted Sign: A sign attached essentially parallel to and extending not more than twenty-four (24) inches from the wall of a building with no copy on the sides or edges.

Sec. 40 – 742. General Regulations.

Scope of regulations. The sign regulations set forth in this Division shall apply to all structures and all land uses in the city.

(1) Compliance with standards. No person shall place, erect, or maintain a sign, nor shall a lesser or owner permit property under his or her control to be used for any sign that does not conform to the requirements of this Division.

(2) Regulations. The following general regulations shall apply to all signs.

(a) Required Signs. New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of four (4) inches high with a minimum stroke width of one-half (1/2) inch.

(b) Signs shall only be erected on appropriate materials and built to resist a 3-second wind gust of 90 mph.

(c) All signs shall be constructed in accordance with the Minnesota State Building Code.

(d) For the purpose of this Ordinance, maximum square footage of a sign shall be computed on the basis of one (1) face of any multi-faced sign.

(e) All signs shall be maintained in good condition and the areas around them kept free from debris, bushes, high weeds, and from anything else which would be an eyesore or nuisance. The surface of all signs must be repainted at least once every two (2) years or whenever necessary as determined by inspection by the Zoning Administrator to prevent the sign surface from becoming unkempt in appearance. When any sign is removed, the Zoning Administrator shall be notified and the entire surrounding area shall be cleared of all debris and unsightly projections and protrusions.

(f) Signs shall not be painted directly to any exterior building surface, but shall be on a separate frame except for temporary display windows. Sign letters/symbols may be directly attached to a wall by adhesive or mechanical fasteners.

(g) The exposed uprights, superstructure or back side of all signs must be painted a neutral color such as light blues, grays, greens or browns, unless such part of the sign is integral to the overall design of the sign.

(h) Signs are prohibited within the public right-of-way or easements, except that the City Council may grant a conditional use permit (CUP) to locate signs and decorations on or within the right-of-way for a specific time, such as if road improvements or other public projects include the elimination of an access to a private property. In such cases, a sign giving directions to the new access may be allowed in the right-of-way.

(i) Signs existing on the effective date of this Division that do not conform to the regulations set forth in this Division are a nonconforming use.

(j) No sign shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory.

(k) The sign base, decorative roof, or other embellishments not included in the sign area shall not exceed fifty percent (50%) of the allowable area.

(l) Illuminated signs are permitted only in the Commercial, Central Business, Mixed Use, Industrial, and the Office and Health Care Districts.

(m) Symbols, statues, sculptures, and integrated architectural features on nonresidential buildings may be illuminated by floodlights, provided the direct source of light is not visible from the public right-of-way or the adjacent residential district. The artwork shall have twenty-five percent (25%) of the area considered as a sign.

(n) The city may specify the hours any sign may be illuminated. The hours of illumination may be specified on the permit or any time during the life of the sign. Illuminated signs shall have a shielded light source.

(o) The source of light for any sign must be indirect or diffused and shall not be directed into any adjoining residential district.

(p) Signs which become unsafe or unkempt in appearance shall be repaired or removed by the licensee upon notification by the Zoning Administrator.

(q) Directional signs up to four (4) square feet are allowed up to ten (10) feet above grade provided they are not erected adjacent to any residential street

(r) Temporary signs may be used three (3) times a year for up to thirty (30) days at a time.

(s) Political Signs. Political signs are allowed in any district, on private property, with the consent of the owner of the property. Such signs must be removed within seven (7) days following the date of the election or elections to which they apply.

(t) The permit owner shall be responsible for all of the requirements of this Ordinance, including the liability for expense of removal and maintenance incurred by the City.

(u) Time and temperature display signs that are not billboards are permitted in non-residential zones, subject to the standards of this ordinance and provided they change no more than once every two (2) seconds.

(3) Exempt Signs.
The following signs are exempt from the requirements of this Division:

(a) Official public notices or signs required by local, state, or federal regulations.

(b) Governmental signs, including, but not limited to, traffic control and other regulatory purpose signs, street signs, informational signs, danger signs, and railroad crossings.

(c) On-premises directional signs for emergency hospitals.

(d) Home security signs, “no trespassing,” and “no parking” signs, provided the total signage on a zoning lot shall not exceed two (2) square feet in area, and the signs shall not be placed or maintained in the public right-of-way and shall not be illuminated.

(e) Historical plaques by recognized historical agencies, provided the signs shall not be placed or maintained in the public right-of-way, shall not be illuminated, and shall not exceed four (4) square feet in area.

(f) Interior signs not visible from the exterior of a structure.

(g) Informational signs not exceeding two (2) square feet in area displayed strictly for the convenience of the public, including signs which identify restrooms, waste receptacles, addresses, doorbells, mailboxes, or building entrances.

(h) Community promotion signs.

(i) Temporary political campaign signs.

Sec. 40 – 743. Maintenance of Signs.

Maintenance Required. All signs and sign structures shall be kept in good repair and in a proper state of maintenance.

(1) Activities Considered to be Maintenance. Maintenance shall include activities such as replacing lamps, replacing ballast in freestanding signs, replacing transformers in building identification signs, painting the pole of freestanding signs and the cabinet of freestanding or building identification signs, replacing or repairing the sign face, including H-bars and retainers behind the face, replacing trim, and replacement of sign fasteners, nuts, and washers. A maintained sign structure shall have a sign face.

(2) Items Not Considered Maintenance. The following items are not considered maintenance and shall require that the sign be brought into conformance with all requirements with this Article.

(a) Said maintenance shall not include any changes made to size, height, light intensity or bulk of the sign or the temporary or permanent removal of the sign for the repair or replacement of the cabinet or any part thereof, not including the face.

(b) Said maintenance shall not include changes in poles, structural supports, bases or shrouds, footings or anchor bolts, moving the sign for any reason, change or replacement of the interior and/or exterior cabinet frame (excluding trim) and removal of any part of the signs for maintenance except the sign face. For building signs, maintenance shall not include change in the size of channel letters or any change or replacement of returns or housing except for the sign face and trim. For single face cabinet signs, maintenance shall not include changes or replacement of the interior and/or exterior cabinets nor the cabinet support structures.

(3) Temporary Removal for New Face. Temporary removal of the sign cabinet for the installation of a new sign face is permitted and will not require that the sign be brought into conformance with all requirements of this Division.

Sec. 40 – 744. Legally Established Nonconforming Permanent Signs.

(1) Maintenance as stated in Sec. 40 – 743 above, and alterations, including change of the sign face and color, may be made to legally established nonconforming permanent signs.

(2) A legally established nonconforming permanent sign may be restored, reconstructed, altered, or repaired only in conformance with the provisions of this Division. A sign shall be brought into conformance with all requirements of this Division if it:

(a) Is changed structurally as stated in Sec. 40 – 743 above; or

(b) Is damaged in excess of fifty percent (50%) of the replacement cost, established by a qualified appraiser; or

(c) Is temporarily or permanently removed by any means, including an act of God.

1. Exception: Refer to Sec. 40 – 743, (3), "Temporary Removal of New Face"

Sec. 40 – 745. Basic Design Elements for Specific Identification Signs.

(1) Wall Sign.

(a) A wall sign shall not extend outward more than twenty-four (24) inches from the building or structure wall.

(b) A wall sign shall not extend above the roof or parapet line.

(c) The linear measurement of any wall sign shall not exceed eighty percent (80%) of the linear frontage of the applicable façade of the building.

(2) Awning Sign.

(a) The frame for the awning shall be non-corrosive galvanized metal or aluminum.

(b) The awning shall have a maximum projection of four (4) feet unless a structural permit is obtained.

(c) The electrical service shall be UL listed or its equivalent damp location fixtures. The Electrical Inspector shall determine if the equivalent damp location fixture is acceptable.

(d) The material for the awning shall be flame retardant.

(e) The sign area for an awning shall be located in the lower forty percent (40%) of the vertical dimension of the awning.

(f) The linear measurement of any awning sign shall not exceed eighty percent (80%) of the linear frontage of the applicable façade of the building.

Sec. 40 – 746. Sign Permit.

(1) Application procedure. Any person proposing to erect, place, reconstruct, alter, modify, redesign, or relocate any sign, except signs specifically exempted by this section, shall first make application for a sign permit. The application shall be submitted on a form furnished by the city. The applicant shall submit with the application a complete description of the sign and a sketch showing its size, location, and manner of construction.

(2) Issuance of sign permit. Upon the filing of an application, the city shall examine the plans and accompanying data and determine if they are in compliance with the provisions of this section. If the proposal is found to be in compliance, a permit shall be granted.

(3) Fee. The applicant shall pay a permit fee as set forth in Appendix A of this code. The following signs do not require a permit or permit fee.

(a) Temporary on-site and off-site real estate signs pertaining to the sale, rental, or development of real property.

(b) Temporary signs, such as signs for school, civic or religious functions;

(c) The non-electronic changing of the advertising copy or message on a sign.

(d) Construction signs designating the architects, lending institutions, engineers, or contractors when placed on a site where a building is to be constructed within ninety (90) days if maintained for no more than one hundred twenty (120) days.

(e) Temporary window signs placed within the building and not exceeding fifty percent (50%) of the window area.

(f) Temporary residential signs advertising garage sales, provided the signage on a zoning lot shall not exceed eight (8) square feet in area, and the signs shall not be placed or maintained in the public right-of-way and shall not be illuminated.

(g) "No hunting" and "No trespassing" signs as regulated by State Statutes 97B.001;

(h) Memorial signs or tablets containing the name of the building, its use and date of erection;

(i) Flags, Noncommercial. Noncommercial flags are exempt from obtaining a permit, provided that if the flags are placed on flagpoles, such poles shall be no taller than twelve (12) feet above the highest outside wall and the side yard setback shall be not less than the height of the pole. Flagpoles shall be placed a minimum of ten (10) feet from the public right-of-way.

Sec. 40 – 747. Sign Plan.

A comprehensive sign plan shall be required for multi-tenant buildings, shopping centers, and residential planned unit developments (PUDs). The comprehensive sign plan for the structure shall be submitted to the city and shall be of sufficient scope and detail to permit a determination as to whether or not the plan is consistent with the following regulations. The effect of the comprehensive sign plan is to require the owner of a structure to determine and have approved by the city the specific individual tenant sign requirements. No permit shall be issued for an individual use except upon a determination that it is consistent with the approved comprehensive sign plan.

(1) The maximum individual tenant sign sizes for multiple occupancy structures and individual uses which may display signs shall not exceed the maximum provisions for single occupancy structures in the same zoning district.

(2) Multiple occupancy structures may display an area identification sign consistent with the applicable district provisions. Individual freestanding signs identifying the tenants' business shall not be displayed. Twenty-five percent (25%) of the area identification sign must identify the entire site; the balance of the sign may be used for individual tenant identification.

(3) Except as provided in this ordinance, individual tenants of multiple occupancy structures shall not display separate wall signs unless the tenants' business has an exclusive exterior entrance. The number of signs shall be limited to one (1) per entrance, and each sign shall be limited to the maximum wall size sign permitted in the district, the total of which shall not exceed the square footage allowed.

(4) In any multiple occupancy structure qualifying as a mall type shopping center, directory signs shall be permitted for each common public entrance. Each directory sign area shall not exceed a total of fifty (50) square feet and shall be located within fifty (50) feet of the common public entrance being served. The size of individual business identification signing within the directory shall be established during the site plan review process. Attention shall be given to the possible number of tenant or occupancy bays which may be served by the common public entrance for which the directory sign is intended.

Sec. 40 – 748. Prohibited Signs.

The following signs and advertising devices shall be prohibited:

(1) Any sign that by reason of its location, shape, movement, color, lighting intensity, or any other manner interferes with the proper and sale functioning of a traffic sign or signal, obstructs the vision of pedestrians, cyclists, or motorists traveling on or entering public streets, or otherwise constitutes a traffic hazard, as defined by the city;

(2) No sign shall be permitted within public road right-of-way or be affixed to public structures or public utility poles or boxes or other public equipment except for traffic control signs, public utility signs, or signs for public parks, governmental buildings, or other such public facilities.

(3) Balloon signs;

(4) Banners, pennants, ribbons, streamers, inflatables, and strings of light bulbs are prohibited;

(5) Billboard signs;

(6) Computer-controlled variable message electronic signs, except those exclusively indicating time and temperature;

(7) Flashing signs, including flashing signs in windows in the interior of a building;

(8) Portable (trailer) signs, except if used by police and fire departments for traffic control;

(9) Vehicle Signs;

(10) Roof signs, including signs mounted on a roof surface or projecting above the roofline or wall of a structure if either attached to the structure or cantilevered over the structure;

(11) Signs painted on or attached to trees, rocks, or other natural surfaces;

(12) Signs painted directly on a building or fence or attached to a fence;

(13) Signs attached to public utility poles, bridges, or similar public structures;

(14) There shall be no use of search lights, strobe lights, projection signs, vehicle signs, revolving beacons, flashing signs, zip flashers or similar lighted devices;

(15) Off premise signs or off premise billboards or abandoned signs;

(a) Exception: Temporary directional signs for special events with the following requirements:

1. Signs cannot be located within the public right-of-way;

2. Signs must be located on property where written permission has been given by the owner;

3. The sign may be used three (3) times a year for up to thirty (30) days at a time;

4. The sign shall not exceed thirty-two (32) square feet in area per surface, and no sign shall be so constructed as to have more than two (2) surfaces;

(16) Projecting signs which extend over public property;

(17) No signs shall be attached to the exterior of windows;

(18) No sign shall be permitted to obstruct any door, fire escape, stairway or other access of any building or structure;

(19) Electrically energized, animated signs or dynamic signs which shall include the following:

(a) Electronic Changeable Copy Sign,

(b) Designated Sign.

(c) Moving Sign or Dynamic Display.

(d) Electronic Graphic Display Sign.

(e) Flashing Sign.

(f) Multivision Sign.

(g) Shimmering Sign.

(h) Video Display Sign.

(i) Moving Sign.

(j) Illuminated Signs:
Unless a sign's only illumination is external and uncolored, the following additional regulations shall also apply to that sign:

1. No illuminated off-premises sign which changes in color in intensity of artificial light at any time while the sign is illuminated shall be permitted.

2. No illuminated on-premises sign which changes in color or intensity of artificial light at any time when the sign is illuminated shall be permitted, except one for which the changes are necessary for the sole purpose of correcting hour-and-minute, date, or temperature information.

3. A sign that regularly or automatically ceases illumination for the purpose of causing the color or intensity to have changed when illumination resumes shall fall within the scope of the prohibitions of (a) and (b) above.

4. The scope of this subsection's prohibitions include, but are not limited to, any sign face that includes video display, LED lights that change in color or intensity, 'digital ink', and any other method or technology that causes the sign face to present a series of two or more images or displays.

i Exception for on-premise electronic changeable copy sign which displays exclusively the current numeric price of a product sold upon the premises provided that the electronic changeable copy sign occupy no more than twenty-five percent (25%) of the actual copy and graphic area. The numeric message displayed must be static and the transition from one static display to another must be instantaneous without dissolve or special effects.

5. No illuminated sign shall be permitted which:

i Is determined to interfere with safe traffic operations; and

ii Which is directly oriented to any residential district.

(20) Any signs not specifically allowed by this ordinance are prohibited.

Sec. 40 – 749. Residential Districts – Permitted Signs.

Within the A, R-1, R-2, R-3, R-4, R-5, R-6, and MXD (residential uses) districts the following signs are permitted:

(1) Nameplate, real estate sales and development, public, political, identification, informational, institutional, business, directional, construction, temporary and agricultural crop demonstration signs.

(2) Number of Signs. One (1) of each type of sign is allowed per lot frontage, except political signs where one (1) per each candidate is permitted, and agricultural demonstration signs where one (1) for each demonstration plot is permitted.

(3) One (1) address/nameplate sign for each dwelling that shall not exceed nine (9) square feet in area per surface, and no sign shall be so constructed as to have more than two (2) surfaces. Any home occupation signage must be included in the address/nameplate sign.

(a) Home occupation signs in the Agricultural District are permitted to be no more than sixteen (16) square feet per side;

(4) One (1) nameplate sign and one (1) identification/ freestanding sign for residential developments, unless approved as part of a PUD, with the following regulations:

(a) The identification sign shall not exceed thirty-two (32) square feet in area per surface, and no sign shall be so constructed as to have more than two (2) surfaces;

(b) The maximum height shall be six (6) feet;

(c) The sign must be located at least twenty (20) feet from the public right-of-way and ten (10) feet from all interior lot lines.

(5) One nameplate and one identification/ freestanding sign for each permitted nonresidential use or use permitted with a CUP, with the following regulations:

(a) No more than one (1) flat wall sign, which shall not exceed thirty-five (35) square feet in surface area.

(b) No more than one (1) freestanding sign of not more than thirty-five square feet in surface area and no more than fifteen (15) feet in height above the average grade.

(c) A freestanding sign shall be located at least twenty (20) feet from the public right-of-way and ten (10) feet from all interior lot lines.

Sec. 40 – 750. Non-Residential Districts – Permitted Signs.

Within the CB, C, OHC, MXD (non-residential uses), and I districts the following signs are permitted:

(1) Signs as permitted and regulated in the Residential Districts.

(2) Business signs, located on premises, subject to the following provisions:

(a) Wall Mounted Signs.

(b) The total area of a wall sign shall not exceed twenty five percent (25%) of the total area of the wall to which it is attached or two hundred (200) square feet, whichever is less.

(c) No signs shall project above the roof of a structure.

(3) Freestanding and monument Signs.

(a) There may be no more than one (1) freestanding advertising structure for each commercial development having a frontage of six hundred (600) feet or less. One (1) additional structure may be erected for each three hundred (300) feet of additional frontage.

(b) The total area of a freestanding sign shall not exceed one hundred sixty (160) square feet.

(c) The maximum height of any freestanding sign shall be twenty (20) feet.

(d) No part of a freestanding sign shall be closer than ten (10) feet to the front lot line.

(e) When three (3) or more businesses are listed on a single sign or sign system, the sign face materials and illumination method of each shall be identical.

(4) Interstate Pylon Signs

(a) Interstate Pylon signs are meant to be signs for businesses with property along the I-35 corridor.

(b) The maximum allowable size is one hundred eighty (180) square feet

(c) The maximum height is forty (40) feet.

Sec. 40 – 751. Nonconforming Signs.

All signs located within the City of Wyoming prior to the adoption of this Ordinance, may continue to exist as to size, illumination and present location, provided the sign does not violate any provisions of the Wyoming City Code up to the date this Ordinance is passed and adopted, but shall not be modified, expanded, enlarged or re-erected. A permit is required for each existing sign, as applicable under this Ordinance.

Secs. 40 - 752—40 - 759. Reserved

DIVISION 29. SWIMMING POOLS

Sec. 40 – 760. Permits.

No person shall construct or have constructed a swimming pool or special-purpose pool without a building permit.

Sec. 40 – 761. Construction of pools.

(1) Pools and special-purpose pools shall not be located beneath utility lines nor over underground utility lines of any type.

(2) While being constructed, the pool or spa area must be fenced with a portable fence, such as a snow fence not less than four feet in height.

(3) No pool or special-purpose pool shall be located within any public or private utility, easement, ingress or egress easement, drainageway, marsh, or other location in which it will represent a threat to the natural environment.

Sec. 40 – 762. Swimming pool fencing.

(1) All outdoor pools shall be completely enclosed by a fence or wall of the nonclimbable type, so as to be impenetrable by toddlers, afford no external handholds or footholds, and be a minimum of four (4) feet in height.

(a) While being constructed, the pool or spa area must be fenced with a portable fence, such as a snow fence not less than four feet in height.

(2) All outdoor fence openings or outdoor points of entry into the pool area shall be equipped with self-closing and self-latching devices. The opening between the bottom of the fence and the ground or other surface shall not be more than three (3) inches.

(3) All outdoor special-purpose pools shall have either a fence as described in subsections (1) and (2) of this section or a latchable cover. The cover shall be constructed of material impenetrable by toddlers and subject to inspection by city inspectors.

Sec. 40 – 763. Swimming pool fencing exception.

(1) Swimming pools are exempt from the requirement to install a safety fence if all three of the following standards are met:

(a) The property upon which the swimming pool is located is zoned Agricultural, and

(b) The property upon which the swimming pool is located was not created through a Conditional Use Permit process allowing a lot in the Agricultural Zoning District to be smaller than five (5) acres in size, and

(c) The swimming pool maintains a minimum rear and side lot line setback of three hundred (300) feet.

1. The three hundred (300) foot setback may be waived from one or all of the rear and side lot lines if a physical barrier exists (such as a lake, stream, or open water wetlands), which makes access to the swimming pool over that lot line from the adjacent property impossible or highly improbable.

Sec. 40 – 764. Miscellaneous pool regulations.

(1) Nuisance.
The conduct of persons in the operation of pools shall be the responsibility of the owner and the tenant, and such conduct of persons in operation of the pool shall be done in a manner so as to avoid any nuisance or breach of the peace, and it shall be unlawful to allow loud noises to go beyond the boundaries of the property upon which the pool or special-purpose pool is located.

(2) Filling.
The filling of pools from fire hydrants or other public facilities is prohibited without prior approval of the city clerk-administrator.

(3) Drainage.
All back flushing water of swimming pool or special-purpose pool drainage shall be directed onto the property of the owner or onto approved drainageways. Drainage onto public streets or other public drainageways requires a permit from the zoning administrator.

Sec. 40 – 765. Existing swimming pools and special purpose pools.

Existing swimming pools and special-purpose pools, which do not conform to the requirement of this article, shall be required to achieve compliance within thirty (30) days of the effective date of this Division.

Secs. 40 - 765—40 - 769. Reserved

DIVISION 30. TELECOMMUNICATION TOWERS

Sec. 40 – 770. Telecommunication Towers.

In order to accommodate the communication needs of residents and business while protecting the public health, safety, and general welfare of the community, the Council finds that these regulations are necessary in order to:

(1) Facilitate the provision of wireless telecommunication services to the residents and businesses of the City

(2) Minimize adverse visual effects of towers through careful design and siting standards

(3) Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements and

(4) Maximize the use of existing and approved towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community.

Sec. 40 – 771. Permits.

(1) It shall be unlawful for any person, firm, or corporation to erect, construct in place, place or re-erect, replace, or repair any tower without first making application to the Zoning Administrator and securing a permit therefore as hereinafter provided.

(2) The applicant shall provide at the time of application sufficient information to indicate that construction, installation, and maintenance of the antenna and tower will not create a safety hazard or damage to the property of other persons.

(3) Permits are not required for:

(a) Adjustment or replacement of the elements of an antenna array affixed to a tower or antenna, provided that replacement does not reduce the safety factor.

(b) Antennae and/or towers erected temporarily for test purposes, for emergency communication, or for broadcast remote pick-up operations. Temporary antennae shall be removed within seventy-two (72) hours following installation.

Sec. 40 – 772. Location Requirements for New Facilities.

(1) If a new wireless communications facility is needed based on the materials and studies submitted and reviewed by the City, the following preferences, listed in ranked order, shall be followed and each preference shall be analyzed to determine the most appropriate location:

(a) Use of Existing Towers. An existing tower may be used to support the proposed facility. If no existing tower has additional capacity, a determination must be made to show if and how towers in the study area can be modified to accommodate the proposed facility. The co-location requirements specified in Sec. 40 – 775 shall be used to help determine whether or not an existing tower can be used to support a proposed facility.

(b) Use of Existing Structures. An existing structure over 35 feet high may be used. Preference shall be given to existing light poles, high voltage utility towers, and water towers.

(c) Use of Existing Buildings Four or More Stories in Height. Public and commercial buildings or structures four or more stories high which can more likely accommodate facilities without obstructing views or being obtrusive to scenic views shall be given preference over shorter buildings.

(d) Within an existing easement that contains utility poles over 75 feet in height or within 100 feet of said right-of-way.

(e) Public Land and Facilities. In situations in which one of the four options listed above is not feasible, land owned by the City or other public property shall have preference to private property.

(f) Private property within the City of Wyoming subject to the Location and Zoning requirements of this Division and the following criteria:

1. Less restrictive zoning districts shall be given preference over more restrictive zoning districts. For example, proposed sites in commercial or industrial districts will be given preference over sites in residential, rural residential or agricultural zoning districts.

2. Sites with the least visual impact on residential areas and which are the most consistent with the community's rural character shall be given preference.

(2) In cases where a lower ranked alternative is proposed, the applicant shall file a written analysis demonstrating that despite diligent efforts to adhere to the established hierarchy within the potential service area, as determined by a qualified radio frequency engineer, higher ranked options are not technologically feasible. An application for a lower-ranked site shall be considered incomplete without this written documentation.

Sec. 40 – 773. Towers in Residential Zoning Districts.

(1) Towers supporting amateur radio antennas and conforming to all applicable provisions of this Code shall be allowed only in the rear yard of residentially zoned parcels. See Sec. 40 – 441, Conditional Use Permit Application Requirements, Amateur Radio Antenna.

(2) Towers supporting commercial antennas and conforming to all applicable provisions of this Code shall be allowed in residentially zoned locations.

(a) Church sites, when camouflaged as steeples or bell towers

(b) Park sites, when compatible with the nature of the park and,

(c) Government, school, utility, and institutional sites, not including the public right-of-way.

Sec. 40 – 774. Antennas in the Public Right-of-Way.

Wireless telecommunication facilities and antennas may co-locate with existing poles or towers in the City, County, or State right-of-way within any zoning district.

Sec. 40 – 775. Co-Location Requirements.

All commercial wireless telecommunication towers erected, constructed, or located within the City shall comply with the following requirements:

(1) A proposal for a new commercial wireless telecommunication service tower shall not be approved unless the City Council finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower, building or structure due to one or more of the following reasons:

(a) The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

(b) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified radio frequency engineer and the interference cannot be prevented at a reasonable cost.

(c) Existing or approved towers, buildings or structures that cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.

(d) Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

(2) Any proposed commercial wireless telecommunication service tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over 100 feet in height or for at least one additional user if the tower is over 60 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

Sec. 40 – 776. Tower and Antenna Design Requirements.

Proposed or modified towers and antennas shall meet the following design requirements.

(1) Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.

(2) Commercial wireless telecommunication service towers shall be of a monopole design unless the City Council determines that an alternative design would better blend into the surrounding environment.

Sec. 40 – 777. Tower Setbacks.

Towers shall conform to each of the following minimum setback requirements:

(1) Towers and their accessory buildings shall meet the principal building setbacks of the underlying zoning district with the exception of industrial zoning districts, where towers may encroach into the rear setback area, provided that the rear property line abuts another industrially zoned property and the tower does not encroach upon any easements.

(2) Towers shall not be located between a principal structure and a public street, with the following exceptions:

(a) In industrial zoning districts, towers may be placed within a side yard abutting an internal industrial street.

(b) On sites abutted by public streets on all sides, towers may be placed within a side yard abutting a local street.

(3) A tower's setback may be reduced or its location in relation to a public street varied, at the sole discretion of the City Council, to allow the integration of a tower into an existing or proposed structure such as a church steeple, light standard, power line support device, or similar structure.

Sec. 40 – 778. Tower Height.

(1) Within all Designated Residential Property, the maximum height of any tower, including all antennas and other attachments shall not exceed one (1) foot for each four (4) feet the tower is setback from the property lines up to a maximum height of thirty (30) feet.

(2) In all residential zoning districts other than Designated Residential Property, the maximum height of any tower, including all antennas and other attachments, shall not exceed one (1) foot for each four (4) feet the tower is setback from Designated Residential Property up to a maximum height of seventy-five (75) feet.

(3) In all non-residential zoning districts, the maximum height of any tower, including all antennas and other attachments, shall not exceed one (1) foot for each two (2) feet the tower is setback from Designated Residential Property up to a maximum height of seventy-five (75) feet in non-industrial zoning districts and one hundred (100) feet in industrial zoning districts.

(4) In accordance with the Federal Communications Commission's preemptive ruling PRB1, towers and antennas erected for the primary purpose of supporting amateur radio communications may exceed the height restrictions of (3), above, but shall not exceed sixty-five (65) feet in height.

Sec. 40 – 779. Tower Lighting.

Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.

Sec. 40 – 780. Signs and Advertising.

The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

Sec. 40 – 781. Associated Equipment.

(1) Ground equipment associated with a tower or wireless telecommunications facility shall be screened by vegetative or other screening compatible with the surrounding environment if deemed necessary by the Zoning Administrator or designee.

(2) When associated ground equipment is housed in a building or structure, that building or structure shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district.

(3) Ground equipment associated with a wireless telecommunications facility may be located on residentially used property only within a utility easement adjacent to the public right-of-way and in conformance with the limitations discussed in Sec. 40 - 777, except in the multi-family zoning district (R-6) where ground equipment associated with a wireless telecommunications facility may also be located within a code complying building or structure after receiving the approvals required by this Code.

Sec. 40 – 782. Abandoned or Unused Towers or Portions of Towers.

Abandoned or unused towers or portions of towers shall be removed as follows:

(1) All abandoned or unused towers and associated facilities shall be removed within twelve (12) months of the cessation of operations at the site unless a time extension is approved by the Building Official. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associated facilities upon cessation of operations at the site shall be submitted at the time of application. In the event that a tower is not removed within twelve (12) months of the cessation of operations at a site, the tower and associated facilities may be removed by the City and the costs of removal assessed against the property.

(2) Unused portions of towers above a manufactured connection shall be removed within six months of the time of antenna relocation. The replacement of portions of a tower previously removed requires the issuance of a new conditional use permit.

Sec. 40 – 783. Antennas Mounted on Roofs, Walls, and Existing Towers.

The placement of wireless telecommunication antennas on roofs, walls, and existing towers may be approved by the Zoning Administrator, provided the antennas meet the requirements of this Code, after submittal of:

(1) A final site and building plan as specified by Sec. 40 – 784 of this Code; and

(2) A report prepared by a qualified and licensed professional engineer indicating the existing structure or tower's suitability to accept the antenna, and the proposed method of affixing the antenna to the structure.

(a) Complete details of all fixtures and couplings, and the precise point of attachment shall be indicated.

(b) Antennas shall be mounted on the facade of the building or penthouse structure unless the Zoning Administrator or designee determines that another antenna mounting location decreases the visual impact of the antennas.

(c) All roof-mounted equipment shall be screened from view in accordance with Article VII, Division 26, of this Code.

Sec. 40 – 784. Interference with Public Safety Telecommunications.

No new or existing telecommunications service shall interfere with public safety telecommunications.

(1) Applications for the erection of telecommunication antennas shall include a statement from a qualified radio frequency engineer that the antennas will not interfere with public safety telecommunications.

(2) Applications for the erection of telecommunication antennas that will use a frequency band with the highest potential to interfere with public safety telecommunications (150-174 MHz or 806-870 MHz) shall be accompanied by an intermodulation study when the antennas are proposed within one half mile of a public safety antenna site.

(3) Applications for the erection of telecommunication antennas that will use frequency bands with lower potential to interfere with public safety telecommunications shall be accompanied by an intermodulation study when the antennas are proposed within one hundred (100) horizontal feet of an existing public safety antenna site.

(4) Intermodulation studies shall provide a technical evaluation of existing and proposed transmissions and indicate all potential interference problems.

(5) The intermodulation study shall include all provided public safety frequencies, all registered frequencies within one mile of the site, and shall reference the latitude and longitude coordinates of the site. If the intermodulation study reveals the potential for interference or if interference materializes after antenna installation, the City may require special filtering.

(6) Before the introduction of new service or changes in existing service, telecommunication providers shall notify the City at least ten (10) calendar days in advance of such changes and allow the City to monitor interference levels during the testing process.

Sec. 40 – 785. Tower Construction Requirements.

All antennae and towers erected, constructed, or located within the City, and all wiring therefore, shall comply with the following requirements:

(1) All applicable provisions of this Code.

(2) Towers shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the Minnesota State Building Code.

(3) Any antenna or antenna mounting structure, or part thereof placed in the public right-of-way must receive an appropriate right-of-way permit issued through the Public Works Department.

(4) Towers and associated antennas shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.

(5) All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight feet above the ground at all points, unless buried underground.

(6) Every tower affixed to the ground shall be protected to discourage climbing of the tower by unauthorized persons.

(7) All towers shall be constructed to conform with the requirements of the Occupational Safety and Health Administration.

Sec. 40 – 786. Additional Submittal Requirements.

In addition to the information required elsewhere in this Code, development applications for towers shall include the following supplemental information:

(1) A report from a qualified and licensed professional engineer which:

(a) Describes the tower height and design including a cross section and elevation

(b) Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas

(c) Describes the tower's capacity, including the number and type of antennas that it can accommodate

(d) Documents what steps the applicant will take to avoid interference with established public safety telecommunications

(e) Includes an engineer's stamp and registration number and,

(f) Includes other information necessary to evaluate the request.

(2) For all commercial wireless telecommunication service towers, a letter of intent committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.

(3) Before the issuance of a building permit, the following supplemental information shall be submitted:

(4) Proof that the proposed tower complies with regulations administered by Federal Aviation Administration and,

(5) A report from a qualified and licensed professional engineer which demonstrates the tower's compliance with the aforementioned structural and electrical standards.

Sec. 40 – 787. Maintenance and Inspections.

(1) Tower and antenna finish and paint shall be maintained in good condition, free from rust, graffiti, peeling paint, or other blemish.

(2) All towers may be inspected at least once each year by an official of the Department of Building Safety to determine compliance with original construction standards. Deviation from original construction for which a permit is obtained constitutes a violation of this Section.

(3) Notice of violations will be sent by registered mail to the owner and he will have thirty (30) days from the date the notification is issued to make repairs. The owner will notify the Department of Building Safety that the repairs have been made, and as soon as possible thereafter, another inspection will be made and the owner notified of the results.

Sec. 40 – 788. Antenna Design and Mounts.

(1) Applicants shall use antenna designs and mounts that minimize visual impact.

(2) The use of guyed towers is prohibited. Towers must be self-supporting without the use of wires, cables, beams, or other means.

Sec. 40 – 789. Variances.

The following standards apply to variance requests for towers, antennas, or wireless telecommunication facilities.

(1) The City Council shall consider the following issues in addition to the variance findings required in Article V, Division 7 of this Code:

(a) The viability of Code complying alternative locations for the proposed tower, antenna, or wireless telecommunication facility.

(b) The impacts of the tower, antenna, or wireless telecommunication facility at the proposed site relative to the impacts of the tower, antenna, or wireless telecommunication facility at a Code complying alternative location.

(c) The extent to which there is a significant gap in coverage surrounding the proposed tower, antenna, or wireless telecommunication facility or other evidence of inadequate service due to antenna location.

(d) The extent to which the proposed tower, antenna, or wireless telecommunication facility is the least intrusive, lowest impact design available.

(e) The extent to which the height of the proposed tower, antenna, or wireless telecommunication facility could be reduced and still provides adequate coverage.

(f) The extent to which the size of the proposed accessory equipment could be reduced.

(g) The feasibility of placing the proposed accessory equipment underground.

Sec. 40 – 790. Expert Review.

The applicant shall pay the reasonable cost of the City retaining a qualified, independent radio frequency engineer to provide a professional opinion to the City Council if the Zoning Administrator or designee determines that an independent radio frequency engineer is needed to assist in consideration of these regulations.

Secs. 40 - 791—40 - 799. Reserved

DIVISION 31. TEMPORARY MANUFACTURED HOME PERMIT

Sec. 40 – 800. Purpose.

It is the purpose of this Division to allow for the temporary placement and habitation of a manufactured housing unit for specific cases as provided herein.

Sec. 40 – 801. Temporary Manufactured Home Permit Required.

A Temporary Manufactured Home Permit is required for the temporary placement and habitation of a manufactured home for those specific cases as allowed in this Division. The application for the permit shall contain the information required for Conditional Use Permits in Article V, Division 6 of this code. Upon determination that the application meets the requirements of this Division and other pertinent sections of this Ordinance, the Zoning Administrator may issue said permit.

Sec. 40 – 802. Conditions for Issuance of Temporary Manufactured Home Permit.

(1) During Construction of Permanent Dwelling.
In all districts, a six (6) month, one time renewable permit may be issued to allow a manufactured home to be placed and occupied on the same site as the permanent dwelling is being constructed provided:

(a) The building permit for the permanent dwelling has been issued.

(b) An approved sewer system has been installed on the site to service the temporary manufactured home.

(c) A two thousand ($2,000) dollar performance bond is posted as part of the application.

(2) Accessory Residence for Health Care Reasons.
In the "A, R1, R2, R3, R4, R6, and single-family residential properties in the MXD" districts, a twelve (12) month, renewable permit may be issued to allow a manufactured home to be placed and occupied on the same lot as the principal residence when the person(s) occupying the accessory residence require close supervision due to health reasons, yet are capable of independent living, provided:

(a) The occupant(s) of the principal residence must be a relative or legal guardian of the occupant(s) of the accessory residence.

1. "Relative" means a spouse, parent, grandparent, child, grandchild, sibling, uncle, aunt, nephew, or niece of the occupants of the principal residence. Relative includes half, step, and in-law relationships.

(b) A doctor's report is submitted specifying the need for a closely supervised independent living arrangement.

(c) Adequate sewage facilities exist on the site to accommodate the additional structure. No separate sewage or water facilities are permitted.

(d) That the temporary manufactured home be located to meet or exceed all principal building setbacks for the district in which it is located.

(e) A three thousand ($3000) dollar performance bond, letter of credit or cash escrow is posted as part of the application, to ensure removal of the temporary dwelling when the approved use ceases.

(f) That permits for the installation of the manufactured home and its utilities shall be submitted with the fees specified in Appendix A of the City Code.

(3) Accessory Residence for Farm Employees.
A twelve (12) month renewable permit may be issued to allow a manufactured home to be placed and occupied on a farm to provide housing for a person(s) or family which is actively engaged in the operation of the farm, provided:

(a) The major portion of the livelihood of the person(s) or family residing is derived from the farm.

(b) A two thousand ($2,000) dollar performance bond has been posted as part of the application.

(c) Adequate sewage facilities exist on the site to accommodate the additional structure.

(d) The unit shall comply with lot setback requirements for the zoning district.

(e) The primary use of the property shall be agriculture.

(f) The occupants of the unit shall have at least one person engaged in agricultural employment on the parcel of land where such unit is located. The unit need not be located on the same parcel as the principal dwelling.

(g) Such permit shall be non-transmittable.

(h) Once the agricultural use of the property has ceased, the unit must be removed.

(i) The unit may not be sold or removed from property unless such removal is made to comply with item (h) above or until the permit holder determines that the temporary farm housing is no longer necessary. If the permit holder terminates their use of temporary farm housing, the permit holder shall notify in writing the Zoning Administrator that the permit is no longer being utilized.

(j) The unit may only be occupied from May 1 to November 1 each year.

(k) The unit shall not be rented, and staying in the units shall not be a condition of employment.

(l) Each application shall include plans showing designated parking areas, outdoor lighting, recreational areas, and other structures or amenities associated with the permit.

(m) The unit shall be built per the Minnesota State Building Code.

(n) Each unit shall provide for a septic system in compliance with the City of Wyoming Sewage and Wastewater Treatment Ordinance.

Secs. 40 - 803—40 - 809. Reserved

DIVISION 32. TRAFFIC AND PARKING STUDIES

Sec. 40 – 810. Traffic and parking studies.

In review of a project or application, the City may require, at the developer's expense, submission of a traffic and/or parking analysis which is prepared by a traffic engineer. Such analysis shall assess the potential impact of a proposed project on roadways, intersections, and/or on-site parking and circulation.

Sec. 40 – 811. Traffic Management Plans.

If a traffic study indicates that a proposed project or use will have significant impact on the existing service levels of roadways and intersections, the City may require a "traffic management plan" to mitigate traffic impacts. Such plan may include travel demand management strategies, use of transit facilities, or other appropriate measures to reduce traffic congestion. Such plan may also necessitate improvements to road systems. The developer shall be responsible for installation and expense of necessary road system improvements and pedestrian facilities, and any such improvements shall be constructed and installed according to City specifications.

Secs. 40 - 812—40 - 819. Reserved

DIVISION 33. UNDERGROUND UTILITIES

Sec. 40 – 820. Underground utilities.

Underground utilities shall be provided for all new structures and those that are renovated if renovation costs exceed fifty percent (50%) of the value of the structure.

Secs. 40 - 821—40 - 829. Reserved

DIVISION 34. YARD REGULATIONS

Sec. 40 – 830. General Statement.

(1) No yard, or other open space, shall be reduced in area or dimension so as to make such yard or open space less than a minimum required by this Ordinance, and if the existing yard or other open space as existing is less than the minimum required it shall not be further reduced.

(2) No required yard or open space allocated to a structure or parcel of land in compliance with this Ordinance shall be used to satisfy yard or open spaces or minimum lot area requirements for any other structure or land.

Sec. 40 – 831. Yard Requirements.

The minimum yard setback distances from the appropriate lot line are set forth within the district provisions of this Ordinance.

(1) Corner Lots.

(a) Where a lot is located at the intersection of two (2) or more streets, the width of the yard along the street shall not be less than that which is required in the applicable zoning district.

(b) On a corner lot, nothing shall be placed or allowed to grow in such a manner as to materially impede vision between a height of two and one-half (2 1/2) and ten (10) feet above street level in the front yard setback or for a distance of thirty (30) feet from intersecting streets, whichever is less.

(2) Through Lots.
On a lot fronting on two (2) parallel streets, both street lines shall be front lot lines for applying the yard regulations of this Ordinance.

(3) Earth Sheltered Buildings.
Computations for yard requirements shall be based upon measurements from the exposed exterior surface of the building.

(4) Exceptions.

(a) Architectural projects including chimneys, flues, leaders, sills, pilasters, lintels, ornamental features, mechanical devices, cornices, eaves, gutters, and the like, provided they do not extend more than three (3) feet.

(b) Lights for illuminated parking or loading areas or yards for safety and security purposes may be installed in accordance with Article VII, Division 15 of this ordinance.

(c) Off-street parking spaces except as hereinafter regulated.

(d) Fencing or buffering materials as hereinafter regulated.

(e) In front and side yards: balconies that extend a distance of four (4) feet or less provided they are seven (7) feet or more above grade at the building line. Also steps, terraces, driveways, stoops, decks, and patios which do not extend in elevation above the ground floor level of the principal building or to a distance of less than five (5) feet from any lot line.

(f) In rear yards: recreational and laundry drying equipment, picnic tables, open arbors and trellises, balconies, breezeways, porches, detached outdoor living rooms and decks, and outdoor eating facilities, are allowed, provided these are not less than five (5) feet from any lot line.

Secs. 40 - 832—40 - 839. Reserved

ARTICLE VIII. REPEAL AND DATE OF EFFECT

Sec. 40 – 840. Repeal of Previous Zoning Ordinance.

The City of Wyoming Zoning Ordinance, Chapter 40, adopted by the City Council of the City of Wyoming on the 16th day of February 1999, and all amendments and extensions thereof are hereby repealed.

The City of Wyoming Ordinance Number 2008-04, Section 1, Items b, d, e, (except Section 25, Off Road Vehicles; and Section 43, Nuisances), h, and i; and Section 2, Items a and b, adopted by the City Council of the City of Wyoming on the 19th day of August, 2008, and all amendments and extensions thereof are hereby repealed.

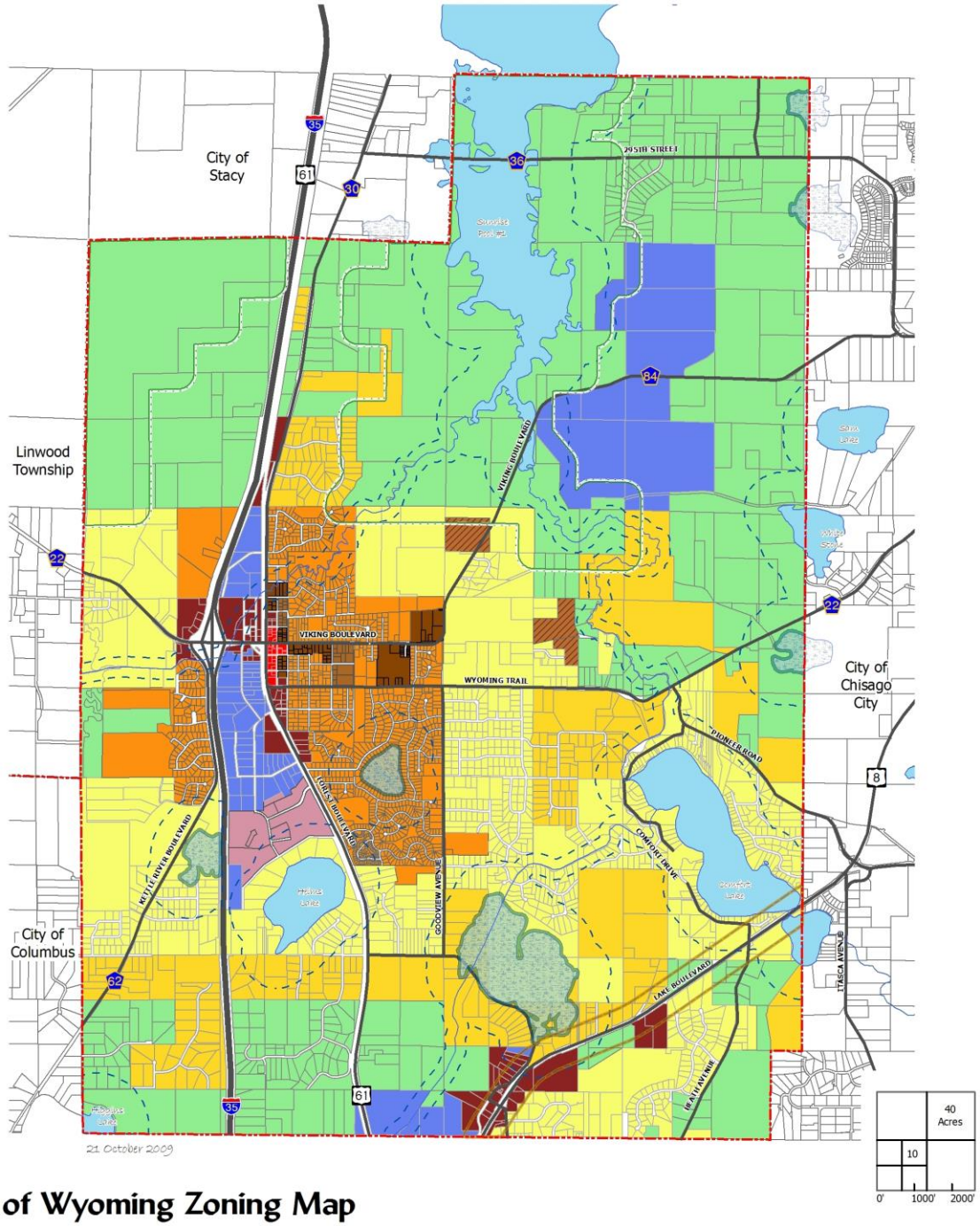
Sec. 40 – 841. Date of Effect.

Passed and approved by the City Council of the City of Wyoming this 17th day of November, 2009.

Secs. 40 - 842—40 - 849. Reserved

(ORDINANCE NO. 11-17-09)

City of Wyoming Zoning Map



City of Wyoming Zoning Map

Zoning Districts

- A -- Agriculture
- R1 -- Rural Residential I
- R2 -- Rural Residential II
- R3 -- Single Family Residential
- R4 -- One and Two Family Residential
- R5 -- Manufactured Homes
- R6 -- Limited Multiple Dwelling
- C -- Commercial
- CB -- Central Business
- OHC -- Office and Health Care
- I -- Industrial

Overlay Districts

- S -- Shoreland Management Overlay
- CO -- Carlos Avery Wildlife Perimeter Overlay
- H8O -- Highway 8 Overlay District

Other

- Significant Wetlands
- Required Wetland Buffers
- City Boundary

APPENDIX A FEE SCHEDULE

See The City of Wyoming Website Wyomingmn.org for the current fee schedule.

APPENDIX B PERSONNEL POLICY*

Cross references: Administration, ch. 2; officers and employees, § 2-71 et seq.

TABLE OF CONTENTS

Introduction

EMPLOYMENT

Equal Employment Opportunity

Definitions

Recruitment and Selection

Probationary Period

Employee In-Processing/Orientation

Administration of Employee Personnel Records

Position Classification Plan

Reclassification Procedure

Compensation

Flexible Working Hours

Meal Periods and Rest Breaks

Overtime

Report of Personnel Changes

Government Data Practices Act

Performance Appraisals

Attendance

Nepotism

Supplemental Employment

Residency

CONDUCT

Ethics of Public Employment

Employee Ethics

Employee Conduct

Disciplinary Action

Political Activities

Tobacco Free Work Environment

Smoking Policy for City Employees within City-Owned Facilities

Conflict of Interest

Gifts and Gratuities

Harassment

Workplace Violence

Drug and Alcohol Free Workplace

Purpose

Policy

Drug Testing

Employee Prohibitions

Additional Employee Responsibilities

Enforcement and Discipline

Prevention and Rehabilitation

Maintenance and Distribution of Policy

Appearance and Dress Guidelines

SEPARATION FROM EMPLOYMENT

Resignation

Retirement

Layoff

Severance Pay

Continuation of Insurance Benefits Upon Separation

LEAVE BENEFITS

Vacation

Sick Time

Holidays

Family and Medical Leave

Statement of Policy

Coverage and Eligibility

Intermittent or Reduced Leave

Substitution of Paid Vacation Time

Notice Requirement

Medical Certification

Effect on Benefits

Job Protection

Family/Medical Leave Forms to be submitted by Employee

School Conference and Activities Leave

Bone Marrow Donation Leave

Military Leave

Jury Duty Leave

Funeral Leave

Leave of Absence Without Pay

Severe Weather Conditions

GENERAL BENEFITS

Insurances

Deferred Compensation Program

Flexible Benefits Plan

LABOR RELATIONS

Grievances

Discipline

SAFETY REQUIREMENTS

Safety

Safety/Injury Reporting

Safety Glasses

Safety Toed Footwear

Head Protection

Hand Protection

Respiratory Protection

Hearing Protection

Protective Clothing

Temporary & Seasonal Employees

Property Damage Reporting

Workers' Compensation

MISCELLANEOUS POLICIES

Handling Citizens' Complaints

Requests for Legal Work

Training Programs, Including Seminars or Conventions

Travel Expenses

Telephone Use

Electronic Communications and Internet Use

Personal Use of City Property

Use of City Vehicles

Collision Investigation Involving City Employees and/or Vehicles

Accidents Involving Defective Equipment

Employee Actions at Accident Scenes

News Releases

Working Out Of Classification

Children’s Service Worker Background Check Policy & Procedure

Criminal Background Check Process

Negative Information

Retention and Accessibility of Records

Current Employees

Implementation

Job Announcements

Communication of Policy

INTRODUCTION

This policy manual contains personnel policies and procedures for City of Wyoming employees.

The purpose of this policy manual is to establish uniform and equitable policies that will promote an efficient system of personnel administration for employees of the City of Wyoming consistent with state and federal law The policy manual serves as a guide for administrative actions concerning City personnel matters and shall not be construed as contractual provisions or as establishing terms of employment.

The provisions of any labor agreement between the City and a certified representative of City employees supersedes provisions of this policy manual.

The policies and procedures contained in this policy manual may be revised from time to time, as the City deems appropriate without prior notice.

Because of the need to change policies to accommodate changes in the City of Wyoming, statements in this manual are not to be considered binding upon the City.

The terms and conditions of this manual with respect to employment matters do not constitute nor are they intended to imply a contract of employment or a contract of any kind. They do not grant any property or liberty interest to any employee.

EMPLOYMENT

EQUAL EMPLOYMENT OPPORTUNITY

The City of Wyoming strives to provide full and equal opportunities for every person in all areas related to employment, training, promotion and compensation within the City government. To this end, the City upholds the principle that no individual shall be discriminated against with respect to compensation, terms, conditions or other privileges of employment because of race, color, creed, religion, sex, age, national origin, sexual orientation, marital status, veteran status, source of income, or disability, and to any other group or class against which discrimination is prohibited by state or federal law.

Employees who participate in discrimination of any kind are subject to discipline up to and including termination.

Any person who feels that he/she has been discriminated against should contact the City Administrator or Mayor *(herein after referred to as the "City Administrator" or "Mayor")*. Employees and applicants are protected from coercion, intimidation, interference, or discrimination for filing complaints or assisting investigations.

DEFINITIONS

12-Month Period:	A rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.
Appointing Authority:	The Wyoming City Council.
Child:	A child either under 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee's "child" is one for whom the employee has actual day-to-day responsibility for care and includes a biological, adopted, foster or stepchild.
Contract:	Contract shall include any contract or agreement, sale, lease, purchase, or purchase order.
Controlled Substance:	Controlled substance listed in Schedules I through V of Section 202 of the Control Substances Act (21 W.S.C. S812) and is further defined by regulation at 21 C.F.R. Sections 1300.11 through 1300.15. Such substances include, but are not limited to, heroine, marijuana, cocaine, PCP, and "crack". They also include legal prescription drugs, which have not been prescribed to the employee by a licensed physician.
Criminal Drug Statute:	Means a federal or state criminal statute involving the manufacture, distribution, dispensing, use, or position of any controlled substance.
Employee:	An employee is defined as any person holding a regularly compensated position for the City of Wyoming, including regular full time, part-time, temporary, and seasonal or any other classification, which is regularly compensated. Exclusions include City Council members and members of City Boards and Commissions. Employee also means a person, independent contractor, or person working for an independent contractor who

performs services for the City of Wyoming for compensation, whatever form, including any employee directly engaged in the performance of work pursuant to the provisions of any federal grant.

Exempt Employee: An employee specifically exempt from the overtime compensation provisions of applicable FLSA (Fair Labor Standards Act) legislation as defined and limited by administrative rules and regulations; these employees generally have as their primary duty management, administration, or work of a professional nature.

FLSA: Fair Labor Standards Act which is a federal law regarding minimum wage and overtime compensation, classifying positions as exempt or non-exempt.

Full-Time Employee: An employee who has successfully completed the Probationary Period and who is regularly scheduled for 2080 hours per year.

Immediate Family Family includes spouse, child, parent, parent-in-law, brother, sister, grandparent, son-in-law, daughter-in-law, and grandchildren. Family also includes other persons residing in the employee's residence who are financially dependent upon the employee. This policy shall also apply to persons related by blood or marriage residing in an employee's home.

Interest: Interest is any direct or indirect monetary or material benefit accruing to a City employee as a result of a contract or transaction which is or may be the subject of an official act or action by or with the City (except for such transactions which would confer similar benefits to all other persons and/or property similarly situated).

Interests include: (a) interests in an employee's family, (b) any business entity in which stock or legal beneficial ownership is in excess of one percent (1%) of the total stock, or legal ownership is controlled or owned directly or indirectly by the employee, (c) interest in any business entity in which the City employee is an officer, director, or employee, (d) interest in any person or business entity with whom a contractual relationship exists with the employee; provided that a contractual obligation of less than $500 or a commercially reasonable loan or purchase made in the course of ordinary business shall not be deemed to create a conflict of interest.

Non-exempt Employee: An employee who is entitled to minimum wage and overtime compensation pursuant to applicable fair labor standards legislation.

Part-Time Employee: An employee who has successfully completed the Probationary Period and who is regularly scheduled for less than 2080 hours per year

Reclassification: A change in classification of an individual position by raising it to a higher job class, reducing it to a lower job class, or moving it to another class at the same level on the basis of significant changes in kind, difficulty or responsibility of the work performed in such a position.

Serious Health Condition: An illness, injury, impairment, or a physical or mental condition that involves:

Spouse: Does not include unmarried domestic partners. If both spouses work for the City of Wyoming, their total leave in any 12-month period may be limited to an aggregate of 12 weeks if the leave is taken for either the birth or placement for adoption or foster care of a child or to care for a sick parent.

Training: Is defined as any work related program, seminar, conference, convention, course or workshop attended by an employee whose tuition and expenses are funded in whole or in part by the City or while the employee is in a paid status with the City.

RECRUITMENT AND SELECTION

All appointments in the municipal service shall be made according to job-relevant qualifications, merit and fitness as determined by the City Council considering the recommendation of the City Administrator and Department Heads.

The basic recruitment and selection policies of the City are to take whatever measures necessary to seek out and to encourage properly qualified individuals to apply for positions of City service and to provide assurance that the best qualified applicants are properly inducted into municipal service. Competition for positions shall be open to all applicants who meet the qualifications established for the class of position for which application is made. No person shall in any way be favored or discriminated against because of race, color creed, age, marital status, sex, political opinion or affiliation, disability, sexual orientation, or welfare assistance status.

In making a selection among candidates to fill vacancies, the City may use written, oral or performance tests, an evaluation of training and

experience, or any combination of these. Investigations of background, character, education, experience or physical fitness may also be required.

Appointment to a position in the municipal service shall not be construed to be a property right of the employee.

PROBATIONARY PERIOD

The City of Wyoming regards the Probationary Period as an integral part of the employment process. During this period new employees are closely evaluated to determine whether or not they meet acceptable standards of performance. This period is one of the most effective tests available to measure fitness for the job.

The first six (6) months of employment is a Probationary Period (varies by position and/or union contract). During the Probationary Period the City shall closely observe an employee's work to ensure that the employee demonstrates that he/she is qualified for the position to which he/she has been appointed. Performance, skills and ability demonstrated during the Probationary Period shall be evaluated by the employee's supervisor in order to determine whether the employee should continue to be retained by the City. If the employee's work meets established standards, he/she may become a regular employee at the end of the Probationary Period. Employees whose performance does not meet the work standards of the position, as determined in the City's sole discretion, may be terminated without stating a reason or cause, or in accordance with law.

Employees appointed to new positions in the City are also required to successfully complete a six (6) month Probationary Period. If an employee appointed to a new position is found to be unsuited for that position, the City, at its sole discretion, may reinstate the employee to his/her former position and former rate of pay if the City determines that such reinstatement is possible. Reinstatement is not guaranteed.

EMPLOYEE IN-PROCESSING/ORIENTATION

PURPOSE: To establish a policy and procedure for processing new City employees.

All new regular full-time and regular part-time employees of the City will be scheduled to meet with the Administration/Finance Office prior to their first day of work for general orientation.

The Payroll/Bookkeeper will distribute and explain the various enrollments forms, etc. that must be filled out.

Each new employee will be provided with information on employee benefits, City policies and operations.

The hiring department provides additional information to the new employee, including:

A. Work standards and regulations

B. Hours of work, time cards or reports, leave requests

C. Duties of the position

D. Safety rules and procedures, location of safety or protective equipment

E. Tour of the work area, including location of equipment, supplies, etc.

F. Introduction to co-workers

G. Schedule for lunch and breaks

H. When and whom to report absence from work

I. Who is responsible for performance planning and review

ADMINISTRATION OF EMPLOYEE PERSONNEL RECORDS

PURPOSE: To establish procedures and responsibilities for the maintenance of employee Personnel Records.

1. Establishment of procedures and responsibilities for the maintenance of personnel records.

   a. The City Administrator is responsible for establishing and maintaining an official personnel file for each employee of the City.

   b. Official Personnel files will be maintained by the City Administrators Office, which will include all material of a confidential nature to include, but not limited to:

      - Psychological Profiles

      - Job qualification Tests

      - Polygraph Results

      - Background Checks

      - Oral Board Results

- Performance Plans and Reviews

- Employment Contracts

c. Access to the Personnel files may be allowed if the City Administrator feels access would be helpful, necessary or warranted for administrative purposes.

d. Department Heads are responsible for the forwarding of documents for inclusion in the Personnel files of those employees assigned to their department.

e. Each employee is responsible for the verification of information contained in the personnel file through periodic audit. An administration representative must be present when file is audited. Only the City Administrator may remove items from the respective files with notification to respective Department Head. The Department Head shall schedule all audits or inspection of records by employees. All audit appointments should be with the City Administrator. The purpose of the audit or inspection is to ensure accuracy and completeness of the file.

f. Separate personnel files shall not be maintained by individual departments.

2. Identification of information to be included in the employee's personnel file:

a. Permanent Documents. Documents retained in the folder throughout the association of an employee with the City:

1. Employee application

2. Job description and specification information

3. Job performance ratings and evaluations

4. Education/training information

5. Personnel data card

6. Personnel action forms

b. Temporary documents (Personnel). Documents that have limited retention of three (3) calendar years or less unless otherwise provided pursuant to labor agreement. Examples include:

1. Administrative correspondence relating to leave/vacation requests.

2. All other administrative documents of limited informational life span.

3. Letters of appreciation, commendation, or discipline.

4. Establishment of procedures for the release and accessibility of information and audit of the personnel files.

c. Personnel treat as confidential all employee information except when requested to verify information relating to job title, department, base salary, and dates of employment.

d. Information contained in the personnel file (other than items listed in Section 3a will not be released to the public without the express written permission of the employee, provided, however, certain situations may arise where the City as current or past employer has a duty to prospective employers concerning such employee's character or medical history, in which cases, pertinent information may be released to the prospective employer without the permission of the employee.

e. Access to information contained in the personnel file will be limited to the City Administrator, respective Department Heads, Legal Counsel, immediate supervisor and individual employees, where permitted by law or this policy. Files pertaining to employees who are bonafide candidates of interdepartmental transfer will be accessible by the prospective gaining Department Head. (Question for Craig regarding this Paragraph)

f.Each employee folder will contain an entry log for recording every person's access to the records and purpose.

4. Items not included in the Official Personnel File and/or Official Finance Department records of the City may not be used for either promotional or disciplinary proceedings, unless the employee falsified time and information.

5. This policy will be periodically reviewed to ensure compatibility with current accepted personnel procedures.

6. These records are maintained during the tenure of the employee and for seven years after the employee leaves City employment.

7. Notice of Employee Rights: Employees are guaranteed the rights and remedies provided under Minnesota Statutes §§181-960-181.965 as it pertains to violations of the above policy.

POSITION CLASSIFICATION PLAN

The City will establish and maintain a Position Classification Plan so that all positions substantially similar with respect to the type, difficulty, and responsibility of work are included in the same class. For each class of positions there shall be:

a) A class title description of duties or positions within the class;

b) A written class description that explains the nature of the work responsibilities of the positions within the class;

c) Examples of work which are illustrative of the duties of the positions allocated to the class;

d) Position requirements such as the knowledge, abilities, and skills necessary for performance of the work; and

e) A statement of experience and training desirable for recruitment into the class.

When a new position is created for which an appropriate class does not exist or when duties of a position change substantially, the City Administrator may initiate a review of the duties of the position. Based on the results of the review, the City Administrator may recommend reclassification of the position and shall require an appropriate class specification to be written.

The City Administrator shall review the Position Classification Plan with Department Heads and City Council as necessary to ensure correct classification of positions. The City Administrator shall recommend adjustments to the Classification Plan as appropriate.

RECLASSIFICATION PROCEDURE

PURPOSE: To establish City policy and procedures for the request, consideration, and approval of position reclassification.

Revision of position descriptions and re-allocations within the classification plan shall be made as often as is necessary to provide current information on positions and classes.

It shall be the duty of the City Administrator to examine the nature of all positions and to allocate them to existing or newly created classes, to make changes in the classification plan as are made necessary by changes in the duties and responsibilities of existing positions, and to periodically review the entire classification plan and recommend appropriate changes in the allocations or in the classification plan.

When a new position is requested by a Department Head or the duties of an old position are substantially changed, the Department Head shall submit a written recommendation to the City Administrator including justification for the reclassification, emphasizing changes in position responsibilities or requirements for qualifications (i.e. experience, education, certifications, etc.).

The request will be reviewed by the City Administrator. If the request is justified, the budget impact will be determined, and an Issues and Option paper prepared for review by the City Council. If approved, the City Administrator will take the necessary steps to affect the reclassification. No reclassification involving an upgrade of salary not requested and approved as part of the budget process will be affected without Council approval.

If the City Administrator does not concur with the request, the Department Head will be provided with reasons. The City Council shall be the final decision maker for all reclassification requests.

If the requested action is for a downgrading of a position, and the City Administrator concurs, the City Administrator shall coordinate implementation steps.

Any employee who considers his/her position improperly classified shall first submit a request in writing for reclassification to his/her Department Head who shall review the request and transmit it with written recommendation to the City Administrator.

Re-grade comes about as a result of reclassification, and due to an overall increase/decrease in the responsibilities of a position, resulting in an increase/decrease in the monetary compensation (salary range) established for the position.

A job audit is an analysis of the critical elements of a position against a predetermined formula for measuring the relative worth of a position and placement in the City's classification/pay schedule.

WORK WEEK

The following shall constitute a work week:

All Personnel……..40 Hours

(except those enumerated below)

Exempt Employees (Department Heads & Supervisors)

Public Safety Personnel (Police & Fire)

Shall be scheduled in accordance with the Fair Labor Standards Act (29 U.S.C. s 207 (k)).

1. The normal business hours of each department shall be established by the Department Head and approved by the City Council upon recommendation of the City Administrator. Department Heads should not normally schedule an employee for more than forty (40) hours of work in the departments' seven-day (7)-work cycle. The seven-day (7) work cycle shall be periodically reviewed and approved by the City Council on recommendation of the City Administrator.

2. City Hall will maintain office hours of 8:00 a.m. to 4:30 p.m. Monday thru Friday. Department Heads should schedule staff to provide coverage and keep offices open during those hours.

3. For purposes of payroll, scheduling, and overtime compensation, a standard work week shall being at 12:00 a.m. Monday morning, and conclude at 11:59 p.m. the following Sunday.

COMPENSATION

Employees will be compensated according to the Compensation Plan established by the City Administrator and approved by the City Council. The City Administrator must develop and maintain a classification plan based on equitable compensation relationships for all positions in accordance with federal and state laws. This plan is reviewed periodically to ensure that responsibility levels and salaries are commensurate with the work performed.

Wages are paid according to the wage schedules established by the City Council.

PURPOSE: To establish policy and procedures for compensating City employees.

It is the policy of the City and the purpose of this plan to establish a compensation system that will allow the City to effectively compete for qualified personnel and to ensure that salaries are equitable and commensurate with the duties performed by each employee.

The salary schedule shall be adopted by the City Council and shall apply to all employees not covered by a labor contract. Employees covered by labor contract shall be compensated as referenced in the agreement. Copies are available for viewing in the City Administrators Office at a mutually convenient time.

New Employees: All new employees will ordinarily be paid the minimum rate to mid-point rate in the appropriate salary range except as approved by the City Administrator/City Council.

Promotions: See related Administrative Policy.

Demotions: See related Administrative Policy.

Transfers: See related Administrative Policy.

Cost-of-Living: Cost-of-Living adjustments/salary modifications may be granted by the City Council upon recommendation by the City Administrator. If granted, they are generally effective January 1 of each year.

Pay for "Acting" Status or Out-of-Classification Duties: See Policy on "WORKING OUT OF CLASSIFICATION PAY" (Miscellaneous Policies Section page 62).

Performance Pay Increases: Non-union employees who have successfully completed their probationary period will be eligible for a performance pay increase. Performance pay adjustments are effective January 1 of each year in the form of lump sum payments. Employees who have not been in their positions a full year will receive a pro-rated adjustment.

Re-evaluation: In the event that the salary of any position is re-valuated by the City Administrator, and the Council authorizes to be implemented, results in an increased salary range for the position, the employee shall retain his/her current salary within the range or assume the entry level step of the new range, whichever is greater.

Pay Rates Exceeding Range Maximum: Any employee whose pay rate exceeds the maximum prescribed for his/her classification as a result of a reallocation of his/her position to a lower classification when there have been no recent, dramatic changes in assigned duties and responsibilities will not be reduced in pay. This does not apply to demotions. The employee will not be eligible for future salary increases until he/she occupies a position for which the salary range maximum is more than the pay rate he/she currently receives.

Classification Plan: Jobs with similar duties and responsibilities are assigned to the same salary level. The City Administrator conducts periodic studies of various jobs when there is an indication the employee is working above or below the established responsibilities for that position. These studies are normally initiated at the request of the Department Head and are conducted in accordance with the Administrative Policy on RECLASSIFICATIONS.

Maintenance of the Salary Plan: The Administration/Personnel Office shall be responsible for the continuous maintenance and administration of the City's Compensation Plan. The review will include an analysis of prevailing rates of pay for similar positions in comparable labor markets, organizations, cost-of-living factors, budgetary considerations, and other related factors. On the basis of this information, the City Administrator shall recommend to the City Council changes to keep the plan current, uniform and equitable. Such changes shall be approved by the City Administrator and shall then be submitted in the annual budget to the City Council.

TIME CARDS

All employees, other than those classified as “Exempt”, are required to complete a time card on a weekly basis to ensure an accurate record of hours worked and to ensure that all employees are properly paid for the time worked. Arrival and departure times shall be recorded on a daily basis. Employees must not make entries on another employees time card. The time cards shall be totaled and signed at the end of each work week and turned in to the designated payroll person.

PAYDAYS

Paydays are bi-weekly and all employees (full and part time) are paid through the end of the last pay period. For accounting purposes, a standard work week shall begin at 12:00 a.m. on Monday, and end at 11:59 p.m. the following Sunday and there shall be at least a three day period from the end of the last pay period before paychecks are issued to the employees for that pay period. Any adjustments due to overtime, salary changes, deductions or absences without pay, etc. will generally be adjusted the following payday. Each employee of the City will receive a statement with paycheck that states gross earnings for that period, the deductions for Federal, State, P.E.R.A., Insurance and employee deductions, along with the net amount paid. Any further deductions desired should be requested of the payroll supervisor. Every effort will be made to honor reasonable payroll deduction requests. The payroll supervisor must be notified immediately of any changes affecting your payroll records (such as address changes, number of exemptions claimed, marital status, etc.).

FLEXIBLE WORKING HOURS

A department head may authorize a modification of an employee’s work schedule, upon approval of the City Administrator, to an alternative schedule wherein the usual number of hours are worked, but starting and quitting time vary; *provided the scheduling does not in any way impair the city’s ability to serve the public or create a need for additional personnel or unnecessary overtime.*

MEAL PERIODS AND REST BREAKS

Full-time employees are provided a half-hour unpaid meal break and two fifteen minute rest periods for each shift worked. In order to provide for continuity in City operations, the timing of these breaks is subject to the approval of the supervisor in charge. Rest periods cannot be used to shorten the workday or be banked from day to day.

OVERTIME

All employees, in all departments, may be required to work overtime as requested by their supervisor. Refusal to work overtime may result in disciplinary action. Supervisors will make reasonable efforts to balance the personal needs of their employees when assigning overtime work. All overtime must be authorized in advance by the employee's supervisor. An employee who works overtime without prior approval may be subject to disciplinary action. The City's overtime policy complies with applicable state and federal laws governing accrual and use of overtime. Only employees to whom the overtime provisions of the State or Federal Fair Labor Standards Act apply are required to be compensated for overtime work. The City Administrator determines whether each employee is designated as "exempt" or "non-exempt" from earning overtime. In general, employees in executive, administrative and professional job classes as defined by the Fair Labor Standards Act are exempt; all others are non-exempt. All overtime eligible employees will be compensated at the rate of one and one-half times their base hourly rate for hours worked over 40 in one workweek (except certain public safety employees working an extended workweek). Vacation and sick leave hours do not count toward "hours worked" for purposes of overtime. Holiday hours will count toward "hours worked." Overtime hours earned can be converted to equivalent hours of comp-time not to exceed 10 hours unless provided by union contract.

Exempt employees are exempt from the overtime and comp-time requirements of the Fair Labor Standards Act and are expected to work whatever hours are necessary in order to meet the performance expectations outlined by their supervisors or the City Administrator.

Where there is a conflict between this policy and an agreement with an employee union, the labor agreement shall take precedence. However, where the union agreement does not address a specific practice or issue, this policy shall take precedence.

REPORT OF PERSONNEL CHANGES

The City attempts to maintain complete and accurate personnel information on its employees. Consideration is given to laws regarding data privacy.

It is important that your permanent personnel records are kept accurate and up-to-date. You must immediately notify the City Administrator's Office when there is a change in any of the following:

Name (through marriage or otherwise)

Address

Marital status

Beneficiaries for life insurance and retirement

Telephone number

Person to contact in case of emergency

Most of the data is private and is not revealed without your permission.

GOVERNMENT DATA PRACTICES ACT

Numerous types of data are categorized as private, non-public, or confidential under the Minnesota Government Data Practices Act. In many circumstances, data may not be disclosed except with authorization of the subject of the data or pursuant to court order. To ensure that the Data Practices Act is not violated, employees are strictly prohibited from disclosing to a third party, within or outside the City, any personnel data, data relating to pending civil legal actions, or any other data that might be classified as private, non-public, or confidential without the City Administrator's express authorization. Pursuant to the Minnesota Government Data Practices Act, the City Administrator shall be appointed by the City Council as the responsible authority to administer the requirements for collection, storage, use, and dissemination of data on individuals within the City.

PERFORMANCE APPRAISALS

Performance appraisals are an opportunity for employees, supervisors, and the City to assess an individual's job performance. The performance appraisal system is designed to:

ensure that quality services are provided to the public at the least possible cost;

motivate and develop employees to their fullest potential;

clarify roles and mutual expectations of supervisors and employees; and

ensure open and ongoing communication between employees at all levels, including feedback from subordinates to supervisors.

Performance appraisal forms will be maintained in the employee's personnel file.

An employee's immediate supervisor will conduct a performance appraisal on an annual basis or more frequently if prescribed by the City Administrator or the employee's Department Head. The performance appraisal will be used for identifying problem areas in an employee's performance, identifying the need for further training and development and as a factor in granting performance pay increases and promotions. The performance appraisal will be in writing and shall be signed by the employee and the supervisor, copies of which will be available to the employee upon request.

In addition to annual performance evaluations, employees will be evaluated at the completion of the Probationary Period or any time the employee's supervisor or Department Head believes it is in the best interest of the employee and/or the City to conduct an evaluation.

Following the initial performance review at completion of employee probationary period the Payroll department will annually provide the employees Department Head/Supervisor with the appraisal document one month prior to the anniversary date of the employee to be evaluated. The Department Head/Supervisor will conduct the annual review/performance appraisal, meet with the employee and then turn in the signed document to be included in the personnel file.

ATTENDANCE

Every City employee has an important role to play in maintaining a productive workplace. Therefore, it is essential that all employees be regular in their attendance during all scheduled hours of work. Unsatisfactory attendance, including reporting late and quitting early, may be grounds for

disciplinary action.

If an employee must be absent from work for any reason, other than approved time off, the employee must notify his/her immediate supervisor at least thirty (30) minutes prior to the start of his/her normal working hours. If an emergency prevents the employee from notifying his/her supervisor at such time, the employee is expected to call as soon as possible during the workday.

The City reserves the right to require an employee to provide documentation from the employee's doctor or professional health care provider verifying the illness or injury which results in absence from work.

NEPOTISM

(**EMPLOYMENT OF RELATIVES)**

PURPOSE: To establish policy for the employment of immediate relatives in order to assure the reality and appearance of fairness in the best interest of the City.

It is the City's policy that immediate relatives will not be employed in regular full-time or regular part-time positions where:

1. One relative would have the authority to supervise, appoint, remove, discipline, determine the salary or evaluate the performance of the other.
2. One relative would be responsible for auditing the work of the other.
3. Other circumstances exist which would place the relatives in a situation of actual or reasonably foreseeable conflict between the City's interest and their own.

Where business necessity requires the limitation of employment opportunity of spouses, the means chosen to meet the business necessity shall be those, which have the least adverse impact on spouses or members of either sex. For example:

The exclusion should be limited to the job, work crew, shop or unit where the reason for exclusion exists, and should not bar the person from the whole work force, unless the reason applies to the whole work force. When it is necessary to exclude a person because of what his or her spouse does, then the employees will be asked to determine which spouse shall keep the job. The City may require one spouse to quit 60 days after marriage if they become in violation of this policy and a mutually-agreeable solution cannot be reached between the City and the employees.

SUPPLEMENTAL EMPLOYMENT

The City of Wyoming does not restrict employees from engaging in outside employment. However, the City expects regular, full-time employees to consider City work their primary employment. The City will not condone outside employment that interferes with the performance of your duties with the City or which represents a conflict of interest. The City will not change your work hours to facilitate the scheduling of any outside employment, nor will an employee be allowed to conduct outside business during work hours.

RESIDENCY

The City Council recognizes its duty to protect the health, safety, welfare and property of the residents of the city, and in order to fulfill this responsibility it may be necessary, in times of individual need or widespread disaster giving rise to an emergency, to recall employees, and this Council is of the opinion that it is reasonable, prudent and necessary to limit employee residency within a reasonable area or response time to meet such needs.

Department heads and supervisors are required to direct the operations of their departments in a manner that provides adequate staffing for foreseeable events, including, but not limited to snow storms and other natural disasters. Essential City employees as defined by State Law are Public Safety Employees (Police Officers & Firemen); all other employees are considered non-essential for purposes of the residency requirement. All essential employees determined essential by the city council based on a demonstrated job related necessity on a group-by-group basis, will reside within twenty (20) minutes of city hall. Those employees residing outside of this parameter as of January of 2008 are exempt from this policy, to the extent that their residence does not change following implementation of this policy. If a nonresident is hired in an essential employee classification, they will be required to meet this requirement within a reasonable period of time after completion of their six-month introductory employment period. Further, the residency requirement must be satisfied at all times after the completion of the introductory period. Any employee, who fails to satisfy the residency requirement, will lose their position with the city.

CONDUCT

ETHICS OF PUBLIC EMPLOYMENT

The City of Wyoming finds that it is in the public interest and general welfare of the City and its citizens that a statement of ethics be established for all employees of the City.

Employees shall not use their official position for personal gain, engage in any business or transaction or have a financial interest, direct or indirect, which is in conflict with the proper performance of their official duties.

EMPLOYEE ETHICS

PURPOSE: The purpose of this policy is to establish guidelines for ethical standards of conduct, which shall govern City employees in the performance of City business and the duties of their respective jobs. This policy is intended to provide positive direction to City employees in order to prevent potential conflicts of interest.

This policy is not all-encompassing in its definition of conflict of interest. The "prudent man" theory can and will be applied: action deemed inappropriate by a reasonable person, whether specifically cited in this policy or not, will be subject to inquiry.

1. Conflicts of Interest. No City employee shall engage in any act, which is in conflict, or creates an appearance of fairness or conflict with the performance of official duties. An employee shall be deemed to have a conflict if the employee:

   a. Has any financial interest in any sale to the City of any goods or services when such financial interest was received with prior knowledge that the City intended to purchase the property, goods, or services.

   b. Solicits, accepts, or seeks a gift, gratuity, or favor from any person, firm, or corporation involved in a contract or transaction which is or may be the subject of official action by the City.

   1) Recognizing that personal friendships often precede and can evolve from official contact between employees and persons engaged in business with the City, reasonable exceptions to this section are permitted for those occasions which are social in nature and are not predicated on the employee's ability to influence, directly or indirectly, any matter before the City.

      The employee will be guided in interpretation of this section by the distinction between a gift, gratuity, or favor given or received which has significant monetary value and is offered or accepted in expectation of preferential treatment, and an expression of courtesy. Examples of acceptable courtesies include: a meal or social event; exchanges of floral offerings or gifts of food to commemorate events such as illness, death, birth, holidays, and promotions; a sample or promotional gift of nominal value ($25 or less).

   c. Participates in his/her capacity as a City employee in the issuing of a purchase order or contract in which he/she has a private pecuniary interest, direct or indirect, or performs in regard to such contract some function requiring the exercise of discretion on behalf of the City.

   d. Engages in, accepts employment from, or renders services for private interests for any compensation or consideration having monetary value when such employment or service is incompatible with the proper discharge of official duties or would tend to impair independence of judgment or action in performance of official duties, or give the appearance of the above.

      An employee should not make a unilateral decision, if there is any doubt about his/her private employment. The City Administrators office should be consulted.

   e. Except for courtesies as provided in item "b" above, no employee shall, directly or indirectly, give or receive, or agree to receive any compensation, gift, reward, commission or gratuity from any source except the City for any matter directly connected with or related to his official services as such employee with this City.

   f. Discloses or uses without authorization confidential information concerning property or affairs of the City to advance a private interest with respect to any contract or transaction which is or may be the subject of official action of the City.

   g. Have a financial interest or personal interest in any legislation coming before the City Council and participates in discussion with or gives an official opinion to the City Council unless the employee discloses on the record of the Council the nature and extent of such interest.

2. Use of Public Property. No employee of the City shall request, use, or permit the use of City-owned vehicles, clothing, equipment, materials, or other property for unauthorized personal convenience, for profit, for private use, or as part of secondary employment. Use of such City property is to be restricted to such services as are available to the City generally and for the conduct of official City business.

   Authorized personal uses include taking an assigned City vehicle to lunch on workdays as needed, use of a City copy machine at cost, stopping to run personal errands when the destination point is in conjunction with official or authorized business, and other nominal personal uses as permitted by the City Administrator on a case-by-case basis.

3. Discipline. Any employee who is found to be in violation of this policy may be subject to disciplinary action up to and including termination from employment. Depending upon the seriousness of the action, other appropriate civil or criminal sanctions may also be pursued.

PROCEDURES:

1. Interpretation. Interpretations of this policy shall be referred to the City Administrator.

2. Investigation. The City Administrator or other designee of the City Council shall investigate, or cause to be investigated, all suspicions, allegations, and written complaints of unethical conduct.

   a. Complaints which are considered by the City Administrator to be serious may be referred to an Ethics Panel, composed of City employees appointed by the City Administrator.

   b. An ethics panel, when constituted, shall investigate and hear the complaint, and recommend to the City Administrator or other designee of the City Council any action deemed appropriate.

   c. Complaints or allegations which may be criminal in nature may be referred to an appropriate outside agency for investigation.

EMPLOYEE CONDUCT

PURPOSE: To outline specific areas which may result in employee discipline.

It shall be the duty of employees to maintain high standards of cooperation, efficiency and integrity in their work with the City. If an employee's conduct falls below standard, he/she may be subject to disciplinary action.

Some general things for which an employee may be disciplined include, but are not limited to:

1. Reporting to work under the influence of intoxicants or nonprescription/illegal drugs, or using such substances while on City property.
2. Failure to follow the orders of one's supervisor(s).
3. Being absent from work without permission or failure to report to the supervisor or Department Head when one is absent.
4. Being habitually absent or tardy for any reason.
5. Failure to perform assigned work in an efficient or effective manner.
6. Being wasteful of material, property or working time.
7. Inability to get along with fellow employees so that the work being done is hindered and not up to required levels.
8. Failure to observe property security procedures.
9. Conduct on the job which violates the common decency or morality of the community.
10. Conviction of a felony or gross misdemeanor.
11. Violating safety rules and regulations.
12. Speaking critically or making derogatory or false accusations so as to discredit other employees or supervisors.
13. Removal of City money, merchandise, or property, including property in custody of the City without permission.
14. Lying to supervisors in connection with your job.
15. Dishonesty, including intentionally giving false information, intentionally falsifying records or making false statements when applying for employment.
16. Being on City premises during nonworking hours without permission.
17. Divulging or misusing confidential information, including removal from City premises, without proper authorization, any employee lists, records, designs, drawings, or confidential information of any kind.
18. Accepting fees, gifts, or other valuable items in the performance of the employee's official duties for the City
19. Inability or unwillingness to perform the assigned job.
20. Falsification of time records for payroll.
21. Abuse of sick leave privileges by reporting sick when not sick or obtaining sick leave pay falsely or under false pretenses.
22. The use of profanity or abusive language towards a fellow employee or member of the general public while performing official duties as a City employee.
23. Other misconduct or actions unbecoming the employee.

Refer to the Section on DISCIPLINARY ACTION for additional information on procedures for and types of disciplinary action.

DISCIPLINARY ACTION

PURPOSE: To establish policies and procedures related to disciplinary action for City employees.

It shall be the policy of the City to administer discipline fairly, reasonably, and impartially. Employees and the City are best served when discipline is administered to correct actions rather than to punish.

All disciplinary actions involving suspensions without pay or termination require concurrence of the City Administrator and approval of the City Council prior to discipline being administered.

PROCEDURE:

The tenure of City employees shall be based on reasonable standards of job performance and personal and professional conduct. Failure or refusal to meet these standards shall constitute just cause for disciplinary action including oral or written reprimand, suspensions, demotions, and dismissal.

Disciplinary action is not primarily intended to be punitive, but rather to maintain the efficiency and integrity of City service. The nature and severity of the offense and the employee's prior record shall be considered.

In any major disciplinary action, the pertinent information shall be reviewed with the employee specifying the following: The cause for discipline, the specific reasons supporting the cause, the discipline to be imposed, the effective date, and the right of the employee to be heard.

Employees may be disciplined for areas which include but are not limited to those detailed in the Policy on EMPLOYEE CONDUCT.

The degree of discipline administered will depend on the severity of the infraction and shall be in accordance with any applicable labor contract, City policies and procedures as well as local, state or federal laws and regulations.

It is the responsibility of each supervisor and department head to evaluate thoroughly the circumstances and facts as objectively as possible and then apply the most suitable form of discipline.

Types of disciplinary action may include:

Step 1: Oral Warning - this type of discipline should be applied to infractions of a relatively minor degree or in situations where the employee's performance needs to be discussed. The oral warning should be given in private. Supervisors should inform the employee that the supervisor is issuing an oral warning, that the employee is being given an opportunity to correct the condition, and if the condition is not corrected, the person will be subject to more severe disciplinary action.

A notation that an oral warning was given should be made in the employee's personnel file.

Step 2: Written Warning/Reprimand - this notice will be issued in the event the employee continues to disregard an oral warning or if the infraction is severe enough to warrant a written reprimand in the employee's personnel file. Written warning/reprimand notices should be issued within a reasonable time after the occurrence of the violation becomes known to the supervisor.

The warning/reprimand shall state the nature of the infraction in detail and what corrective action must be taken by the employee to avoid further discipline as outlined in Steps 3, 4, and 5.

A copy of the written warning/reprimand is to be handed to the employee at the time of the discussion of the discipline. The employee shall sign the written warning to acknowledge receipt. A copy, signed by the employee, will be placed in the employee's personnel file. If the employee refuses to sign the acknowledgment, then the supervisor and one other witness shall note on the reprimand that the employee received a copy thereof and refused to sign it.

Step 3: Suspension - this form of discipline is administered as a result of a severe infraction of policies or for repeated violation. For minor infractions, a suspension is often given after the employee has received a written warning.

Suspension Without Pay - An employee will be suspended without pay when the offense is of a serious enough nature usually sufficient for discharge but when circumstances related to an employee's overall performance would not warrant immediate discharge. The length of suspensions should not normally exceed fifteen (15) work days.

Investigatory suspensions may be used in cases where it is necessary to investigate a situation to determine what further disciplinary action may be justified.

This suspension gives the supervisor the opportunity to discuss the problem with his/her superior to determine an appropriate course of action when the situation is serious enough for the employee to be removed from the work environment.

If after investigation, it is determined that the employee was not guilty of any violation, he/she will normally be returned to his/her position, paid for any lost time, and a letter exonerating the employee will be placed in his/her official personnel file. If, however, the employee is found in violation, then the appropriate disciplinary action will take effect on the date that the investigatory suspension began.

Suspension with Pay - At the discretion of the City Administrator or his/her designee, an employee of the City may be suspended with pay and benefits pending investigation of allegations of misconduct, when the nature of the allegation compromises the ability of the employee to perform his/her duties, and when a substantial period of time will be required to complete an investigation or legal action. Such suspension is not a disciplinary action and may not be appealed. If the charges are substantiated, disciplinary action will be taken in accordance with the nature of the offense, and may include recovery of salary and benefits paid during the suspension. If the charges are unfounded, the employee will be restored to duty and a letter of exoneration will be placed in the employee's official personnel file.

Step 4: Demotion - Demotion may be used in those instances where an employee has been promoted to a position where they are unwilling or unable to perform the responsibilities of that position. Demotion is not to be used as a substitute for dismissal, when dismissal is warranted.

Step 5: Discharge - Immediate removal of an employee from the job site pending review for discharge may be warranted in instances involving serious insubordination, theft, serious illegal or destructive acts while on the job, or other substantial reasons deemed appropriate by the City Administrator. An employee may also be discharged after repeated offenses of a less serious nature if the offenses have been documented by the supervisor and appropriate behavioral changes have not resulted from previous progressive disciplinary action.

Probationary employees may be terminated at any time without cause and without the right of appeal. Notification of dismissal in writing shall be provided the probationary employee and a copy filed in his/her personnel file. Dismissals of probationary employees also require the concurrence of the City Administrator and approval of the City Council.

The original copy of the disciplinary action is to be signed by the employee and placed in the employee's personnel file with a copy given to the employee.

Appeals. Warnings, reprimands and suspensions with pay may be appealed. To appeal a disciplinary action taken by a supervisor, the employee must present a written appeal to his/her immediate supervisor within ten (10) working days of the disciplinary action.

If a resolution cannot be reached at this level, a copy of all relevant information should be presented to the Department Head who shall attempt to resolve the matter within five (5) working days after it is presented to him/her. If the Department Head is unable to resolve the situation, a final appeal can be made to the City Administrator. The City Administrator shall attempt to resolve the appeal within five (5) working days after it has been presented to him/her. The recommendation of the City Administrator to the City Council shall be final.

If it is the City Administrator who has issued the initial disciplinary action, any appeal shall be in the form of a request for reconsideration. The City Administrator shall respond to such request within (5) working days. The City Administrators recommendation shall remain final.

In those instances where employees are covered by a collective bargaining agreement, the provisions of the labor contract shall govern disciplinary action. Exempt department heads shall be governed by the "Employment at Will" doctrine. In all other cases, this policy and procedure shall apply.

Pre-disciplinary Hearing - Standards/Notice of Discipline. The Personnel Officer shall provide and arrange for a pre-disciplinary hearing prior to the demotion, suspension, or discharge of any employee.

a. An employee shall be provided, in writing, with a notice of the charge and an explanation of the department's evidence. The employee shall be given an opportunity to respond to the charges, orally or in writing, as to why the proposed action should not be taken.

b. The employee may have legal counsel or union representation present at a pre-disciplinary hearing.

c. The department's explanation of the evidence at the pre-disciplinary hearing shall be sufficient to apprise the employee of the basis for the proposed action. This shall not limit the employer at subsequent hearings from presenting a more detailed and complete case, including presentation of witnesses and documents not available at the pre-disciplinary hearing.

d. Should the City Administrator determine to discipline following the pre-disciplinary hearing, written notice of discipline shall be given to the employee. Such notice shall include the charges against the employee and a general statement of the findings of the hearing.

e. There is no appeal from a determination following a pre-disciplinary hearing.

POLITICAL ACTIVITIES

PURPOSE:

1. To foster governmental efficiency and to ensure that employees can perform their jobs without being pressured to support specific Council or other political candidates or to interpret regulations favorably for supporters of such candidates;

2. To allow employee performance and advancement to be judged without regard to prior political activity.

3. To promote public confidence in the integrity of City government to the end that Council Members will not be perceived as making decisions on the basis of political loyalties.

Section 1 - Prohibited Activities during Working Hours. An employee shall be subject to discipline up to and including immediate dismissal for violation of these provisions:

a. No officer or employee shall, while on duty during an assigned work shift as an employee of the City:

(1) Request or solicit contributions or anything of value for any political candidate or cause.

(2) Participate in any political campaign by:

(a) Speaking in favor of any candidate or cause.

(b) Distributing literature.

(c) Picketing or demonstrating on behalf of or in opposition to any political candidate or cause.

(d) Organize, plan or in any other way participate in the administration of any political campaign.

b. No officer, employee or volunteer shall, while on duty and/or in the uniform of the City, or while in or operating any City vehicle, display any badge, button, sign or sticker promoting or opposing any political cause or candidate.

c. No officer or employee of the City shall use public funds, property, or any other instrumentality or thing of value belonging to the City to promote or oppose any political cause or candidate.

d. Nothing in this policy shall be interpreted to prohibit an employee:

(1) From stating any opinion regarding any political issue in ordinary conversation during working hours providing that such a conversation does not interfere with the employee's assigned job duties.

(2) Who does not have direct citizen contact from wearing a pin or button promoting or opposing any cause or candidate.

Section 2 - Coercion, Intimidation of Public Employees. No officer or employee of the City shall use his/her public office or employment for the purpose, or with the effect of:

a. Coercing or intimidating any City employee or employees with respect to contributing to, opposing or promoting, or refraining from contributing to, opposing or promoting any political cause or candidate.

b. Obtaining a benefit as a result of any political activity by:

(1) Intentionally committing an unauthorized act under color of law.

(2) Intentionally refraining from performing a duty imposed upon him by law.

Section 3 - Illegal Political Activities. No officer or employee of the City shall engage in any political activity which is prohibited under state or federal law. Any person engaging in such an activity shall be subject to disciplinary action, including immediate dismissal. The following list of activities is included for illustrative purposes. Any illegal activity which is prohibited by state law but which fails to appear on this list is hereby incorporated by reference. No officer or employee shall:

a. Engage in any of the following activities within 300 feet of a polling place:

(1) Electioneering.

(2) Circulating cards or handbills.

(3) Soliciting signatures.

(4) Interfering with voting or the administration of the polling place.

(5) Conducting an exit or public opinion poll.

b. Obstruct or prevent access to a polling place.

c. Remove a ballot from a polling place or solicit a voter to show his or her ballot.

d. Attempt to intimidate, influence or bribe a voter by menace, force, threat or corrupt means.

e. Directly or indirectly offer a bribe or reward to induce a voter to vote for or against a person or proposition.

f. Attempt to influence a voter to vote or not to vote, directly or indirectly, by menace or corrupt means.

g. Hinder, disturb, persuade, threaten or intimidate any person from giving his/her vote.

h. Knowingly and willfully make a false assertion or propagate a false report concerning a candidate which has a tendency to prevent his/her election.

i. Give a bribe or thing of value to secure a vote or solicit or bribe, or offer any preference or other valuable consideration to give or refuse a vote.

Section 4 - Federally Funded Programs. In addition to this policy, an officer or employee whose position is funded totally or primarily with federal funds shall be governed by the rules established by the United States Civil Service Commission and/or the Officer of Personnel Management. Any person who administers federal funds under a contract which limits the political activities of the administrator or which incorporates U.S. Civil Service rules shall comply with those provisions. Failure of any officer or employee to comply with applicable restrictions imposed by such a grant or contract shall be subject to disciplinary action, including immediate dismissal.

TOBACCO FREE WORK ENVIRONMENT

Medical evidence shows that the use of tobacco represents a significant health risk not only to the user, but also to the non-user, in the work environment. In an effort to provide a healthy, comfortable and productive working environment for City employees, the City of Wyoming provides a tobacco free work environment Smoking by employees is not permitted in City Buildings, on City property, or in City vehicles.

Employees violating the above policy shall be subject to disciplinary action.

SMOKING POLICY FOR CITY EMPLOYEES WITHIN CITY-OWNED FACILITIES

PURPOSE: To respond to the increasing evidence that tobacco smoke creates a danger to the health of persons who are present in a smoke-filled environment and to establish City policy to regulate the use of smoking materials by City employees while on duty. Every attempt will be made to obtain to the greatest extent possible, freedom for the nonsmoker from the harmful effects of smoking materials, while preserving a reasonable degree of freedom for those who choose to smoke.

"Smoke" or "smoking" as used in this policy shall mean and include the smoking or carrying of any kind of lighted pipe, cigar, or cigarette.

Smoking will be restricted to designated areas as established by the City Council. The following areas have been so designated provided that the resulting smoke does not affect nonsmoking employees or the public:

Public Safety Buildings: No Smoking.

Park Buildings: No Smoking

City Hall: Outside of South entrance door and West entrance Door.

Vehicles: No smoking in City vehicles

Smoking shall further be prohibited in City Hall, including all counter areas frequented by the general public, in all meeting rooms used by City staff, in all stairways and restrooms, and in all work areas where nonsmokers and/or sensitive equipment may be subject to the effects of smoke.

Areas designated for smoking may change from time to time to meet the needs of the City and desires of its employees and the public. In the event there is a conflict about the establishment of a smoking area, the right of the nonsmokers to breathe clean air free from harmful smoke shall supersede the right to smoke.

Signs prohibiting smoking shall be conspicuously posted in every facility and major work area where smoking is prohibited. Ashtrays will not be kept in nonsmoking areas. Ashtrays will be made available in the designated smoking areas and are to remain in the designated areas at all times.

Smoke breaks are to be confined to the affected employees lunch period or rest break.

PROCEDURE:

The effectiveness of this policy shall depend largely on the understanding and willingness of all employees to abide by its provisions and to request others to do so. Smokers must consider the health concerns and comforts of their nonsmoking co-workers and nonsmokers must consider the freedom of choice of the smoker. It shall be the responsibility of each employee to abide by the rules and regulations contained in this policy, and it shall be the responsibility of the affected Department Head to see that the policy is applied in an equitable manner and adhered to by all employees.

Complaints of violation of the policy should be directed to the Department Head responsible for the particular work area or facility involved in the complaint. The Department Head shall be responsible for notifying the violator of the pertinent portions of this policy. Failure to comply with the policy after proper notification shall initiate the City's progressive discipline procedures.

CONFLICT OF INTEREST

The credibility of local government rests heavily upon the confidence which citizens have in public officials and employees to render fair and impartial services to all citizens without regard to personal interest and/or political influence. Employees are prohibited from engaging in any activity, either directly or through an immediate family member, or other person acting on their behalf, which will conflict, or may reasonably be viewed as conflicting with the employees' obligations and responsibilities to the City. An employee shall not use the City's name, information, or goodwill for personal gain.

Employees shall disclose to the Department Head any personal financial interest in the buying or selling of goods or service for the City of Wyoming. Purchase orders, contracts or service agreements shall not be given to an employee of the City or to a partnership or corporation in which an employee is a major stockholder or principal unless it conforms with MN State Statute 471.87, 88, & 89.

Employees shall not use their authority or City position for the purpose of personal financial gain from any holdings in the City of Wyoming bonds or notes. No employee shall enter into a relationship with a vendor where the employee's actions are, or could reasonably be viewed as, not in the best interests of the City.

Any official or employee engaging in any activity involving either an actual or potential conflict of interest or having knowledge of such activity by another official or employee shall promptly report the activity to the City Administrator, or if such activity be by the City Administrator, to the Mayor. The City Administrator or Mayor shall investigate the matter and make a determination as to whether or not an actual or potential conflict exists. If the City Administrator or Mayor determines a conflict exists, it shall be presumed that the continuation of the practice would be injurious to the effectiveness of the official or employee in carrying out his/her duties and responsibilities. In such cases the official or employee shall immediately terminate the conflicting activity or be subject to termination of employment or removal from office.

No elected official shall require, either directly or indirectly, any employees of the City to campaign on his/her behalf as a condition to employment. No employees shall use City time or resources in promoting or advocating the election of any individual.

Nothing in this policy is intended to violate, supersede, or conflict with any applicable state or federal law regarding conflicts of interest in public employment or disclosure requirements.

GIFTS AND GRATUITIES

Employees may not request or solicit any gift or gratuity from any employee or member of the general public. In no instance may any gift or gratuity be accepted by a City employee, even if the gift or gratuity was unsolicited.

There are very limited exceptions to what is considered a gift or gratuity. The exceptions include:

1. A plaque or similar memento recognizing an individual's services in a field of specialty or to a charitable cause.

2. A trinket or memento of insignificant value.

3. Informational materials of unexceptional value.

4. Food or beverage given at a reception, meal, or meeting away from your normal place of work by an organization before whom you are appearing to make a speech or answer questions as part of a program. All other gifts of food or beverage are prohibited.

5. Usual or customary gift giving among employees during the holiday season, birthdays, retirements, weddings, baby showers; rolls, cookies, flowers, etc., provided by coworkers.

6. Gifts from a family member.

HARASSMENT

The City of Wyoming intends to maintain a work environment free of offensive conduct or harassment based on race, national origin, gender, religion, disability, age, and marital status, status with regard to public assistance or sexual orientation. Harassment demeans people and creates unacceptable stress for the entire organization. The City will not tolerate harassment of its employees by any person: employees, elected officials, or members of the public.

Offensive conduct or harassment occurs when:

1. Submission to conduct or communication of a derogatory, harassing or biased nature is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or obtaining or retaining public services/accommodations.

2. Submission to or rejection of conduct or communication of a derogatory, harassing or biased nature by an individual is used as a factor in decisions affecting that individual's employment or access to public services/accommodations; or

3. The conduct or communication of a derogatory, harassing or biased nature has the purpose or effect of substantially or unreasonably interfering with an individual's employment or use of public services/accommodations or of creating an intimidating, hostile or offensive employment, public service/accommodations environment.

Examples of sexual/gender harassment may include, but are not limited to:

a. unwelcome verbal remarks, jokes or innuendos of a sexual nature or based upon gender;

b. unwelcome pressure for sexual favors;

c. unwelcome or unwanted sexual advances such as, but not limited to, patting, pinching, brushing up against, hugging, cornering, kissing, fondling, or any other similar physical contact considered unacceptable by another individual;

d. unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or an overt threat concerning an individual’s employment or access to public services or public accommodations;

e. unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt promises or preferential treatment with regard to an individual's employment or access to public services or public accommodations;

f. distribution or display of written materials, pictures or other graphics of a sexual or gender biased nature;

g. other unwelcome behavior or words directed at an individual because of gender.

Employees who believe they have experienced harassment or who know of conduct they believe might constitute harassment toward an employee must promptly report such alleged harassment to the City Administrator or to the Mayor. Failure to take immediate action against believed harassment is viewed by the courts as condoning the behavior.

A prompt and confidential investigation will be conducted by the City and fair consideration will be given to all of the facts presented. Any employee who has been found, after appropriate investigation, to have harassed another employee will be subject to appropriate disciplinary action, up to and including termination.

It is a violation of the law for any supervisor or employee to retaliate against a person who files a harassment complaint.

WORKPLACE VIOLENCE

The City of Wyoming seeks to provide a safe and secure workplace environment for employees, volunteers, vendors, and citizens. Violence, or the threat of violence, has no place in any City of Wyoming facility.

This policy addresses the City's commitment to preventing the potential for violence in and around the workplace and to fostering a work environment of respect and healthy conflict resolution.

Many City employees may be exposed to violence by the nature of their jobs. Violence or the threat of violence, by or against any City employee or other person while at a City of Wyoming workplace is unacceptable and may subject the individual to serious disciplinary action and/or criminal charges.

The City of Wyoming will take every reasonable action to protect the life, safety and health of employees and will provide as rapid and coordinated a response as possible to violence or threats of violence at any worksite.

Possession, use, or threat of use, of an object which could be considered a dangerous weapon, including all firearms, is not permitted at the workplace, or on City property, including City vehicles, unless such possession or use is an approved requirement of the job. (Hunters should be encouraged to retrieve weapons from home after work prior to leaving on hunting trips.)

The City of Wyoming is committed to providing a workplace environment in which all its officials and employees treat each other, their customers and clients, and all others with courtesy, dignity and respect.

DRUG AND ALCOHOL FREE WORKPLACE

PURPOSE

The City of Wyoming is committed to providing and maintaining a safe, healthy, and productive working environment for all of its employees and the citizens of the community. Substance abuse increases the potential for accidents, absenteeism, substandard performance, and poor employee morale. Impaired judgment of City employees may have serious consequences for the City through increased safety risks, potential accidents, increased Workers' Compensation liabilities, injuries, illness and potential faulty decision-making. Substance abuse undermines the City's commitment to provide the community with an excellent quality of life through leadership, communication, and delivery of services which are responsive to the citizens' needs, cost-effective, and oriented to the future. For these reasons, the City of Wyoming hereby adopts and implements the following substance abuse policy, in accordance with the provisions of the Minnesota Drug and Alcohol Testing in the Workplace Act ("MDATWA").

POLICY

It shall be the policy of the City to maintain a drug-free workplace and to:

1. Implement a drug-free awareness program to inform employees of the dangers of drug abuse in the workplace and to identify and offer rehabilitative guidance to employees whose substance abuse habits have caused or contributed or may have caused or contributed to job problems;

2. Encourage the use and establish community resources and facilities as sources of rehabilitative care;

3. Allow appropriate leaves of absence in accordance with City policies for employees to participate in approved rehabilitative programs;

4. Conduct all phases of the program in the highest professional manner, recognizing that persons who suffer from substance abuse are due the same respect and confidentiality in medical treatment records handling as employees who suffer from any other health condition that affects job performance;

5. Encourage employees who suspect that they may have a substance abuse problem, even in the early stages, to voluntarily seek counseling and information on an entirely confidential basis; and

6. Use disciplinary procedures dealing with problem employees who commit drug abuse violations in the workplace, refuse assistance, or fail to show improvement in deficient areas at any phase during the course of treatment.

7. Take appropriate personnel action or require participation in a drug-abuse assistance or rehabilitation program within thirty (30) days with respect to any employee convicted of any drug statute.

DRUG AND ALCOHOL TESTING

To ensure the accuracy and fairness of our testing program, all testing will be conducted according to Substance Abuse and Mental Health Services Administration (SAMHSA) guidelines where applicable and will include a screening test; a confirmation test; the opportunity for a split sample; review by a Medical Review Officer, including the opportunity for employees who test positive to provide a legitimate medical explanation, such as a physician's prescription, for the positive result; and a documented chain of custody.

All drug-testing information will be maintained in separate confidential records.

Each employee, as a condition of employment, will be required to participate in pre-employment, pre-duty, periodic, random, post-accident, reasonable suspicion, return-to-duty and follow-up testing upon selection or request of management.

The substances that will be tested for are: Amphetamines, Cannabinoids (THC), Cocaine, Opiates, Phencyclidine (PCP), Alcohol, Barbiturates, Benzodiazepines, Methaqualone, Methadone, and Propoxyphene.

Testing for the presence of alcohol will be conducted by analysis of breath, saliva or blood. Testing for the presence of metabolites of drugs will be conducted by the analysis of urine, blood, hair, saliva and sweat.

Any employee who tests positive may be subject to any and/or all of the following ramifications: immediate removal from duty; suspension without pay for a period of 30 days; referral to a substance abuse professional for assessment and recommendation; requirement of successfully completing recommended rehabilitation including continuing care; requirement of passing a Return-to-Duty test and signing of a Return-to-Work Agreement, subject to on-going, unannounced, follow-up testing for a period of five years and immediate termination if a second positive test is found or if a violation of the Return-to-Work Agreement is found.

An employee will be subject to the same consequences of a positive test if he or she refuses the screen or the test, adulterates or dilutes the specimen, substitutes the specimen with that from another person or send an imposter, will not sign the required forms, or refuses to cooperate in the testing process in such a way that prevents completion of the test.

EMPLOYEE PROHIBITIONS

All employees of the City of Wyoming are prohibited from the following:

1. Any unauthorized use, consumption, distribution, or possession of controlled substances while on duty or on City premises;

2. Any use, consumption, distribution, or possession of alcoholic beverages while on duty;

3. Any unlawful manufacturing, distributing, dispensing, possessing, or using a controlled substance on City premises, whether on duty or off duty;

4. Any use of alcohol or drugs that adversely affects the employee's work performance, the safety of the employee or others at work. This includes reporting to duty while under the influence of alcohol or legally-prescribed drugs.

ADDITIONAL EMPLOYEE RESPONSIBILITIES

1. Abide by the terms of this policy.

2. Notify the City Administrator of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after a conviction. The City shall notify the federal government within ten (10) days after receiving notice from the employee or otherwise receives actual notice of any such conviction.

3. Cooperate in any City, state, or federal investigation of substance use and abuse.

4. Inform supervisors when taking prescribed medication that may impair their job performance, include possible side effects, as well as the duration of that impairment, and how long the use of medication will be, together with necessary documentation regarding the prescribed medication.

5. Report for duty in a condition that provides for public safety and efficient performance of work duties.

6. Immediately report all suspensions or revocations of driver's license due to the employee's supervisor or Department Head.

ENFORCEMENT AND DISCIPLINE

Any employee violating this policy shall be subject to discipline, up to and including termination. An employee who is disciplined under this policy may be referred to a drug/alcohol abuse assistance or rehabilitation program. As an alternate to discipline, an employee may, at the discretion of the Appointing Authority, be required to successfully complete an inpatient or outpatient substance abuse program sponsored by an approved private or governmental institution.

PREVENTION AND REHABILITATION

The goals of this policy are prevention and rehabilitation whenever possible, rather than discipline. The City encourages employees who have an alcohol or other drug problem to seek help to deal with their problem. Conscientious efforts to seek such help will not jeopardize any employee's position with the City and will not be noted in any personnel records except where the action follows a supervisory-initiated referral or disciplinary action.

MAINTENANCE AND DISTRIBUTION OF POLICY

This policy shall be maintained as an official policy of the City. Each department shall maintain a copy of the policy. Further, a copy of the policy shall be distributed to each employee in the department.

For employees in positions covered by the Federal Omnibus Transportation Employee Testing Act, the requirements of that Act shall prevail.

Violations of this policy will result in disciplinary action, up to and including termination, and may have legal consequences.

APPEARANCE AND DRESS GUIDELINES

The appearance of City employees is a direct reflection on the professionalism of City services. City employees meet with the public every day as part of the regular workday. A neat, well-groomed employee will present a positive image of the City.

Dress needs vary by job function. Employees in certain departments must dress in uniforms or casual types of clothing due to job specific duties and conditions of the position, including safety, excessive wear and tear on clothing, and appropriateness for job performance. Individuals who spend a portion of the day in the field need to dress in a manner appropriate to their jobs, as determined by their Department Head.

SEPARATION FROM EMPLOYMENT

RESIGNATION

Employees wishing to leave employment with the City in good standing shall submit a written resignation to their supervisor at least ten (10) working days prior to their anticipated separation date. Department heads must provide twenty (20) working days written notice to the City Administrator prior to their anticipated separation date. Employees who terminate employment with the City after giving proper written notice shall be compensated for accrued but unused vacation time as of the date of separation. Failure to comply with this notice procedure may be considered reason for denying an employee future employment with the City.

An unauthorized absence from work for a period of two (2) working days may be considered a resignation without notice.

RETIREMENT

For most employees, the Public Employees Retirement Association (PERA) is a mandatory program authorized by state law to supplement social security retirement benefits for certain public sector employees. Under this plan, a percentage of an employee's salary is automatically deducted from the employee's paycheck and an additional amount is contributed by the City. These funds are forwarded to PERA and credited to the employee's account. If an employee leaves employment with the City before retirement and they desire to withdraw the amount they have contributed to PERA (employees may not receive the portion paid by the City; it remains with PERA), the employee may request such a refund, usually with interest. Withdrawal forfeits any potential retirement payments which the contributions may have earned for the employee. To be eligible for PERA benefits, employees must be a member for a minimum of three years.

Each year employees will receive correspondence from PERA detailing contributions and other pertinent retirement information. Employees should review the yearly information carefully to keep up-to-date on the benefits accrued through the retirement fund.

For additional information contact the City Administrator's Office.

LAYOFFS

The City Council shall have the authority to lay-off any employee when such action becomes necessary as determined in the City's sole discretion. Employees shall receive two (2) weeks notice prior to a lay-off.

SEVERANCE PAY

Upon resignation, retirement, death or disability of an employee, the employee, or named beneficiary, shall be paid 100% of the employee's vacation leave then accumulated, and the pay shall be paid at the employee's current rate of pay.

CONTINUATION OF INSURANCE BENEFITS UPON SEPARATION

Federal law provides that employees who have separated from City service may continue on the City's group health and life insurance for a period of time. Pursuant to applicable state or federal law requirements, changes in family status, eligibility for Medicare or death of a spouse may warrant continuing coverage. Continuing coverage premiums must be paid in full by the separated employee, their spouse or dependents or coverage will lapse. Contact the City Administrator's office for additional information.

LEAVE BENEFITS

VACATION

Paid vacation time is provided for regular full-time employees.

Vacation time shall be earned based on the following consecutive years of full-time service:

Upon Completion of:	
1 year	80 hours
2 years	80 hours
3 years	80 hours
4 years	120 hours
5 years	120 hours
6 years	120 hours
7 years	120 hours
9 years	160 hours
10 years	160 hours
11 years	160 hours
12 years	160 hours
13 years	160 hours
14 years	160 hours
15 years	200 hours

Employees covered by a labor agreement shall earn vacation benefits according to the contract.

Eligible employees must obtain written approval from their Department Head prior to taking vacation time. Paid vacation is not available to employees until they have completed the probationary period unless otherwise authorized by the City Administrator.

Employees with more than one (1) year of service who leaves employment by reason of death, disability, retirement, dismissal or resignation will be paid for their accrued unused vacation time.

Employees with vacation accumulation in excess of 160 hours at year-end 2007 shall not accrue additional hours beyond their year end 2007 total. Employees will forfeit all vacation hours accrued in excess of 80 hours or all hours accrued in excess of their year-end 2007 total, which ever is larger.

SICK TIME

Sick time shall not be considered as a privilege or vested right which an employee may use at the employee's discretion. Sick leave shall be granted for bona fide personal injury or illness, medical examination, medical treatment or legal quarantine. For periods of over twenty-four (24) working hour’s absence, a written report by a doctor may be requested by the Employer.

Full-time employees shall accrue sick time at a rate of eight (8) hours for each calendar month. Employees hired after February 1, 2003 cannot accumulate more than twelve hundred (1280) hours.

An employee must notify his/her immediate supervisor at least thirty (30) minutes prior to the start of their regular start time if the employee intends

to be absent from work. If an emergency prevents the employee from notifying his/her supervisor at such time, the employee is expected to call as soon as possible during the work day. Employees are required to keep their supervisor informed of their condition and anticipated return to work.

An employee claiming sick time when physically fit to work or for reasons other than those explicitly set forth in this policy will be subject to disciplinary action.

An employee may be required to submit to a medical examination by a physician or medical facility licensed to practice medicine and submit a doctor's statement to the City regarding their illness. The City shall select the physician and facility which shall conduct the examination.

Sick leave may be used in case of serious illness in the immediate family requiring employee's attendance, and shall be for actual time required, but not to exceed twenty-four (24) working hours. Immediate family will mean employee's spouse, children, grandchildren, parents, grandparents, brothers or sisters of the employee and employee's spouse.

HOLIDAYS

The following holidays are observed by the City:

New Year's Day

Martin Luther King's Birthday

President's Day

Memorial Day

Independence Day

Labor Day

Veteran's Day

Thanksgiving Day

Day after Thanksgiving

Christmas Eve - 1/2 day (4 hours)

Christmas Day

New Year's Eve - 1/2 day (4 hours)

Floating Holidays - 2 day (16 hours)

Use of a Floating Holiday is subject to continuous full-time employment by the City of more than four months in a calendar year and supervisor approval. Employees shall receive holiday pay provided they worked or were on approved leave the regularly scheduled work day before and after the holiday.

Holidays occurring on Saturday will be observed the preceding Friday and holidays occurring on Sunday will be observed on the following Monday, assuming a Monday through Friday work week. Employees shall receive eight (8) hours of time off for each holiday and four (4) hours of time off for each half-day holiday. In those years when Christmas Day and New Years Day fall on a Tuesday, Wednesday, Thursday or Friday employees shall receive ½ day (4) hours off for both Christmas Eve and New Years Eve. In those years that Christmas Day and New Years Day fall on a Saturday, Sunday or Monday the ½ day (4) hours for both Christmas Eve and New Years Eve will not be granted.

When a holiday falls during an employee's vacation, the employee will not be charged with vacation but the hours will be charged against holiday leave.

Although the City prefers that personnel enjoy the observed holidays, business emergencies may arise. Non-exempt hourly employees required to work on a recognized holiday will be paid at one and one-half times (1-1/2) their regular base rate of pay in addition to their regular holiday pay. Compensatory time-off may be taken in lieu of payment.

Floating Holidays may be combined with vacation or other leaves. Unused floating holidays are not paid to terminated employees and may not be carried over to the next year.

FAMILY AND MEDICAL LEAVE

STATEMENT OF POLICY

In accordance with the Family and Medical Leave Act, effective August 5, 1993, the City of Wyoming will grant unpaid, job-protected leave to eligible employees for up to 12 weeks in a 12-month period for specified family and medical reasons, including any one or more of the following:

A. The birth of a child and in order to care for such child or the placement of a child with the employee for adoption or foster care (leave for this reason must be taken within the 12-month period following the child's birth or placement with the employee); or

B. In order to care for an immediate family member (spouse, child, or parent) of the employee if such immediate family member has a serious health condition; or

C. The employee's own serious health condition that makes the employee unable to perform the functions of his/her position.

A “serious health condition” means an illness, injury, impairment, or physical or mental condition that involves either:

1. Any period of incapacity or treatment connected with inpatient care (i.e. , an overnight stay) in a hospital, hospice or residential medical-care facility, and any period of incapacity or subsequent treatment in connection with such inpatient care; or

2. Continuing treatment by a health care provider which includes any period of incapacity (i.e., inability to work, attend school or perform other regular daily activities) due to:

   (1) A health condition (including treatment therefore, or recovery therefrom) lasting more than three consecutive days, and any subsequent treatment or period of incapacity relating to the same condition, that also includes:

   a. treatment two or more times by or under the supervision of a health care provider; or

   b. one treatment by a health care provider with a continuing regimen of treatment; or

   (2) Pregnancy or prenatal care. A visit to the health care provider is not necessary for each absence; or

   (3) A chronic serious health condition which continues over an extended period of time, requires periodic visits to a health care provider, and may involve occasional episodes of incapacity (e.g., asthma, diabetes). A visit to a health care provider is not necessary for each absence; or

   (4) A permanent or long-term condition for which treatment may not be effective (e.g., Alzheimer’s, a severe stroke, terminal cancer). Only supervision by a health care provider is required, rather than active treatment; or

   (5) Any absences to receive multiple treatments for restorative surgery or for a condition which would likely result in a period of incapacity of more than three days if not treated (e.g. chemotherapy or radiation treatment for cancer).

COVERAGE AND ELIGIBILITY

A. To be eligible for family/medical leave an employee must:

1. Work at a location in the United States or in any territory or possession of the United States where at least 50 employees are employed by the employer within 75 miles;

2. Have worked for the City of Wyoming for at least 12 months; and

3. Have worked at least 1250 hours over the previous 12-month period

B. Spouses employed by the same employer are jointly entitled to a combined total of 12 work-weeks of family leave for the birth and care of the newborn child, for placement of a child for adoption or foster care, and to care for a parent who has a serious health condition.

INTERMITTENT OR REDUCED LEAVE

A. An employee may take leave intermittently, which means taking leave in blocks of time, or by reducing their normal weekly or daily work schedule, when medically necessary to care for an immediate family member with a serious health condition or because of a serious health condition of the employee.

1. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule.

2. The employee may be required to transfer temporarily to a position with equivalent pay and benefits that better accommodate recurring periods of leave when the leave is planned based on scheduled medical treatment.

B. An employee may take leave intermittently or on a reduced leave schedule for birth or placement for adoption or foster care of a child only with the department's consent.

C. When intermittent leave is needed to care for an immediate family member or the employee's own illness, and is for planned medical treatment, the employee must try to schedule treatment so as not to unduly disrupt the employer's operation.

SUBSTITUTION OF PAID VACATION TIME

A. An employee will be required to substitute accrued paid vacation and/or accrued sick leave time for any part of a family/medical-leave taken for any reason.

B. When an employee has used accrued paid time for a portion of family/medical leave, the employee may request an additional period of unpaid leave to be granted so that the total of paid and unpaid leave provided equals 12 weeks.

NOTICE REQUIREMENT

A. An employee is required to give 30 days notice in the event of a foreseeable leave. A "Request for Family/Medical Leave" form, which may be obtained from the City Administrator, should be completed by the employee and returned to the Department Head. In unexpected or unforeseeable situations, an employee should provide as much notice as is practicable, usually verbal notice within one or two business days of when the need for leave becomes known, followed by a completed "Request for Family/ Medical Leave" form.

B. If an employee fails to give 30 days notice for a foreseeable leave with no reasonable excuse for the delay, the leave will be denied until 30 days after the employee provides notice.

MEDICAL CERTIFICATION

A. For leaves taken because of the employee's or a covered family member's serious health condition, the employee must submit a completed "Physician or Practitioner Certification" form, which can be obtained from the City Administrator, and return the certification to the City Administrator. Medical certification must be provided by the employee within 15 days after requested, or as soon as is reasonably possible.

B. The City of Wyoming may require a second or third opinion (at its own expense), periodic reports on the employee's status and intent to return to work, and a fitness-for-duty report to return to work.

C. All documentation related to the employee's or family member's medical condition will be held in strict confidence and maintained in the employee's medical records file and according to applicable law.

EFFECT ON BENEFITS

A. An employee granted a leave under this policy will continue to be covered under the City of Wyoming's group health insurance plan, life insurance plan and long-term disability plan under the same conditions as coverage would have been provided if they had been continuously employed during the leave period.

B Employee contributions will be required either through payroll deduction or by direct payment to the City of Wyoming (Finance Department). The employee will be advised in writing at the beginning of the leave period as to the amount and method of payment. Employee contribution amounts are subject to any change in rates that occurs while the employee is on leave.

C. If an employee's contribution is more than 30 days late, the City of Wyoming may terminate the employee's insurance coverage.

D. If the City of Wyoming pays the employee contributions missed by the employee while on leave, the employee will be required to reimburse the Employer for delinquent payments (on a payroll deduction schedule) upon return from leave. The Employee will be required to sign a written statement at the beginning of the leave period authorizing the payroll deduction for delinquent payments.

E. If the employee fails to return from unpaid family/medical leave for reasons other than (1) the continuation of a serious health condition of the employee or a covered family member, or (2) circumstances beyond the employee's control (certification required within 30 days of failure to return for either reason), the City of Wyoming may seek reimbursement from the employee for the portion of the premiums paid by the City of Wyoming on behalf of that employee (also known as the employer contribution) during the period of leave.

F. An employee is not entitled to seniority or benefit accrual during periods of unpaid leave but will not lose anything accrued prior to leave.

JOB PROTECTION

A. If the employee returns to work within 12 weeks following a family/ medical leave, he/she will be reinstated to his/her former position or an equivalent position with equivalent pay, benefits, status and authority.

B. If the employee fails to return within 12 weeks following a family/ medical leave, the employee will be reinstated to his/her same or similar position only if available, in accordance with applicable laws. If the employee's same or similar position is not available, the employee may be terminated.

FAMILY/MEDICAL LEAVE FORMS TO BE SUBMITTED BY EMPLOYEE

The following forms are available from the City Administrator and must be submitted pursuant to the terms provided above.

1. Request for Family/Medical Leave
2. Physician or Practitioner Certification - Family Member/Serious Health Condition
   Employee Serious/Health Condition
3. Authorization for Payroll Deduction for Benefit Plan Coverage Continuation During a Family/Medical Leave of Absence
4. Fitness for Duty to Return from Leave

SCHOOL CONFERENCE AND ACTIVITIES LEAVE

A full-time or part-time employee who has worked at least twenty (20) hours per week may take up to sixteen (16) hours unpaid leave during any twelve (12) month period to attend school-related activities for the employee's child which cannot be scheduled during non-work hours. The employee must provide reasonable prior notice of the leave and make a reasonable effort to schedule the leave so as not to disrupt City operations. The employee may elect to use accrued vacation time for this leave.

BONE MARROW DONATION LEAVE

A full-time or part-time employee who works an average of twenty (20) hours or more per week who seeks to undergo a medical procedure to donate bone marrow will be granted up to 40 hours of paid leave. The City may require verification by a physician of the purpose and length of each leave requested.

MILITARY LEAVE

The City of Wyoming complies with the laws of the State of Minnesota regarding leave of absence for military duty.

Employees eligible to receive military leave compensation while participating in required training exercises shall be compensated as required by Federal and State regulations.

Military leave of absence shall result in no loss of seniority status or benefits which would have normally accrued if the employee had not been absent for such purposes.

The City is obligated to grant Military Leave With Pay to the employee for absences not exceeding fifteen (15) calendar days per year in accordance with Federal Law. The City will not require the employee to use normal annual leave (accrued vacation) for such purposes. The employee may, however, request use of vacation, compensatory time, or leave without pay to supplement absences exceeding those covered by the fifteen day Military Leave Allowance.

An employee who is called to or volunteers for service with the armed forces of the United States or the National Guard is eligible for reinstatement in his/her position upon completion of service, providing that the period of service is five years or less. Eligibility for and terms of reinstatement are administered in accordance with state law.

The City will make a reasonable effort to adjust work schedules and assignment to accommodate employees fulfilling military obligations.

An employee promoted or hired to fill a vacancy created by a person on military leave is appointed to the position subject to the return of the absent employee. Upon such return, a promoted employee is restored to his/her original position or an equivalent position subject to the provisions of State law. A replacement employee is subject to layoff if no other position is available.

The employee is responsible to provide to their department head copies of all military orders which will result in a leave of absence for active military duty. Orders must specify the duties of absence, promulgation authority, letter order number and signature of issuing authority. Employees are required to notify their supervisors at the earliest possible date upon learning of scheduled military duty.

Employees who fail to return to work on the date specified in the leave request without receiving an extension in advance are subject to

disciplinary action up to and including termination.

Extended leave of absence (exceeding 15 calendar days allowance) will be pursuant to the policy on LEAVE OF ABSENCE WITHOUT PAY.

JURY DUTY LEAVE

Any full-time employee who is required to serve as a juror or who is under subpoena as a witness in court on City matters, will be granted leave with pay while serving in such capacity. The employee must provide the appropriate paperwork to the City prior to the leave being granted. An employee performing jury duty shall receive the difference between his/her regular rate of pay and the amount received as juror (less any amount received for mileage or expense allowance).

FUNERAL LEAVE

Full-time employees may be granted a maximum of three working days for funeral leave in the event of death in the employee's immediate family.

Immediate family will mean employee's spouse, children, grandchildren, parents, grandparents, brothers or sisters of the employee and employee's spouse.

Additional time off for funeral leave may be granted by the City Administrator for unusual and extenuating circumstances and shall be charged to the employee's vacation time.

LEAVE OF ABSENCE WITHOUT PAY

Leaves of absence without pay shall be considered only for illness, disability, or good and sufficient reasons approved by the City Administrator only when it will not result in undue hardship for the City and only when it is deemed to be in the best interests of the City. A leave of absence without pay may be granted by the City Administrator for a period of not more than one year (Military Leaves Without Pay up to Four years). Requests for leave are directed to the Department Head, who, if recommending approval will forward to the City Administrator for final approval. Requests of leave in excess of four (4) working days shall be in writing. When the request is for five (5) working days or less, the request shall be answered by the Department Head within a period of two (2) working days. When the request is for more than five (5) working days, an answer shall be given by the Department Head within a period of fifteen (15) working days. Requests for leave of absence of more than fifteen (15) working days shall cause the employee's anniversary date of employment to be advanced by the number of days in excess of fifteen (15).

Employees on unpaid leave of absence for more than fifteen (15) working days shall not accrue leave and benefits effective from the initial date of commencement of said leave except as provided by law.

SEVERE WEATHER CONDITIONS

It is the City's policy to continue to provide appropriate levels of services to the community during periods of inclement weather. On days when severe weather occurs, the City of Wyoming offices, operations and facilities will remain open. When severe weather conditions prohibit an employee from reporting to work or an employee leaves work due to weather, the employee will use either vacation leave or unpaid leave for such absence unless otherwise determined by the City Administrator.

In periods of severe weather (Blizzards & extreme cold) the City Administrator shall confer with the Mayor regarding the closing of City Hall and City Offices. If School District #831, the U. S. Post Office, etc. indicate they are closing down due to weather conditions this may warrant similar action on part of the city.

Actions of the City to close down city operations will not result in a deduction of employee benefits. Employees on paid leave will still be charged with time off from the appropriate leave (e.g. vacation, sick, etc.) if the leave occurs on a city declared storm day.

GENERAL BENEFITS

INSURANCES

Various insurance policies, including group medical insurance, may be available for eligible City employees and their dependents. The eligibility requirements and benefits provided shall be specified in materials provided by the respective insurance carriers. The respective carriers may have different requirements concerning the eligibility of employees. The requirements of the respective carrier will govern eligibility.

Pursuant to applicable state or federal law requirements, employees who terminate employment with the City for any reason other than retirement may be eligible to continue the group insurance program for a period of time. Changes in family status, eligibility for Medicare, or death of a spouse may also warrant continuing coverage. The premiums for this continuation of coverage must be paid by the employee. Contact the Finance Department for additional information.

Employees on unpaid leave of absence are responsible for the full payment of insurance premiums and are required to maintain the same level of

health insurance coverage while on an unpaid leave of absence that was in force prior to the leave.

An Employee Insurance Committee is established to consider issues related to the City insurance programs.

DEFERRED COMPENSATION PROGRAM

The City provides employees the opportunity to participate in a Deferred Compensation Plan. This voluntary plan allows employees to place a portion of their earnings into a pretax deferred investment program. Contact the Finance Department for additional information.

FLEXIBLE BENEFITS PLAN

The City offers an optional plan in which a portion of the employee's pre-tax salary can be set aside to cover un-reimbursed health care and day care costs. The employee must incur expenses for the entire amount of money set aside in the flexible benefit plan by December 31st of each year or lose it. The deadline for reimbursement of incurred expenses is the last day of February of the following year. Proof of medical and day care expenses are required before disbursements can be made. Contact the Finance Department for additional information.

LABOR RELATIONS

GRIEVANCES

The City's goal is to prevent the need for grievances and to deal promptly with those that do occur. If an employee and the employee's supervisor cannot resolve a problem, the employee may utilize the following procedure:

Step 1. If an employee and his/her immediate supervisor cannot resolve a problem informally, the employee shall submit a complaint in writing to the immediate supervisor within ten (10) working days of the date of the grievance or the employee's knowledge of its occurrence. The supervisor shall attempt to resolve the matter and shall respond to the employee within five (5) working days.

Step 2. If the supervisor is unable to resolve the dispute, the written complaint may be brought to the employee's Department Head within five (5) working days of the supervisors answer. The Department Head shall give a written answer to the employee within ten (10) working days after receipt of the written complaint.

Step 3. If the Department Head is unable to resolve the dispute, the employee may appeal in writing to the City Administrator. The written appeal must be presented to the City Administrator within five (5) working days of the Department Head's response. The City Administrator's decision shall be final.

If the dispute is not presented by the employee within the time limits indicated above, it shall be considered waived. If a dispute is not appealed to the next step within the time limit, it shall be considered settled on the basis of the City's last answer. If the City does not answer a written complaint, or an appeal thereof, within the specified time limits, the employee may elect to treat the complaint as denied at that step and may appeal the complaint to the next step.

Employees exercising their rights under this policy shall be free from reprisal.

Employees covered by a labor agreement shall follow the grievance procedure established by the agreement.

DISCIPLINE

Employees are subject to discipline for cause, up to and including termination from employment, where their acts or omissions adversely affect or may adversely affect their ability to perform their job or have an adverse impact on other employees or the City. The type of discipline imposed will be based upon the nature and severity of the infraction and the conditions surrounding the incident. The City retains the sole discretion to determine what behavior warrants disciplinary action and what type of disciplinary action will be imposed. Disciplinary action may be in one or more of the following forms:

Oral reprimand
Written reprimand
Suspension without pay
Demotion
Discharge

The City may establish a specific probationary period determined by his/her supervisor or the City Administrator to rectify behavior which requires disciplinary action.

SAFETY REQUIREMENTS

SAFETY

The personal safety and health of each employee of the City of Wyoming and the prevention of occupationally induced injuries and illnesses is of primary importance. To the greatest degree possible, management seeks to maintain a safe and hazard-free work environment.

During the "check-in" interview employees receive a copy of the City of Wyoming Employee Safety Manual. Employees are to read the manual carefully and ask questions about items that are unclear. As a condition of employment, employees are required to develop safe work habits and to contribute to the safety of themselves and co-workers.

To be successful, the City safety and health program must be the shared responsibility of all employees. Employees are required to:

Immediately report to supervisor all unsafe equipment, practices or procedures which pose a threat to the safety of employees or others;

Cooperate with and assist in the investigation of accidents to identify the causes and to prevent recurrence;

Be active in department safety programs;

Observe and promote safe work habits;

Report injuries to supervisor immediately.

SAFETY/INJURY REPORTING

The City Council is committed to providing a safe and healthy working environment for all of its employees. It recognizes that most health and safety hazards can be eliminated if proper precautions are taken. Therefore, it is the policy of the City Council to provide City employees with safe and healthful working conditions through the following means:

1. The City Administrator appoints a Safety Committee made up of employees from every department and every employee group. The City Administrator and the Committee create and maintain a safety program in compliance with all applicable federal, state and local laws.
2. The Safety Committee reviews every occupational illness and injury, and every incident which results in damage to City property and it takes action to ensure that unsafe work methods, unsafe work sites and unsafe equipment are identified and made safe.
3. All employees are required to fully comply with the Safety Program.
4. Department heads and other management and supervisory employees are responsible for implementing the Safety Program by training their employees in safe work methods and by enforcing compliance with safety standards set by the Safety Committee.
5. Department heads are responsible for providing all employees with that safety equipment and safety clothing which the City feels is necessary for employees to perform their duties in a safe manner.

Employees are required, as a condition of employment, to develop safe work habits and to contribute in every manner possible to the safety of yourself, your co-workers and the general public. To that end you are required to:

Read the safety information that is provided to you by your supervisor.

Immediately report to your supervisor all accidents and injuries occurring within the course of your employment. The supervisor will submit a Supervisor's Report of Accident Form to the City Administrator within twenty-four (24) hours of the time of injury.

Immediately report to your supervisor all unsafe practices or conditions observed

Further details on this policy and a complete summary of responsibilities and procedures are available from the City Administrator.

SAFETY GLASSES

The City of Wyoming will adhere to the following policy regarding safety glasses when the working conditions necessitate their issuance. Eyewear for those employees that are exposed to flying particles, molten metal, liquid chemicals, acids or caustic liquids, chemical gases or vapors, or potentially injurious light radiation.

NOTE: The eye protection provided may be in the form of eyeglasses, face shields or goggles. The supervisor shall be responsible for providing the proper equipment for the hazard, i.e. goggles appropriate for chemical being used, face shield appropriate for wielding hazard, etc. This policy

does not limit the supervisor in purchasing non-prescription eyewear from an approved vendor outside the city's prescription eyewear policy.

Employees who wear prescription lenses will be entered into the city's prescription eyeglasses program. This program will provide the employee with eyeglasses that meet all requirements set forth by OSHA. The employee may choose a frame and/or lenses style outside the program, however, any additional costs will be the responsibility of the employee. (Safety Glasses Policy adopted July 15, 1993 – below).

1. The employer will pay for the basic frame up to an amount of $40.00.
2. The employer will pay for any shields added to safety glasses.
3. The employer will pay for prescription lenses, including bifocals and trifocals.
4. Safety glasses maybe purchased every two years.
5. Employee will pay for
    a) Examination
    b) Color or tinted lenses
    c) Scratch coating
    d) Progressive lenses
    e) Other extras.
6. Total cost of Safety Eyewear to be paid by City shall not exceed $100.00. Any cost in excess of the $100.00 allowance will be the responsibility of the employee.
7. Dispensed safety eyewear material must meet ANSI Z87.1 1968, 1979 and 1989 OSHA Standards.

SAFETY TOED FOOTWEAR

The City of Wyoming will provide Safety Toed Footwear to those employees that perform job duties in which there is a danger of foot injuries due to falling and rolling objects, or objects piercing the sole, and or exposed to electrical hazards. Employee must wear safety-toed footwear at all times that hazards exist.

The maximum cost the city will reimburse the employee for safety-toed footwear is $75.00 per calendar year. Safety toed foot wear must meet all requirements of OSHA in order to be eligible for reimbursement. Safety toed footwear must be purchased with climatic conditions in mind, i.e. insulated for winter work, waterproof, and non-insulated for summer work.

HEAD PROTECTION

The City of Wyoming will provide Head Protection for those employees exposed to head injuries from falling objects and/or from electrical shock hazards.

HAND PROTECTION

The City of Wyoming will provide Hand Protection for those employees whose hands are exposed to hazards such as those from skin absorption of harmful substances; severe cuts or lacerations; severe abrasions; punctures; chemical burns; thermal burns; electrical shock; and harmful temperature extremes.

The supervisor shall be responsible for ensuring that the employee is provided with the most appropriate hand protection for the hazard of the job.

RESPIRATORY PROTECTION

The City of Wyoming will provide Respiratory Protection for those employees exposed to breathing air contaminated with harmful dusts, fogs, fumes, mists, gases, smokes, sprays or vapors. Such protection may take the form of respirators. The supervisor is responsible for working with the safety consultant to determine the most appropriate protection.

HEARING PROTECTION

The City of Wyoming will provide hearing protection to all employees that work with equipment that has a decibel threshold greater than 90 db.

PROTECTIVE CLOTHING

The City of Wyoming will provide employees the following protective clothing:

- High visibility clothing will be provided to all employees that work around vehicular traffic and/or other heavy equipment. High visibility clothing will meet or exceed the ANSI standards for at least a Class II designation.
- Cut resistant footwear and chainsaw chaps will be provided for all employees that use chainsaws to perform tree removal and tree trimming duties. Such Personal Protective Equipment (PPE) will be provided for use outside of any bucket truck.

NOTE: The employee is responsible for properly using any and all Personal Protective Equipment (PPE) provided by the City of Wyoming. Failure to properly use PPE may result in disciplinary action. The supervisors are responsible for ensuring that all employees are provided with an adequate supply of PPE that is appropriate for the job duties associated with the job classification.

TEMPORARY & SEASONAL EMPLOYEES

Temporary or Seasonal employees are eligible to receive the required PPE. Head protection, hearing protection, and hand protection will be provided by the city, with the ownership of the equipment remaining with the city. Eye protection will be provided similarly to that of full-time employees. The temporary employee, who must wear prescription lenses, will be provided with safety glasses or goggles designed to fit over the regular prescription glasses. Foot protection – Temporary/seasonal employees are required to provide their own safety shoed shoes. Upon satisfactory completion of the term of employment, the temporary/seasonal employ will be reimbursed for the purchase of the safety toed shoes. Reimbursement amount shall not exceed $50.00 and the employee must provide proper documentation regarding safety shoes meeting or exceeding the OSHA requirements.

PROPERTY DAMAGE REPORTING

An employee involved in an incident which results in damage to City property must submit a report of the incident to his or her supervisor within twenty-four (24) hours of occurrence.

Vehicle accidents also require a copy of the Minnesota Motor Vehicle Accident Report.

WORKERS' COMPENSATION

An employee who is temporarily unable to work due to an injury or illness sustained in the performance of the employee's work with the City may be eligible for Workers' Compensation subject to the provisions of the State of Minnesota Workers' Compensation Law.

An employee who becomes eligible to receive Workers' Compensation will retain the total amount of the Workers' Compensation check and may receive the difference between their Workers' Compensation payment and the employee's regular gross salary through the use of accrued sick leave. The total of the Workers' Compensation check and the accrued sick leave compensation may not exceed the employee's normal gross pay.

MISCELLANEOUS POLICIES

HANDLING CITIZENS' COMPLAINTS

Citizen complaints provide an opportunity for feedback and identifying problem areas. How well complaints are handled determines to a great extent the level of confidence and respect the public holds for its municipal government. Above all, we are here to serve, and part of our job is to effectively handle citizen complaints.

When handling a complaint be polite and never argue with the complainant even if he/she is angry, unreasonable or insulting towards you and the City. Stay calm, cool and collected. Don't take criticisms personally and you will be better able to help solve the problem rather than become a part of it.

If you receive a complaint, it is very important to follow-through properly. This can be accomplished by doing the following:

Receive and record information pertinent to the complaint;

Determine which City employee is responsible to investigate and take corrective action and forward the complaint accordingly;

Follow up on what action has been taken to correct the problem.

Also, the responsible supervisor should notify the complainant to advise him/her of the action that has been taken to correct the problem.

REQUESTS FOR LEGAL WORK

PURPOSE: To establish uniform guidelines for requesting legal opinions, assistance, contracts, resolutions, ordinances, etc., from the City Attorney.

It is the policy of the City that all requests for legal assistance which require a written response (opinion, resolution, ordinance, etc.) shall be processed through the City Administrators office.

EXCEPTIONS:

1. These policies and procedures shall not apply to requests made by motion of the City Council.

2. These policies and procedures shall not apply to routine matters that can be addressed over the phone or in person without a formal written response.

3. All Prosecution Work initiated by Police action or the Courts.

PROCEDURES FOR WRITTEN REQUESTS:

1. All requests shall be documented in writing on a standard three-part "message/reply" or other memo.

2. All requests should include:

    a. Name of attorney to whom request is made, or "City Attorney".

    b. City employee requesting action.

    c. Subject of request.

    d. Response time or date needed.

    e. Description of action requested.

    f. Copies of any attachments, e.g., draft contract, resolution, ordinance, etc.

3. The requests must be approved by the City Administrator, and initialed or verbally approved before legal work is undertaken.

4. The City Attorney will return all written responses to the City Administrators office. As soon as the response is noted, it will be disseminated to the staff person initiating the request.

5. The City Administrator will review the status of pending items with the City Attorney on a periodic basis as needed.

6. A copy of all City Attorney opinions shall be maintained in the Administrative Policy and Procedure Manual.

7. Claims for legal services which are rendered without the approvals required herein may be denied with the exception of claims for prosecution which are generated by Police action and the Courts

PROCEDURES FOR TELEPHONE REQUESTS:

All attorneys in the City Attorney's office can be reached by calling 651-351-2131 and asking for David Snyder. The address is: 1809 NW Avenue North, Suite 110, Stillwater, Minnesota 55082.

If you are dealing with a particular lawyer or know that a particular lawyer has been assigned a matter, you should call that person directly.

For new or general matters, you should call one of the following in the indicated order of priority:

TRAINING PROGRAMS, INCLUDING SEMINARS OR CONVENTIONS

PURPOSE: To promote and facilitate training and career education which meets the dynamic needs of the City.

As addressed by this policy:

1. It is the policy of the City to encourage and coordinate training opportunities for employees and supervisors in order that services rendered to the City will be more efficient and effective.

2. Employees are encouraged to continue their formal education through participation in off-duty/non-working hour's educational programs. Reimbursement for educational expenses incurred by such participation may be granted for job related courses with prior approval of the City Council, provided funds have been budget for such reimbursement.

Any reimbursement shall only be after successful completion of the course/ program. Successful completion shall be defined as receipt of a certificate of satisfactory completion or a grade of C (2.0 grade point) or better in the case of academically rated courses (or attainment of pass in a pass/fail grading system.) Tuition reimbursement is for the course only; no reimbursement will be allowed for books, lab fees, travel expenses or

material costs. Approval for tuition reimbursement shall only be allowed for courses offered by accredited colleges, universities or vocational training institutes.

Request for reimbursement must be made within 30 days following the completion of the course of study. Training reimbursement is generally available to only those employees who have successfully completed the employee's designated probation period.

Consideration of employee requests for tuition reimbursement is dependent upon budgetary constraints and the recommendation of that employee's Department Head. Time spent in attendance at these courses shall be considered the employee's personal time and is not counted as time worked.

3. It is the policy of the City to maximize comprehension, retention and transference of training provided by the City.

4. This policy is subject to and limited by the conditions of an affected employee's labor contract.

PROCEDURES:

1. Attendance at training programs will be approved at the Department Head level, except as follows:

    a. Attendance at a training program involving out-of-state travel by an employee requires approval by the City Administrator prior to registration.

    b. Attendance at any program or course work in excess of 1 shifts and/or $200 (in registration, travel, meals and lodging cost) requires approval by the City Administrator prior to registration.

2. All outside training and conference attendance shall be processed through the Training Attendance Request Form, which is available through the City Administrator, and processed as instructed thereon.

3. Within 48 hours of return from a training program, employee(s) shall develop a lesson plan or outline to share the information with an appropriate audience. The material shall be presented to said audience within ten work days of return. Said information sharing shall include the most important principles, ideas and information obtained. The presentation shall normally range from 30 to 120 minutes. The Personnel Officer may be called upon to assist is the coordination of the information-sharing sessions. A copy of the lesson plan or outline shall be attached to the Post Training Report section of the Training Attendance Request Form.

4. Any dispute regarding eligibility or the level of reimbursement may be appealed to the Personnel Office for resolution.

5. City-sponsored and required training shall generally be arranged during regularly scheduled work hours. A Department Head may change the standard work hours to accommodate or require attendance at such training activities. Such required training shall be recorded as time worked within the meaning of this policy.

6. Employees who acquire training on their own time and expense are encouraged to notify the Personnel Office so the information can be noted in the employee's personnel file.

7. Approval for State Training Academy course work for uniformed police officers and firefighters shall be at the discretion of the appropriate department head. Records of such training shall be maintained in the employee's personnel file.

8. The Personnel Officer shall maintain an employee training history, and shall periodically audit training attendance and policy compliance.

TRAVEL EXPENSES

An employee shall be reimbursed for actual and necessary expenses incurred when traveling on City business only upon prior approval of such expenses by the City Council. In order to receive reimbursement, the employee shall promptly fill out the appropriate claim form and submit it to the City Administrator for consideration and approval.

Expenses incurred in the course of an employee's official duties (i.e. meals. Parking, lodging, registration fees, etc.) will be reimbursed by the city. When an employee chooses not to take advantage of meals, or other benefits already paid for or included in registration fees, and therefore creates additional expenses, those expenses shall not be eligible for reimbursement.

Expense reimbursements apply to employees only. Costs associated with spouses, children, or other individuals not officially representing the city are not eligible for reimbursement.

Mileage rates will be established by the latest IRS publications. Meal reimbursements will be established by the current per diem meal rate adopted by the city council from time to time by resolution. Costs exceeding the individual meal or per diem meal rate will be borne by the employee.

TELEPHONE USE

City telephones are in place to conduct official City business. Whenever you use the telephone, you "become the City" by what you say and how you say it. When your voice is warm and friendly and when you are courteous and tactful, citizens will enjoy dealing with you and the City.

Under no circumstances may you charge personal long distance calls to the City. Local personal telephone calls should be made only when absolutely necessary, preferably during scheduled rest breaks or lunch periods. Keep incoming personal calls brief.

ELECTRONIC COMMUNICATIONS AND INTERNET USE

SCOPE: The Internet and the public and private telephone systems have become a de facto standard for communication between disparate governmental, commercial organizations and private citizens. Communications traffic may cross multiple and different networks prior to reaching the client destination. Yet the public has a high reliance on the integrity and accuracy of data shared from the city.

This policy applies to all City of Wyoming system users regardless of location status or ownership.

Each system user is responsible for adhering to the guidelines and policies regarding the use of these systems to protect the accuracy, integrity and dependability of the organization's electronic systems and information.

PURPOSE: The City of Wyoming recognizes that phone and computer systems are becoming increasingly interconnected and sophisticated in their ability to create, disseminate and store electronic messages, along with an increased potential for the inappropriate release of non-public data.

The City of Wyoming has developed policies and guidelines regarding the use of all electronic communications systems and information transmitted through or stored in those systems.

The computer and communications systems operated by the City for the conduct of business are the property and work environment of the City of Wyoming, and all Wyoming policies relating to personal conduct apply to access to and use of these resources.

NO PRIVACY: Users have no expectation of privacy in using these systems. No communication using these systems should be considered private or personal. Records retention policies apply to electronic communications, users should assume that even deleted messages are retrievable at a later date. The City can and will inspect information stored in or transmitted through its electronic systems.

CAREFUL USE: The City of Wyoming provides telephone, fax, Internet access and e-mail to speedily conduct the business of the organization. Use of these systems will be granted by supervisors with regard to job function. Once given access, users are expected to use these systems in a responsible manner at all times. All usage should be able to withstand public scrutiny without embarrassment to the City of Wyoming.

CONTENT: System users are responsible for the content of all text, audio and video sent using the Internet or phone systems. All messages must comply with relevant federal and state laws regarding copyright, trademark and intellectual property. Messages must contain the user's identity, and should be written with the same professional manner as any hard-copy correspondence.

System users are not allowed to release passwords, user names or dial up numbers to anyone other than designated individuals.

System users cannot access or modify any information without the express prior permission of the authority responsible for generating or maintaining said information.

The organization's policies pertaining to harassment and other forms of workplace misconduct apply with full force and effect to the use of city electronic communication systems.

PERSONAL USE: Use of telephone, fax, Internet access and e-mail is permitted, provided such use does not impair the employee's workplace performance and productivity and;

- Is done on the employee's personal time,
- Does not interfere with business usage,
- Does not contain harassing or threatening material.
- Is not performing work for profit, for personal gain, promotional use or solicitation,
- Does not contain abusive, profane or offensive language.

(*Note: The organization can prohibit the use of any/all of this equipment or set limitations on its usage.)*

The use of The City of Wyoming electronic communication devices is a privilege not a right that may be revoked at any time.

INAPPROPRIATE USE: Inappropriate use of telephone, fax, Internet access, and e-mail systems would include but are not limited to participation in illegal activities, gambling, gaming programs, commercial activities, accessing the Internet or email for participation in chat rooms, instant messaging programs, or purely social and/or dating websites, accessing sexually explicit or violent material; using the systems to harass or disable other systems, creation or distribution of virus or destructive programs, distributing pirated software or stolen data or any other activity that injuries others or the organization in any way.

MEDIA CONTACTS: Only authorized individuals should communicate to or respond to the public news media regarding city business. Data that is not public under the Government Data Practices Act cannot be transmitted in clear text over the Internet.

PRESENTATION OF CITY MAINTAINED INFORMATION/DATA: Requests for public information can become very time-consuming and expensive. The City of Wyoming may maintain public access points for information about the organization, and for access to city records and information. These systems should be operated only by persons specifically authorized (and trained) to place or remove data on such a system. Release of data to the public in other formats should be carried out through authorized channels.

VIRUS SCANNING: Incoming messages containing file attachments may imperil city systems by importing viruses. Files or mail attachments entering the organization's network should always be scanned for viruses before being opened or used.

MONITORING: It is a supervisory responsibility to oversee use and to determine if uses of electronic systems are appropriate to assigned work. Although content is not routinely monitored, it may occur internally under administrative procedures, and externally under subpoena, request for public data or other legal actions, or due to unexpected absence of an employee, or for other business or technical reasons.

VIOLATIONS: The City of Wyoming reserves the right to treat the misuse of these resources as any other act of employment in accord with its personnel regulations. Violations of this policy will subject the user to discipline, up to and including discharge as well as notification to law enforcement agencies when appropriate.

PERSONAL USE OF CITY PROPERTY

City-owned equipment and facilities are not available for personal use by employees. Employees, supervisors or other persons, may not use, nor allow the use of any personal property, lands, or buildings of the City of Wyoming for private interests, use or enjoyment of any employee, supervisor or other person. No City owned property shall be removed from any City Department land or building for any private use, purpose, or enjoyment, and no employee, supervisor or other person shall be in any building of the department after normal working hours, unless they are upon official department business.

Copiers may be used for personal copies; however, copies must be paid for.

Personal commercial business activity conducted on City telephones is prohibited.

City equipment or facilities may be loaned to community and civic organizations. Approval for such use must be obtained from the City Council unless covered by a mutual aid agreement.

Unauthorized removal of City property or its conversion to personal use may be cause for discipline up to and including discharge.

USE OF CITY VEHICLES

City-owned vehicles are to be used only by City employees for official City business. Employees that drive or may be required to drive City vehicles and equipment are responsible for maintaining a safe driving record and for observing all traffic laws. Seat belts must be properly used at all times. Drivers must carry a current, valid driver's license that is adequate for the type of vehicle being driven. Any employee who operates a City vehicle without a valid driver's license will be subject to disciplinary action. Passengers may be carried only when necessary to conduct City business and/or whose transportation via City vehicle is, in the opinion of the operator, in the best interest of the City. When a vehicle is not being used for business purposes, it shall be parked or left on the employer's premises. An exception is an IRS approved exempt vehicle, i.e., marked police or fire vehicle, which may be authorized by the City Council to be used for commuting to and from work and deminimus use. City vehicles are not to be used for family purposes or for other pleasure or personal use at any time.

COLLISION INVESTIGATION INVOLVING CITY EMPLOYEES AND/OR VEHICLES

PURPOSE: To establish policy guidelines for the investigation of all accidents involving City vehicles or privately-owned vehicles while the driver thereof is actively engaged in official City business.

If while operating a City owned vehicle or a privately owned vehicle in the performance of official duties, an employee is involved in an accident resulting in personal injury or property damage, he or she shall:

1. Request that all parties and properties concerned remain at the scene of the accident if possible until a law enforcement representative has released them.

2. All collisions involving City vehicles or persons on duty and actively engaged in City business will be investigated by a police agency.

    a. If occurring outside the City, the collision will be investigated by the police agency having jurisdiction.

    b. If occurring within the City and involving property damage or a minor (non-hospitalizing) injury, the collision will be investigated by the City Police Department.

c. If occurring within the City and the collision results in a fatality or injury requiring immediate hospitalization of any party, the accident will be investigated by an outside authority. Selection of an outside authority will be handled by the City Police Department at the scene.

3. Employee responsibility is to refrain from making statements regarding the accident with anyone other than the investigating law enforcement representative, appropriate City officials, and representatives of his or her own insurance company if the employee's privately owned vehicle is involved. Statements made to investigating authorities should be confined to factual observations.

4. A copy of all police reports and any statements attached thereto will be forwarded to the Risk Manager within one day. The Risk Manager will report such accidents to the Employees Safety and Health Committee.

If an employee is injured, procedures should be followed as outlined in Administrative Policy regarding ON-THE-JOB INJURY OR ILLNESS.

ACCIDENTS INVOLVING DEFECTIVE EQUIPMENT

PURPOSE: To establish procedures for accidents involving potentially defective equipment.

When an accident happens where defective equipment is a possibility, the following action should be taken:

1. Attend to any injuries of employees or others.

2. Turn equipment in question over to the employee's supervisor, who shall consult with the Risk Manager.

3. Write a detailed report, within one day, to include all circumstances surrounding the incident and all manufacturing information available concerning the equipment in question. This report should be submitted to the Risk Manager. The Risk Manager will report such accidents to the Employee Safety and Health Committee.

4. When an employee is injured, procedures should be followed as outlined in the Policy on ON-THE-JOB INJURY OR ILLNESS.

EMPLOYEE ACTIONS AT ACCIDENT SCENES

PURPOSE: To establish policy guidelines for employees traveling in City-owned vehicles for rendering assistance at accident scenes.

1. It is the responsibility of City employees, while traveling in City vehicles to stop at accident scenes and render whatever assistance that is within their capability if it is safe to do so. It is not the intention of this policy to impose strict procedures in governing the actions of employees at accident scenes. It is realized that each employee must use his or her own judgment in determining if assistance is needed and what assistance they are capable of providing.

2. As a minimum, the employee should ensure that police and fire personnel have been notified (if necessary). If injuries have occurred, and the employee is capable and qualified, first aid may be rendered to the victim.

3. The employee should remain at the accident scene until emergency vehicles arrive and offer assistance to police and fire personnel as needed.

4. The employee should remain polite and helpful in all circumstances and never speculate on cause, effect or blame involved in the accident.

5. An incident report will be completed by the employee within 24 hours describing the details of the accident and filed with the Risk Manager.

NEWS RELEASE

News releases concerning municipal affairs are the responsibility of the Department Heads and City Administrator. Employees are prohibited from releasing any information related to municipal affairs to the news media without the prior consent of the employee's Department Head or the City Administrator.

WORKING OUT OF CLASSIFICATION PAY

PURPOSE: To define and delineate circumstances when an employee will receive compensation for the performance of duties in a higher classification than he/she normally performs.

APPLICABILITY: The provisions of this policy apply to employees of the City unless existing labor contracts specifically provide for a Working Out of Classification procedure.

1. Compensation for working out of classification is provided as monetary recognition to an employee for the assumption and performance of

duties normally performed by an employee of higher classification.

2. The assumption and performance of the duties of the higher classification must encompass the full range of responsibilities of the higher classification. This shall not apply to temporary assignments which are made pursuant to prior mutual agreement between the employee and his or her immediate supervisor for the purpose of providing training opportunity to the employee, for a mutually agreed upon period of time.

3. The performance of such duties must be for an extended period of time, wherein a need exists to fulfill the duties and responsibilities of the vacant position. An extended period of time is generally considered as an assumption of duties and responsibilities that will last in excess of thirty (30) work days.

4. Working out of classification compensation shall be allowed only after written recommendation of the Department Head and concurrence by the City Administrator. Recommendation and designation shall be accomplished prior to the assumption of higher classification responsibilities.

5. The employee's compensation will be increased to the starting salary of the higher classification in which the employee is substituting, or five percent (5%), whichever is higher.

6. When the temporary assignment is completed, the employee's salary will be readjusted to its previous level or the level where it would have attained, including general salary adjustment and within range increases, if the out of classification pay had not been made. The employees' date of hire and anniversary date will remain unchanged throughout the temporary assignment.

CHILDREN'S SERVICE WORKER BACKGROUND CHECK POLICY & PROCEDURE

The Minnesota Child Protection Act (MN Stat. 299C provides authority for the City to obtain a criminal history background check for "children's service providers". Because of the close contact and daily supervision of children that the City provides, it falls within the definition of children's service provider. Therefore, the City is implementing this policy for a criminal background check for all City employees in all job classes, part-time and full-time, that have contact with children.

1. A criminal background check for offenses covered under MN Stat. 299C will be made at the time of a job offer, including offer of temporary or seasonal employment. Employment with the City will be contingent upon successfully passing the background check. No employee may start working before the background check is completed.

2. Persons offered employment must, as a condition of employment, sign an informed consent allowing the City to obtain their criminal history information with regard to convictions for offenses listed in MN Stat. 299C. Persons offered employment must sign this informed consent for the background check, or the job offer will be withdrawn.

   Any intentional omission or false representation will result in a withdrawal of the job offer; or if discovered after hire, the termination of employment in that position.

3. Persons undergoing a background investigation must be notified that they have the following rights:

   a. To be informed that the City is requiring this check as a condition of employment;

   b. To be informed of the response to the background check, to obtain a copy of the background check report upon request, and to have a chance to respond in the case of negative information;

   c. To obtain a copy of any record that forms the basis for the report;

   d. To challenge the accuracy and completeness of any information contained in the report;

   e. To be informed if the City has denied their application or continuation of their employment because of the response to the background check; and

   f. To not be required to pay the cost of the background check.

CRIMINAL BACKGROUND CHECK PROCESS

1. The hiring supervisor will forward the informed consent form to the City of Wyoming Police.

2. Sworn staff of the City of Wyoming Police will complete background checks.

3. Background checks should be completed within 3-5 days. If this is not possible, then the City of Wyoming Police will notify the hiring supervisor with the anticipate completion date.

4. If the background check reveals no convictions, the City of Wyoming Police will communicate that information back to the hiring supervisor. A paper copy of the report will be forwarded to the hiring supervisor and to the City Administrator for filing into the employee's personnel file.

NEGATIVE INFORMATION

a. If the result of the background investigation reveals negative information (i.e., convictions for offenses covered under MN Stat. 299C), the City of Wyoming Police must notify the hiring supervisor, the City's legal representative and the City Administrator. This group will review, with the City of Wyoming Police, the results of the background check and make a determination to hire or withdraw the offer.

b. The criteria to be used will include:

I. Any conviction for offenses covered under MN Stat. 299C within the past 5 years will result in the applicant being disqualified from employment in that position.

II. Convictions for offenses covered under MN Stat. 299C that occurred more than 5 years ago, will be reviewed on a case-by-case basis, taking into consideration:

***** Length of time elapsed since the offense was committed

***** Age of person at the time the offense was committed

***** Number of convictions

***** Seriousness of the offense

***** Evidence of rehabilitation

***** Prior work history

***** Position applied for

c. Persons disqualified from employment will be notified in writing within 5 days. The notice will include the reason for disqualification and their right to have a chance to respond within 5 days in the case of negative information. In addition, they will be notified of their rights, if any, to appeal their disqualification to the Wyoming Civil Service Commission.

RETENTION AND ACCESSIBILITY OF RECORDS

A copy of the informed consent and the criminal background report will be filed into the employee's personnel file upon hire. Information relating to the persons disqualified will be kept by the City of Wyoming Police Department and the City Administrator's Office. The City of Wyoming's' Records Retention policy, the Minnesota Data Practices Act, and the applicable Federal and State laws shall govern the storage, use and dissemination of such records. Where the use of such records is not addressed by the foregoing standards, the use and dissemination of such records, such as their availability to hiring supervisors, shall be within the discretion of the City of Wyoming Superintendent.

CURRENT EMPLOYEES

Upon implementation of this policy, it is the duty of all incumbents to affirmatively notify the City Administrator's office in writing of any criminal conviction covered under MN. Stat. 299C that occurred anytime after the implementation of this policy. The conviction must be reported within two weeks after it is officially entered into court records. For purposes of this policy, conviction includes any conviction which has not been expunged and for which a jail sentence could have been imposed.

Upon notification of a conviction, the City Administrator's office will consult with the appropriate Assistant Superintendent, and a representative from the City of Wyoming Police and the City's legal representative, to determine if the conviction is related to the employee's job. If it is determined that the conviction is job-related, the City may take action to remove the employee from the position and place them in a position that is comparable in salary and level, but which is not in contact with children. The City may take action to terminate the employee, based on the seriousness of the offense. Employees have the right to appeal this decision to the through their collective bargaining agreement.

Intentional failure of the employee to notify the City of a criminal conviction that occurs after the effective date of this policy may be grounds for employment sanctions up to and including termination, regardless of when the omission is discovered. Such failure may be grounds for termination regardless of whether it is determined that such conviction is of a nature that would have disqualified the employee from the position of employment in question.

IMPLEMENTATION

To implement this policy, current City employees will be subject to a criminal background check against MN Stat. 299C. Employees will be offered a time-limited opportunity to provide complete and current information about their backgrounds that they may have excluded from their original applications, or which occurred after they became an employee of the City.

An employee whose background check reveals convictions for offenses covered under MN Stat. 299C, that would disqualify him/her from employment, shall not be removed from their current position unless the check reveals information not previously known which is related to their ability to successfully perform the duties of their current job.

JOB ANNOUNCEMENTS

Every job announcement for a job title needing a criminal background check shall contain a notice substantially as follows, "The City of Wyoming has determined that a criminal background check is necessary for all positions. Persons offered employment must, as a condition of employment, sign an informed consent allowing the City to obtain their criminal history information in connection with the position sought. Applicants who do not sign the informed consent will not be further considered for the position." This statement will also be presented in writing to potential temporary employees before the City hires them.

COMMUNICATION OF POLICY

Upon adoption, the City Administrator shall communicate this policy and procedure to all current City employees, in writing. All employees will sign a statement acknowledging receipt of this policy and procedure. The City Administrator shall determine other additional means of communicating these policies to all employees periodically.

APPENDIX C PURCHASING POLICY*

***Editor's note:** Printed in this appendix are the purchasing policies of the city adopted on March 15, 1994, effective October 1, 1994. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization, citation to state statutes and the expression of numbers in text as appears in the Code of Ordinances has been used. The terms "clerk" and "administrator" have been changed to "city clerk-administrator" without notation to conform to the body of the Code.

Cross references: Administration, ch. 2.

Sec. 125.01. Authority.

Sec. 125.02. Purpose.

Sec. 125.03. Application.

Sec. 125.04. Policy.

Sec. 125.05. Vendor opportunity.

Sec. 125.06. Employee conflict of interest.

Sec. 125.07. Sales call policy.

Sec. 125.08. Gratuities and kickbacks.

Sec. 125.09. Departmental purchasing responsibilities.

Sec. 125.10. Quotations and bidding.

Sec. 125.11. Quotation and bidding policy.

Sec. 125.12. Discretionary authority.

Sec. 125.13. Local purchases.

Sec. 125.14. Purchase authorization and procedures.

Sec. 125.15. Purchase requisition policy.

Sec. 125.16. Routing.

Sec. 125.17. Purchases under $100.00.

Sec. 125.18. Purchases over $300.00.

Sec. 125.19. Purchases over $1,000.00.

Sec. 125.20. Purchases over $15,000.00/formal bids.

Sec. 125.21. Emergency purchases.

Sec. 125.22. Purchase orders.

Sec. 125.23. Blanket purchase orders.

Sec. 125.24. Receipt/return of materials.

Sec. 125.25. Invoices.

Sec. 125.26. Personal purchases.

Sec. 125.27. Inventories.

Section 125.01. Authority.

The purchasing policies of the city are established by the city council and implemented through the city clerk-administrator and department heads.

Section 125.02. Purpose.

The purpose of this policy is to provide for the fair and equitable treatment of all persons involved in public purchasing by the City of Wyoming, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

Section 125.03. Application.

This policy applies to the procurement of materials, supplies, services, and construction. It shall apply to every expenditure of city funds irrespective of their source. When the procurement involves spending Federal or State assistance or contract funds, the procurement shall be conducted in accordance with any applicable mandatory federal or state laws and regulations which are not reflected in this policy.

Section 125.04. Policy.

To facilitate a sound and cost effective purchasing operation, all purchases shall be of a quality and quantity to suit the intended purpose at the lowest possible cost.

Section 125.05. Vendor opportunity.

Opportunity to do business with the city shall be provided to all responsible vendors. To this end, the city clerk-administrator's office shall develop and maintain a directory of potential vendors for various types of supplies, equipment, and services. Any responsible vendor may be included in the directory upon written request. The directory may be used to develop a mailing list for distribution of purchase specifications and invitations to bid.

Section 125.06. Employee conflict of interest.

It shall be unethical for any employee to participate directly or indirectly in a procurement when the employee knows that (a) the employee or any members of his/her immediate family has a financial interest pertaining to the procurement; or (b) any other person, business, or organization with whom the employee or any member of his/her immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement. An employee or any member of his/her immediate family who holds a financial interest in a disclosed blind trust shall not be deemed to have a conflict of interest with regard to matters pertaining to that financial interest. No purchase shall be made which would violate Minnesota state statutes pertaining to elected officials' conflicts of interest.

Section 125.07. Sales call policy.

It is the strict policy of the city that no sales calls shall be received without an appointment scheduled in advance. Lunch time meetings scheduled with vendors are deemed part of the employee's regularly-scheduled lunch period and shall not exceed the length of time ordinarily scheduled for that lunch.

Section 125.08. Gratuities and kickbacks.

It shall be unethical for any person to offer, give, or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement of a contract or subcontract, or to any solicitation of proposal therefore.

Section 125.09. Departmental purchasing responsibilities.

The city clerk-administrator shall be the designated purchasing agent for the City of Wyoming. Purchases for the city are made for each department through the city clerk-administrator's office, his/her designee, or in the case of emergencies, through the department head upon notice to the city council liaison to the respective department.

Section 125.10. Quotations and bidding.

Whenever possible and as enumerated in section 125.11, competitive prices shall be obtained for the purchase of materials, equipment, or services. Generally, the greater the value of the purchase, the more formal the method used.

Section 125.11. Quotation and bidding policy.

The following procurement methods shall be used, and in all cases a written record shall be made and preserved by the city clerk-administrator's office:

Level of purchase	Procurement method
$1.00 to $100.00	Direct purchase
$101.00 to $500.00	3 Verbal quotations
$501.00 to $5,000.00	3 Written quotations
$5,001.00 to $15,000.00	3 Formal written proposals
Exceeding $15,000.00	Formal sealed bids

Section 125.12. Discretionary authority.

Competitive purchases shall not be made on the sole basis of low quotations. Said purchases shall be based on factors such as life-cycle costs, quality, delivery period, and availability of goods and maintenance service, as determined by discretion hereby given.

Section 125.13. Local purchases.

In the event that local and nonlocal proposals for goods or services of like amount, quality, and availability are made at the same price, the local proposal shall be accepted. Local vendors are hereby defined as those business establishments which have a significant portion of their physical plant within the corporate boundaries of the City of Wyoming.

Section 125.14. Purchase authorization and procedures.

Except as set forth below, approval for purchases shall be granted following the submission of a purchase requisition and shall be processed in accordance with administrative procedures. The purchase requisition serves to define the approximate quantity and intended use of requested materials, supplies, and services, and to provide better control over financial resources. The purchase requisition also serves to inform the city clerk-administrator's office of pending financial obligations.

Section 125.15. Purchase requisition policy.

Purchase authorization should be sought far enough in advance to allow for delivery prior to actual need. Ideally, similar purchases by various departments should be aggregated on one purchase requisition to allow for better unit prices and lower delivery costs. Purchases shall not be split in order to circumvent any provision of this policy or applicable Minnesota state statutes.

Section 125.16. Routing.

Purchase requisitions shall be prepared in triplicate in ascending numerical order. One copy shall be retained by the department initiating the purchase requisition. The city clerk-administrator's office shall retain the original in a numerical file. The third copy shall be attached to all properly reconciled invoices forwarded for payment.

Section 125.17. Purchases under $100.00.

All purchases under $100.00 may be initiated without a purchase requisition, subject to the department head's verbal approval.

Section 125.18. Purchases over $300.00.

All purchases over $300.00 shall be initiated by a purchase requisition signed by the requisitioner, department head, and the city clerk-administrator prior to the issuance of a purchase order. In all cases, a purchase requisition for any amount exceeding the budget for that purpose shall also be signed by the above named individuals.

Section 125.19. Purchases over $1,000.00.

All purchases over $1,000.00 shall be initiated by a purchase requisition signed by the requisitioner, department head, and city clerk-administrator and presented to the city council for approval prior to the issuance of a purchase order.

Section 125.20. Purchases over $15,000.00/formal bids.

All formal bid awards shall be made the subject of a written contract. A purchase order alone shall be a sufficient written contract only in cases where the expenditure is in the usual and ordinary course of the city's affairs. In no case shall a purchase order be sufficient for the construction of public works or the contracting for supplies or services over any period of time or when the quality of the goods or materials or the scope of the services bargained for is not wholly standardized.

Subd. 1 Formal bid solicitation and posting. The purchasing agent shall also solicit bids from such qualified prospective vendors as are listed in the vendor directory by sending each a notice requesting bids.

Subd. 2 Bid security deposit. This deposit shall be in the form of a certified or cashier's check or a bond written by a surety company authorized to do business in the State of Minnesota. The amount of such security shall be expressed in terms of a percentage of the bid submitted. Unless fixed by the city council, the city clerk-administrator shall prescribe the amount of any security to be deposited with any bid.

Subd. 3 Bid opening. Bids shall be opened in public at the time and place designated in the advertisement for bids. Bids shall be referred to the city clerk-administrator's office to be examined and tabulated, and shall be reported to the city council with a recommendation. After opening, all bids shall be available for inspection.

Subd. 4 Performance bonds. Unless fixed by the city council, the city clerk-administrator shall prescribe the amount of the performance bond, and in the case of construction contracts, the amount of the labor and materials bond to be required of successful bidders. Said performance bond shall be executed to the city, conditional upon the performance of said contract and holding the city harmless from all losses or damages caused to any person or property by reason of any carelessness or negligence by the contractor, and from all expenses from inspecting, engineering, and otherwise, caused by the delay in the completion of any improvement. The bond shall further be conditioned to pay all laborers, mechanics, subcontractors, and materials suppliers, as well as all just debts incurred in the performance of such work.

Section 125.21. Emergency purchases.

Emergency purchases are to be made only when normal operations of a department would be hampered to a significant extent by delays resulting from the submission of a purchase requisition form, or when property, equipment, or lives are endangered through unforeseen circumstances.

Subd. 1 Emergency purchase authority. In the case of an emergency, a department head may directly purchase any supplies, materials, or services necessary to alleviate the emergency. Every effort shall be made to contact the city clerk-administrator if emergency expenditures exceed $500.00, whether the emergency occurs during normal working hours or not. The emergency, following its abatement, shall be explained on a purchase requisition and submitted to the city clerk-administrator. If emergency expenditures are expected to exceed $1,000.00, such expenditures require the approval of the city clerk-administrator or the city council liaison to the respective department.

Section 125.22. Purchase orders.

A purchase order is required for any purchase over $300.00 and for any purchase exceeding the appropriate budgeted amount. It authorizes a vendor to ship supplies, materials, and equipment, or to perform services and invoice the purchase.

Subd. 1 Issuance. The city clerk-administrator's office shall issue purchase orders. Purchase orders will be issued only upon receipt of properly executed purchase requisitions, except under emergency conditions as set forth in section 125.21 of this policy.

Subd. 2 Routing. Purchase orders shall be prepared in triplicate in ascending numerical order. The white original shall be forwarded to the appropriate vendor. The city clerk-administrator's office shall retain a copy in a numerical file. The final copy shall be attached to all properly reconciled invoices forwarded for payment.

Section 125.23. Blanket purchase orders.

To avoid excessive paperwork and administrative delays, frequently-used vendors may be issued a blanket purchase order with a designated spending limit not to exceed three months of normal purchases. Departments may then purchase various supplies on a daily basis within the designated spending limit. However, no one item purchased via a blanket purchase order may exceed $500.00. From time to time the city council shall set blanket purchase order limits after consultation with the city clerk-administrator.

Subd. 1 Procedures. Blanket purchase orders may be issued only on receipt of a properly executed purchase requisition which identifies the designated spending limit. The city clerk-administrator shall provide the vendor with a list of employees authorized to purchase via the blanket purchase order. It shall be the department heads' and vendors' responsibility to abide by the designated spending limit.

Section 125.24. Receipt/return of materials.

Vendor-issued packing slips or other pertinent documentation shall be forwarded to the city clerk-administrator's office, which shall attach same to the appropriate purchase order for future reference. The city clerk-administrator shall complete a returned materials report which identifies items returned to a vendor due to damage or other valid reason for nonacceptance. Issuance of a returned materials report should be acknowledged by the vendor by a credit memorandum.

Section 125.25. Invoices.

An invoice is a means by which a vendor informs the city of its financial obligation. Invoices should contain an itemization of quantities and charges for supplies, materials, or services furnished to the city, as well as special conditions such as discounts and due dates.

Subd. 1 Invoice Procedure. Upon receipt of an invoice, the city clerk-administrator's office shall reconcile the purchase order, packing slip, returned material report, and credit memorandum to the invoice. Any and all discrepancies in quantities and costs must be reconciled by the department head and city clerk-administrator before an invoice is forwarded for payment.

Subd. 2 Payment. At appropriate intervals, the city clerk-administrator shall prepare a schedule of invoices payable for city council review and approval. Payment shall be made only following council approval. Such approval is indicated by the presence of at least three council members' signatures on the claim document.

Subd. 3 Coding. All invoices, whether accompanied by a purchase order or not, must be regularly coded by the department head to the appropriate department's budgetary line item before the invoice is forwarded for payment.

Subd. 4 Compliance. It shall be the responsibility of the city clerk-administrator's office to match invoices to purchase requisitions, purchase orders, and other documents, and in every case to determine compliance with this purchasing policy.

Section 125.26. Personal purchases.

The practice of city employees' purchasing goods or services for themselves on city accounts must not constitute, or appear to constitute, an unfair economic advantage over others. City employees making use of city accounts to make personal purchases must in every case submit a purchase requisition, secure a purchase order, and pay the full amount in cash, plus tax, at the time the purchase order is received.

Section 125.27. Inventories.

To facilitate budget preparation, purchase planning, and the preparation of the annual audit, all departments in conjunction with their respective city council liaisons shall make an annual inventory of capital equipment, materials, supplies and goods under their control. The inventory document shall be submitted to the city clerk-administrator, who shall annually forward a summary of departmental inventories to the city council for its review.

APPENDIX D ASSESSMENT POLICY MANUAL*

***Editor's note:** Printed herein is the City of Wyoming Assessment Policy Manual, as adopted by the City Council on December 1997. Amendments to the original manual are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original manual. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same style of citation to state statutes and expression of numbers in text as appears in the Code of Ordinances has been used. The terms "clerk" and "administrator" have been changed to "city clerk-administrator" without notation to conform to the body of the Code.

I. General assessment policies

II. Definitions

III. Assessment policy for new developments

IV. Sanitary sewer improvements

V. Water improvements

VI. Storm sewer improvements

VII. Street improvements

Appendix

I. GENERAL ASSESSMENT POLICIES

The purpose of this assessment manual is to set forth a guide to be utilized by the City Council of the City of Wyoming when determining assessments for public improvements, preparing assessment rolls, and other matters related to assessing some or all of the cost of such public improvements against benefited properties, so as to assure uniform and consistent treatment of the affected properties.

Minnesota Statutes §§ 429.010 to 429.111 provides that a municipality shall have the power to make public improvements such as sanitary sewers, storm sewers, water source and distribution facilities, street improvements including grading, curb and gutter, surfacing, sidewalks, street lighting, and recreational facilities, etc. The various procedures that the municipality must follow including reports, notices and public hearings are set forth or derived from Minnesota Statutes (the "Statutes").

The Statute further provides that the cost of any improvement may be assessed upon property benefited by the improvement based upon the benefits received whether or not the property abuts on the improvement and whether or not any part of the cost of the improvement is paid from other funding sources. The law is not specific on how these benefits are to be measured or how the costs are to be apportioned, but rather makes it incumbent upon the municipality to determine, with assistance of the City Engineer, City Attorney, appraisers or other qualified personnel, a fair and equitable method of cost sharing among the properties involved.

Throughout this manual, the total cost of an improvement shall include the construction cost plus all associated overhead costs. The total cost of the associated overhead for a public improvement project would typically include the following as an estimated percentage of the construction cost:

Engineering	17.0%
City Administration	2.5%
Legal	2.0%
Fiscal	3.0%
Interest During Construction	4.5%
Assessment Roll Preparation	2.0%
Contingencies	4.0%
TOTAL	**35.0%**

These overhead costs are estimates only. The actual costs incurred will be tracked and charged to the project. Any contributing funds from outside sources may be deducted from the total improvement cost to determine the assessable costs.

The initiation of public improvement projects may happen in two different methods. The first method is by a petition of the affected property owners. The petition must be signed by the owners of not less than 35 percent of the frontage of the real property abutting the proposed improvements. The second method is to initiate the proceedings by City Council direction, in which case no petition is needed. An outline of the public improvement process is provided in the Appendix.

Any reference to land zoning in this manual shall mean the most current approved City Zoning Map available at the time. It should be emphasized that the special assessment methods and policies summarized herein cannot be considered as all-inclusive and that unusual circumstances may at times justify special consideration. Also, any fixed cost data and rates presented herein will be adjusted from time to time so as to reflect current costs.

The City Council shall retain the right to review each project on its own merit and to deviate from any portion of this assessment manual as it deems proper. These deviations may occur in unique situations or where application of the policy produces unfair or undesirable results. The Council shall adopt findings of fact, wherever possible, to outline these unique situations.

II. DEFINITIONS

A. Assessment Units

The following definitions refer to the assessment units to be used when determining various assessment rates as described in the remaining sections of this manual.

1. *Lot Unit*

A lot unit is defined as a lot of record equivalent to a single-family residential lot which in accordance with Wyoming zoning and subdivision regulations, cannot be further subdivided.

2. *Equivalent Lot Unit*

Equivalent lot units are determined by dividing a large or unplatted parcel of land into smaller lot units. The division of land for assessment purposes is done in a manner consistent with the City's current zoning for the area and subdivision regulations. Questions pertaining to the "buildability" of areas to be divided into equivalent lot units are addressed by City staff at the time of the determination.

3. *Gross Area*

The total area, in acres or square feet, of a lot or parcel of land including any easements.

4. *Weighted Areas*

For the purpose of storm sewer assessments, the weighting of areas shall be based on zoning as follows:

Residential (RR, R1, and R2)	1.00
Residential (R3)	1.25
Central Business (CBD)	1.50
General Business (G)	1.50
Light Industrial (L)	2.00
Industrial (I)	2.00
Hospital (H)	2.00
Government (GOVT)	2.00

5. *Calculation of Adjusted Front Footage*

a. *Single Frontage Lots*

In platted areas, the front footage for purposes of front footage assessments shall be determined at the building set back line as described in the Wyoming Zoning Ordinance, City Code for the City of Wyoming and shall be measured parallel to the property line abutting the improvement.

In unplatted areas, the City Council shall establish on a case-by-case basis a formula for determining the assessable front footage for each improvement project. Typically, this will be accomplished by dividing the property into equivalent lot units. The total parcel front footage shall then be determined by summing the front footage for each equivalent lot unit.

b. *Corner Lots*

In the case of a street improvement project which abuts both sides of a corner lot, the front footage shall be the dimension of the shorter side plus one third of the dimension of the longer side as measured according to Section II 5.a.

Where the proposed improvement project is only along one side of a corner lot, the front footage established for that side shall be used.

The maximum amount that a corner lot can be assessed for street improvements is equal to the dimension of the shorter side plus one-third of the longer side, or the longer side, whichever is greater, within a five-year period.

c. *Cul-De-Sac or Odd-Shaped Lots*

For odd-shaped lots (i.e., lots on cul-de-sacs or lots where the difference between the length of the front property line and back property line is greater than five feet), the front footage is computed by dividing the area of the lot by the average depth of the lot. If the odd-shaped lot is deeper than 200 feet, the front footage shall be computed by determining the area assuming a 200-foot depth, then dividing that area by 200 feet. The Appendix contains an example of calculating assessable front footage for cul-de-sacs and odd-shaped lots.

d. *Approximately Rectangular Lots*

For a lot which is approximately rectangular, the front footage is computed by averaging the front and back property lines of the lot. If the lot is deeper than 200 feet, the front footage shall be computed by averaging the length of the front property line and width of the lot at the point 200 feet deep into the lot. This method is used only where the divergence between front and rear lot lines is five feet or less.

e. *Double Frontage Lots*

For lots which front on streets being improved on both the front and back property lines, the property will only be assessed on the basis of the average of the two frontages.

f. *Assessments of Multi-Family Housing*

All property containing multi-family dwellings shall be considered commercial property and shall therefore be assessed at the commercial/industrial rate as defined by this Assessment Manual.

g. *Minimum Footage*

The City reserves the right to set a minimum assessable front footage for any lot served partially or fully by improvements and supported by findings of fact for a particular project.

h. *Planned Unit Development (P.U.D.)*

The City shall use procedures to calculate front footage in planned unit developments based on the underlying zoning classification.

6. *Service District*

A service district is the area, as determined by the City Engineer and approved by the City Council, which will receive benefit from a proposed improvement project. This type of approach for assessment purposes is typically used for trunk and subtrunk sanitary sewer projects; trunk, subtrunk, source, storage and treatment water projects; and trunk storm sewer projects.

B. General

1. *Petition*

Petition shall mean a written document presented to the City Council for purposes of initiating a public improvement project. This petition requires the signature of property owners representing not less than 35 percent of the frontage on the requested project. All signatures shall be accompanied by the address of each signator, the date of the signature, and a printing of each signator's name. An example of the usual form of petition is included in the Appendix.

2. *Total Project Cost*

Total project cost shall mean the final construction cost plus all associated overhead costs. Overhead costs shall include but not be limited to engineering, city administration, legal, fiscal, interest during construction, and land acquisition.

3. *Assessment Period*

The length of payment period on various types of improvement projects shall be as follows:

Sanitary Sewer	10--15 years
Watermain	10--15 years
Storm Sewer	5--10 years
Street Construction	5--15 years
Street Resurfacing	3--7 years

In the case where several of the improvements listed above are included in the same project, the assessment period will be 10--20 years. In no event shall an assessment period exceed 20 years.

4. *Assessment Deferment*

The City of Wyoming may choose to adopt an assessment deferment policy for property owners affected by an improvement project. This deferment policy may include provisions for age, income, or disability findings of fact. This deferment would become void at such time that the property changes ownership or when the findings of fact no longer apply. Deferrals may also be made, at the Council's discretion, for unimproved property affected by an improvement until such time that the property is improved. The Council may choose to set an expiration date for assessment deferrals for unimproved property, with a deadline to be determined by the City Council at the time of deferment.

5. *Ad Valorem Tax*

The City Council may at their discretion utilize an ad valorem tax to fund portions of the project cost of any public improvement. This shall be done in accordance with the appropriate Minnesota Statutes.

6. *Assessment Rate*

The assessment rate for any special assessment district is computed by dividing the total assessable costs of such improvement by the total number of assessment units, such as dividing the total cost of a water lateral project by the total adjusted front footage of property benefited by that project.

7. *Assessable Costs*

The assessable cost of an improvement shall be defined as those costs which, in the opinion of the City Council, are attributable to the need for service in the area served by the improvement. Assessments shall be based on estimated costs. All footages are computed to the nearest hundredth of a foot. Areas are computed and recorded to the nearest square foot, or 1/100th of an acre.

8. *Interest Rate on Unpaid Balance*

The interest rate used over the life of the assessment shall be determined at the time of the assessment hearing. It shall be calculated based upon the cost of financing over the life of the assessment plus any associated overhead costs. This amount shall be expressed as a percentage.

9. *Land Not Included in Assessment*

The City may reserve the right to delete land within the assessable area from the assessment roles if, in its opinion, the land cannot be developed and/or the improvement does not provide benefit. No development of that property shall be permitted nor shall any physical connection to the City's utility or drainage facilities be made by any development on that property until the assessment or connection fees are paid.

10. *Certification of Assessment Roll*

At the time the assessment rolls are adopted by the City Council by resolution (refer to Appendix for a sample resolution), the property owner may pay the entire assessment against their property in full for 30 days without interest being charged.

A property owner may pay the total assessment against their property with accrued interest (if paid before November 15, interest is calculated to December 31 of the year the payment is made; if paid after November 15, interest will be calculated through December 31 of the next year) at any time during the life of the project assessment period.

11. *Improvements to Roadways Not Under City Jurisdiction*

Properties within the City which abut roadways not under City jurisdiction, but receiving reconstruction or bituminous overlay improvements, shall be assessed by the City. The assessment rate levied against these properties shall be the same as those established for City reconstruction or bituminous overlay projects.

III. ASSESSMENT POLICY FOR NEW DEVELOPMENTS

The assessment policy for anyone who wishes to make public improvements within the City of Wyoming as part of a proposed development shall conform to the policies established herein and as modified below.

Prior to any action on the part of the City to determine the feasibility of providing public improvements, the developer shall deposit such amount as determined by the City Clerk-Administrator and staff to adequately reimburse the City for all engineering, legal and planning, and other consultant fees for work performed in regard to such improvements. The developer shall also execute a Letter of Intent to guarantee that these fees will be paid.

In addition, the developer shall be required, prior to the City ordering the installation of any City financed improvements, to enter into a Development Agreement ensuring compliance with the policies set forth herein and all subdivision requirements of the City. The developer shall also be required to post all cash deposits, and/or letters of credit prior to such action by the City Council. In all projects where the City constructs and finances the project, the following security provisions shall apply:

A. For single-family, two-family, or townhouse residential developments, the developer shall deposit with the City a cash escrow or an irrevocable letter of credit of 125 percent of the estimated project cost as determined by the City Engineer. If the estimated project cost as determined after receipt of bids for construction exceeds the Engineer's estimate by ten percent or more, the deposit shall be increased proportionately. The total project costs shall be assessed in equal annual installments according to the assessment period.

B. In the case where the improvements benefit not only the property being developed, but other areas within the City, the developer shall provide to the City a security deposit in accordance with paragraphs described above for the portion of the estimated project costs which represent the benefit to the proposed development. Such portion shall be assessed against the properties benefited.

1. For all other types of development, the developer shall deposit with the City a cash escrow or irrevocable letter of credit of 125 percent of the estimated project cost as determined by the City Engineer. If the estimated project cost as determined after receipt of bids for construction exceeds the Engineer's estimate by ten percent or more, the deposit shall be increased proportionately. The total project costs shall be assessed in equal annual installments according to the assessment period.

2. The security deposit shall be irrevocable for the full term of any assessments for which given. The agreement shall be so conditioned as to guarantee payment of the assessments as due or to pay for the cost of all improvements which the developer agreed to install.

3. The required security deposit may consist of a cash escrow deposit or irrevocable letter of credit, in a form acceptable to the city Attorney and with firms authorized to do business in the State of Minnesota.

IV. SANITARY SEWER IMPROVEMENTS

A. Definitions

l. *Sanitary Sewer Trunks and Subtrunks*

Sanitary sewer pumping stations including associated forcemain and/or a network of gravity pipes ranging in size generally from eight-inch through 24-inch and extending toward the City's Treatment Plant. Pumping station, forcemains, trunks and subtrunks are designed as collectors for areas usually less than 300 acres.

Because sewer lines flow by gravity, the pipes can become quite deep at some locations and very costly to install. A trunk or subtrunk assessment is, in certain cases, utilized so that costs due to extra depth (and/or oversizing) will be spread over the entire service district rather than becoming a burden on just those properties abutting that portion of the pipe network constructed.

2. *Sanitary Sewer Laterals*

A network of pipes, usually eight-inch in size which are installed eight--20 feet deep and are designed to serve those buildings abutting a given street or easement. The laterals flow to trunks or subtrunks.

3. *Sanitary Sewer Building Services*

Those pipes, usually four-inch or six-inch in size lead from laterals (or from trunks, subtrunks and interceptors) to serve individual buildings. The services are plugged at the property line until such time that a building is connected to the sewer system.

The property owner must make arrangements with a licensed and bonded plumber to complete the service connection.

4. *Sewer Hookup Charge & Sanitary Sewer Availability Charge (SAC)*

This is a charge billed to all properties at the time of connection to the sanitary sewer system. The charge is the individual property share of the cost of the interceptor trunk and treatment facilities that make sewer service available. The charge is based on an equivalent unit basis. The method used to calculate the total number of units for any specific property and the current unit charge are provided in the appendix. This SAC charge is established from time to time by the City Council and may not be assessed against the property.

5. *Sanitary Sewer Lateral Benefits*

Lateral benefit may be provided by connection to trunk, subtrunk or lateral pipes. The calculation of lateral benefit from a trunk or subtrunk pipe will be based on the cost of an eight-inch pipe along the same alignment at a depth adequate to provide services to the abutting properties.

6. *Infrastructure Rehabilitation Projects*

Any project or portion of a project that reconstructs an existing sanitary sewer facility. A rehabilitation project may occur on the existing alignment of the sewer line or on a new alignment, thus allowing the existing line to be abandoned or its status downgraded. (i.e., trunk or subtrunk to lateral).

B. Determining Sanitary Sewer Assessment Rates

l. *Sanitary Sewer Trunk/Subtrunk Rates*

The lateral and building service assessments will be deducted from the total improvement cost to be assessed. The amount remaining after said deductions will be assessed on a gross area basis to all properties within the Service District, and will be known as a trunk assessment and/or subtrunk assessment.

2. *Sanitary Sewer Lateral Rates*

The building service assessments described in Section B.3 will be deducted from the total improvement cost to be assessed. The amount remaining after said deductions will be assessed by the following method. The resulting assessment will be known as a lateral benefit assessment.

a. *Front Footage Basis*

Determine the total assessable front footage of all lots and equivalent lot units receiving lateral benefit and divide the project cost by the total of assessable front footage. Each lot or equivalent lot unit assessment is equal to the total assessable front footage per unit multiplied by the front footage assessment rate.

3. *Building Service*

The assessment rate for each size of building service (four-, six- or eight-inch) shall be determined by adding all the costs associated with each size of service and dividing by the total number of services constructed. Each unit will be assessed at the determined rate for each size and number of services installed. This will be known as the building service assessment.

V. WATER IMPROVEMENTS

A. Definitions

1. *Water Source and Treatment Facilities*

The City supplies water to its residents through the use of two municipal wells. These wells have a total capacity of 1,200 gallons/minute and are located at the water tower site on 267th Street and along Fallbrook Avenue in the industrial park.

The City provides treatment for all water in the distribution system by addition of chlorine and fluoride.

2. *Water Storage Facilities*

The City has a total water storage capacity of 376,000 gallons, provided by two water storage towers. One tower is located east of Trunk Highway 61 along 267th Street. The other tower is located west of Trunk Highway 61 along 260th Street.

3. *Water Trunk and Subtrunk Distribution Mains*

A network of pipes and related appurtenances usually in the size range of eight-inches to 12-inches. These pipes are designed to carry large volumes of water and interconnect various point sources of water supply and storage reservoirs. Appurtenances to these facilities would include, but are not limited to, valves and fittings, but not fire hydrants.

4. *Watermain Laterals*

A network of water pipes and related appurtenances usually six inches in size which are installed with approximately 7 1 / 2 feet of ground cover to retard freezing and are designed to serve those buildings abutting a given street or easement. Lateral mains are "looped" wherever possible to balance pressures and prevent "dead ends" and the associated problems. Appurtenances to these facilities would include, but are not limited to, valves, fittings, and fire hydrants

5. *Watermain Building Service*

These pipes lead from laterals (or sometimes from trunk and subtrunk mains) to serve individual buildings abutting thereon. The size of the service usually ranges from one inch to six inch depending upon the type of building served. The lines terminate at the property line with a shut off valve and are plugged until such time that the building is connected to the water system.

The property owner must make arrangements with a licensed and bonded plumber to complete the service connection.

6. *Watermain Lateral Benefits*

The benefit resulting to a property abutting or utilizing a watermain where a direct connection to that watermain via a building service is reasonably possible without additional lateral pipes.

Lateral benefit may be provided by connection to trunk, subtrunk or lateral pipes. The calculation of lateral benefit from a trunk or subtrunk pipe will be based on the cost of an eight-inch pipe along the same alignment for commercial or industrial zoned property and a six-inch pipe for all other areas.

7. *Infrastructure Rehabilitation Projects*

Any project or portion of a project that reconstructs an existing water system facility. A rehabilitation project may occur on the existing alignment of the water line or on a new alignment, thus allowing the existing line to be abandoned or its status downgraded (i.e., trunk or subtrunk to lateral).

8. *Water Access Connection Charge (WAC)*

This is a charge billed to all properties at the time of connection to the water system. The charge is the individual property share of the cost of the trunk, source, and storage facilities that make water service available. The charge is based on the size of the connection plus the material and installation cost of a water meter. The WAC fee is established from time to time by the City Council and may not be assessed against a property.

B. Determining Watermain Assessment Rates

1. *Trunk, Subtrunk, Storage and Treatment Facility Rates*

Any lateral and building service assessments described below will be deducted from the total improvement cost to be assessed. The remaining costs shall be spread equally to all properties that lie within the approved Service District. The costs shall be spread on a gross area basis and will be known as all or any of the following as appropriate; trunk, subtrunk, source, storage and treatment assessment.

2. *Watermain Lateral Rates*

The building service assessments described in Section B.3 will be deducted from the total improvement cost to be assessed. The amount remaining after said deductions will be assessed by the following method. The resulting assessment will be known as a lateral benefit assessment.

a. *Front Footage Basis*

Determine the total assessable front footage of all lots and equivalent lot units receiving lateral benefit and divide the project cost by the total of assessable front footage. Each lot or equivalent lot unit assessment is equal to the total assessable front footage per unit multiplied by the front footage assessment rate.

3. *Building Service*

The assessment rate for each size of building service one inch to six inch shall be determined by adding all the costs associated with each size of service and dividing by the total number of services constructed. Each unit will be assessed at the determined rate for each size and number of services installed. This will be known as the building service assessment.

VI. STORM SEWER IMPROVEMENTS

A. Definitions

1. *Storm Sewer Improvement District*

The City Council may, at its discretion, construct and finance storm sewer improvements by utilizing a storm sewer tax district pursuant to Minnesota Statutes §§ 444.16 through 444.21. These statutes are reproduced in the Appendix.

2. *Storm Sewer Trunk Facilities*

a. *Ponds*

A basin or wetland constructed or naturally located within a permanent easement for the purpose of containing storm run-off. May be either a retention (permanent) pond, detention (temporary) pond, or a combination of both.

b. *Pipe Network*

A network of pipes ranging in size generally from 12 inches through 72 inches.

c. *Channels*

An open ditch conveyance network constructed within permanent easements for the purposes of transporting storm run-off.

3. *Storm Sewer Lateral Facilities*

A network of pipes ranging in size generally from 12 inches to 27 inches designed to collect storm run-off from a specified small area to a trunk facility. The lateral facilities also include street overland flow and inlet structures such as catch basins, manholes, and flared end sections.

4. *Curb*

A physical barrier constructed out of either concrete or bituminous material to direct storm water from a street to localized storm sewer facilities or ditches.

B. Determining Storm Sewer Assessment Rates

1. *Storm Sewer Trunk Rates*

a. Design and estimate the total improvement cost of the ultimate trunk system needed to provide complete service to each property in the Service District considered.

b. Determine the base assessment rate by dividing the ultimate system cost described above by the sum total of the following:

1) Gross area of RR, R1, or R2 properties times 1.0.

2) Gross area of R3, times 1.25.

3) Gross area of central business or general business property times 1.5.

4) Gross area of light industrial, industrial, government, or hospital property times 2.0.

c. Assessment rates would be set as follows:

The base rate shall apply to RR, R1, or R2 properties.

The base rate times 1.25 shall apply to R3 properties.

The base rate times 1.5 shall apply to central business or general business property.

The base rate times 2.0 shall apply to light industrial, industrial, government, or hospital property.

2. *Storm Sewer Lateral Rates*

The lateral storm sewer project costs will be assessed by one of the following methods as determined by the City Council after the project feasibility study.

a. *Lot/Equivalent Lot Basis*

Determine the total number of lots and equivalent lot units receiving lateral benefit and divide the project cost equally among them.

b. *Front Footage Basis*

Determine the total assessable front footage of all lots and equivalent lot units receiving lateral benefit and divide the project cost by the total of assessable front footage. Each lot or equivalent lot unit assessment is equal to the total assessable front footage per unit multiplied by the front footage assessment rate.

3. *Ad Valorem Tax*

When storm sewer improvements are part of a street reconstruction project, the City Council may at their discretion remove up to 20 percent of the total project cost associated with the storm sewer improvements and fund that cost with an ad valorem tax.

VII. STREET IMPROVEMENTS

A. Definitions

1. *Federal, State, and County Highways*

These streets are classified as expressways, freeways, and principal arterials constructed and maintained by the State or County Highway Departments. They will carry large volumes of traffic at peak loading times.

2. *Collector Streets*

These are streets that interconnect residential areas with other collector streets, state or county highways. A typical design would be 32 to 44 feet wide with concrete curb and gutter and nine-ton design in accordance with current Minnesota Department of Transportation (Mn/DOT) standards.

3. *Commercial/Industrial Streets*

These are streets that generally serve commercial/industrial property. They would typically have a projected traffic volume higher than a residential street. A typical design would be 32 to 44 feet wide with concrete curb and gutter and nine-ton design in accordance with current Mn/DOT standards.

4. *Residential Streets*

This is the minimum street design acceptable as a public street within new subdivisions or developments. They carry relatively small volumes of local neighborhood traffic. The typical residential street is 32 feet wide with concrete curb and gutter and a seven-ton design in accordance with current Mn/DOT standards. The width of the street shall be measured from face of curb to face of curb.

5. *Appurtenances*

a. *Sidewalks*

Sidewalks or trails may be required by the City on or adjacent to selected streets or in selected subdivisions.

b. *Street Lighting*

The City may require street lighting on street reconstruction projects, or in all new single and multiple family development and commercial or industrial developments.

c. *Seeding/Sodding*

Boulevard restoration by seeding/sodding may be required to prevent erosion.

6. *Existing Street Reconstruction Projects*

Projects which reconstruct existing City streets shall be to the minimum applicable standards for the type of street classification regardless of the existing street section. Streets shall be designed to account for native soil types.

7. *Maintenance/Rehabilitation Projects*

a. *Bituminous Overlay*

Placement of an additional bituminous layer, generally 1.5 inches thick, over an existing bituminous surfaced street.

b. *Crack Sealing*

Placement of petroleum based material in the cracks of a bituminous surfaced street for the purpose of eliminating the flow of water from the surface to the aggregate base material below.

c. *Bituminous Seal Coating*

Placement of petroleum based material and aggregate on an existing bituminous surfaced street for the purpose of filling cracks and covering mild wear.

d. *Bituminous Surfacing Patching*

Repair or replacement of existing bituminous surfacing which has deteriorated.

B. Determining Street Assessment Rates

1. *Non-Residential Streets*

Non-residential street construction shall be assessed to the abutting property on a front foot basis. When residentially zoned property also abuts a non-residential street, it shall only be assessed the equivalent cost of the City's residential street section. The incremental cost between total project cost and total assessed cost shall be funded by the City.

2. *Residential Streets*

Residential street construction shall be assessed to the abutting property. In all areas the assessment will typically be on a front foot basis.

3. *Appurtenances*

Appurtenances to street projects either required by the City or requested by the abutting properties shall be assessed along with the cost of the street. These may include, but are not limited to, sidewalks, street lighting, trees, or other landscape features.

4. *Existing Street Reconstruction Projects*

Existing street reconstruction projects shall be assessed to the abutting property. In all areas the assessment will typically be on a front foot basis.

5. *Maintenance/Rehabilitation Projects*

a. *Bituminous Overlay*

Bituminous overlay projects shall be assessed to the abutting property on a front footage basis.

b. *Crack Sealing*

Crack sealing is a maintenance procedure funded by the City.

c. *Bituminous Seal Coating*

Bituminous seal coating is funded by the City with no assessments to the abutting property.

d. *Bituminous Surface Patching*

Bituminous surface patching is a maintenance procedure funded by the City.

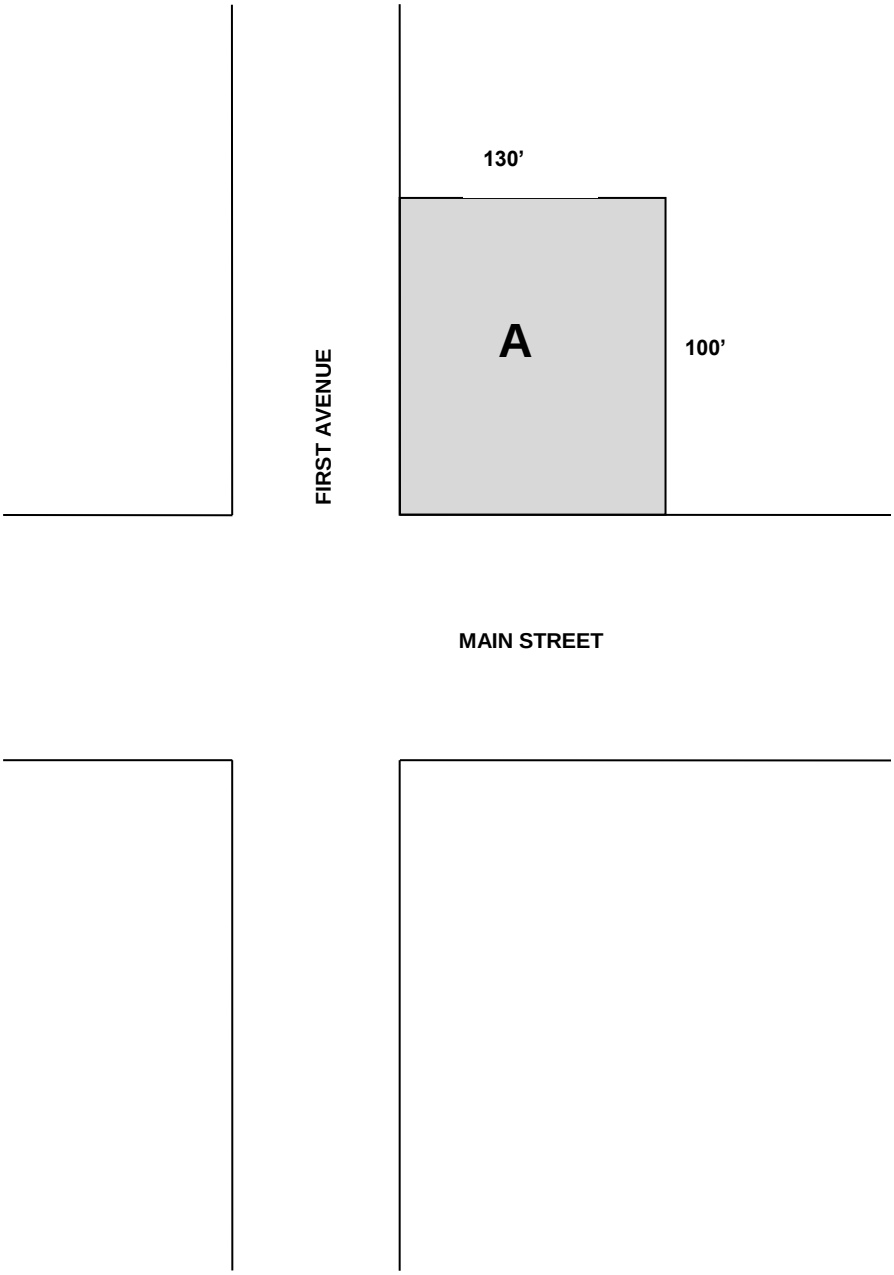
APPENDIX

NOTE: All form documents included in the Appendix are by way of example only. The City may utilize other forms of the documents that are in compliance with applicable State Statutes.

1.	Diagrams For Calculating Adjusted Front Footage.	
2.	Special Assessment Deferment.	
3.	Typical Minnesota Statutes ch. 429 Improvement Project Process.	
4.	Typical Petition Form.	
5.	Sample Resolutions.	
		Declaring Adequacy of Petition and Ordering Feasibility.
		Ordering Feasibility Report.
		Receiving Feasibility and Ordering Public Hearing.
		Ordering the Improvement and Preparation of Plans and Specifications.
		Approving Plans and Specifications and Ordering Advertisement for Bids.
		Accepting Bid and Authorizing Contract.
		Determining Assessed Cost and Ordering Proposed Assessment Roll And Assessment Hearing.
		Adopting Final Assessment Roll.
		Notice of Assessment Hearing.
6.	Sanitary Sewer Availability Charge Units.	
7.	Minnesota Statutes §§ 444.16--444.21 for Storm Sewer Improvement Districts.	

DIAGRAMS FOR CALCULATING ADJUSTED FRONT FOOTAGE

CORNER LOT



CORNER LOT WITH IMPROVEMENTS ON BOTH STREETS

Property A

Short Side ~ 100 ft

Long Side ~ 130 ft

Adjusted Front Footage

= 100 ft +1/3 (130 ft) = 143.33 ft.

If improvements are made on only one side of the corner lot, the front footage 'is the side abutting the improvements

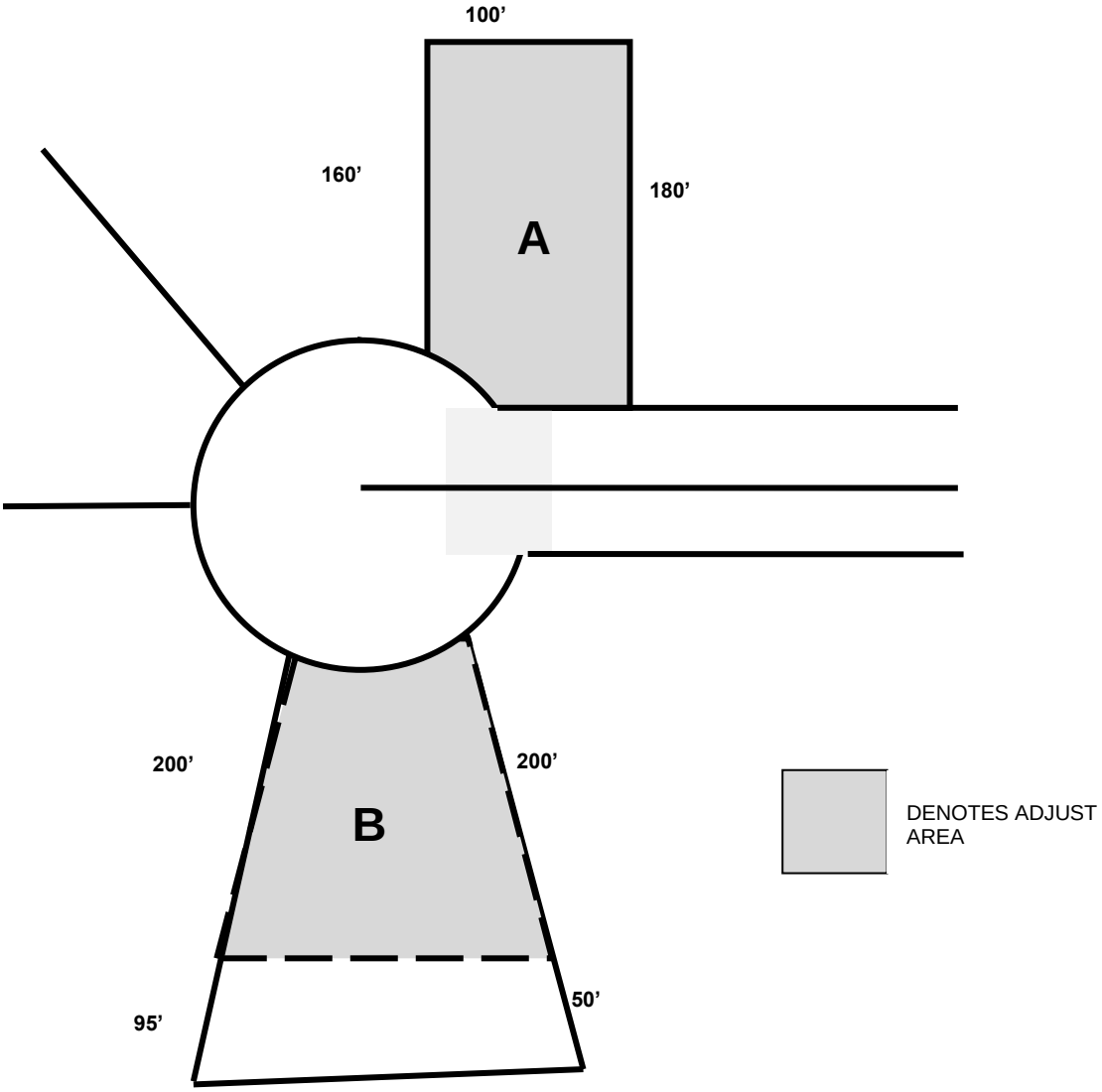
E.g. Improvements on First Ave. only

Front Footage = 100 ft.

Improvements on Main St. only

Front Footage = 130 ft.

PROPERTIES ON CUL-DE-SAC



EXAMPLES

Property A

Average Depth = (160’ + 180’) /2 = 170’

Area = 16,000 sq. ft. (assumed)

Adjusted Front Footage = (16,000 sq. ft.) /170 ft. 94.12 ft.

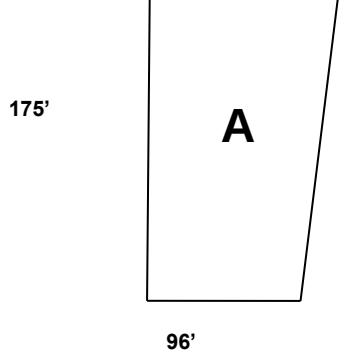
Property B

Depth is greater than 200 ft., so connect the points 200’ from the cul-de-sac.

Depth = 200’

Adjusted Area (shaded portion) = 22,000 sq. ft. (assumed)

Adjusted Front Footage = (22,000 sq ft.) /200 ft. = 110 00 ft.

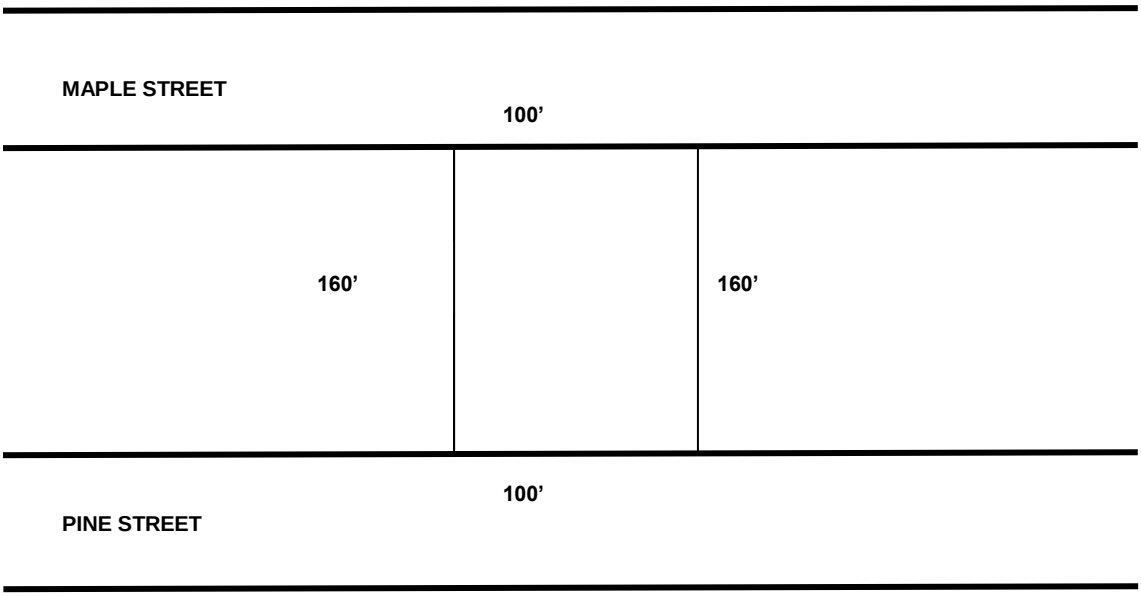


Property A

ADJUSTED FRONT FOOTAGE

(100 ft. + 96 ft.)/2 — 98 ft.

DOUBLE FRONTAGE LOTS



If improvements are made on both streets the

assessable front footage = (100’ + 100’) /2 = 100’

SPECIAL ASSESSMENT DEFERMENT

SEC. 14.08. DEFERMENT OF SPECIAL ASSESSMENTS FOR SENIOR CITIZENS

Subd. 1. The Council may defer the payment of any special assessment on homestead property owned by a person who is 65 years of age or older when payment of the assessment would create a hardship upon the property owner as defined in Subdivision 2. The deferment shall be granted upon a certification by the owner on a form prescribed by the County Auditor supplemented by the City Clerk-Administrator to establish the qualification of the owner for such deferment. The application shall be made within 30 days after the adoption of the assessment roll by the Council and shall be renewed three years after the initial application but not later than September 30 of the third year. The Council shall either grant or deny the deferment and if it grants the deferment, it may require the payment of the interest due each year. If the Council grants the deferment, the City Clerk-Administrator shall notify the County Auditor who shall, in accordance with Minnesota Statutes § 435.194, record a notice of the deferment with the County Recorder setting forth the amount of the assessment.

Subd. 2. Standards of Hardship.

A. A hardship shall be deemed prima facie to exist when the following apply: The annual gross income of the applicant according to his/her most recent Federal income tax return plus his/her tax-exempt income does not exceed 125 percent of the latest median income as determined by the U.S. Department of Housing and Urban Development according to family size. If no such return was made, the City Clerk-Administrator shall require the applicant to submit other pertinent information to show that this qualification is met.

B. Notwithstanding the foregoing provisions of this Subdivision, the Council may consider exceptional and unusual circumstances pertaining to an applicant not covered by the above standards; but any determination shall be made in a nondiscriminatory manner and shall not give the applicant an unreasonable preference or advantage over other applicants.

Subd. 3. The option to defer the payment of special assessments shall terminate and all amounts accumulated plus applicable interest shall become due upon the occurrence of any one of the following events: (1) the death of the owner when there is no spouse who is eligible for deferment; (2) the sale, transfer, or subdivision of all of any part of the property; (3) loss of homestead status on the property; (4) determination by the Council for any reason that there would be no hardship to require immediate or partial payment; or (5) failure to file a renewal application within the time prescribed by Subdivision 1.

Subd. 4. Upon the occurrence of one of the events specified in Subdivision 3, the Council shall terminate the deferment. Thereupon, the City Clerk-Administrator shall notify the County Assessor and the County Auditor of the termination, including the amounts accumulated on unpaid installments plus applicable interest which shall be spread over the time remaining on the original assessment.

TYPICAL MINNESOTA STATUTES CH. 429 IMPROVEMENT PROJECT PROCESS

1. Project Initiation

    a. Petition of more than 35 percent of affected property owners.

    b. Unanimous petition of affected property owners.

    c. City Council action.

2. **Resolution** ordering preparation of report on improvement and declaring adequacy of petition if appropriate.

Note: This resolution should be published in the official newspaper after adoption. Unless there is a challenge to the determination of adequacy within 30 days, the determination cannot be challenged in the future.

3. Engineer's Report

    a. Feasibility of proposed improvement.

    b. Whether improvements should be made as proposed or with other improvement.

    c. Cost of improvement as recommended.

4. Resolution receiving the feasibility report and calling for hearing on the improvement.

Note: If 100 percent of affected property owners petition for the improvement, they may also waive their rights to this public hearing.

5. Notice of Public Hearing

    a. Time and place of hearing.

    b. General nature of improvement.

    c. Estimated cost of improvement.

    d. Proposed area to be assessed.

    e. Notice must be published twice (one week apart) in the official newspaper; three days must elapse between the last publication date and the hearing.

    f. Notice must be mailed to owner of each parcel within the area to be assessed not less than ten days prior to the hearing.

6. **Resolution** order the improvement and preparation of plans and specifications.

Note: This action may be taken any time within six months after the public hearing. Beyond that a new public hearing must be held. If the project was initiated by petition of the owners of less than 35 percent of the frontage, this resolution must be adopted by at least a 4/5 vote.

7. **Resolution** approving the plans and specifications and ordering the advertisement for bids.

Note: If the estimated construction cost is under $100,000.00 at least ten days must elapse between the first advertisement and the bid opening. Over $100,000.00 at least three weeks (21 days) must elapse.

8. **Resolution** accepting the bids and directing the Mayor and City Clerk-Administrator to enter into a contract with the lowest responsible bidder must be done within one year of resolution ordering improvement.

9. Contractor/City paperwork prior to commencing construction.

    * Issue Notice of Award and Contract

    * Contractor resubmits signed Notice of Award, Contract, Performance Bond and insurance documents

    * Pre-Construction Meeting

        -- Discuss scheduling of construction

        -- Staking

        -- Conflicts with utilities

        -- Special problems

    * Issue Notice to Proceed, executed by both the City and the Contractor

* Contractor resubmits signed Notice to Proceed

* Construction begins

10. During construction phase, partial pay estimates and change orders are presented to the City Council for action.

11. **Resolution** determining cost to be assessed and ordering the preparation of proposed assessment role.

12. City staff and City Engineer prepare and file assessment roll.

13. Notice of hearing on proposed assessment.

a. Notice must be published one or more times in the official newspaper at least two weeks prior to the meeting. Notice must contain the following items:

1) Date, time, and place of hearing.

2) General nature of the improvements.

3) Area proposed to be assessed.

4) Total amount of the proposed assessment.

5) That the proposed assessment roll is on file with the City Clerk-Administrator.

6) That written and oral objections will be considered.

7) No appeal of the amount of any assessment may be made unless a written objection signed by property owners is filed with the City Clerk-Administrator prior to the hearing or presented to the presiding officer at the hearing.

8) That an appeal to district court may be made by serving notice upon the Mayor or City Clerk-Administrator within 30 days of the adoption of the assessment roll and filing such notice with the district court within ten days after service upon the Mayor and City Clerk-Administrator.

9) That the Council may, upon notice, consider any objection to the amount of a proposed individual assessment at an adjourned meeting upon such further notice to the affected property owners as it deems advisable.

10) Any specific procedure which the City will follow in addressing contested assessments whether or not at an adjourned hearing.

11) Whether the City has adopted any deferment ordinance or resolution and its basic substance.

12) Substance of Minnesota Statutes §§ 435.193 through 435.195.

13) That the Council may adopt the proposed assessment at the hearing.

b. Notice must be mailed to each parcel owner described on the assessment roll not less than two weeks prior to the hearing. In addition to the items listed above, the mailed notice must include the following:

1) Amount to be assessed against the particular parcel.

2) That the assessment amount may be prepaid and to whom.

3) Whether partial prepayment has been authorized by ordinance.

4) Time within which prepayment may be made without interest.

5) Rate of interest to be accrued if assessment is not prepaid.

14. Public hearing and resolution adopting assessment roll.

15. Appeals to District Court.

Note: In order to appeal to district court, the property owner must serve notice upon the Mayor or City Clerk-Administrator within 30 days of adoption of the assessment roll. They can only do this after having filed a written, signed objection prior to the assessment hearing or having presented same to the presiding officer at the hearing. The notice of appeal must be filed with the City Clerk-Administrator of the district court within ten days after service on the City.

PETITION FOR LOCAL IMPROVEMENTS

City of WYOMING _____, _____

State of Minnesota

To the City Council of WYOMING, Minnesota

WE, THE UNDERSIGNED OWNERS of (all) (not less than 35 percent in frontage) of the real property described as:
_____
_____
_____
hereby petition, pursuant to Minnesota Statutes ch. 429, for the following public improvements.

_____
_____
_____

EACH OWNER FURTHER AGREES, in consideration of the City action at our request to cause construction of the above-described improvement, to pay such sums as may be determined by the City to be a fair and reasonable apportionment of the costs of said improvement.

	Date	Signature of Owner	Print Name of Owner	Description of Property
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____
7.	_____	_____	_____	_____
8.	_____	_____	_____	_____
9.	_____	_____	_____	_____
10.	_____	_____	_____	_____

Examined, checked, and found to be in proper form and to be signed by the owners of the above-stated quantity of property affected by the making of the improvement petitioned for.

_____
City Clerk-Administrator

SAMPLE RESOLUTIONS

RESOLUTION _____-_____

A RESOLUTION OF THE CITY OF WYOMING

A RESOLUTION DECLARING THE ADEQUACY OF THE PETITION FOR IMPROVEMENT AND ORDERING THE PRELIMINARY FEASIBILITY REPORT IN THE MATTER OF THE _____ IMPROVEMENT OF _____

WHEREAS the City has received a petition (the Petition) requesting that the City improve certain property by _____ (the improvements); and

WHEREAS the City has reviewed the Petition and identified the owner of the real property abutting the streets named in the Petition and determined the Petition has been duly executed by the owners of not less than 35 percent in frontage of the real property abutting on the streets named in the Petition as the location of the improvements;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Wyoming, Minnesota:

1. The Petition is hereby declared to have been signed by the owners of at least 35 percent of the frontage of the real property abutting on the streets named in the petition as the location of the improvement. This declaration is made in conformity to Minnesota Statutes § 429.035.

2. This Petition is hereby referred to _____ who is instructed to provided to the City Council a report advising, in a preliminary way, whether the proposed improvement is feasible and whether the improvement should thus be made as proposed or in connection with some other improvement and the estimated cost of the improvement as recommended.

Passed and adopted this _____ day of _____, _____.

TABLE INSET:

_____
Mayor

ATTEST:

_____
City Clerk-Administrator

_____
Approved As To Form and Content
City Attorney

RESOLUTION _____-_____

A RESOLUTION FOR THE CITY OF WYOMING

A RESOLUTION OF THE CITY OF WYOMING
ORDERING A PRELIMINARY FEASIBILITY REPORT IN THE
MATTER OF THE _____ IMPROVEMENT OF _____

WHEREAS the City has determined that it should consider improving certain property by _____ (the improvement); and

WHEREAS Council must first secure a preliminary feasibility study in order to consider making the improvement;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Wyoming, Minnesota:

This matter shall be referred to _____ who is requested to provide to the City Council a report advising, in a preliminary way, whether the proposed improvement is feasible and whether the improvement should thus be made as proposed or in connection with some other improvement and the estimated cost of the improvement as recommended.

Passed and adopted this _____ day of _____, _____.

TABLE INSET:

_____
Mayor

ATTEST:

_____
City Clerk-Administrator

_____
Approved As To Form and Content
City Attorney

RESOLUTION _____-_____

A RESOLUTION FOR THE CITY OF WYOMING

A RESOLUTION RECEIVING THE FEASIBILITY REPORT
AND ORDERING A PUBLIC HEARING ON THE
IMPROVEMENT IN THE MATTER OF THE _____
IMPROVEMENT OF _____

WHEREAS the Feasibility Report ordered by the Council in Resolution _____-_____ has been prepared with reference to the _____ improvement and was received by the City on _____, _____; and

WHEREAS the Feasibility Report recommends that the proposed improvement is feasible _____;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Wyoming, Minnesota:

1. The City Council will consider the _____ improvement as described in the Feasibility Report and the assessment of the property abutting this proposed improvement and _____ for all or a portion of the cost of the improvement pursuant to Minnesota Statutes ch. 429 at an estimated total cost for the improvement of $_____.

2. A public hearing shall be held before the City Council on the proposed improvement on the _____ day of _____, _____, at _____ o'clock _____.m. at _____.

3. The City Clerk-Administrator shall provide ten days mailed notice and two weeks published notice on the hearing as required by law.

Passed and adopted this _____ day of _____, _____.

_____
Mayor

ATTEST:

_____
City Clerk-Administrator

_____
Approved As To Form and Content
City Attorney

RESOLUTION _____-_____

A RESOLUTION FOR THE CITY OF WYOMING

A RESOLUTION ORDERING THE IMPROVEMENT AND
PREPARATION OF PLANS AND SPECIFICATIONS IN
THE MATTER OF THE _____ IMPROVEMENT
OF _____

WHEREAS a public hearing relating to the _____ improvement was held before the Wyoming City Council after ten days mailed notice and two weeks published notice of the hearing was given; and

WHEREAS the City Council has duly considered the Feasibility Report and those matters presented at the public hearing by those persons desiring to be heard on the matter, and;

WHEREAS the City Council has determined that the project is necessary and cost-effective;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Wyoming, Minnesota:

1. The _____ improvement is hereby ordered as recommended in the Feasibility Report dated _____.

2. _____ is hereby designated as Project Engineer for this improvement. The Project Engineer is directed to prepare plans and specifications for the making of the improvement and the solicitation of competitive bids.

Passed and adopted this _____ day of _____, _____.

_____
Mayor

ATTEST:

_____
City Clerk-Administrator

_____
Approved As To Form and Content
City Attorney

RESOLUTION _____-_____

A RESOLUTION FOR THE CITY OF WYOMING

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS
AND ORDERING THE ADVERTISEMENT FOR BIDS
IN THE MATTER OF THE _____
IMPROVEMENT OF _____

WHEREAS pursuant to Resolution _____-_____, the Project Engineer has prepared plans and specifications for the _____ improvement, which plans and specifications have been reviewed by the City;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Wyoming, Minnesota:

1. Such plans and specifications, a copy of which is attached hereto and incorporated herein by this reference, are hereby approved.

2. The City Clerk-Administrator shall prepare and obtain the publication of an advertisement for bids for the making of the improvement pursuant to the attached plans and specifications. The advertisement shall be published once each week for _____ consecutive weeks, shall specify the work to be done, and shall state that the bids will be received by the City Clerk-Administrator until _____ on _____, _____, at which time the bids will be publicly opened in the Council chambers of the City Hall by the City Clerk-Administrator and the Project Engineer and will then be tabulated for consideration by the City Council at a meeting thereof at _____ o'clock _____.m. on _____, _____, in the City Council chambers at City Hall. No bids will be considered unless sealed and filed with the City Clerk-Administrator and accompanied by a cash deposit, cashier's check, bid bond, or certified check payable to the City Clerk-Administrator in the amount of _____ percent of the amount of such bid.

Passed and adopted this _____ day of _____, _____.

_____
Mayor

ATTEST:

_____
City Clerk-Administrator

_____
Approved As To Form and Content
City Attorney

RESOLUTION _____-_____

A RESOLUTION FOR THE CITY OF WYOMING

A RESOLUTION ACCEPTING BID AND AUTHORIZING
EXECUTION OF CONTRACT IN THE MATTER OF THE
_____ IMPROVEMENT OF _____

WHEREAS pursuant to Resolution _____-_____, competitive bids were solicited and received for the _____ improvement as set forth in the bid tabulation attached hereto and incorporated herein by this reference; and

WHEREAS the City Council has considered the amount of the bids and the responsibility of the bidders and determined that _____ is the lowest responsible bidder;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Wyoming, Minnesota:

1. The Mayor and City Clerk-Administrator are authorized and directed to execute, on behalf of the City, such contract with _____ as is approved by the City Attorney for the completion of the _____ improvement according to the approved plans and specifications designated in Resolution _____-_____.

2. The City Clerk-Administrator is authorized and directed to forthwith return to all bidders the deposits made with their bids upon execution of the contract above specified.

Passed and adopted this _____ day of _____, _____.

_____
Mayor

ATTEST:

_____
City Clerk-Administrator

_____
Approved As To Form and Content
City Attorney

RESOLUTION _____-_____

A RESOLUTION FOR THE CITY OF WYOMING

A RESOLUTION DETERMINING ASSESSED COST OF
IMPROVEMENT AND ORDERING PREPARATION OF
PROPOSED ASSESSMENT ROLL IN THE MATTER OF
_____ IMPROVEMENT OF _____

WHEREAS costs have been determined for the _____ improvement consisting of a contract price of $_____ and expenses incurred or to be incurred by the City in the making of the improvement in the amount of $_____ for a total cost of the improvement of $_____.

NOW, THEREFORE, BE IT RESOLVED by the City Council for the City of Wyoming, Minnesota:

1. Based upon the City Assessment Policies, it is determined that the portion of this improvement to be paid by the City and not assessed to benefited properties is $_____.

2. The portion of the cost to be assessed against benefited properties pursuant to the Wyoming City Assessment Policies shall be $_____.

3. The assessments shall be payable in equal annual installments and shall extend over a period of _____ years, the first of the installments to be payable on or before the first Monday in January, _____, with interest at the rate of _____ percent per annum from the date of the adoption of the assessment resolution.

4. The City Clerk-Administrator with the assistance of the Project Engineer shall forthwith calculate the proper amount to be specially assessed for such improvement against every assessable lot, piece, or parcel of land, without regard to cash valuation, as provided by law, and shall have available to the City Clerk-Administrator's office a copy of the proposed assessment roll for public inspection.

5. Upon completion of the proposed assessment roll, the City Clerk-Administrator shall notify the Council and schedule a public hearing upon the proposed assessment, causing notice of the hearing by publication and mail to be made at least two weeks prior to the hearing.

Passed and adopted this _____ day of _____, _____.

_____
Mayor

ATTEST:

_____
City Clerk-Administrator

_____
Approved As To Form and Content
City Attorney

RESOLUTION _____-_____

A RESOLUTION FOR THE CITY OF WYOMING

A RESOLUTION ADOPTING FINAL ASSESSMENT ROLL

WHEREAS, upon due notice properly made as required by law, the Wyoming City Council has met and heard and passed upon all objections to the proposed assessment for the _____ improvement and has determined the amount to be assessed against each individual property as the Council deems just;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Wyoming, Minnesota:

1. Final assessment roll, a copy of which is attached hereto and incorporated herein by this reference, is hereby accepted and adopted and shall constitute the special assessment against the lands therein named. Each such tract of land in the assessment roll is hereby found to be benefited by the improvement in an amount not less than the amount of the assessment levied against it.

2. Such assessment shall be payable in equal annual installments, including both principal and interest, amortized in such amount annually as is required to pay the principal with interest as _____ percent over a period of _____ years.

3. The owner of any property so assessed, may, at any time prior to certification to the County Auditor of the assessment or the first installment thereof, pay to the City Treasurer the whole of the assessment on such property, with interest accrued to the date of payment; except that no interest shall be charged if the entire assessment is paid within 30 days after the adoption of this Resolution. Prepayment may also be made after the certification of the assessment or first installment thereof by paying to the City Treasurer/Auditor the entire amount of the assessment remaining unpaid with interest. In the case of a payment made before November 15, interest will be calculated through December 31 of the next succeeding year.

4. The City Clerk-Administrator shall transmit to the County Auditor a certified duplicate of the attached assessment roll to be appended to the property tax lists of the County. Such assessment shall be collected and paid over in the same manner as other municipal taxes.

Passed and adopted this _____ day of _____, _____.

_____
Mayor

ATTEST:

_____
City Clerk-Administrator

_____
Approved As To Form and Content
City Attorney

NOTICE OF ASSESSMENT HEARING
(Mailed to Property Owners)

STATE OF MINNESOTA _____, _____

CITY OF WYOMING

To Whom It May Concern:

Notice is hereby given that the Wyoming City Council will meet at _____ in the City of Wyoming on the _____ day of _____, _____, at _____ o'clock _____.m. to consider the proposed assessment for the _____ improvement (the Improvement) and the adoption of a final assessment roll itemizing that portion of the cost of the Improvement to be assessed against each property within the area proposed to be assessed.

It is proposed that the cost of the Improvement be assessed against the following property.

The total amount proposed to be assessed against the benefited properties is $_____. The proposed assessment roll is on file for public inspection at the City Clerk-Administrator's office. Written or oral objections will be considered at the meeting. No appeal may be taken as to the amount of an assessment unless a signed, written objection is filed with the City Clerk-Administrator prior to the hearing or presented to the presiding officer at the hearing.

Minnesota law authorizes a statutory city, in making a special assessment, to exercise its discretion to defer the payment of that assessment for any homestead property owned by a person 65 years of age or older or retired by virtue of a permanent and total disability for whom it would be a hardship to make the payments. Any statutory city electing to defer special assessments shall adopt an ordinance or resolution establishing standards and guidelines for determining the existence of a hardship and for determining the existence of a disability, but may determine hardship on the basis of exceptional and unusual circumstances not covered by the standards and guidelines where the determination is made in a nondiscriminatory manner and does not give the applicant an unreasonable preference or advantage over other applicants.

The home owner shall make application for deferred payment of special assessments on forms prescribed by the County Auditor of the county in which the homestead is located. Where the deferred assessment is granted, the Auditor shall record a notice thereof with the County Recorder of said county which shall set forth the amount of the assessment. The taxing authority may determine by ordinance or resolution the amount of interest, if any, on the deferred assessment and this rate shall be recorded by the Auditor along with and in the same manner as the amount of the assessment.

The option to defer the payment of special assessments shall terminate and all amounts accumulated, plus applicable interest, shall become due on the occurrence of any of the following events: (a) the death of the owner, provided that the spouse is otherwise not eligible for the benefits hereunder; (b) the sale, transfer, or subdivision of the property of any part thereof; (c) if the property should, for any reason, lose its homestead status; or (d) if, for any reason, the taxing authority deferring the payments shall determine that there would be no hardship to require immediate or partial payment.

An owner may appeal an assessment to district court pursuant to Minnesota Statutes § 429.081, by serving notice of the appeal upon the Mayor or City Clerk-Administrator of the City within 30 days after the adoption of the assessment and filing such notice with the district court within ten days after service upon the Mayor or City Clerk-Administrator, unless the property owner has failed without reasonable cause to object prior to or at the assessment hearing.

Dated:

_____
Wyoming City Clerk-Administrator

SERVICE AVAILABILITY CHARGE (SAC) UNITS

(1 SAC = 274 gallons/day)

Facility	Parameter	SAC
ARCHERY (6 feet/lane)	6 lanes	1
ARENAS (bleachers 18 inches/person)	110 seats	1
AUDITORIUMS (7 sq. ft/person)	110 seats	1
AUTOMOBILE SERVICE		
Fast service (less than 4 hrs per car)	2 service bays	1
Major service (more than 4 hrs per car)	14 employees	1
BALLROOM (exclude dance floor)		
Facility without liquor service	825 sq. ft.	1
Facility with liquor service	590 sq. ft.	1
BANK (exclude cash vault)	2400 sq. ft.	1
BANQUET ROOM (15 sq. ft./person)		
Food catered	2,060 sq. ft.	1
Food catered with dishwashing	1,180 sq. ft.	1
Food catered with liquor	1,028 sq. ft.	1
Food preparation and dishwashing	825 sq. ft.	1
BARBER	4 chairs	1
BEAUTY SALON	4 cutting stations	1
BOARDING HOUSE (dorm rooms)	5 beds	1
BODY SHOP (major service - more than 4 hours per car, no vehicle washing)	14 employees	1
BOWLING ALLEYS (does not include bar ordering area)	3 alleys	1
CAMPS (# gal X occupant or site/250 gal)		
Children's camps (central toilet and bath; overnight, primitive cabins)	250 gallons	1
DAY CAMPS (no meals)		
(# occupants X 10 gal/occupant/250 gal)	250 gallons	1
TRAVEL TRAILER PARKS		
with water & sewer hookup		
(# occupants X 100 gal/occupant)/250 gallons with central toilet & showers	250 gallons	1
(# occupants X 75 gal/occupant)/250 gallons sanitary dump (sites w/o hookup)	250 gallons	1
(# occupants X 10 gal/occupant)/250 gallons	250 gallons	1
CAR WASH (Self-Service)	1 stall	3
CAR WASH (Service Station - Automatic Rollover - Brushes)	1 stall	4
CHURCHES (for sanctuary, nave, chancel) (7 sq. ft./person - seating area) (remainder use other criteria) (sacristy, ambulatory - no charge)	275 seats	1
COCKTAIL LOUNGE (no food service)	23 seats	1
DAYCARE (number of children licensed for)	14 children	1

EXERCISE AREA/GYM (juice bars - no charge) (sauna, whirlpool incl.)	700 sq. ft.	1
FIRE STATION (charge for office meeting rooms, etc., at established rates)		
Washing (hose tower, truck)	250 gallons	1
Full Time (overnight people) (75 gal/person)/274 gal	250 gallons	1
Volunteer (occasional overnight)	14 people	1
FUNERAL HOME (7 sq. ft./person)		
(charge viewing areas only - chapel, viewing areas, etc.)	110 people	1
Apartment (1 apartment)		1
GAME ROOM (billiards, video & pinball games)		
With bar	590 sq. ft.	1
Without bar	2,060 sq. ft.	1
GENERAL OFFICE BUILDING		
(deduct mechanical rooms, elevator shafts, stairwells, restroom and storage areas)	2,400 sq. ft.	1
GOLF COURSE		
18 hole (280 golfer/day X 2.5 gal/golfer)/250 gallons	250 gallons	1
Par 3 (168 golfers/day X 2.5 gal/golfer)/250 gallons	250 gallons	1
County Club dining room (evenings & weekends) (# seats X 2 fills X 9 gal/person)/250 gallons	250 gallons	1
bar & grill (if existing bar) bar	23 people	1
grill (# seats X 2 fills X 9 gal/person)/250 gallons	250 gallons	1
bar & grill (no existing bar) (168 or 280 golfers X 9 gal/person)/250 gallons	250 gallons	1
GREENHOUSE		
Area not open to public	15,000 sq. ft.	1
Area open to public	5,000 sq. ft.	1
General retail area	3,000 sq. ft.	1
GROUP HOME	5 beds	1
GUEST ROOMS (apartment or condominium) (charge SAC as apartment)		1
HANDBALL AND RACQUETBALL COURTS	1 court	2
HOSPITALS (licensed beds)		
(does not include out-patient clinic)	1 bed	1
Out-patient clinic	17 f.u.	1
sterilizers (4 hours X gpm)/250 gallons	250 gallons	1
X-ray film processors (continuous operation 4 hours) (intermittent operation 9 hours) (operation time (hrs) X gpm)/25 gallons	250 gallons	1
LAUNDROMATS (number of wash machines)	2	1
LIBRARY (subtract out book storage areas, file areas - charge common plumbing fixture units)	17. f.u.	1
LOADING DOCK	7,000 sq. ft.	1
LOCKER ROOMS (if showers - 20 gal/person)	14 lockers	1
MINI-STORAGE (storage area - no charge) Living area 1	17 f.u.	1

Public restroom (plumbing fixtures)		
MOBILE HOME		1
MOTELS AND HOTELS (assume 2 persons/room) (pools, saunas, jacuzzis, game rooms, or exercise rooms exclusively used by guests - no charge)	5 rooms	1
Kitchenettes (# kitchenettes X 10 gal/day)/250 gallons		
NURSING HOME	3 beds	1
POLICE STATION (charge as office)		
Cells overnight (# overnight people X 80 gal/person)/250 gal	250 gallons	1
no overnight people	14 people	1
RECORDING/FILMING STUDIOS	7,000 sq. ft.	1
RESTAURANT (drive-in)	9 parking spaces	1
RESTAURANT (fast food) (disposable paper plates, glasses, and silverware)	22 seats	1
RESTAURANT (washable silverware, glasses & dishes)	8 seats	1
RETAIL STORES (deduct mechanical rooms, elevator shafts, stairwells, restrooms and unfinished storage areas)	3,000 sq. ft.	1
ROLLER RINK (skating area)	825 sq. ft.	1
ROOMING HOUSES (no food service)	7 beds	1
RV DUMPING STATION (not in association with camp grounds)		1
SCHOOLS (Sunday) (30 sq. ft./student)	55 students	1
SCHOOLS (elementary) (30 sq. ft./student) (15 gal/student)	18 students	1
SCHOOLS (nursery)		
(number of children licensed for)	14 students	1
Church (nursery - during worship service only) (30 sq. ft./child)	55 children	1
Nursery (health clubs, bowling alleys, etc.)	2,400 sq. ft.	1
SCHOOLS (secondary)		
(30 sq. ft./student) (20 gal/student) (labs - 35 sq. ft./student)	14 students	1
SERVICE STATION (gas pumping only)		1
SERVICE STATION (with service center) (2 service bays)		2
SERVICE STATION (with service center & car wash)		6
SWIMMING POOLS (public) (pool area)		
(private residential, townhouse, condominiums, hotels, motels or apartments - no charge)	900 sq. ft.	1
TENNIS COURTS (public, shower facilities available)	1 court	1
THEATER	64 seats	1
THEATER (drive-in) (parking spaces)	55 spaces	1
VEHICLE GARAGE		
Employees stationed in garage	14 employees	1
Vehicle drivers (per day)	28 drivers	1
Vehicle washing reference "car wash”		
WAREHOUSES (assembly areas)	7,000 sq. ft.	1

WHIRLPOOL (doctors office/clinic, therapy) (# gal/fill X 8 fills/day)/250 gal	250 gallons	1
YARD STORAGE BUILDING (ex: lumber storage) (customer pickup, no permanent employees)	15,000 sq. ft.	1

This table is intended as a guide only. All commercial or industrial services shall be reviewed by Metropolitan Waste Control Commission for the final determination of SAC units.

MINNESOTA STATUTES §§ 444.16--444.21 FOR STORM SEWER

444.16 STORM SEWER IMPROVEMENT DISTRICTS; MUNICIPALITY DEFINED

For purposes of Laws 1974, chapter 206 "municipality" means any city, however organized.

444.17 ESTABLISHMENT OF DISTRICT

The council of a municipality may by ordinance adopted by a two-thirds vote of all of its members, establish within its corporate limits a storm sewer improvement tax district. The ordinance shall describe with particularity the territory or area within the municipality to be included within the district. No such ordinance shall be adopted until after a public hearing has been held on the question. A notice of the time, place and purpose of the hearing shall be published for two successive weeks in the official newspaper of the municipality and the last notice shall be at least seven days prior to the day of the hearing. The ordinance when adopted shall be filed with the county auditor and county recorder.

444.18 AUTHORITY OF COUNCIL; RECOVERY OF COST; IMPROVEMENT PROCEDURES

Subdivision 1. Following the adoption of an ordinance pursuant to Laws 1974, chapter 206, the council may acquire, construct, reconstruct, extend, maintain, and otherwise improve storm sewer systems and related facilities within the district. Storm water holding areas and ponds within and without the corporate limits may also be acquired, constructed, maintained, and improved for the benefit of any such district. The cost of the systems and facilities described in this subdivision may be recovered by the tax authorized in section 444.20.

Subdivision 2. The procedures of sections 429.031 and 429.081 shall apply when the council of a municipality determines to make an improvement pursuant to this section.

444.19 BONDS

At any time after a contract for the construction of all or part of an improvement has been entered into or the work has been ordered done by day labor, the council may issue obligations in such amount as it deems necessary to defray in whole or in part the expense incurred and estimated to be incurred in making the improvement, including every item of cost from inception to completion of all fees and expenses incurred in connection with the improvement or the financing thereof. The obligations shall be payable primarily out of the proceeds of the tax levied pursuant to section 444.20. The council may by resolution adopted prior to the sale of obligations pledge the full faith, credit and taxing power of the municipality to assure payment of the principal and interest in the event the proceeds of the tax levy in the district are insufficient to pay such principal and interest. Obligations shall be issued in accordance with chapter 475, except that an election is not required, and the amount of any such obligations is not included in determining the net indebtedness of the municipality under the provisions of any law or charter limiting such indebtedness.

444.20 TAXES

The council of a municipality may levy on all taxable property within the district such taxes as are necessary to finance the cost of the improvement, including maintenance and to pay the principal and interest on obligations issued pursuant to section 444.19. Such taxes shall be collected and paid over as other taxes, but shall be spread only upon the property described in the ordinance. Such taxes shall be disbursed by the council only for the benefit of district as established by the ordinance.

444.21 DISSOLUTION OF DISTRICT

Upon the retirement of all obligations issued to finance improvements within the district, the district may be dissolved by following the procedures for establishment of the district set forth in section 444.17.

APPENDIX E CABLE COMMUNICATIONS FRANCHISE* - CITATION CABLE

_____

***Editor's note:** Printed herein is the Cable Communications Franchise Ordinance, as adopted by the City Council on May 20, 1985. Amendments to the franchise ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of citation to state statutes and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets. The exhibits referred to in this ordinance are not set out herein but are on file in the city clerk-administrator's office. The terms "clerk" and "administrator" have been changed to "city clerk-administrator" without notation to conform to the body of the Code.

_____

Sec. 1. Statement of intent and purpose, authority, franchise applications.

Sec. 2. Short title.

Sec. 3. Definitions.

Sec. 4. Grant of authority to and general provisions.

Sec. 5. Design provisions.

Sec. 6. Service provisions.

Sec. 7. Construction provisions.

Sec. 8. Operation and maintenance.

Sec. 9. General financial and insurance provisions.

Sec. 10. Revocation.

Sec. 11. Foreclosure, receivership and abandonment.

Sec. 12. Purchase of system.

Sec. 13. Rights of individuals protected.

Sec. 14. Miscellaneous provisions.

Sec. 15. Effective date; publication; acceptance; guarantee; exhibits.

AN ORDINANCE GRANTING A FRANCHISE TO CITATION CABLE SYSTEMS LTD., A COLORADO LIMITED PARTNERSHIP, TO OPERATE AND MAINTAIN A CABLE COMMUNICATIONS SYSTEM IN THE CITY OF WYOMING; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF FRANCHISE; PROVIDING FOR REGULATION AND USE OF THE SYSTEM; AND PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS

SECTION 1. STATEMENT OF INTENT AND PURPOSE, AUTHORITY, FRANCHISE APPLICATIONS.

1.01. Statement of Intent and Purpose.

Grantor intends, by the adoption of this Ordinance, to bring about the development of a System, and the continued operation of it. Such a development can contribute significantly to the communication needs and desires of many. Further, Grantor may achieve better utilization and improvement of public services with the development and operation of a System.

SECTION 2. SHORT TITLE.

This Ordinance shall be known and cited as the "Wyoming Cable Communications Ordinance."

SECTION 3. DEFINITIONS.

For the purpose of this Franchise, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

3.01 *"Basic Service"* means all subscriber services provided by Grantee, including the delivery of broadcast signals, covered by the regular monthly charge paid by all subscribers, excluding optional services for which a separate charge is made.

3.02 *"Cable Service Territory"* means all of that territory within the boundaries of the City of Wyoming.

3.03 *"Board"* means the Minnesota Cable Communications Board.

3.04 *"Channel"* means a six Megahertz (MHz) frequency band, which is capable of carrying either one standard video signal, a number of audio, digital or other non-video signals, or some combination of such signals.

3.05 *"City"* means the City of Wyoming and shall mean the Grantor herein.

3.06 *"Committee"* means the Wyoming Citizen Advisory Commission for Cable Television.

3.07 *"Connection"* means the attachment of the drop to the first radio or television set of the subscriber.

3.08 *"Converter"* means an electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a subscriber, and by an appropriate channel selector also permits a subscriber to view all basic subscriber signals included in the basic service delivered at designated converter dial locations.

3.09 *"Drop"* shall mean the cable that connects the subscriber terminal to the nearest feeder cable of the cable.

3.10 *"FCC"* means the Federal Communications Commission or a designated representative.

3.11 *"Grantee"* means Citation Cable Systems Ltd., a Colorado Limited Partnership, its agents, employees, lawful successors, transferees or assignees.

3.12 *"Grantor"* means the City Board of the City of Wyoming.

3.13 *"Gross Revenues"* shall mean any revenue derived directly or indirectly by Grantee, its affiliates, subsidiaries, parent and any person in which Grantee has a financial interest of five percent or more from or in connection with the operation of the System within The Town, including basic subscriber service monthly fees and pay cable fees. The term does not include any taxes on services furnished by Grantee and imposed directly upon any subscriber or user by the State, Town, City or other governmental unit and collected by Grantee on behalf of said governmental unit.

3.14 *"Two-Way System"* means a distribution system that has amplifiers that can pass signals in both directions simultaneously.

3.15 *"Installation"* means the connection of the System from feeder cable to the point of TV set connection.

3.16 *"Interactive Capabilities"* means capability or service that involves a message being transmitted by a subscriber back into the System or television set.

3.17 *"Tapping"* means observing a two-way communications signal exchange, where the observer is neither of the communicating parties, whether the exchange is observed by visual or electronic means, for any purpose whatsoever.

3.18 *"Person"* means any corporation, partnership, proprietorship, individual or organization authorized to do business in the State of Minnesota, or any natural person.

3.19 *"Public Property"* is any real property owned by any governmental unit other than a street.

3.20 *"Resident"* means any person residing in the City.

3.21 *"Street"* shall mean the surface of and the space above and below any public street, road, highway, freeway, lane, path, public way, alley, court, sidewalk, boulevard, parkway, drive or any easement or right-of-way now or hereafter held by the City which shall, within its proper use and meaning in the sole opinion of the City, entitle Grantee to the use thereof for the purpose of installing or transmitting over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments and other property as may be ordinarily necessary and pertinent to a System.

3.22 *"System"* means a system of antennas, cables, wires, lines, towers, wave guides or other conductors, converters, equipment or facilities, designed and constructed for the purpose of producing, receiving transmitting, amplifying and distributing, audio, video and other forms of electronic or electrical signals, located in the City. Said definition shall not include any system wholly internal to one or more multiple unit dwellings under common ownership, control or management, and does not use the City's streets or other public property.

3.23 *"Subscriber"* means any person or entity who subscribes to a service provided by Grantee by means of or in connection with the System.

SECTION 4. GRANT OF AUTHORITY TO AND GENERAL PROVISIONS.

4.01. Grant of Franchise.

This franchise is granted pursuant to the terms and conditions contained herein. Such terms and conditions shall be subordinate to all applicable provisions of state and federal laws, rules and regulations. In the event a difference exists between this document and Federal laws, rules and regulations, the Federal rule, regulation or law will prevail.

4.02. Criteria of Selection.

The Grantee's technical ability, financial condition and legal qualifications were considered and approved by the Grantor in a full public proceeding affording reasonable notice and a reasonable opportunity to be heard.

4.03. Authority for Use of Streets.

A. For the purposes of operating and maintaining a System in the Cable Service Territory, Grantee may erect, install, construct, repair, replace, reconstruct and retain in, on, over, under, upon, across and along the streets within the City such lines, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of the System, provided that all applicable permits are applied for and granted, all fees paid and all other City codes and ordinances are otherwise complied with. Prior to construction or alteration, Grantee shall in each case file plans with all appropriate City agencies and utility companies and receive written approval of such plans.

B. Grantee shall construct and maintain the System so as not to interfere with other uses of streets. Grantee shall make use of existing poles and other facilities available to Grantee.

C. Notwithstanding the above grant to use streets, no street shall be used by Grantee if the City in its sole opinion determines that such use is inconsistent with the terms, conditions or provisions by which such street was created or dedicated, or presently used.

4.04. Agreement.

A. Grantee agrees to be bound by all the terms and conditions of this Franchise.

B. Grantee also agrees to provide all services specifically set forth herein, and to comply with all provisions of its application to provide a System within the Cable Service Territory. Further, failure of Grantee to provide a System as described in its application, at Grantor's option, shall be a violation of the provisions of this Franchise, the terms of this Ordinance shall prevail.

4.05. Franchise Term.

The initial Franchise Term is terminated and the term of the Franchise shall be a period of five years commencing upon passage and publication of this Amendment to the Cable Communication Franchise Ordinance and the acceptance of the Franchise as amended, by the Grantee, unless such term is terminated sooner as provided in this Franchise.

4.06. Area Covered.

This Franchise is granted for the territorial boundary of the City of Wyoming as it exists from time to time during the term of this Franchise.

4.07. Police Powers

A. Grantee's rights are subject to the police power of the City to adopt and enforce ordinances necessary to the health, safety and welfare of the public.

B. Any conflict between the provisions of this Franchise and any other present or future lawful exercise of police powers of the City shall be resolved in favor of the City.

4.08. Use of Grantee Facilities.

The City shall have the right to install and maintain, free of charge, upon the poles and within the underground pipes and conduits of Grantee any wires and fixtures desired by the City as long as such use does not unreasonably restrict expansion of the cable system or cause signal interference.

4.09. Written Notice.

All notices, reports or demands required to be given in writing under this Franchise shall be deemed to be given when delivered personally to any officer of Grantee or City Clerk-Administrator of Grantor or when 48 hours have elapsed after it is deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, addressed to the party to which notice is being given, as follows:

If to Grantor:	City of Wyoming City Hall Wyoming, MN
If to Grantee:	Citation Cable Systems, Ltd. 5961 S. Middlefield Rd., Suite 103 Littleton, CO 80123

Such addresses may be changed by either party upon notice to the other party given as provided in this Section.

4.10. Franchise Non-Exclusive.

The Franchise granted herein is non-exclusive. Grantor specifically reserves the right to grant, at any time, additional franchises for a System.

4.11. Certificate of Confirmation and Compliance with Board Standards.

This Franchise shall cease to be in force and effect if Grantee fails to obtain either a regular Certificate of Confirmation or renewal of Certificate of Confirmation from the Board; provided, however, that Grantee may operate its System while the Board is considering its application for the renewal of its Certificate of Confirmation.

SECTION 5. DESIGN PROVISIONS.

The System shall be constructed in conformance with the system now existing in Forest Lake, Minnesota and all applicable Federal and State regulations. The complete System design provisions will be included in the body of the Franchise Ordinance under this Section.

5.01. System Design.

The System shall be constructed in conformance with the minimum requirements as outlined in accordance with all federal, state and local regulations and guidelines. The System shall be designed and constructed to meet or exceed the technical standards shown in "Appendix A" hereto. The cable distribution system shall be single trunk, single feeder, with the amplifier spacing and housings installed at the time of initial activation so as to ensure that the System is capable of two-way/interactive operation with the addition of reverse amplifiers, diplex filters, and associated equipment to the existing plant. Activation will occur when demand dictates and economic feasibility has been determined and by agreement between the franchising authority and the Grantee. All coaxial cable, passive and active devices shall be capable of passing a frequency spectrum of 440 MHz.

5.02. Initial Channel Capacity.

The System shall activate at least 33 downstream channels initially.

5.03. Institutional Service.

The System shall include basic cable service at no cost to certain designated institutions, including but not limited to Wyoming City Hall and Library Building.

5.04. Service Area.

The Initial Service Area shall be defined as an area consisting of approximately 365 single-family dwelling units, townhouses, multiple-family dwelling units and mobile homes passed by approximately eight plant miles. The System shall be designed and constructed in such a manner as to have the eventual capability to pass by every single-family dwelling unit, multiple-family dwelling unit, institution, agency and business establishment with a minimum density of 40 residential units per mile.

5.05. Cablecasting Facilities.

Grantee shall provide cablecasting facilities consisting of a local origination/public access facility of approximately 600 square feet co-located with Grantee's offices and headend in Forest Lake, Minnesota. Portapack equipment and instruction in the use of such equipment to be provided and serviced by the Grantee shall also be available. Equipment shall consist of equipment specified in Grantee's application incorporated herein by reference or satisfactory substitute. Grantee shall make available its staff for providing assistance and training of community and school groups in the production of programs having an interest to the community using the available equipment and facilities. Noncommercial use of these services, facilities and equipment shall be provided at no charge. Usage of the channel time shall be provided at no charge as long as the program material is of local interest and is noncommercial. All facilities shall comply with all requirements of 4 MCAR 4.204.

5.06. Interconnection.

Such interconnection shall be required when mandated by the Board, or when both Grantor and the franchising authority for the other cable system(s) agree that such interconnection is desirable, and also on the number of channels to be transmitted and received by each system.

In the case of regional or statewide interconnection, Grantee shall comply with the requirements of the Minnesota Cable Communications Board.

5.07. Provision of service.

After service has been established by activating trunk cables for any area, Grantee shall provide service to any requesting subscriber within that area 90 days from the date of request.

5.08. Technical and Performance Standards.

System technical and performance standards shall be, at a minimum, in accordance with standards and guidelines promulgated by the FCC relating to cable communications system contained in sub-part K of Part 76 of the FCC's rules and regulations, as amended, relating to cable communications system, as well as in accordance with any standards adopted by Grantor, and Grantee's franchise proposal as accepted by Grantor. The results of any tests required by the FCC shall be filed within ten days of the conducting of such tests with Grantor and the Board. Grantee shall exceed these performance standards wherever specified in "Appendix A" hereto.

5.09. Test and Compliance Procedure.

Grantee has developed a detailed test plan describing the methods and schedules for testing the System on an ongoing basis to determine compliance with the standards established by Grantor. Such tests shall be performed periodically and shall be paid for by Grantee. Grantee's plan for such testing is attached hereto as "Appendix B."

SECTION 6. SERVICE PROVISIONS.

The System shall provide services as set forth in the applicant's Proposal and will be included in the Franchise Ordinance under this Section. Additional services may be added at any time. Services shall not be reduced without the prior approval of the Grantor unless such service becomes unavailable to the Grantee, except that, "pay" services may be deleted after one year from System turn-on. Substitute services may be made, with prior notice to the Committee.

6.01. Services to be Provided.

Services to be provided upon initial activation of the System shall be as specified in Grantee's franchise application and as accepted by Grantor. These services are as specified in "Appendix C" hereto. These initial services shall not be reduced without prior approval of the Grantor. In the case of a service proposed by Grantee as an initial service no longer being available to Grantee, then Grantee shall make every effort to replace such deleted service. Grantor shall not hold Grantee in violation of the terms of this section if the service is no longer available to Grantee through no fault of Grantee's and if Grantee is not able to replace the deleted service through no fault of Grantee's. Grantor agrees to accept services provided to the City of Forest Lake and acceptable to that City's Cable Commission.

6.02. Minimum Requirements.

Grantee shall include a government access channel, educational access channel, public access channel, leased use channel and a regional channel on the lowest tier of service available to all subscribers. Until such time as demand for these channels is sufficient to occupy each channel 75 percent of the time, Grantee may combine these requirements onto one channel and may have the use of the unused channels required hereunder for other programming. Grantee agrees to provide the channels required hereunder upon the reasonable request of the franchising authority or upon the utilization of any existing access channel 75 percent of the time.

SECTION 7. CONSTRUCTION PROVISIONS.

7.01. Initial Service Area.

The "initial service area" is defined to include that area within the City of Wyoming including all residential, commercial and institutional structures lying within the boundaries thereof.

7.02. Construction Timetable.

Grantee's construction timetable reflects the method and schedule of construction of the System. The plan of Grantee will reflect the following:

A. Within 30 days of the granting of the Franchise, Grantee shall apply for all necessary governmental permits, licenses, certificates and authorizations.

B. That energized trunk cable shall be extended substantially throughout the authorized area within one year after receipt of all necessary governmental permits, licenses, certificates and authorizations; and that persons along the route of the energized cable will have individual "drops" as desired during the same period of time. The requirement of this rule may be waived by the Grantor upon occurrence of unforeseen events beyond the Grantee's control.

7.03. Construction Delay.

The Grantee shall notify Grantor of any delay in the construction of the System.

7.04. Construction Codes.

Grantee shall strictly adhere to all building and zoning codes currently or hereafter in force in City. Grantee shall arrange its lines, cables and other appurtenances, on both public and private property, in such a manner as to cause no unreasonable interference with the use of said public or private property by any person. In the event of such interference, City may require the removal of Grantee's lines, cables and appurtenances from the property in question.

7.05. Repair of Streets.

Any and all streets which are disturbed or damaged during the construction, operation, maintenance, or reconstruction of the System shall be promptly repaired by Grantee, at its expense and to the satisfaction of the City.

7.06. Erection of Poles Prohibited.

Grantee shall not erect, for any reason, any pole on or along any street in an existing aerial utility system. If addition poles in an existing aerial route are required, Grantee shall negotiate with the utility for the installation of the needed poles. Any such addition shall require the advance written approval of City. Grantee shall negotiate the lease of pole space and facilities from the existing pole owners for all aerial construction, under mutually acceptable terms and conditions. City shall utilize its best offices to assist in arriving at an equitable pole rental agreement.

7.07. Undergrounding of Cable.

The placement of cables underground is encouraged. In any event, cables shall be installed underground at Grantee's cost where all existing utilities are already underground. Previously installed aerial cable shall be placed underground in concert, and on a cost-sharing basis, with other utilities, when both other utilities convert from aerial to underground construction. The City shall notify Grantee of all

pending changes from aerial to underground utility installations. Developers shall be instructed by City to notify Grantee of pending underground trenching. Grantee shall place cable underground in newly platted areas in concert with the other utilities.

7.08. Reservations of Street Rights.

Nothing in this Franchise shall be construed to prevent City from constructing sewers, grading, paving, repairing and/or altering any street, or laying down, repairing or removing water mains or constructing or establishing any other public work. All such work shall be done, insofar as practicable, in such manner as not to obstruct, injure or prevent the free use and operation of the poles, wires, conduits, conductors, pipes or appurtenances of Grantee. If any such property of Grantee herein shall interfere with the construction or repair of any street or public improvement, whether it be construction, repair or removal of a sewer or water main, the improvement of a street or any other public improvement, all such poles, wires, conduits or other appliances and facilities shall be removed or replaced in such manner as shall be directed by the City so that the same shall not interfere with the said public work of the City, and such removal or replacement shall be at the expense of Grantee herein.

7.09. Trimming of Trees.

Nothing contained in this Franchise shall be deemed to empower or authorize Grantee to cut or trim any trees, ornamental or otherwise, in any of the streets, alleys or public highways, but Grantee may cut or trim trees as necessary only pursuant to a prior agreement with the owner of property which is adjacent to the street area in which such tree stands.

7.10. *Street Vacation or Abandonment.* In the event any street or portion thereof used by Grantee shall be vacated by City or the use thereof discontinued by Grantee, during the term of this Franchise, Grantee shall forthwith remove its facilities therefrom unless specifically permitted to continue the same, and on the removal thereof restore, repair or reconstruct the street area where such removal has occurred, and place the street area where such removal has occurred in such condition as may be required by City. In the event of failure, neglect or refuse of Grantee, after 30 days' notice by City to repair, improve or maintain such street portion, City may do such work or cause it to be done, and the cost thereof as found and declared by City shall be paid by Grantee as directed by City and collection may be made by Court action or otherwise.

7.11. Movement of Facilities.

In the event it is necessary temporarily to move or remove any of Grantee's wires, cables, poles, or other facilities placed pursuant to the Franchise, in order lawfully to move a large object, vehicle, building or other structure over the streets of City, Grantee, upon reasonable notice, shall move at the expense of the person requesting the temporary removal such of his facilities as may be required to facilitate such movements.

SECTION 8. OPERATION AND MAINTENANCE.

8.01. Open Books and Records.

Grantee shall maintain its office within the City of Forest Lake and manage all of its operations in accordance with a policy of totally open books and records. Grantor, or its designated agents, shall have the right to inspect, upon notice, at any time during normal business hours, all books, records, maps, plans, income tax returns, financial statements, service complaint logs, performance test results, record of requests for service, and other like materials of Grantee which relate to the operation of this Franchise. Access to the aforementioned records shall not be denied by Grantee on the basis that said records contain "proprietary" information.

8.02. Communications with Regulatory Agencies.

Copies of all petitions, applications, communications and reports submitted by Grantee to the board, FCC, Securities and Exchange Commission or any other Federal or State regulatory commission or agency, having jurisdiction in respect to any matters affecting cable communications systems operations authorized pursuant to this Franchise, shall also be submitted simultaneously to Grantor. Copies of responses from the regulatory agencies to Grantee shall likewise be furnished simultaneously to Grantor.

8.03. Annual Reports.

A. Grantee shall file with Grantor, at the time of its annual payment of the franchise fee, as described in this Franchise, the following:

(1) A financial statement prepared by an independent certified public accountant, showing, in such detail as acceptable to Grantor, the gross operating revenues of Grantee for the preceding fiscal year.

(2) Current list of names and addresses of each officer and director and other management personnel, as well as each shareholder having stock ownership of three percent or more.

(3) A copy of each document filed with all federal, state and local agencies during the preceding fiscal year and not previously filed with Grantor.

(4) A statement of its current billing practices.

(5) A current copy of its rules.

(6) A current copy of its subscriber service contract.

B. Grantor and its agents and representatives shall have authority to arrange for and conduct an audit and copy the books and records of Grantee. Grantee shall first be given 48 hours' notice of the audit request, the description of and purpose for the audit, and description, to the best of Grantor's ability, of the books, records and documents it wants to review.

8.04. Monitoring and Compliance Records.

No later than April 15 of each year, Grantee shall provide a written report of the FCC performance tests for the home subscriber network required in Part 76, Section 76.601 of FCC Rules and Regulations.

8.05. Additional Reports.

Grantee shall prepare and furnish to Grantor, at the times and in the form prescribed, such additional reports with respect to its operation, affairs, transactions or property, which in the sole discretion of the Grantor are reasonable and necessary.

8.06. Maintenance and Complaints.

A. Grantee shall maintain an office which shall be open during all usual business hours, have a publicly listed toll-free telephone, and be so operated as to receive subscriber complaints and requests for repairs or adjustments on a 24-hour-a-day, seven-day-a-week basis. A written log shall be maintained listing all complaints and their dispositions.

B. Grantee shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during period of minimum use of the System.

C. Grantee shall maintain a repair force of technicians that shall be capable of responding to subscriber complaints or requests for service within 24 hours after receipt of the complaint or request. All complaints shall be resolved within seven days, to the extent reasonable. No charge shall be made to the subscriber for this service and subscriber's account shall be credited on a per diem basis if without service for any reason for a period exceeding 72 hours.

D. Grantor shall ensure that all subscribers, programmers and members of the general public have recourse to a public hearing, before the Grantor, of any complaints, where there is evidence that Grantee has not settled the complaint to the satisfaction of the person initiating the complaint.

8.07. Safety.

A. Grantee shall at all times employ the standard of care attendant to the risks involved and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injury or nuisance to the public or to employees of Grantee.

B. Grantee shall install and maintain its wires, cables, fixtures and other equipment in accordance with the requirements of all applicable codes, and in such manner that they will not interfere with any installations of City or any public utility.

C. All lines, equipment and connections in, over, under and upon the streets and private property within the City, wherever situated or located, shall at all times be kept and maintained in a safe and suitable condition and in good order and repair.

8.08. Service Contract.

A. Grantee shall submit to the Grantor the form and content of the service contract to be used by Grantee prior to entering into any such service contracts with subscribers, and the Grantee shall make no changes in the approved service contract without prior approval of Grantor. The service contract shall include, at a minimum, a schedule of all rates and charges, description of services, instructions on the use of the System, billing and collection practices.

B. Grantee shall have authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable Grantee to exercise its rights and perform its obligations under this Franchise and to assure an uninterrupted service to each and all of its subscribers; provided such rules, regulations, terms and conditions shall not be in conflict with the provisions of the Franchise, ordinances of City, and laws of the State of Minnesota or the United States.

C. Each subscriber shall be provided with instructions on filing complaints or otherwise obtaining information or assistance from Grantee.

D. The term of a subscriber contract shall not be for more than 12 months duration unless after 12 months the contract may be terminated by the subscriber at his option at any time, with no penalty to subscriber.

8.09. Subscriber Practices.

A. There shall be no charge for disconnection of any installation or outlet. If any subscriber fails to pay a properly due monthly subscriber fee, or any other properly due fee or charge, Grantee may disconnect the subscriber's service outlet; provided, however, that such disconnection shall not be effected until after the later of (i) 30 days after the due date of said delinquent fee or charge, or (ii) ten days after delivery to subscriber of written notice of the intent to disconnect. If a subscriber pays before expiration of the later of (i) or (ii), Grantee shall not disconnect. After disconnection, upon payment in full of the delinquent fee or charge and the payment of a reconnection charge, Grantee shall promptly reinstate the subscriber's cable service.

B. Refunds to subscribers shall be made or determined in the following manner:

(1) If Grantee fails, upon request by a subscriber, to provide any service then being offered, Grantee shall promptly refund all deposits or advance charges paid for the service in question by said subscriber. This provision does not alter Grantee's responsibility to subscriber's under any separate contractual agreement or relieve Grantee of any other liability.

(2) If any subscriber terminates any monthly service because of failure of Grantee to render the service in accordance with this Franchise, Grantee shall refund to such subscriber the proportionate share of the charges paid by the subscriber for the services not received. This provision does not relieve Grantee of liability established in other provisions of this Franchise.

C. If any subscriber terminates any monthly service prior to the end of a prepaid period, a proportionate portion of any prepaid subscriber service fee, using the number of days as a basis, shall be refunded to the subscriber by Grantee.

D. Continued failure by Grantee to provide services proposed by it may be cause for termination of this Franchise.

8.10. Rates and Other Charges.

A. Rates and charges charged by Grantee for monthly service and installation and other charges hereunder shall be uniform, fair and reasonable and designed to meet all necessary costs of service, including a fair rate of return on the original cost, less depreciation, of the properties devoted to such service (without regard to any subsequent sale or transfer price or cost of such properties). (Note: It is intended this Section will be completed based on the proposal of the Grantee.)

8.11. Rate Changes.

All rates, rate changes and charges by the Grantee for its services to users shall be fair, reasonable, just and consistent with applicable regulations of the FCC, the Minnesota Cable Communications Board, or other lawful authorities and no rate increase shall be made except as herein provided.

A. No rate increase shall be made within the Initial Service Territory until one year has expired from the date upon which construction in the City of Forest Lake portion is completed and the System is operational.

B. *Rate Increases Upon Notice.* An increase in any regulatable rate may be made one time during any calendar year by giving the Grantor written notice of such rate increase at least 60 days prior to the effective date of said increase, so long as said increase does not exceed the greater of the following:

(1) The percentage of the increase in the Consumer Price Index for the Minneapolis-St. Paul metropolitan area as in existence on the date of the certification of this Franchise by the Minnesota Cable Communications Board or specified in the last rate increase notice to the Grantor (whichever event is most recent). In the event the Consumer Price Index is substantially modified in the opinion of the Grantee and Grantor, or is discontinued, the Grantee and the Grantor may select a mutually acceptable successor Index to control the provisions of this subparagraph.

(2) An increase which would equal not more than five percent of the previous rate.

C. *Rate Increases Subject to Regulation.* In the event Grantee proposes to increase any regulatable rate in excess of that permitted by the immediately preceding Section hereof, any such increase shall be subject to the approval by Grantor in accordance with the provisions of this Section and the following paragraphs:

(1) A proposal for a rate increase in excess of that permitted herein shall be submitted to the City Clerk-Administrator at least 90 days prior to the effective date of the rate increase. Based upon information submitted the Grantor may in its discretion, approve such increase or may schedule a public hearing on the proposed rate increase within two weeks from the date of receipt of the notice. Grantee will notify the public through providing notice for two weeks each day between 7:00 p.m. and 9:00 p.m. on a public access channel of the date, place and time of the hearing. Grantor will publish notice ten days prior to the hearing in its official newspaper.

(2) After closing the public hearing Grantor shall have 31 days within which to make a determination regarding the proposed rate increase; however, any proposed change in rates or charges shall become effective upon the date specified in the notice of the Grantee regardless of the determination of the Grantor.

D. *Standards for Review.* The standards for reviewing a proposed rate change will include at least the following except when the change is required by FCC or Board and further review is not deemed applicable by Grantor:

(1) The ability of Grantee to render System Services and to derive a reasonable profit therefrom under the existing rate schedule and proposed rate schedule;

(2) The revenues and profits derived from System Services;

(3) The efficiency of Grantee;

(4) The quality of the service offered by Grantee;

(5) A fair rate of return on net investments (original cost less accrued depreciation). In no event shall original cost used in determining net investment exceed the proposed construction cost contained in Grantee's offering;

(6) A fair rate of return with respect to investments have similar risks to that of providing cable communication services;

(7) The extent to which Grantee has adhered to the terms of this Franchise;

(8) Fairness to residents and subscribers;

(9) Capital expenditures by Grantee in providing updated technology and service to subscribers;

(10) Such other factors as City may deem relevant.

E. *Information to be Furnished by Grantee.* At least ten days prior to the public hearing on a proposed rate change the Grantee shall submit to the Grantor statistical and other proof indicating that the existing rate or charge is inadequate and unreasonable and that the proposed increase is required to enable the Grantee to render service to fulfill its obligations under this Franchise and to derive reasonable profit therefrom, including:

(1) Balance Sheet;

(2) Income Statement;

(3) Statement of sources and applications of funds;

(4) Detailed supporting schedules of expenses, income, assets and other items as may be required by Grantor;

(5) Statement of current and projected subscribers;

(6) A current list of rates and charges of Grantee applicable to its Systems, or owned or operated by its parent corporation or other subsidiaries or affiliates of its parent corporation;

(7) A current list of rates and charges for other systems in the seven county metropolitan area.

F. *Arbitration.* In the event the Grantor fails to approve the proposed rate increase following a public hearing, the Grantor may initiate binding arbitration pursuant to Minnesota Statutes, as follows:

(1) The parties will, within 15 days of Grantor's failure to approve the rate increase, appoint one arbitrator each who is experienced and knowledgeable in the evaluation and analysis of cable rate and charge changes. Arbitrators shall each agree upon the selection of a third arbitrator similarly qualified, within 15 days after appointment of the second arbitrator.

(2) Within 15 days after appointment of all arbitrators and upon ten days written notice to parties, the arbitrators shall commence a hearing on the rate change proposed by Grantee.

(3) The hearing shall be recorded and may be transcribed at the request and expense of either party. All hearing proceedings, debates and deliberations shall be open to the public, Grantor, and Grantee and at such times and places as contained in the notice or as thereafter publicly stated in the order to adjourn.

(4) The arbitration panel shall be required to approve, reject or modify the rate change proposed by Grantee according to the standards established in this Franchise.

(5) At the close of the hearings and within 30 days, the arbitrators shall prepare written findings and make a written decision agreed upon by a majority of the arbitrators which shall be served by mail upon Grantor and Grantee.

(6) The decision of a majority of the arbitrators shall be binding upon both parties, provided that either party may pursue any judicial remedies otherwise available to either party.

(7) Should the rate change be rejected or modified by a majority of the arbitrators, the Grantee shall within 90 days and pursuant to procedures established by Grantee refund the rate overage to affected subscribers.

(8) Either party may also seek judicial relief to the extent authorized under Minnesota Statutes §§ 572.09 and 572.19 as the same may be amended, and in addition, under the following circumstances:

(a) A party fails to select an arbitrator;

(b) The arbitrators fail to select a third arbitrator;

(c) One or more arbitrator is unqualified;

(d) Designated time limits have been exceeded;

(e) The arbitrators have not proceeded expeditiously; or

(f) Based upon the record the arbitrators abused their discretion.

8.12. Periodic Reviews, Evaluation and Upgrading.

The field of cable communications is a relatively new and rapidly changing one which may see many regulatory, technical, financial, marketing and legal changes during the term of this Franchise. Therefore, in order to provide for a maximum degree of flexibility in this Franchise, and to help achieve a continued advanced and modern system, the following evaluation provisions will apply:

A. Grantor reserves the right to adopt rules and regulations controlling the procedures and subjects for periodic reviews and evaluation. In the absence of any Grantor action taken to exercise these rights, Grantee shall be subject to at least the procedures and subjects described in this Section.

B. Grantor may require, at its sole discretion, System performance evaluation sessions upon 90 days written notice to Grantee at any time during the term of this Franchise or as required by federal or state law. At a minimum, such evaluation sessions shall be conducted by Grantor within 30 days of the third, fifth and tenth anniversary dates of the effective date of acceptance of this Franchise by Grantee.

C. All evaluation sessions shall be open to the public and notice of sessions published in the same way as a legal notice. Grantee shall notify its subscribers of all evaluation sessions by announcement on at least one public access channel of the System between the hours of 7:00 p.m. and 9:00 p.m. for five consecutive days preceding each session.

D. Topics which may be discussed at any evaluation session may include, but not be limited to, service rate structures, franchise fee, penalties, free or discounted services, application of new technologies, system performance, services provided, programming offered, access channels, facilities and support, local origination, customer complaints, privacy, amendments to this Franchise, judicial Board and FCC ruling, line extension policies, insurance, and Grantee, Grantor or City rules.

E. During a review and evaluation by Grantor, Grantee shall fully cooperate with Grantor and shall provide without cost such information and documents as Grantor may request to reasonably perform the service.

F. If at any time during its review, or at any other time, Grantor determines that reasonable evidence exists of inadequate System performance, it may require Grantee to perform tests and analyses directed toward such suspected inadequacies at the Grantee's own expense. Grantee shall fully cooperate with Grantor in performing such testing and shall prepare results and a report, if requested, within 30 days after notice. The report prepared by Grantee shall include at least:

(1) A description of the problem in System performance which precipitated the special tests.

(2) What System component was tested.

(3) The equipment used and procedures employed in testing.

(4) The method, if any, by which such System performance problem was resolved.

(5) Any other information pertinent to said tests and analyses which may be required by Grantor, or determined when the test is performed.

G. As a result of a periodic review or evaluation session, Grantor may request Grantee to modify the System or to provide additional services. Grantee will comply with any such request of the Grantor unless technology does not permit it, or Grantee establishes to the satisfaction of Grantor that the cost would prohibit the implementation of the modification or the additional services.

8.13. Refunds to Subscribers and Programmers.

A. If Grantee fails to provide any service requested by a subscriber or programmer, Grantee shall, after adequate notification and being afforded the opportunity to provide the service, promptly refund all deposits or advance charges paid for the services in question by said subscriber or programmer.

B. If any subscriber terminates any monthly service during the first 12 months of said service because of the failure of Grantee to render the service in accordance with the standards set forth in this Ordinance, Grantee shall refund to such subscriber an amount equal to the installation or reconnection charges paid by the subscriber multiplied by the fraction of the 12 month period for which the subscriber will not be receiving service. In the event that said subscriber has made an annual payment in advance, a similar portion of said payment shall be refunded by Grantee.

C. If any subscriber terminates, for any reason not specified in Section B. above, any monthly service prior to the end of a prepaid period, a prorated portion of any prepaid subscriber service fee, using the number of days as a basis, shall be refunded to the subscriber by Grantee.

8.14. Community Access Corporation.

In accordance with Minnesota law, an independent nonprofit corporation, termed the Community Access Corporation (CAC), may be formed to manage the use of public access and other community channels of the System. Grantor shall include no less than five persons with broad representation of the City's educational, cultural, social, community and business organizations. Not less than one of Grantee's representatives shall be included on the initial Board of Directors.

8.15. Citizens Advisory Committee.

The Grantor may provide for an ongoing Citizen's Advisory Committee, which will prepare annually information and status reports of the construction, operation and maintenance of the System. The specific nature and composition of this Committee shall be determined by the Grantor after the Franchise becomes effective.

SECTION 9. GENERAL FINANCIAL AND INSURANCE PROVISIONS.

9.01. Payment to Grantor.

A. Grantee shall pay to Grantor an annual amount equal to five percent of Grantee's Gross Annual Revenues derived from sources within the geographical jurisdiction of the Grantor.

B. Payments due Grantor under this provision shall be computed at the end of each calendar year for that calendar year. Payments shall be due and payable no later than February 28 of each year. Each payment shall be accompanied by a brief report showing the basis for the computation and such other relevant facts as may be required by Grantor.

C. No acceptance of any payment shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim Grantor may have for further or additional sums payable under the provisions of this Ordinance until two years have elapsed from the date of each such payment. All amounts paid shall be subject to audit and recomputation by Grantor.

(Ord. No. 2-1-99, § 2, 2-1-1999)

9.02. Bonds.

A. Upon execution of this Franchise, and at all times thereafter until Grantee has completed construction in accordance with the terms hereof, the Grantee shall maintain with Grantor a performance bond in the sum of $100,000.00 in such form and with such sureties as shall be approved by the Grantor, said performance bond to be conditioned upon the faithful performance by the Grantee of the construction provisions and all of the other terms of this Franchise Ordinance, and further conditioned that in the event Grantee shall fail to comply with the terms of this Ordinance or any applicable law, ordinance or regulation, there shall be recoverable jointly and severally from the principal and surety of the bond any damages for losses suffered by Grantor as a result, including the full amount of any compensation, indemnification or cost of removal of any property of Grantee up to the full amount of the bond, and which bond shall further guarantee payment by Grantee of all claims and liens against City or any public property which arise by reason of the construction, operation, maintenance or use of the System.

B. After completion of construction and System "turn-on" the performance bond above required shall be reduced in amount from $100,000.00 to $20,000.00 and shall remain in that amount throughout the term of this Franchise.

C. The rights reserved by Grantor with respect to the bond are in addition to all other rights the Grantor may have under this Franchise or any other law.

D. Grantor may, in its sole discretion, and at any time after completion of construction, reduce the amount of the performance bond or eliminate the requirement of the same.

9.03. Damages and Defense.

Grantee shall hold harmless City for all damages and penalties as a result of the exercise of this Franchise. These damages and penalties shall include, but shall not be limited to, damages arising out of copyright infringement, defamation and all other damages arising out of the construction, operation, maintenance or reconstruction of the System authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by this Franchise.

9.04. Liability Insurance and Indemnification.

A. Grantee shall maintain, throughout the term of this Franchise, a comprehensive general liability insurance policy naming as additional insureds the Grantee, its officers, agents, employees, boards, commissions and agents, in a company approved by the Grantor and in a form satisfactory to the Grantor insuring both the Grantee and the Grantor, its officers, agents and employees against loss or damage or personal injury, death or property damage, together with all damages mentioned in section 9.03 occasioned by the operations of the Grantee in the minimum amounts of:

$500,000.00 for bodily insurance or death to any one person;

$1,000,000.00 for bodily injury or death resulting from any one accident;

$500,000.00 for property damage resulting from any one accident;

$500,000.00 for all other types of liability.

B. The insurance policy mentioned above shall contain an endorsement stating that the policy is extended to cover the liability assumed by the Grantor under the terms of this Ordinance and shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled nor the amount of coverage thereon reduced until 30 days after receipt by the City Clerk-Administrator by registered mail of two copies of a written notice of such intent to cancel or reduce the coverage."

C. A copy of the police herein required and evidence of payment of required premium shall be filed and maintained with the City Clerk-Administrator during the term of this Franchise.

SECTION 10. REVOCATION.

10.01. Grantor's Right to Revoke.

In addition to any rights set out elsewhere in this Franchise, Grantor reserves the right to revoke this Franchise, and all rights and privileges pertaining thereto, in the event that:

A. Grantee substantially violates any provision of this Franchise; or

B. Grantee attempts to evade any of the provisions of the Franchise; or

C. Grantee practices any fraud or deceit upon the Franchising Authority; or

D. Grantee becomes insolvent, unable or unwilling to pay its debts, or is adjudged a bankrupt; or

E. Grantee fails to receive a Certificate of Confirmation from the Board within six months after the Franchise award.

10.02. Procedures.

A. Grantor shall provide Grantee with a written notice of the cause for termination and the intent to terminate and shall allow Grantee 30 days subsequent to receipt of the notice in which to correct the violation.

B. Grantee shall be provided the right to a public hearing before Grantor.

C. Upon termination, Grantee shall have a period of 30 days subsequent to the date of the public hearing at which termination of the Franchise is considered, within which to file an appeal with the Board pursuant to Minnesota Statutes § 238.14.

D. During such 30-day period and until the Board determines the appeal, if an appeal is taken, the Franchise shall remain in full force and effect, unless the term thereof sooner expires. If the Board approves of the action of the municipality, the Franchise shall terminate immediately; if the Board disapproves of the action of the municipality, the Franchise shall remain in full force and effect during the term thereof unless sooner terminated in accordance with law or MCCB Rules.

SECTION 11. FORECLOSURE, RECEIVERSHIP AND ABANDONMENT.

11.01. Foreclosure.

Upon the foreclosure or other judicial sale of all or a part of the System, or upon the termination of any lease covering all or part of the System, Grantee shall notify Grantor of such fact and such notification shall be treated as a notification that a change in control of Grantee has taken place, and the provisions of this Franchise governing the consent to transfer or change in ownership shall apply without regard to how such transfer or change in ownership occurred.

11.02. Receivership.

Grantor shall have the right to cancel this Franchise 120 days after the appointment of a receiver or trustee to take over and conduct the business of Grantee, whether in receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said 120 days, or unless:

A. Within 120 days after his election or appointment such receiver or trustee shall have fully complied with all the provisions of this Franchise and remedied all defaults thereunder; and,

B. Such receiver or trustee, within said 120 days, shall have executed an agreement, duly approved by the Court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this Franchise.

11.03. Abandonment.

Grantee may not abandon any portion of the System without having given three months prior written notice to Grantor and the Board. Further, Grantee may not abandon any portion of the System without compensating City for damages resulting from the abandonment. The amount of damages resulting from abandonment shall be determined by Grantor.

SECTION 12. PURCHASE OF SYSTEM.

12.01. Grantor's Right to Purchase System.

A. Grantee shall be entitled to a right of first refusal of any bona fide offer to purchase the System made to Grantee. Bona fide as used in this Section means an offer received by Grantee that it intends to accept. In the event Grantor decides to purchase pursuant to this Section, the price shall be current market value or bona fide officer, whichever is less.

12.02. Purchase by Grantor Upon Termination of Franchise Term or Revocation of Franchise.

A. The Grantor may in lawful manner and upon the payment of a fair valuation lawfully ascertain, purchase, condemn, acquire, take over and hold the property and plant of the Grantee in whole or in part:

(1) If such purchase or taking over be upon revocation of the Franchise such valuation shall not include any sum for the value of the Franchise and such plant and property shall be valued according to its fair market value.

(2) If such purchase or taking over be at the expiration of the Franchise, such valuation shall be at fair market value, exclusive of the value attributed to the Franchise itself.

(3) In the event Grantor shall terminate the Franchise pursuant to the provisions of Section 14.13 of this Franchise it shall reimburse Grantee for the fair market value of the System, including both tangible and intangible assets.

SECTION 13. RIGHTS OF INDIVIDUALS PROTECTED.

13.01. Discriminatory Practices Prohibited.

Grantee shall not deny service, deny access, or otherwise discriminate against subscribers, programmers or general citizens on the basis of race, color, religion, national origin, sex or age. Grantee shall strictly adhere to the equal employment opportunity requirements of the Board as expressed in 4 MCAR 4.108 and of the Federal Government, as expressed in 47 CFR 76.13(a)(8) and 76.311. Grantee shall comply at all times with all other applicable federal, state and city laws, and all executive and administrative orders relating to nondiscrimination.

13.02. *Cable Tapping Prohibited.*

Neither Grantee nor any other person, agency or entity shall tap, or arrange for the tapping of, any cable, line, signal input device or subscriber outlet or receiver for any purpose whatsoever.

13.03. Privacy and Other Human Rights.

Grantee and Grantor shall maintain constant vigilance with regard to possible abuses of the right of privacy or other human rights of any subscriber, programmer or general citizen resulting from any device or signal associated with the System. Grantee shall not utilize the two-way communications capability of the System for unauthorized subscriber surveillance of any kind.

No signals of a cable communication channel may be transmitted from a subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the subscriber. The request for such permission shall be contained in a separate document with a prominent statement that the subscriber is authorizing the permission in full knowledge of its provisions. Such written permission shall be for a limited period of time not to exceed one year which shall be renewed at the option of the subscriber. No penalty shall be invoked for a subscriber's failure to provide or renew such authorization. The authorization shall be revocable at any time by the subscriber, without penalty of any kind whatsoever. Such permission shall be required for each type of classification of cable communications activity.

Written permission from the subscriber shall not be required for the systems conducting system wide or individually addressed electronic sweeps for the purpose of billing. Confidentiality of such information shall be subject to the provision set forth in 4 MCAR 4.202 W.1.

13.04. Permission of Property Owner Required.

No cable, line, wire, amplifier, converter or other piece of equipment owned by Grantee shall be installed by Grantee without first securing the permission of the owner of any property involved. If such permission is later revoked, whether by the original or a subsequent owner, Grantee shall remove forthwith any of its equipment which is both visible and movable and promptly restore the property to its original condition.

13.05. Sale of Subscriber Lists Prohibited.

Grantee shall not sell, or otherwise make available, lists of the names and addresses of any of its subscribers, or any list which identifies by name, subscriber viewing habits, to any person, agency or entity, for any purpose whatsoever, without the specific permission of Grantor and all affected subscribers.

13.06. Penalty for Failure to Comply With Privacy Restrictions.

In addition to such penalties provided by all other applicable federal, state and city laws, repeated failure to comply with the provisions of this Section may subject the Grantee to revocation of this Franchise.

SECTION 14. MISCELLANEOUS PROVISIONS.

14.01. Compliance with Laws.

Grantee shall comply with all state laws and rules regarding cable communications not later than one year after they become effective, unless otherwise stated. Grantee shall comply with all federal laws and regulations regarding cable communications as they become effective. Grantee shall also comply with all City ordinances, resolutions, rules and regulations heretofore or hereafter adopted or established during the entire term of the Franchise.

14.02. Sale or Transfer of Franchise.

A. This Franchise shall not be sold, assigned or transferred, except for purposes of furnishing security to a lender, either in whole or in part, or leased, sublet or mortgaged in any manner, nor shall title thereto, either legal or equitable, on any right, interest or property therein, pass to or vest in any person without full compliance with the procedure set forth in this Section and with the

rules of the Minnesota Cable Communications board as now contained in Chapter 12 and as may be hereafter amended. This Section shall include sale or transfer of all or a majority of a corporation's assets, merger (including any parent and its subsidiary corporation), consolidation, creation of a subsidiary corporation or sale or transfer of stock in a corporation so as to create a new controlling interest in the System. The term "controlling interest" as used herein is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.

(1) The parties to the sale or transfer of this Franchise shall make a written request to the Grantor for its approval of a sale or transfer of this Franchise.

(2) Grantor shall reply in writing within 30 days of the request and shall indicate approval of the request or its determination that a public hearing is necessary due to potential adverse effect on the company's subscribers.

(3) If a public hearing is deemed necessary pursuant to (2) above, such hearing shall be conducted within 30 days of such determination and notice of such public hearing shall be given pursuant to Board regulations.

(4) Within 30 days after the public hearing, the City shall approve or deny in writing the sale or transfer request.

(5) The Grantor shall notify the board of the transfer of any interest in the System of this Franchise in accordance with the then applicable rules, regulations or laws. The notification shall be accompanied by the written certification of the transferee that it meets all of the requirements with respect to technical ability and financial stability demanded of the original Grantee.

(6) Grantee, upon transfer, shall within 60 days thereafter, file with the Grantor a copy of the deed, agreement, mortgage, lease or other written instrument evidencing such sale, transfer of ownership or control or lease, certified and sworn to as correct by the Grantee.

B. In reviewing a request for sale or transfer pursuant to Section A above, the Grantor may inquire into the qualifications of the prospective controlling party, and Grantee shall assist the Grantor in so inquiring. The Grantor may condition said transfer upon such terms and conditions as it deems reasonable and proper. In the absence of extraordinary circumstances, the Grantor shall not approve any transfer or assignment of the Franchise prior to substantial completion of construction of the System, as determined solely by the Grantor. In no event shall a transfer or assignment of ownership or control be approved without the transferee becoming a signator to this Franchise.

14.03. Expiration.

Upon expiration of the initial term of the Franchise, Grantor shall have the right, at its election, to:

A. Renew this Franchise;

B. Invite additional Franchise applications or proposals; or

C. Terminate this Franchise without further action.

Grantee shall make it a condition of each contract entered into by it that Grantor shall have the right to exercise these options.

14.04. Amendment of Franchise Ordinance.

After published notice, public hearings and deliberations of the Grantor, this Franchise may be amended upon a majority vote of the Council of Grantor and the written consent of Grantee.

14.05. Franchise Renewal.

A. Grantee may apply for renewal of this Franchise by making application to do so not later than 12 months prior to the expiration of this Franchise on forms provided by Grantor, and as authorized by Grantor.

B. Grantee may be approved, and this Franchise or modification to it may be renewed by Grantor in accordance with the then existing rules of the FCC, the Board, the City and all other applicable laws, ordinances, rules or regulations.

C. Nothing in this Franchise shall be construed to require renewal of this Franchise.

D. Grantor shall conduct an investigation and evaluation of the Grantee and the System and the renewal proposal. This investigation and evaluation shall be completed by Grantor within six months after receipt of the application and determination by Grantor of its completeness.

E. Renewal of this Franchise may not be for more than 15 years, unless otherwise permitted by federal or state law.

14.06. Continuity of Service Mandatory.

It shall be the right of all subscribers to receive all available services insofar as their financial and other obligations to the Grantee are honored. In the event that the Grantee elects to overbuild, rebuild, modify or sell the System, or the Grantor revokes or fails to renew the Franchise, Grantee shall do everything in its power to ensure that all subscribers receive continuous uninterrupted service regardless of the circumstances during the lifetime of the Franchise. In the event of purchase by the Grantor, or a change of Grantee, the current Grantee shall cooperate with Grantor to operate the System for a temporary period, in maintaining continuity of service to all subscribers.

14.07. Removal After Termination or Revocation.

A. At the expiration of the term for which this Franchise is granted, or upon its revocation or termination, as provided for herein, City shall have the right to require Grantee to remove, at Grantee's expense all or any portion of the System from all streets and public property within City. In so removing the System, Grantee shall refill and compact at its own expense any excavation that shall be made by it and shall leave all streets and public property in as good a condition as that prevailing prior to Grantee's removal of the System, and without affecting, altering or disturbing in any way electric, telephone or other utility, cables, wires or attachments. City, or its delegation, shall have the right to inspect and approve the condition of such streets and public property after removal. The Security Fund, Bonds, Insurance, Indemnity and Penalty provisions of this Franchise shall remain in full force and effect during the entire term of removal.

B. If, in the sole discretion of City, Grantee has failed to commence removal of System, or such part thereof as was designated by City, within 30 days after written notice of City's demand for removal is given, or if Grantee has failed to complete such removal within one year after written notice of City's demand for removal is given, City shall have the right to exercise one of the following options:

(1) Declare all right, title and interest to the System to be in City with all rights of ownership including, but not limited to, the right to operate the System or transfer the System to another for operation by it.

(2) Declare the System abandoned and cause the System, or such part thereof as City shall designate, to be removed at no cost to City. The cost of said removal shall be recoverable from the Performance Bond provided for in this Franchise, or from Grantee directly as liquidated damage.

C. Any portion of the System not designated by City for removal shall belong to and become the property of City without payment to Grantee and Grantee shall execute and deliver such documents, as city shall request, in form and substance acceptable to City, to evidence such ownership by City.

14.08. Work Performed by Others.

A. Grantee shall give notice to Grantor specifying the names and addresses of any other entity, other than Grantee, which performs services pursuant to this Franchise; provided, however, that all provisions of this Franchise remain the responsibility of Grantee.

B. All provisions of this Franchise shall apply to any subcontractor or others performing any work or services pursuant to the provisions of this Franchise.

14.09. Duty to Grantee.

Nothing contained in this Franchise shall relieve any person from liability arising out of the failure to exercise reasonable care to avoid injuring the Grantee's facilities while performing any work connected with grading, regrading or changing the line of any street or public place or with the construction or reconstruction of any sewer or water system.

14.10. Interest Rate.

For purposes of this Franchise, prime rate shall mean the interest charged from time to time by the First National Bank of Minneapolis for 90-day unsecured loans to commercial borrowers of the highest credit rating.

14.11. Applicable Law and Court Decisions; Severability.

A. Grantee shall, at all times, comply with all laws, ordinances and regulations of federal, state and city government.

B. If any law, ordinance or regulation shall require or permit Grantee to perform any service or shall prohibit Grantee from performing any service which may be in conflict with the terms of this Franchise, then as soon as possible following knowledge thereof, Grantee shall notify Grantor of the point of conflict believed to exist between [the Franchise and] such law, ordinance or regulation.

C. If Grantor determines that a material provision of this Franchise is affected by such law, ordinance or regulation, Grantor shall have the right to modify, alter or repeal any of the provisions of this Franchise to such reasonable extent as may be necessary to carry out the intent and purpose of this Franchise.

D. If any term, condition or provision of this Franchise or the application thereof to any person or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition and provision to persons or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Franchise and all the terms, provisions and conditions hereof shall, in all other respects, continue to be effective and to be complied with.

14.12. Nonenforcement by City.

Grantee shall not be relieved of its obligation to comply with any of the provisions of this permit by reason of any failure of the City to enforce prompt compliance.

14.13. Subsequent Action by State or Federal Agencies.

Should the State of Minnesota, the FCC, or any other agency of the Federal government subsequently require Grantee to deliver any signals in addition to those required by this Franchise, or to perform or cease to perform any act which is inconsistent with any provisions of the Franchise, Grantee shall so notify Grantor, or if any such body shall make any law which shall be in conflict with this Ordinance, Grantee

shall so notify Grantor. Upon receipt of such notification, Grantor shall determine if a material provision of the Franchise is affected. Upon such determination, Grantor shall modify or amend any of the sections of the Franchise to such reasonable extent as may be necessary to carry out the full intent and purpose of the Franchise and remain in compliance with such other laws or regulations.

14.14. Administration of Franchise.

The City Clerk-Administrator of Wyoming, or such other person as may be deleted by the City Council of the City of Wyoming, shall be responsible for the continued administration of this Franchise.

14.15. General Provision on Rights and Remedies.

A. All rights and remedies given to City by this Franchise shall be in addition to and cumulative with any and all other rights or remedies, existing or implied, now or hereafter available to City, at law or in equity, and such rights and remedies shall not be exclusive, but each and every right and remedy specifically given by this Franchise or otherwise existing or given may be exercised from time to time and as often and in such order as may be deemed expedient by City, and the exercise of one or more rights or remedies shall not be deemed a waiver of the right to exercise at the same time or thereafter any other right or remedy. No delay or omission of City in the exercise of any right or remedy shall impair any such right or remedy, nor shall any such delay or omission be construed to be a waiver of or acquiescence to any default. The exercise of any such right or remedy by City shall not release Grantee from its obligations or any liability under this Franchise.

B. In addition to all other remedies granted or available to City, City shall be entitled to the restraint by injunction of the violation, or attempted or threatened violation, by Grantee of any terms or provisions of this Franchise, or to a decree compelling performance by Grantee of any term or provision of this Franchise.

C. Grantor reserves the right to delegate and redelegate from time to time any of its rights or obligations under this Franchise to any body or organization. Any delegation by City shall be effective upon written notice by City to Grantee of such delegation. Upon receipt of notice by Grantee of City's delegation, Grantee shall be bound by all terms and conditions of the delegation not in conflict with this Franchise. Any such delegation, revocation or redelegation, no matter how often made, shall not be deemed an amendment to this Franchise or require any consent of Grantee.

SECTION 15. EFFECTIVE DATE; PUBLICATION; ACCEPTANCE; GUARANTEE; EXHIBITS.

15.01. Publication; Effective Date.

This Franchise shall be signed by the Mayor of Grantor and attested by the City Clerk-Administrator of Grantor. The Franchise shall take effect upon its passage and publication. This Franchise may incorporate by reference, without publication in full, a statute of Minnesota or a rule of the Board or the FCC and the offering of Grantee.

15.02. Publication of Notices.

All notices required to be published by Grantor, including this Franchise, shall be published in the official newspaper of City. The City may, in lieu of publishing the entire Franchise, publish a summary thereof as permitted by Minnesota Statutes.

15.03. Time of Acceptance; Guarantee; Incorporation of Offering; Exhibits.

A. Grantee shall have 30 days from the effective date of this Franchise to accept this Franchise in form and substance acceptable to Grantor, unless the time for acceptance is extended by Grantor. Such acceptance by Grantee shall be deemed the grant of this Franchise for all purposes.

B. Upon acceptance of this Franchise, Grantee shall be bound by all of the terms and conditions contained herein. Grantee shall provide all services and offerings specifically set forth in the Offering to provide cable communication service within the City and, by its acceptance of this Franchise, Grantee specifically agrees that the Offering of Grantee, including all promises, offers, representations and inducements contained therein, is specifically incorporated by reference and made part of this Franchise. The failure to refer to the Offering in any specific provisions of this Franchise shall not be a limitation on the obligation of Grantee to fully comply with the Offering. Grantee further acknowledges that all promises, offers, representations and inducements contained in the Offering of Grantee were freely and voluntarily made to Grantor by Grantee.

C. In the event of conflicts or discrepancies between any part of the Offering and the provisions of this Franchise or between any part of the summary made by Grantee and the Offering, those provisions which provide the greatest benefit to City, in the opinion of Grantor, shall prevail.

D. Grantee shall have continuing responsibility for this Franchise, and if Grantee be a subsidiary or wholly owned corporate entity of a parent corporation, performance of this Franchise shall be secured by guarantees of the parent corporation in form and substance acceptable to Grantor, which shall be delivered at time of, and as part of, acceptance of this Franchise.

E. With its acceptance, Grantee also shall deliver to Grantor an opinion from its legal counsel, acceptable to Grantor, stating that this Franchise has been duly accepted by Grantee, that the guarantees have been duly executed and delivered, that this Franchise and the guarantees are enforceable against Grantee and the guarantors in accordance with their respective terms, and which opinion shall otherwise be in form and substance acceptable to Grantor.

F. Each exhibit is a part of this Franchise and each is specifically incorporated herein by reference. The exhibits are as follows:

Passed and adopted this 20th day of May, 1985.

(S E A L)	/s/ _____ Mayor - City of Wyoming
ATTEST:	
/s/ _____ City Clerk-Administrator - City of Wyoming	

This Franchise is accepted, and we agree to be bound by all its terms and conditions.

DATED: June 14, 1985.

	Citation Cable Systems, Ltd.
	By /s/ _____ Its /s/; _____ President
	By _____ Its _____

APPENDIX F CABLE COMMUNICATIONS FRANCHISE – US CABLE

TABLE OF CONTENTS

SECTION 1. STATEMENT OF INTENT AND PURPOSE

SECTION 2. FINDINGS

SECTION 3. SHORT TITLE

SECTION 4. DEFINITIONS

Basic Service

Cable Service

Cable System

Channel

City

Complaint

Converter

Drop

FCC

Franchise

Grantee

Gross Revenues

Installation

Normal Business Hours

Pay Television

Person

Public Property

Residential Unit

Service Area

Street

Subscriber

Internationally blank

Two-Way System

Video Programming

SECTION 5. GRANT OF AUTHORITY AND GENERAL PROVISIONS

Grant of Franchise

Franchise Required

Authority for Use of Streets

Franchise Term

Area Covered

Police Powers

Use of Grantee Facilities

Written Notice
Franchise Non-Exclusive
Compliance with Laws
SECTION 6. DESIGN PROVISIONS
System Construction
Two-Way System
Service Area
Technical Standards
Special Testing
Signal Quality
Test and Compliance Procedures
SECTION 7. SERVICE PROVISIONS
Programming Decisions
Emergency Alert System
Access Channels
Drops to Designated Buildings
SECTION 8. CONSTRUCTION PROVISIONS
Construction Standards
Construction Codes and Permits
Repair of Streets and Property
Use of Existing Poles
Undergrounding of Cable
Reservation of Street Rights
Trimming of Trees
Street Vacation or Abandonment
Movement of Facilities
SECTION 9. OPERATION AND MAINTENANCE
Open Books and Records
Communications with Regulatory Agencies
Annual Report
Operations Report
Additional Reports
Maps
Audit
Periodic Inspection
SECTION 10. CONSUMER PROTECTION PROVISIONS
Subscriber Complaint Practices
Subscriber Information
Subscriber Billing Practices

SECTION 11. GENERAL FINANCIAL INSURANCE AND ENFORCEMENT ..... PROVISIONS

Payment to City

Damages and Defense

Liability Insurance

City's Right to Revoke

SECTION 12. RIGHTS OF INDIVIDUALS PROTECTED

Discriminatory Practices Prohibited

SECTION 13. MISCELLANEOUS PROVISIONS

Compliance with Laws

Franchise Renewal

Work Performed by Others

Compliance with Federal, State and Local Laws

Administration of Franchise

Miscellaneous Violations

Emergency Use

Construction

Captions

Amendments

SECTION 14. EFFECTIVE DATE; PUBLICATION; AND TIME OF ACCEPTANCE

Publication; Effective Date

Time of Acceptance

EXHIBIT A DESCRIPTION OF SYSTEM

EXHIBIT B SERVICE TO PUBLIC AND PRIVATE BUILDINGS

EXHIBIT C FRANCHISE FEE PAYMENT WORKSHEET

AN ORDINANCE GRANTING A FRANCHISE TO US CABLE OF COASTAL-TEXAS, L.P. TO CONSTRUCT, OPERATE, AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE CITY OF WYOMING, CHISAGO COUNTY, MINNESOTA; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR REGULATION AND USE OF THE SYSTEM; AND PRESCRIBING PENALTIES FOR THE VIOLATION OF THE PROVISIONS OF THIS ORDINANCE ("FRANCHISE").

SECTION 1. STATEMENT OF INTENT AND PURPOSE

By adoption of this Franchise, The City of Wyoming, Chisago County, Minnesota ("the City") intends to bring about the further development of a Cable System, and the continued operation of it. Such development can contribute significantly to the communication needs and desires of the residents and citizens of the City and the public generally. Further, the City may achieve better utilization and improvement of public services and enhanced economic development with the development and operation of a Cable System.
Adoption of this Franchise is, in the judgment of the City Council, in the best interests of City and its residents.

SECTION 2. FINDINGS

2.01. In the review of the request for renewal by US Cable of Coastal-Texas, L.P. ("Grantee") and negotiations related thereto, and as a result of a public hearing, the City Council makes the following findings:

A. The prior Cable Franchise Ordinance whereby the City granted a cable franchise to Grantee expired on February 1, 2004. The Grantee properly preserved its right to renewal by providing notice of its intent to renew pursuant to 47 USC §76.546(a)(1) and the City and Grantee continued to operate under the terms and conditions of the expired franchise. It is in the best interests of the City and Grantee to have a current Franchise.

B. Grantee's technical ability, financial condition, legal qualifications, and character were considered and approved in a full public proceeding after due notice and a reasonable opportunity to be heard;

C. Grantee's plans for operating the Cable System were considered and found adequate and feasible in a full public proceeding after due notice and a reasonable opportunity to be heard;

D. The Franchise complies with the existing applicable state statutes, federal laws and regulation; and

E. The Franchise is nonexclusive.

SECTION 3. SHORT TITLE

This ordinance shall be known and cited as the "City of Wyoming Cable Television Franchise." Within this document it shall also be referred to as "this Franchise" or "the Franchise."

SECTION 4. DEFINITIONS

For the purpose of this Franchise, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given, their common and ordinary meaning.

4.01. "Basic Service" means any level of service that includes the retransmission of local television broadcast signals and the access Channels required herein. Basic Cable Service as defined herein shall not be inconsistent with 47 U.S.C. § 543(b)(7).

4.02. "Cable Service" or "Service" means (A) the one-way transmission to Subscribers of (i) video programming or (ii) other programming service, and (B) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service. Cable Service as defined herein shall not be inconsistent with the definition set forth in 47 U.S.C. § 522(6).

4.03. "Cable System" or "System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable television service which includes video programming and which is provided to multiple Subscribers within the City, but such term does not include (A) a facility that serves only to retransmit the television signals of one (1) or more television broadcast stations; (B) a facility that serves Subscribers without using any public right-of-way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934,(47 USC §201-226) except that such facility shall be considered a System (other than for purposes of 47 USC §541(c)) to the extent such facility is used in the transmission of video programming directly to Subscribers; unless the extent of such use is solely to provide interactive on-demand services; (D) an open video system that complies with 47 USC §573; or (E) any facilities of any electric utility used solely for operating its electric utility systems.

4.04. "Channel" means that portion of the electromagnetic frequency spectrum which is used in a Cable System and which is capable of delivering Cable Service.

4.05. "City" means the City of Wyoming, Minnesota, a municipal corporation in the State of Minnesota or its delegations. The City Council is the authority of the City.

4.06. "Complaint" means any verbal or written inquiry, allegation or assertion made by a Person which requires subsequent corrective action to the System or any portion thereof, or raises an objection to the programming or business practices of Grantee. The term "Complaint" does not include an inquiry which is immediately answered by the Grantee.

4.07. "Converter" means an electronic device by which an appropriate Channel selector permits a Subscriber to view all authorized channels.

4.08. "Drop" means the cable that connects the ground block on the Subscriber's residence or institution to the nearest feeder cable of the System.

4.09. "FCC" means the Federal Communications Commission.

4.10. "Franchise" means a Cable System and/or Cable Service authorization adopted by the City council and granted by the City authorizing a Person to construct a System or other facility in the Streets or rights-of-ways in the City and/or provide Cable Service or Video Programming in the City

4.10. "Grantee" means US Cable of Coastal-Texas, L.P., its agents, employees, lawful successors, transferees or assignees.

4.11. "Gross Revenues" means all revenue of the Grantee derived from the provision of Cable Services within the City including, but not limited to, monthly Cable Service fees, Pay Television fees, Installation and reconnection fees and equipment rental fees. This term does not include bad debt, reimbursement of construction costs by any Person, launch fees, franchise fees, advertising revenue, sales, excise or other taxes collected by Grantee on behalf of the state, City, or other governmental unit.

4.12. "Installation" means the act of connecting the System from the feeder cable to the Subscriber terminal so that cable service may be received by the Subscriber. Standard Installation means an Installation within one hundred fifty (150) feet from the nearest System tap to the ground block on the Subscriber's residence or institution.

4.13. "Normal Business Hours" means those hours during which most similar businesses in City are open to serve customers. In all cases, "Normal Business Hours" must include some evening hours, at least one (1) night per week and/or some weekend hours.

4.14. "Pay Television" means the delivery over the System of per-channel or per-program audio-visual signals to Subscribers for a fee or charge, in excess of the charge for Basic Service.

4.15. "Person" means any corporation, partnership, proprietorship, individual or organization authorized to do business in the State of Minnesota, or any natural Person.

4.16. "Public Property" means any real property, other than a Street, owned by any governmental unit.

4.17. "Residential Unit" means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as a residence by one or more individuals. The term Residential Unit is not limited to units occupied by persons as their usual place of residence and includes units rented periodically or used only as seasonal homes.

4.18. "Service Area" or "Franchise Area" means the entire geographic area within the City as it is now constituted or may in the future be constituted.

4.19. "Street" means the surface of and the space above and below any public Street, public road, public highway, public freeway, public lane, public path, public way, public alley, public court, public sidewalk, public boulevard, public parkway, public drive or any public easement or right-of-way now or hereafter held by the City which shall, within its proper use and meaning in the sole opinion of the City, entitle Grantee to the use thereof for the purpose of installing or transmitting over pole, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments and other property as may be ordinarily necessary and pertinent to a System.

4.20. "Subscriber" means any Person or entity who subscribes to Cable Service provided by Grantee by means of or in connection with the System.

4.21. Intentionally blank

4.22. "Two-Way System" means a System that can pass video signals in both directions simultaneously.

4.23. "Video Programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

SECTION 5. GRANT OF AUTHORITY AND GENERAL PROVISIONS

5.01. Grant of Franchise.

This Franchise is granted pursuant to the terms and conditions contained herein. Such terms and conditions shall be subordinate to all applicable provisions of state and federal laws, rules, and regulations.

5.02. Franchise Required.

It shall be unlawful for any Person to construct, operate, or maintain a Cable System or provide Cable Service or Video Programming without a Franchise, unless valid applicable federal or state law prohibits the city's enforcement of such a requirement. Such Franchise shall comply with all of the provisions of this Franchise.

5.03. Authority for Use of Streets.

A. For the purpose of constructing, operating, and maintaining a System in the City, Grantee may erect, install, construct, repair, replace, relocate, reconstruct and retain in, on, over, under, upon, across and along the Streets within the City such lines, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of the System, provided that all applicable permits are applied for and granted, all fees paid and all other City codes and ordinances are otherwise complied with.

B. Grantee shall construct and maintain the System so as not to interfere with other uses of Streets. Grantee shall make use of existing poles and other facilities available to Grantee on commercially reasonable terms. Grantee shall make reasonable efforts to publicize proposed construction work prior to commencement of that work. Such notice shall include the Grantee's telephone number.

C. Notwithstanding the above grant to use the Streets, no Street shall be used by Grantee if the City, in its sole opinion, determines that such use is inconsistent with the terms, conditions or provisions by which such Street was created or dedicated, or presently used.

5.04. Franchise Term.

This Franchise shall commence upon acceptance by Grantee as defined herein and shall expire fifteen (15) years from such date unless renewed, revoked or terminated sooner as herein provided.

5.05. Area Covered.

This Franchise is granted for the Service Area. In the event of annexation by the City, any new territory shall become part of the area covered.

5.06. Police Powers.

Grantee's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety and welfare of the public. Grantee shall comply with all applicable general laws and ordinances enacted by the City pursuant to that power; provided, however, that City shall not modify Grantee's rights, privileges or duties hereunder without Grantee's prior written consent.

5.07. Use of Grantee Facilities.

A. Grantee shall permit the City to use Grantee's poles so long as Grantee has secured rights and said use does not hinder Grantee's ability to provide services to its customers, and such installation by City does not interfere with existing and future operations of Grantee.

B. Grantee shall permit the City to use Grantee's underground pipes, conduits and other facilities for noncompetitive services at mutually agreed upon and commercially reasonable rates.

5.08. Written Notice.

All notices, reports or demands required to be given in writing under this Franchise shall be deemed to be given when delivered personally to the Person designated below, or when five (5) days have elapsed after it is deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, or on the next addressed business day if sent by express mail or overnight air courier addressed to the party to which notice is being given, as follows:

If to City: City of Wyoming
26885 Forest Boulevard
P.O. Box 188
Wyoming, MN 55092
Attention: City Clerk

If to Grantee: US Cable of Coastal-Texas, L.P.
402 Red River Avenue, N, Unit 5
Cold Spring, MN 56320
Attention: General Manager

With courtesy copy to: US Cable of Coastal-Texas, L.P.
28 West Grand Avenue
Montvale, NJ 07645-2100
Attention: Joseph Appio, VP of Operations

Such addresses and phone numbers may be changed by either party upon notice to the other party give as provided in this section.

5.09. Franchise Non-Exclusive.

The Franchise granted herein is non-exclusive. The City specifically reserves the right to grant, at any time, additional franchises for a System in accordance with state and federal law, so long as such grant is in accordance with Minnesota Statutes § 238.01 et.seq.

5.10. Compliance with Laws.

This Franchise complies with the Minnesota franchise standards contained in Minnesota Statutes §238.01 et.seq.

SECTION 6. DESIGN PROVISIONS

6.01. System Construction.

Grantee has developed, constructed, operates and maintains an 860 MHz System.

6.02. Two-Way System.

The City and Grantee will continue to review during the term of this Franchise the need and economic feasibility for a Two-Way System.

6.03. Service Area.

Once home density in areas contiguous to the existing Cable System reaches twenty-five (25) homes per cable mile as measured from the nearest tap or node of the System, the System will be extended to those areas.

6.04. Technical Standards.

The System shall be designed, constructed and operated so as to meet those technical standards set forth in the FCC's Technical Standards.

6.05. Special Testing.

A. At any time after commencement of service to Subscribers, the City may require or may retain an independent engineer to perform additional tests, full or partial repeat tests, different test procedures, or tests involving a specific Subscriber's Drop. Such additional tests will be made on the basis of complaints received or other evidence indicating an unresolved controversy or significant noncompliance, and such tests will be limited to the particular matter in controversy.

B. The City shall endeavor to so arrange its request for such special tests so as to minimize hardship or inconvenience to Grantee or to the Subscriber.

C. If such special testing establishes that the System meets all required FCC technical standards, the City shall bear the expense for such special testing.

D. If such special testing establishes that the System does not meet all required FCC technical standards, Grantee shall bear the expense for such special testing.

6.06. Signal Quality.

The System shall produce a picture in black and white or color, depending upon whether color is being cablecast, that complies with the FCC technical standards. The System shall produce a sound that complies with FCC technical standards.

6.07. Test and Compliance Procedures.

A. Grantee shall perform necessary tests to verify compliance with the FCC technical standards as required pursuant to applicable FCC regulations.

B. The tests may, upon request of the City, be witnessed by representatives of the City. If one or more of the locations tested fail to meet the performance standards, Grantee shall complete corrective measures and report to the City the corrective measures so taken. The entire test shall be repeated for the locations. Grantee shall bear the expense of all such testing.

SECTION 7. SERVICE PROVISIONS.

7.01. Programming Decisions.

All programming decisions shall be at the sole discretion of Grantee; provided, however, that any change in the mix, quality, or level of service shall require notice to the City. Notwithstanding the above, this provision shall not preclude the City of its rights under 47 U.S.C. § 545(a).

7.02. Emergency Alert System.

Grantee shall at all times comply with the EAS standards pursuant to Title 47, Section 11, Subparts A-E of the Code of Federal Regulations, as may be amended or modified from time to time.

7.03. Access Channels.

A. Grantee shall provide to each of its Subscribers who receive some or all of the video services offered on the System reception on at least two (2) specially designated noncommercial access Channels for public educational or governmental ("PEG") programming to be determined in City's discretion. The VHF spectrum (channels 2-22) must be used for at least one (1) of the specially designated noncommercial access Channels required in this section.

B. City may establish rules for acceptance of tapes for insertion on Channels, as required under this section consistent with applicable laws.

C. If Channels are selected through a menu system, the PEG Channels shall be displayed as prominently as commercial programming choices offered by Grantee.

7.04. Drops to Designated Buildings.

A. Grantee shall provide free of charge throughout the term of this Franchise, Installation of one (1) Drop and one (1) cable outlet, if necessary, and the highest level of Cable Service offered by Grantee, excluding Pay Television, video-on-demand and pay-per-view, without charge to the institutions identified on Exhibit B attached hereto and made a part hereof, and such other public institutions subsequently designated by the City. This requirement shall not include any digital tier of Cable Service Grantee may offer unless and until such time as Grantee's digital programming reduces the amount of spectrum available for analog Cable Service to less than approximately sixty (60) Channels of analog programming. Grantee shall be responsible for the costs of extension to subsequently designated governmental or educational institutions reasonably designated and controlled by the City or school district for the first five hundred (500) feet as measured from Grantee's nearest active plant. The institution shall pay the net additional Drop or extension costs beyond the five hundred (500) feet.

B. Additional System Drops and/or outlets in any of the locations identified on Exhibit B will be installed by Grantee at the lowest actual cost of Grantee's time and material. Alternatively, said institutions may add outlets at their own expense, as long as such Installation meets Grantee's technical standards and approval which shall not be unreasonably withheld. Grantee shall have three (3) months from the date of City designation of additional accredited schools or public institutions or relocations to complete construction of the Drop and the outlet unless weather or other conditions beyond the control of Grantee requires more time in Grantee's reasonable discretion.

SECTION 8. CONSTRUCTION PROVISIONS

8.01. Construction Standards.

A. All construction practices shall be in accordance with all applicable sections of the Occupational Safety and Health Act of 1970, as amended, as well as all state and local codes where applicable.

B. All installation of electronic equipment shall be durable and installed in accordance with the provisions of the National Electrical and Safety Code and National Electrical Code at the time of construction.

C. Antennas and their supporting structures (tower) shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other applicable state or local codes and regulations.

D. All of Grantee's plant and equipment, including but not limited to the antenna site, headend and distribution system, tower, house connections, structures, poles, wire, cable, coaxial cable, fixtures and appurtenances shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with FCC technical standards and any applicable City Codes.

E. Grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices preventing failures and accidents which are likely to cause damage, injury or nuisance to the public.

8.02. Construction Codes and Permits.

A. Grantee shall obtain all required permits from the City before commencing any work requiring a permit, including the opening or disturbance of any Street, or Public Property within the City. Grantee shall strictly adhere to all building and zoning codes currently or hereafter applicable to construction, operation or maintenance of the System in the City. Land disturbance and Right of way access fees shall be waived in light of Grantee's agreement to pay a 5% franchise fee pursuant to Section 11.01 of this Franchise. Building and Land use permit fees are not affected by this provision.

B. The City shall have the right to inspect all construction or Installation work performed pursuant to the provisions of this Franchise and to make such tests as it shall find necessary to ensure compliance with the terms of the Franchise and applicable provisions of local, state and federal law.

C. Nothing contained in this Franchise shall be construed to give Grantee the authority to enter upon or work on private property in areas not encumbered with public easements without the permission of the property owner.

8.03. Repair of Streets and Property.

Any and all Streets or Public Property or private property which are disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of the System shall be promptly repaired by Grantee, at its expense to a condition as good as that prevailing prior to Grantee's construction.

8.04. Use of Existing Poles.

Grantee shall not erect, for any reason, any pole on or along any Street in an existing aerial utility system without the advance written approval of the City. Grantee shall exercise its commercially reasonable efforts to negotiate the lease of pole space and facilities from the existing pole owners for all aerial construction.

8.05. Undergrounding of Cable.

Cable shall be installed underground at Grantee's expense where both the existing telephone and electrical utilities are already underground. If Grantee is able to reach commercially reasonable terms with the other occupants of a proposed trench, Grantee shall place cable or conduit underground in newly platted areas in concert with both the telephone and electrical utilities, unless this requirement is waived by the City. For purposes of this section, "commercially reasonable terms" shall not exceed Grantee's cost to independently place its facilities underground either via directional bore or vibrating plow or other comparable technology and shall also include prior written notice from the utility managing the joint trench project to Grantee and the City of at least thirty (30) days prior to the opening of the trench. In the event that telephone or electric utilities are reimbursed by the City or any agency thereof for the placement of cable underground or the movement of cable, Grantee shall be reimbursed upon the same terms and conditions as the telephone or electric utilities. Grantee shall not engage in open trenching, and shall install cable underground by directional bore or vibrating plow or other comparable technology. Open trenching will only be allowed where soil conditions are not conducive to the other approaches outlined herein, and only after consultation and approval by the City.

8.06. Reservation of Street Rights.

A. Nothing in this Franchise shall be construed to prevent the City from constructing maintaining, repairing or relocating sewers; grading, paving, maintaining, repairing, relocating and/or altering any Street; constructing laying down, repairing, maintaining or relocating any water mains; or constructing, maintaining, relocating, or repairing any sidewalk or other public work.

B. All such work shall be done, insofar as practicable in such a manner as not to obstruct, injure or prevent the free use and operation of the poles, wires, conduits, conductors, pipes or appurtenances of Grantee.

C. If any such property of Grantee shall interfere with the construction or relocation, maintenance or repair of any Street or public improvement, whether it be construction, repair, maintenance, removal or relocation of a sewer, public sidewalk, or water main, Street or any other public improvement, thirty (30) days notice shall be given to Grantee by the City and all such poles, wires, conduits or other appliances and facilities shall be removed or replaced by Grantee in such manner as shall be directed by the City so that the same shall not interfere with the said public work of the City, as determined by the City, and such removal or replacement shall be at the expense of Grantee herein. This Section shall not apply to any facility which may compete with the services offered by Grantee's System.

D. Nothing contained in this Franchise shall relieve any Person from liability arising out of the failure to exercise reasonable care to avoid injuring Grantee's facilities while performing any work connected with grading, regarding, or changing the line of any Street or public place or with the construction or reconstruction of any sewer or water system.

8.07. Trimming of Trees.

Grantee shall have the authority to trim trees upon and hanging over Streets, alleys, sidewalks, and public places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of Grantee; provided, however, all trimming shall be done under the supervision and direction of the City, if requested by the City, and at the expense of Grantee.

8.08. Street Vacation or Abandonment.

In the event any Street or portion thereof used by Grantee shall be vacated by the City or the use thereof discontinued by Grantee, during the term of this Franchise, Grantee shall, at Grantee's expense, forthwith remove its facilities there from unless specifically permitted by the City to continue the same, and on the removal thereof restore, repair or reconstruct the Street area where such removal has occurred, and place the Street area where such removal has occurred to a condition similar to that existing before such removal took place. In the event of failure, negligence or refusal of Grantee, after thirty (30) days notice by the City to remove the facilities or to repair, restore, reconstruct, improve or maintain such Street portion, the City may do such work or cause it to be done, and the cost thereof as found and declared by the City shall be paid by Grantee as directed by the City and collection may be made by any available remedy.

8.09. Movement of Facilities.

In the event it is necessary temporarily to move or remove any of Grantee's wires, cables poles, or other facilities placed pursuant to this Franchise, in order to lawfully move a large object, vehicle, building or other structure over the Streets of the City, upon two (2) weeks' notice by the City to Grantee, Grantee shall move at the expense and prepayment of the Person requesting the temporary removal such of his facilities as may be required to facilitate such movements. Any service disruption provisions of this Franchise shall not apply in the event that the removal of Grantee's wires, cables, poles or other facilities results in temporary service disruptions.

SECTION 9. OPERATION AND MAINTENANCE

9.01. Open Books and Records.

The City shall have the right to inspect, upon five (5) days written notice, at any time during Normal Business Hours at the system office all non-confidential books, records, maps, plans, financial statements, service complaint logs, performance test results, record of requests for service and other like materials of Grantee which are reasonably necessary to monitor compliance with the terms of this Franchise.

9.02. Communications with Regulatory Agencies.

Upon written request from the City, Grantee shall provide copies of all petitions, applications, communications and reports submitted by Grantee or on behalf of or relating to Grantee to the FCC, securities and Exchange Commission or any other federal or state regulatory commission or agency having jurisdiction in respect to any matters affecting the System authorized pursuant to this Franchise shall also be submitted simultaneously to the City. Copies of responses from the regulatory agencies to Grantee shall likewise be furnished to the City within fifteen (15) days of receipt of the response if so requested by City.

9.03. Annual Report.

Upon request by the City no more often than once per calendar year,, Grantee shall file with the City a copy of the following information regarding the System.

A. A description of the Basic Service then being offered at the end of the fiscal year together with a description of any changes made in the Basic Service during the reported year. Such information shall remain confidential as permitted by state law.

B. A current copy of the Subscriber service information required in accordance with Section 9.04 hereof.

C. A compilation summarizing the Complaints received during the reported year, by category, and a discussion of any unresolved Complaints.

D. A certification of the Gross Revenues for the preceding year prepared by an independent certified public accountant.

E. Such other information as may be mutually agreed upon by City and Grantee.

9.04. Operations Report.

Grantee shall submit upon request to the City no more than once per year a written Operations Report containing the following information:

A. Any new service planned.

B. The results of System performance tests conducted within the previous six (6) months and in accordance with Section 6.7.

C. Such other information as Grantee deems relevant.

9.05. Additional Reports.

Grantee shall prepare and furnish to the City, at the times and in the form mutually agreed to by the parties, such additional reports with respect to its operation, affairs, transactions or property, which Grantee and City agree are reasonably necessary for the administration and enforcement of this Franchise.

9.06. Maps

Grantee shall maintain on file with the City at all times a current map or set of maps drawn to scale showing the System and all equipment installed or in place in Streets and other public places.

9.07. Audit.

The City and their agents and representatives shall have the authority, during Normal Business Hours, to arrange for and conduct an inspection of the books and records of Grantee solely for the purpose of verifying the payment of Franchise Fees. Grantee shall be given five business (5) days prior written notice of the audit request, the description of and purpose for the inspection and description, to the best of the City's ability, of the books, records, documents it wants to audit.

9.08. Periodic Inspection.

The City and Grantee shall, at the request of the City, undertake an inspection of the System to ascertain the System performance at randomly selected Subscriber drops at points mutually agreed upon by the parties. The request for such an inspection will be made on the basis of demonstrative non-compliance with technical requirements of this Franchise (see Exhibit A) received or other evidence indicating an unresolved controversy or problem.

A. The City shall give written notice to Grantee of the City's intention to undertake an inspection of the System and the name of that Person who will participate for the City.

B. Grantee shall, within two (2) days of receipt of the City notice, select one Person who will participate for Grantee and so notify the City.

C. The representatives of the City and Grantee shall, within three (3) days of the selection of the Grantee representative, select a third representative who need not be trained in cable television technology.

D. Within ten (10) days after the appointment of all representatives, the representatives shall commence an inspection of the System in accordance with the following procedures:

1. The representatives shall commence the inspection of the System at the headend by viewing all programmed Channels or a representative portion thereof and, by a decision of the majority, assign a rating of one (1) to five (5) for each Channel of programming.

2. The representatives shall then view the System performance at Subscriber drops mutually agreed upon by the parties. The representatives shall view all or a representative portion of the programmed Channel at each location and, by a decision of the majority, assign a rating of one (1) to five (5) for each Channel of programming so viewed.

3. In assigning a rating for each Channel of programming so viewed, the representatives shall use the following scale:

1 -- Poor picture, unusable
2 – Fair picture, degradation a problem
3 – Good picture, degradation noticeable
4 – Very good picture, small amount of impairment noticeable
5 – Excellent picture, no visible impairment

E. The representatives shall prepare and submit to the City and Grantee a written report of its findings and any appropriate recommendation. To the extent the System complies with the FCC's Technical Standards, no further action shall be required.

F. Upon request of the City, Grantee shall report to the City, at a regular or specially scheduled meeting of the City, what steps are being taken to correct deficiencies noted in the report or why corrective measures are not necessary. Notwithstanding anything to the contrary, the City may use the report submitted by the representatives as a basis for ordering special testing of the system pursuant to the Signal Quality Section herein. To the extent the System complies with the FCC's Technical Standards, no further action or testing shall be required.

SECTION 10. CONSUMER PROTECTION PROVISIONS

10.01. Subscriber Complaint Practices.

A. Grantee shall maintain an office in Minnesota which shall be open during all Normal Business Hours. Grantee shall have a publicly listed toll-free telephone number and be so operated as to receive Subscriber Complaints and requests on a

twenty-four (24) hour-a-day, seven (7) days-a-week basis. A written log available for the City inspection shall be maintained listing all Complaints and their dispositions.

B. Grantee shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum use of the System.

C. Grantee shall maintain adequate telephone lines and personnel to respond in a timely manner to schedule service calls and answer Subscriber complaints or inquiries.

D. Subscriber requests for maintenance or repairs received prior to 2:00 p.m., Monday through Friday, shall be performed the same day where possible.

E. Subscriber requests for maintenance or repairs received after 2:00 p.m. shall be performed within twenty-four (24) hours of the request.

F. If Grantee fails to correct a service problem within seventy-two (72) hours, Grantee shall credit 1/30th of the monthly charge to the Subscriber for each twenty-four (24) hours or fraction thereof after the first twenty-four (24) hours during which a Subscriber is without service, except to the extent that restoration of service is prevented by strike, injunction or other cause beyond the control of Grantee.

10.02. Subscriber Information.

Grantee shall provide to the City written Subscriber service information which shall include the following:

A. The procedure for investigation and resolution of Complaints;

B. Cable Services and rates;

C. Billing practices;

Grantee shall provide this information to a Subscriber upon request.

10.03. Subscriber Billing Practices.

A. Grantee shall notify each of its Subscribers of its billing practices in accordance with federal law. The service information shall describe Grantee's billing practices including, but not limited to, the following: frequency of billing, time periods upon which billing is based, advance billing practices, security deposit requirements, charges for late payments or returned checks, payments required necessary to avoid account delinquency, availability of credits for service outages, procedures to be followed to request for service deletions including the notice period a Subscriber must give to avoid liability for such services and procedures to be followed in the event of a billing dispute.

B. Grantee shall notify all affected Subscribers not less than thirty (30) days prior to any change in the billing practices and such notice shall include a description of the changed practice.

C. The Subscriber bill shall contain the following information presented in plain language and format:

1. Name and address of Grantee;
2. The period of time over which each chargeable Cable Service is billed including prorated periods as a result of the establishment and termination of service;
3. The rate or charge levied;
4. The amount of the bill for the current billing period, separate from any balance due;
5. Grantee's telephone number and a statement that the Subscriber may call this number with any questions or complaints about the bill; and
6. The date on which payment is due from the Subscriber.

SECTION 11. GENERAL FINANCIAL, INSURANCE AND ENFORCEMENT PROVISIONS

11.01. Payment to City.

A. Grantee shall pay to the City an annual amount equal to five percent (5%) of its Gross Revenues. The foregoing payment shall be compensation for use of Streets and other Public Property. The amount is in accordance with FCC rules and regulations.

B. Payments due the City under this provision shall be computed at the end of each quarter year for that quarter year. Payments shall be due and payable for each quarter or a portion of a quarter year on January 31, April 30, July 31 and October 31. Each payment shall be accompanied by a brief report showing the basis for the computation in form and substance substantially the same as Exhibit C Attached hereto.

C. With each Annual Report required herein Grantee shall provide the City with a certification of the Gross Revenues for the preceding year signed by an officer of the Grantee. This certification shall be used to determine the exact amount of payments due the City and to correct any overpayments or underpayments by Grantee.

D. In the event payment is not made on the due date, interest on the amount due shall accrue from such date at the annual rate of ten percent (10%).

11.02. Damages and Defense.

A. Grantee shall indemnify, defend and hold harmless the City for all damages and penalties, at all times during the term of this Franchise, as a result of the procedures for granting this Franchise or the granting of this Franchise or of Grantee's exercise of this Franchise. These damages and penalties shall include, but shall not be limited to, damages arising out of personal injury, property damage, copyright infringement, defamation, antitrust, errors and omissions, theft, fire, and all other damages arising out of Grantee's exercise of this Franchise, whether or not any act or omission complained of is authorized, allowed or prohibited by this Franchise; such indemnification shall include, but not be limited to, reasonable attorney's fees and costs.

B. In order for the City to assert its rights to be indemnified, defended, and held harmless, City must, with respect to each claim:

(1) Promptly notify Grantee in writing of any claim or legal proceeding which gives rise to such right;

(2) Fully cooperate with reasonable requests of Grantee, at Grantee's expense, to assist the disposition of such claims or proceedings.

C. Grantee shall not be required to indemnify the City or any agent, representative, or employee thereof for negligence or misconduct on the part of City or its officials, boards, commissions, agents, or employees. The City shall hold Grantee harmless, to the fullest extent allowed by law, for any damage resulting from the negligence or misconduct of the City or its officials, boards, commissions, agents, or employees in utilizing any PEG Access Channels, equipment, or facilities and for any such negligence or misconduct by City in connection with work performed by City and permitted by this Franchise, on or adjacent to the Cable System.

11.03. Liability Insurance.

A. Grantee shall maintain, throughout the term of the Franchise, liability insurance insuring Grantee and the City with regard to damages in the minimum amounts of:

1. One Million and No/100 Dollars ($1,00,000.00) for bodily injury or death resulting from any one occurrence;

2. One Million and No/100 Dollars ($1,000,000.00) for personal or advertising injury;

3. Two Million and No/100 Dollars ($2,000,000.00) in the aggregate for General Liability.

B. The Grantee will name "the City of Wyoming" as additional insured as respects General Liability coverage subject to policy terms and conditions.

C. At the time of acceptance, Grantee shall furnish to the City a certificate evidencing that a satisfactory insurance policy has been obtained; such insurance policy shall require that the City be notified thirty (30) days prior to any expiration or cancellation.

11.04. City's Right to Revoke.

A. In addition to all other rights which the City has pursuant to law or equity, the City reserves the right to revoke, terminate or cancel this Franchise, and all rights and privileges pertaining thereto, if after strictly following the procedures required by this Section 11.04.B, it is determined that Grantee has violated any material provision of this Franchise and has failed to substantially cure said violation.

B. Procedures for Revocation.

a. City shall provide Grantee with written notice of a cause for revocation and the intent to revoke and shall allow Grantee sixty (60) days subsequent to receipt of the notice in which to substantially cure the violation or to provide adequate assurance of performance. Together with the notice required herein, City shall provide Grantee with written findings of fact which are the basis of the revocation.

b. Grantee shall be provided the right to a public hearing affording due process before the City Council prior to revocation, which public hearing shall follow the sixty (60) day notice provided in subparagraph (a) above. City shall provide Grantee with written notice of its decision together with written findings of fact supplementing said decision.

c. After the public hearing and upon written determination by City to revoke the Franchise, Grantee may appeal said decision with an appropriate state or federal court or agency.

d. During the appeal period, the Franchise shall remain in full force and effect unless the term thereof sooner expires.

e. Upon satisfactory correction by Grantee of the violation upon which said notice was given, the initial notice shall become void.

11.05. Sale or Transfer of Franchise.

No sale or transfer of this Franchise shall take place without the written approval of the City, which approval shall not be unreasonably withheld. All of the rights, privileges, obligations, duties, and liabilities created by this Franchise shall pass to and be binding upon the successor or assign of Grantee. Said approval shall not be required where Grantee grants a security interest in its Franchise and assets to secure indebtedness.

SECTION 12. RIGHTS OF INDIVIDUALS PROTECTED.

12.01. Discriminatory Practices Prohibited.

Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers, programmers or general citizens on the basis of race, color, religion, national origin, sex or age. Grantee shall comply at all times with all other applicable, federal, state and the City laws, and all executive and administrative orders relating to non-discrimination.

SECTION 13. MISCELLANEOUS PROVISIONS.

13.01. Compliance with Laws.

Grantee and the City shall conform to all state laws and rules regarding cable television not later than one year after they become effective unless otherwise stated. Grantee and the City shall conform to all state and federal laws and rules regarding cable television as they become effective, unless otherwise stated. Grantee shall also conform with all the City ordinances, resolutions, rules and regulations adopted in the exercise of the City's police powers heretofore or hereafter adopted or established during the entire term of the Franchise.

13.02. Franchise Renewal.

This Franchise may be renewed in accordance with applicable state and federal law.

13.03. Work Performed by Others.

A. Upon written request by City, Grantee shall give notice to the City specifying the names and addresses of any other entity, other than Grantee, which performs services pursuant to this Franchise, provided, however, that all provisions of this Franchise shall remain the responsibility of Grantee, and Grantee shall be responsible for and hold the City harmless for any claims or liability arising out of work performed by persons other than Grantee.

B. All provisions of this Franchise shall apply to any subcontractor or others performing any work or services pursuant to the provisions of this Franchise.

13.04. Compliance with Federal, State and Local Laws.

A. If any federal or state law or regulation shall require or permit Grantee to perform any service or act or shall prohibit Grantee from performing any service or act which may be in conflict with the terms of this Franchise, then as soon as possible following knowledge thereof, Grantee shall notify the City of the point of conflict believed to exist between such law or regulation.

B. If any term, condition or provision of this Franchise or the application thereof to any Person or circumstances shall, to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition or provision to persons or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Franchise and all the terms, provisions and conditions hereof shall, in all other respects, continue to be effective and to be complied with. In the event that such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision which had been held invalid or modified is no longer in conflict with the law, rules and regulations then in effect, said provision shall thereupon return to full force and effect and shall thereafter be binding on Grantee and the City.

13.05. Administration of Franchise.

A. The City shall have continuing regulatory jurisdiction in accordance with applicable laws.

B. Grantee shall construct, operate and maintain the System subject to the supervision of all the authorities of the City who have jurisdiction in such matters and in strict compliance with all laws, ordinances, departmental rules and regulations affecting the System.

C. The System and all parts thereof shall be subject to the right or periodic inspection by the City provided that such inspection shall not interfere with the operation of the System and such inspections take place during Normal Business Hours.

13.06. Miscellaneous Violations.

A. From and after the acceptance of the Franchise by Grantee, it shall be unlawful for any Person to establish, operate or to carry on the business of distributing to any persons in the City any Cable Service or Video Programming by any means using Streets or public right or ways unless a Franchise therefore has first been obtained pursuant to the provisions of an ordinance, and unless such Franchise is in full force and effect.

B. From and after the acceptance of the Franchise by Grantee, it shall be unlawful for any Person to construct, install or maintain within any Street in the City, or within any other Public Property of the City, or within any privately owned area within the City which has not yet become a public Street but is designated or delineated as a proposed public Street on any tentative subdivision map approved by the City, or the City's official map or the City's major thoroughfare plan, any equipment or facilities for distributing any Cable Services or Video Programming unless a Franchise authorizing such use of such Street or property or areas has first been obtained.

13.07. Emergency Use.

In the case of any emergency or disaster, Grantee shall, upon request of the City, make available its System and related facilities to the City for emergency use during the emergency or disaster period.

13.08. Construction.

This Franchise shall be construed and enforced in accordance with the substantive laws of the State of Minnesota and without reference to it principles of conflicts of law.

13.09. Captions.

The paragraph captions and headings in this Franchise are for convenience and reference purposes only and shall not affect in any way the meaning of interpretation of this Franchise.

13.10. Amendments.

This Franchise may only be amended in writing and with the mutual written consent of the City and Grantee.

SECTION 14. EFFECTIVE DATE; PUBLICATION; AND TIME OF ACCEPTANCE

14.01. Publication; Effective Date.

This Franchise shall be signed by the Mayor or acting mayor and attested by the City Clerk. The Franchise shall be published in accordance with the requirements of City and state law and shall take effect upon acceptance by Grantee.

14.02. Time of Acceptance.

A. Grantee shall have thirty (30) days from the date of adoption of this Franchise to accept this Franchise in form and substance acceptable to the City. Such acceptance by Grantee shall be deemed the grant of this Franchise for all purposes. In the event acceptance does not take place within thirty (30) days or such other time as the City might allow, this Franchise shall be null and void.

B. Upon acceptance of this Franchise, Grantee shall be bound by all the terms and conditions contained herein. Grantee further acknowledges that all promises, offers, representations and inducements contained in the proposal of Grantee were freely and voluntarily made to City by Grantee.

Passed and adopted this _____ day of _____, 2010

CITY OF WYOMING, MINNESOTA

ATTEST: By: _____

_____

City Clerk

ACCEPTED: This Franchise is accepted, and we agree to be bound by its terms and conditions.

US CABLE OF COASTAL-TEXAS, L.P.

Date: _____, 2010

By: _____

Its: _____

SWORN TO BEFORE ME this
_____ day of _____, 2010.

_____
NOTARY PUBLIC

EXHIBIT A

DESCRIPTION OF SYSTEM

1. The System is designed, constructed, routinely inspected, and maintained to guaranty the System meets or exceeds the requirements of the most current additions of all applications for the National Electrical Code (NFPA 70) and the National Electrical Safety Code (ANSI C2) in effect at the time of construction.

2. General Requirements. Grantee shall comply with the FCC's technical standards. To the extent any provisions of this Exhibit A conflict with FCC technical standards as may be amended from time to time, the FCC standards shall prevail

3. General Description. Grantee shall use equipment used in high-quality, reliable, modern Cable Systems of similar design. The System shall provide Subscribers with a technically advanced and reliable System. The System shall operate with 860 MHz of bandwidth, capable of delivering a minimum of eighty (80) Channels of programming. The System will be two-way active, and it will have available bandwidth range of 7-42 MHz. The design will provide the benefits of proven eighty (80) Channel electronics while positioning the System for expansion of bandwidth and Channel capacity as technology and future services develop.

4. Design. The design of the System is based upon a "fiber to the node" architecture with a minimum of three (3) fibers to each node site. This architecture delivers the signals by fiber optics directly to each neighborhood. With a neighborhood group average of only five hundred (500) homes per node, the resulting System will have improved reliability while delivering a high quality picture. Grantee has placed fiber optic cables throughout the City, delivering the signals to an optical node placed in various geographic areas. There shall be no more than seven (7) active amplifiers in a cascade from each node to the residential dwelling. The incorporation of stand-by power supplies, strategically placed throughout the System including all hubs, will further reduce the likelihood of Service Interruptions.

5. Technical Specifications. The System shall meet or exceed FCC requirements. In no event shall the System fall below the following standards:

a. The System shall be capable of meeting FCC distortion parameters:
   1. Carrier to RMS Noise
   2. Carrier to Second Order
   3. Carrier to Cross Modulation
   4. Carrier to Composite Triple Beat

b. The frequency response of a single Channel as measured across any 6 MHz analog Channel shall not exceed +/- 3 dB.

c. The peak to valley of the entire passband shall not exceed N/10+ 3 dB for the entire System where N is the number of amplifiers in cascade.

d. The System design is such that at a minimum all technical specifications of this Franchise Agreement are met.

e. The System design is such that no noticeable degradation in signal quality will appear at the Subscriber terminal.

EXHIBIT B

SERVICE TO PUBLIC AND PRIVATE BUILDINGS

1. Wyoming Elementary School

   25701 North Forest Blvd.
   Wyoming, MN

2. Wyoming Police Department

   26885 North Forest Blvd.
   Wyoming, MN

EXHIBIT C

FRANCHISE FEE PAYMENT WORKSHEET

REVENUE SOURCE	NUMBER OF SUBSCRIBERS	GROSS REVENUE	5% FRANCHISE FEE	YTD
Basic Service				
Expanded Basic				
Premium – HBO				
Premium - Showtime				
Premium – TMC				
Premium – Encore				
Pay-Per-Channel				
Pay-Per-View				
Installation				
Guides				
Shopping Channels				
Advertising Sales				
Equipment Rental				
Administrative Fees				
Other Income				
Other				
TOTAL				

REVENUE SOURCES INCLUDE:
INSTALLATION:

Standard Installation	Commonly occurring normal Installation
Additional Outlet	Installation on additional sets within a Subscriber's home
FM Service	Separate Installation of FM Service
VCR	Installation of Converter to a VCR
Reconnection of Service	Reconnection of cable to a Subscriber's address
A/B Switch	Separate Installation of an A/B Switch
Relocation	Moving an outlet within a Subscriber's home
Non-Standard	Usually Installation of a commercial type of an account
Change of Service	Charge for upgrading or switching a premium service

BASIC SERVICE:

Basic Service	Revenue derived from Basic Service
Bulk Rates	Revenue derived from non-standard billings (i.e., apt. complex)
Reduced Promotional Basic	Revenue derived from a discounted Basic Service

PAY-PER-VIEW:

All Movies	Revenue derived from pay-per-view movies
Events	Revenue derived from special events (i.e., concerts, boxing matches, etc.)

ADVERTISING:

Sales	Revenue generated locally, regionally or nationally
Bill Stuffer	Revenue generated as a result of providing a bill stuffer to an advertiser

OTHER:

Returned Check Fees	Revenue generated from charges on returned checks
Pre-wired Cable Purchases	Revenue generated from the sale of Cable Service to Subscribers who pre-wire their home
Late Fee	Revenue generated from receiving a late fee

OTHER:
DOES NOT INCLUDE:

Reimbursements	Revenue from the Department of Transportation or other government entities for mandatory relocations of Cable System. Revenue from employee reimbursements for cash advances. Those items that are listed as exclusions in Section 4.11 of the Franchise.

(ORDINANCE NO. 2010-02)

APPENDIX G AN ORDINANCE ESTABLISHING USE AND RATE REGULATIONS FOR MUNICIPAL WASTEWATER TREATMENT FACILITIES

ARTICLE I. Definitions

ARTICLE II. Control by the Authorized Representative

ARTICLE III. Use of Public Sewers Required

ARTICLE IV. Private Wastewater Disposal

ARTICLE V. Building Sewers and Connections Design

ARTICLE VI. Use of Public Wastewater Treatment Facilities

ARTICLE VII. Damage of Facilities'

ARTICLE VIII. Powers and Authority of Inspectors

ARTICLE IX. The Sewer Service Charge System

ARTICLE X. Penalties

ARTICLE XI. Validity

An ordinance regulating the use of and establishing a charge system for public and private sewers, establishing methods for a sewer service charge system, and providing penalties for violations of the regulations herein defined.

Be it ordained and enacted by the Council of the City of WYOMING, Minnesota as follows:

ARTICLE I. Definitions

Unless the context specifically indicates otherwise, the terms used in this Article shall have the meanings hereby designated:

Sec. 1. "Act" - The Federal Water Pollution Control Act, also referred to as the Clean Water Act, as amended, 33. U.S.C. 1251 et seq.

Sec. 2 "BOD5" or "Biochemical Oxygen Demand" - The quantity of oxygen utilized in the biochemical oxidation of organic matter standard laboratory procedures in five (5) days at 20 degrees Centigrade and as expressed in terms of milligrams per liter (mg/l).

Sec. 3. "Building Drain" - That point of a building which conveys wastewater to the building sewer, beginning ____ft. outside the building wall.

Sec. 4. "City" - The area within the corporate boundaries of the City of Wyoming, the City Council, its authorized representative, or the authorized representative of the sanitary sewer district.

Sec. 5. "Debt Service Charge" - A charge to users of the wastewater treatment facility for the purpose of repaying capital costs.

Sec. 6. "Equivalent Residential Unit"(ERU) - A unit of wastewater volume of 274 gallons per day at a strength not greater than NDSW.

Sec. 7. "Industrial User"

(a) Any entity as defined in the Standard Industrial Manual (latest edition) as categorized, that discharge wastewater to the public sewer.

Division A: Agriculture, Forestry and Fishing
Division B: Mining
Division D: Manufacturing
Division E: Transportation, Communications, Electric, Gas, and Sanitary Sewers
Division I: Services

(b) Any user whose discharges, singly or by interaction with other wastes:

contaminate the sludge of the wastewater treatment system,

injure or interfere with the treatment process,

create a public nuisance or hazard,

have an adverse effect on the waters receiving wastewater treatment plant discharges,

exceed NDSW limitations,

exceed normal residential unit volumes of wastewater.

Sec. 8. "Infiltration/Inflow (I/I)" - Water other than wastewater that enters the sewer system from the ground or from surface runoff, as defined in Minnesota Rules.
Sec. 9. "MPCA" - Minnesota Pollution Control Agency.

Sec. 10. "National Categorical Pretreatment Standards" - Federal regulations establishing pretreatment standards for introduction of pollutants in publicly owned wastewater treatment facilities. Section 307(b) of the Act.

Sec. 11. "National Pollutant Discharge Elimination System (NPDES) Permit" - A permit issued by the MPCA, setting limits on pollutants that a permitee may legally discharge pursuant to Sections 402 and 405 of the Act.

Sec. 12. "Natural Outlet" - Any outlet, including storm sewers and combined sewers, which flows into a body of surface water or ground water.

Sec. 13. "Normal Domestic Strength Waste"(NDSW) - Wastewater that primarily introduced by residential users with BOD5 concentrations not greater than 250 mg/l and total suspended solids (TSS) concentrations not greater than 250 mg/l.

Sec. 14. "Non-residential User" - A user of the treatment facility whose building is not used as a private residence, and discharges NDSW.

Sec. 15. "Operation, Maintenance and Replacement Costs"(OM&R) - Expenditures necessary to provide for the dependable, economical, and efficient functioning of the treatment facility throughout its design life including operator training, and permit fees. Replacement refers to equipment replacement costs, not the cost of future replacement of the entire facility.

Sec. 16. "Residential User"- A user of the treatment facility whose building is used primarily as a private residence and discharges NDSW.

Sec. 17. "Sewer" - A pipe or conduit that carries wastewater or drainage water.

(a) "Building Sewer" - The extension from the building drain to the public sewer or other place of disposal, also referred to as a service connection.

(b) "Sanitary Sewer" - A sewer designed to carry only liquid and water-carried wastes from residential, non-residential, and industrial sources together with minor quantities of I/I.
(c) "Storm Sewer" - A sewer intended to carry unpolluted surface and sub-surface water from any source.

Sec. 18. "Sewer Service Charge" - The total of the User Charge and the Debt Service Charge.

Sec. 19. "Slug" - A discharge of water or wastewater which in concentration or in quantity of flow exceeds for any period of duration longer than 15 minutes, more than 5 times the average 24-hour concentration of flows during normal operation.

Sec. 20. "State Disposal System (SDS) Permit" - A permit issued by the MPCA pursuant to Minn. Stat. § 115.07 for a disposal system as defined by Minn. Stat. § 115.01, subd. 8.

Sec. 21. "Total Suspended Solids"(TSS)- The total suspended matter that either floats on the surface of, or is in suspension in water, wastewater or other liquids, and is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" (latest edition).

Sec. 22. "Unpolluted Water" - Water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards. An example could be non-contact cooling water.

Sec. 23. "User Charge" - A charge to users of a treatment facility for the user's proportionate share of the cost of operation and maintenance, including replacement.

Sec. 24. "Wastewater" - Liquid and water-carried wastes from residential, non-residential, and industrial users, together with any ground water, surface water, and storm water that may be present.

Sec. 25. "Wastewater Treatment Facilities" or "Treatment Facilities" - The land, devices, facilities, structures, equipment, and processes owned or used by the City for the purpose of the transmission, storage, treatment, recycling, and reclamation of municipal wastewater, and the disposal of residues resulting from such treatment.

ARTICLE II. Control by the Authorized Representative

The community's governing council shall appoint an Authorized Representative who shall have control and general supervision of all public sewers and service connections in the community or sewer district, and shall be responsible for administering the provisions of this Ordinance to ensure that a proper and efficient public sewer is maintained. The authorized representative may delegate responsibilities to designated representatives.

ARTICLE III. Use of Public Sewers Required

Within 5 years of receiving official notification the owners of all properties within 100 feet of a sanitary sewer collection system shall install a suitable service connection, at their own expense in accordance with the provisions of this ordinance. *(Orderly Annexation Agreement Section 12, b, 6, Time-line for Connection: "Five years have passed since sewer or water service has been available to the property.")*

In the event an owner shall fail to connect to a public sewer in compliance with a notice given under this Ordinance, the community or sewer district will have said connection made and shall assess the cost against the benefited property.

Except as provided hereinafter, it shall be unlawful to construct or maintain any private facility intended or used for the disposal of wastewater.

ARTICLE IV. Private Wastewater Disposal

Sec. 1. Where a public sewer is not available under the provisions of Article II, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this Article.

Sec. 2. Before construction of a private wastewater disposal system, the owner(S.) shall obtain a septic system permit issued by the City Septic Inspector. Design, installation and maintenance of the private wastewater disposal system shall be in accordance with the City of Wyoming Private Wastewater Disposal Ordinance.

Sec. 3. The type, capacities, location and layout of a private wastewater disposal system shall comply with all requirements of Minnesota Rules Chapter 7080 or 7081, as adopted by the City of Wyoming Private Wastewater Disposal Ordinance

Sec. 4. The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times at no expense to the community or sewer district.

Sec. 5. When the public sewer becomes available to a property serviced by a private wastewater disposal system, a direct connection shall be made to the public sewer within 5 years in compliance with this Ordinance, and within 60 days private wastewater disposal systems shall be abandoned in accordance with Minnesota Rules Chapter 7080 or 7081 as adopted by the City of Wyoming Private Wastewater Disposal Ordinance.

Sec. 6. No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the MPCA, the State Department of Health, or other responsible federal, state, local agencies.

ARTICLE V. Building Sewers and Connections Design

Sec. 1. No person(s) shall make any alterations to the public sewer or any appurtenances thereof without first obtaining a written permit from the City. No private building drain shall extend beyond the limits of the building or property for which the permit has been given.

Any new connection to the sanitary sewer system shall be prohibited unless sufficient capacity is available in all downstream facilities including, but not limited to, capacity for flow, BOD5, and TSS as determined by the authorized representative..

Sec. 2. A separate and independent building sewer shall be provided for each building. Old building sewers may be used to service new buildings only when they are found to meet all requirements of this Ordinance.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, wastewater shall be lifted by an approved means and discharged to the building sewer.

Sec. 3. The construction and connection of the building sewer to the public sewer shall conform to the requirements of the State of Minnesota Building and Plumbing Code, applicable rules and regulations of the City and the materials and procedural specifications set forth in the American Society of Testing Materials (ASTM) and the Water Pollution Control Federation (WPFC) Manual of Practice No.9. All such connections shall be made gas and watertight, and verified by proper testing to prevent I/I.

Sec. 4. No unpolluted water sources shall be connected to the sanitary sewer.

Sec. 5. The applicant for the building sewer permit shall notify the community or sewer district when the building sewer is ready for connection to the public sewer. The connection shall be made under the supervision of a designated representative.

Sec. 6. An appropriate construction license is required to install a service connection. Any person desiring a license shall apply in writing to the community's or district's governing council, providing satisfactory evidence of the applicant's qualifications. If approved by the Council, the license shall be issued by a designated representative upon the filing of a bond as hereinafter provided.

Sec. 7. A license for sewer service connection installation shall not be issued until a $2,000 bond to the community is filed and approved by the Council. The licensee will indemnify the community or sewer district from all suits, accidents and damage that may arise by reason of any opening in any street, alley or public ground, made by the licensee or by those in the licensee's employment

Sec. 8. The cost of a license for making service connections is $50.00. All licenses shall expire on December 31 of the license year unless the license is suspended or revoked by the Council for any reasonable cause.

Sec. 9. The Council may suspend or revoke any license issued under this article for any of the following causes:

(a) Giving false information in connection with the application for a license.
(b) Incompetence of the licensee.
(c) Willful violation of any provisions of this Article or any rule or regulation pertaining to the making of service connections.
(d) Failure to adequately protect and indemnify the city and the user.

ARTICLE VI. Use of Public Wastewater Treatment Facilities

Sec. 1. No unpolluted water or stormwater shall be discharged to the sanitary sewer. Such water shall be discharged only to storm sewers or to natural outlets approved by the City and other regulatory agencies. Foundation drain tile sump pump connections shall only be made to the sanitary sewer upon approval by the (City/District). All wastewater treatment system users shall be assessed a surcharge of $100.00 per month until sump pump disconnection is proved. Inspection (and tagging) of sump pumps shall serve as proof that disconnection has occurred. Duly authorized employee(s) of the municipality shall be permitted to perform the original inspection and tagging, yearly reinspection, and other inspections as required. All new connections shall have sump pump inspections completed prior to connection. As an alternative to having the inspection performed by the City, a resident shall be permitted to have the inspection and certification provided by a licensed plumber. The certification shall be on a form provided by the City.

Sec. 2. No person(s) shall discharge any of the following substances to the public sewer.

(a) Liquids, solids, gases, or other substances which singly or by interaction with others may cause fire or explosion.
(b) Solid or viscous substances which may cause obstruction to the flow in a sewer.
(c) Wastewater having a pH of less than 5.0 or greater than 9.5 or having any other corrosive or caustic property capable of causing damage or hazard.
(d) Wastewater containing toxic pollutants, as defined in section 307(a) of the Water Pollution Control Act and Minn. Stat. § 115.01 subd. 14.

Sec. 3. Discharges of the following substances shall be limited to concentrations or quantities which will not harm the wastewater facility, streams, soils, vegetation, ground water, and will not otherwise create a hazard or nuisance. The authorized representative may set limitations lower than the prohibition limits outlined below. Consideration will be given to such factors as the quantity of waste in relation to flows and velocities, materials of construction, the community's NPDES and SDS permits, capacity of the treatment plant, degree of treatability of wastes and other pertinent factors.

(a) Wastewater having a temperature greater than 150° F (65.6° C), or causing, individually or in combination with other wastewater, the influent at the treatment facilities to have a temperature exceeding 104° F (40° C), or having heat in amounts which will be detrimental to biological activity in the treatment facilities.
(b) Wastewater containing fats, wax, grease or oils in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32° F and 150° F (0° C and 65.6° C).
(c) A discharge of water or wastewater which in concentration or in quantity of flow exceeds for any period of duration longer than 15 minutes, more than 5 times the average 24-hour concentration of flows during normal operation.
(d) Food wastes not properly shredded to such a degree that all particles will be carried freely under normal flow conditions with no particle greater than 1/2 inch in any dimension.
(e) Noxious or malodorous liquids, gases, or solids.

(f) Wastewater with objectionable color not removed in the treatment process.
(g) Wastewater containing inert suspended solids in such quantities that would cause disruption to the wastewater treatment facilities.
(h) Radioactive wastes or isotopes in concentrations that exceed limits established by applicable state and federal regulations.
(i) Wastewaters with BOD5 or suspended solids levels that require additional treatment, except as may be permitted by specific written agreement with the city subject to Article V, Sec. 11 of this ordinance.
(j) Wastewater containing substances which cannot be treated to produce effluent quality required by the permit or causes a violation of any applicable local, state, or federal regulation.

Sec. 4. In the event of discharges to the public sewers which contain substances or possess characteristics prohibited in Secs. 2 and 3 of this Article or which in the judgment of the Representative, may have a deleterious effects to the treatment facility, receiving waters, soils, vegetation, or which create a hazard or nuisance, the Representative may:

(a) Refuse to accept the wastes.
(b) Require pretreatment to an acceptable condition for discharge to the public sewers, pursuant to Section 307(b) of the Act and all addenda thereof.
(c) Require control over the quantities and rates of discharge.
(d) Require payment to cover all the added costs of handling, treating, and disposing of wastes not covered by existing taxes or sewer charges.

If the Representative permits the pretreatment or equalization of waste flows, the design, installation, maintenance and efficient operation of the facilities and equipment shall be at the owner's expense and shall be subject to review and approval by the City pursuant to the requirements of the MPCA.

Sec. 5. No user shall increase the use of process water or in any manner attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in this Article, the National Categorical Pretreatment Standards, and any state or local requirement.

Sec. 6. Grease, oil and sand interceptors shall be provided at the owners expense when, in the opinion of the Representative, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, any flammable wastes, sand or other harmful ingredients. All interceptors shall be readily and easily accessible for cleaning and inspection. The owner shall be responsible for the maintenance of interceptors, including proper removal and disposal of the captured materials by appropriate means, and shall maintain a record of dates and means of disposal which are subject to review by the Representative.

Any material removal and hauling must be performed by the owner's personnel or a currently licensed waste disposal firm and in compliance with all applicable laws and regulations.

Sec. 7. Where required by the Representative, industrial users shall install and maintain at their own expense a suitable structure or control manhole with such necessary meters and other testing equipment needed to facilitate observation, sampling, and measurement of wastewater. The manhole will be safe and accessible at all times. The Council may require submission of laboratory analyses to illustrate compliance with this Ordinance and any special conditions for discharge established by the Council or responsible regulatory agency. All measurements, tests and analyses to which reference is made in this ordinance shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association and kept for a period of 5 years.

Sec. 8. Where required by the Representative, users shall provide protection from an accidental discharge of substances regulated by this Ordinance. Where necessary, facilities to prevent accidental discharges of prohibited materials shall be provided and maintained at the owner's expense. Detailed plans and operating procedures of said facilities shall be submitted to the Representative for review and approval prior to construction of the facility. Approval of such plans and operating procedures shall not relieve user from the responsibility of modifying the facility as necessary to meet the requirements of this Ordinance.

Users shall notify the Representative immediately if a slug or accidental discharge of wastewater occurs in violation of this Ordinance. Notification will allow measures to be taken to minimize damage to the treatment facilities. Notification will not relieve users of liability for any expense, loss or damage to the treatment facilities, or for fines imposed on the community or sewer district by any state or federal agency as a result of their actions.

A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees of the emergency notification procedure in the event of a slug or accidental discharge.

Sec. 9. No person shall permit any substance or matter which may form a deposit or obstruction of flow to be discharged into the public sewer. Whenever any service connection becomes clogged, obstructed, detrimental to the use of the public sewer, or unfit for the purpose of drainage, the owner shall make repairs as directed by the Representative.

Each day after 15 days that the owner neglects to make said repairs, shall constitute a separate violation of this Section. The Representative may then cause the work to be done and recover related expenses from the owner or agent by an action in the name of the community or sewer district.

Sec. 10. In addition to penalties that may be imposed for violation of any provision of this Article, the City may assess against the user/owner the cost of repairing or restoring sewers and associated facilities damaged as a result of the discharge of prohibited wastes and may collect the assessment as an additional charge for the use of the public sewer system.

Sec. 11. No statement contained in this Article shall prevent any special agreement or arrangement between the community of Wyoming and any industrial user. Industrial waste of unusual strength or character may be accepted by the facility for treatment, subject to adequate

payment by the industrial user, providing that National Categorical Pretreatment Standards and the City's NPDES and SDS permit limitations are not violated.

ARTICLE VII Damage of Facilities

No person(s) shall willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is part of the wastewater treatment facilities. Any person violating this provision shall be subject to immediate arrest under the charge of a misdemeanor.

ARTICLE VIII. Powers and Authority of Inspectors

Duly authorized employee(s) of the community or sewer district, bearing proper credentials and identification, shall be permitted to enter all properties for inspection, observations, measurement, sampling, testing, repair and maintenance in accordance with the provisions of this Ordinance.

Industrial users shall be required to provide information concerning industrial processes which have a direct bearing on the type and source of discharge to the collection system. An industry may withhold information considered confidential. However, the industry must establish that the information in question might result in an advantage to competitors and that the industrial process does not have deleterious results on the treatment process.

ARTICLE IX. The Sewer Service Charge System

Sec. 1. The City of Wyoming hereby establishes a Sewer Service Charge System. All revenue collected from users of the wastewater treatment facilities will be used for annual operation, maintenance, replacement, and capital costs. Each user shall pay a proportionate share of operation, maintenance and replacement costs based on the users proportionate contribution to the total wastewater loading.

Charges to users of the wastewater treatment facility shall be determined and fixed in a Sewer Service Charge System (SSCS) developed according to the provisions of this Ordinance. The SSCS adopted by resolution upon enactment of this Ordinance shall be published in the local newspaper and shall be effective upon publication. Subsequent changes in the sewer service rates and charges shall be adopted by Council resolution and published in the local paper.

Revenues collected through the SSCS shall be deposited in a separate fund known as the Sewer Service Fund (SSF).

Sec. 2. The community of Wyoming hereby establishes a Sewer Service Fund as an income fund to receive all revenues generated by the SSCS and all other income dedicated to the wastewater treatment facility.

The SSF administered by a designated representative shall be separate and apart from all other accounts. Revenue received by the SSF shall be transferred to the following accounts established as income and expenditure accounts.

1) Operation and Maintenance
2) Equipment Replacement
3) Debt Retirement for the treatment facility (if any)

Sec. 3. Administration of the Sewer Service Fund

A designated representative shall maintain a proper system of accounts and records suitable for determining the operation, maintenance, replacement (OM&R) and debt retirement costs of the treatment facilities, and shall furnish the Council with a report of such costs annually.

At that time the Council shall determine whether sufficient revenue is being generated for the effective management of the facilities and debt retirement. The Council will also determine whether the user charges are distributed proportionately. If necessary, the SSCS shall be revised to insure proportionality of user charges and sufficient funds. In accordance with State requirements, each user will be notified annually in conjunction with a regular billing of that portion of the Sewer Service Charge attributable to OM&R.

Sewer Service Charges shall be billed on a quarterly basis. Any bill not paid in full will be subject to conditions set forth in Chapter 36 – *Utilities*, section 36-102 - *Action to collect Charges.*

ARTICLE X. Penalties

Sec. 1. Upon determination that a user has violated or is violating applicable provisions of this ordinance or related permits, the authorized representative may issue a Notice of Violation. Within 15 days of such notification, the violator shall submit to the authorized representative an adequate explanation for the violation and a plan for the correction and prevention of such occurrences, including specific actions required. Submission of such a plan in no way relieves the violator of liability for any violations occurring before or after the issuance of the Notice of Violation.

Sec. 2. Any violation is subject to a fine not exceeding $1,000.00. Each day in which any such violation occurs shall be deemed as a separate offense. Such fines may be added to the user's next sewer service charge, and will hence be subject to the same collection regulations as specified in Article IX, Sec. 3. of this Ordinance. Users desiring to dispute a fine must file a request for the authorized representative to reconsider within 30 days of the issuance of the fine. If the authorized representative believes that the request has merit, a hearing on the matter shall be convened within 30 days of the receipt of the request.

Sec. 3. Any bill not paid in full will be subject to conditions set forth in Chapter 36 – *Utilities*, section 36-102 - *Action to collect Charges.*

Sec. 4. Any person violating any of the provisions of this Ordinance shall become liable to the City for any expense, loss or damage occasioned by the community or sewer district by reason of such violation.

ARTICLE XI. Validity

Sec. 1. This Ordinance shall be in full force and take effect from and after its passage and approval and publication as provided by law.

Sec. 2. All other ordinances and parts of other ordinances inconsistent or in conflict with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

Sec. 3. Passed by the City Council of the City of Wyoming, Minnesota on the third day of June, 2008.

(ORDINANCE NO. 08-06-02)

APPENDIX H. AN ORDINANCE REGULATING ALL TAXING DISTRICTS WITHIN THE CORPORATE LIMITS OF THE CITY OF WYOMING, MINNESOTA

1. Rural Service Taxing Districts.

2. Ratio of Benefits.

3. Effective Date.

4. Severability

The City Council of the City of Wyoming, Chisago County, Minnesota, does ordain as follows:

WHEREAS, the Orderly Annexation Agreement between the City of Wyoming and the Town of Wyoming, dated December 7, 2005, provides, in part, that "in accordance with Minn. Stat. § 272.67, the new city shall be divided into an urban service district and a rural service district for taxation purposes."; and

WHEREAS, because the City Council determines that property within the former territory of the Town will not be benefited to the same degree as other property in the new city by municipal services financed by general taxation and in the judgment of the governing body, the ratio of benefits resulting from tax supported municipal services to parcels of land of like, full and true value is not equal for all property within the corporate limits of the City of Wyoming.

NOW THEREFORE, it is hereby ordained by the City Council of the City of Wyoming, Chisago County, Minnesota as follows:

1. Rural Service Taxing Districts.

There is hereby established a rural service taxation district which shall include all of the former territory of the Township existing on and before December 7, 2005, except those parcels classified for tax purposes as commercial or industrial. All parcels not included in the rural service district shall be included in the urban service district and the respective districts are created hereby.

2. Ratio of Benefits.

The City and the Town have determined that the approximate ratio that will exist between the benefits resulting from general tax supported municipal services to parcels of land of like market value situated in the urban service district and the rural service district will initially be fifty percent (50%). It is anticipated that the tax supported services to the former Town properties will increase as police and fire services are increased and as additional administrative services are added. Therefore, in the fourth year following the annexation, the tax ratio for the rural service district shall be increased to sixty percent (60%) of the urban service district and in the fifth year the ratio shall be increased to seventy percent (70%) of the urban service district. Thereafter, the ratio may be adjusted by the City to reflect the ratio of benefits from municipal services.

3. Effective Date.

This ordinance shall be effective upon hearing, adoption and publication pursuant to law and upon filing of a certified copy hereof with the County Auditor.

4. Severability

Every section, provision, or part of this Ordinance is declared separate from every other section, provision, or part; and if any section, provision, or part shall be held invalid, it shall not affect any other section, provision, or part. Where a provision of any other City ordinance conflicts with the provisions of this Ordinance, the provisions of this Ordinance shall prevail.

(ORDINANCE NO. 2008-03)