

**CITY OF RICE
BENTON COUNTY, MINNESOTA**

**THE RICE CITY CODE
OF ORDINANCES**

**Adopted by Ordinance No. 2018-1
On January 22nd, 2018**

TOC-0

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CHAPTER 1: GENERAL PROVISIONS

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ORDINANCE 10 ADOPTING CODE AND REPEALING PRIOR ORDINANCES

Section 10.01. CODE ADOPTED. The City Council of the City of Rice (“City”) adopts this printed compilation of the City’s revised and codified ordinances entitled “The Rice City Code of Ordinances”. The City Council shall mark a copy of this City Code as the “Official Copy” and file it as part of the City’s official records in the City Clerk’s office.

Section 10.02. REPEAL OF EXISTING ORDINANCES. This City Code repeals all prior codifications and ordinances adopted prior to the effective date of the ordinance adopting this City Code, except those Ordinances in Appendix B and any similar ordinances, which are special or limited in application, and shall continue in full force and effect.

Section 10.03. APPLICATION. This City Code shall apply to all persons and property within the City and any adjacent area the Code may specifically state.

Section 10.04. COPIES. The City Clerk shall provide a sufficient quantity of copies of the City Code for general distribution to the public and shall give notice in the official newspaper for at least one (1) week that copies are available in the Clerk’s office for examination or purchase.

Section 10.05. EVIDENCE OF LAW. This City Code shall be prima facie evidence of the City’s law.

Section 10.06. EFFECTIVE DATE. This City Code shall become effective following its passage and publication.

CHAPTER 1: GENERAL PROVISIONS

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ORDINANCE 11 GENERAL PROVISIONS

Section 11.01. CITATION. This codification of the City’s ordinances shall be known as the “Rice City Code of Ordinances” and may be so cited. It may also be cited as the Rice City Code, the Rice Code of Ordinances, the Rice Code, City Code, the Code, Code of Ordinances, or Ordinances of Rice.

Section 11.02. INTEGRATION OF ORDINANCES INTO CODE. The City Clerk or City Attorney shall assign appropriate code numbers and incorporate into the City Code as of their effective date all new ordinances proposing amendments or additions to the City Code. Reference or citation to the City Code shall include all amendments and additions. When the City Clerk cooperating with the City Attorney integrates an ordinance into the City Code, the City Clerk or City Attorney may omit from the ordinance the title, enacting clause, specific numbers, definitions of terms identical to those obtained in this ordinance, the clause indicating the date of adoption, validating signatures and dates. In integrating ordinances into the City Code, the City Clerk or City Attorney may correct grammatical, punctuation and spelling errors; change reference numbers to conform with sections, articles, and chapters of the City Code; substitute figures for written words and vice versa; substitute dates for the words “effective date of this ordinance”; and perform any other actions to insure a uniform ordinance code without, however, altering the material meaning of the enacted ordinances.

Section 11.03. NUMBERING. Each section number of the City Code consists of two component parts separated by a decimal. The first digit of the number refers to the ordinance number. The digits following the decimal refer to the ordinance section.

Section 11.04. CITATION. Ordinance provisions shall be cited by ordinance number, section, subdivision and then paragraph number or letter. As an alternative method of citation, the terms “section”, “subdivision” and “paragraph” may be omitted from the citation with a decimal point substituted in place of the phrase with the section, subdivision and paragraph numbers set out in descending order. By way of example, the following hypothetical ordinance may be cited in either of the following ways:

Section 20.02, Subd. 3, para. B; or 20.02.3.D.

Unless expressly provided otherwise, all citations to the City Code shall be the most current version of the Code.

Section 11.05. CAPTIONS AND TITLES. Chapters, parts, sections, subdivisions, and other titles are not part of this Code’s subject matter, but are intended for convenience only and shall not limit, expand or otherwise alter or control the content, wording or interpretation of this City Code or its provisions.

Section 11.06. OTHERWISE UNLAWFUL. This City Code shall not authorize any act or omission the law prohibits.

CHAPTER 1: GENERAL PROVISIONS

ORDINANCE 12 GENERAL DEFINITIONS..... 12-1
Section 12.01: GENERAL DEFINITIONS..... 12-1

ORDINANCE 12 GENERAL DEFINITIONS

Section 12.01. GENERAL DEFINITIONS. Unless the express language or context clearly indicates otherwise, the following words or phrases shall have the following meanings throughout the City Code:

Subd. 1. City. Means the City of Rice, Minnesota.

Subd. 2. Council or City Council. Means the City Council for the City of Rice.

Subd. 3. State. Means the State of Minnesota.

Subd. 4. City Clerk. Means the City Clerk for the City of Rice.

Subd. 5. Treasurer. Means the Treasurer for the City of Rice.

Subd. 6. Person. Means any natural individual, firm, partnership, association, corporation, or other entity. The term includes the entity's partners, members, directors, officers, agents, or employees.

Subd. 7. Code or City Code. Means the most current version of The Rice City Code of Ordinances.

CHAPTER 1: GENERAL PROVISIONS

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 Section 14.02: MISDEMEANORS..... 14-1

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 Section 14.06: PAYMENT OF FINES AND PENALTIES..... 14-1

 Section 14.07: ADMINISTRATIVE PENALTIES..... 14-1

Section 14.01. PETTY MISDEMEANORS. All violations this City Code designated as a petty offense or petty misdemeanor shall be punishable by a fine up to Three Hundred (\$300) Dollars. The City Council may from time to time establish fines for particular offenses to be included in Appendix A.

Section 14.02. MISDEMEANORS. All violations this City Code designates as a misdemeanor shall be punishable by a fine up to One Thousand (\$1,000) Dollars and up to ninety (90) days in jail. The City Council may from time to time establish fines for particular offenses to be included in Appendix A.

Section 14.03. NO STATED PENALTY. If this City Code does not expressly provide a penalty for a Code violation, a violation of any rule or regulation adopted pursuant to this Code shall be a misdemeanor subject to the penalties in Section 14.02.

Section 14.04. PERMIT AND APPLICATION FEES. Appendix A of this City Code lists permit, application, connection, inspection and other types of fees or charges the City may assess regarding licensing or services. The City Council may change and amend these fees and charges by resolution as the Ordinance establishing the fee or charge provides. The City Clerk shall amend Appendix A to reflect any changes in the charges or fees the City Council approves.

Section 14.05. PENALTIES FOR EACH OFFENSE. When this City Code provides a penalty or forfeiture for a violation, the penalty or forfeiture shall be for each violation.

Section 14.06. PAYMENT OF FINES AND PENALTIES. The Court or office receiving payment of all fines, forfeitures and penalties recovered for any violation of this City Code shall pay the amount into the City Treasury in the manner, time and proportion the law provides.

Section 14.07. ADMINISTRATIVE PENALTIES.

Subd. 1. Purpose. The City Council determines that there is a need for alternative methods of enforcing certain violations of the City Code. While criminal fines and penalties have been the most frequent mechanism, there are certain negative consequences for the City and the accused. The delay in the criminal justice system does not ensure prompt resolution, citizens resent being labeled criminals for violating administrative regulations, the high burden of proof and potential incarceration are not appropriate for many Code violations, and the criminal process does not always regard the City Code violations as important. As a result, the City Council finds the use of administrative citations and imposition of civil penalties is a legitimate and necessary alternative enforcement method, which will be in addition to any other legal remedy that may be pursued for Code violations.

Subd. 2. Certain Violations Only. Administrative penalties may only be imposed for violations of the following provisions of this Code:

- a) parking violations contained in Ordinance 51;
- b) curfew violations contained in Ordinance 63;
- c) public nuisance violations contained in Ordinance 70;
- d) animal violations contained in Ordinance 71;
- e) noise violations contained in Ordinance 72; and
- f) abandoned property violations contained in Ordinance 75.

Subd. 3. Notice. Any Police Officer, the Building Inspector or any designee by the City with authority to enforce this Code shall, upon determining that there has been a violation, notify the violator, person responsible for the violation, or in the case of a vehicular violations, attach notice of the violation to the vehicle. The notice shall state the nature, date, and time of the violation, the name of the official issuing the notice, the amount of the scheduled initial penalty and any applicable charges.

Subd. 4. Payment. Once a notice is given, the person responsible for the violation shall, within seven (7) days after the notice is issued, pay the penalty amount to the City Clerk in person or by mail, and payment shall be an admission of the violation. A late charge established in Appendix A shall be imposed for each seven (7) days the penalty remains unpaid after the first seven (7) day period.

Subd. 5. Hearing Officer. The City Council shall be the Hearing Officer authorized to hear or determine a cause of controversy under this Section. The Hearing Officer is not a judicial officer but is a public officer as defined by Minnesota Statute 609.415, as amended, and is subject to Minnesota Statutes relating to public officers.

Subd. 6. Hearing. Any person contesting an administrative offense under this Section may request, within seven (7) days after the notice is issued, to be heard by the Hearing Officer who shall hear and determine the grievance. Upon receiving a request for a hearing, the Hearing Officer shall set a hearing date and provide a written notice of the hearing at least five (5) days in advance, unless the parties accept a shorter time period. The Hearing Officer shall have authority to impose a penalty, dismiss the violation for cause, and reduce or waive the penalty upon the terms and conditions the Hearing Officer determines. The Hearing Officer must state the disposition reasons in writing. If the Hearing Officer sustains the violation, the violator shall

pay the penalty imposed or sign an agreement to pay upon the terms and conditions set forth by the Hearing Officer.

Subd. 7. Failure to Pay. If a violator fails to pay a penalty imposed by this Section, or as agreed upon following hearing before the Hearing Officer, the City may bring a misdemeanor or petty misdemeanor charge against the alleged violator according to this Code and applicable law. If the violator pays the penalty or if the Hearing Officer finds the individual not to have committed the administrative offense, the City shall not bring criminal charges for the same violation.

Subd. 8. Disposition of Penalties. All penalties collected under this Section shall be paid over to the City Clerk, who shall deposit the penalty in the City's general fund and issue a receipt.

Subd. 9. Scheduled Penalties. Penalties shall be imposed for violating administrative offenses according to a penalty schedule the City Council establishes periodically by resolution.

Subd. 10. Appeal. An aggrieved party may obtain judicial review of the Hearing Officer's decision according to State law.

Subd. 11. Option to Withdraw. The procedures are intended to be voluntary on the part of those who have been charged with administrative offenses. At any time before paying the administrative penalty as is provided in this Ordinance, the individual may withdraw from participation in the procedures whereupon the City may bring criminal charges according to this Code and State law. Likewise, the City in its discretion, may choose not to pursue an administrative offense and may bring criminal charges instead.

CHAPTER 1: GENERAL PROVISIONS

ORDINANCE 15 SEVERABILITY..... 15-1
Section 15.01: SEVERABILITY..... 15-1

ORDINANCE 15 SEVERABILITY

Section 15.01. SEVERABILITY. If a court, legislature or other person invalidates or suspends any provision of this City Code or its Ordinances, the invalidity or suspension will not apply to the other provisions of this Code or its Ordinances unless the court, legislature or other person specifically provides otherwise.

CHAPTER 2: ADMINISTRATION, OPERATIONS AND ORGANIZATIONS

ORDINANCE 20 ELECTIONS..... 20-1
Section 20.01: ELECTION DATE..... 20-1
Section 20.02: TERM OF OFFICE..... 20-1

ORDINANCE 20 ELECTIONS

Section 20.01. ELECTION DATE. As provided in Minnesota Statutes, Section 205.07, the regular City election shall be held on the first Tuesday after the first Monday in November in every even-numbered year.

Section 20.02. TERM OF OFFICE. The terms of elective officers shall commence on the first business day of January following the election at which the officer is chosen. The Mayor's term will be a two (2) year term and the Councilmember term will be a four (4) year term. All officers chosen and qualified as such shall hold office until their successors qualify.

CHAPTER 2: ADMINISTRATION, OPERATIONS AND ORGANIZATIONS

ORDINANCE 21 CITY ADMINISTRATION 21-1
Section 21.01: CITY COUNCIL MEETINGS..... 21-1
Section 21.02: CITY CLERK AND TREASURER..... 21-4
Section 21.03: MAYOR AND CITY COUNCIL COMPENSATION..... 21-5
Section 21.04: WORKER’S COMPENSATION COVERAGE..... 21-6
Section 21.05: EMERGENCY OPERATIONS..... 21-6

Section 21.01. CITY COUNCIL MEETINGS.

Subd. 1. Regular Meetings. Regular meetings of the City Council shall be held on the first and third Monday of each calendar month at 7:00 p.m. If the regular meeting on the third Monday of each calendar month is not needed, this meeting may be canceled at the Mayor and City Council discretion. Any regular meeting that falls on a Holiday shall be held on the immediately following Tuesday, unless changed by a majority vote of the Council at the regular meeting the preceding month. All meetings, including special and adjourned meetings, shall be held at the Rice City Hall.

Subd. 2. Special Meetings. The Mayor or any two members of the City Council may call a Special Meeting of the City Council upon at least 24 hours' written notice to each member or shall be left at the member's usual place of residence with some responsible person. Similar notice shall be posted at the City Hall and two other posting places in the City.

Subd. 3. Initial Meeting. At the first regular City Council meeting in January of each year the Council shall:

- (a) Designate the depositories of city funds;
- (b) Designate the official newspaper;
- (c) Choose one of the Council members as acting Mayor, who shall perform the duties of the Mayor during the disability or absence of the Mayor from the City or, in ease of vacancy in the office of Mayor, until a successor has been appointed and qualifies;
- (d) Appoint such officers and employees and such members of boards, commissions, and committees as may be necessary.

Subd. 4. Public Meetings. All Council meetings, including special and adjourned meetings and meetings of Council committees, shall be open to the Public.

Subd. 5. Presiding Officer.

- (a) Who Presides. The Mayor shall preside at all meetings of the City Council. In the absence of the Mayor, the acting Mayor shall preside. In the absence of both, the City Clerk shall call the meeting to order and shall preside until the Council members present at the meeting choose another one of their number to act temporarily as presiding officer.

- (b) Procedure. The presiding officer shall preserve order, enforce the rules of procedure herein prescribed, and determine without debate, subject to the final decision of the Council on appeal, all questions of procedure and order. Except as otherwise provided by statute or by these rules, the proceedings of the Council shall be conducted in accordance with Robert's Rules of Order, Revised.
- (c) Appeal Procedure. Any member may appeal to the Council from a ruling of the presiding officer. If the appeal is seconded, the member may speak once solely on the question involved and the presiding officer may explain his or her ruling, but no other Council member shall participate in the discussion. The appeal shall be sustained if it is approved by a majority of the members present exclusive of the presiding officer.
- (d) Rights of Presiding Officer. The presiding officer may make motions, second motions, or speak on any question except that on demand of any Council member, he shall vacate the chair and designate a Council member to preside temporarily.

Subd. 6. Minutes.

- (a) Who Keeps. Minutes of each Council meeting shall be kept by the City Clerk or, in the City Clerk's absence, by the deputy clerk. In the absence of both, the presiding officer shall appoint a secretary pro tem. Ordinances, resolutions, and claims need not be recorded in full in the minutes if they appear in other permanent records of the Clerk and can be accurately identified from the description given in the minutes.
- (b) Approval. The minutes of each meeting shall be signed by the Clerk. At the next regular Council meeting, the Clerk shall supply the Council with a copy of said minutes. The presiding officer shall call for any additions or corrections. If there is no objection to a proposed addition or correction, it may be made without a vote of the Council. If there is an objection, the Council shall vote upon the addition or correction. If there are no additions or corrections, the minutes shall stand approved.

Subd. 7. Order of Business.

- (a) Order Established. Each meeting of the Council shall convene at the time and place appointed therefore. Council business shall be conducted in the following order:
 - (1) Call to order.
 - (2) Roll call.
 - (3) Consent agenda.
 - (4) Approval of minutes.

- (5) Public hearings.
- (6) Petitions, requests, and communications.
- (7) Ordinances and resolutions.
- (8) Report of officers, boards, and committees.
- (9) Unfinished business.
- (10) New business.
- (11) Miscellaneous.
- (12) Adjournment.

(b) Varying Order. The order may be varied by the presiding officer; but all public hearings shall be held at the time specified in the notice of the hearing.

(c) Agenda. An agenda of business for each regular Council meeting shall be prepared and filed in the office of the City Clerk not later than two days before the meeting. The agenda shall be prepared in accordance with the order of business and copies thereof shall be delivered to each Council member and to the newspaper, if need be, with copies available to the public at the Clerk's office as far in advance of the meeting as time for preparation will permit. No item of business shall be considered unless it appears on the agenda for the meeting or is approved in addition to the agenda by a unanimous vote of the Council members present.

Subd. 8. Quorum and Voting.

(a) Quorum. At all Council meetings a majority of all the Council members elected shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time.

(b) Voting. The votes of the members on any questions may be taken in any manner which signifies the intention of the individual members, and the votes of the members on any action taken shall be recorded in the minutes. The vote of each member shall be recorded on each appropriation of money, except for payments of judgments, claims, and amounts fixed by statute. If any member is present but does not vote, the minutes, as to the member, shall be marked "Present - Not Voting."

(c) Votes Required. A majority vote of all members of the Council shall be necessary for approval of any ordinance unless a larger number is required by statute. Except as otherwise provided by statute, a majority vote of a quorum shall prevail in all other cases.

Subd. 9. Ordinances, Resolutions, Motions, Petitions, and Communications.

- (a) Readings. Every ordinance and resolution shall be presented in writing. An ordinance or resolution need not be read in full unless a member of the Council requests such a reading.
- (b) Signing and Publication Proof. Every ordinance and resolution, passed by the Council shall be signed by the Mayor, attested by the Clerk, and filed by the Clerk in the ordinance or resolution book. Proof of publication of every ordinance or summary thereof shall be attached and filed with the ordinance.
- (c) Motions, Petition, Communications. Every motion shall be stated in full before it is submitted to a vote by the presiding officer and shall be recorded in the minutes. Every petition or other communication addressed to the Council shall be in writing and shall be read in full upon presentation to the Council unless the Council dispenses with the reading. Each petition or other communication shall be recorded in the minutes by title and filed with the minutes in the office of the Clerk.

Subd. 10. Committees. The Council may create such committees, standing or special, as it deems necessary. Committees shall consist of as many members, and perform such duties, as the Council may require.

- (a) Membership. The Chairperson of each committee shall be chosen by the committee members. Each committee member shall serve as appointed unless excused by a majority of the members of the Council. If the committee does not provide otherwise, committee meetings shall be at the call of the chairperson. The same notice shall be given of committee meetings as for special meetings of the Council except that personal notice need not be given each member if the committee so decides.
- (b) Referral and Reports. Any matter before the Council for consideration may be referred by the Mayor to the appropriate committee or to a special committee appointed by the Mayor for a written report and recommendation before it is considered by the Council as a whole. Each committee report shall be signed by a majority of the members and shall be filed with the Clerk prior to the Council meeting at which it is to be submitted. Minority reports may be submitted. Each committee shall act promptly and faithfully on any matter referred to it.

Section 21.02. CITY CLERK AND TREASURER.

Subd. 1. Office of City Clerk.

(a) General. The City Clerk shall be appointed by the Council for an indefinite term. The City Clerk shall serve as Clerk of the City Council, and shall perform such other duties of a like nature as may be required by the City Council.

(b) Duties. The City Clerk shall:

- (1) Be responsible for the recording, filing, indexing and safekeeping of all proceedings of the Council.
- (2) Record in full, uniformly and permanently, all ordinances; authenticate the same; and shall cause all ordinances to be published pursuant to law.
- (3) Keep and maintain all election records and have custody of all property used in connection with elections.
- (4) Publish all legal notices required by law or ordinance.
- (5) Keep the official seal of the City of Rice.
- (6) Maintain all City license records, seeing to it that all bonds and insurance and other requirements of the City licenses are complied with.
- (7) Perform such other related duties as may be required by law, this code, or the City Council.
- (8) Collect all bills owing to, or for services rendered by, the City.
- (9) Be charged with the collection of all license fees.
- (10) Deposit weekly all monies received to the credit of the City in the official depositories designated by the Council.
- (11) Maintain proper records of receipts and disbursements.
- (12) Provide monthly reports of cash balances and other reports as may be required.
- (13) Receive for collection all special assessment rolls confirmed by the Council.
- (14) Certify to County Auditor records of unpaid assessments.

Subd. 2. Office of City Treasurer.

(a) General. The City Treasurer shall be appointed by the Council for an indefinite term. The City Treasurer shall receive and have custody of all monies paid to the City and shall disburse City monies upon authorization of the City Council.

(b) Duties. The City Treasurer shall:

- (1) Maintain proper records of receipts and disbursements.
- (2) Provide reports of cash balances and other reports as may be required.
- (3) Be responsible for the City payroll, including verifying time cards and records; computing amounts earned; accounting for authorized leave time, compensation

time, sick leave and tardiness; and other matters relating to payroll administration.

- (4) Be responsible for the performance of all duties required of the Treasurer by the City Council or by law, ordinance, or this code.

Section 21.03. MAYOR AND CITY COUNCIL COMPENSATION. The meeting allowance for both the Mayor and City Council will be set at the first meeting in January of each year in the fee schedule.

Section 21.04. WORKER'S COMPENSATION COVERAGE. The City shall insure all members of the City Council and the Mayor under its Worker's Compensation Insurance Policy.

Section 21.05. EMERGENCY OPERATIONS.

Subd. 1. Emergency Operations Plan. The City Council for the City of Rice shall, from time to time, establish an emergency operations plan to be implemented in the event of a major disaster, which plan shall incorporate, among other requirements, the Minnesota State Fire Code and regulations issued pursuant to said Code.

Subd. 2. Responsibility. The Mayor of the City shall be responsible for providing overall direction and control of the City Government resources involved in response to a disaster. There is hereby created the office of City Emergency Management Director who will serve in a staff capacity to the Mayor and will coordinate emergency operations under an emergency operations plan to be implemented following the adoption of a resolution approving said plan by the City Council for the City of Rice. Said emergency plan shall outline the duties of the City Emergency Management Director plus the heads of the various City Government Departments to be involved in said emergency management plans. With the consent of the Mayor, the Emergency Management Director shall represent the City on any regional or state organization involving emergency operations and shall advise the City Council regarding the implementation of an emergency operations plan for the City of Rice.

CHAPTER 2: ADMINISTRATION, OPERATIONS AND ORGANIZATIONS

ORDINANCE 22	LEGISLATIVE PROCEDURE.....	22-1
	Section 22.01: ORDINANCE ENACTMENT.....	22-1
	Section 22.02: FORM OF AMENDMENTS AND NEW ORDINANCES.....	22-1
	Section 22.03: INTEGRATION OF NEW ORDINANCE INTO CODE.....	22-1
	Section 22.04: ORDINANCE RECORDS; SPECIAL ORDINANCES.....	22-2
	Section 22.05: EFFECTIVE DATE OF ORDINANCES.....	22-2
	Section 22.06: HEARINGS.....	22-2

Section 22.01. ORDINANCE ENACTMENT. Ordinances shall be enacted in accordance with the procedure set forth in Section 21.01, subd. 9 of this code. Ordinances shall be integrated into this code in accordance with this section.

Section 22.02. FORM OF AMENDMENTS AND NEW ORDINANCES. An ordinance amending this code shall specify the subsection and subdivision to be amended. Language to be added shall be underlined; language to be repealed shall be stricken. An ordinance repealing an entire chapter, section, subsection, or subdivision need refer only to that chapter, section, subsection, or subdivision, and the text need not be reproduced. An ordinance adding only new provisions to this code need not be underlined.

Section 22.03. INTEGRATION OF ORDINANCE INTO CODE.

Subd. 1. Duty of Clerk and Attorney. The Clerk and City Attorney shall recommend to the Council a system for integrating ordinances into the code in the most expeditious manner possible. They shall recommend to the Council rules consistent with this section for the preparation, editing, and format of ordinances to be presented to the Council.

Subd. 2. Matters Omitted. When an ordinance is integrated into this code, the following matters may be omitted:

- (a) Title.
- (b) Enacting Clause.
- (c) Section Numbers.
- (d) Definition of terms identical to those contained in this code.
- (e) Validation and repealing clauses.
- (f) Validating signatures and dates.
- (g) Punctuation and other matters not an integral part of the text of the ordinance.

Subd. 3. Errors. When integrating ordinances into the code, the Clerk and Attorney may correct manifest grammatical, punctuation, and spelling errors; change reference numbers to conform with sections, subsections, chapters and ordinances; substitute figures for written words and vice versa; substitute dates for the words "the effective date of this Ordinance"; and perform like actions to insure a uniform code of ordinances without, however, alternating the meaning of the ordinances enacted.

Subd. 4. Source Notes. When an ordinance is integrated into this code, a source note shall be added at the end of each new chapter, section, subsection, or subdivision indicating the ordinance number and section from which the same was delivered.

Section 22.04. ORDINANCE RECORDS; SPECIAL ORDINANCES. The Clerk is responsible for the safe and orderly keeping of all ordinances in a manner directed by the Council. Any ordinance not included in this code by Council direction is a special ordinance. The Clerk shall maintain an up-to-date, indexed record of all special ordinances. The Council may direct that special ordinances and others be included in appendices to this code.

Section 22.05. EFFECTIVE DATE OF ORDINANCES. Ordinances are effective on the dates specified in the enacting document.

Section 22.06. HEARINGS.

Subd. 1. General. Unless otherwise provided in this code, or by law, every public hearing required by law, ordinance, or resolution to be held on any legislative or administrative matter shall be conducted in accordance with this section.

Subd. 2. Notice. Every hearing shall be preceded by 10 days' mailed notice to all persons entitled thereto by law, ordinance, or regulation unless only published notice is required. The notice shall state the time, place, and purpose of the hearing. Failure to give the notice or defects in it shall not invalidate the proceedings if a good faith effort has been made to comply with this subdivision.

Subd. 3. Conduct of Hearing. At the hearing, each part in interest shall have an opportunity to be heard and to present such evidence as is relevant to the proceedings. The Council may adopt rules governing the conduct of hearings, records to be made, such other matters as it deems necessary.

Subd. 4 Record. Upon the disposition of any matter after hearing, the Council shall have prepared a written summary of its findings and decisions and enter the summary in the official Council minutes.

CHAPTER 2: ADMINISTRATION, OPERATIONS AND ORGANIZATIONS

ORDINANCE 23	PLANNING COMMISSION.....	23-1
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	Section 23.02: POWERS AND DUTIES.....	23-1

Section 23.01. ESTABLISHMENT AND COMPOSITION.

Subd. 1. Establishment. The City Planning Commission for the City is hereby established and continued. The Commission shall be the City planning agency authorized by Minnesota Statutes, Section 462.354.

Subd. 2. Membership. A quorum must be present to transact business. All members shall be appointed by the City Council and may be removed by a majority vote of the Council.

Subd. 3. Terms, Vacancies, and Oath. Each member of the Commission shall be appointed for a three year term. All appointees shall hold their offices until their successors are appointed and qualified. Their successors shall be appointed for terms of three years. The terms of members who are also Council Members shall correspond to their respective official tenures. Vacancies during the term shall be filled by the Council for the unexpired portion of the term. Every member shall, before entering upon the discharge of duties, take an oath that he or she will faithfully discharge the duties of the office. All members shall serve with compensation.

Subd. 4. Organizations, Meeting, etc. The Commission shall elect a chairperson from among its appointed members for a term of one year; and the Commission may create and fill such other offices as it may determine. The Commission shall appoint a person to act as the Secretary of the Commission. The Commission shall hold a regular meeting the last Monday of each month. It shall adopt rules for the transactions, and findings, which record shall be a public record. On or before January first of each year the Commission shall submit to the City Council a report of its work during the preceding calendar year. Expenditures of the Commission shall be within amounts appropriated for that purpose by the City Council.

Section 23.02. POWERS AND DUTIES. The Planning Commission shall have the powers and duties given municipal planning agencies generally by law. The Commission shall also exercise the duties conferred upon it by this ordinance and by the Council. After the Commission has prepared and adopted a comprehensive plan, the Commission shall periodically but at least once every five years, review the comprehensive plan, any ordinances and any capital improvement program the Council has adopted to implement the plan. After such review it shall, to the extent it deems necessary, revise the comprehensive plan, adopt the amendments or the new comprehensive plan, and recommend it to the Council in accordance with law. After such review, the Commission shall also recommend to the Council any amendments it deems desirable to the capital improvement program and any ordinance implementing the plan.

Subd. 1. Zoning Ordinances; Public Hearings. No zoning ordinance or amendment shall be adopted by the Council until a public hearing has been held thereon by the Planning Commission upon notice as provided by Minnesota Statutes, Section 462.357.

Subd. 2. Plats. Any subdivision plat submitted to the Council for approval shall be referred to the Planning Commission for review and recommendation in the manner set forth in this Code. Any plat so referred shall be returned to the Council by the Commission with its recommendations within 35 days, if no public hearing is required and 5 to 10 days after the public hearing, where a public hearing is required. Failure of the Commission to report within that period is deemed to be a referral to the Council without recommendation.

Subd. 3. Procedure for Changes. No change shall be made in the zoning plan, future street and public lands plan, or regulations governing the platting of land after such plans or regulations have been adopted by the City Council, until the proposed change has been referred to the Planning Commission for report thereon and an attested copy of such report has been filed with the Council; and no ordinance or resolution establishing any of such plans or specifications shall be adopted by the City Council until such ordinance or resolution has been referred to the Planning Commission for a report thereon and an attested copy of such report has been filed with the Council. Failure of the Planning Commission so to report within thirty-five days or such longer period as may be designated by the Council after such reference shall be deemed to be a referral to the Council without recommendation.

CHAPTER 2: ADMINISTRATION, OPERATIONS AND ORGANIZATIONS

ORDINANCES 24 PARK AND RECREATION ADVISORY BOARD..... 24-1
Section 24.01: ESTABLISHMENT AND COMPOSITION..... 24-1
Section 24.02: POWERS AND DUTIES..... 24-1

Section 24.01. ESTABLISHMENT AND COMPOSITION.

Subd. 1. Purpose Created. It is the purpose of the Council of the City of Rice to provide a high quality of life for the residents of Rice by protecting the natural resources, safe-guarding historic sites and developing and maintaining park and recreational facilities for public enjoyment.

Subd. 2. Establishment. For said purpose, there is hereby created and established in and for the city a board to be known and designated as the Park and Recreation Advisory Board. Such board shall consist of a minimum of five members appointed by the City Council. Terms of office shall be three years staggered to provide selection of one member in one year and two members in each of the next two years. The terms of members who are also Council Members shall correspond to their tenures as Council Members. Board members may be removed by a majority vote of the Council.

Subd. 3. Filling of Vacancies; Compensation. Vacancies on the Board shall be reported to the City Council and filled by like appointment for the unexpired term. Board members shall receive compensation for their services as stated in the annual fee schedule.

Subd. 4. Officers; By-Laws. The Board shall organize itself and elect one of its members as Chair. The Chair shall be responsible for calling and presiding at all meetings. The Board shall also elect one of its members as Vice-Chair, who shall perform the duties of the Chair in the absence of or incapacity of the Chair. The Board shall also elect one of its members as Secretary. The City Council may provide a city employee who may record the proceedings of the Board. The Board shall also adopt its own by-laws for the conduct of its business.

Section 24.02. POWERS AND DUTIES. The Board shall advise and assist the City Council in matters relating to the natural resources and historic facilities in Rice, including all park and recreation programs in which the city is involved, all playgrounds, playfields, parks, golf courses, swimming pools, and other recreational facilities in which the city is involved. The Board shall have no power to incur debt for which the city or any department thereof shall be liable and it shall have no power or authority to make any improvement, alterations or changes in any of the parks or city facilities without the consent of the City Council. The Board will perform the following functions:

- (a) To develop and maintain a comprehensive plan for the Rice park and trail system which categorizes park, trails and recreation areas and facilities. To make recommendations for the development and maintenance of these areas and facilities based on said plan;

- (b) To review proposed plot plans for new subdivisions and recommend to the City Council parkland dedicated or cash equivalent for consideration in conjunction with the plat approval process;
- (c) To propose to the City Council rules and regulations for the use of any parks, recreational or leisure facilities. Review all requests for the special use of such facilities and make recommendations to the City Council regarding such requests;
- (d) To consider proper names for park and recreation areas and facilities and make recommendations to the City Council for such titles; and
- (e) To conduct studies and investigations as specifically directed or delegated by the City Council. To represent the City Council at appropriate meetings, hearings and other events when so directed.

CHAPTER 2: ADMINISTRATION, OPERATIONS AND ORGANIZATIONS

ORDINANCES 25 CRIMINAL HISTORY BACKGROUND FOR APPLICANTS FOR CITY
EMPLOYMENT AND CITY LICENSES..... 25-1
Section 25.01: EMPLOYMENT BACKGROUND CHECKS..... 25-1
Section 25.02: LICENSE BACKGROUND CHECKS..... 25-2

ORDINANCE 25: CRIMINAL HISTORY BACKGROUND FOR APPLICANTS FOR CITY EMPLOYMENT AND CITY LICENSES

Section 25.01. EMPLOYMENT BACKGROUND CHECKS.

Subd. 1. Applicant for City Employment.

- a) 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 Subd. 1(b)1 below.

- b) Criminal History Employment Background Investigations. The Rice 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:
 1. Employment positions: all seasonal, regular part-time and full-time employees and volunteers of the City of Rice and other positions that work with children or vulnerable adults.

 2. In conducting the criminal history background investigation in order to screen employment applicants, the Rice 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 Rice 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 Rice Police Department to the hiring authority, including the City Council, City Clerk, or other City Staff or consultants involved in the hiring process.

 3. Before the investigation is undertaken, the applicant must authorize the Rice Police Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of MN Statutes Chapter 13 regarding the collection, maintenance and use of the information. Except for the positions set forth in MN Statutes Section 364.09, the City will not reject an application 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.

Section 25.02. LICENSE BACKGROUND CHECKS.

Subd. 1. Applicants for City Licenses.

- a) 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.
- b) Criminal History License Background Investigations. The Rice 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:
 1. City Licenses:
Liquor Licenses (Ordinance 60)
Transient Merchants/Peddlers/and Solicitors (Ordinance 61)
 2. In conducting the criminal history background investigation in order to screen license applicants, the Rice 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 Rice 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 Rice Police Department to the hiring authority, including the City Council, the City Clerk, or other City Staff or consultants involved in the hiring process.

3. Before the investigation is undertaken, the applicant must authorize the Rice Police Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of Minnesota Statutes Chapter 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.

CHAPTER 3: UTILITIES

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Section 30.01. PUBLIC UTILITY. The City of Rice has ordered the construction of a Municipal Water System consisting of a pumping station and water mains. Forthwith, upon the completion of the improvement, the water system shall be operated as a public utility of the City, and the regulations and provisions of this ordinance shall be applicable thereto.

Section 30.02. CONNECTION APPLICATION.

Subd. 1. Any party desiring water service from said utility for premises not theretofore connected with the water system shall apply for a connection on a form provided by the City Clerk. Such application shall give an exact description of the premises to be served, and shall be filed, together with payment of the hookup or connection fee as established, from time to time, by the City Council by resolution, with the City Clerk for approval by the City Council.

Subd. 2. Any party other than the original applicant desiring water service for premises where a connection has been made pursuant to this Ordinance shall make written application therefore in the same manner as provided in this Ordinance.

Section 30.03. MANDATORY HOOK-UP. With the exception of currently constructed residences located adjacent to a public street, alley or right-of-way in which a public water main is located, which are not connected to such water main. Owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes which are situated within the City and adjacent to any street, alley, or right-of-way in which there is now located, or may in the future be located, a Municipal Water System of the City, shall be required at the owner(s) expense to install a service connection to the Municipal Water System, in accordance with provisions of this Ordinance, within 90 days of the date said water system is operational, provided said Municipal Water System is located in any street, alley or right-of-way adjacent to where said structure are located. All currently constructed residences and/or businesses located adjacent to a street, alley or right-of-way on which a public water main is located as of the first day of March, 2009, that are not connected to said water main will not be required to connect to said system until the earliest of the following events:

- (a) The owner of said residence and/or business seeks to make structural changes requiring the issuance of a building permit.
- (b) The real estate is transferred to a third party who is not an owner of said real estate as of July 6th, 2009.
- (c) The well servicing the real estate needs to be or is replaced.

At such time as the earliest of the aforementioned events occurs, the residence and/or business are required to connect to the Municipal Water System. If water connections are not made pursuant to this Ordinance, a 60 day notice shall be served instructing the affected property owner to make said connection. The Rice City Council may use its discretion regarding connections involving properties larger than 5 acres.

Section 30.04. SERVICE LINES. The cost of the original installation of all plumbing between the property line and all service devices maintained by the owner or occupant of the premises, shall all extensions and repairs made to such plumbing shall be borne entirely by such owner or occupant; but all extensions and repairs made to such plumbing and service devices shall at all reasonable times be subject to inspection by a duly authorized representative of the City. Any repairs found to be necessary by such representative shall be made promptly, and the City reserves the right to cause the same to be made and to charge the cost thereof to the owner or occupant of the premises and to collect the same in any manner now or hereafter permitted by the laws of the State of Minnesota. The property owner shall be responsible for all maintenance from the structure/building to the curb stop, including the curb stop and 5 feet beyond the curb stop to water main.

Section 30.05. BUILDING WATER MAINS. Building Water mains and connections and street excavations relating thereto:

- (a) No building water main shall be built, repaired, extended or connected with the public water main without a permit.
- (b) No building water main shall be built, repaired, extended or connected with the water main except by a plumber duly licensed by the State of Minnesota to perform the work, or by and other person that is qualified by the City Council.
- (c) All applications for water main permits shall indicate the person employed to do the work.
- (d) All plumbing installations shall comply with the State Plumbing Code.
- (e) Upon issuance of the permit, the person to whom it is granted may proceed with the work in accordance with the permit granted. The applicant shall notify the City Clerk of the progress of the work at such state as during construction as the City may direct, and in particular, shall notify the Clerk when the building water main is complete and ready for connection with the public water main. The City shall be given an opportunity to inspect the work after it is completed and shall require the work to be done satisfactorily and in compliance with the law before excavations are filled.

- (f) The City Council may, from time to time, by resolution, adopt regulations not inconsistent with this ordinance governing construction of the building water mains and connections to the municipal water mains.
- (g) All excavations for building water main installations shall be adequately guarded with barricades, lights, and other appropriate warning devices so as to protect the public from hazard. Streets, alleys, sidewalks and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.
- (h) The applicant shall indemnify and save harmless the City from any claims of injury, loss or damage to third parties arising out of the construction work; this provision is a condition to the issuance of the permit. The City may, as a condition to issuance of the permit, require the applicant to file a corporate surety bond for faithful performance of the work and to indemnify and save harmless the City from any negligence in performance, the bond to be for a period of two years.

Section 30.06. SERVICE CHARGES.

- (a) Water Service Charges will be established from time to time by the City Council, either by ordinance or by resolution.
- (b) An account for services will be kept for each user and a separate account for separate premises. Each user will be liable for service to his premises. Bills for service will be rendered quarterly and will be due within (10) days from their date, but failure of the City to render a bill or of user to receive a bill will not excuse payment. Bills will be mailed to users at the addresses shown on the applications on the day of their date. The City Clerk will keep accounts and render the bills; he will receive payment of bills and give receipts therefore.
- (c) All water service charges, when collected, and all moneys received from the sale of any water facilities or equipment shall be placed in a separate fund and shall be used first to pay the normal, reasonable, and current costs of operation and maintaining the facilities, and the balance shall be used as the Council may direct and as provided by law.
- (d) All water service charges are made a lien against the property served. The lien shall be valid against third parties after written notice of the lien, certified by the Clerk, is recorded in the Office of the Register of Deeds for Benton County. The City may also pursue any other remedies at law available to it for collection of the delinquent charges.

Section 30.07. CLAIMS FOR DEFECTIVE SERVICE. All claims for defective service shall be made in writing and filed with the City Clerk on or before the 10th day of the month next succeeding such defective service, or be deemed waived by the claimant; and if such claims are so filed, it shall be the

duty of the City Clerk to investigate the facts alleged in such claims and determine the amount, if any, which should be refunded to such claimant by reason of such defective service and report such determination to the City Council, and, if approved by the body, such amount shall be allowed as a credit on the following bill or paid as other claims, but no claim shall be made against the municipality for any fire or any injuries to the person or property of any consumer of water under the provisions hereof.

Section 30.08. DISCONTINUATION OF SERVICE. The Municipality reserves the right to discontinue service to any or all customers of the municipal water system, without notice, when necessary for repairs or for disregard of rules or regulations affecting the service. When service has been discontinued for non-payment of bills or disregard of regulations, it shall not be resumed except upon payment of the bills, together with interest thereon at a rate of six percent (6%) per annum, full compliance with the regulations, and the payment to the City Clerk of a fee of Twenty-five Dollars (\$25.00) for reestablishing service.

Section 30.09. VIOLATIONS. Any person, firm, or corporation violating any of the provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof by a Court of competent jurisdiction, shall be subject to a fine of not exceeding seven hundred dollars (\$700.00) for each such violation, and/or imprisonment for not exceeding ninety (90) days for each such violation.

Section 30.10. WATER CONSERVATION PLANS. The City of Rice has adopted a permanent Water Conservation Plan. The water sprinkling restrictions are:

- (a) Properties having a street address ending with an even number may sprinkle lawns on an even-numbered day only.
- (b) Properties having a street address ending with an odd number may sprinkle lawns on an odd-numbered day only.
- (c) Properties in violation after receiving one notice will be fined \$50.00 each offense. The fine will be added to the next month's water billing.
- (d) Sand point wells cannot be connected to the home or buildings where the public water system is available. Agriculture zoned properties are exempt from this ordinance.
- (e) Sand point wells are only allowed for irrigation purposes.
- (f) Sand point wells must meet all setback requirements.
- (g) Residents with a sand point well must notify the State of MN and comply with State Well Construction Codes.

The City reserves the right to totally prohibit the use of the municipal water supply and/or sand point wells for sprinkling as deemed necessary by the City maintenance director to protect the City's water supply. A sprinkling ban of this type shall be published by local radio and the City's web site. Residents shall comply with the terms and conditions of the sprinkling ban. The ban shall be enforced by the City's police department.

CHAPTER 3: UTILITIES

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Section 31.01. DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall have the meanings hereinafter designated:

Subd. 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.

Subd. 2. "ASTM" - American Society for Testing Materials.

Subd. 3. "Authority" - The City of Rice, Minnesota or its representative thereof.

Subd. 4. "BOD5 or Biochemical Oxygen Demand" - The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20° Centigrade in terms of milligrams per liter (mg/l).

Subd. 5. "Building Drain" - that part of the lowest horizontal piping of a drainage system which receives the discharge from waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning ten (10) feet outside the building wall.

Subd. 6. "Building Sewer" - the extension from the building drain to the public sewer or other place of disposal, also referred to as a house connection or service connection.

Subd. 7. "City" - the area within the corporate boundaries of the City of Rice as presently established or as amended by ordinance or other legal actions at a future time. The term "City" when used herein may also be used to refer to the City Council and its authorized representative.

Subd. 8. "Chemical Oxygen Demand (COD)" - the quantity of oxygen utilized in the chemical oxidation, of organic matter as determined by standard laboratory procedures, and as expressed in terms of milligrams per liter (mg/l).

Subd. 9. "Compatible Pollutant" – Biochemical oxygen demand, suspended solids, pH, and fecal coli form bacteria, plus additional pollutants identified in the NPDES/SDS Permit if the treatment facilities are designed to treat such pollutants to a degree which complies with effluent concentration limits imposed by the permit.

Subd. 10. "Control Manhole" - a structure specially constructed for the purpose of measuring flow and sampling of wastes.

Subd. 11. "Easement" - an acquired legal right for the specific use of land owned by others.

Subd. 12. "Fecal Coli form" - any number of organisms common to the intestinal tract of man and animals whose presence in sanitary sewage is an indicator of pollution.

Subd. 13. "Floatable Oil— - Oil, fat, or grease in a physical state, such that it will separate by gravity from wastewater.

Subd. 14. "Garbage" - animal and vegetable waste resulting from the handling, preparation, cooking, and serving of food.

Subd. 15. "Incompatible Pollutant" - any pollutant that is not defined as compatible pollutant (Sec. 9) including non-biodegradable dissolved solids.

Subd. 16. "Industry" - any nongovernmental or nonresidential user of a publicly owned treatment works which is identified in the Standard Industrial Classification Manual, latest edition, which is categorized in Divisions A, B, D, E and I.

Subd. 17. "Industrial Waste" - gaseous, liquid, and solid wastes resulting from industrial or manufacturing processes, trade or business, or from the development, recovery and processing of natural resources, as distinct from residential or domestic strength wastes.

Subd. 18. "Infiltration" - water entering the sewage system (including building drains and pipes) from the ground through such means as defective pipes, pipe joints, connections, and manhole walls.

Subd. 19. "Infiltration/Inflow (I/I)" - the total quantity of water from both infiltration and inflow.

Subd. 20. "Inflow" - water other than wastewater that enters a sewer system (including building drains) from sources such as, but not limited to, roof leaders, cellar drains, yard and area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross connections from storm sewers, catch basins, surface runoff, street wash waters or drainage.

Subd. 21. "Interference" - the inhibition or disruption of the City's wastewater disposal system processes or operations which causes or significantly contributes to a violation of any requirement of the City's NPDES and/or SDS permit. The term includes of sewage sludge use or disposal by the City in accordance with published regulations providing guidelines under Section 405 of the Act or any regulations developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or more stringent State criteria applicable to the method of disposal or use employed by the City.

Subd. 22. "MPCA" - Minnesota Pollution Control Agency.

Subd. 23. "National Categorical Pretreatment Standards" - federal regulations establishing pretreatment standards for introduction of pollutants in publicly-owned wastewater treatment facilities which are determined to be not susceptible to treatment by such treatment facilities or would interfere with the operation of such treatment facilities, pursuant to Section 307(b) of the Act.

Subd. 24. "National Pollutant Discharge Elimination System (NPDES) Permit" - a permit issued by the MPCA, setting limits on pollutants that a permittee may legally discharge into navigable waters of the United States pursuant to Sections 402 and 405 of the Act.

Subd. 25. "Natural Outlet" - any outlet, including storm sewers and combined sewers, which overflow into a watercourse, pond, ditch, lake or other body of surface water or ground water.

Subd. 26. "Non-contact Cooling Water" - the water discharged from any use such as air conditioning, cooling or refrigeration, or during which the only pollutant added, is heat.

Subd. 27. "Normal Domestic Strength Waste" - wastewater that is primarily introduced by residential users with a BOD5 concentration not greater than 270 mg/l and a total suspended solids (TSS) concentration not greater than 320 mg/l.

Subd. 28. "Person" - any individual, firm, company, association, society, corporation, or group.

Subd. 29. "pH" - the logarithm of the reciprocal of the concentration of hydrogen ions in terms of grams per liter of solution.

Subd. 30. "Pretreatment" - the treatment of wastewater from industrial sources prior to the introduction of the waste effluent into a publicly-owned treatment works. (See Sec. 23.)

Subd. 31. "Properly Shredded Garbage" - the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than 1/2 inch (1.27 cm) in any dimension.

Subd. 32. "Sewage" - the spent water of a community. The preferred term is wastewater.

Subd. 33. "Sewer" - a pipe or conduit that carries wastewater or drainage water.

- (a) "Collection Sewer" - a sewer whose primary purpose is to collect wastewaters from individual point source discharges and connections.
- (b) "Combined Sewer" - a sewer intended to serve as a sanitary sewer and a storm sewer.
- (c) "Force Main" - a pipe in which wastewater is carried under pressure.
- (d) "Interceptor Sewer" - a sewer whose primary purpose is to transport wastewater from collection sewers to a treatment facility.
- (e) "Private Sewer" - a sewer which is not owned and maintained by a public authority.
- (f) "Public Sewer" - a sewer owned, maintained and controlled by a public authority.
- (g) "Sanitary Sewer" - a sewer intended to carry only liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters which are not admitted intentionally.
- (h) "Storm Sewer or Storm Drain" - a drain or sewer intended to carry storm waters, surface runoff, ground water, sub-surface water, street wash water, drainage, and unpolluted water from any source.

Subd. 34. "Shall" is mandatory; "May" is permissive.

Subd. 35. "Significant Industrial User" - any industrial user of the wastewater treatment facility which has a discharge flow (1) in excess of 25,000 gallons per average work day, or (2) has exceeded five percent (5%) of the total flow received at the treatment facility, or (3) whose waste contains a toxic pollutant in toxic amounts pursuant to Section 307(a) of the Act, or (4) whose discharge has a significant effect, either singly or in combination with other contributing industries, on the wastewater disposal system, the quality of sludge, the system's effluent quality, or emissions generated by the treatment system.

Subd. 36. "Slug" - any discharge of water or wastewater which in concentration of any given constituent, or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes, more than five (5) times the average 24-hour concentration of flows during normal operation, and shall adversely affect the collection and/or performance of the wastewater treatment works.

Subd. 37. "State Disposal System (SDS) Permit" - any permit (including any terms, conditions and requirements thereof) issued by the MPCA pursuant to Minnesota Statutes,

Section 115.07 for a disposal system as defined by Minnesota Statutes, Section 115.01, Subdivision 8.

Subd. 38. "Superintendent" - the City of Rice's Utilities Superintendent or a deputy, agent or representative thereof.

Subd. 39. "Suspended Solids (SS) or 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, and referred to as non-filterable residue.

Subd. 40. "Toxic Pollutant" - the concentration of any pollutant or combination of pollutants which upon exposure to or assimilation into any organism will cause adverse effects as defined in standards issued pursuant to Section 307(a) of the Act.

Subd. 41. "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, and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities. (See 'Non-contact Cooling Water', Subd. 26.)

Subd. 42. "User" - any person who discharges or causes or permits the discharge of wastewater into the City's wastewater disposal system.

Subd. 43. "Wastewater" - the spent water of a community and referred to as sewage. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with any ground water, surface water and storm water that may be present.

Subd. 44. "Wastewater Treatment Works or Treatment Works" - an arrangement of any devices, facilities, structures, equipment, or processes owned or used by the City for the purpose of the transmission, storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage or industrial wastewater, or structures necessary to recycle or reuse water including interceptor sewers, outfall sewers, collection sewers, pumping, power, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled water supply such as standby treatment units and clear well facilities; and any works including land which is an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

Subd. 45. "Watercourse" - a natural or artificial channel for the passage of water, either continuously or intermittently.

Subd. 46. "WPCF" - the Water Pollution Control Federation.

Section 31.02. UTILITIES SUPERINTENDENT. The Utilities Superintendent shall have control and general supervision of all public sewers and service connections in the city, and shall be responsible for administering the provisions of this ordinance to the end that a proper and efficient public sewer is maintained.

Section 31.03. PROHIBITED ACTIVITIES.

Subd. 1. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City, or in any area under jurisdiction, any human or animal excrement, garbage or objectionable waste.

Subd. 2. It shall be unlawful to discharge to any natural outlet any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance and the City's NPDES/SDS Permit.

Subd. 3. Except as provided hereinafter, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

Subd. 4. With the exception of residences and/or businesses that are currently constructed and occupied, the owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes from which wastewater is discharged, and which are situated within the City and adjacent to any street, alley, or right-of-way in which sewer of the City, shall be required at the owner(s) expense to install a suitable service connection to the public sewer in accordance with the provisions of this Ordinance, within 90 days of the date said public sewer is operational, provided said public sewer is adjacent to any street where sewer mains have been located.

Section 31.04. CONNECTION TO SYSTEM.

Subd. 1. All currently constructed residences and/or businesses located adjacent to a street, alley or right-of-way on which a public sanitary sewer of the City as of the first day of March, 2009, that are not currently connected to that sewer will not be required to connect to said public sewer until the earliest of the following events:

- (a) The owner of said residence and/or business seeks to make structural changes requiring the issuance of a building permit.
- (b) The real estate is transferred to a third party who is not an owner of said real estate as of March 1, 2009.
- (c) The existing septic system and/or a drain field are no longer usable and/or must be or are replaced.

At such time as the earliest of the aforementioned three occurrences, the residence and/or business is required to connect such structure to the public sewer system in accordance with the provisions of this ordinance. All future buildings constructed on property adjacent to the public sewer shall be required to immediately connect to the public sewer. If sewer connections are not made pursuant to this Ordinance, an official 60 day notice shall be served instructing the affected owner to make such connection. The Rice City Council shall use its discretion on properties larger than 5 acres.

Subd. 2. In the event an owner shall fail to connect to a public sewer in compliance with a notice given under Subd. 1, the City must undertake to have said connection made and shall assess the cost thereof against the benefitted property. Such assessment, when levied, shall bear interest at the rate determined by the City Council and shall be certified to the Auditor of the County of Benton, Minnesota and shall be collected and remitted to the City in the same manner as assessments for local improvements. The rights of the City shall be in addition to any remedial or enforcement provisions of this ordinance.

Section 31.05. PRIVATE WASTEWATER DISPOSAL.

Subd. 1. Where a public sewer is not available under the provisions of Section 32.02, Subd. 4, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

Subd. 2. Prior to commencement of construction of a private wastewater disposal system, the owner(s) shall first obtain a written permit signed by the City. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary to the City.

Subd. 3. A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the City or its authorized representative. The City or its representative shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the City when work is ready for final

inspection, and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice.

Subd. 4. The type, capacities, location, and layout of a private wastewater disposal system shall comply with all requirements of 6 MCAR 4.8040, entitled, "Individual Sewage Treatment System Standards". No septic tank or cesspool shall be permitted to discharge to any natural outlet.

Subd. 5. At such time as a 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 90 days in compliance with the Ordinance, and within 120 days any septic tanks, cesspools, and similar private wastewater disposal systems shall be cleaned of sludge. The bottom shall be broken to permit drainage, and the tank or pit filled with suitable material.

Subd. 6. The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times at no expense to the City.

Subd. 7. No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the MPCA or the Department of Health of the State of Minnesota.

Section 31.06. BUILDING SEWERS AND CONNECTIONS.

Subd. 1. Any new connection(s) 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 Suspended Solids, as determined by the Superintendent.

Subd. 2. No authorized person(s) shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City.

Subd. 3. Applications for permits shall be made by the owner or authorized agent and the party employed to do the work, and shall state the location, name of owner, street number of the building to be connected, and how occupied. No person shall extend any private building drain beyond the limits of the building or property for which the service connection permit has been given.

Subd. 4. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the application shall be supplemented by any plans, specifications, or any other information considered pertinent in the judgment of the City. The industry, as a condition of permit authorization, must provide information describing its wastewater constituents, characteristics, and type of activity.

Subd. 5. All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the City from any loss or damage that may be directly or indirectly occasioned by the installation of the building sewer.

Subd. 6. A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another 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 sewer from the front building may be extended to the rear building and the whole considered one building sewer. The City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such connection aforementioned.

Subd. 7. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent or his representative, to meet all requirements of this ordinance.

Subd. 8. The size, slopes, alignment, materials or construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling of the trench, shall all conform to the requirements of the State of Minnesota Building and Plumbing Code or other applicable rules and regulations of the City. In the absence of code provisions or in the amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.

Subd. 9. 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, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

Subd. 10. No person(s) shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or ground water to a building sewer or indirectly to the wastewater disposal system.

Subd. 11. The connection of the building sewer into the public sewer shall conform to the requirements of the State of Minnesota Building and Plumbing Code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9. All such connections shall be made gastight and watertight, and verified by proper testing to prevent the inclusion of infiltration/inflow. Any deviation from the prescribed procedures and materials must be approved by the City prior to installation.

Subd. 12. The applicant for the building sewer permit shall notify the City when the building sewer is ready for inspection and connection to the public sewer. The connection and inspection shall be made under the supervision of the superintendent or authorized representative thereof.

Subd. 13. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work, shall be restored in a manner satisfactory to the City.

Subd. 14. No person shall make a service connection with any public sewer unless regularly licensed under this chapter to perform such work, and no permit shall be granted to any person except such regularly licensed person.

Subd. 15. Any person desiring a license to make a service connection with public sewers shall apply in writing to the City Council with satisfactory evidence that the applicant or employer is trained or skilled in the business and qualified to receive a license. All applications shall be referred to the Superintendent for recommendations to the Council. If approved by the Council, such license shall be issued by the City Clerk upon the filing of a bond as hereinafter provided.

Subd. 16. No license shall be issued to any person until a \$2,000 bond to the City, approved by the Council, is filed with the City Clerk conditioned that the licensee will indemnify and save harmless the City 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 for any purpose whatever, and that the licensee will replace and restore the street and alley over such opening to the condition existing prior to installation, adequately guard with barricades and lights and will keep and maintain the same to the satisfaction of the Superintendent, and shall conform in all respects to the rules and regulations of the Council relative thereto, and pay all fines that may be imposed on the licensee by law.

Subd. 17. The license fee for making service connections is \$5.00. All licenses shall expire on December 31st of the license year unless the license is suspended or revoked by the Council for cause. Upon failure to apply for a license renewal prior to the expiration date thereof, the license fee for the ensuing year shall be \$15.00.

Subd. 18. The Council may suspend or revoke any license issued under this section 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 section or any rule or regulation pertaining to the making of service connections.

Subd. 19. All sewer services shall be installed with a tracer wire and outside cleanout for the purpose of locating said service. The tracer wire shall be installed in accordance with the City Engineer specifications. Tracer wire shall be installed from sewer main to the cleanout located just outside the building. In areas that do not have tracer wire on the main, the building

contractor shall install tracer wire from the cleanout to service connection at or near the property line.

Section 31.07. USE OF PUBLIC SERVICES.

Subd. 1. No person(s) shall discharge or cause to be discharged any unpolluted water such as storm water, ground water, roof runoff, surface drainage, or non-contact cooling water to any sanitary sewer.

Subd. 2. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designed as storm sewers or to a natural outlet approved by the City and other regulatory agencies. Industrial cooling water or unpolluted process waters may be discharged to a storm sewer or natural outlet on approval of the City and upon approval and the issuance of a discharge permit by the MPCA.

Subd. 3. No person(s) shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- (a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater disposal system or to the operation of the system. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides.
- (b) Solid or viscous substances which will cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to, grease, garbage with particles greater than one-half (1/2) inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes.
- (c) Any wastewater having a pH or less than 5.0 or greater than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater disposal system.
- (d) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to inhibit or disrupt any wastewater treatment process, constitute a hazard to humans or animals, or create a toxic effect in the

receiving waters of the wastewater disposal system. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.

Subd. 4. The following described substances, materials, water, or wastes shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either sewers, the wastewater treatment works treatment process or equipment, will not have an adverse effect on the receiving stream and/or soil, vegetation and ground water, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The Superintendent may set limitations lower than limitations established in the regulations below if, in his opinion, such more severe limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability of wastes, the Superintendent will give consideration to such factors as the quantity of subject waste in reaction to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, the City's NPDES and/or SDS permit, capacity of the wastewater treatment works, degree of treatability of wastes in the wastewater treatment works, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the Superintendent are as follows:

- (a) Any wastewater having a temperature greater than 150°F (65.6°C), or causing, individually or in combination with other wastewater, the influent at the wastewater treatment plant to have a temperature exceeding 104°F (40°C), or having heat in amount which will inhibit biological activity in the wastewater treatment works resulting in interference therein.
- (b) Any wastewater containing fats, wax, grease, or oils, whether emulsified or not, 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); and any wastewater containing oil and grease concentrations of mineral origin of greater than 100 mg/l, whether emulsified or not.
- (c) Any garbage not properly shredded, as defined in Section 31.01, subd. 31. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food on the premises or when served by caterers.
- (d) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are capable of creating a public nuisance or hazard to life, or are sufficient to prevent entry into the sewers for their maintenance and repair.

- (e) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to dye wastes and vegetable tanning solutions.
- (f) Non-contact cooling water or unpolluted storm, drainage, or ground water.
- (g) Wastewater containing inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate) in such quantities that would cause disruption with the wastewater disposal system.
- (h) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations.
- (i) Any waters or wastes containing the following substances to such degree that any such material received in the composite wastewater at the wastewater treatment works in excess of the following limits for such materials:

- _____ mg/l arsenic
- _____ mg/l cadmium
- _____ mg/l copper
- _____ mg/l cyanide
- _____ mg/l lead
- _____ mg/l mercury
- _____ mg/l nickel
- _____ mg/l silver
- _____ mg/l total chromium
- _____ mg/l zinc
- _____ mg/l phenolic compounds which cannot be removed by City's wastewater treatment system.

These limits shall be established at the discretion of the Superintendent to insure compliance with the City's NPDES Permit.

- (j) Any wastewater which creates conditions at or near the wastewater disposal system which violates any statute, rule, regulation, or ordinance of any regulatory agency, or state or federal regulatory body.
- (k) Any waters or wastes containing BOD5 or suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the

wastewater treatment works, except as may be permitted by specific written agreement.

- (l) Any quantities of flow, concentrations, or both which constitute a "slug" as defined in Section 31.01.

Subd. 5. If any waters or wastes are discharged or are proposed to be discharged to the public sewers which contain substances or possess the characteristics enumerated in subdivisions 3 or 4 of this section, and/or which in the judgment of the Superintendent, may have a deleterious effect upon the wastewater treatment facilities, processes, or equipment; receiving waters and/or soil, vegetation, and ground water; or which otherwise create a hazard to life or constitute a public nuisance, the City may:

- (a) Reject 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 addendums thereof,
- (c) Require control over the quantities and rates of discharge, and/or,
- (d) Require payment to cover the added costs of handling, treating, and disposing of wastes not covered by existing taxes or sewer service charges.

If the City permits the pretreatment or equalization of waste flows, the design, installation, and maintenance of the facilities and equipment shall be made at the owners' expense, and shall be subject to the review and approval of the City pursuant to the requirements of the MPCA.

Subd. 6. 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 subdivisions 3 and 4 of this section, or contained in the National Categorical Pretreatment Standards or any state requirements.

Subd. 7. Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation at the expense of the owner(s).

Subd. 8. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in Subd. 4(b), any flammable wastes as specified in Subd. 3(a), and or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of the type to be readily and

easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner(s) shall be responsible for the 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 Superintendent. Any removal and hauling of the collecting materials not performed by the owner's personnel must be performed by a currently licensed waste disposal firm.

Subd. 9. Where required by the City, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure, or control manhole, with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of wastes. Such structure shall be accessible and safely located, and shall be constructed in accordance with plans approved by the City. The structure shall be installed by the owner at his expense and shall be maintained by the owner to be safe and accessible at all times.

Subd. 10. The owner of any property serviced by a building sewer carrying industrial wastes may, at the discretion of the City, be required to provide laboratory measurements, tests, or analyses of waters or wastes to illustrate compliance with this Ordinance and any special condition for discharge established by the City or regulatory agencies having jurisdiction over the discharge. The number, type, and frequency of sampling and laboratory analyses to be performed by the owner shall be as stipulated by the City. The industry must supply a complete analysis of the constituents of the wastewater discharge to assure that compliance with Federal, State, and local standards are being met. The owner shall report the results of measurement and laboratory analyses to the City at such times and in such manner as prescribed by the City. The owner shall bear the expense of all measurements, analyses, and reporting required by the City. At such times as deemed necessary, the City reserves the right to take measurements and samples for analysis by an independent laboratory.

Subd. 11. All measurements, tests, and analyses of the characteristics of waters and wastes 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. Sampling methods, location, times, duration and frequencies are to be determined on an individual basis subject to approval by the Superintendent.

Subd. 12. Where required by the City, the owner of any property serviced by a sanitary sewer shall provide protection from an accidental discharge of prohibited materials or other 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 showing facilities and operating procedures to provide this protection shall be submitted to the Superintendent for review and approval prior to construction of the facility.

Review and approval of such plans and operating procedures shall not relieve any user from the responsibility to modify the user's facility as necessary to meet the requirements of this ordinance. Users shall notify the Superintendent immediately upon having a slug or accidental discharge of substances of wastewater in violation of this ordinance to enable countermeasures to be taken by the Superintendent to minimize damage to the wastewater treatment works. Such notification will not relieve any user of any liability for any expense, loss or damage to the wastewater treatment system or treatment process, or for any fines imposed on the City on account thereof under any State and Federal law. Employees shall insure that all employees who may cause or discover such a discharge are advised of the emergency notification procedure.

Subd. 13. No person, having charge of any building or other premises which drains into the public sewer, shall permit any substance or matter which may form a deposit or obstruction to flow or pass into the public sewer. Within 30 days after receipt of written notice from the City, the owner shall install a suitable and sufficient catch basin or waste trap, or if one already exists, shall clean out, repair or alter the same, and perform such other work as the Superintendent may deem necessary. Upon the owner's refusal or neglect to install a catch basin or waste trap or to clean out, repair, or alter the same after the period of 30 days, the Superintendent may cause such work to be completed at the expense of the owner or representative thereof.

Subd. 14. Whenever any service connection becomes clogged, obstructed, broken or out of order, or detrimental to the use of the public sewer, or unfit for the purpose of drainage, the owner shall repair or cause such work to be done as the Superintendent may direct. Each day after 7 days that a person neglects or fails to so act shall constitute a separate violation of this Ordinance, and the Superintendent may then cause the work to be done, and recover from such owner or agent the expense thereof by an action in the name of the City. The property owner of such property shall be responsible to pay for and provide all maintenance on said service connection from the structure/building located on said property to the City's public sewer line.

Subd. 15. The owner or operator of any motor vehicle washing or servicing facility shall provide and maintain in serviceable condition at all times, a catch basin or waste trap in the building drain system to prevent grease, oil, dirt or any mineral deposit from entering the public sewer system.

Subd. 16. In addition to any penalties that may be imposed for violation of any provision of this chapter, the City may assess against any person the cost of repairing or restoring sewers or associated facilities damaged as a result of the discharge of prohibited wastes by such person, any may collect such assessment as an additional charge for the use of the public sewer system or in any other manner deemed appropriate by the City.

Subd. 17. No statement contained in this section shall be construed as preventing any special agreement or arrangement between the City of Rice and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore by the industrial concern, providing the National Categorical Pretreatment Standards and the City's NPDES and/or State Disposal System Permit limitations are not violated, and said user pays for wastewater treatment services in proportion to actual use, in keeping with User Charge regulations promulgated under the Clean Water Act, and Sanitary District Ordinance Number 12B.

Section 31.08. DAMAGE PROHIBITED. No person(s) shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under the charge of a misdemeanor.

Section 31.09. USER RATE SCHEDULE FOR CHARGES. Each user of sewer service shall pay the charge(s) applicable to the type of service, and in accordance with the provisions of this Code and Rules and Regulations established by the Council.

Section 31.10. POWERS AND AUTHORITY OF INSPECTORS.

Subd. 1. The Superintendent or other duly authorized employees of the City, bearing proper credentials and identification, shall be permitted to enter all properties for the purpose of inspection, observations, measurement, sampling, and testing pertinent to the discharges to the City's sewer system in accordance with the provisions of this ordinance.

Subd. 2. The Superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes which have direct bearing on the type and source of discharge to the wastewater collection system. An industry may withhold information considered confidential however; the industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.

Subd. 3. While performing necessary work on private properties, the Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging the sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 31.07, subd. 9 of this Ordinance.

Subd. 4. The Superintendent or other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to,

inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

Section 31.11. PENALTIES.

Subd. 1. Any person found to be violating any provisions of this ordinance, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

Subd. 2. Any person who shall continue any violation beyond the time limit provided for in Subd. 1 of this section, shall be guilty of a misdemeanor, and on conviction thereof, shall be fined in the amount not exceeding \$2,000 for each violation. Each day in which any such violation occurs shall be deemed as a separate offense.

Subd. 3. 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 City by reason of such violation.

CHAPTER 3: UTILITIES

ORDINANCE 32 MUNICIPAL SEWER SYSTEM CHARGES..... 32-1
Section 32.01: DEFINITIONS..... 32-1
Section 32.02: ESTABLISHMENT..... 32-4
Section 32.03: DETERMINATION OF SEWER SERVICE CHARGE..... 32-5

Section 32.01. DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall have the meanings hereinafter designated:

Subd. 1. "Administration" - Those fixed costs attributable to administration of the wastewater treatment works.

Subd. 2. "Biochemical Oxygen Demand or BOD5" - The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20° Centigrade in terms of milligrams per liter (mg/l).

Subd. 3. "City" - the area within the corporate boundaries of the City of Rice, as presently established or as amended by ordinance or other legal actions at a future time.

Subd. 4. "Commercial User" - any place of business which discharges sanitary waste as distinct from industrial wastewater.

Subd. 5. "Commercial Wastewaters" - Domestic wastewater emanating from a place of business as distinct from industrial wastewater.

Subd. 6. "Debt Service Charge" - A charge levied on users of wastewater treatment facilities for the cost of repaying money bonded to construct said facilities.

Subd. 7. "Normal Domestic Strength Wastewater" - Wastewater that is primarily produced by residential users, with BOD5 concentrations of approximately 270 mg/l and suspended solids concentrations of approximately 320 mg/l.

Subd. 8. "Equivalent Resident Unit (ERU)" – A unit of wastewater volume of 220 gallons per day at a hypothetical strength of 270 mg/l of BOD5 and 320 mg/l of Total Suspended Solids.

Subd. 9. "Extra Strength Waste" - Wastewater having a BOD and/or TSS greater than domestic waste as defined in Subd. 7 above and not otherwise classified as an incompatible waste.

Subd. 10. "Governmental User" - any building served by the wastewater treatment works that is used primarily for governmental services (i.e., post office, city hall).

Subd. 11. "Incompatible Waste" - Waste that either singly or by interaction with other wastes interferes with any waste treatment process, constitutes a hazard to humans or animals, creates a public nuisance or creates any hazard in the receiving waters of the wastewater treatment works.

Subd. 12. Industrial Users or "Industries" are:

- (a) Entities that discharge into a publicly owned wastewater treatment works, liquid wastes resulting from the processes employed in industrial or manufacturing processes, or from the development of any natural resources. These are identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemental under one of the following divisions:

Division A. Agriculture, Forestry and Fishing

Division B. Mining

Division D. Manufacturing

Division E. Transportation, Communications, Electric, Gas, and Sanitary Sewers

Division I. Services

For the purpose of this definition, domestic waste shall be considered to have the following characteristics:

BOD5	less than 270 mg/l
Suspended Solids	less than 320 mg/l

- (b) Any nongovernmental user of a publicly owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids, or gases in sufficient quantity either singly or by interaction with other wastes, to contaminate the sludge of any municipal systems, or to injure or to interfere with any sewage treatment process, or which constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.

Subd. 13. "Industrial Wastewater" - The liquid processing wastes from an industrial manufacturing process, trade, or business including but not limited to all Standard Industrial Classification Manual Class D manufacturers as distinct from domestic wastewater.

Subd. 14. "Institutional User" - any building served by the wastewater treatment works that is used primarily as an institutional facility (i.e., schools, churches).

Subd. 15. "Operation and Maintenance" - Activities required to provide for the dependable and economical functioning of the treatment works, throughout the design or useful life, whichever is longer, of the treatment works, and at the level of performance for which the treatment works were constructed. Operation and Maintenance includes replacement.

Subd. 16. "Operation and Maintenance Costs" - Expenditures for operation and maintenance, including replacement.

Subd. 17. "Public Wastewater Collection System" - A system of sanitary sewers owned, maintained, operated and controlled by the City.

Subd. 18. "Replacement" - The obtaining and installing of equipment, accessories, or appurtenances which are necessary during the design or useful life, whichever is longer, of the wastewater treatment works to maintain the capacity and performance for which such facilities were designed and constructed.

Subd. 19. "Replacement Costs" - Expenditures for replacement.

Subd. 20. "Residential User" - A user of the treatment facilities whose premises or building is used primarily as a residence for one or more persons, including dwelling units such as detached and semi-detached housing, apartments, and mobile homes; and which discharges primarily normal domestic strength sanitary wastes.

Subd. 21. "Sanitary Sewer" - A sewer intended to carry only liquid and water carried wastes from residences, commercial buildings, industrial plants, and institutions, together with minor quantities of ground, storm, and surface waters which are not admitted intentionally.

Subd. 22. "Sewer Service Charge" - The total of the charges for operation, maintenance, replacement, and debt service.

Subd. 23. "Sewer Service Fund" - A fund into which income from Sewer Service Charges is deposited along with other income, including taxes intended to retire debt incurred through capital expenditure for wastewater treatment. Expenditure of the Sewer Service Fund will be for operation, maintenance and replacement costs; and to retire debt incurred through capital expenditure for wastewater treatment.

Subd. 24. "Shall" is mandatory; "May" is permissive.

Subd. 25. "Slug" - Any discharge of water or wastewater which in concentration of any given constituent, or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes, more than five (5) times the average 24-hour concentration of flows during normal operation, and shall adversely affect the collection and/or performance of the wastewater treatment works.

Subd. 26. "Standard Industrial Classification Manual" - Office of Management and Budget, 1972.

Subd. 27. "Suspended Solids (SS) or 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, and referred to as nonfilterable residue.

Subd. 28. "Toxic Pollutant" - The concentration of any pollutant or combination of pollutants which upon exposure to or assimilation into any organism will cause adverse effects as defined in standards issued pursuant to Section 307(a) of the Act.

Subd. 29. "User Charge" - A charge levied on users of a treatment works for the user's proportionate share of the cost of operation and maintenance, including replacement.

Subd. 30. "User" - those residential, commercial, institutional, industrial and governmental establishments which are connected to the public sewer collection system.

Subd. 31. "Wastewater" - the spent water of a community, also referred to as sewage. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with any ground water, surface water and storm water that may be present.

Subd. 32. "Wastewater Treatment Works or Treatment Works" - An arrangement of any devices, facilities, structures, equipment, or processes owned or used by the City for the purpose of the transmission, storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage or industrial wastewater, or structures necessary to recycle or reuse water including interceptor sewers, outfall sewers, collection sewers, pumping, power, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled water supply such as standby treatment units and clear well facilities; and any works including land which is an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

Section 32.02. ESTABLISHMENT.

Subd. 1. The City of Rice hereby establishes a Sewer Service Charge System whereby all revenue collected from users of the wastewater treatment facilities will be used to affect all expenditures incurred for annual operation, maintenance, and replacement and for debt service on capital expenditure incurred in constructing the wastewater treatment works.

Subd. 2. Each user shall pay its proportionate share of operation, maintenance and replacement costs of the treatment works, based on the users proportionate contribution to the total wastewater loading from all users.

Subd. 3. Each user shall pay debt service charges to retire local capital costs as determined by the City Council.

Subd. 4. Sewer Service rates and charges to users of the wastewater treatment facility shall be determined and fixed in a "Sewer Service Charge System" developed according to the provisions of this Ordinance. The Sewer Service Charge System developed with the assistance of Mateffy Engineering & Associates, Inc. shall be adopted upon enactment of this Ordinance, shall

be published in the local newspaper, and shall be effective upon publication. Subsequent changes in Sewer Service rates and charges shall be adopted by City Council resolution and shall be published in the local newspaper.

Subd. 5. Revenues collected for Sewer Service shall be deposited in a separate fund known as "The Sewer Service Fund". Income from revenues collected will be expended to offset the cost of Operation, Maintenance, and equipment replacement for the facility.

Subd. 6. Sewer Service Charges and the Sewer Service Fund will be administrated in accordance with the provisions of Section 32.01.

Subd. 7. A minimum sewer service charge equivalent to the charge for one ERU shall be maintained for all sewer connections.

Section 32.03. DETERMINATION OF SEWER SERVICE CHARGE.

Subd. 1. Users of the City of Rice wastewater treatment works shall be identified as belonging to one of the following user classes:

- (a) Residential
- (b) Commercial
- (c) Industrial
- (d) Institutional
- (e) Governmental

The allocation of users to these categories for the purpose of assessing User Charges and Debt Service Charges shall be the responsibility of the City Clerk. Allocation of user classes shall be based on the substantive intent of the definitions of these classes contained herein.

Subd. 2. The rates assessed residential users and those users of other classes who discharge "Normal Domestic Strength Wastewater" shall be determined on the basis of wastewater volume only. Those "industrial users" who discharge "Normal Domestic Strength Wastewater" only, can be classified as "Commercial Users" for the purpose of rate determination.

Subd. 3. For those users who discharge "Normal Domestic Strength Waste Water" as described in Sec. 2 above, wastewater volume will be calculated on the basis of: "Equivalent Residential Unit's (ERU)." "Equivalent Residential Units," at a volume of 220 gallons per day, will be assigned to connections according to their metered water use. The number of ERU's per connection will remain as originally assigned unless the city chooses to review the water use of a given user and revise the number of ERU's assigned to that user accordingly.

Determination of the number of ERU's assigned to a particular connection shall be the responsibility of the City Council or its authorized representative,

Subd. 4. When new hookups are made to the collection system and no water use data is available for determination of a service charge, Appendix A may be used. Upon the gathering of enough data an EBU number, based upon water use, shall be established for the new connection.

Subd. 5. The Sewer Service Charge shall consist of a User Charge for Operation, Maintenance and Replacement, and a Debt Service Charge for retirement of the capital cost debt. These charges will be determined as follows:

(a) User Charge

User Charge Rate per Equivalent Residential Unit:

$$\frac{Uc}{ERU} = \frac{Comr}{\text{Total ERU's}}$$

Where: Uc = Annual User Charge
Comr = Total Annual OM & R Costs
ERU = Equivalent Residential Unit
Total ERU's = The total number of ERU's connected the treatment facility

(b) Debt Service Charge

(1) The major part of the debt will be recovered through property assessments. The portion to be recovered through the user charge will be computed as follows:

$$TD = UCH + PAD$$

Where: D = Total Debt
UCH = Portion of debt to be recovered gh the user charge.
PAD = Portion of debt to be recovered through property assessment.

$$\frac{Udc}{Con} = (ERU's/Con) (UCH/Total ERU's)$$

Where: RU = Equivalent Residential Unit
UCH = (Same as above)
Udc = User debt service charge
Con = Any given sewer connection

(2) The portion to be recovered through property assessments will be computed as follows:

DC = (AE) (PAD/TAF) DC = Debt charged to property
AF = Assessable feet of property
PAD = Portion of debt to be recovered through property
assessment
TAF = Total assessable feet of property in the City.

(c) Determination of Charge to a Connection (Sewer Service Charge)

$$\text{Annual Charge to a Connection} = U_c \times \# \text{ ERU's} + U_{dc} = \text{SSC}$$

ERU

Where: SSC = Total Annual Sewer Service Charge
ERU's = Number of ERU's assigned that connection.
ERU = Equivalent Residential Unit.
U_{dc} = User debt service charge.

Subd. 6. Users may appeal the number of ERU's assigned to their particular connection by installing and maintaining, at their own expense, sewage meters of a type approved by the City. Such meters shall be equipped with remote registering recorders located at an accessible site on the owner's property.

Subd. 7. The City may, at its discretion require non-residential users to install sewage meters for the purpose of determining wastewater volume. They shall be equipped with remote registering recorders, and located at an accessible site on the owner's property.

Subd. 8. The Sewer Service Charge established in this Ordinance shall not prevent the assessment of additional charges to users who discharge wastes with concentrations greater than Normal Domestic Strength or wastes of unusual character, or contractual agreements with such users, as long as the following conditions are met:

- (a) The user pays Operation, Maintenance, and Replacement costs in proportion to the user's proportionate contribution of wastewater flows and loadings to the treatment plant, and no user is charged at a rate less than that of "Normal Domestic Strength Wastewater".
- (b) The measurements of such wastes are conducted according to the latest edition of Standard Methods for the Examination of Water and Wastewater in a manner acceptable to the City as provided for in Ordinance No. 12 "An Ordinance Establishing Sewer Use Regulations."
- (c) The City's NPDES Permit and sewer use regulations are not violated.

A study of unit costs of collection and treatment processes attributable to flow, BOD, TSS, and other significant loadings shall be developed for determining the proportionate allocation of

costs to users discharging wastes of greater than normal domestic strength or wastes of unusual character.

CHAPTER 3: UTILITIES

ORDINANCE 33 MUNICIPAL SEWER SERVICE FUND..... 33-1
Section 33.01: SEWER SERVICE FUND..... 33-1
Section 33.02: ADMINISTRATION..... 33-1
Section 33.03: PENALTIES..... 33-2
Section 33.04: PRECEDENCE..... 33-3

Section 33.01. SEWER SERVICE FUND.

Subd. 1. The City of Rice hereby establishes a "Sewer Service Fund" as an income fund to receive all revenues generated by the Sewer Service Charge Systems, and all other income dedicated to the operation, maintenance, replacement and construction of the wastewater treatment works, including taxes, special charges, fees, and assessments intended to retire construction debt.

The City also establishes the following accounts as income and expenditure accounts within the Sewer Service Fund:

- (a) Operation and Maintenance
- (b) Equipment Replacement Account
- (c) Debt Retirement Account

Subd. 2. All revenue generated by the Sewer Service Charge System, and all other income pertinent to the treatment system, including taxes and special assessments dedicated to retire construction debt, shall be held by the Clerk separate and apart from all other funds of the City. Funds received by the Sewer Service Fund shall be transferred to the "Operation and Maintenance Account", the "Equipment Replacement Account," and the "Debt Retirement Account" in accordance with State and Federal regulations and the provisions of this ordinance.

Subd. 3. Revenue generated by the Sewer Service Charge System sufficient to insure adequate replacement throughout the service life of the wastewater facility shall be held separate and apart in the account and dedicated to affecting replacement costs. Interest income generated by the "Equipment Replacement Account" shall remain in the "Equipment Replacement Account."

Subd. 4. Revenue gathered by the Sewer Service Charge System sufficient for operation and maintenance shall be held separate and apart in the "Operation and Maintenance Account."

Section 33.02. ADMINISTRATION. The Sewer Service Charge System and Sewer Service fund shall be administrated according to the following provisions:

Subd. 1. The City Clerk shall maintain a proper system of accounts suitable for determining the operation and maintenance, equipment replacement and debt retirement costs of the treatment works, and shall furnish the City Council with a report of such costs annually in October.

The City Council shall annually determine whether or not sufficient revenue is being generated for the effective operation, maintenance, replacement and management of the treatment works, and whether sufficient revenue is being generated for debt retirement. The Council will also determine whether the user charges are distributed proportionately to each user in accordance with Section 32.02, Subd. 2 and Section 204(b)(2)(A) of the Federal Water Pollution Control Act, as amended.

The City shall thereafter, but not later than the end of the year, reassess, and as necessary revise the Sewer Service Charge System then in use to insure the proportionality of the user charges and to insure the sufficiency of funds to maintain the capacity and performance to which the facilities were constructed, and to retire the construction debt.

Subd. 2. In accordance with Federal and State requirements each user will be notified annually in conjunction with a regular billing of that portion of the Sewer Service Charge attributable to operation, maintenance and replacement.

Subd. 3. In accordance with Federal and State requirements, the City Clerk shall be responsible for maintaining all records necessary to document compliance with the Sewer Service Charge system adopted.

Subd. 4. Bills for User Charges shall be rendered on a quarterly basis succeeding the period for which the service was rendered and shall be due 30 days from the date of rendering. Any bill not paid in full 15 days after the due date will be considered delinquent. At that time the City shall notify the delinquent owner/occupant in writing regarding the delinquent bill and subsequent penalty. The penalty shall be computed as 10% of the original bill and shall be increased the same 10% for every quarter the bill is outstanding.

Subd. 5. The owner of the premises shall be liable to pay for the service to such premises and the service is furnished to the premises by the City only upon the condition that the owner of the premises is liable therefore to the City.

Subd. 6. Any additional costs caused by discharges to the treatment works of toxics or other incompatible wastes, including the cost of restoring wastewater treatment services, clean up and restoration of the receiving waters and environs, and sludge disposal, shall be borne by the discharger(s) of said wastes, at no expense to the City.

Section 33.03. PENALTIES.

Subd. 1. Each and every sewer service charge levied by and pursuant to this Ordinance is hereby made a lien upon the lot or premises served, and all such charges which are on October 15th of the year past due and delinquent, shall be certified to the County Auditor as taxes or

assessments on the real estate. Nothing in this Ordinance shall be held or construed as in any way stopping or interfering with the right of the City to levy as taxes or assessment against any premises affected any delinquent or past due sewer service charges.

Subd. 2. As an alternative to levying a lien, the City may, at its discretion, file suit in a civil action to collect such amounts as are delinquent and due against the occupant, owner, or user of the real estate, and shall collect as well all attorney's fees incurred by the City in filing the civil action. Such attorney's fees shall be fixed by order of the court.

Subd. 3. In addition to all penalties and costs attributable and chargeable to recording notices of the lien or filing a civil action, the owner or user of the real estate being serviced by the treatment works shall be liable for interest upon all unpaid balances at the rate of 12% per annum.

Section 33.04. PRECEDENCE. The sewer service charge system shall take precedence over any terms or conditions of agreements or contracts that are inconsistent with the requirements of Section 204(b)(1)(A) of the Act and Federal regulation 40 CFR (Code of Federal Regulations) 35.2140 of the Environmental Protection Agency's Grant regulations.

ORDINANCE 34 GRANTS AND FRANCHISES..... 34-1
Section 34.01: AUTHORITY..... 34-1
Section 34.02: TABLE OF FRANCHISES..... 34-1

Section 34.01. AUTHORITY. The City Council is authorized by state law to grant franchises to certain public utilities desiring to place their facilities within the City. Public utilities subject to local franchising requirements shall be required to obtain a franchise from the City related to the installation of their facilities within the City. This franchising requirement, and the City Council’s authority to grant them, shall be interpreted broadly. The City Council shall grant franchises by ordinance, which shall establish the rights of the franchisee, require the payment of fees to the City, and shall otherwise set out the terms of the franchise. The terms of a franchise ordinance shall be controlling over any provisions in this Code related to the use of public right-of-ways that are in direct conflict with a term in the franchise, except that the franchisee shall comply with the most current requirements regarding insurance, sureties, penalties, letters of credit, indemnification, and related requirements of right-of-way users, unless otherwise negotiated by the City and the franchisee. Franchise ordinances are special ordinances that are not to be codified into this Code.

Section 34.02. TABLE OF FRANCHISES. The following table identifies the franchise ordinances adopted by the City Council and that are currently in effect. This chart is for informational purposes only and the City Clerk is authorized to update it as needed to reflect any future franchise ordinances without the need to formally amend this Code.

Ordinance No.	Date Adopted	Description
2016-01	March 7, 2016	Granting a franchise to Benton Cablevision Inc.

CHAPTER 4: PUBLIC PROPERTY

ORDINANCE 40	PARK AND RECREATIONAL AREAS.....	40-1
	Section 40.01: SHORT TITLE.....	40-1
	Section 40.02: DEFINITIONS.....	40-1
	Section 40.03: PARK HOURS.....	40-1
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	Section 40.08: RENTAL FEE.....	40-2
	Section 40.09: PARK PROPERTY.....	40-2
	Section 40.10: PROHIBITIONS.....	40-3
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ORDINANCE 40 PARK AND RECREATIONAL AREAS

Section 40.01. SHORT TITLE. This Ordinance shall be known and may be cited as the "Park Ordinance".

Section 40.02. DEFINITIONS.

Subd. 1. For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. Words used in the present tense include the future. The masculine gender shall include the feminine, and the words of the singular number shall include the plural number and vice versa. The word "shall" is always mandatory.

Subd. 2. "City" is the City of Rice, Minnesota.

Subd. 3. "Land adjacent to a park" refers to all public alleys, streets, highways, or any other public lands which border on a park.

Subd. 4. "Park" is a park, reservation, playground, recreation center, shelter house, or any other area in the City, owned or used by the City and devoted to active or passive recreation.

Subd. 5. "Person" is any person, firm, partnership, association, corporation, company, or organization of any kind.

Subd. 6. "Vehicle" is any conveyance on wheels or tracks, whether motor powered, animal drawn or self-propelled. The term shall include any trailer of any kind or description. Exception is made for baby carriages.

Section 40.03. PARK HOURS.

Subd. 1. Ball Park. The normal hours of operation shall be sunrise to sunset except where a person has entered a lease with the City for the park. In the event a person has leased the facility the terms of the lease shall determine the hours of use.

Subd. 2. All Other Parks. The opening times and closing times for all parks other than those specifically described in subdivision 1 of this section, shall be as follows:

Opening time shall be 6:00 am., closing time shall be 11:00 p.m.

Subd. 3. Special Events. Ball games or other special events which extend beyond the normal opening and closing times may be granted special permission to use the park facilities by

the City. A written permit must be obtained from the City for functions extended beyond normal opening and closing times at park facilities.

Section 40.04. STANDARDS OF INSURANCE AND ISSUANCE.

Subd. 1. The City may issue a permit or lease hereunder when it finds that all of the requirements of the subdivisions which follow have been met or complied with.

Subd. 2. That the proposed activity or use of the park will not unreasonably interfere with or detract from the enjoyment of the park.

Subd. 3. That the proposed activity or use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety, and recreation.

Subd. 4. That the proposed activity or use is not reasonably anticipated to invite violence, crime, or disorderly conduct.

Subd. 5. That the proposed activity will not entail unusual, extraordinary, or burdensome expense or policy operation by the City.

Subd. 6. That the facility desired has not been reserved for other use at the day and hour required in the application.

Section 40.05. EFFECT OF PERMIT. A permittee shall be bound by all park rules and regulations and all applicable ordinances as fully as though the same were inserted in said permit.

Section 40.06. LIABILITY OF PERMITTEE. A person or persons to whom a permit is issued shall be liable for any loss, damage or injury sustained by any person whatsoever by reason of negligence of the person or persons to whom such permit shall have been issued.

Section 40.07. REVOCAION. The City shall have the authority to revoke any permit upon the finding of violation of any rule or Ordinance or upon cause shown.

Section 40.08. RENTAL FEE. A rental fee shall be paid prior to receipt of permit or lease obtained pursuant to this Ordinance. Said fees shall be set by the City Council.

Section 40.09. PARK PROPERTY.

Subd. 1. No person in the park shall do any of the acts prohibited in the subdivisions which follow.

Subd. 2. Disfiguration and/or Removal. Willfully mark, deface, disfigure, injure, tamper with, displace, or remove any building, bridge, tables, benches, fireplaces, railing, paving or paving materials, water lines or other public utilities or parts of appurtenances thereof, signs, notices of place cards whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities, or park property or appurtenances whatsoever, whether real or personal.

Subd. 3. Removal of Natural Resources. Make any excavation in any park without written permission from the Director of Parks and Recreation.

Subd. 4. Erection of Structure. Construct, erect, or place any building or structure, including tents, of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across such lands, except on special written permit issued hereunder.

Subd. 5. Trees, Shrubbery, and Lawns.

(a) Injury and Removal of Trees. Damage, cut, carve, transplant, or remove any trees or plant or injure the bark or pick the flowers or seeds, of any tree or plant. Nor shall any person attach rope, wire or other contrivance to any tree or plant.

(b) Climbing Trees, Etc. Climb, walk, stand or set upon any trees, monuments, fountains, railings, fences or upon any other property not designed or customarily so used or dead.

Section 40.10. PROHIBITIONS.

Subd. 1. No person in the park shall do any of the acts prohibited in the subdivisions which follow.

Subd. 2. Pollution of Waters. Place or cause to be placed in the waters of any body of water or fountain in or adjacent to any park or any tributary, stream, storm sewer or drain flowing into such waters, any substance which will or may result in the pollution of said waters.

Subd. 3. Refuse and Trash. Dump deposit, or leave refuse or other trash. All waste generated by use of the park shall be placed in the proper receptacles where provided. All such waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.

Subd. 4. Consumption of Alcohol. Consume, possess, dispense, transport or carry any alcoholic beverage, including 3.2 beer, in or into any City park, except where specifically

authorized in a lease between the City and then only under such conditions as specified in the lease.

Subd. 5. Kegs. Transport or carry a keg or more of beer into any City Park without first having obtained a permit.

Subd. 6. Professional Catering. The professional catering of food, pop and beer without first having obtained a permit.

Subd. 7. Glass Beverage Containers. Transport or carry in or possess glass beverage containers in any City Park.

Section 40.11. TRAFFIC.

Subd. 1. No person in a park shall do any of the acts prohibited in the subdivisions which follow.

Subd. 2. Traffic Regulations. Fail to obey all law enforcement officers instructed by the Chief of Police to direct traffic whenever and wherever needed in the parks and parkways.

Subd. 3. Traffic Signs. Fail to obey the directions of all traffic and parking control signs in any City park.

Subd. 4. Areas of Vehicle Operation. Drive a vehicle on any area of a park except on a parkway, parking lot, path, or other roadway designated for a vehicle.

Subd. 5. Parking.

(a) Designated Area. Park a vehicle in other than an established or designated parking area. Such use shall be in accordance with posted directions or instructions attendant.

(b) Night Restrictions. Leave or park any vehicle in any park, parkway, or drive during those hours in which the City park in question is closed as set forth in Section 40.03 of this code, without written permission from the City. Vehicles in violation of this section shall be subject to citation and removal at the owner's expense.

Section 40.12. RECREATIONAL ACTIVITIES.

Subd. 1. No person in the park shall do any of the acts prohibited in the subdivisions which follow.

Subd. 2. Picnic Areas and Use.

- (a) Fires. Build or maintain a fire except in a fireplace, charcoal burner, or stove.
- (b) Cleanup. Leave the picnic area before the fire is completely extinguished and before all refuse or other trash is placed in the disposal receptacles where provided.

Subd. 3. Camping. No persons shall set up tents, shacks, or any other temporary shelter for the purpose of overnight camping nor shall any person leave in the park after closing hours any movable structure or any special vehicle to be used or that could be used for such purposes, such as house trailer, camp trailer, camp wagon, or the like, without written permission by the City.

Subd. 4. Games. Take part in or abet the playing or any games involving or throwing or otherwise propelling objects such as baseballs, golf balls, stones, arrows, javelins, model airplanes, snow and ice chunks or snowballs, except in the areas set apart for such forms of recreations. The playing or practicing of rough or comparatively dangerous games such as football, baseball, adult softball, and golf is permitted, except on the fields, courts, or areas provided therefore. Use of ball fields shall be governed by the rule of first come, first served, except where prior reservations are made.

Section 40.13. BEHAVIOR.

Subd. 1. No person in the park shall do any of the acts prohibited in the subdivisions which follow.

Subd. 2. Picnic Tables. Stack or rearrange picnic tables in such a manner as to disrupt overall park use.

Subd. 3. Hours. (No person) shall be in a park, except as specifically permitted in Section 40.03 of this Ordinance.

Subd. 4. Domestic Animals. Having been responsible for the entry of a dog or other domestic animals into the park area, permit that animal to do any of the following acts:

- (a) To enter any area except those marked by signs bearing the words "Domesticated Animals Permitted in this Area".
- (b) To be housed on park property.

Subd. 5. Fire. Drop, throw, or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper or other material within any park area.

Subd. 6. Closed Areas. Enter an area posted as "Closed to the Public".

Subd. 7. Ice Rinks.

- (a) Go onto ice on any area except such as are designated and posted as being safe for skating.
- (b) Operate a motor vehicle, snowmobile, sled, bicycle, toboggan, or any other vehicle on any ice rink except those vehicles authorized for use by the Park and Recreation Department for purposes of maintaining the rinks.

Subd. 8. Exhibit Permits. Fail to produce or exhibit any permit or lease issued by the City upon request from any City official or Police officer who shall desire to inspect the same for the purpose of enforcing compliance with an Ordinance or rule.

Subd. 9. Interference with Permittee. Disturb or interfere unreasonably with any person or party occupying any are or participating in any activity under the authority of a permit issued pursuant to this Ordinance.

Section 40.14. MERCHANDISING, ADVERTISING, AND SIGNS.

Subd. 1. No person in or adjacent to a park shall do any of the acts prohibited in the subdivisions which follow.

Subd. 2 Vending and Peddling. Expose or offer for sale any article or thing, nor shall he station or place any stand, cart, or vehicle for the transportation, sale or display of any such article or thing. Exception is hereby made as to any regularly licensed concessionaire acting under the authority of the City.

Subd. 3 Advertising. Announce, advertise or call the public attention in any way to any article or service for sale or hire.

Subd. 4 Signs. Post, erect, or cause to be posted or erected by any means any sign, place card, advertisement or inscription whatsoever.

Section 40.15. VIOLATIONS. Any person violating any provisions of this Ordinance shall be guilty of a petty misdemeanor and subject to a fine of not more than \$200.00.

Section 40.16. ADOPTION AND EFFECTIVENESS. This Ordinance becomes effective upon its passage and publication according to law.

CHAPTER 4: PUBLIC PROPERTY

ORDINANCE 41 UNIFORM SYSTEM FOR NAMING STREETS..... 41-1
Section 41.01: UNIFORM SYSTEM OF NAMING..... 41-1
Section 41.02: STREETS; AVENUES..... 41-1
Section 41.03: QUADRANT SYSTEM..... 41-1
Section 41.04: NUMBERING AND NAMING THE STREETS AND AVENUES..... 41-1
Section 41.05: STREET MAP..... 41-1
Section 41.06: FUTURE COMPLIANCE WITH THE SYSTEM..... 41-1

ORDINANCE 41 UNIFORM SYSTEM FOR NAMING STREETS

Section 41.01. UNIFORM SYSTEM OF NAMING. There is hereby established and continued by this Ordinance a uniform system of naming streets, avenues, and public ways in the City.

Section 41.02. STREETS; AVENUES. All public ways running east and west shall be designated as "Streets" and all public ways running north and south shall be designated "Avenues".

Section 41.03. QUADRANT SYSTEM. Main Street, previously known as Rice Street, shall be the axis and dividing line as to the north and south area respectively of said City, and Division Street, previously known as First Street East, shall be the axis and dividing line between the east and west areas respectively of said City, such that the City will be divided into four quadrants. The area lying north and west of Main Street and Division Street shall be designated as the Northwest Quadrant, and the area lying east and north of Main Street and Division Street shall be designated as the Northeast Quadrant, and the area lying south and east of Main Street and Division Street shall be designated as the Southwest Quadrant.

Section 41.04. NUMBERING AND NAMING THE STREETS AND AVENUES.

Subd. 1. Streets. Streets shall be numerically and successively numbered beginning with First Street on either side of Main Street.

Subd. 2. Avenues. Avenues shall be numerically and successively numbered with First Avenue on either side of Division Street.

Subd. 3. Quadrant Designation. All Streets and Avenues shall include with their numerical designation the quadrant in which same is located.

Section 41.05. STREET MAP. A Map showing all Streets and Avenues as designated and re-named by this Ordinance shall be attached to and made a part of this section. Should any part of this written section conflict with the map and thereby raise questions of interpretation, or should any omission or apparent error be found, facts shall be presented to the City Council for their review and decision.

Section 41.06. FUTURE COMPLIANCE WITH THE SYSTEM. All Streets and Avenues or public ways laid out and opened to the Public travel by extension or otherwise shall be named in accordance with the system established by this Ordinance.

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Section 42.01. 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 Ordinance relating to right-of-way permits and administration. This Ordinance 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 Ordinance, persons excavating and obstructing the rights-of-way will bear financial responsibility for their work. Finally, this Ordinance provides for recovery of out-of-pocket and projected costs from persons using the public rights-of-way.

This Ordinance 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 Ordinance shall also be interpreted consistent with Minnesota Rules 7819.0050 – 7819.9950 where possible. To the extent any provision of this Ordinance 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 Ordinance 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.

Section 42.02. ELECTION TO MANAGE THE PUBLIC RIGHT-OF-WAY. Pursuant to the authority granted to the city under state and federal statutory, administrative and common law, the city hereby elects, pursuant Minnesota Statutes, Section 237.163 Subd. 2(b) to manage rights-of-way within its jurisdiction.

Section 42.03. DEFINITIONS. The following definitions apply in this Ordinance. References hereafter to “sections” are, unless otherwise specified, references to sections in this Ordinance. Defined terms remain defined terms, whether or not capitalized.

Subd. 1. “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.

Subd. 2. “Applicant” means any person requesting permission to excavate or obstruct a right-of-way.

Subd. 3. "City" means the City of Rice, Minnesota. For purposes of Section 42.27, "City" means its elected officials, officers, employees and agents.

Subd. 4. "Commission" means the State Public Utilities Commission.

Subd. 5. "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, Subd. 3, over a continuous length in excess of 500 feet.

Subd. 6. "Construction Performance Bond" means any of the following forms of security provided at permittee'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-insurance, 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) Insurance certificate needs to be on file at the city each new year for all companies;
- h) Bond will be due each year covering all projects done by that company. The bond amount for each year will be \$10,000.

Subd. 7. "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.

Subd. 8. "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.

Subd. 9. "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.

Subd. 10. "Department" means the department of public works of the city.

Subd. 11. "Department Inspector" means any person authorized by the city to carry out inspections related to the provisions of this Ordinance.

Subd. 12. "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.

Subd. 12a. "Director" means the City Engineer.

Subd. 13. "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.

Subd. 14. "Equipment" means any tangible asset used to install, repair, or maintain facilities in any right-of-way.

Subd. 15. "Excavate" means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

Subd. 16. "Excavation Permit" means the permit which, pursuant to this Ordinance, 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.

Subd. 17. "Excavation Permit Fee" means money paid to the city by an applicant to cover the costs as provided in Section 42.11.

Subd. 18. "Facility" or "Facilities" means any tangible asset in the right-of-way required to provide utility service.

Subd 19. "Five-year Project Plan" shows projects adopted by the city for construction within the next five years.

Subd. 20. "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.

Subd. 21. "Hole" means an excavation in the pavement, with the excavation having a length less than the width of the pavement.

Subd. 22. “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 Ordinance.

Subd. 23. “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 42.29 of this Ordinance.

Subd. 24. “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.

Subd. 25. “Obstruction Permit” means the permit which, pursuant to this Ordinance, 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.

Subd. 26. “Obstruction Permit Fee” means money paid to the city by a permittee to cover the costs as provided in Section 42.11.

Subd. 27. “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.

Subd. 28. “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.

Subd. 29. “Permit” has the meaning given “right-of-way permit” in Minnesota Statutes, Section 237.162.

Subd. 30. "Permittee" means any person to whom a permit to excavate or obstruct a right-of-way has been granted by the city under this Ordinance.

Subd. 31. "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.

Subd. 32. "Probation" means the status of a person that has not complied with the conditions of this Ordinance.

Subd. 33. "Probationary Period" means one year from the date that a person has been notified in writing that they have been put on Probation.

Subd. 34. "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.

Subd. 35. "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.

Subd. 36. "Restoration Cost" means the amount of money paid to the city by a permittee to achieve the level of restoration according to plates 1 to 13 of Minnesota Public Utilities Commission rules.

Subd. 37. "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.

Subd. 38. "Right-of-Way Permit" means either the excavation permit or the obstruction permit, or both, depending on the context, required by this Ordinance.

Subd. 39. "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.

Subd. 40. "Service" or "Utility Service" includes (1) those services provided by a public utility as defined in Minnesota Statutes, Section 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 Minnesota Statutes, 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 Minnesota Statutes, Chapter 308A; and (6) water, and sewer, including service laterals, steam, cooling or heating services.

Subd. 41. "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.

Subd. 42. "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.

Subd. 43. "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.

Subd. 44. "Trench" means an excavation in the pavement, with the excavation having a length equal to or greater than the width of the pavement.

Subd. 45. "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, which is used or is intended to be used for transporting telecommunication or other voice or data information. For purposes of this Ordinance, a cable communication system defined and regulated under Minnesota Statutes, Chapter 238, and telecommunication activities related to providing natural gas or electric energy services whether provided by a public utility as defined in Minnesota Statutes, Section 216B.02, a municipality, a municipal gas or power agency organized under Minnesota Statutes, Chapters 453 and 453A, or a cooperative electric association organized under Minnesota Statutes, Chapter 308A, are not telecommunications right-of-way users for purposes of this Ordinance.

Subd. 46. "Two Year Project Plan" shows projects adopted by the city for construction within the next two years.

Section 42.04. 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.

Section 42.05. 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 Ordinance. However, nothing herein relieves a person from complying with the provisions of the Minnesota Statutes, Chapter 216D, Gopher One Call Law.

Section 42.06. 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 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 (1) use and occupancy of the right-of-way by the registrant, its officers, agents, employees and permittees, and (2) placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees and permittees, 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 coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages;
 - 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 Ordinance.
- 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 Minnesota Statutes, Section 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.

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.

Section 42.07. 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 February 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.

Section 42.08. 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 Ordinance shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the city.

Section 42.09. PERMIT APPLICATIONS.

Subd. 1. Application for a permit is made to the city. The city requires three 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 Ordinance;
- 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; and
- 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.

Section 42.10. ISSUANCE OF PERMIT; CONDITIONS.

Subd. 1. Permit Issuance. If the applicant has satisfied the requirements of this Ordinance, 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.

Section 42.11. 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 42.21 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.

Section 42.12. 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 permittee or when work was prohibited as unseasonal or unreasonable under Section 42.15.

Subd. 2. Patch and Restoration. Permittee shall patch its own work. The city may choose either to have the permittee restore the right-of-way or to restore the right-of-way itself.

- a) City Restoration. If the city restores the right-of-way, permittee shall pay the costs thereof within thirty (30) days of billing. If, following such restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the city, within thirty (30) days of billing, all costs associated with correcting the defective work.
- b) Permittee Restoration. If the permittee 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 permittee 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 permittee shall correct defects in patching or restoration performed by permittee or its agents. The permittee, 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, 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 42.12.

Subd. 5. Failure to Restore. If the permittee 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 permittee shall pay to the city, within thirty (30) days of billing, the cost of restoring the right-of-

way. If permittee fails to pay as required, the city may exercise its rights under the construction performance bond.

Section 42.13. 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 or not 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 would still be required.

Section 42.14. 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 permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which 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 permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee 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.

Section 42.15. OTHER OBLIGATIONS.

Subd. 1. Compliance With Other Laws. Obtaining a right-of-way permit does not relieve permittee 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 permittee 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 permittee 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 permittee 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, permittees 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.

Section 42.16. DENIAL OF PERMIT. The city may deny a permit for failure to meet the requirements and conditions of this Ordinance 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.

Section 42.17. 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 these ordinances. 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 42.22, Subd. 2 of this ordinance. Utility companies must install dual mains in all new projects.

All traffic control will comply with the latest Mn/DOT Field Traffic Control Manual.

Section 42.18. INSPECTION.

Subd. 1. Notice of Completion. When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance Minnesota Rule 7819.1300.

Subd. 2. Site Inspection. Permittee 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 which poses a serious threat to the life, health, safety or well-being of the public.
- b) The director may issue an order to the permittee 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 permittee 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 Section 42.21.

Section 42.19. 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 may proceed to 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 Ordinance for the actions it took in response to the emergency. The permittee requirements shall not apply if the repair is caused by another permittee'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 Ordinance.

Section 42.20. SUPPLEMENTARY NOTIFICATION. If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee shall notify the city of the accurate information as soon as this information is known.

Section 42.21. REVOCAION 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 permittee 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 permittee'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 Section 42.18.

Subd. 2. Written Notice of Breach. If the city determines that the permittee 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 permittee 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, permittee shall provide the city with a plan, acceptable to the city, which will cure

the breach. Permittee's failure to so contact the city, or permittee's failure to timely submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit. Further, permittee's failure to so contact the city, or permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall automatically place the permittee on Probation for one (1) full year.

Subd. 4. Reimbursement of City Costs. If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

Section 42.22. MAPPING DATA.

Subd. 1. Information Required. Each registrant and permittee shall provide mapping information required by the city in accordance with Minnesota Rules 7819.4000 and 7819.4100. Within ninety (90) days following completion of any work pursuant to a permit, the permittee shall provide the director accurate maps and drawings certifying the "as-built" location of all equipment installed, owned and maintained by the permittee in both digital and hard copy. The digital copy of "as-built" drawings can be CAD or GIS compatible files and the hard copy can be paper or image file formats. Such maps and 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 and drawings pursuant to this section 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 permittee'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. Permittees 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 install 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 permittee 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.

Section 42.23. 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 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. Any facilities found in a right-of-way that have not been 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 which have been determined to be in the public interest.

Section 42.24. PRE-EXCAVATION FACILITIES LOCATION. In addition to complying with the requirements of Minnesota Statutes, Section 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 vertical placement 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.

Section 42.25. DAMAGE TO OTHER FACILITIES. The provisions of Minnesota Statutes, Section 216D shall apply to all situations involving damages to facilities during excavation operations. Each registrant shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages. This provision includes costs for damages to boulevard amenities, such as 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.

Section 42.26. RIGHT-OF-WAY VACATION.

Subd. 1. 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.

Section 42.27. INDEMNIFICATION AND LIABILITY. By registering with the city, or by accepting a permit under this Ordinance, a registrant or permittee agrees to defend and indemnify the city in accordance with the provisions of Minnesota Rules 7819.1250.

Section 42.28. 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 Ordinance 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.

Section 42.29. 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 Minnesota Statutes, Section 237.163, Subd. 6; or (5) disputes a determination of the director regarding Section 42.22, 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 at its next regularly scheduled meeting, 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.

Section 42.30. SEVERABILITY. If any portion of this Ordinance 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 Ordinance precludes the city from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.

CHAPTER 4: PUBLIC PROPERTY

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Section 43.01. PURPOSE AND FINDINGS. The purpose of this Ordinance is to protect the health, safety and welfare of the citizens of Rice by regulating the time, place and manner of conduct of Special Events and by establishing permit requirements for conducting Special Events often exceeds the City's capacity to provide usual city services. Such services include, but are not limited to sanitary, fire, police, and utility services. The Rice City Council also finds these regulations necessary to ensure that such events are conducted with sufficient consideration given to public safety issues, including, among other things, the impact of such events on parking and vehicular traffic within the City.

Section 43.02. DEFINITIONS.

Subd. 1. "Person" is defined as a natural person, association, organization, club, group formed for a common purpose, partnership of any kind, Limited Liability Company, corporation or any other legal entity.

Subd. 2. "Outdoor Event" means any gathering of two hundred fifty (250) people or more in one outdoor location where sound amplification is used and/or anytime a road is blockaded for such event.

Subd. 3. "Special Event" is defined as a gathering of at least (250) people or more on public property where sound amplification is used and/or a road is blockaded for such event. Such events require a permit and applications for such permits must be made at least 30 days in advance of the event. No permit will be required for special events sponsored or managed by the City of Rice, funerals and funeral processions or events held on ground of any school, playground, place of worship, etc.

Section 43.03. PERMIT REQUIRED. No person shall hold, conduct or participate in a Special Event within the City of Rice, without first obtaining a permit from the City of Rice. Written application for the Special Event permit must be made at least 30 days in advance of the event's proposed date in a form prescribed by the City Council. This application period shall not begin to run until a complete application has been filed with the City and the City has received the fee in the amount set by the City's fee schedule. Failure to provide a complete application or to pay the fee as herein required shall result in the denial of the application.

The Council may issue a Special Event Permit and may attach such reasonable conditions to the permit as are deemed necessary to protect the health, safety, and welfare of the community. Such conditions may pertain to any of the following:

- a) Location and hours during which the event may be held;
- b) Sanitation/availability of potable water;
- c) Security/crowd management;
- d) Parking and traffic issues;

- e) Emergency and medical services;
- f) Clean-up of premises and surrounding area/trash disposal;
- g) Insurance;
- h) Lighting;
- i) Fire service/safety;
- j) Temporary construction, barricades/fencing;
- k) Removal of advertising/barricades/fencing;
- l) Noise level;
- m) Alcohol consumption;
- n) Deposit in such amount as the Council establishes;
- o) Any other condition which the Council deems necessary.

Upon Council approval the City Clerk shall issue a permit to the Person(s) named in the permit application. The permit shall clearly state the conditions, if any, imposed by the Council. Copies of the permit shall be posted in three (3) prominent locations during the Special Event.

All permits granted under the provisions of this article shall be signed by the City Clerk and attested by the seal of the City. No license under this article shall be transferred to any other person or place without the consent of the City Council, upon written application therefore made, as in the case of an original license.

Section 43.04. EXCEPTIONS TO THE PERMIT. The permit requirements contained in this Ordinance does not apply to the following:

- a) Special Events sponsored and managed by the City of Rice;
- b) Funerals and funeral processions;
- c) The grounds of any school, playground, place of worship, hotel, conference center, stadium, athletic fields, arena, auditorium, or similar permanent places of assembly when used for regularly established assembly purpose as long as there is no concessions, no amplified sound, and/or no alcohol.

Section 43.05. AUTHORIZATION REQUIRED. Persons or organizations are prohibited from operating a concession or selling products or services on public property within a defined fair, festival, or celebration area without authorization from the non-profit association sponsoring the event. The entity sponsoring the event shall submit a description of the defined festival area in the permit application to the City Council for approval.

Section 43.06. HOURS. No outdoor event shall commence before eight o'clock (8:00 a.m.) nor continue after ten o'clock (10:00 p.m.), Sunday through Friday. The outdoor event application should clearly identify the hours requested for the event. Events held on a Friday or Saturday may, at the discretion of the City Council be extended until 12:30 a.m. In determining whether to extend the event held on a Friday or Saturday until 12:30 a.m., the City Council may consider circumstances including but not limited to the location of the property relative to residential property, type of amplification equipment used, noise mitigation efforts to be undertaken, presence of on-site police personnel,

previous experience with applicant, and the extent to which the event is designed to appeal to all or a large percentage of City residents.

Section 43.07. CLEANUP. All applicants must clean up the outdoor event area and the immediate surrounding area as soon as possible after the outdoor event has concluded. (Cleanup includes picking up and disposal of all plastic cups, glasses, plates, napkins, garbage and other incidentals). The City officials inspecting the outdoor event site shall check the outdoor event area and immediate surrounding area to determine compliance with the cleanup requirements. The City officials inspecting the outdoor event site will advise the City Council that the cleanup requirement has been met or assign a cleanup crew. If a cleanup crew is assigned the cleanup cost incurred by the City in connection with the event shall be deducted from applicant's deposit.

Section 43.08. SECURITY. The applicant shall hire security personnel and shall provide such hired security personnel with proper attire so as to be immediately identified as event security by all present at the outdoor event. The number of security personnel shall be determined by the Police Chief of the City of Rice and will be compensated by the event sponsors. It is the responsibility of the sponsors of the event to maintain security as defined in the Ordinance.

Section 43.09. FUTURE EVENTS. Any person who has previously been licensed pursuant to the provisions of this Ordinance may be denied a license for a subsequent outdoor event if violations of the provisions of this Ordinance occurred at previous outdoor events sponsored or held by the same person(s). The City Council may approve the license with modifications and conditions as he deems appropriate to protect the health, safety, or welfare of the public.

Section 43.10. PENALTIES. Any person who violates any condition of a Special Event permit or any provision of this ordinance shall be guilty of a petty misdemeanor, punishable as prescribed by State law. Enforcement of this ordinance may, at the Police Chief or City Council's discretion, take one or more of the following forms:

- a) Citation/criminal prosecution as a petty misdemeanor;
- b) Injunctions, declaratory judgments, or other civil remedies;
- c) Permit revocation; and/or
- d) Dispersion of persons gathered.

A violation of the ordinance may also result in revocation of the permit and/or dispersion of persons gathered. In addition, such violations may result in the denial of future permits for the individual and/or group sponsoring the event.

CHAPTER 5: TRAFFIC AND MOTOR VEHICLES

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ORDINANCE 51 PARKING REGULATIONS

Section 51.01. STATE LAW INCORPORATED. The regulatory parking provisions of Minnesota Statutes, Chapter 169, as amended, copies of which are available at the City Clerk's office, are adopted as part of this Ordinance.

Section 51.02. DOUBLE PARKING. Double parking shall be permitted on all City streets, other than Main Street (County Road 2), only for loading or unloading.

Section 51.03. NO PARKING ZONES. The City Council may designate certain streets or alleys or portions of them as "No Parking Zones" and shall mark by appropriate signs any zones so established.

Section 51.04. LIMITED PARKING ZONES. The City Council may designate certain municipal parking lots, streets or alleys or portions thereof as "Limited Parking Zones" and shall mark by appropriate signs any zones so established.

Section 51.05. STREETS, ALLEYS AND SIDEWALKS. No vehicle, trailer or other object shall be parked (a) upon any street or alley or in a manner which leaves less than ten (10) feet of roadway for the free movement of traffic, or (b) in any alleyway or travel way which is used primarily for vehicle service access to the back or the side of properties abutting on a street, or (c) upon any sidewalk.

Section 51.06. OVERNIGHT PARKING. No vehicle, trailer or other object shall remain parked for more than forty-eight (48) hours upon any municipal parking lot, street or alley unless special permission is obtained from the Rice Police Department, and any vehicle which is moved less than one (1) block shall be deemed to have remained stationary. It is unlawful to remove any mark made by a police officer to determine the length of time a vehicle, trailer or other object remained parked.

Section 51.07. WINTER PARKING. To protect the citizen's general health, safety and welfare and to facilitate snow removal, it shall be unlawful to park or permit any vehicle, trailer or other object to remain parked upon any alley or street from November 1st to March 31st between the hours of 2:00 a.m. and 7:00 a.m.

Section 51.08. PARALLEL PARKING. Unless angle or other parking is designated by appropriate signs, every vehicle parked upon any street with a curb shall be parked parallel to the curb with the parked vehicle's right-hand wheels within twelve (12) inches of the curb, and every vehicle on any street without a curb shall be parked parallel to the right of the main traveled portion of the road or street in such a way to not interfere with the free flow of traffic.

Section 51.09. RECREATIONAL VEHICLE PARKING. No person shall stay in any camper, or sleeping unit parked in any Business, Industrial, or Commercial lot/property for more than 72 hours unless special permission is obtained from the Rice Police Department.

Section 51.10. SEMI TRAILER, TRAILER, TRUCK TRACTOR AND COMMERCIAL MOTOR VEHICLE PARKING.

Subd. 1: Definitions. As used in this Ordinance the following terms shall mean:

- a) Semi-Trailer. Every vehicle without mode of power designed for carrying persons or property and for being drawn by vehicle and so constructed that some part of its weight and some part of its load rests upon or is carried by another vehicle.
- b) Trailer. Every vehicle without mode of power designed for carrying persons or property and for being drawn by a mother vehicle and so constructed that no part of its weight rests upon another towing vehicle.
- c) Commercial Motor Vehicle. “Commercial Motor Vehicle” means a motor vehicle or combination of motor vehicles used to transport passengers or property if the mother vehicle: 1) has a gross vehicle weight of more than 26,000 pounds; 2) has a towed unit with a gross vehicle weight of more than 10,000 pounds and the combination of vehicles has a combined weight of more than 26,000 pounds.
- d) Gross Vehicle Weight. “Gross vehicle weight” means the greater of: 1) the unloaded weight of a vehicle or the unloaded weight of a truck-tractor and semi-trailer combination, plus the weight of the load, or 2) the value specified by the manufacturer as the maximum gross weight or gross vehicle weight rating.
- e) Truck Tractor. Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.
- f) Street or Highway. The entire width between the boundary lines of any way or place when any part thereof is open to the use of the public as a matter of right or purpose of vehicular traffic.
- g) Residential District. All that territory defined as either single family residential or multiple family residential districts in the zoning ordinance for the City of Rice.

Subd. 2. Declaration of Nuisance. No person shall park a bus, truck-tractor, farm tractor, road tractor, trailer, semi-trailer, truck, commercial or industrial vehicle of any type on a street, highway, or on public property in an area zoned R-1, R1-A, R-2, R-3, or R-5 by Ordinance: “The Zoning Ordinance of the City of Rice, Minnesota as amended.

- a) The provisions of this subdivision shall not apply to those light trucks classified as ½ ton and ¾ ton pickups, panels and sedan deliveries, or to those vehicles temporarily parked by the driver thereof, while said driver is engaged in the performance of his usual trade or occupation within a residentially zoned area.

Subd. 3. Overnight Parking. No trailer or other object shall remain parked for more than forty-eight (48) hours upon any street or alley unless special permission is obtained from the Rice Police Department. Any trailer, which is moved less than one (1) block, shall be deemed to have remained stationary in violation of this subdivision. It is unlawful to remove any mark made by a Police Officer to determine the length of time a trailer or other object remained parked.

Subd. 4. Restrictions Cumulative. The restrictions of this Ordinance relating to the parking of truck tractors, commercial vehicles, semi-trailers, and trailers are not to be construed as exclusive, but rather as in addition to the parking restrictions which apply to all motor vehicles generally, as provided by the state law or other Ordinance provisions.

Section 51.11. IMPOUNDMENT. Any vehicle left parked or standing in violation of this Ordinance or the laws of the State of Minnesota may be towed away pursuant to the provisions of MN Statute 169.041, as amended. Any motor vehicle towed away and impounded under this Ordinance or State law may be claimed or recovered after payment to the towing authority of all towing and storage charges. Impound fees are as established in Appendix A. The City, its agents and employees, shall not be responsible for any damage done during towing and impoundment under this Ordinance or State law.

Subd. 1. Notice of Impoundment. Within forty-eight (48) hours after a vehicle has been impounded, the Police Department shall send written notice to the owner of the impounded vehicle at his or her last known address as shown by the records of the Department of Public Safety. If the owner is unknown to the Police Department or an address cannot be found, the Police Department shall publish at least once in the City's official newspaper notice of the impounding, the license number of vehicle, the motor vehicle number of the impounded vehicle, and the name and type of vehicle impounded.

Subd. 2. Sale of Vehicle. If after the expiration of sixty (60) days after mailing or publishing the notice set out in Subd. 1 the vehicle is not redeemed by the owner or the owner's agent, the City shall proceed to sell the impounded vehicle at public auction after first giving at least twenty (20) days' notice of such sale by publication in the City's official newspaper of the time and place of the sale. The notice shall describe the vehicle to be sold, with reasonable certainty, by manufacturer's trade name or make, motor vehicle number, license number, and any other specifically identifying information, and the notice shall state to whom, if anyone, the records of the Department of Public Safety show the car belongs, and if the name of the owner is unknown, that fact shall be stated in the notice. If the name of the owner known, the City shall send that person a copy of the published notice immediately after publication of the notice. The City shall credit any money it receives after the sale to the City's general fund. At any time within one (1) year after the sale, if the former owner of the vehicle which has been sold appears, upon application to the City Council and presentation of satisfactory proof that the person was the owner of the vehicle sold, that person shall be paid the proceeds of such sale, less the necessary expenses thereof, and less the towing, impounding and storage charges as the Council establishes in Appendix A.

Subd. 3. Release of Towed Vehicle. Once all fines are paid in full, the City Police Department may release the vehicle to the respective party and the towing company impound lot shall then notify the City Police Department of the date and to whom the vehicle was released.

Section 51.12. PENALTIES.

Subd. 1. Parking Citation. A parking citation shall be issued to the owner or operator of any vehicle in violation of this Ordinance or State law. All parking citations shall indicate the nature of the violation, the amount of the fine, the method by which the fine may be paid, and the procedure by which the violator may obtain a hearing to contest the issuance of the parking citation. Any person violating this Ordinance or the State laws designated under it shall be guilty of a petty misdemeanor. A fourth parking violation within a 12-month period year shall constitute a misdemeanor.

Subd. 2. Administrative Citations. This Ordinance may also be enforced by administrative citations. Administrative fines for violations of this Ordinance are established by the City Council in Appendix A.

Subd. 3. Fine Collection. The City Clerk is authorized to receive, process, make records of all parking citations issued and fines paid, and shall deposit all fines in the City's general fund.

CHAPTER 5: TRAFFIC AND MOTOR VEHICLES

ORDINANCE 52 SNOWMOBILES AND OTHER RECREATIONAL VEHICLES..... 52-1

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Section 52.01. PURPOSE. Because the operation and use of snowmobiles and other recreational vehicles in an uncontrolled manner endangers the public peace, health and safety of the City's inhabitants, the City adopts the following rules to regulate the operation and use of recreational vehicles and provide penalties for the improper use of recreational vehicles to greatly decrease the danger and to provide greater protection to the public peace, health and safety of the inhabitants of the City while snowmobiles and other recreational vehicles are operated and used in the City.

Section 52.02. DEFINITIONS. The following terms shall have the meaning ascribed to them.

Subd. 1. All-Terrain Vehicle. "All-terrain vehicle" means a motorized vehicle with: (1) not less than three, but not more than six low pressure or non-pneumatic tires; (2) a total dry weight of 2,000 pounds or less; and (3) a total width from outside of the tire rim to outside of tire rim that is 65 inches or less. All-terrain vehicle include a class 1 all-terrain vehicle and a class 2 all-terrain vehicle. All-terrain vehicle does not include a golf cart, mini-truck, dune buggy, or go-cart or a vehicle designed and used specifically for lawn maintenance, agriculture, logging, or mining purposes.

Subd. 2. Class 1 All-Terrain Vehicle. "Class 1 all-terrain vehicle" means an all-terrain vehicle that has a total width from outside of tire rim to outside of tire rim that is 50 inches or less.

Subd. 3. Class 2 All-Terrain Vehicle. "Class 2 all-terrain vehicle" means an all-terrain vehicle that has a total width from outside of tire rim to outside of tire rim that is greater than 50 inches but not more than 65 inches.

Subd. 4. Owner. A person, other than a lienholder, having the property in or title to a snowmobile or other recreational vehicle and entitled to the use or possession of the vehicle.

Subd. 5. Operate. To ride in or on and control the operation of a snowmobile or recreational vehicle.

Subd. 6. Operator. Every person who operates or is in actual physical control of a snowmobile or other recreational vehicle.

Subd. 7. Person. Includes an individual, partnership, corporation, the state and its agencies and subdivision and anybody of persons, whether incorporated or not.

Subd. 8. Public Property. Any real property owned by the City including all city parks and recreational areas.

Subd. 9. Recreational Motor Vehicle or Recreational Vehicle. Any self-propelled vehicle and any vehicle propelled or drawn by a self-propelled vehicle used for recreational purpose,

including but not limited to snowmobiles, trail bikes, other all-terrain vehicles, utility task vehicles, hovercraft, or motor vehicles licensed for highway operation being used for off-road recreational purposes.

Subd. 10. Roadway. That portion of a highway improved, designed, or ordinarily used for vehicular travel.

Subd. 11. Snowmobile. "Snowmobile" means a self-propelled vehicle originally manufactured and designed for travel on snow or ice steered by skis or runners. Snowmobile does not include the following vehicles equipped with aftermarket ski and track configurations:

- (1) an all-terrain vehicle defined in Minnesota Statute 84.92;
- (2) an off-highway motorcycle defined in Minnesota Statute 84.787;
- (3) an off-road vehicle defined in Minnesota Statute 84.797;
- (4) a mini truck defined in Minnesota Statute 169.11;
- (5) a utility task vehicle described in Minnesota Statute 169.045; or
- (6) any other vehicle being operated off road.

Section 52.03. SPECIAL VEHICLE USE ON ROADWAYS. The City of Rice does not have a permit program for motorized golf carts, all-terrain vehicles, utility task vehicles, or mini trucks. Therefore, per Minnesota Statute 169.045, operation of motorized golf carts, all-terrain vehicles, utility task vehicles, or mini trucks on designated roadways or portions thereof within the City of Rice is unlawful unless otherwise authorized by state law.

Section 52.04. OPERATION. Except as this Ordinance specifically permits and authorizes, no Person shall operate a snowmobile or all-terrain vehicle (Class 1 or Class 2) within the City limits:

Subd. 1. Public Roads. On the portion of any right-of-way of any public highway, street, road, trail or alley used for motor vehicle travel, except the most right-hand lane, (except in passing) which is used for vehicle traffic in the same direction, other than on freeways, interstate, trunk, county state aid, or county highways. A person may operate a snowmobile or all-terrain vehicle (Class 1 or Class 2) upon the ditch bottom or outside of trunk, county state aid and county highways where such highways are so configured within the corporate limits.

Subd. 2. Sidewalks. On a public sidewalk provided for pedestrian travel.

Subd. 3. Boulevards. On boulevards within any public right-of-way.

Subd. 4. Private Property. On private property of another without specific permission of the owner or person in control of the property.

Subd. 5. Public Property. On any other public property, including Parks and recreational areas, except as the City's Ordinances may specifically permit.

Subd. 6. Alcohol and Drugs. No person shall operate a snowmobile or all-terrain vehicle (Class 1 or Class 2) within the City limits at any place while under the influence of alcohol or drugs, as defined in MN Statute 169.121, which is incorporated by reference.

Subd. 7. Speed. No person shall operate a snowmobile or all-terrain vehicle (Class 1 or Class 2) at a rate of speed greater than reasonable and proper under all surrounding circumstances. No person shall operate a snowmobile or all-terrain vehicle (Class 1 or Class 2) on public roadways at speeds greater than thirty (30) miles per hour.

Subd. 8. Recklessness. No person shall operate a snowmobile or all-terrain vehicle (Class 1 or Class 2) 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 other person or property.

Subd. 9. Towing. No person shall operate a snowmobile or all-terrain vehicle (Class 1 or Class 2) so as to tow any person or thing in a public street or highway except through use of a rigid tow bar attached to the rear of the vehicle.

Section 52.05. CROSSING STREETS OR HIGHWAYS. A snowmobile or recreational vehicle may make a direct crossing of a street or highway except an interstate highway or freeway provided:

Subd. 1. The crossing is made at any angle of approximately ninety (90) degrees to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing.

Subd. 2. The vehicle is brought to a complete stop before crossing the shoulder or main traveled way.

Subd. 3. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.

Subd. 4. In crossing a divided street or highway, the crossing is made only at an intersection of such street or highway with another public street or highway.

Subd. 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.

Section 52.06. TRAFFIC LAWS. City Traffic Ordinances shall apply to the operation of snowmobiles and all-terrain vehicles (Class 1 or Class 2) upon streets and highways, except for those relating to required equipment and except those which by their nature have no application.

Section 52.07. YIELDING. No snowmobile or all-terrain vehicles (Class 1 or Class 2) shall enter any intersection without yielding the right-of-way to any vehicles or pedestrians at the intersection, or so close to the intersection as to constitute an immediate hazard.

Section 52.08. OPERATION BY MINORS.

Subd. 1. No person under fourteen (14) years of age shall operate on streets or the roadway surface of highways, or make a direct crossing of a trunk, county state-aid, county highway or city street as the operator of a snowmobile. A person fourteen (14) years of age or older, but less than eighteen (18) years of age, may operate a snowmobile on streets and highways as permitted under this Ordinance and make a direct crossing of streets and highways only if he or she has in his or her possession a valid snowmobile safety certificate issued by the commissioner, as provided by M.S.A. 84.872.

Subd. 2. No owner of a snowmobile or all-terrain vehicle shall permit the vehicle to be operated contrary to the provisions of this Ordinance or state law.

Section 52.09. EQUIPMENT. No Person shall operate a snowmobile or all-terrain vehicle (Class 1 or Class 2) any place within the City limits unless it is equipped with the appropriate equipment required by state law.

Section 52.10. EMERGENCIES. Notwithstanding any prohibitions in this Ordinance, a snowmobile or recreational vehicle may be operated on a public thoroughfare in an emergency during the period of time when, and at locations where, snow upon the roadway renders travel by automobile impractical.

Section 52.11. ANIMALS. No person shall intentionally drive, chase, run over or kill any animal with a snowmobile or recreational vehicle.

Section 52.12. ADOPTION OF MINNESOTA STATUTES. Minnesota Statutes 84.771 to 84.929 and the following sections of Minnesota Statutes Chapter 169 are adopted by reference and shall be applicable to snowmobiles and recreational vehicles.

Sections 169.045, 169.09, 169.15, 169.18, 169.19, 169.20, 169.201, 169.32, 169.33, 169.34, and 169.46.

Section 52.13. PENALTY. Any Person violating this Ordinance shall be guilty of a petty misdemeanor upon the first offense and a misdemeanor upon the second and subsequent offenses.

CHAPTER 6: GENERAL REGULATIONS

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ORDINANCE 60 LIQUOR

Section 60.01. STATE LAW ADOPTED. The City adopts and incorporates the provisions of Minnesota Statutes Chapter 340A, as amended, pertaining to the retail sale, distribution and consumption of intoxicating and 3.2 malt liquor into this Ordinance.

Section 60.02. DEFINITIONS.

Subd. 1. Alcoholic Beverage. Shall mean any beverage containing more than one-half of one percent alcohol by volume.

Subd. 2. Club. Shall have the meaning designated in Minnesota Statute 340A.101, Subd. 7, as amended.

Subd. 3. Commissioner. Shall mean the Commissioner of Public Safety.

Subd. 4. Exclusive Liquor Store. Shall mean any establishment used exclusively for the sale of those items authorized in Minnesota Statute 340A.412, Subd. 14, as amended.

Subd. 5. Intoxicating Liquor. Shall mean ethyl alcohol and include distilled, fermented, spirituous, vinous and malt beverages containing more than 3.2 percent of alcohol by weight.

Subd. 6. Licensed Person. Shall include persons, corporations, partnerships, and other unincorporated associations and entities.

Subd. 7. Off Sale. Shall mean the sale of alcoholic beverages in original packages for consumption off or away from the premises only.

Subd. 8. On Sale. Shall mean the sale of alcoholic beverages for consumption on the licensed premises only.

Subd. 9. Package or Original Package. Shall mean a sealed or corked alcoholic beverage container.

Subd. 10. Sale and Sell. Shall mean and include all barters, and all manners or means of furnishing intoxicating liquor or liquors as above described in violation or evasion of law.

Subd. 11. 3.2 Percent Malt Liquor. Shall mean malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight.

Section 60.03. LICENSE REQUIRED. No Person, except a wholesaler or manufacturer to the extent authorized under state law, shall directly or indirectly manufacture, import, sell, keep for sale, exchange, barter, charge for possession, or otherwise dispose of alcoholic beverages as part of a commercial transaction without first obtaining the required licenses and permits.

Section 60.04. INTOXICATING LIQUOR LICENSE.

Subd. 1. On-Sale. The City may issue an on-sale intoxicating liquor license only to hotels, restaurants, bowling centers, qualified clubs or congressionally chartered veterans organizations with the Commissioner's approval, and Exclusive Liquor Stores.

Subd. 2. Off-Sale. With the Commissioner's approval the City may issue an Off-Sale intoxicating liquor license to an Exclusive Liquor Store or drugstore that had an off-sale license before May 1, 1994. The City may not issue more than one (1) Off-Sale license to any one person or place. The City may not issue an Off-Sale license to a place where 3.2 percent malt liquor is sold for consumption on the Premises, unless the premises has both an On-Sale and Off-Sale license under this Ordinance or a combination license.

Subd. 3. Temporary On-Sale. With the Commissioner's approval, the City may issue a temporary license for the On-Sale of intoxicating liquor for not more than four (4) consecutive days to a Club or charitable, religious or other nonprofit organization in existence for at least three (3) years in connection with a social event in the City sponsored by the licensee. The license may authorize the On-Sale of liquor on premises the licensee does not own or permanently occupy, and may provide that the licensee may contract for intoxicating liquor services with the holder of a full-year On-Sale license under this Ordinance.

Subd. 4. Club License. The City may issue a special club license only to a Club or congressionally chartered veteran's organization which has existed for at least three (3) years.

Subd. 5. Sunday Sales. The City may authorize a restaurant, club, bowling center, or hotel with a seating capacity for at least 30 persons, which holds an On-Sale license under this Ordinance to sell intoxicating liquor on Sundays in conjunction with the sale of food between the hours of 10:00 a.m. on Sundays and 1:00 a.m. on Mondays, provided that each individual establishment obtains a Sunday license from the City, and is in conformance with the Minnesota Clear Air Act.

Subd. 6. Community Festival. The City may authorize a holder of a retail On-Sale intoxicating liquor license issued by the City to dispense intoxicating liquor off-premises at a community festival held in the City.

Subd. 7. Expiration. All intoxicating liquor licenses, except temporary licenses, shall expire on the same day.

Subd. 8. Employment of Minors. No person under eighteen (18) years of age may serve or sell intoxicating liquor in a retail intoxicating liquor establishment.

Subd. 9. Off-Site Storage. A licensee under this Ordinance may not store any intoxicating liquor at any location other than the licensed premise without the permission of the Commissioner and City Council.

Subd. 10. Number of Licenses. The City may issue four (4) Off-Sale licenses. The number of Club licenses is limited to qualified applicants and temporary On-Sale licenses are limited by Minnesota Statute 340A.410, Subd. 10, as amended.

Subd. 11. Combination License. The City may issue both On-Sale and Off-Sale licenses to the same licensee or a combination On-Sale and Off-Sale license to a licensee.

Section 60.05. 3.2 PERCENT MALT LIQUOR LICENSE.

Subd. 1. On-Sale and Off-Sale. The City may issue one year On-Sale or Off-Sale licenses for the sale of 3.2 percent malt liquor. The City may issue On-Sale licenses to drugstores, restaurants, hotels, Clubs, bowling centers and establishments used exclusively for selling 3.2 percent malt liquor with the individual sale of tobacco and soft drinks.

Subd. 2. Temporary On-Sale. The City may issue a temporary On-Sale license to a Club or charitable, religious, or nonprofit organization. Any Person holding an On-Sale or Off-Sale intoxicating liquor license under Section 60.4 may sell 3.2 percent malt liquor at On-Sale and Off-Sale without further license.

Section 60.06. LICENSE APPLICATION. Every license applicant, including applicants for a license transfer, shall verify and file an application with the City Clerk on the form the Commissioner prescribes stating the applicant's name, age, and citizenship, representation as to the applicant's character with any required references, whether the sale is for "On-Sale" or "Off-Sale", the business in connection with which the proposed licensee shall operate and its location, whether applicant owns the business, how long he or she has been in that business at that place, and any other information the City Council may require.

Section 60.07. LIABILITY INSURANCE. The City shall not issue or renew any license unless the applicant demonstrates proof of financial responsibility conforming to Minnesota Statutes 340A.409, as amended, regarding liability under Minnesota Statutes 340A.801, as amended, and files proof with the Commissioner and the City Council.

Section 60.08. GRANTING LICENSES.

Subd. 1. Preliminary Investigation. On an initial application for or transfer of an existing On-Sale intoxicating liquor license, the applicant shall pay with the application an investigation fee established in Appendix A, not to exceed Five Hundred Dollars (\$500.00), for which the City shall conduct a preliminary background and financial investigation of the applicant. The application shall be made on a form prescribed by the Commissioner and shall include any additional information the City Council requires. If the City Council or Commissioner determines that a comprehensive background and financial investigation of the applicant is necessary, the Council may conduct the investigation through the City Police Department, or contract with the Bureau of Criminal Apprehension for the investigation. The City Council shall not issue or renew a license if the results show to the satisfaction of the City Council that issuance, transfer or

renewal would not be in the public interest. If an investigation outside the State is required, the applicant shall be charged the costs established in Appendix A, not to exceed \$10,000, which shall be paid by the applicant after deducting any initial investigation fee already paid. The applicant shall pay the fee whether or not the license is granted.

Subd. 2. Issuance. The City Council shall investigate all facts set out in the application and not investigated in the preliminary background and financial investigation conducted. Following the investigation, the Council shall grant or return the application under this Ordinance. No Off-Sale license shall become effective until it, together with the security information furnished by the applicant, has been approved by the Commissioner.

Subd. 3. Person and Premises Licensed. The City Council shall issue each license only to the applicant and only for the premises described in the application. The City Council shall not issue more than one Off-Sale intoxicating liquor license to any one person or any one place. A licensee shall not transfer the license to another person or place without the City Council's approval. Any transfer of stock of a corporate licensee is deemed a transfer of the license and shall be prohibited.

Section 60.09. LICENSE FEES.

Subd. 1. Fees. The City Council shall set the annual license fees subject to change following a hearing on the proposed increase with notice to all affected licensees at least thirty (30) days before the hearing. There shall be no license fee to transfer a license that is in good standing. Appendix A lists the current license fees.

Subd. 2. Payment. Each license application shall be accompanied by the required license fee, and the City Clerk shall issue a receipt to the applicant for payment in full of the required fee. All fees shall be paid into the City's general fund.

Subd. 3. Effective Dates. Each license for "On-Sale" or "Off-Sale" shall be issued for a period of one year from January 1 through December 31. If the application is made during the license year, the City may issue the license for the remainder of the year, with payment of the full license fee.

Subd. 4. Refunds. The City shall not refund any license fee.

Section 60.10. PERSONS INELIGIBLE FOR LICENSE. No license shall be granted to or be held by any Person:

Subd. 1. Under the age of twenty-one (21) years;

Subd. 2. Who is not of good moral character or repute;

Subd. 3. Who, if he or she is an individual, is not a resident of the State of Minnesota, or does not become a resident of the State of Minnesota within ninety (90) days after the license is

issued. If the applicant is a corporation, at least one (1) principal officer of the corporation must be a resident of the State of Minnesota or must become a resident of the State of Minnesota within ninety (90) days after the license is issued.

Subd. 4. Who is or has been convicted of any violation of any law in the United States or the State of Minnesota, or of any local ordinance regarding the manufacture, sale, distribution, or possession for sale or distribution of intoxicating liquor, or whose liquor license has been revoked or who has committed a willful violation of any such laws or ordinances.

Subd. 5. Who is a manufacturer or wholesaler of intoxicating liquor or is interested directly or indirectly in the ownership or operation of any such business.

Subd. 6. Who is directly or indirectly interested in any other establishment in the municipality to which a license of the same class has been issued under this Ordinance.

Section 60.11. PLACES INELIGIBLE FOR LICENSE.

Subd. 1. General Prohibition. The City shall not issue a license for any place or any business ineligible for a license under state law.

Subd. 2. Delinquent Taxes and Charges. The City shall not issue a license for any premises on which taxes, assessments, or other financial claims of the City are delinquent and unpaid.

Subd. 3. Charges. The charges referred to in subdivision 2 of this section may relate to unpaid water bills, and in being consistent with the policies of the City Council, may relate to charges for legal fees incurred while enforcing this Ordinance against the licensee or the licensee's bona fide employees.

Subd. 4. Another's Premises. The City may not issue an intoxicating liquor license to a Person in connection with the premises of another to whom a license could not be issued, except as State law otherwise provides.

Section 60.12. LICENSE CONDITIONS. Every license is subject to this Ordinance's conditions, regulations promulgated by the Commissioner, and applicable State laws.

Section 60.13. LICENSE POSTING. A retail license to sell alcoholic beverages must be posted in a conspicuous place in the licensed premises.

Section 60.14. PROHIBITIONS. No licensee shall keep, possess, operate or permit the keeping, possession, or operation of any slot machine, or any gambling device or apparatus, nor permit any gambling, prostitution or other disorderly persons on the licensed premises or in any room adjoining or inside the licensed premises, except gambling devices kept or operated and raffles if permitted by the City Ordinances or state law, including Minnesota Statute 349.26, as amended.

Section 60.15. LICENSEE'S RESPONSIBILITY. Every licensee shall be responsible for the conduct of the licensee's place of business and the condition of sobriety and order in it. The licensee shall employ reputable employees that shall conduct business in his or her absence in a legal manner. The act of any employee on the licensed premises authorized to sell alcoholic beverages shall be the act of the licensee as well, and the licensee shall be liable for all penalties in this Ordinance and the law equally with the employee.

Section 60.16. INSPECTIONS. Every licensee and permittee shall allow any police officer, health officer, or properly designated officer or employee of the City to enter, inspect and search the premises of the licensee or permittee without warrant during business hours, and within one and one-half hours after the closing time as prescribed by law, without warrant. The Chief of Police, or the Chief's designated agents, shall conduct periodic checks of licensed premises to ensure this Ordinance is not being violated.

Section 60.17. NUDITY AND SEXUAL CONDUCT PROHIBITED. The following acts or conduct on licensed premises shall be strictly prohibited:

Subd. 1. To employ or use any person in the same or service of alcoholic beverages in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing so as to expose or to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

Subd. 2. To employ or use services of any host or hostess while the host or hostess is unclothed or in such attire, costume or clothing as described in subdivision 1 of this section.

Subd. 3. To employ or use any dancers, musicians, or other performers or entertainers, who are unclothed or in such attire, costume or clothing as described in subdivision 1 of this section.

Subd. 4. To directly or indirectly sponsor any contests which may foreseeably cause, result in or lead to the occurrence of the acts or incidents described in subdivision 6 of this section.

Subd. 5. To encourage or permit any person on the licensed premises to touch, caress or fondle breasts, buttocks, anus or genitals of any employee of the licensee or any performers or entertainers who are employed or whose services are used by the licensee.

Subd. 6. To permit any person to perform acts of or acts which simulate:

- a) With or upon another person sexual intercourse, sodomy, oral copulation, flagellation or any sexual act which is prohibited by law;
- b) Masturbation or bestiality;

- c) With or upon another person the touching, caressing or fondling of the buttocks, anus, genitals or female breasts;
- d) The displaying of the public hair, anus, vulva, genitals or female breasts below the top of the areola;

Subd. 7. To permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described in this section.

Subd. 8. To permit any person to remain in or upon the licensed premises, or any area owned or controlled by the licensee which is viewable from upon the licensed premises, who exposes to public view any portion of his or her genitals or anus.

Subd. 9. To permit the showing of film, still pictures, electronic reproduction, or other visual reproduction depicting:

- a) Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual act which is prohibited by law.
- b) Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals.
- c) Scenes where a person displays the vulva, the anus or the genitals.
- d) Scenes wherein artificial devices or inanimate objects are employed to depict, or drawing are employed to portray, any of the prohibited activities described herein.

Subd. 10. Any person violating any portion of this Ordinance shall be guilty of a misdemeanor. Any violation of this Ordinance shall also constitute grounds for revocation or suspension of the licensee's license, in accordance with the rules and procedures otherwise established by this Ordinance and State law.

Section 60.18. CONSUMPTION AND DISPLAY PERMITS.

Subd. 1. Approval. No business establishment or Club not holding an On-Sale intoxicating liquor license shall directly or indirectly allow the consumption and display of alcoholic beverages or knowingly serve any liquid for the purpose of mixing it with intoxicating liquor without first securing the approval of the City Council and obtaining a permit from the Commissioner according to Minnesota Statute 340A.414, as amended. The permit does not authorize the sale of intoxicating liquor on the premises.

Subd. 2. Permit Term and Fee. Consumption and Display permits expire on December 31st of each year. Applicants for consumption and display permits shall pay to the City the permit fee established in Appendix A, for which the City shall issue a proof of payment that must be

posted in a conspicuous place upon the premises alongside the permit issued by the Commissioner. The City's fee for the initial consumption and display permit issued to any premises shall be for a full year even if the term is for less than a full year.

Subd. 3. No Refunds. The City shall not refund any license or permit fees upon surrender of a permit.

Subd. 4. Furnishing to Minors. Patrons upon the premises holding a consumption and display permit are prohibited from furnishing intoxicating liquor to minors or anyone other than their own bona fide guests.

Subd. 5. Inspection. The premises shall be open for inspection by law officers or duly qualified designees of the City at any time when the premises is open to the public for business or any other time when the premises is occupied. Intoxicating liquor sold, served or displayed in violation of law may be seized and disposed of.

Subd. 6. License Required. To qualify for a consumption and display permit, the premises must be licensed by the City for the sale of On-Sale 3.2 percent malt liquor.

Subd. 7. State Notification. The City, its duly qualified designees or law officers shall notify the Commissioner of any violations of this section.

Subd. 8. Non-Applicability. This section does not apply to any premises licensed for On-Sale or Off-Sale intoxicating liquor.

Section 60.19. HOURS AND DAY OF SALE. Unless this Ordinance provides otherwise, the hours and days of sale shall be according to Minnesota Statute 340A.504, as amended. All Persons, except the licensee, the licensee's bona fide employees, and law enforcement officers, shall be excluded from the premises within thirty (30) minutes after the expiration of the time on any day when intoxicating liquor may be legally sold on the premises. Each licensee shall be required to keep a current written list setting forth the names of current employees, including their names, addresses and social security numbers. This list shall be provided to members of the police department or other persons acting on behalf of the City upon demand. It shall be unlawful to permit the consumption or displaying of intoxicating liquors later than thirty (30) minutes after the sales of such liquors must terminate. It shall be conclusively presumed that any intoxicating liquor remaining on a bar, or in a booth, or on a table, shall be for the purpose of consuming it in violation of this section.

Section 60.20. PERSONS TO WHOM SALE IS ILLEGAL.

Subd. 1. No Person to whom the sale of intoxicating liquor or 3.2 percent malt liquor is forbidden by state law in On-Sale or Off-Sale licensed premises shall (1) misrepresent his or her age to obtain intoxicating liquor or 3.2 percent malt liquor, (2) enter any premises licensed under this Ordinance to procure, consume, purchase or attempt to purchase alcoholic beverages, or (3) have another purchase or attempt to purchase for him or her any alcoholic beverage on the licensed premises.

Subd. 2. No Person to whom the sale of intoxicating liquor or 3.2 percent malt liquor is forbidden shall remain in any place where “On-Sale” intoxicating liquor or 3.2 percent malt liquors are sold or given away, except as permitted in this Ordinance. No person under the age of 21 years may enter a licensed establishment except to work, consume meals on premises that qualify as a restaurant, or attend social functions that are held in a portion of the premises where liquor is not sold.

Subd. 3. No Person shall give, procure or purchase intoxicating liquor or 3.2 percent malt liquor for any Person to whom the sale of intoxicating liquor or 3.2 percent malt liquor is forbidden by state law or this Ordinance.

Section 60.21. CONSUMPTION IN PUBLIC PLACES.

Subd. 1. No Person shall mix or prepare intoxicating liquor or 3.2 percent malt liquor for consumption in any public place or place of business not licensed to sell “On-Sale” intoxicating liquor or 3.2 percent malt liquor in any such place.

Subd. 2. No Person shall sell or consume any intoxicating liquor or 3.2 percent malt liquor on a public highway or in an automobile in any public place in the City.

Subd. 3. No Person shall consume or carry any open container of intoxicating liquor or 3.2 percent malt liquor on any public street, highway, alley, public sidewalk, public parking lot, or private parking lot which is open for use by the general public in the City limits.

Subd. 4. No Person shall carry or consume an open container of any intoxicating liquor or 3.2 percent malt liquor on any parking lot provided for patrons of a licensee under this Ordinance.

Subd. 5. All intoxicating liquor or 3.2 percent malt liquor sold On-Sale shall be possessed and consumed inside the building where purchased On-Sale. No Person shall possess or consume any intoxicating liquor or 3.2 percent malt liquor outside the building of an On-Sale licensed premises if the intoxicating liquor or 3.2 percent malt liquor was purchased On-Sale. The licensee shall be responsible for enforcing this section. Permitting a Person possessing intoxicating liquor or 3.2 percent malt liquor On-Sale to leave the building may be deemed to be a violation of this Ordinance by the licensee.

Subd. 6. No Off-Sale intoxicating liquor or 3.2 percent malt liquor may be consumed while on the licensed “Off-Sale” premises.

Subd. 7. The City Council may, upon application and upon such other proof as may be deemed appropriate by the Council, grant special exceptions to the preceding sections regarding sales on a licensed premises or in public areas or parking lots. A special exception shall be limited to a period no longer than twenty-four (24) hours. The approval shall be further subject to proof

of insurance for the type of event requested by the applicant. The City Council shall determine the fee to be charged for a special permit on a case-by-case basis.

Section 60.22. IDENTIFICATION.

Subd. 1. Proof of Age. Proof of age for purposes of consuming, purchasing or possessing an alcoholic beverage, the consumption, sale, or possession of which is regulated by age, shall only be established by a valid driver's license issued by the State of Minnesota or of another state, or a current Minnesota identification card issued pursuant to Minnesota Statutes 171.07, as amended.

Subd. 2. Refusal. No Person shall refuse to show proper identification to the licensee, the licensee's bona fide employees, or to a police officer when requested. Refusal to show proper identification shall be a violation of this Ordinance if the Person is in an establishment licensed to sell alcoholic beverages, or is consuming or possessing alcoholic beverages outside such establishments.

Section 60.23. LICENSE SUSPENSION OR REVOCATION. The City Council may revoke the license or permit, suspend the license or permit for up to sixty (60) days, impose a civil penalty of up to \$2,000, or impose any combination of these sanctions, for each violation by a licensee or permit under this Ordinance or State law. No suspension or revocation shall take effect until the license or permit holder has received notice and an opportunity for a hearing under M. S. A. 14.57 to 14.69 of the Administration Procedure Act, as amended.

Section 60.24. PENALTIES. Any Person violating this Ordinance shall be guilty of a petty misdemeanor upon the first offense and a misdemeanor upon the second and subsequent offenses. The City may also recover costs of prosecution. The City may elect to handle the case with a civil hearing rather than criminal prosecution for any violation of this Ordinance. The City's costs of civil hearings, including, but not limited to a court reporter and the City Attorney's fees, may also be charged against a licensee.

CHAPTER 6: GENERAL REGULATIONS

ORDINANCE 61 TRANSIENT MERCHANTS, PEDDLERS, AND SOLICITORS 61-1
 Section 61.01: DEFINITIONS..... 61-1
 Section 61.02: LICENSING..... 61-1
 Section 61.03: INELIGIBILITY FOR LICENSE..... 61-2
 Section 61.04: SUSPENSION AND REVOCATION..... 61-3
 Section 61.05: REGISTRATION..... 61-4
 Section 61.06: PROHIBITED ACTIVITIES..... 61-4
 Section 61.07: EXCLUSION BY PLACARD..... 61-4
 Section 61.08: EXEMPTIONS..... 61-5
 Section 61.09: PENALTY..... 61-5

Section 61.01. DEFINITIONS. The following terms are defined as used in this Ordinance:

Subd. 1. Transient Merchant. Any Person selling, or attempting to sell or dispense any goods, products or merchandise, either as principal or agent from a building or lot which he or she occupies as a tenant or under a lease for a shorter term than six (6) months, or from trailer, tent, portable trailer, empty store front or railroad car who do not remain or intend to remain in any one location for more than fourteen (14) consecutive days.

Subd. 2. Peddler. Any Person selling, attempting to sell, offering or dispensing any goods, products or merchandise or going about from place to place carrying the goods or products for sale and delivery. The term peddler shall mean the same as the term "hawker".

Subd. 3. Solicitor. Any Person going from place to place offering or attempting to obtain goods, products or merchandise or services for which delivery or performance shall occur at a later time or to collect donations. Any Person taking orders to be filled by goods delivered to the purchaser from other states in the original package shall not be included.

Section 61.02. LICENSING.

Subd. 1. License Required. No transient merchant shall sell or offer for sale any good, product, merchandise, service, or attempt to do any business in this City without obtaining a license from the County Auditor and the City Clerk.

Subd. 2. License Application. Application for a license shall be made to the City Clerk on a form the City provides, which may include the following information:

- a) The name of the applicant and all persons associated with him or her in that business;
- b) The type of business for which the license is desired;
- c) In the case of transient merchants, the place where the business is to be carried on;
- d) The length of time for which the license is desired;
- e) A general description of the thing or things to be sold;
- f) Address and telephone number of applicant's permanent residence;
- g) Proof of any County license needed;
- h) The applicant's present place of business along with its address and telephone number;

- i) The applicant's places of residence for the last five (5) years.
- j) Any other information the City requires.

Subd. 3. Fees. Application and license fees shall be as established in Appendix A.

Subd. 4. Procedure. Upon receipt of the completed application and payment of the license fee, the City Clerk shall, within two regular business days of receipt, shall determine if the application is complete and shall inform the applicant of any necessary information which is missing. The Clerk shall review the application and order any investigation, including background checks, necessary to verify the information provided with the application. Within ten regular business days of receiving the application, the City Clerk shall determine whether or not to issue the license. If the Clerk approves the application, the Clerk shall issue a license to the applicant. If the Clerk rejects the application, the applicant shall be notified in writing of the Clerk's decision, the reason for the denial, and of his or her right to appeal the denial by requesting, within 20 days of receiving the Clerk's notice of rejection, a public hearing before the City Council within 20 days of the date of the request. The final decision of the Council following the public hearing shall be appealable by petitioning the Minnesota Court of Appeals for a Writ of Certiorari.

Subd. 5. Duration. Each license shall be valid only for the period specified in the license.

Subd. 6. License Not Transferable. Licenses issued under this Ordinance shall be non-transferable. No refunds shall be made on unused portions of licenses except upon resolution of the Council. Each person engaged in the business of vending or peddling goods shall secure a separate license.

Subd. 7. License to be Carried. All licenses issued under this Ordinance shall be carried by the licensee or conspicuously posted in his or her place of business and the licensee shall whenever requested show the license to any officer or citizen who demands to see the license.

Section 61.03. INELIGIBILITY FOR LICENSE. The City Clerk may deny a license if:

Subd. 1. The applicant fails to obtain and show proof of any required County license.

Subd. 2. the applicant fails to truthfully provide any of the information the City requested as a part of the application, to sign the application, or to pay the required application fee.

Subd. 3. The applicant has been convicted within the past five years from the application date for any violation of any Federal or State statute or regulation, or of any local ordinance, which adversely reflects on the Person's ability to conduct the business for which the license is being sought in an honest and legal manner or that will not adversely affect the City resident's health, safety, and welfare. Such violations shall include but not be limited to: burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened

physical harm against another Person.

Subd. 4. The applicant has had a license or permit issued to the applicant for conducting business as a peddler, solicitor, or transient merchant revoked within the past five (5) years.

Subd. 5. The applicant is determined to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to: the existence of more than three complaint(s) against the applicant with the Better Business bureau, the Attorney General's Office, or other similar business or consumer rights office or agency, within the preceding twelve (12) months, or five such complaints filed against the applicant.

Section 61.04. SUSPENSION AND REVOCATION.

Subd. 1. The City Council may suspend or revoke any license issued under this Ordinance for violation of any of the following:

- a) Fraud, misrepresentation, or incorrect statements on the application form.
- b) Fraud, misrepresentation, or false statements made during the course of the licensed activity.
- c) Conviction of any offense for which granting of a license could have been denied under Section 61.03.
- d) Any violation of this Ordinance.

The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as transient merchants on behalf of the licensee, shall serve as a suspension or revocation of each such authorized person's authority to conduct business as a transient merchant on behalf of the licensee whose license is suspended or revoked.

Subd. 2. Notice. Before revoking or suspending any license issued under this Ordinance, the City shall provide the license holder with written notice of the alleged violation(s) and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.

Subd. 3. Public Hearing. Upon receiving the notice provided in Subdivision 2, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the City Clerk within ten (10) regular business days following the service of the notice, the City may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within 20 days from the

date of the request. Within three regular business days of the hearing, the City Council shall notify the licensee of its decision.

Subd. 4. Emergency. If in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a transient merchant licensed under this Ordinance, the Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in subdivision 3 of this section.

Subd. 5. Appeals. Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in Court.

Section 61.05. REGISTRATION. All solicitors, and any person exempt from the licensing requirements of this Ordinance under section 61.08, must register with the City on the same form required for a license application but shall pay no fee. Immediately upon completion of the registration form, the City Clerk shall issue to the registrant a Certificate of Registration as proof of the registration. Certificates of Registration shall be non-transferable.

Section 61.06. PROHIBITED ACTIVITIES. No peddler, solicitor, or transient merchant shall conduct business in any of the following manners:

Subd. 1. Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.

Subd. 2. Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk, or other public right-of-way.

Subd. 3. Conducting business in such a way as to create a threat to the health, safety, and welfare of any individual or the general public.

Subd. 4. Conducting business before 8:00 a.m. or after 9:00 p.m.

Subd. 5. Failing to provide proof of license or registration, and identification, when requested; or using the license or registration of another person.

Subd. 6. Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the City solely based on the City having issued a license or certificate of registration to that person.

Subd. 7. Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating, or abusive.

Section 61.07. EXCLUSION BY PLACARD. No peddler, solicitor, or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor, or transient merchant when the property is marked with a sign or placard at least three and three-quarter (3-3/4) inches long and three and three-quarter (3-3/4) inches wide with print of at least forty-eight (48) point in size stating "No Peddlers, Solicitors, or Transient Merchants," or "Peddlers, Solicitors, and Transient Merchants Prohibited," or other comparable statement. No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this section.

Section 61.08. EXEMPTIONS. This Ordinance shall not apply to:

- a) Sales under Court order;
- b) Any bona fide auction sale;
- c) A sale at wholesale to a retailer dealer;
- d) Sale of farm or garden products by the person producing them;
- e) Any person selling or attempting to sell any goods, products or merchandise or personal property at wholesale to a retailer of the items being sold;
- f) Any person who makes initial contacts with others to establish a regular customer delivery route for perishable goods and dairy products or anyone delivering the same;
- g) Garage, rummage or estate sales; multi-person bazaars and flea markets;
- h) Any person exercising their State and related Constitutional rights, unless it is incidental to a criminal activity;
- i) A non-profit organization under federal tax law; or
- j) A school or school-sponsored organization.

Section 61.09. PENALTY. Any Person violating this Ordinance shall be guilty of a petty misdemeanor upon the first offense and a misdemeanor upon the second and subsequent offenses. Each day a violation exists shall be a separate violation. Fines for violations are as established by the City Council in Appendix A.

CHAPTER 6: GENERAL REGULATIONS

ORDINANCE 63 CURFEW..... 63-1
Section 63.01: PURPOSE..... 63-1
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Section 63.07: PENALTIES..... 63-3
Section 63.08: ORDINANCE NOT PERMISSIVE..... 63-3
Section 63.09: DELINQUENT CHILD..... 63-4

Section 63.01. PURPOSE.

Subd. 1. The City Council determines that there has been an increase in juvenile violence and crime by Persons under the age of 18 in the City.

Subd. 2. Person under the age of 18 are particularly susceptible by their lack of maturity and experience to participate in unlawful activities and to be victims of older perpetrators of crime; and

Subd. 3. The City has an obligation to provide for the protection of minors from each other and from other Persons, for the enforcement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities; and

Subd. 4. A curfew for those under the age of 18 will be in the interest of the public health, safety and general welfare and will help to attain the foregoing objectives and diminish the undesirable impact of such conduct on the citizens of the City.

Section 63.02. DEFINITIONS.

Subd. 1. Curfew Hours. Means:

- a) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday until 5:00 a.m. of the following day; and
- b) 12:01 a.m. until 5:00 a.m. on any Friday or Saturday.

Subd. 2. Emergency. Means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

Subd. 3. Establishment. Means any privately owned place of business operated for a profit to which the public is invited, including, but not limited to, any place of amusement or entertainment.

Subd. 4. Guardian. Means:

- a) A Person who, under court order, is the guardian of the Person of a minor; or
- b) A public or private agency with whom the minor has been placed by a court.

Subd. 5. Minor. Means any Person under 18 years of age.

Subd. 6. Operator. Means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

Subd. 7. Parent. Means a Person who is:

- a) A natural parent, adoptive parent or step-parent of another Person; or
- b) At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

Subd. 8. Public Place. Means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

Subd. 9. Remain. Means to:

- a) Linger or stay; or
- b) Fail to leave the premises when requested to do so by a police officer or the owner, operator, or other Person in control of the premises.

Subd. 10. Serious Bodily Injury. Means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Section 63.03. RESTRICTIONS. It shall be unlawful for any:

Subd. 1. Minor to remain in any public place or on the premises of any establishment within the City during curfew hours.

Subd. 2. Parent or guardian of a minor to knowingly permit, or by insufficient control allow, the minor to remain in any public place or on the premises of any establishment within the City during curfew hours. The term “knowingly” includes knowledge which a parent or guardian should reasonably be expected to have concerning the whereabouts of a minor in the legal custody of that parent or guardian.

Subd. 3. Owner, operator, or any employee of an establishment to knowingly allow a minor to remain upon the premises of the establishment during curfew hours.

Section 63.04. EXCEPTIONS. The following shall constitute valid exceptions to the operation of the curfew. That the minor was:

Subd. 1. Accompanied by the minor’s parent or guardian.

Subd. 2. On an errand at the direction of the minor's parent or guardian, without any detour or stop.

Subd. 3. In a motor vehicle involved in interstate travel.

Subd. 4. Engaged in an employment activity, or going to or returning home from an Employment activity, without any detour or stop.

Subd. 5. Involved in an emergency.

Subd. 6. On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence.

Subd. 7. Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious or other recreational activity supervised by adults and sponsored by the City, a civic organization, or another similar entity that takes responsibility for the minor.

Subd. 8. Exercising First Amendment rights protected by the United States Constitution.

Subd. 9. Married or had been married.

Section 63.05. OPERATOR'S DEFENSE. It is a defense to prosecution under Section 63.03 that the owner, operator employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

Section 63.06. ENFORCEMENT. The Police Department shall enforce this Ordinance. Before taking any enforcement action, a police officer shall ask the apparent offender's age and reason for being in the public place. The police officer shall not issue a citation or make an arrest under this Ordinance unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Section 63.04 is present.

Section 63.07. PENALTIES. A Person violating this Ordinance shall be guilty of a separate offense for each day or part of a day during which the violation is committed, continued or permitted. This Ordinance may also be enforced by administrative citations. Administrative fines for violations of this Ordinance are established by the City Council in Appendix A.

Section 63.08. ORDINANCE NOT PERMISSIVE. This Ordinance shall not permit any Person under eighteen (18) years of age to be in any place where an existing law now prohibits his or her presence. Any operator violating this Ordinance shall be guilty of a misdemeanor.

Section 63.09. DELINQUENT CHILD. Any Person under eighteen (18) years of age who violates this Ordinance shall be deemed a delinquent child as defined by Minnesota Statutes 260.01, as amended.

CHAPTER 6: GENERAL REGULATIONS

ORDINANCE 64 BUILDING CODE..... 64-1
Section 64.01: BUILDING CODE..... 64-1
Section 64.02: DEPARTMENT AND ADMINISTRATIVE AUTHORITY..... 64-1
Section 64.03: FEES..... 64-1
Section 64.04: WAIVER OF INSPECTION..... 64-2
Section 64.05: VIOLATIONS AND PENALTIES..... 64-2

Section 64.01. BUILDING CODE. The Minnesota State Building Code, one copy of which is on file in the Office of the City Clerk, is hereby adopted as the building code of the City of Rice and incorporated in the city code as completely as if set out in full.

Section 64.02. DEPARTMENT AND ADMINISTRATIVE AUTHORITY. The Building Inspector shall be the Building Department of the City of Rice and the State Certified "Building Official" so designated by the City Council.

Section 64.03. FEES.

Subd. 1. Fee Schedule. The fee for a building permit is set forth in the following schedule according to the value of the construction work as defined in Appendix of Minnesota State Building Code:

- a) \$10.00 for first \$500 plus \$1.50 for each additional \$100 or fraction thereof to an included \$1,000.
- b) \$32.50 for the first \$2,000 plus \$6.00 for each additional thousand or a fraction thereof up to \$25,000, plus a \$10.00 plan review check fee up to \$4,000 and adjusted plan review fee thereafter.
- c) \$170.50 for the first \$25,000 plus \$110.80 for the plan review fee, plus another \$4.50 for each additional thousand or a fraction thereof with an adjusted plan review fee up to \$50,000.
- d) \$286.00 for \$51,000 in valuation plus \$185.40 for the plan review fee, plus another \$3.00 for each additional thousand or a fraction thereof with an adjusted plan review fee up to \$100,000.
- e) \$435.50 for \$101,000 in valuation plus \$283.08 for the plan review fee, plus another \$2.50 for each additional thousand or fraction thereof, with an adjusted plan review fee.

Subd. 2. Surcharge. In addition to the fee required by Subd. 1, the applicant shall pay a State Surcharge in the amount fixed by law. The amount required by law shall be remitted quarterly to the Minnesota Department of Administration.

Subd. 3. Additional Fee. If the City's actual cost of inspection and enforcement of the State Building Code exceeds the revenues derived from the permit fee, the Council shall retain the right to impose a fee equal to the cost of such inspection and enforcement in excess of any amount paid pursuant to Subd. 1 above.

Subd. 4. Waiver of Plan Checking Fees. The Building Inspector may waive a plan-checking fee if he finds that the cost involved in reviewing the plans to be insignificant.

Section 64.04. WAIVER OF INSPECTION. The Building Inspector may waive such called or special inspection provided the Building Inspector finds that:

- (a) The Building Inspector is assured that such inspections will be conducted by a qualified independent inspector.
- (b) Copies of any independent called or special inspection reports shall be made available to the Building Inspector upon his request and without cost.

Section 64.05. VIOLATIONS AND PENALTIES. A violation of this Ordinance is a misdemeanor.

CHAPTER 6: GENERAL REGULATIONS

ORDINANCE 65	RENTAL HOUSING.....	65-1
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Section 65.01. PURPOSE AND INTENT.

Subd 1. Purpose. The purpose of this Ordinance is to protect the public health, safety and welfare of the residents of the City of Rice who have, as their place of abode, a dwelling unit, manufactured home, lot or room furnished to them for the payment of a rental charge to another.

Subd 2. Intent. The intent of this Ordinance is to provide a permanent mode of protecting and regulating the living conditions of these residents by providing minimum standards for cooking, heating, and sanitary equipment necessary to the health and safety of occupants of rental property by providing minimum standards for light and ventilation necessary for the health and safety, and minimum standards for the maintenance of existing private and rental residential buildings.

Subd 3. Savings Clause. With respect to rental disputes, and except as otherwise specifically provided by the terms of this Ordinance, it is not the intention of the City to intrude upon the fair and accepted contractual relationship between tenant and landlord. The City does not intend to intervene as an advocate of either party, nor to act as an arbiter, nor to be receptive to complaints from tenant or landlord that are not specifically and clearly relevant to the provisions of this Ordinance. In the absence of such relevancy with regard to rental disputes, it is intended that the contracting parties exercise such legal sanctions as are available to them without the intervention of City Government. By enacting this Ordinance, it is not the intention of the City Council to interfere or permit interference with legal rights to personal privacy.

Section 65.02. DEFINITIONS. The following words and phrases shall have the meanings given them in this section:

Subd. 1. Building: Shall mean any structure used or intended for supporting or sheltering any use or occupancy.

Subd. 2. Dwelling Unit: Consists of one (1) or more rooms that are arranged, designed, or used as living quarters. Each room or group of rooms shall be a separate dwelling unit. A rooming house shall be considered a single dwelling unit, but may charge a fee based on the number of sleeping rooms. A structure that is self-enclosed and arranged, designed and used as living quarters to a single family or group of persons under a single lease or agreement shall be considered a single dwelling unit.

Subd. 3. Familial Relation: Shall mean a legally recognized son, daughter, father, mother, grandfather, grandmother, grandson, granddaughter, sister, or brother.

Subd. 4. Housing Inspector: Shall mean a designee appointed by the Rice City Council authorized to administer and enforce this Ordinance.

Subd. 5. License: Shall mean a license, that is issued under this Ordinance after receipt of fees and may be revoked if such rental property is found not to be in compliance with ordinances, codes or statutes.

Subd. 6. Lot: Shall mean an area within a manufactured home park or otherwise maintained and made available for occupancy by a manufactured home.

Subd. 7. Manufactured Home: Shall have the meaning provided in Minnesota Statutes, Section 327B.01.

Subd. 8. Manufactured Home Park: Shall mean any site, lot, field or tract of land upon which two (2) 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.

Subd. 9. Maximum Occupancy: Shall mean that for each occupant in a dwelling unit, 100 square feet of space must be provided.

Subd. 10. Occupant: Shall mean any person (including the owner or operator) living, sleeping, cooking, and eating in a dwelling unit.

Subd. 11. Operator: Shall mean the owner or agent who has charge, care, control or management of a building or manufactured home park or part hereof, in which dwelling units, manufactured homes, lots or rooming units are let.

Subd. 12. Owner: Shall mean any person who, alone or jointly or severally with others, shall be in actual possession of, or have charge, care or control of any dwelling unit, manufactured home, lot, rooming house or sleeping unit within the City.

Subd. 13. Person: Shall mean any natural person his/her heirs, executors, administrators or assigns, and also includes a firm, partnership, and limited liability company, cooperative or corporation, its or their successors or assigns, or the agent of any of the aforementioned.

Subd. 14. Rental Property: Shall mean a dwelling unit offered for rent or occupied by a person or persons in the status of tenant, but does not include motels. This term shall not include property in which the dwelling unit or manufactured home is owned by the occupant, but the land or lot is rented or leased.

Subd. 15. Rooming House: Shall mean a building or structure providing a room or rooms intended for living and sleeping for persons in the status of tenant in which the toilet and kitchen facilities are shared, and the common or shared areas of the structure are actively maintained by the operator. This term shall include boarding houses, day cares, lodging houses, Bed and Breakfasts, fraternity and sorority houses, but does not include hotels, motels, or hospitals.

Subd. 16. Sleeping Rooms: Shall mean a room or enclosed floor space in a rooming house or dwelling unit, as defined herein, used or intended to be used primarily for sleeping purposes.

Subd. 17. Tenant: Shall mean one who has as his/her place of abode a dwelling unit, manufactured home, lot, rooming house or sleeping room furnished to him/her for payment of a rental charge to another.

Section 65.03. INTERNATIONAL PROPERTY MAINTENANCE CODE. The International Property Maintenance Code, current edition, as from time to time amended or modified, is hereby adopted by reference, so far as it applies to rental property, and is made a part of this Ordinance as if fully set out in length.

Section 65.04. LICENSE REQUIRED. No person shall occupy, allow to be occupied, or let to another for occupancy any dwelling unit in the City of Rice for which a license has not been properly issued by the Housing Inspector. No rental dwelling shall be issued a license by the City unless it complies with the ordinances of the City of Rice and the statutes of the State of Minnesota, which pertain to such properties. A rental property solely occupied by the owner or a familial relation of the owner is exempt from this requirement.

Subd 1. License Fee. The City Council may establish a licensing fee schedule for each dwelling unit or sleeping room in each rental property. The schedule may include a separate fee for licenses, inspections, crime prevention program participation and delinquencies. Said license fees shall be payable at the time of application for licensing or renewal of a license and shall be a prerequisite to the issuance of the required license. Once issued, a licensee shall not be entitled to a refund on any license fee upon suspension or revocation.

- a) Rental property that is licensed as a "Curing Home" (Nursing Home) or a "Boarding Care Home" by the State of Minnesota Department of Health pursuant to Minnesota Statutes Chapter 157 shall be exempt from the registration fee required under this section. This exception shall not apply if no services are provided to the tenants, or the services are incidental to, or independent of the landlord/tenant relationship.
- b) If the license fee required hereunder is paid after March 31 for the next license year, penalties shall be imposed as established by the licensing fee schedule.
- c) All licenses shall expire March 31, two calendar years following the year it was issued. Application for any license for which an inspection is required shall be 30 days prior to expiration. For cause, the Housing Inspector may waive the application deadline for an applicant.
- d) A delinquency fee shall be charged to the owner of rental property operated without a valid license. The imposition of this fee by the Housing Inspector may be appealed to the City Council by submitting a request to the City within twenty (20) days of the mailing or posting of the notice of the fee.

Subd 2. License Application. The application for license shall be made and filed on a form furnished by the Housing Inspector for such purpose and shall set forth the following information:

- a) Name, residence address and phone number of the owner of any rental property, or property manager authorized by the owner to accept service of process and to receive and give receipt for notices. In cases where the owner of any rental property lives outside the City of Rice, the license application shall be made by an agent who shall be legally responsible for compliance with this and other City ordinances. Such agent shall live within the State of Minnesota;
- b) Name, address and phone number of any agent actively managing the rental property;
- c) Street address of the rental property;
- d) Tax parcel number of the rental property or manufactured home park in which the rental property is located;
- e) Number and description of units within the rental property (dwelling units, manufactured homes, or sleeping rooms), including square footage of each room in unit;
- f) Name, address and phone number of the person authorized to make or order repairs and/or service to the rental property, to provide required services necessary to protect the health, safety, and welfare of the occupants, or are able to contact the person so authorized;
- g) Maximum number of people permitted per dwelling unit, manufactured home, lot, rooming house, or sleeping room;

Subd 3. Manner of Application. The license application shall be made by the owner, if such owner is a natural person; if the owner is a corporation, cooperative or limited liability company, by an officer thereof; if a partnership, by one of the partners; and if an unincorporated association, by the manager or managing officer thereof, on the appropriate form available from the Housing Inspector.

Subd 4. Inspection. All rental units will be subject to a biennial inspection conducted by the Housing Inspector or his/her authorized representative, prior to issuance or reissuance of a license; however, no inspection shall be required for the first license issued for newly constructed housing, other than the inspections required for an initial certificate of occupancy. The Housing Inspector may grant a license contingent on an inspection being completed within thirty (30) days, if all other requirements, including payment of the license fees, are met. After

thirty (30) days, the license shall expire unless the Housing Inspector has certified the required inspection.

Subd 5. License Before Occupancy. All rental property required to be licensed pursuant to the provisions of this Ordinance shall be licensed prior to occupancy or the letting to another for occupancy, and thereafter all licenses of such rental property shall be renewed and maintained.

Subd 6. Transfers. Every new owner of a rental property (whether as fee owner, contract purchaser, or otherwise entitled to possession) shall apply for and obtain a license under this Ordinance before taking possession.

Section 65.05. DISPLAY OF LICENSE. Every licensee of a rental property shall conspicuously display at all times on the premises a copy of the current license. This license shall be located on the premises so as to be easily viewed and readable by the occupants of the rental property at or near the front entrance of the building for which it was issued and shall be reasonably protected from wear by a plastic cover or similar protective device.

Section 65.06. INSPECTION; RIGHT OF ENTRY. In order to insure compliance with this Ordinance's requirements, or upon receiving a written, signed complaint, the Housing Inspector/Rice Police Department shall have the authority to enter any building or manufactured home park at reasonable times upon notice to the landlord and tenant, to determine if the building or manufactured home park is operated as a "rental property" as defined in this Ordinance or to enforce the International Property Maintenance Code, or both.

Section 65.07. HEALTH DEPARTMENT INSPECTION. The Benton County Health Department and/or the City Health Official and/or Rice Police Department shall have the right to inspect any dwelling, whether rental or owner-occupied, to enforce sanitation requirements.

Section 65.08. HOUSING ADVISORY AND APPEALS BOARD. The City Council shall act as a Housing Advisory and Appeals Board ("Housing Board") and assume the responsibilities enumerated in the International Property Maintenance Code.

Section 65.09. RENTAL LICENSE STRIKE PROCESS.

Subd. 1.	Party/Disturbance Violation	1 Strike
	Yard/Weed Violation	½ Strike
	Nuisance Violation	½ Strike

Subd. 2. Each strike remains on the rental license for 12 months. Owner/agent is sent a copy of the strike notice and may request a copy of the police report.

Subd. 3. 2 Strikes = Problem Solving Conference. A problem solving conference is conducted between owner/agent, tenant(s) and the City of Rice Police Chief when a total of two strikes have occurred within a twelve month period. Said conference shall be within 15 days of

the second strike. The goal of the meeting is to develop by consensus a plan of action to reasonably ensure that a future incident will not occur at the premises. The unit may also be placed on a “ZERO TOLERANCE LIST”.

Subd. 4. 3 Strikes = Rental License Review By City Council. After the problem solving conference has been conducted or if said conference has not been conducted and more than 15 days have expired from the date of the second strike, if another strike occurs within the twelve months of the first strike the rental license will be sent for review by the City Council. The City Council has the power to suspend or revoke a rental license or impose such conditions and/or requirements as the City Council deems necessary.

Section 65.10. CRIMINAL BACKGROUND CHECKS.

Subd. 1. Purpose. The Rice City Council has determined that there are persons residing in rental property in the City of Rice engaging in disorderly conduct that results in a hostile environment for other Rice citizens living near or close to the rental property. It is the declared purpose and intent of this section to protect and preserve the City’s neighborhoods and the public health, safety, and welfare of its citizens by providing a system at the local level for criminal history/background investigation of prospective tenants.

Subd. 2. Background Investigations. Each Operator shall conduct criminal history/background investigations on prospective tenants in rental property. The Rice Police Department will provide assistance on request. No such investigation shall be conducted using the state Criminal Justice Data Communications Network (CJDN) and no information obtained from the CJDN shall be disseminated unless the Operator presents an Informed Consent/Waiver form signed by the prospective tenant. The Informed Consent/Waiver form must meet the requirements of Minnesota Statutes.

Section 65.11. TENANT REGISTER. The property owner or property manager must, as a continuing obligation of its rental license, maintain a current register of tenants and other persons who have a lawful right to occupancy of the rental dwelling and rental dwelling units. In its application, the property owner or property manager must designate the person or persons who will have possession of the register; and must promptly notify the Rice Chief of Police or his/her designee of any change of the identity, address or telephone numbers of such persons. The register must be available for the inspection by the Chief of Police, or his/her designee at all times.

Section 65.12. LANDLORD LIABILITY. The owner of a rental unit, manufactured home park, rooming house or sleeping room shall be responsible to cause persons occupying the rental unit to conduct themselves in such a manner as to not cause the premises to be in violation of the prohibition against noise as set forth in the City of Rice Noise Ordinance, nor to allow to exist on the premises a public nuisance. The owner shall also be responsible to comply with Minnesota Statutes, Section 299C.66 to 299C.71, the Kari Koskinen Manager Background Check Act.

Section 65.13. APPLICABLE LAWS. Licensees shall be subject to all of the ordinances of the City of Rice and the applicable State and Federal laws relating to dwellings. In the event this Ordinance conflicts with any other applicable ordinance or law, the more restrictive shall apply.

Section 65.14. ENFORCEMENT. Enforcement of this Ordinance is accomplished by the Housing Inspector/Compliance Officer who is authorized to conduct inspections, issue licenses, investigate complaints, and seek penalties of property owner(s) found to be in violation.

Section 65.15. PENALTY. Any person who operates rental property in violation of this Ordinance shall be guilty of a misdemeanor and subject to the maximum penalty permitted by law. Each violation of this Ordinance shall constitute a separate offense. As an alternative to criminal penalties, the City may seek the following corrective action. The Housing Advisory Board will consider such penalties and/or actions after providing written notice and an opportunity to be heard to the owner of the rental property.

Subd. 1. Suspension or Revocation. Every operating license issued under this Ordinance is subject to suspension or revocation. If the City suspends or revokes an operating license, it shall be unlawful for the owner or the duly authorized agent to thereafter permit any new occupancy of vacant or thereafter vacated rental units until the operating license is restored. In the case of revocation, restoration of the license shall occur only after the premises' owner has applied for a new license, paid a new application fee and complied with all sections of this or any applicable City Ordinance.

Subd. 2. Hazardous Building Declaration. If a dwelling is unfit for human habitation and the owner has not remedied the defects within a prescribed reasonable time, the dwelling may be declared a hazardous building and treated consistent with state law.

Section 65.16. NO RETALIATION. No property owner or property manager shall evict, threaten to evict or take any other punitive action against any tenant by reason of good faith calls made by such tenant to law enforcement agencies relating to criminal activity, suspected criminal activity, suspicious occurrences or public safety concerns. This Ordinance shall not prohibit the eviction of tenants for unlawful conduct of a tenant or invitee of the tenant or violation of any rules, regulations or lease terms other than a prohibition against contacting law enforcement agencies.

Section 65.17. RENTAL CODE. This Ordinance shall be known as the City of Rice Rental Housing Code.

Section 65.18. SEVERABILITY. Every provision or part of this Ordinance is declared severable from every other part; and if any provision or part hereof shall be held invalid, it shall not affect any other provision or part.

Section 65.19. EFFECTIVE DATE. This Ordinance shall be effective immediately upon its passage and publication.

CHAPTER 6: GENERAL REGULATIONS

ORDINANCE 66 CRIME FREE RENTAL HOUSING PROGRAM..... 66-1
Section 66.01: THE PROGRAM..... 66-1
Section 66.02: CERTIFICATION..... 66-1
Section 66.03: DECERTIFICATION..... 66-1

Section 66.01. THE PROGRAM. The Crime Free Multi-Housing Program is a 3-phase certification program for rental properties of all sizes, including single family rental homes. The program is available to owners and property managers of rental properties located within the corporate limits of the City of Rice. Necessary training and support for the program is designed to provide for ease of participation. The program is known to be effective in reducing criminal activity in rental properties. It is the policy of the City of Rice to encourage full participation in the program by all rental property owners and property managers.

Section 66.02. CERTIFICATION. To obtain and maintain certification from the Rice Police Department, a member of the Crime Free Multi-Housing Program, a rental property owner or property manager must:

Subd 1. Successfully complete and implement all of the components of the Crime Free Multi-Housing Program. The components of the program are:

- a) Attendance at and successful completion of the Management Training component.
- b) Compliance with CPTED (Crime Prevention Through Environmental Design) requirements set forth by the Minnesota Crime Prevention Association Crime Free Multi-Housing Program.
- c) At least once every twelve (12) months make available training or educate tenants in respect to crime prevention and the Crime Free Multi-Housing program.
- d) Include, implement and enforce, as part of all written leases, the Lease Addendum for Crime-Free/Drug-Free Housing provided by the Rice Police Department.

Subd. 2. Following successful completion of the program components described in Section 905.03 above, rental property owners or property managers are encouraged to attend annual retraining sessions and must maintain compliance with all program components.

Section 66.03. DECERTIFICATION. Owners or property managers who do not maintain compliance with the certification requirements set forth in Section 66.02 above will lose their certification.

Subd. 1. The owner or property manager will be notified of proposed decertification by regular mail postmarked at least ten (10) days prior to the proposed date for decertification. The owner or property manager may appeal the decision to decertify by providing written notice to the Rice Police Department within fifteen (15) days of the mailing of the decertification notice.

Subd. 2. Decertification will not occur following an appeal until the owner or property manager has been afforded an opportunity for a hearing before the Rice City Council. If the City Council finds the owner or property manager has not maintained compliance with the

certification requirements set forth in Section 66.02, the Council will give written notice to the owner or property manager by certified mail within ten (10) days of the hearing date, excluding intervening weekends and holidays, of such findings, and the owner or property manager is decertified.

Subd. 3. An owner or property manager who is decertified will not be eligible to reapply for Crime Free Multi-Housing certification for a period of two (2) years following the date of decertification.

CHAPTER 6: GENERAL REGULATIONS

ORDINANCE 67 FIRE CODE AND FIRE PREVENTION..... 67-1
Section 67.01: FIRE PREVENTION CODE..... 67-1
Section 67.02: FIRE ALARMS..... 67-4
Section 67.03: GASOLINE BULK PLANT..... 67-5
Section 67.04: SALE AND USE OF FIREWORKS..... 67-5

Section 67.01. FIRE PREVENTION CODE.Subd. 1. Adoption.

- a) The 2007 Minnesota State Fire Code, as adopted pursuant to Minnesota Statute 299F.011, is hereby adopted as the Fire Code for the City of Rice for the purpose of prescribing regulations governing conditions hazardous to life or property from fire, hazardous materials, or explosives. The provisions of the 2007 Minnesota State Fire Code, appendices B, C, D, F, H, and I thereto, the International Fire Code published by the International Code Council Inc., (Falls Church, Virginia) and any and all amendments and changes thereto adopted by the Minnesota Commissioner of Public Safety through the Division of Fire Marshal and set forth in Minnesota State Rules and Regulations of the Department of Public Safety, Fire Marshal Division, chapter 7511 except as modified or amended by this Ordinance, are hereby adopted by reference and made a part of this Ordinance as if set forth herein. One copy of this code shall be marked as the official copy and shall be on file in the office of the Fire Chief.
- b) The Fire Chief shall prepare fire prevention policies for the interpretation and efficient administration of this code, which policies shall not require approval of the City Council. A copy of said policies shall be maintained on file in the office of the Fire Chief.
- c) If there is conflict in any provision or policy in the codes, standards or policies herein, the following orders of precedence shall apply:
 - 1) The City's Fire Prevention Code.
 - 2) The Minnesota State Fire Code.
 - 3) Standards of the National Fire Protection Association or other nationally recognized fire-safety standards as approved by the Fire Chief.

Subd. 2. Definitions.

- a) Wherever the word "jurisdiction" is used in the 2007 Minnesota State Fire Code, it shall mean the City of Rice.
- b) Whenever the term "this code" is used in the 2007 Minnesota State Fire Code or this ordinance, it shall mean the code adopted pursuant to this ordinance.

Subd. 3. Amendments to the Minnesota State Fire Code.

- a) Section 314 of the 2007 Minnesota State Fire Code is amended to add a new section 314.5 to read: Solid Fuel Burning Appliances in Exhibit Halls and Assembly Occupancies. Use of solid fuel burning appliances for display purposes is prohibited in assembly occupancies other than cooking fuel as described in NFPA 101, 2000 Edition, Section 12.7.1.4. Solid fuel burning appliances may be defined as any appliance that uses decomposition of cellulose material, hydrocarbon solids, animal fat or proteins to produce heat or leaves an ash residue. This would include plant products or materials, wood, coal, mesquite, etc.
- b) Section 314 of the 2007 Minnesota State Fire Code is amended to add a new section 314.6 to Read: Compressed flammable gas cylinders and flammable or combustible liquids. Compressed flammable gas cylinders and flammable or combustible liquids used for display purposes are prohibited within exhibit hall and assembly occupancies.
- c) Section 505.1 of the 2007 Minnesota State Fire Code Address Numbers is amended by adding the following language: New and existing buildings and buildings under construction or demolition 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. Buildings with multiple tenants/addresses shall place approved numbers or addresses on front and rear doors identifying each address. These numbers shall contrast with their background. Address numbers shall be Arabic numerals. Numbers shall be a minimum of 6 inches high with a minimum stroke width of 0.5 inch (12.7 mm).

Exception: R-3 Occupancies shall have a minimum of 4 inches high with a minimum stroke width of 0.5 inches (12.7 mm).

- d) Section 903.4.1 of the 2007 Minnesota State Fire Code Sprinkler System Monitoring and Alarms is amended by adding the following language: Manual Alarm, automatic alarm, water flow alarm, supervisory alarm, and trouble signals shall be distinctly different and shall be automatically transmitted to an approved listed Central Station as defined by NFPA 72, unless otherwise approved by the fire official.

Exceptions 1 and 2 will remain as published.

- e) Section 3308.2.2 of the 2007 Minnesota State Fire Code Proximate Audience Displays is amended by adding the following language: Indoor displays of fireworks, pyrotechnics and open flame performances to proximate audiences are prohibited within the City.
- f) Section 105.1.1 of the 2007 Minnesota State Fire Code is hereby replaced in its entirety with the following language:

- 1) Permit required. No person shall engage in any activity, operation, practice or function listed below without first having obtained a permit from the Fire Chief. Permits shall be kept on the premises designated therein at all times and shall be readily available for inspection.
 - a) Installation and removal of all fire suppression systems.
 - b) Installation and removal of all fire alarm, monitoring, or related systems.
 - c) Installation and removal of underground or aboveground tanks for the storage or use of flammable or combustible liquids, or gas or any hazardous material.
 - d) Installation of Spray booths or spray areas involving spraying or dipping operations utilizing flammable or combustible liquids and spray booths involving the application of powders by powder spray guns, electrostatic powder spray guns, fluidized beds, or electrostatic fluidized beds.
 - e) The installation/operation of tents and membrane structures having an area in excess of 200 square feet and canopies in excess of 400 square feet as required by Section 2401.2 of the Minnesota State Fire Code.
 - f) Installation of smoke removal systems.
 - g) Storage of explosives, black powder, and blasting agents.
 - h) Use of explosives.
 - i) Fireworks sales, displays and pyrotechnic special effects material.
 - j) For any open burning.
 - k) Flammable fluids dispensing.
- 2) Fees. Fees for such permits shall be in an amount set forth In the City's Fee Schedule.

Subd. 4. Enforcement. The Fire Chief (or designate) is authorized to enforce the provisions of the Minnesota State Fire Code and this ordinance.

Subd. 5. Penalties. A person who violates the provisions of the Minnesota State Fire Code or this ordinance after being given written notice shall be guilty of a misdemeanor. Each day's violation after notice thereof shall constitute a separate offense.

Subd. 6. New Materials, Processes or Occupancies That May Require Permits. The Building Inspector and the Chief of the Fire Department shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies for which permits are required in addition to those now enumerated in the Code and Standards. The Chief shall post such list in a conspicuous place in the office of the Chief, and distribute copies thereof to interested persons.

Subd. 7. Repeal of Conflicting Ordinances. All former ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance or of the Code and Standards hereby adopted are repealed.

Subd. 8. Validity. The City Council hereby declares that should any section, paragraph, sentence or word of this Ordinance or of the Code or Standards hereby adopted be declared for any reason to be invalid, it is the intent of the City Council that it would have passed all other portions of this Ordinance independent of the elimination here from of any such portion as may be declared invalid.

Section 67.02. FIRE ALARMS.

Subd. 1. Definitions. The following terms, as used in this section, shall have the meaning stated:

- a) Alarm System: An alarm installation designed to be used for the prevention or detection of burglary, robbery or fire and located in a building, structure or facility.
- b) Alarm User: The owner of any building, structure, or facility wherein an alarm system is maintained, whether such owner is a person, firm, partnership, association, corporation, company or organization of any kind.
- c) False Alarm: An audio, visual, or electronically transmitted alarm signal eliciting response by fire and/or police personnel when a situation requiring a response does not in fact exist. Such situations include, but are not limited to, the activation of the alarm system through mechanical failure, pet movement, alarm malfunction, improper installation or the inadvertence or intentional act of the owner or lessee of the property or of his or her employees, agents or guests. False alarms do not include alarms caused by climatic conditions such as tornadoes, thunderstorms, utility line mishaps, or similar acts of nature.

Subd. 2. False Alarm Fees. An alarm system which reports more than two false alarms to the City in a single calendar year will cause the alarm user to be charged a user fee for each alarm in excess of two per calendar year. A fee schedule will be set by Council resolution based upon the number of false alarms reported per calendar year.

Subd. 3. Payment of Fees. Payment of user fees provided for in Subd. 2 must be made to the City within thirty (30) days from the date of notice by the City to alarm user. Failure to pay

the fee within thirty (30) days will cause the alarm user to be delinquent and subject to certification by the City Clerk to the Benton County Auditor for collection with taxes due or as special assessments against all property, including tax exempt, on which the alarm system is installed.

Subd. 4. Appeals. Any alarm user which is required by the City to pay a user fee as a result of a false alarm may make a written appeal of the false alarm charge to the City Council within ten days of notice by the City of the false alarm charge.

Section 67.03. GASOLINE BULK PLANT.

Subd. 1. License Required. No person, firm or corporation shall manage, conduct, operate, or carry on the business of operating a gasoline bulk plant without first having obtained a license therefore from the Council as hereinafter provided.

Subd. 2. Application. The application shall specify the location of the building, structure, premises, enclosure, or other place in which it is proposed to keep such bulk plant, and the capacities in gallons of the container or containers, tank or tanks. Every such application shall be approved by the Fire Chief before a license is issued.

Subd. 3. General Regulations. Each bulk plant shall be conducted and maintained in accordance with the provisions of the law and regulations of this municipality.

Section 67.04. SALE AND USE OF FIREWORKS.

Subd. 1. Definitions.

- a) "Fireworks" - For the purposes of this section, "fireworks" will have the same definition as contained in Minnesota Statutes, Section 624.20 Subd. 1 (c) or any superseding statute.

Subd. 2. Sale and Use of Fireworks Prohibited. It shall be unlawful for any person to offer for sale, expose for sale, sell at retail or wholesale, or use or explode any fireworks except as otherwise hereinafter provided.

Subd. 3. Exceptions and Permitted Sales and Uses. The following sales or uses set forth shall be permitted in compliance with this section.

- a) Sales at wholesale to those persons holding valid permits for a fireworks display from a governmental subdivision of the State;
- b) Sales outside the State;
- c) Sales by any resident wholesaler, dealer, or jobber, from selling at wholesale such fireworks as are not herein prohibited;

- d) The sale of any kind of fireworks for shipment directly out of the State;
- e) The use of fireworks by airplanes and railroads, or other transportation agencies for signal purposes or illumination;
- f) The sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations; and
- g) Supervised public displays of fireworks by cities, villages, and fair associations, amusement parks, and other organizations, when granted a permit and conducted as hereinafter provided.

Subd. 4. Retail Permit Required. No person shall sell or possess for sale fireworks without first having obtained an annual permit from the City.

- a) The permits shall be requested from and issued by the City Clerk. However, the Fire Chief shall give final approval or denial of an application for the manufacture, storage for commercial purposes or sale of fireworks within 30 days of such application being made to the City.
- b) The permit application must be accompanied by the required fee as set forth in the City's Fee Schedule.
- c) Permits shall be issued and valid only for the calendar year applied for.
- d) Each location where sales or storage of fireworks occurs must obtain a permit.
- e) The permit application must include a site plan of the area where fireworks will be sold, showing: 1) the location of the fireworks (both for sale and storage), 2) the location of safety devices (e.g., sprinkler system, hoses, etc.), 3) the location of any obvious hazards (e.g., flammable substances, etc.), and, if retail sales will be occurring outside, 4) the proximity of adjacent buildings and their uses.
- f) Fifteen (15) days prior to the commencement of sales, the applicant shall be responsible for contacting the Fire Chief to schedule a site inspection. The Fire Chief must determine that the site is compliant with applicable laws, rules, regulations, and ordinances. The Fire Chief, at his or her sole discretion, may require that, as a condition of issuing the permit, certain safety precautions be implemented and maintained.
- g) Prior to processing the application, a criminal records check will be conducted. Neither the applicant nor the responsible party for the permit shall have been convicted of a felony or a fire or fireworks-related misdemeanor within the last three (3) years.

- h) The application shall include a letter from the person legally responsible for the property on which the fireworks related activity would occur. Such letter shall grant permission to the applicant for the use of said property.
- i) The sale and storage of fireworks shall be allowed only at the location and in the manner allowed in the permit. Applicants desiring to change the location or manner of selling or storing fireworks must obtain the approval of the Fire Chief. Applicants may request approval by contacting the Fire Chief, scheduling a re-inspection of the site, and submitting the required re-inspection fee.

Subd. 5. Sales and Storage of Fireworks.

- a) Fireworks sales and displays shall not be permitted within malls, within buildings where intoxicating alcohol is sold and within assembly areas such as halls, theatres, churches and schools. The designated Fire Official shall determine compliance.
- b) It shall be unlawful for any seller of any fireworks to permit smoking within 50 feet of any site containing fireworks. "No Smoking" signs must be conspicuously posted and approved fire extinguishers must be available for use.
- c) In buildings that do not have an approved automated sprinkling system, retail sales displays of fireworks shall be limited to a gross weight of 400 pounds of fireworks and packaging. In buildings that do contain an approved automated sprinkling system, the amount of fireworks contained in retail sales displays shall be a maximum of 1000 gross pounds of fireworks and packaging.
- d) The requirements of this ordinance are in addition to any requirements imposed by any building and zoning regulations, fire codes or state law.
- e) Only persons 18 years of age or older may purchase fireworks and the age of the purchaser must be verified by photographic identification.
- f) Exterior storage, display, sales or transient sales of fireworks are only exempted from the provisions of this section upon properly obtaining a permit. A distance of 150' shall be provided from the exterior display to adjacent buildings, combustibles or flammable liquids. No manufacturing, sales or storage for commercial purposes shall occur on residentially zoned property or properties used for educational purposes or assemblies.
- g) A list of all consumer fireworks displayed for sale and stored on the property shall be available at all times. The list shall document the name, weight and quantity of the fireworks and be accompanied by the material safety data sheets.

- h) An informational and guideline sheet provided by the City must be distributed with every sale of fireworks.

Subd. 6. Use and Possession.

- a) It is unlawful to use, fire or discharge any fireworks along the route of and during any parade, in any place of public assembly, on any public property or in any commercial/industrial zoning district.
- b) It is unlawful at any time to throw, toss, or aim any fireworks at any person, animal, vehicle or other thing or object or used in any manner that may threaten or cause harm to life or property.
- c) The discharge of fireworks shall be prohibited inside a building or within fifteen (15) feet of any building.
- d) The Fire Official may ban fireworks if dry or windy conditions occur.
- e) Juveniles shall not possess fireworks unless under the direct supervision of a responsible adult.
- f) Fireworks shall not be discharged in such a manner that may create a nuisance nor between the hours of 11:00 p.m. to 7:00 a.m. Fireworks use shall also be subject to any additional ordinances such as noise and/or assembly.
- g) Fireworks shall not be discharged within 200 feet of an exterior location where fireworks are being sold or stored.

Subd. 7. Public Displays. No display of fireworks shall take place unless a permit therefor has been first secured in the manner hereinafter set forth.

Subd. 8. Public Display Permit.

- a) Every application for a public display of fireworks shall be made in writing at least fifteen (15) days in advance of the date of the display along with the appropriate fee as specified in the City's fee schedule.
- b) The applicant must provide any and all information the City determines is necessary to properly evaluate the application.
- c) The application shall be promptly referred to the Chief of the Fire Department. The Chief of the Fire Department shall make an investigation to determine whether the operator of the display is competent and whether the display as proposed will not be hazardous to property or endanger any person.

- d) The Chief's investigation shall include a criminal background check conducted through the Police Department.
- e) The Chief shall report to the City Clerk his or her findings along with any recommendations. The City Clerk shall take action consistent with the Chief's findings and either deny the application or issue the permit. Permits are not transferable.
- f) The applicant shall be responsible for the costs of required fire protection services provided by the City.
- g) The applicant, as condition of the permit, shall indemnify the City against direct or indirect loss or damage to property resulting from the fireworks display.

Subd. 9. Enforcement. Any person violating this section shall be guilty of a Misdemeanor and subject to the maximum penalty allowed by law, and/or an administrative penalty to be determined by the City.

CHAPTER 6: GENERAL REGULATIONS

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Section 68.01. PURPOSE. The purpose of this ordinance is to closely regulate and control the conduct of the holding of raffles and the use of gambling devices and to prohibit commercialization of these activities.

Section 68.02. DEFINITIONS.

Subd. 1. "Gambling Devices". Means those gambling devices known as "paddlewheels" or "tip boards", "pull-tabs" (or 'ticket jars') or apparatus used in conducting raffles.

Subd. 2. "Paddlewheel". Means a wheel marked off into sections containing one or more numbers and which after being turned or spun, uses a pointer or marker to indicate winning chances.

Subd. 3. "Tip board". Means a board, placard or other device measuring at least 12 inches square marked off in a grid or similar pattern in which each section contains a hidden number or numbers or other symbol which determines the winning chances.

Subd. 4. "Pull-tabs". Or ticket jars, means a single folded or banded ticket or a card, the face of which is initially covered or otherwise hidden from view to conceal a number or numbers or a symbol or set of symbols. A few of the numbers or symbols out of every set of pull-tabs (or ticket jars) will have been designated in advance and at random as prizewinners. A participant pays a consideration to an operator for the opportunity to obtain a folded or banded ticket or a card, view the numbers or symbols on it and possibly obtain a prizewinner pull-tab (or ticket jar).

Subd. 5. "Raffle". Means a game in which a participant buys a ticket for a chance at a prize with the winner determined by a random drawing.

Subd. 6. "Profit". Means the gross receipts from the operation of gambling devices and the conduct of raffles, less reasonable sums expended for prizes, local license fees, taxes and maintenance costs for the devices.

Subd. 7. "Active Member". Means a member who has paid all his dues to the organization and has been a member of the organization for at least six months.

Subd. 8. "Lawful Purpose". Means one or more of the following:

- a) Benefiting persons by enhancing their opportunity for religious or educational advancement by relieving or protecting them from disease, suffering or distress by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens or by increasing their comprehension of and devotion to the principals upon which this nation was founded;

- b) Initiating, performing, or fostering worthy public works or enabling or furthering the erection or maintenance of public structures;
- c) Lessening the burdens borne by government or voluntarily supporting, augmenting, or supplementing services which government would normally render to people; or
- d) The improving, expanding, maintaining or repairing of real property owned or leased by an organization.

Section 68.03. PROHIBITION.

Subd. 1. Nothing in this Ordinance shall be construed to authorize any use possession or operation of:

- a) Any gambling device which is activated by the insertion of a coin or token; or
- b) Any gambling game or device in which the winning numbers, tickets or chances are in any way determined by the outcome of any athletic contest or sporting event.

Section 68.04. LICENSE REQUIRED.

Subd. 1. No gambling devices may be operated nor raffles conducted except by an eligible organization which has secured a license for the purpose in accordance with this ordinance.

Subd. 2. Gambling Device License. No gambling device license shall be issued for more than one year and all licenses shall expire on January 1st.

Section 68.05. LICENSE FEES.

Subd. 1. Amount. The annual fee for gambling devices shall be \$20.00 per year.

Subd. 2. Limited License. A limited license, authorizing an organization to have a single gambling event or occasion shall be \$20.00.

Subd. 3. Payment and Allocation of Fee. The full annual fee shall be paid with each application and no pro rata allowance shall be made for any fraction or part less than a full year.

Section 68.06. APPLICATION FOR LICENSE.

Subd. 1. Form. Every application for a gambling device license shall state the name, location, purpose, number of members and length of existence of the applying organization. Application forms shall be completed and signed by an authorized officer of the organization and shall name a manager who shall be responsible for supervision of gambling device occasions. In

addition to containing such information, the application shall be in the form prescribed by the City Council and shall be verified and filed with the City Clerk. No person shall make a false statement in the application.

Subd. 2. Bond. Each application for license shall be accompanied by a fidelity bond given by the manager in the sum of \$10,000.00 in favor of the organization, which bond shall be given in writing to the City of Rice not less than 30 days prior to cancellation. The City Council may waive the bond requirement, providing, that a license containing such waiver provisions shall be granted only upon unanimous vote of the City Council.

Section 68.07. GRANTING OF LICENSE.

Subd. 1. The City Council shall cause to be investigated all facts set out in the license application. The City Council shall act upon all license applications within 180 days of the date of the application, but no license shall be issued until at least 30 days after the date of application.

Subd. 2. Transfer of License. No gambling device license shall be transferable or sold. All licenses are deemed issued for a specific premises designated in the application and shall not be transferred to any other location.

Subd. 3. Suspension or Revocation. The City Council may suspend, for a period not to exceed 60 days, or revoke any gambling device license for violation of any provision of applicable Minnesota Statutes or of this ordinance. The holder of the 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 hearing and the nature of the charges.

Section 68.08. ISSUANCE OF LICENSE. Licenses shall be issued only to a fraternal, religious, veterans or other non-profit organization which is a corporation, fund, foundation, trust or association organized for exclusively scientific, literary, religious, charitable, educational, or artistic purposes or for the purpose of making contributions to or for the use of the United States, the State of Minnesota, or any of its political subdivisions for exclusively public purposes or for any combination of the above enumerated purposes and further provided that no part of the net income of any such corporation, fund, foundation, trust or association shall incur to the benefit of any private member, stockholder or individual.

Section 68.09. PROFITS. Profits from the operation of the gambling devices or the conduct of the raffles shall be used solely for lawful purposes as defined in this Ordinance and as authorized at a regular meeting of the organization.

Section 68.10. GAMBLING MANAGER. All operation of gambling devices and the conduct of raffles shall be under the supervision of a single gambling manager designated by the organization. The gambling manager shall be responsible for gross receipts and profits from gambling devices and raffles and for their operation. A person may act as both gambling manager and bingo manager for a single organization, but a gambling manager for a single organization shall not act as either a gambling

manager or bingo manager for any other organization. A gambling manager for an organization shall be an active member of the organization.

Section 68.11. PARTICIPATION AND COMPENSATION. No compensation shall be paid to any person in connection with the operation of a gambling device or the conduct of a raffle by a licensed organization. No person who is not an active member of an organization, for its auxiliary, or the spouse or surviving spouse of an active member may participate in the organization operation of a gambling device or conduct of a raffle.

Section 68.12. RECORDS AND REPORTS. Each organization licensed to operate gambling devices shall keep records of its gross receipts, expenses and profits for each single gathering or occasion at which gambling devices are operated or a raffle conducted. All deductions from gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or device or other reason for the deduction and the recipient. The distribution of profits shall be itemized as to payee, purpose, amount and date of payment. Gross receipts from the operation of gambling devices and the conduct of raffles shall be segregated from other revenues of the organization, including bingo gross receipts and placed in a separate account. Each organization shall have separate records of its gambling operations. The person who accounts for gross receipts, expenses and profits from the operation of gambling devices or the conduct of raffles shall not be the same person who accounts for bingo gross receipts, expenses and profits.

Section 68.13. LOCATION OF OPERATION. Gambling devices shall be operated and raffles conducted by a licensed organization only upon premises which it owns or leases except that tickets for raffles conducted in accordance with this Ordinance may be sold off the premises. Leases, unless authorized in another location by the Rice City Council shall be for a period of not less than one year and shall be in writing. Copies of all leases shall be provided to the City Clerk. The City may authorize raffles to be conducted by a licensed organization on premises not owned or leased by the organization.

Section 68.14. PRIZES. Total prizes from the operation of paddlewheels, tip boards and pull-tabs (or ticket jars) awarded in any single day in which they are operated shall not exceed \$1,000.00. Total prizes resulting from any single spin of a paddlewheel, or from any single seal of a tip board, each tip board limited to a single seal, or from a single pull-tab (or ticket jar), shall not exceed \$150.00. Total prizes awarded in any calendar year by any organization from the operation of paddlewheels, tip boards and pull-tabs (or ticket jars) and the conduct of raffles shall not exceed \$35,000.00. Merchandise prizes shall be valued at fair market retail value.

Section 68.15. PENALTY. Violation of any provision of this Ordinance is a misdemeanor.

ORDINANCE 69 NUMBERING OF HOMES AND BUSINESSES..... 69-1
Section 69.01: Numbering..... 69-1

Section 69.01. NUMBERING. All homes and businesses within the city limits of Rice shall be numbered appropriately with their street numbers. The number must have a minimum size of three (3) inches.

CHAPTER 7: NUISANCES AND OFFENSES

ORDINANCE 70 PUBLIC NUISANCES 70-1
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ORDINANCE 70 PUBLIC NUISANCES

Section 70.01. PUBLIC NUISANCE. A Person shall be guilty of maintaining a public nuisance if the Person:

- a) Maintains or permits a condition that unreasonably annoys, injures or endangers the health, safety, morals, comfort or repose of the public;
- b) Unduly interferes with, obstructs or renders dangerous for passage any public highway, waterway, right-of-way, or other public property;
- c) Has control of real property and permits it to be used to maintain a public nuisance or lets the same, knowing it will be so used; or
- d) Is guilty of any other act or omission declared by law or this Ordinance to be a public nuisance.

Section 70.02. PUBLIC NUISANCES AFFECTING HEALTH. The following shall be public nuisances affecting health:

- a) Stagnant Water. Stagnant water on private property.
- b) Diseased or Vicious Animals. Diseased or vicious animals running at large.
- c) Dead Animals. Dead animals or carcasses remaining exposed on any premises, unless the animals are to be processed to be used or sold as food products.
- d) Refuse. Any manure, excrement, ashes, tin cans, garbage, tires, trash, litter, household appliances, automobile bodies, discarded machinery or other refuse and debris, not contained in an odor and fly-tight covered receptacle, that accumulates on any private property, and dumping or throwing refuse materials on private or public property not set aside for refuse collection.
- e) Odorous Vehicles. Any vehicle containing any animal, manure, decaying animal or vegetable matters offensive to the human senses parked more than twenty (20) minutes on any private or public property in the City.
- f) Keeping Animals. Keeping or harboring any doves, pigeons, or other fowl, rabbits, foxes, deer or other animals, except commonly domesticated animals such as dogs and cats, on any privately owned premises, unless confined and kept in such manner with regard to noise and/or odor as to not upset the tranquility of the neighborhood. Chickens shall not be raised, kept or harbored within City limits.

- g) Water Pollution. Polluting any well or cistern, stream or lake, canal or water body with sewage, industrial waste, or other substances.
- h) Air Pollution. Dense smoke, noxious fumes, gas, soot, cinders, dust or other airborne materials in unreasonable quantities.
- i) Vegetation. Noxious weeds, grasses over eight (8) inches tall, and other rank vegetation growths on public or private property not zoned agricultural.
- j) Contagious Diseases. Public exposure of a person with a contagious disease.
- k) Offensive Business. Any offensive trade or business not operating under a local license or permit.
- l) Inflammable Materials. Store, pile, place, keep or maintain any large quantity of combustible and inflammable material, including but not limited to tires, old boxes, barrels, paper, paint, and similar materials likely to be set on fire by design or accident in any exposed place near any building within the City.

Section 70.03. PUBLIC NUISANCES AFFECTING MORALS AND DECENCY. The following shall be public nuisances affecting morals and decency:

- a) Gambling Devices. Gambling devices, slot machines and punch boards not permitted by law or this Code.
- b) Betting. Betting, bookmaking, and all apparatus used in these occupations.
- c) Prostitution and Gambling. Houses kept for prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdy houses.
- d) Obscenity. Showing, displaying or offering for sale to any minor any indecent or obscene picture, book, pamphlet, magazine, newspaper, drawing, writing, motion picture or movie.
- e) Peeping Toms. Peeping into or through doors, windows, or openings of private homes by methods of stealth and without proper authority.
- f) Vehicles. Using any vehicles to illegally transport intoxicating liquor or any other immoral or illegal purpose.
- g) Public Urination and Defecation. Urinating or defecating in the City while outside of a building or structure when the Person is:
 - 1) On or in a public street, alley, sidewalk, boulevard, park or parking lot,

- 2) In a private parking lot open to public use,
- 3) On private property without the owner's permission, or
- 4) On private property and performs the prohibited act where others off the property can observe it.

Section 70.04. PUBLIC NUISANCES AFFECTING PEACE AND SAFETY. The following shall be public nuisances affecting peace and safety:

- a) Traffic Obstructions. Trees, hedges, bushes, billboards, signs or other obstructions that prevent people from having a clear view of all traffic approaching an intersection.
- b) Wires and Tree Limbs. Wires and tree limbs that are so close to the surface of a street to constitute a danger to vehicles or pedestrians.
- c) Noises. Unnecessary noises and annoying vibrations.
- d) Excavations. Any open trench, basement, gravel pit, well, cistern, hole or excavation that constitutes a hazard to the public, unless proper warnings of peril are placed for the public's convenience and safety.
- e) Antenna. Radio aerials, television antenna or transmission towers erected or maintained in a dangerous manner.
- f) Crowds. Any use of property abutting a public street or sidewalk or any use of a public street or sidewalk that causes large crowds of people to gather obstructing traffic and the free use of the street or sidewalk.
- g) Signs. All hanging signs, awnings and other similar structures over streets and sidewalks that endanger public safety.
- h) Precipitation. Allowing rain, water, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk.
- i) Barbed-Wire Fence. Any barbed-wire fence.
- j) Dangerous Machinery. All dangerous unguarded machinery in any public place or situated on private property to attract the public.
- k) Injurious Material. Placing or throwing on any street, sidewalk or other public property any glass, tacks, nails, bottles or other substance that may injure any person, animal or tire.

- l) Dangerous Weapon. “Dangerous Weapon” shall mean any firearm, whether loaded or unloaded, any device designed as a weapon and capable of producing bodily harm or any other device or instrument which, in the manner it is used or intended to be used, is calculated or likely to produce bodily harm.
- m) Bows and Arrows. “Bows and arrows” shall mean any device or combination of devices designed to propel any arrow from a cord connecting the two (2) ends of a bow by pulling on the cord thus bending the bow and then releasing the cord, except it shall not mean devices of this type commonly interpreted to be toys.
- n) Firearms. “Firearms” shall mean any device from which is propelled any missile, projectile, bullet or other mass through a barrel by means of explosive, gas, air and/or spring devices. Any device that discharges blank cartridges for a show or theatre, for signal or ceremonial purposes in athletics or sports, or for use as a bird or animal repelling device shall not be considered a “firearm” under this Ordinance.

Subd. 1. No person shall discharge at any time, any firearm or bow and arrows upon or onto any lands within the City zoned residential except as this Ordinance provides. This provision shall not apply to Law Enforcement or Military Members while engaged in official activities.

Subd. 2. A person may use bows and arrows on private property or on school and city property in connection with an organized school or recreation class if the arrows are equipped with blunt tips (also known as “field points” or “target arrows”). The Police Department must issue a written permit for using bows and arrows under this subdivision.

Subd. 3. Except for discharge, this Ordinance intends neither to further nor restrict what is restricted in Minnesota Statutes Section 624.711 through 624.7143.

Subd. 4. It shall be unlawful for any person to be under the influence of alcohol, narcotics or any other drug when discharging a dangerous weapon.

Subd. 5. Nothing in this Ordinance shall be construed to include any discharge of any device used exclusively for the firing of stud cartridges, explosive rivets or similar industrial ammunition when used for construction purposes.

- o) Fireworks and Explosives. It shall be unlawful to use or display fireworks, explosives, or flammable liquids in any manner other than in conformity with federal, State and local restrictions.
- p) Medicine or Drug Samples. The distribution of medicine or drugs or samples shall be unlawful unless placed in the hands of an adult person according to the law and then only by someone properly licensed to do so.

- q) Burning. It shall be unlawful to burn any garbage, brush, trees, yard waste, refuse, hides, feathers, tires, oil, grease, or other organic matter which will cause any bad or objectionable odor or soot.
- r) Defacing Public Property. Defacing or destroying any public property.
- s) Engine Retarder Brakes. Using engine retarder brakes within the City limits, except in an emergency.
- t) Other Nuisances. Other nuisances shall be deemed all other acts or commission of acts, occupations and uses of property which are deemed by the Board of Health or the Health Officer to be a menace to the health of the inhabitants of the City at large or a considerable number of the people in the City.

Section 70.05. ENFORCEMENT. The City Council, its authorized agents, or the Police Department shall enforce this Ordinance and may inspect private premises and issue abatement orders. Whenever in the judgment of the officer charged with enforcement, it is determined upon investigation that a public nuisance is being maintained or exists within the City, the following shall apply:

Subd. 1. Notification. The City Council, its authorized agents, or the Police Department shall notify in writing the person committing or maintaining such nuisance and require the person to terminate and abate the nuisance and to remove the conditions or remedy the defects. The written notice shall be served upon the person committing or maintaining the nuisance in person or by registered mail. If the premises are not occupied and the address of the owner is unknown, service on the owner may be had by posting a copy of the notice on the premises. Said notice shall require the owner or occupant of such premises, or both, to take reasonable steps within five (5) calendar days to abate and remove said nuisance. The maximum time for the removal of the nuisance after service of the notice shall not in any event exceed ten (10) calendar days. Service of the notice may be proved by filing an affidavit of service with the City Clerk setting forth the manner and time.

Subd. 2. Nuisance Abatement. If, after service of notice, the person served fails to abate the nuisance or make the necessary repairs, alterations or changes according to the order, then the City may abate the nuisance and recover its expenditures by assessing the cost of the enforcement action against the real property upon which the nuisance existed and to certify the same for collection in the same manner as taxes and special assessments are certified and collected.

Section 70.06. WAIVER. The City Council may waive any Ordinance provision if it determines that strict enforcement of the provision would cause any undue hardship.

Section 70.07. PENALTIES. Any Person who creates a nuisance or permits a nuisance to be created shall be guilty of a petty misdemeanor upon the first offense and a misdemeanor upon the second and all subsequent offenses. This Ordinance may also be enforced by administrative citations. Administrative fines for violations of this Ordinance are established by the City Council in Appendix A.

CHAPTER 7: NUISANCES AND OFFENSES

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Section 71.01. DEFINITIONS.

Subd. 1.: At Large. Shall mean when an animal is off the property of the Person owning, harboring or keeping the animal and it is not under restraint.

Subd. 2. Citation. Shall mean a notice or complaint issued by the Police Department to the Owner of any animal apprising the Owner of one or more violations of this Ordinance.

Subd. 3. Kennel. Shall mean a place where more than three (3) dogs over six (6) months of age are kept.

Subd. 4. Owner. Shall mean any Person owning, keeping, harboring or acting as custodian of a dog or other domesticated animal.

Subd. 5. Permit. Shall mean a written warrant or license granted by one having authority.

Subd. 6. Premises. Means any building, structure, shelter, or land where animals are kept or confined.

Subd. 7. Under Restraint. Shall mean when an animal is on the premises of the Person harboring or keeping the animal or if it is at heel beside a Person having custody of it or obedient to that Person's command, or is within a private motor vehicle of a Person owning, harboring or keeping the animal, or is controlled by a leash not exceeding six (6) feet in length.

Subd. 8. Veterinary Hospital. Means a place for the treatment, hospitalization, surgery, care and boarding of animals and birds owned and operated by a licensed veterinarian.

Section 71.02. PROHIBITED BEHAVIOR. It shall be a violation of this Ordinance for which the owner or keeper shall be held responsible, for any animal that does any of the following:

- a) Repeatedly runs at large.
- b) Trespasses on, damages or destroys the property of anyone other than its Owner.
- c) Has an infection disease or other condition for which the owner has not sought appropriate veterinary care.
- d) Causes fouling of the air by odors.
- e) Causes unsanitary conditions of enclosures or surroundings.
- f) Is offensive or dangerous to the public health, safety or welfare.

- g) Makes disturbing barks, noises or sounds.
- h) Molests passer(s) by or passing vehicle.
- i) Attacks other domestic animals.
- j) Has been designated by the Police Department to be a public nuisance animal by virtue of being a menace to the public health, welfare and safety.
- k) Has been designated a dangerous dog pursuant to Minnesota Statute 347.50, et seq. (as may be amended), for which the owner has not obtained a certificate of registration, has failed to tag, or has not posted the property where the dog is kept with the warning symbols provided by the City.

Section 71.03. EXOTIC ANIMALS. It shall be unlawful to keep or permit any wild, undomesticated or exotic animals to remain within the City limits.

Subd. 1. Wild Animal, Undomesticated Animal, or Exotic Animal. Means any mammal, amphibian, reptile, or bird, which is of a species usually not domesticated, or a species which, due to size, wild nature, or other characteristic, is dangerous to humans. By way of example, and not of limitation, the term includes: skunks, bears, snakes, alligators, crocodiles, bats, weasels, ferrets, raccoons, badgers, foxes, non-human primates such as monkeys, chimpanzees, and orangutans; hoofed animals such as deer and bison may be permitted by special permit; excepted from this are common farm animals, such as horses, cows, sheep, pigs, or goats; also prohibited are large cats or members of the cat family Felidae, such as lions, tigers, jaguars, leopards, panthers, cougars, bobcats, and ocelots, except commonly accepted domestic cats; and any member of the dog family Canidae, such as wolves, dingos, wolverines, coyotes, and jackals, except domesticated dogs. This term also includes crossbreeds such as dog-coyote cross or a dog-wolf cross.

Subd. 2. This section does not apply to animals which are temporarily brought into the City to participate in any circus or show; nor does it apply to any public zoo, or persons keeping animals for a public zoo as volunteers; nor to any bona fide research institution or veterinary hospital; nor a pet store operating in a commercial area; not to any animal humane society or animal shelter; nor to any public or private school or university; as long as protective devices adequate to prevent such animals from escaping or injuring the public are provided.

Section 71.04. ENFORCEMENT. The Police Department shall enforce this Ordinance under the Mayor or City Council's direction.

Section 71.05. RIGHT OF ENTRY. The Police Department may enter upon any premises at all reasonable times to discharge their duties under this Ordinance where there is a reasonable belief that a violation of this Ordinance has accrued.

Section 71.06. KENNEL. No kennels shall be permitted within the City limits.

Section 71.07. RUNNING AT LARGE PROHIBITION. No animals shall be permitted to run at large within the City limits. Any female animal when in season shall be confined indoors or in a secure enclosure so that she will not be in contact, except for intentional breeding purposes, with another animal, nor create a nuisance by attracting other animals. If an animal is found at large, and the owner or custodian can be identified, the Police Department or City may proceed against the owner for violating this Ordinance.

Section 71.08. DANGEROUS ANIMALS.

Subd. 1. Attack By An Animal. it shall be unlawful for any person's animal to inflict or attempt to inflict bodily injury to any person or other animal whether or not the owner is present. This section shall not apply to an attack by a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder who has entered the owner's home with the criminal intent.

Subd. 2. Destruction of Dangerous Animals. The Police Chief shall have the authority to order the destruction of dangerous animals in accordance with the terms established by this Ordinance.

Subd. 3. Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DANGEROUS ANIMAL: An animal which has:

- a) Caused bodily injury or disfigurement to any person on public or private property;
- b) Engaged in any attack on any person under circumstances which would indicate danger to personal safety;
- c) Exhibited unusually aggressive behavior, such as an attack on another animal;
- d) Bitten 1 or more persons on 2 or more occasions; or
- e) Been found to be potentially dangerous and/or the owner has personal knowledge of the same, the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals.

POTENTIALLY DANGEROUS ANIMAL: An animal which has:

- a) Bitten a human or a domestic animal on public or private property;

- b) When unprovoked, chased or approached by a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or
- c) Has engaged in unprovoked attacks causing injury or otherwise threatening the safety of humans or domestic animals.

PROPER ENCLOSURE: Securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the animal from exiting. The enclosure shall not allow the egress of the animal in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:

- a) Have a minimum overall floor size of thirty-two (32) square feet.
- b) Sidewalls shall have minimum height of five (5) feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two (2) inches, support posts shall be one three (3)-inch or larger steel pipe buried in the ground eighteen (18) inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of eighteen (18) inches in the ground.
- c) A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than two (2) inches.
- d) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than two (2) inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the animal is in the pen or kennel.

UNPROVOKED: The condition in which the animal is not purposely excited, stimulated, agitated or disturbed.

Subd. 4. Designation As Potentially Dangerous Animal. The Police Chief shall designate any dog as a potentially dangerous animal upon receiving evidence that the animal has, when unprovoked, bitten, attacked, or threatened the safety of a person or a domestic animals as stated in Subd. 3. When an animal is declared potentially dangerous, the Police Chief shall cause one (1) owner of the potentially dangerous dog to be notified in writing that the animal is potentially dangerous. The owner shall have the right to appeal the designation in the same manner as provided in Subd. 7. The owner of a potentially dangerous dog shall have a microchip implanted in the dog for identification, and the name of the microchip manufacturer and identification number of the microchip must be provided to the Police Chief. All costs related to purchase and implantation of the microchip must be borne by the dog's owner.

Subd. 5. Evidence Justifying Designation. The Police Chief shall have the authority to designate any animal as a dangerous animal upon receiving evidence of the following:

- a) That the animal has, when unprovoked, bitten, attacked, or threatened the safety of a person or domestic animals as stated in Subd. 3.
- b) That the animal has been declared potentially dangerous and the animal has then bitten, attacked, or threatened the safety of a person or domestic animal as stated in Subd. 3.

Subd. 6. Authority To Order Destruction. The Police Chief, upon finding that an animal is dangerous hereunder, is authorized to order, as part of the disposition of the case, that the animal be destroyed based on a written order containing one (1) or more of the following findings of fact:

- a) The animal is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning or multiple attacks; or
- b) The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.

Subd. 7. Appeal Procedure. The Police Chief, after having determined that an animal is dangerous, may proceed in the following manner: The Police Chief shall cause one (1) owner of the animal to be notified in writing or in person that the animal is dangerous and may order the animal seized or make orders as deemed proper. This owner shall be notified as to dates, times, places and parties bitten, and shall be given fourteen (14) days to appeal this order by requesting a hearing for a review of this determination.

- a) If an owner requests a hearing for determination as to the dangerous nature, or potentially dangerous nature of the animal, the hearing shall be held before an independent hearing officer appointed by the City Council, who shall set a date for hearing within fourteen (14) days of receipt of the demand for the hearing. The records of the Police Department and or City Clerk's office shall be admissible for consideration by the hearing officer without further foundation. After considering all evidence pertaining to the temperament of the animal, the hearing officer shall make an order as it deems proper. In the event that the dangerous dog declaration is upheld by the hearing officer, actual expenses of the hearing up to a maximum of \$1,000 will be the responsibility of the dog's owner. The hearing officer shall issue a decision on the matter within ten (10) days after the hearing.
- b) No person shall harbor an animal after it has been found to be dangerous and ordered into custody for destruction.

Subd. 8. Stopping An Attack. If any police officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.

Subd. 9. Notification of New Address. The owner of an animal which has been identified as dangerous or potentially dangerous shall notify the Police Department in writing if the animal is to be relocated from its current address or given or sold to another person. The notification shall be given in writing at least fourteen (14) days prior to the relocation or transfer of ownership. The notification shall include the current owner's name and address, the relocation address, and the name of the new owner, if any.

Section 71.09. DANGEROUS DOG REQUIREMENTS.

Subd. 1. Requirements. If the owner desires to keep a dog that has been declared dangerous, the owner must comply with all of the following:

- a) The owner shall provide and maintain a proper enclosure for the dog;
- b) the owner shall post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a
- c) dangerous dog on the property as specified in Minnesota Statute 347.51 as may be amended from time to time;
- d) The owner shall provide and show proof annually of a surety bond issued in the sum of at least \$300,000, payable to any person injured by the dangerous dog, or a policy of liability insurance in the amount of at least \$300,000, insuring the owner for any personal injuries inflicted by the dangerous dog;
- e) If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash (not to exceed six (6) feet in length) and under the physical restraint of a person sixteen (16) years of age or older. The muzzle must be of a design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration;
- f) The dog must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to its collar at all times as specified in Minnesota Statute 347.51 as it may be amended from time to time, and shall have a microchip implant as provided by Minnesota Statute 347.51, as it may be amended from time to time;
- g) The dangerous dog shall be registered with the city within fourteen (14) days after the date the animal was so deemed and provide satisfactory proof thereof to the Police Chief;

- h) The dog must be licensed and up to date on rabies vaccination.
- i) An owner of a dangerous dog must notify the Police Department in writing of the death of the dog, and must, if requested by the Police Department, execute an affidavit under oath setting forth either the circumstances of the dog's death and disposition or the complete name, address, and telephone number of the person to whom the dog has been transferred or the address where the dog has been relocated.
- j) The dog shall be sterilized at the owner's expense. If the owner does not have the dog sterilized in 30 days, the Police Department shall seize the dog and have it sterilized at the owner's expense.
- k) The owner shall have a microchip implanted in the dog for identification, and the name of the microchip manufacturer and identification number of the
- l) Microchip must be provided to the Police Chief. All costs related to purchase and implantation of the microchip must be borne by the dog's owner.
- m) A person who owns a dangerous dog and who rents property from another where the dog will reside must disclose to the property owner prior to entering the lease agreement and at the time of any lease renewal that the person owns a dangerous dog that will reside at the property.
- n) A person who transfers ownership of a dangerous dog must notify the new owner that the Police Department has identified the dog as dangerous. The current owner must also notify the Police Department in writing of the transfer of ownership and provide the Police Department with the new owner's name, address, and telephone number.

Subd. 2. Seizure. As authorized by Minnesota Statute 347.51, as it may be amended from time to time, the Police Department shall immediately seize any dangerous dog if the owner does not meet each of the above requirements within fourteen (14) days after the date notice is sent to the owner that the animal is dangerous. Seizure may be appealed to district court by serving a summons and petition upon the city and filing it with the district court.

Subd. 3. Reclaiming Animals. A dangerous dog seized under Subd. 2 above, may be reclaimed by the owner of the animal upon payment of impounding and boarding fees and presenting proof to the police department that each of the requirements under Subd. 1, is fulfilled. An animal not reclaimed under this section within fourteen (14) days may be destroyed, and the owner is liable to the city for costs incurred in confining and impounding and destroying the animal, if applicable.

Subd. 4. Subsequent Offenses. If an owner of an animal has subsequently violated the provisions under Section 71.08 with the same animal, the animal must be seized by the Police Department. The owner may request a hearing as defined in 71.08, Subd. 6(a). If the owner is found to have violated the provisions for which the animal was seized, the Police Chief shall order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining the animal. If the person is found not to have violated the provisions for which the animal was seized, the owner may reclaim the animal. If the animal is not yet reclaimed by the owner within fourteen (14) days after the date the owner is notified that the animal may be reclaimed, the animal may be disposed of and the owner is liable to the Police Department for the costs incurred in confining, impounding, and destroying of the animal.

Section 71.10. ABANDONMENT. No Person shall abandon any dog or other animal within the City.

Section 71.11. PERMITS REQUIRED.

Subd. 1. Application and Fee. No Person shall own, keep or harbor any dog or canine animal over the age of six (6) months within the City without first securing a permit from the City Clerk for the fee established in Appendix A. Each permit applicant shall pay the permit fee to the City Clerk on or before May 1 of each year or the fee will double. All permits shall expire on April 30th of each year. Animal permits shall not be transferrable. This section shall not apply to any humane society, veterinary hospital or laboratory.

Subd. 2. Duration and Revocation.

- a) A permit shall be valid for one (1) year, if not revoked.
- b) Every Owner shall obtain a new permit each year and pay a new fee.
- c) The Council may revoke any permit if the Person holding the permit refuses to or fails to comply with this Ordinance, or any State law governing cruelty to animals or the keeping of animals. Any Person whose permit is revoked shall within fifteen (15) days, remove the animal permanently from the City and no part of the permit fee shall be refunded.
- d) The City may revoke an animal permit if an Owner fails to provide the animal with sufficient food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment.
- e) If any Person violates this Ordinance three (3) times in one (1) permit year, the Person's permit to own, keep, harbor or have custody of animal(s) for which the offense was cited shall be automatically revoked, and the City shall not issue a new permit for a period of one (1) year from the date the permit was revoked.

Section 71.12. TAGS. Upon receipt of the permit fee, the City Clerk shall give a metallic tag to the Person paying the permit fee. The Owner of the animal for which the tag was obtained shall permanently attach the tag to the animal's collar in a manner so that the tag may be readily seen. The tag is not transferable to any other animal or to a new owner of the animal. If a tag is lost or stolen, the Owner may obtain a new tag by surrendering the receipt for the first tag and by paying an additional fee the Council determines.

Section 71.13. RABIES VACCINATION.

Subd. 1. Evidence of Vaccination. Before any license or permit may be issued for an animal, the owner or keeper of the animal must provide a current rabies certificate to show that the animal for which the license is sought has been properly vaccinated for rabies. Any animal not so vaccinated and tagged may be impounded and destroyed.

Subd. 2. Seizure. Any animal which has bitten a person in the City may be immediately seized, whether on, off, or in the owner's premises, and impounded for a period of time necessary to determine if said animal has been infected with rabies or other dangerous diseases with all costs incident to and part of impoundment to be paid by the owner of said animal.

Subd. 3. Disposition. If the animal is determined to be rabid, the animal shall be destroyed under direction of the City Health Officer or any person acting as the City Health Officer. If determined not to be rabid, the animal shall be returned to its owner upon payment of impoundment costs. If the owner fails to pay the impoundment costs within three (3) days of receiving written notice of the amount due, the animal shall be disposed of with the cost of disposal to be paid by the owner or sold for the impoundment costs.

Section 71.14. IMPOUNDMENT.

Subd. 1. Duration and Notification. The Police Department or Humane Society shall take up and impound any dogs or animals requiring permits; or any dogs or animals violating this Ordinance. Animals shall be impounded in an animal shelter and confined in a humane manner. Except as provided in Section 71.09, Subds. 2 and 3, impounded animals shall be kept for not less than five (5) days, not including Sundays and holidays, unless reclaimed by their owners. If the owner can be identified, the Police Department or Humane Society shall immediately upon impoundment notify the owner by telephone or mail of the impoundment.

Subd. 2. Redemption. The owner may redeem any dog or animal for which the Owner has a current permit from the pound after paying an impounding fee established in Appendix A plus feeding and care fee for each day the animal is confined in the pound to the Police Department, who shall turn over all money received to the City Clerk for placement in the general fund.

Subd. 3. Unclaimed Impounded Animals. Any dog or animal, other than those impounded under Section 71.08, which is not claimed within five (5) days after impounding, not including Sundays and holidays, may be sold for not less than the amount of the total charges accrued against the animal to anyone desiring to purchase the dog, if not requested by a licensed educational or scientific institution under Minnesota Statutes Section 35.71, as amended. All sums received by the Police Department shall be turned over to the City Clerk and placed in the General Fund and the animal's owner shall be responsible for any unpaid impound fees. Any dog or animal which is not claimed by the owner or by a licensed educational or scientific institution shall be painlessly put to death and the body properly disposed of by the Police Department or its designee, and the animal's owner shall be responsible for the costs and any unpaid impound fees. The time of sale or other disposition of the dog or animal shall be at least one hundred twenty (120) hours after notice has been given to the known animal owner.

Section 71.15. ANIMAL BITES. Any Person knowing of a human being bit by a dog, cat, raccoon, skunk or other rabies susceptible animal species shall immediately notify the Police Department to kill or destroy the dog or animal.

Section 71.16. COMPLAINTS. Any Person complaining to the Police Department that a dog or other animal is allegedly running at large or otherwise constituting a danger or nuisance shall identify themselves upon request and shall make every reasonable attempt to assist the authorities in identifying the animal and its owner or custodian.

Section 71.17. MUZZLING PROCLAMATION. Whenever the prevalence of hydrophobia renders such action necessary to protect health and safety, the Mayor shall issue a proclamation ordering every Person owning or keeping a dog to confine it securely on his premises unless it is muzzled so that it cannot bite. No Person shall violate such proclamation and any unmuzzled dog running at large during the time fixed in the proclamation shall be killed by the Police Department without notice to the Owner.

Section 71.18. BEEKEEPING PROHIBITED. Bees are prohibited within the City limits.

Section 71.19. PENALTY. Except as otherwise provided in Minnesota Statute 347.55 any person who violates the provisions of this Ordinance shall be guilty of a petty misdemeanor upon the first offense and a misdemeanor upon the second and all subsequent offenses. Each day in which a violation occurs shall be punishable as a separate offense. This Ordinance may also be enforced by administrative citations. Administrative fines for violations of this Ordinance are established by the City Council in Appendix A.

Section 71.20. OTHER FEES FOR DANGEROUS DOGS. Annual registration fees and fees for providing warning symbols for dogs designated as dangerous dogs shall be established by the City Council in Appendix A.

CHAPTER 7: NUISANCES AND OFFENSES

ORDINANCE 72 NOISE..... 72-1
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Section 72.01. NOISES PROHIBITED. No Person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, endangers or affects any other person's comfort, repose, health, peace, safety or welfare, precludes their enjoyment of property, or affects their property's value. Any noise heard outside the premises of the noise's source shall be prohibited and violate this Ordinance.

Section 72.02. UNLAWFUL ACTS. Noises that violate this Ordinance include, but are not limited to, the following acts:

Subd. 1. Horns and Signaling Devices. The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle, except as a danger warning.

Subd. 2. Radios, Tape and Disc Players, Etc. The using, operating, or permitting to be played any radio receiving set, tape or disc player, musical instrument, phonograph, paging system, or other machine or device that produces or reproduces sound in a manner to disturb the peace, quiet or repose of a person or persons or ordinary sensibilities, considering the time, place and purpose for which the sound is produced. Operation of any machine under this subdivision that is plainly audible at the property line of the structure or building in which it is located, in the hallway or adjacent apartment, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of a violation.

Subd. 3. Sounds from Vehicles. When a machine or device located in or on a vehicle produces or reproduces a sound violating this Ordinance, the vehicle's owner, or if the vehicle's owner is not present at the time of the violation then the person in charge or control of the vehicle, is guilty of the violation.

Subd. 4. Loud Speakers, Amplifiers for Advertising. The using, operating, or permitting to be played any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device that produces or reproduces sound that is cast upon the public streets for commercial advertising or attracting the attention of the public to any building or structure.

Subd. 5. Yelling and Shouting. Yelling, shouting, hooting, whistling, or singing at any time or place that annoys or disturbs the quiet, comfort or repose of any person in any office, dwelling, hotel, motel, other place of residence or in the vicinity.

Subd. 6. Animals or Birds. The keeping of any animal or bird who's frequent or long continued noise disturbs the comfort or repose of any person in the vicinity.

Subd. 7. Whistles or Sirens. The blowing of a locomotive whistle or steam whistle attached to any stationary boiler or any siren, except whistles or sirens that give notice of the time to begin or stop work, warn of fire or danger, or are used by public emergency vehicles.

Subd. 8. Exhaust. The discharge into the open air of exhaust from a steam engine, stationary internal combustion engine, motor boat, motor vehicle or snowmobile, except through a muffler or other device that will effectively prevent loud or explosive noises and complies with all applicable laws and regulations.

Subd. 9. Defective Vehicles or Loads. The use of any automobile, motorcycle, or other motor vehicle so out of repair or so loaded to create loud and unnecessary grating, grinding, rattling, or other noise that will disturb the comfort or repose of any person in the vicinity.

Subd. 10. Sound Trucks for Advertising Purposes. The use of sound trucks or any other vehicle equipped with sound amplifying devices to advertise any program, project, or meeting of any public agency, private business, religious organization, civic group, political party, or charitable organization.

Subd. 11. Loading, Unloading, Opening Boxes. The creation of a loud and excessive noise in loading or unloading any vehicle or opening and destroying bales, boxes, crates, and containers.

Subd. 12. Building Construction or Repair. The erection, excavation, demolition, alteration, or repair of any building between 9:00 p.m. and 6:00 a.m. of the following day on week days and all day Sunday except where single individuals or families work on single family residences for their own occupancy. The City Building Inspector or City Clerk may, in cases of emergency, grant permission to repair at any time when the inspector finds that the repair work will not affect the health and safety of persons in the vicinity.

Subd. 13. Schools, Courts, Churches, Hospitals. The creation of any excessive noise on any street or private property adjacent to any school, institution of learning, church, court or hospital while these institutions are in use that unreasonably interferes with the property's use if conspicuous signs are displayed in the streets indicating the institution or property is a school, hospital or court street.

Subd. 14. Noisy Gatherings. Participation in any party or other gathering of people giving rise to noise, unreasonably disturbing the peace, quiet or repose of another person. When a Police Officer determines that a gathering is creating a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disburse immediately. No person shall refuse to leave after being ordered by a police officer to do so. Every owner or tenant of the premises who has knowledge of the disturbance shall make every reasonable effort to stop the disturbance.

Section 72.03. EXCEPTIONS.

Subd. 1. This Ordinance shall not apply to sound produced by the following:

- a) Amplifying equipment used in connection with activities the City authorizes, sponsors or permits if the activity is conducted pursuant to the conditions of the license, permit or contract authorizing the activity.
- b) Church bells, chimes or carillons.
- c) School bells.
- d) Anti-theft devices.
- e) Machines or devices producing sound on or in authorized emergency vehicles.

Section 72.04. LANDLORD'S LIABILITY. Violations of this Ordinance shall be the act of the owner of the residential dwelling unit even if the owner does not reside in the unit as well as the persons on the premises who violate the Ordinance. The owner will only be liable for those violations occurring after receipt of written notice from the City or its police department of a violation of this Ordinance.

Section 72.05. ENFORCEMENT. The City Council or Police Department shall enforce this Ordinance.

Section 72.06. WAIVER. The City Council or Police Department may waive any of this Ordinance's provisions if it determines that strict enforcement of the provision would cause any undue hardship.

Section 72.07. PENALTY. Any Person who violates the provisions of this Ordinance shall be guilty of a petty misdemeanor upon the first offense and a misdemeanor upon the second and subsequent offenses occurring within two (2) years of the first violation. Each violation and each day a violation occurs or continues shall be a separate offense. This Ordinance may also be enforced by administrative citations, injunction, action for abatement or other appropriate civil remedies. Administrative fines for violations of this Ordinance are established by the City Council in Appendix A.

CHAPTER 7: NUISANCES AND OFFENSES

ORDINANCE 73 BURNING..... 73-1

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Section 73.01. PURPOSE. The City Council determines that unregulated burning within the City has an adverse effect upon the City residents' health, comfort, repose and property and specifically finds that unregulated burning:

Subd. 1. Increases the risk of destruction of Personal property and structures;

Subd. 2. Increases air pollution and affects the health of residents, primarily those suffering from asthma and other respiratory ailments;

Subd. 3. Causes annoyance by smoke drifting onto adjacent properties;

Subd. 4. Increases the potential for injury by creating a nuisance attractive to children;
and

Subd. 5. Causes soot and odor to adjacent property.

As a result, the City Council enacts this Ordinance restricting fire ignition and maintenance and other burning that may occur within the City.

Section 73.02. DEFINITIONS. As used in this Ordinance, the following terms shall be defined as follows:

Subd. 1. Attendance of Fires. Means any fire this Ordinance authorizes shall be constantly attended by a competent Person until the fire is extinguished. This Person shall have a garden hose connected to the water supply or other fire extinguishing equipment readily available for use.

Subd. 2. Campfire. Means a fire set for cooking, warming or ceremonial purposes, which is not more than three (3) feet high, and which has had the ground ten (10) feet from the fire ring's base cleared of all combustible material.

Subd. 3. Commissioner. Means the Commissioner of Natural Resources.

Subd. 4. Forest Products. Means and includes all products derived from timber.

Subd. 5. Open Fire or Open Burning. Means a fire that is not contained within a fully enclosed fire box or structure from which the products of combustion are emitted directly to the open atmosphere without passing through a stack, duct or chimney.

Subd. 6. Owner. Includes a Person owning the fee title to any real property or the Person occupying real property pursuant to a leasehold interest in it.

Subd. 7. Timber. Means and includes trees, saplings, bushes, seedlings, and sprouts from which trees may grow, of every size, nature, kind and description.

Section 73.03. OPEN BURNING PROHIBITED. Open burning in the City shall be unlawful without the City Council's prior written permission.

Section 73.04. EXCEPTIONS. The following shall be permitted in the City without a permit:

Subd. 1. Campfires;

Subd. 2. Fire contained in a charcoal grill, camp stove, or other cooking or heating device;

Subd. 3. A fire contained within a building or structure to provide heat to the structure's interior or to prepare food;

Subd. 4. Fires ignited for fire training as defined by Minnesota Statute 88.17, Subd. 3(a), as amended, pursuant to a special permit granted by the local fire warden or other authorized state, county or local authority.

Section 73.05. FUEL MATERIALS. Fuels for all permitted fires shall consist of timber, forest products, kerosene, fuel oil, charcoal or natural gas if the fire is contained in a stove or fire box designed for igniting that substance.

Section 73.06. OPEN BURNING PROHIBITIONS. No Person shall conduct, cause or permit the open burning of:

Subd. 1. Motor oil, rubber, plastics, chemically treated materials or other materials which produce excessive or noxious smoke, including but not limited to vegetative material, tires, railroad ties, chemically treated lumber, composite shingles, roofing felt, insulation, composition board, gypsum board, wiring, oils, paint or paint filters and other similar substances.

Subd. 2. Hazardous waste as defined in Minnesota Statutes 116.06, Subd. 11, as amended, and applicable Commissioner's Rules.

Subd. 3. Solid waste generated from an industrial or manufacturing process or from a service or commercial structure.

Subd. 4. Burnable building materials generated from the demolition of residential, commercial or institutional structures.

Subd. 5. Discarded materials resulting from the handling, processing, storage, preparation, serving or consumption of food, unless State law allows.

Subd. 6. Processing of motor vehicles.

Section 73.07. BURNING BANS. No open burning shall occur at any time a state, county, or local authority declares a burning ban.

Section 73.08. GENERAL REGULATIONS REGARDING PERMITTED FIRES.

Subd. 1. No Person shall ignite or maintain a fire upon another's land without the Owner's permission.

Subd. 2. No Person shall ignite or maintain a fire on publicly owned or controlled property except in designated areas for maintaining campfires by the public authority governing the property or under the direct control and supervision of an authorized City employee.

Subd. 3. A competent Person shall attend any authorized open fire until the fire is extinguished.

Subd. 4. Fires shall not be allowed to smolder with no flame present and must be extinguished after use.

Subd. 5. A permit holder shall keep the fire contained in the area the permit describes and shall only burn the materials specifically listed on the permit.

Section 73.09. REPORTING. The occupant of any property where any unauthorized fire is burning shall promptly report the fire to the City Fire Department.

Section 73.10. ENFORCEMENT. The Commissioner, the City Fire Chief and the City Police Department shall enforce this Ordinance.

Section 73.11. PENALTY. Any Person who violates the provisions of this Ordinance shall be guilty of a petty misdemeanor upon the first offense and a misdemeanor upon the second and subsequent offenses. Any Person who ignites or maintains a prohibited fire and any Person who owns or controls property and knowingly permits a prohibited fire to be ignited or maintained on his or her property, if that Person had actually ignited the fire, shall be liable under this Ordinance.

CHAPTER 7: NUISANCES AND OFFENSES

ORDINANCE 74 CITY COMPOST SITE..... 74-1
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ORDINANCE 74 CITY COMPOST SITE

Section 74.01. POLICY AND PURPOSE. By the enactment of this Ordinance, the Council intends to establish the provisions set forth for the use of the City Compost Site, regulations and violation penalties.

Section 74.02. GENERAL USAGE. The City Compost Site may be used by all residents of Benton County. The residents may deposit vegetation such as leaves, grass, garden waste, and branches no larger than three (3) inches in diameter.

Section 74.03. HOURS FOR USE. The hours the City Compost Site will be open and seasons which the Compost Site will be open, will be set by the Council each year.

Section 74.04: NON USAGE. The City Compost Site will not be used for deposit of household waste or garbage, building debris, commercial trimmings, and deceased animals.

Section 74.05: VIOLATION AND PENALTY. Any person violating this Ordinance shall be guilty of a misdemeanor and subject to a fine of not more than seven hundred dollars (\$700.00) and/or ninety (90) days in jail.

CHAPTER 7: NUISANCES AND OFFENSES

ORDINANCE 75 ABANDONED MOTOR VEHICLES AND PROPERTY..... 75-1

- Section 75.01: PURPOSE..... 75-1
- Section 75.02: DEFINITIONS..... 75-1
- Section 75.03: EXCEPTIONS..... 75-2
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ORDINANCE 75 ABANDONED MOTOR VEHICLES AND OTHER PROPERTY

Section 75.01. PURPOSE. Abandoned motor vehicles, abandoned appliances and discarded furniture constitutes:

Subd. 1. A hazard to the health and welfare of the people of the City in that they can harbor noxious disease, furnish shelter and breeding places for vermin, and present physical dangers to the safety and well-being of children and other citizens.

Subd. 2. A blight on the landscape of the City and are detrimental to the environment.

Subd. 3. A waste of a valuable source of useful metal, in the case of abandoned motor vehicles and appliances.

It is in the public interest that the present accumulation of abandoned motor vehicles, abandoned appliances and discarded furniture within the City be eliminated and that future abandonment be prevented.

Section 75.02. DEFINITIONS. The terms used in this Ordinance shall have the meanings given them in this section.

Subd. 1. Abandoned Vehicle. Shall mean a motor vehicle that:

- a) Lacks vital component parts or is in an inoperable condition so it has no substantial potential for further use consistent with its usual functions; and
- b) Has remained for a period of more than 48 hours on public property illegally (or more than four hours if posted); or
- c) Has remained on private property for more than 24 hours (or immediately, if posted) without the consent of the Person in control of the property.

Subd. 2. Abandoned Appliance. Shall mean a household appliance lacking one or more vital component parts or in an inoperable condition.

Subd. 3. Discarded Furniture. Shall mean an item of furniture originally intended for use within the interior of a building but left or stored outdoors.

Subd. 4. Junk Vehicle. Means a vehicle that:

- a) Is extensively damaged, with the damage including such things as tires or broken or missing wheels, motor, drive train or transmission, so as to render the vehicle in operable; or

- b) Had not had a valid, current registration plate, or has not been properly licensed for operation within the State of Minnesota for a period of thirty (30) consecutive days or greater.

Subd. 5. Motor Vehicle or Vehicle. Has the meaning in Minnesota Statute 169.01, as amended.

Subd. 6. Private Property. Shall mean any real property within the City which is privately owned and which is not public property as defined in this section.

Subd. 7. Public Property. Shall mean any street, alley or highway which shall include the entire width between the boundary lines of every way publicly maintained for vehicular travel, and also means any other publicly owned property or facility.

Subd. 8. Unauthorized Vehicle. Shall mean a vehicle that is subject to removal and impound under the law.

Subd. 9. Vital Component. Shall mean a part of a motor vehicle or appliance essential to its mechanical functioning.

Section 75.03. EXCEPTIONS. A vehicle shall not be an abandoned, junk or unauthorized vehicle, and an appliance shall not be an abandoned appliance when kept:

Subd. 1. In an enclosed garage or storage building.

Subd. 2. On the premises of a junkyard or a motor vehicle or appliance repair business when such junkyard or business is maintained and/or licensed in accordance with Minnesota law or City Ordinances and zoning regulations. In the case of a repair business, each motor vehicle or appliance must be actively and consistently worked on and maintained or stored in an area screened from public view by an appropriate fence.

Subd. 3. In an appropriate storage place or depository maintained in a lawful place and manner by the City or authorized by the City.

Subd. 4. A classic or pioneer car, as defined in Minnesota Statute 168.10, as amended.

Section 75.04. NUISANCE. The presence of any abandoned, junk or unauthorized vehicle, abandoned appliance, discarded furniture, or parts of the furniture, on private or public property is a public nuisance which may be abated under this Ordinance.

Section 75.05. PUBLIC PROPERTY. No Person shall park, store, leave or permit the parking, storing, or leaving of any abandoned, junk or unauthorized vehicle or parts of a vehicle, abandoned appliance, or discarded furniture of any kind, whether attended or not, upon any public property within the City.

Subd. 1. A Police Officer may impound any abandoned junk or unauthorized vehicle, abandoned appliance or discarded furniture on public property within the City, or that causes an obstruction or hazard, the Police Department or City may remove it under State law after giving proper notice under this Ordinance.

Section 75.06. PRIVATE PROPERTY. No Person owning, in charge of, or in control of any real property within the City, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any abandoned motor vehicle, abandoned appliance or discarded furniture of any kind to remain on such property longer than ninety-six (96) hours.

Section 75.07. REMOVAL PROCEDURE.

Subd. 1. Notice to Remove. Whenever it comes to the attention of the Police Department or other City officials that any Person has any abandoned junk or unauthorized vehicle, abandoned appliance or discarded furniture on the Person's property, the City or Police Department shall serve a notice in writing upon the Person requesting the removal of the nuisance in the time specified in this Ordinance.

Subd. 2. Responsibility for Removal. Upon proper notice, an owner of the abandoned, junk or unauthorized vehicle, abandoned appliance, or discarded furniture, and the owner the owner or occupant of the private property on which the same is located, shall be jointly and severally responsible for its removal.

Subd. 3. Notice Procedure. The Police Department shall give notice to the owner or occupant of the private property where it is located by sending a copy of the notice by certified mail to the owner or occupant of the private property at the Person's last known address.

Subd. 4. Content of Notice. The notice shall contain the request for removal within ten (10) days after the mailing of such notice and the notice shall advise that failure to comply with the notice to remove shall be a violation of this Ordinance.

Section 75.08. IMPOUNDMENT. If the nuisance is not abated under this Ordinance after proper notice, the City and the Police Department may impound the vehicle according to State law and Section 51.11 of this Code.

Section 75.09. PENALTY. Any Person who violates the provisions of this Ordinance shall be guilty of a petty misdemeanor upon the first offense and a misdemeanor upon the second and all subsequent offenses. Each day the violation continues unabated shall constitute a separate and distinct offense. This Ordinance may also be enforced by administrative citations. Administrative fines for violations of this Ordinance are established by the City Council in Appendix A.

CHAPTER 7: NUISANCES AND OFFENSES

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ORDINANCE 76 TREES

Section 76.01. PURPOSE. The purpose of this Ordinance to promote and protect the Public Health, Safety, and General Welfare by providing for the regulation of the Planting, Maintenance, and removal of Trees, Shrubs, and other Plants within the City of Rice.

Section 76.02. DEFINITIONS.

Subd. 1. "Street Trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying between property lines or within the right-of-way lines on either side of all streets, avenues, or ways within the City of Rice.

Subd. 2. "Park Trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation in public parks or areas owned by the City of Rice not defined as "Street Trees".

Section 76.03. CITY TREE BOARD.

Subd. 1. Authority and Power. There is hereby created and established a City Tree Board for the City of Rice, which shall consist of five (5) members, citizens and residents of the City, who shall be appointed by the Mayor with the approval of the City Council. Members of the board shall serve without compensation. One member of the City Council will serve as advisor to the Tree Board.

Subd. 2. Term of Office. The term of the five (5) persons to be appointed by the Mayor shall be staggered, two for three years, two for two years, and one for one year. The appointments will be done annually. If a vacancy occurs during the term of any member, a successor shall be appointed for the unexpired portion of the term.

Subd. 3. Duties and Responsibilities. It shall be the responsibility of the Tree Board to study, investigate, and advise for maintenance, planting, replanting, removal or disposition of the trees and shrubs in parks, along the streets, and in other public areas. The Board, when requested, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within their scope of work. The Board, on special matters or requests only, shall submit findings and recommendations to the City Council before taking action. In all other matters, the Board shall take such action as it deems reasonable for the approval of planting, replanting and disposition of trees, shrubs, bushes and other woody vegetation in parks, along streets, and other public areas. The Board may appoint a certified tree inspector who will serve without compensation, unless compensation is set by resolution of the City Council of the City of Rice or is assigned by an existing employee of the City.

Subd. 4. Operation. The Tree Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings and submit a copy of the same to the City Council for the City of Rice. Four of the members shall be a quorum for the transaction of business.

Section 76.04. TREE PLANTING, MAINTENANCE, AND REMOVAL. No person shall plant, remove, cut above ground, prune, or disturb any street tree or park trees without first filing an application and procuring a permit from the Tree Board. Prior to the Tree Board issuing a permit, it shall review all applications. The person receiving the permit shall abide by the standards set forth in this Ordinance. Utility Maintenance programs may obtain a blanket permit for ongoing vegetation maintenance that meets the standards set forth by the Ordinance.

Section 76.05. STANDARDS.

Subd. 1. Tree Species. The Tree Board develops and maintains a list of desirable trees for planting along streets in three size classes: small (up to 20 ft. at maturity), medium (20-40 ft. at maturity), and large (over 40 ft. at maturity).

Subd. 2. Spacing. The spacing of street trees will be in accordance with the three species sizes defined in this Ordinance, and no trees may be planted closer together than the following: small trees - 25 feet, medium trees - 35 feet, and large trees - 40 feet, except in special plantings designed or approved by the Tree Board.

Subd. 3. Utilities. No tree shall be planted under or within fifteen (15) lateral feet, except small trees that cannot be planted within five (5) lateral feet, or any overhead utility wires. No tree(s) shall be planted over or within five (5) lateral feet of any underground waterlines, sewer lines, transmission lines or other utility lines without being reviewed by the controlling public agency or utility.

Subd. 4. Distance from Curb and Sidewalk. The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the tree species size classes previously described. No tree shall be planted closer than twenty (20) feet of a street corner, as measured from the point of intersection curbs or curb lines, and no tree may be planted closer to any curb or sidewalks than the following: small trees - 3 feet; medium trees - 4 feet; large trees - 5 feet.

Subd. 5. Pruning. All tree pruning shall be done in a manner consistent with approved practices; specifically, branches shall be cut flush to the branch collar of the stem or point of intersection with another branch without leaving a stub. Sever tree topping which destroys the normal shape of the tree shall not be practices except in instances where required such as emergency cleanup following a storm or when utility or other obstruction prevents normal pruning practices.

Subd. 6. Tree Removal. All stumps of street trees and park trees shall be flush with the surface of ground and as practical removed below the surface of the ground.

Subd. 7. Clearance. Trees overhanging any street or right-of-way within the City shall be fourteen (14) feet over streets and ten (10) feet over sidewalks and other public pedestrian travel ways.

Section 76.06. PUBLIC TREE CARE. The City shall have the right to plant, maintain, spray, and remove trees, shrubs, bushes, and other woody vegetation within the City of Rice areas of ownership as may be necessary to insure public safety or to preserve and enhance the symmetry and beauty of such public grounds. The Tree Board may remove or cause by order to be moved, any tree, shrub, bush, or other woody vegetation or part thereof which is in an unsafe condition or which by reason of its nature is injurious to wires, electrical power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest.

Section 76.07. PRIVATE TREE CARE REGULATION. The City and its agents shall have the authority to enter upon and to order the trimming, treatment, and removal of trees, shrubs, bushes or other woody vegetation on private property when such action is necessary for public safety or to prevent the spread of disease or insects to trees, shrubs or other plants located on public property.

Any tree, shrub, bush, or plant situated on private property, but so situated as to extend its branches over the improved portion of the public street or right-of-way shall be trimmed or removed by the owner of the real property upon which the same is located to obtain fourteen (14) feet of clear heights over vehicular travel routes and ten (10) feet of clear heights over pedestrian travel routes. Said persons shall remove any and all death or diseased branches or stubs of trees which are or may become a hazard to the public. Any tree, shrub, bush or other woody vegetation obstruction traffic control signs or devices from the view of pedestrians or motorists shall be removed or pruned to a height or distance established by the Tree Board to insure proper safety.

All orders to trim, remove or treat trees, shrubs, bushes or other woody vegetation issued pursuant to this Ordinance shall be served personally or by certified mail upon the owner of the property where such trees, shrubs, bushes or other woody vegetation exists. Such orders shall give the owner of the property not less than twenty (20) days from the date of mailing or personal delivery of such notice to comply with the order. It shall be unlawful for an owner of property receiving such an order to fail to comply with such order within the specified time.

Section 76.08. ENFORCEMENT. The Tree Board shall have the power to promulgate and enforce rules, regulations and specifications concerning the trimming, removal, treatment, planting, pruning and protection of trees, shrubs and other woody vegetation as defined by this ordinance. All such rules, regulations and specifications must first be submitted to the City Council for approval, and upon such approval shall become effective. Any notice involving a specific property owner shall contain language informing the owner of his/her right of review as stated in Section 76.09 of this Ordinance.

Section 76.09. PENALTIES, CLAIMS AND APPEALS.

Subd. 1. Penalties. A violation of any provision of this Ordinance or failure to comply with any notice issued pursuant to this Ordinance, shall constitute a petty misdemeanor, punishable as defined by Minnesota Law. If as the result of the violation of any provision of this Ordinance, the injury, mutilation, or death of a tree, shrub, bush or other woody vegetation on city-owned property is caused, the cost of repair or replacement of such tree, shrub, bush or other woody vegetation shall be borne by the party in violation. The replacement value of trees and shrubs shall be determined in accordance with the latest revision of trees and shrubs shall be

determined in accordance with the latest revision of "A Guide to the Professional Evaluation of Landscape Tree, Specimen, Shrubs, and Evergreens", as published by the International Society of Arboriculture.

Subd. 2. Abatement of Claim. If the required action is not taken by the property owner within the specified time, the City may cause the trees, shrubs, bushes or woody vegetation concerned to be trimmed, removed, or treated, with the cost being borne by the property owners. If not voluntarily paid to the City by such owner, the costs of such trimming, removal, or treatment may be recovered by the City by Special Assessment upon the property of said owner.

Subd. 3. Appeal. In the event a property owner objects to an order issued by the Tree Board, the owner shall serve a written notice of appeal setting forth objections to the order, which notice of objection shall be served upon the City Clerk Within ten (10) days of the Tree Board's notice to said property owner. The notice shall set forth specific reasons for the objections to the order of the Tree Board. The City Council shall hear said objections and upon making findings concerning said objections, shall make a final determination concerning the matter.

Section 76.10. INTERFERENCE WITH TREE BOARD. It shall be unlawful for any person to prevent, delay or interfere with the City Tree Board, or any authorized agents of the City, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removal of any Street Trees, Park Trees, or trees on private grounds, as authorized in this Ordinance.

Section 76.11. REVIEW BY CITY COUNCIL. The City Council shall have the right to review the conduct, acts, and decisions of the City Tree Board. Any person may appeal from any ruling or order of the City Tree Board to the City Council who may hear the matter and make the final decision.

CHAPTER 7: NUISANCES AND OFFENSES

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ORDINANCE 77 RADIO AND TELEVISION INTERFERENCE

Section 77.01. PROHIBITION. No person shall maintain, use or operate any apparatus or device of any sort in such a way as to interfere with radio or television reception within the City.

The prohibition shall include, but not be limited to, interference caused by radio receiving equipment, battery chargers, electric machines, high tension ignition systems, electric transmission lines, power plants, defective insulators or transformers.

Section 77.02. EXCEPTIONS. The prohibition of Section 77.01 shall not apply:

- a) To wave lengths of more than 300 meters;
- b) To interference caused by electro-medical devices between seven (7) a.m. and six (6) p.m., provided such interference is reduced as much as reasonable possible.

Section 77.03. PENALTY. Any person violating this Ordinance shall be guilty of a misdemeanor, provided such person has been given notice of such interference and fails thereafter to correct the situation within a reasonable time not to exceed ten (10) days.

CHAPTER 7: NUISANCES AND OFFENSES

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Section 78.01. HEALTH AND SAFETY REGULATIONS. Whereas, by virtue of Minnesota Statutes, Sections 412.221 et.seq., the City has the power to adopt certain standards and regulations to promote the health and safety of persons residing in the City of Rice.

Section 78.02. HEALTH DEPARTMENT INSPECTION. The Benton County Health Department and/or the City Health Official and/or Rice Police Department shall have the right to inspect any dwelling, whether rental or owner-occupied, to enforce sanitation requirements.

Section 78.03. DUMPS. There shall be no public or private dumping or depositing of garbage, rubbish, refuse, or other waste material, within the City limits.

Section 78.04. UNWHOLESOME SUBSTANCES. All owners or occupants of land within the City shall keep the same in a neat, clean, condition. No owner or occupant of land, whether vacant or occupied, shall allow any unwholesome substance to remain thereon. Unwholesome substances shall include any substance which are or may be conducive to the creation or spread of disease, the propagation of rats or other rodents, and shall specifically include all debris which shall or may constitute a fire hazard. Residents, property owners or tenants shall be responsible for maintaining and mowing one half of any alley or undeveloped road/street within the city limits that adjoins their property.

Section 78.05. TREES, BRUSH AND PLANTS. Persons owning or occupying land within the City shall put and keep all trees, brush, branches and plants in such condition as not to endanger pedestrians or vehicles traveling on the public sidewalks, streets, or alleys of the City. All trees, brush, and plants must be planted within the resident/business owners property lines.

Section 78.06. DEBRIS. All owners or occupiers of land shall cause the same to be cleaned and free from debris within a reasonable time, but not more than sixty (60) days following any natural or other calamity, including fire, windstorm, flood, etc.

Section 78.07. HAZARDOUS ACTIVITY. The owners of any land upon which extra hazardous activity is being conducted, including excavation over five (5) feet deep, large machinery, or equipment is being operated or stored, explosives used or stored, etc., shall be fenced and restricted to the public.

Section 78.08. SIDEWALK SNOW REMOVAL. All sidewalks open to the public use within the City shall be cleared of snow, ice, or other debris, as soon as practical after the storm causing same by the resident, property owner or tenant.

Section 78.09. OUTSIDE STORAGE IN RESIDENTIAL ZONES. All materials, waste, recyclables, debris, supplies, building equipment, and equipment must be stored within a legal building or structure with the exception of recreational equipment that is currently licensed, including but not limited to

motor vehicles and trailers. Also allowed is temporary storage of construction and landscaping materials currently being used on the premises.

Section 78.10. HEALTH AND SAFETY OFFICER. There is hereby established the office of City Health and Safety Officer who shall be appointed by the Mayor, to be approved by the City Council. Compensation for this office shall be established by a majority of the Council.

Section 78.11. ENFORCEMENT AND VIOLATION. If the City Health Officer or Police Department shall determine that a violation of this Ordinance has, or is about to occur, he shall serve upon the owner or occupant of the land being, or about to be wrongfully used, notice of the violation. Such notice shall specify with reasonable clarity the alleged violation and what action must be taken to correct same. It shall be dated and signed by the City Health Officer or Police Department. Land owner or occupant shall have five (5) calendar days to correct said violation and report correction to the City Health Officer or Police Department. Certification of correction shall be affixed to the notice of violation and shall absolve owner or occupant from penalty for that specified violation. The City Health Officer or Police Department shall have the authority for cause to specify a greater or lesser time for correction, which time limit must be strictly complied with. In the event the owner or occupant shall fail to have the violation corrected and Certificate of Correction issued, the City Health Officer or Police Department may require the City Attorney to prosecute said violation under penalties hereinafter prescribed, or in the alternative, may cause to have the violation removed. Such removal of violation and the costs thereof shall be a lien upon the property which may be collected as a special assessment. Notice hereunder shall be deemed sufficient if delivered personally to the land owner or occupant, or mailed to the last known address of the same. In the event of service by mail, the City Health Officer or Police Department shall also cause to be posted on the property in a conspicuous location a notice of violation.

Section 78.12. VIOLATION PENALTY. Unless otherwise stated herein, violation of this Ordinance shall be a misdemeanor punishable by a fine of up to Three Hundred Dollars or ninety days in jail, or both.

CHAPTER 8: ZONING REGULATIONS

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ORDINANCE 80 GENERAL PROVISIONS

Section 80.01. AUTHORIZATION, INTENT, AND PURPOSE. This chapter is enacted pursuant to the authority granted by the Municipal Planning Act, M.S. § 462.351 et seq. The intent of this chapter is to:

- a) Promote the general public health, safety, morals, comfort and general welfare of the inhabitants of the city in accordance with the adopted development goals, plans and policies as stated herein;
- b) To promote the character and preserve and enhance the stability of the properties and areas within the City;
- c) To preserve and develop the economic base of the City;
- d) To ensure that the land uses of the City are properly situated in relation to one another, providing for adequate space for each type of development;
- e) To control the density of development in each area of the City so that the property can be adequately serviced by such governmental facilities such as streets, schools, recreation and utilities systems;
- f) To direct new growth in appropriate areas;
- g) To divide the City into zones or districts as to the use, location, construction, reconstruction, alteration and use of land and structures for residence, business and industrial purposes;
- h) To provide adequate light, air, privacy, and safety;
- i) To prevent overcrowding of land, undue concentration of population;
- j) To promote the proper use of land and structures
- k) To promote reasonable standards to which buildings, structures, and land shall conform;
- l) To prohibit the use of buildings, structures, and lands that are incompatible with the intended use or development of lands within the specified zones;
- m) To promote the safe, rapid, efficient movement of people and goods;
- n) To facilitate the provision of public services;
- o) To limit congestion in the public streets and protect the public health and welfare by providing for the off-street parking of vehicles and vehicle loading areas;

- p) To protect against fire, explosion, panic, noxious fumes, offensive noise, vibration, dust, odor, heat, glare, other pollution and hazards in the interest of the public health, comfort and general welfare;
- q) To define and limit the powers and duties of the administrative officers and bodies provided for herein; and
- r) To accomplish the City's goals set forth in the Comprehensive Plan.

Section 80.02. TITLE. This chapter, together with the zoning map, shall be known as the "City Zoning Ordinance" except as referred to herein, where it shall be known as "this Ordinance."

Section 80.03. INTERPRETATION OF TERMS. Unless specifically defined below, the words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage, unless such meaning is clearly contrary to the intent of this chapter and so as to give this chapter its most reasonable application. For the purpose of this chapter, the words in Section 80.05 have meanings given them.

Section 80.04. SCOPE, INTERPRETATION, ETC.

Subd. 1. The language set forth in the text of this Chapter shall be interpreted in accordance with the following rules of construction:

- a) Words used in the present tense shall include the future, words in the singular shall include the plural, and the plural the singular.
- b) "Person" shall include an individual, association, syndicate, organization, partnership, trust company, corporation or any other legal entity.
- c) "Shall" is to be construed as being mandatory, not discretionary.
- d) "May" is to be construed as permissive.
- e) "Lot" shall include the words "plot," "piece," and "parcel"
- f) "Used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for".

Subd. 2. Scope. Except as amended herein, from and after the effective date of this Chapter, the use of all land and every building or portion of a building erected, altered with respect to height, area, or use, added to or relocated, and every use within a building or use accessory thereto, in the City shall be in conformity with the provisions of this Chapter.

Subd. 3. Interpretation. The provisions of this Chapter are the minimum requirements for the promotion of public health, safety, morals, convenience, and general welfare. Where the provisions of this Chapter impose greater restrictions than those of any statute, code provision, other ordinance or regulation, the provisions of this Chapter shall be controlling. Where the provisions of any statute, other code provision, ordinance or regulation impose greater restrictions than this Chapter, the provisions of such statute, other code provision, ordinance or regulation shall be controlling.

Subd. 4. Private Agreements. This chapter shall not abrogate any easement, covenant, or any other private agreement where such is legally enforceable, provided that where the regulations of this Chapter are more restrictive (or impose higher standards or requirements) than such easements, covenants, or other private agreements, the requirements of this Chapter shall govern.

Subd. 5. Relationship to Existing City Ordinances. To the extent that the provisions of this Chapter are the same in substance as the previously adopted provisions that they replace in the City's zoning, subdivision, or other land use control ordinances, they shall be considered continuations thereof, and not as new enactments unless otherwise specifically provided. In particular, a situation that did not constitute a lawful, nonconforming situation under the previously adopted zoning ordinance does not achieve lawful nonconforming status under this Chapter merely by the repeal of the previous zoning ordinance and the adoption of a new ordinance.

Subd. 6. Area Regulations. No lot area shall be so reduced or diminished that the lot area, yards or other open spaces shall be smaller than prescribed by this Chapter, nor shall the density of population be increased in any manner except in conformity with the area regulations as hereinafter provided.

Subd. 7. Building Permit Required. The City of Rice has adopted the Minnesota State Building Code and will apply the requirements of the latest version of this code. No building, structure or premise shall hereafter be used, moved, relocated or occupied and no building permit shall be granted that does not conform to these requirements.

Subd. 8. Relationship to State, Federal, County and Local Laws, Rules and Requirements. Persons and entities affected by the City of Rice Zoning Ordinance shall comply with all applicable, Federal, State, County, and Local Laws and Requirements.

In an instance where a conflict exists between the City of Rice Zoning Ordinance and Federal, State, County, Local Laws and Requirements, unless specifically mandated to the contrary, the conflicting requirement that imposes the strictest control shall be considered primary and its use is mandated.

Section 80.05. DEFINITION OF TERMS. For the purposes of this chapter, the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

Subd. 1. Abandonment. "Abandonment" shall mean to cease or discontinue a use or activity on a property for a period of twelve (12) consecutive months or more unless otherwise specified.

Subd. 2. Abut. "Abut" shall mean to border upon a parcel of land so as to share all or part of a common property line with another parcel of land.

Subd. 3. Accessory Building or Accessory Structure. See building, accessory.

Subd. 4. Accessory Use. "Accessory Use" shall mean a use on the same lot that is both incidental and subordinate to the principal use or structure or facility.

Subd. 5. Adult Uses. "Adult Uses" shall include adult bookstores, adult motion picture theatres, adult mini-motion picture theatres, adult massage parlors, adult steam room/bathhouse facilities, adult enterprises, business 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" that are capable of being seen by members of the public. "Adult Uses" also include:

- a) Adult Bookstore. A building or portion of a building used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audiotape, videotape, or motion picture film if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" or the barter, rental or sale of instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities, "Substantial or significant portion of items," for the purposes of this Ordinance, shall mean more than fifteen (15) percent of usable floor area.
- b) Adult Cabaret. A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of building excludes minors by virtue of age, or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas."
- c) Adult Conversation/Rap Parlor. A conversation/rap parlor that excludes minors by reason of age, or that provides the service of engaging in or listening to conversation, talk or discussion, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."
- d) Adult Health/Sports Club. A health/sports club, that excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

- e) Adult Massage Parlor. A massage parlor that restricts minors by reason of age, or that provides the service of “massage”, if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”

- f) Adult Mini-Motion Picture Theater. A building or portion of a building with a capacity for less than fifty (50) persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.

- g) Adult Motion Picture Theater. A building or portion of a building with a capacity of fifty (50) or more persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on the depiction of “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.

- h) Adult Steam Room/Bathhouse Facility. A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if such building or portion of a building restricts minors by reason of age or if the service is provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

For purposes of the definition of Adult Uses, the following definitions shall apply:

- a) Minor. Person(s) under eighteen (18) years of age.

- b) Specified Anatomical Areas.
 - 1) Less than completely and opaquely covered:
 - a) Human genitals;
 - b) Pubic region;
 - c) Buttocks; and,
 - d) Female breast below a point immediately above the top of the areola; and
 - 2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

c) Specified Sexual Activities.

- 1) Human genitals in a state of sexual stimulation or arousal;
- 2) Acts of human masturbation, sexual intercourse or sodomy; and
- 3) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

Subd. 6. Agriculture. "Agriculture" shall mean the tilling of soil, raising of crops, horticulture, aquaculture, hydroponics, forestry, gardening, livestock and fowl keeping and breeding, and the production of natural products with resources primarily derived from the land upon which it is produced. These include preliminary processing of products such as eggs, milk, wool, etc. Excluded are the processing of any products through industry or businesses such as an abattoir, fruit packaging plant, winery, dairy, and similar uses that are commercial or utilize products not produced in the surrounding area.

Subd. 7. Alley. "Alley" shall mean any dedicated public right-of-way providing a secondary means of access to abutting property.

Subd. 8. Apartment. "Apartment" shall mean a room or group of rooms in a residential structure that includes bath and kitchen facilities and is intended or designed for use as an independent residence for a family or individual.

Subd. 9. Automobile Salvage Yard. "Automobile Salvage Yard" shall mean a commercial use carried on outside of an enclosed building involving the dismantling or storage of vehicles or equipment, and any other lot used for wrecking or storing of inoperable motor vehicles or their parts.

Subd. 10. Basement. "Basement" shall mean a story of a building having more than half its height below the average level of the adjoining finished grade. A basement shall be counted as a story for the purpose of height regulations, if occupied for business or residential purposes.

Subd. 11. Berm. "Berm" shall mean a landscaped mound of earth.

Subd. 12. Billboard. "Billboard" shall mean any advertising sign where the advertised goods or services are not furnished at the location of the sign.

Subd. 13. Bituminous Surface Treatment. "Bituminous Surface Treatment" or "BST" generally consists of aggregate spread over a sprayed-on asphalt emulsion, or cut-back asphalt cement. The aggregate is then embedded into the asphalt by rolling it, typically with a rubber-tired roller. "BSTs" of this type are described by a wide variety of regional terms, including "chip seal", "tar and chip", "Oil and stone", "seal coat" "sprayed seal" or "surface dressing."

Subd. 14. Block. “Block” shall mean a tract of land bounded by streets, or a combination of streets and public or private open space, cemeteries, railroad rights-of-way, shorelines, waterways, or City corporate limits.

Subd. 15. Buildable Area. “Buildable Area” shall mean the space remaining on a lot for building purposes after the setback and open space requirements of this Chapter have been met.

Subd. 16. Building Unit. “Building unit” shall mean a structure having a roof supported by columns, or walls. When separated by dividing walls without openings, each portion of such structure shall be deemed a separate unit.

Subd. 17. Building, Accessory. “Building, Accessory” shall mean a subordinate building or structure on the same lot as a principal building, or part of the principal building, exclusively occupied by or devoted to a use incidental to the main use of the property.

Subd. 18. Building Height. “Building Height” unless otherwise specifically noted in this Chapter, shall mean the vertical distance measured from the average elevation of the finished grade adjacent to a building to 1) the highest point on a building with a flat roof, 2) the deck line of a mansard type roof, or 3) the average height between the eaves and the peak of the highest gable of a pitched, hip, or gambrel roof. For purposes of calculating building height, the finished grade shall be the highest point within five (5) feet of the front of a building, or, if the lowest grade within five (5) feet of any side of the building is more than ten (10) feet lower than the front, then the finished grade from which the height is measured shall be considered ten (10) feet above said lowest grade.

Subd. 19. Building Line. “Building Line” shall be a line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

Subd. 20. Building, Principal. “Building, Principal” shall mean a building or structure occupied by or devoted to the principal or main use of the property.

Subd. 21. Canopy or Marquee. “Canopy” or “Marquee” shall mean any roof like structure extending out from the side of a building.

Subd. 22. City. “City” shall mean the City of Rice.

Subd. 23. Cluster Development. “Cluster Development” shall mean a development planned and constructed so as to group housing units into relatively tight patterns while providing a unified network of open space and wooded areas, and meeting the overall density regulations of this Ordinance and the Comprehensive Plan.

Subd. 24. Cold Storage Facility. “Cold Storage Facility” shall mean a building or group of buildings managed as a commercial enterprise and used for the storage of food products in a refrigerated or frozen state and sold off premises.

Subd. 25. Commercial Use. “Commercial Use” shall mean the use of land or buildings for the sale, lease, rental or trade of products, goods, services and other activities carried out for financial gain.

Subd. 26. Commercial Activity. “Commercial Activity” shall mean either a regular course of commercial conduct or a particular commercial transaction or act in which products, goods, services, and other activities are exchanged or traded for barter or money.

Subd. 27. Comprehensive Plan. “Comprehensive Plan” shall mean a compilation of policy statements, goals, standards and maps for guiding the physical, social, and economic development, both private and public, of the City and its environs. A comprehensive plan shall represent the recommendations of the Planning Commission and City Council for future development of the community.

Subd. 28. Community Sewer and Water Systems. “Community Sewer and Water Systems” shall mean a system providing centralized wastewater collection and treatment and centralized water supply storage and distribution to a group of structures that are located such that service from a municipal sewer or water utility is cost prohibitive. Community sewer and water systems shall comply with the requirements of state regulatory agencies and Ten States Standards for Sewage and Water Works. Community Sewer and Water Systems shall utilize only proven technologies. The design and construction of community sewer and water systems shall be approved by the City Engineer. Community Sewer and Water Systems shall be prepared under the direct supervision of a Minnesota licensed professional engineer and approved by the City Engineer. Community Sewer and Water Systems shall be designed to facilitate connection to the City Sewer and Water Utilities in the future. Ownership of Community Sewer and Water Systems shall be either private or public. In the event of private ownership, the financial viability of the organization owning the said facilities shall be personally guaranteed by the property owners utilizing said facilities.

Subd. 29. Conditional Use. “Conditional Use” shall mean a land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood. The City may impose additional conditions in specific instances to protect the health, safety and welfare.

Subd. 30. Condominium. “Condominium” shall mean a multiple dwelling or development containing individually owed dwelling units and jointly owned and shared areas and facilities, which dwelling or development is subject to the provision of state and local laws.

Subd. 31. Corner Lot. See: “Lot, Corner.”

Subd. 32. Covered Storage Building. “Covered Storage Building” shall mean an enclosure that is a moveable tent-like shelter that is typically constructed with wooden or metal

framework and covered with a tarpaulin of plastic or canvas like material. These structures are most typically used for sheltering vehicles, RVs or other materials stored outside residential neighborhoods.

Subd. 33. Deck. “Deck” shall mean an open structure at least twelve (12) inches above the ground that is located in the front yard, rear yard, side yard, or court of a property and not attached to a structure. When a deck has a roof and/or wall enclosures that keep out the elements, it ceases to be a deck and must be reviewed as an addition.

Subd. 34. Density. “Density” shall mean a measure of the intensity of residential use on the land, expressed in terms of lot area per dwelling unit or dwelling units per acre. For such calculations, the land area shall be exclusive of water area and floodplain, but may include protected wetlands and hydric soils.

Subd. 35. Driveway. “Driveway” shall mean a private road or path that is wholly located on the lot that it services and that affords vehicle access to a public road.

Subd. 36. Duplex. See dwelling, two family.

Subd. 37. Dwelling. “Dwelling” shall mean any structure or portion of a structure or other shelter designed as short or long-term living quarters for one or more persons, including rental or time-share accommodations, such as a motel, hotel, and resort rooms and cabins having one (1) or more rooms in a dwelling designed for occupancy by one (1) family for living purposes and having separate permanently installed cooking and sanitary facilities.

Subd. 38. Dwelling, Attached (group, row, or townhouse). “Dwelling, Attached” (group, row, or townhouse) shall mean a dwelling joined to one (1) or more dwellings by a party wall or walls.

Subd. 39. Dwelling, Detached. “Dwelling, Detached” shall mean a dwelling entirely surrounded by open space, and not attached or connected structurally to any other dwelling.

Subd. 40. Dwelling, Multiple Family. “Dwelling, Multiple Family” shall mean a dwelling containing two (2) or more dwelling units, whether a townhouse, apartment, condominium, or other type of dwelling.

Subd. 41. Dwelling, Single Family. “Dwelling, Single Family” shall mean a detached dwelling designed exclusively for occupancy by one (1) family only.

Subd. 42. Dwelling Site. “Dwelling Site” shall mean a designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle site.

Subd. 43. Dwelling, Two Family. “Dwelling, Two Family” shall mean a dwelling designed with two dwelling units, exclusively for occupancy by two (2) families living independently of each other.

Subd. 44. Dwelling Unit. “Dwelling Unit” shall mean, any structure or portion of a structure or other shelter designed as short or long-term living quarters for one or more persons, including rental or time-share accommodations, such as a motel, hotel, resort rooms and cabins having one (1) or more rooms in a dwelling designed for occupancy by one (1) family for living purposes and having separate permanently installed cooking and sanitary facilities.

Subd. 45. Excavation. “Excavation” shall mean the removal, relocation, or recovery by any means of soil, rock, minerals, debris, or organic substances other than vegetation from a parcel of land.

Subd. 46. Family. “Family” shall mean any number of individuals related by blood, legal adoption, marriage, or foster care, or six (6) or fewer unrelated individuals living together in a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, licensed residential care facility, or hotel as herein described.

Subd. 47. Fill. “Fill” shall mean sand, gravel, earth, or other materials deposited on, moved onto, or placed on a parcel of land.

Subd. 48. Filling. “Filling” shall mean the placement of fill on a parcel of land.

Subd. 49. Floodplain. “Floodplain” shall mean the area subject to inundation by a one hundred (100)-year flood as designated and mapped by the Federal Emergency Management Agency.

Subd. 50. Floor Area. “Floor Area” shall mean the sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls, or for a structure without walls (e.g., a carport), the total ground area covered by roof, not including area under a typical overhang dimension.

Subd. 51. Floor Area, Livable. “Floor Area, Livable” shall mean the floor area of a dwelling excluding all areas occupied by unfinished rooms or basements, garages, porches other than usable during all seasons.

Subd. 52. Floor Area Ratios (F.A.R.). “Floor Area Ratios (F.A.R.)” shall mean the floor area of the building or buildings on a lot divided by the area of such lot, or, in the case of planned unit developments, by the net size area. The floor area ratio requirements shall determine the maximum floor area allowable for the building or buildings, including both principal and accessory buildings, in direct ratio to the gross area of the lot.

Subd. 53. Footcandle. “Foot-candle” shall mean a standard unit of illumination intensity.

Subd. 54. Foundation. “Foundation” shall mean a continuous perimeter wall structure with frost footings that supports a building or facility and as defined by the current version of the building code adopted by the City of Rice.

Subd. 55. Frequency. “Frequency” shall mean the oscillations per second in a sound wave.

Subd. 56. Frontage. “Frontage” shall mean that part of a lot fronting on one side of a street between the side lot lines or between a street right-of-way and side lot line.

Subd. 57. Garage, Private. “Garage, Private” shall mean an accessory building designed or used for the storage of motor-driven vehicles owned and used by the occupants of the dwelling unit.

Subd. 58. Garage, Public. “Garage, Public” shall mean any building, except private garage, used for the storage or care of motor driven vehicles, or a building where any such vehicles are equipped for operation, are repaired, or are kept for remuneration, hire, or sale.

Subd. 59. Garage, Truck. “Garage, Truck” shall mean a building used or intended to be used for the storage of motor trucks, truck trailers, tractors, and commercial vehicles exceeding one and one-half (1-1/2) tons capacity.

Subd. 60. Garden, Community. “Garden, Community” shall mean a garden that is maintained by a group of individuals growing fruits, vegetables, or other plants for the purpose of consuming or enjoyment of the produce by the gardeners and their families, by friends or neighbors, or by donation to a charitable organization. A community garden may be an accessory use of a site.

Subd. 61. Garden, Home. “Garden, Home” shall mean a garden that gardeners and their family or housemates maintain on the site where they live, growing fruits and vegetables or other plants for the purpose of consuming or the enjoyment of the produce by persons residing onsite or by friends or neighbors or by donation to a charitable organization.

Subd. 62. Grade. “Grade shall mean the lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the 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.

Subd. 63. Grade, Street. “Grade, Street” shall mean the established elevation of the street in front of the building measured at the center of such front. Where no street grade has been established, the City engineer shall establish such street grade or its equivalent for the purpose of this Chapter.

Subd. 64. Group Home. “Group Home” shall mean a home that is licensed by the commissioner of health as a rooming and/or boarding house and provides lodging for people who are mentally ill, physically disadvantaged or chemically dependent.

Subd. 65. Halfway House. “Halfway House” shall mean a home, operated and supervised by a governmental or non-profit agency, for not more than seven persons who have demonstrated a tendency toward chemical abuse, mental illness, or antisocial or criminal conduct, together with not more than two persons providing supervision and other services to such persons, nine of whom live together as a single housekeeping unit. The term shall not include licensed facilities as defined by Minn. Stat. § 245A.11.

Subd. 66. Handicapped or Infirm Institution. “Handicapped or Infirm Institution” shall mean an institutional facility housing more than six persons who are physically or mentally handicapped or infirm, and providing primarily residential care rather than medical treatment.

Subd. 67. Home Occupation. “Home Occupation” shall mean a lawful occupation customarily carried on by a resident of a dwelling as an accessory use within the same building. Such occupation must be clearly secondary to the principal use and not change the nature of the principal use and may include any gainful occupation that is conducted entirely within the dwelling, and that meets the requirements of this Ordinance.

Subd. 68. Horticulture. “Horticultural” shall mean the use of land for the growing or production for income, of fruits, vegetables, flowers, nursery stock, trees, including forestry, ornamental plants and trees, and cultured sod.

Subd. 69. Highway Related Business. “Highway Related Business” shall mean any commercial or industrial use that is located on an arterial roadway and provides services or products that are transportation related.

Subd. 70. Impervious Surface. “Impervious Surface” shall mean a material providing a hard surface that substantially prevents the absorption of water into the ground. Common impervious surfaces include, but are not limited to, concrete; asphalt; roofs, walkways; crushed rock; patios; brick; above or below ground pools, natural stone or other non-pervious pavers (even when set with only sand); decking that is not open grid, open grid decking over impervious areas; driveways, parking lots or storage areas; areas that are graveled or made of packed or oiled earthen materials; or other surfaces that similarly impede the natural infiltration of surface and storm water.

Subd. 71. Intermediate Care Residential Facility. “Intermediate Care Residential Facility” shall mean a facility providing accommodations for not more than seven persons needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for the handicapped or infirm.

Subd. 72. Intermediate Care Institution. “Intermediate Care Institution” shall mean an institutional facility providing accommodation for more than seven persons needing medical care

and supervision at a lower level than provided for in a nursing care institution but at a higher level than that provided in institutions for the handicapped or infirm.

Subd. 73. Intermodal Container. “Intermodal Container”, “freight container” or “shipping container” shall mean a reusable transport and storage unit for moving products and raw materials between locations or countries. A typical container has doors fitted at one end, and is constructed of weathering steel.

Subd. 74. Industrial Use. “Industrial Use” shall mean the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities or other wholesale items.

Subd. 75. Junk Yard. “Junk Yard” shall mean land and structures used for the storage or keeping of junk, including scrap metals, or for the dismantling or wrecking of automobiles or other machinery, other than the storage of materials that is incidental or accessory to any business or industrial use on the same lot.

Subd. 76. Kennel (commercial or hobby). “Kennel (commercial or hobby)” shall mean any structure or premises on which four (4) or more domestic animals over six (6) months of age are kept.

Subd. 77. Light Industrial. “Light Industrial” shall mean the assembly, fabrication, or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare or health or safety hazards outside the building or lot where the assembly, fabrication, or processing takes place, where the processes are housed entirely within a building or where the outdoor storage of goods and materials used does not exceed 25% of the floor area of all buildings on the lot.

Subd. 78. Loading Space or Loading Area. “Loading Space or Loading Area” shall mean that portion of a lot or plot designated to serve the purpose of loading or unloading all types of vehicles.

Subd. 79. Lot. “Lot” shall mean 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 that description for the purpose of sale, lease, or separation. A lot must be situated and have its principal frontage on a public street. A lot may be a single lot of record, or a combination of complete lots of record. Notwithstanding the above requirements, a lot shown on a plat properly recorded in the office of the County Recorder prior to the effective date of this Ordinance shall be a Lot.

Subd. 80. Lot Area. “Lot Area” shall mean the total surface area of a lot within the lot lines, excluding public right-of-way or street easements.

Subd. 81. Lot, Corner. A lot situated at the intersection of two or more streets, or bounded on two or more adjacent sides by a public right-of-way containing a public street or planned for a public street.

Subd. 82. Lot Coverage. "Lot Coverage" shall mean the area occupied by impervious material, including but not limited to buildings, paved surfaces and driveways.

Subd. 83. Lot Depth. "Lot Depth" shall mean the mean horizontal distance between the center points of the front and rear lot lines for standard lots. For lots of non-standard shape, the Zoning Administrator shall determine the lot depth.

Subd. 84. Lot, Double Frontage. "Lot, Double Frontage" shall mean a lot where opposite lot lines abut two public or private roadway rights-of-way that do not intersect at a corner of the lot, and in both instances, the lot meets the minimum frontage requirement in the zoning district the lot is located. A Double Frontage Lot shall have front yards on each portion of the lot abutting a public right-of-way. Where a Double Frontage Lot straddles two zoning districts, the most restrictive frontage requirement shall be applied.

Subd. 85. Lot, Interior. "Lot, Interior" shall mean a lot other than a corner lot.

Subd. 86. Lot Line. "Lot Line" shall mean a line of record bounding a lot that divides a lot from another lot, a public street or any other public or private space.

Subd. 87. Lot Line, Front. "Lot Line, Front" shall mean the line between one side line of the lot and the other side line of the lot along the street right-of-way line. On a corner lot, the front lot line shall lie on the street providing the primary street access to the structure

Subd. 88. Lot Line, Rear. "Lot Line, Rear" shall mean the lot line most nearly parallel and most distant from the front lot line. In the case of corner lots, the rear lot line shall be determined by the Zoning Administrator based upon the characteristics of the surrounding neighborhood.

Subd. 89. Lot Line, Side. "Lot Line, Side" shall mean any lot line other than a front or rear lot line.

Subd. 90. Lot of Record. "Lot of Record" shall mean any lot for which a deed, registered land survey, or other legal record was lawfully recorded in the office of the register of deeds or the register of titles for Benton County, Minnesota.

Subd. 91. Lot Width. "Lot Width" shall mean the horizontal distance between the side lot lines measured at right angles to the lot depth at the established front building setback line.

Subd. 92. Manufactured Single-Family Dwelling. "Manufactured Single-Family Dwelling" shall mean a structure, transportable in one or more sections that, in the traveling mode, is eight feet or more in width, or 40 body feet or more in length, or when erected on-site is 320 or more

square feet, and that is built on a permanent chassis and designed to be used as a dwelling when connected to required utilities, and includes the plumbing, heating, and air conditioning and electrical systems contained therein, and meets all the requirements established under M.S. § 327.31, as it may be amended from time to time. A Manufactured single family dwelling shall be construed to remain a manufactured single-family dwelling, subject to all regulations applying thereto, whether or not on wheels, axels, hitch or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. A manufactured single-family dwelling shall not be construed to be a travel trailer or other form of recreational vehicle.

Subd. 93. Mobile Home. “Mobile Home” shall mean a dwelling unit designed for transportation after fabrication on streets or highways on its own wheels on a flatbed or other trailer and arriving at the site ready for occupancy except for incidental assembly, location on foundation, and connection to the utilities and the like.

Subd. 94. Manufactured Home Park. “Manufactured Home Park” shall mean a parcel of land under single ownership, or condominiumized, that has been planned and improved for the placement of two or more mobile homes for non-transient use.

Subd. 95. Modular or Industrialized Building. “Modular” or “Industrialized Building” shall mean a building of closed construction, constructed so that concealed parts or processes of manufacture cannot be inspected at site, without disassembly, damage, or destruction, and made or assembled in manufacturing facilities, off the building site, for installation, or assembly and installation, on the building site. “Modular or Industrialized Buildings” include, but are not limited to, modular housing that is factory-built single family and multi-family housing, including closed wall panelized housing, and other modular, nonresidential buildings. Modular or Prefabricated Home does not include a structure subject to the requirements of the National Manufactured Home Construction and Safety Standards Act of 1974.

Subd. 96. Motel. “Motel” shall mean a combination or group of two or more detached, semi-detached or connected permanent dwellings occupying a building site integrally owned and used as a unit to furnish overnight transient living accommodations for a fee.

Subd. 97. Motor Vehicle. “Motor Vehicle” shall mean any self-propelled vehicle not operated exclusively on railroad tracks, and any vehicle propelled or drawn by a self-propelled vehicle, including, but not limited to cars, trucks, buses, motorcycles, campers, recreational vehicles and trailers.

Subd. 98. Motor Vehicle Body Work. “Motor Vehicle Body Work” shall mean repair or straightening of an automobile body, frame, or fender, including painting.

Subd. 99. Motor Vehicle Repair. “Motor Vehicle Repair” shall mean repairs, replacement of parts, and motor service to automobiles, not including body work or painting.

Subd. 100. Motor Vehicle Sales. “Motor Vehicle Sales” shall mean the sale or trade of new or used motor vehicles, whether cars, trucks, buses, campers, motorcycles, or other

motorized vehicles, including the display of new or used vehicles, or the possession of new or used vehicles for sale or trade.

Subd. 101. Motor Vehicle, Small. “Motor Vehicle, Small” shall mean any motor vehicles less than twenty (20) feet in length and less than seven (7) feet in height, and commonly used or intended as a passenger car.

Subd. 102. Multi-Family Dwelling. “Multi-Family Dwelling” shall mean more than one dwelling unit constructed with common walls, meeting all applicable building codes and standards in this Ordinance.

Subd. 103. Municipal Water and Sewer Systems. “Municipal Water and Sewer Systems” shall mean municipally owned and operated utility systems serving a group of buildings, lots, or an area of the City, with the design and construction of such utility systems as approved by the City Engineer.

Subd. 104. Municipal / Public Facilities. “Municipal” or “Public Facilities” shall mean any buildings and property owned or operated by municipal, school districts, county, state, or other governmental units.

Subd. 105. Nameplate. “Nameplate” shall mean a sign indicating the name and/or the address of a building, or the name of an occupant thereof and/or the practice of a permitted occupation therein.

Subd. 106. Nonconforming Structure or Use. “Nonconforming Structure or Use” shall mean a structure or use lawfully in existence on the effective date of this Ordinance or any amendment thereto, and not conforming to the regulations for the district in which it is situated.

Subd. 107. Nonconforming Lot. “Nonconforming Lot” shall mean any lot lawfully existing prior to the date that new zoning provisions were adopted making said lot inconsistent with the provisions of the newly adopted zoning chapter.

Subd. 108. Nonconforming Sign. “Nonconforming Sign” shall mean any legal sign existing prior to the date that new zoning provisions were adopted making said sign inconsistent with the provisions of the newly adopted zoning ordinance.

Subd. 109. Nonconforming Structure. “Nonconforming Structure” shall mean any legal structure or building existing on the date that the new zoning provisions were adopted making said structure inconsistent with the provisions of the newly adopted zoning ordinance.

Subd. 110. Nursing Care Home. “Nursing Care Home” shall mean a facility providing skilled nursing care and medical supervision at a lower level than that available in a hospital to no more than seven persons.

Subd. 111. Nursing Care Institutions. “Nursing Care Institution” shall mean an institutional facility providing skilled nursing care and medical supervision at a lower level than that available in a hospital to more than seven persons.

Subd. 112. Ordinary High Water Level or Ordinary High Water Mark. “Ordinary High Water Level or Ordinary High Water Mark” shall mean the boundary of “public waters” and “wetlands” as defined by Minnesota Statutes, Chapter 103G, an elevation delineating the highest water level that 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 on the top of the bank of the channel.

Subd. 113. Outdoor Furnaces. “Outdoor Furnaces” shall mean any equipment, device, or apparatus, or any part thereof, that is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat for energy used as a component of a heating system for any interior space ordinarily occupied by humans.

Subd. 114. Parking Space. “Parking space” shall mean an area, enclosed in the main building, in an accessory building or unenclosed, suitably surfaced and permanently maintained area, sufficient in size, to store one automobile, said parking space shall have adequate access to a public street or alley and shall permit ingress and egress of an automobile.

Subd. 115. Person. “Person” shall include an individual, a firm, a partnership, a corporation, a company, an unincorporated association of persons such as a club, and an owner.

Subd. 116. Plot. “Plot” shall mean a tract of land, other than one unit of a recorded plat or subdivision occupied and used or intended to be occupied and used as a building site and improved or intended to be improved by the erection thereon of a building and accessory building and having a frontage upon a public street or highway and including such open spaces as required under this Chapter.

Subd. 117. Principal Structure. A “Principal Structure” shall mean a non-accessory building in which is conducted the principal use of the lot on which it is located.

Subd. 118. Protected Waters. “Protected Waters” shall mean any waters of the state designated or otherwise defined as protected by the State or as a result of regulations adopted by the State. However, no lake, pond, or flowage of less than ten (10) acres in size and no river, stream having a total drainage area less than two (2) square miles shall be regulated for the purpose of these regulations.

Subd. 119. Public Access. “Public Access” shall mean an area owned and/or operated by a governmental entity for the launching and retrieval of water craft from the public waters, or other recreational activities adjacent to public waters.

Subd. 120. Public Open Space. “Public Open Space” shall mean any publically owned open area, including but not limited to the following: parks, playgrounds, school sites, and parkways.

Subd. 121. Public Utility. “Public Utility” shall mean any person, firm, corporation, municipal department, or board fully authorized by the City to furnish and furnishing to the public, electricity, gas, steam, communication services, telegraph services, transportation, water or other essential public service.

Subd. 122. Public Waters. “Public Waters” shall mean any waters as defined in Minnesota Statutes, Chapter 103G.

Subd. 123. Recreational Vehicle. “Recreational Vehicle” shall mean a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towed by a light duty truck and is primarily designed not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Subd. 124. Rest Home, Convalescent Home, or Nursing Home. “Rest Home” , “Convalescent Home” , or “Nursing Home” , shall mean a private home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, but not containing equipment for surgical care or for treatment of disease or injury.

Subd. 125. Restaurant. “Restaurant” shall mean an establishment in which food and/or drink is offered or prepared and served for public consumption and is served to customers at tables by employees. Restaurants may include incidental take-out service.

Subd. 126. Riparian. “Riparian” shall mean land continuous to the bank of a stream, the shore of a lake, or the edge of a wetland.

Subd. 127. Screen. “Screen” shall mean a barrier accomplished by a variety of means, intended to prevent visibility through the barrier. If accomplished by landscape materials, the screen shall be at least eighty (80) percent opaque.

Subd. 128. Self Storage Facility. “Self Storage Facility” shall mean a building or group of buildings containing separate storage spaces of varying sizes that are leased or rented as individual units. Storage Units may or may not be climate controlled.

Subd. 129. Semi-Public Uses. “Semi-Public Uses” shall mean uses owned by private or private non-profit organizations that are open to some but not all of the public such as: denominational cemeteries, private schools, clubs, lodges, recreation facilities and churches.

Subd. 130. Setback. “Setback” shall mean the minimum distance from any lot line or easement limit that an improvement may be placed, measured perpendicularly from the lot line or easement limit to the closest point of the improvement.

Subd. 131. Setback Line. "Setback" or "Setback Line" shall mean the horizontal distance between the property line or street right-of-way, or street easement, or other specified line, such as the ordinary high water level, edge of wetland, floodplain, or top of bluff and the line of the structure or the allowable building line as defined by the yard regulations of this Ordinance.

Subd. 132. Shore land. "Shore land" shall mean any land adjacent to public waters as defined by the Shore land Management Plan, if applicable.

Subd. 133. Shore Impact Zone. "Shore Impact Zone" shall mean land located between the ordinary high water level of public water and a line parallel to it at a setback of fifty (50) percent of the required structure setback.

Subd. 134. Sign. "Sign" shall mean any letter, word or symbol, device, poster, picture, statuary, reading matter or representation in the nature of an advertisement, announcement, message or visual communication whether painted, posted, printed, affixed or constructed, that is displayed outdoors or on a window or on the interior of a building within three (3) feet of a window and clearly visible from the outside of said building for informational or communicative purposes.

Subd. 135. Slope. "Slope" shall mean the amount a land surface rises or falls from a horizontal plane. Slope can be expressed as a fraction or percentage, arrived at by dividing the distance of the vertical rise or fall from the horizontal plane by the horizontal distance.

Subd. 136. Story. "Story" shall mean that portion of a building included between the surface of any floor and the surface of the floor next above it, or, if there is no such floor space above, the space between the floor and the ceiling next above it. A level containing independent apartment or living quarters shall be counted as a fully story, whether or not that level is completely usable or finished.

Subd. 137. Storage. "Storage" shall mean placing or leaving goods, materials, or equipment in a location on a premises.

Subd. 138. Street, Public. "Street, Public" shall mean a thoroughfare that affords a principal means of access to abutting property and that has been accepted by the City as a public street.

Subd. 139. Structural Alterations. "Structural Alterations" shall mean any change in the supporting members of a building such as bearing walls, columns, beams, or girders, or any substantial changes in the roof and exterior walls.

Subd. 140. Structure. "Structure" shall mean anything constructed, placed, or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground. When a structure is divided into separate parts by a wall without openings, each part shall be deemed a separate structure.

Subd. 141. Structure, Accessory. See building, accessory

Subd. 142. Structure, Principal. See building, principal.

Subd. 143. Subdivision. “Subdivision” shall mean the division of a parcel of land into two (2) or more lots or parcels, for the purpose of transfer of ownership or building development.

Subd. 144. Tent Garages. See Covered Storage Building.

Subd. 145. Townhouse. “Townhouse” shall mean a single structure consisting of three (3) or more dwelling units each having a private entrance on the first story at or near the ground level with no other dwelling unit connected to the other dwelling unit except by a party wall with no openings.

Subd. 146. Transit Station. “Transit Station” shall mean a parcel or portion thereof that is used for loading and unloading of public transit riders including the platform, station facilities, public open space and park-and-ride lots. Transit station is inclusive of all public transit modes.

Subd. 147. Use. “Use” shall mean the purpose or activity for which a premise is designed, arranged, or intended for which it is or may be occupied or maintained.

Subd. 148. Use, Accessory. “Use, Accessory” shall mean a use subordinate to the principal use on a lot and exclusively used for purposes incidental to those of the principal use.

Subd. 149. Use, Interim. “Use, Interim” shall mean a temporary use of the property until a particular date or until the occurrence of a particular event, as determined by the City Council.

Subd. 150. Use, Permitted. “Use, Permitted” shall mean a use that may be lawfully established in a particular district, provided that it conforms with all requirements, regulations, and performance standards of such district.

Subd. 151. Utility Facility. “Utility Facility” shall mean any above-ground structure of facility, other than a principal building, owned by a government entity, non-profit organization, a corporation, or any other entity defined as a public utility for any purpose by State Statute and used in connection with the production, generation, transmission, delivery, collection or storage of water, sewage, electricity, gas, oil, or electronic signals. Streets are exempt from this definition, as are wires or pipes and supporting poles or structures within a public right-of-way for electric power, telephone, telegraph, cable television, gas, water and sewer service.

Subd. 152. Utility Facility, Community or Regional. “Utility Facility, Community or Regional” shall mean any utility facility, other than a neighborhood facility as defined below.

Subd. 153. Utility Facility, Neighborhood. “Utility Facility, Neighborhood” shall mean a utility facility designed to serve the immediate neighborhood and that must, for reasons related

to the purpose of the utility, be located in or near the neighborhood where the facilities are proposed to be located.

Subd. 154. Variance. “Variance” shall mean a modification or variation of the provisions of this Chapter, as applied to a specific piece of property. A variance may be granted to the numerical standards of the Code, but not for the permissible use of a property.

Subd. 155. Vehicle, Small. “Vehicle, Small” shall mean any motor vehicle up to twenty (20) feet in length and up to seven (7) feet in height, commonly used as a passenger vehicle, not including any trucks of any kind.

Subd. 156. Wind Energy Conversion System or Windmill. “Wind Energy Conversion System or Windmill” shall mean an apparatus capable of converting wind energy into electricity.

Subd. 157. Wholesale Sales. “Wholesale Sales” shall mean on-premise sale of goods primarily to customers engaged in the business of reselling the goods.

Subd. 158. Yard. “Yard” shall mean an open space unobstructed from the ground upward with the exception of landscape materials and minor fixtures of a non-structural nature commonly found in a yard.

Subd. 159. Yard, Front. “Yard, Front” shall mean the area the width of which is measured from one side line of the lot line of the lot to another sideline of the lot, located between the property line and the front of the principal structure. On a corner lot, the front yard shall lie on the street providing the primary street access to the structure.

Subd. 160. Yard, Rear. “Yard, Rear” shall mean a yard extending across the full width of the lot and laying between the rear yard setback line and nearest line of the principal structure.

Subd. 161. Yard, Side. “Yard, Side” shall mean a yard on the same lot with a building between the side yard setback line and the side line of the lot and extending from the front lot line to the rear yard.

Subd. 162. Zoning Administrator. The City Clerk or other person designated and authorized by the City Council to administer and enforce the provisions of this Ordinance.

Subd. 163. Zoning Districts. “Zoning Districts” shall mean the areas of the City designated for specific uses with specific requirements for use or development.

CHAPTER 8: ZONING REGULATIONS

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ORDINANCE 81 ZONING DISTRICTS

Section 81.01. PURPOSE. In order to implement the Comprehensive Plan and achieve an orderly development pattern that protects the health, safety and general welfare of the residents and business community of the City of Rice and minimizes development impacts on the environment, the city is hereby divided into the two categories of zoning classifications: Residential and Non-residential Districts. These districts and the intent for each sub classification for the Residential and Non Residential Districts is as follows:

Section 81.02. RESIDENTIAL DISTRICTS.

- R-1 – Single Family Residential District
- R-2 – Multiple Family Residential District
- RR – Rural Residential District
- AG – Agriculture District

Subd. 1. Intent. The specific intent of each Residential district is as follows:

- a) R-1: Low Density Single Family Residential District. The R-1 Residential District provides space for low density residential living with full provision of necessary urban service facilities. Existing agricultural uses are allowed to continue, within regulations, on land not yet needed for residential development, but other nonresidential uses are limited to the minimum necessary for residential convenience and welfare.
- b) R-2: Medium Density Residential District. By providing for space for apartment building and other styles of multiple dwelling and multi-family structures, the R-2 Residential District permits a variety of housing options while still promoting a neighborhood atmosphere.
- c) RR: Rural Residential District. The RR District allows suitable areas of the city to be retained and utilized in open space and/or agricultural uses.
- d) AG – Agriculture District. The AG-Agriculture District provides for a mixture of agricultural and large lots [more than ten (10) acres] residential uses. The district is also appropriate for transitional areas in which some land owners may wish to transfer land from agricultural to residential uses.

Section 81.03. NON RESIDENTIAL DISTRICTS.

- B-1 – Neighborhood Business District
- B-2 – General Business District
- B-3 – Highway Business District
- I-1 – Light Industrial District

I-2 – Heavy Industrial District
RD – Rail Road District

Subd. 1. Intent. The specific intent of each Non-Residential district is as follows:

- a) B-1 - Neighborhood Business District. The B-1 District provides a friendly land use pattern that enables residential uses to coexist with small scale specialty retail uses and small scale commercial facilities and offices where they will be easily accessible to adjacent residential areas. Development is intended to be compatible with the scale of surrounding residential areas. Parking areas are restricted in this zone in order to limit the impact on the neighborhood.
- b) B-2 - General Business District. The B-2 District provides areas for concentrated general business and commercial activities or central business district, at locations where the interaction between such activities can be maximized with minimal infringement on residential neighborhoods.
- c) B-3 Highway Business District. The B-3 District provides areas with ready access to major transportation routes to meet the needs of an automobile oriented society. Businesses catering to travelers and serving the needs of vehicle owners, and commercially orientated businesses that require larger buildings or acreage that are compatible with other business districts, may be located in this district. The B-3 Highway Business District is not intended to provide locations for industrial or manufacturing uses.
- d) I-1 Light Industrial District. The I-1 District provides areas adjacent to major thoroughfares and in areas where public utilities are available for the express use of industrial uses that create a minimum degree of refuse by-products, air or noise pollution, and requiring a relatively low level of on-premises processing. Several of these activities include secondary commercial functions that may also be conducted on site. Designation of industrial districts will help attract industry, thereby stabilizing the tax base and increasing employment in the City.
- e) I-2 Heavy Industrial District. The I-2 District provides areas adjacent to major thoroughfares and in areas where public utilities are available for the express use of industrial developments in areas adequately buffered with open land to permit storage of regulated materials and products. Industrial activities that are deemed to involve significant levels of hazards or nuisance to workers or to adjacent uses may be located so that they are always adequately separated from any residential or commercial districts, by buffer zone of land or by designated I-1 district. Development within this district shall be regulated through the performance standards outlined in this chapter to promote sensitive site design and to mitigate external site impacts. Designation of a heavy industrial district will help attract industry, thereby stabilizing the tax base and increasing employment in the City.

- f) RD- Rail Road District. The RR District provides areas adjacent to mainline and spur trackage for the use of businesses that require such access, or to businesses providing services to businesses that utilize access to trackage. Uses may include transportation of rail freight and minor manufacturing or processing of materials shipped by rail. Development within the Rail Road District will take advantage of the rail facilities that transect the City of Rice.

Section 81.04. USES. Within the City's zoning districts, no land or buildings may be used or occupied in any manner except for the uses set forth in the following land use classification chart and described in the following sections. If a use is not identified in the following land use classification chart, the Zoning Administrator shall issue a statement of clarification, finding that the use is or is not substantially similar in character and impact to a use regulated in the land use classification chart. If the use is not substantially similar to any other use regulated in the land use classification chart, the Zoning Administrator shall refer the matter to the Planning Commission for a recommendation or to the City Council for determination. The Zoning Administrator and Planning Commission City Council shall take into consideration if the use meets the City's goals and plans, what zoning district may be most appropriate for the use as well as what conditions and standards should be imposed relating to development of the use.

When a use could be classified under two (2) similar but different types of uses, the most restrictive or specific classification for what type of use will govern.

Residential and Nonresidential Zoning Districts Land Uses are as follows:

Regulation of Uses by per zoning district. Please refer to District subd for specific Restrictions

NP	Not Permitted
P	Permitted
C	Conditional Use Permit (CUP) Required
C+	Highway Related

	Zoning District										Additional Use Regulations (See footnotes)
	RI - Single Family Residential District	R2 - Medium Density Residential	RR - Rural Residential	AG - Agriculture	B-1 Neighborhood Business District	B-2 - General Business District	B-3 Highway Business District	I-1 - Light Industrial	I-2 - Heavy Industrial	RD Rail Road ALL USES ARE CONDITIONAL	

Residential Uses

Single family detached, one dwelling per lot	P	P	P	P	P	NP	NP	NP	NP		
Multi-family (four units or fewer per building)	NP	P	C	C	P	NP	NP	NP	NP		Includes town homes
Multi-family (more than 4 units per building)	NP	C	NP	NP	NP	NP	NP	NP	NP		Includes town homes

Apartments 4 units or fewer	NP	P	C	C	NP	NP	NP	NP	NP		
Apartments more than 4 units	NP	C	NP	NP	NP	NP	NP	NP	NP		
Residential facilities, housing, licensed day care required to be permitted single family uses by M.S., section 462.357, subd. 7	P	P	C	C	C	NP	NP	NP	NP		
Residential facilities and day care facilities described in M.S., section 462.357, subd. 8	NP	C	C	C	C	NP	NP	NP	NP		
Apartments above or adjoining business/commercial structures	NP	NP	NP	NP	NP	P	C	NP	NP		
Manufactured or Modular single-family dwelling	P	P	P	P	P	NP	NP	NP	NP		Homes meeting requirements set forth in M.S., section 327.32
Mobile Homes	NP	NP	NP	NP	NP	NP	NP	NP	NP		
Public and Semi-Public Services											
Cemetery	NP	NP	P	C	NP	NP	NP	NP	NP		100' setback required

Churches, synagogues, temples and associated facilities except schools	C	C	C	C	C	C	P	NP	NP		In the RR, R-1 and R-2 districts, facilities that do not exceed a 10,000 square foot footprint are permitted without a conditional use permit
Crematorium	NP	NP	NP	NP	NP	NP	NP	NP	NP		
Funeral home	NP	NP	NP	P	C	P	P	NP	NP		
Hospitals	NP	NP	NP	NP	NP	P	P	NP	NP		
Medical clinics	NP	NP	NP	NP	C	P	P	NP	NP		
Military reserve, national guard centers	NP	NP	NP	C	NP	P	P	P	NP		
Nursery school/day care services	C	C	C	C	P	P	P	NP	NP		
Parking garage (as principal use)	NP	NP	NP	NP	C	P	P	NP	NP		
Parking lots - surface (as principal use)	NP	NP	NP	NP	C	P	P	NP	NP		
Penal and correctional facilities	NP	NP	NP	NP	NP	NP	NP	NP	NP		
Post office	NP	C	P	P	P	P	P	NP	NP		

Public facilities including government offices, emergency and public works facilities, schools, libraries, museums, art galleries and other municipally-owned or operated facilities	C	C	C	C	C	P	P	NP	NP		Public facilities located in residential districts must not exceed 10,000 square foot footprint except if located in the RR District.
Public utility	C	C	C	C	C	P	P	NP	NP		
Schools - trade, college, vocational and associated facilities	NP	C	NP	NP	C	P	P	NP	NP		Where permitted (P), school facilities must not exceed a 10,000 square foot footprint. Conditional Use approval is required for exceeding 10,000 square feet.
Social, fraternal clubs and lodges, union halls	NP	NP	NP	NP	NP	P	P	NP	NP		
Towers and antennas (commercial)	NP	NP	NP	NP	NP	C	C	P	P		See Ordinance 97-4.
Park-and-ride lots	NP	NP	NP	C	NP	NP	P	NP	NP		
Commercial Uses											
Adult uses (bookstore, theater, nightclub, nude or partially-nude dancing)	NP	NP	NP	NP	NP	NP	NP	P	NP		

Agricultural operations, row cropping, tree farming (excluding livestock)	P	P	P	P	NP	NP	NP	NP	NP		No on-premises sales
Animal boarding/kennel serving 4 or fewer animals over the age of 6 months	NP	NP	C	P	NP	NP	NP	NP	NP		
Animal boarding/kennel serving more than 4 animals over the age of 6 months	NP	NP	NP	C	NP	NP	NP	NP	NP		
Animal grooming	NP	NP	NP	P	C	P	P	NP	NP		
Animal hospitals	NP	NP	C	P	C	P	P	NP	NP		
Animal retail sales	NP	NP	NP	P	C	P	P	NP	NP		
Antique shops	C	C	C	P	NP	P	P	NP	NP		
Artist studios	P	P	P	P	P	P	P	NP	NP		
Auto Wrecking or Junk Yard	NP	NP	NP	NP	NP	NP	NP	C	C		
Auto sales, rental and services	NP	NP	NP	NP	NP	C+	P	NP	NP		
Auto services only	NP	NP	NP	NP	NP	P	P	NP	NP		
Auto storage	NP	NP	NP	NP	NP	NP	C	NP	NP		
Auto washing	NP	NP	NP	NP	NP	P	P	P	NP		
Automobile painting and body work	NP	NP	NP	NP	NP	NP	P	P	NP		

Automobile parts/ accessories, retail sales and installation	NP	NP	NP	C	NP	P	P	P	NP	
Bakeries (retail sales)	NP	NP	NP	NP	NP	P	P	NP	NP	
Bakeries (wholesale)	NP	NP	NP	NP	NP	P	P	P	P	
Bars	NP	NP	NP	NP	NP	P	P	NP	NP	
Bed and breakfast and guest houses with adequately-sized lot	C	C	P	P	P	NP	NP	NP	NP	Where permitted, may have up to 4 rooms. Over 4 rooms conditional use required.
Boat And Marine Sales & RV Sales	NP	NP	NP	NP	NP	NP	P	P	NP	
Building materials and services	NP	NP	NP	C	NP	NP	P	P	NP	
Catering services	NP	NP	NP	NP	NP	P	P	P	NP	
Coliseums, stadiums	NP	NP	NP	NP	NP	NP	NP	NP	NP	
Commercial greenhouse operations	NP	NP	C	P	NP	P	P	P	NP	Outside storage or sales require a CUP. No on-premise sales permitted in RR, R-1 or R-2 district.
Convenience stores	NP	NP	NP	NP	C	P	P	NP	NP	
County club and golf course	C	C	C	C	NP	NP	NP	NP	NP	

Dormitories, sororities and fraternity houses	NP	NP	NP	NP	NP	NP	NP	NP	NP		
Drive-up banks	NP	NP	NP	NP	NP	P	P	NP	NP		
Entertainment/places of Commercial Amusement/halls, movie theatre, bowling alley, skating rink (indoor)	NP	NP	NP	NP	NP	P/C	P/C	NP	NP		300 or greater Capacity - If alcohol is part of the use, a CUP is required.
Entertainment/places of Commercial Amusement	NP	NP	NP	C	NP	P/C	P/C	NP	NP		300 or less capacity - if alcohol is part of the use, a CUP is required
Farm Equipment sales and Service	NP	NP	NP	P	NP	NP	P	P	P		
Gas, diesel or other motor fuel retail sales	NP	NP	NP	C	NP	C+	P	NP	NP		
Golf driving range	NP	NP	NP	NP	NP	NP	P	NP	NP		
Horseback riding, stables	NP	NP	NP	C	NP	NP	NP	NP	NP		
Hotels/Motels	NP	NP	NP	NP	NP	C	P	NP	NP		300 or greater capacity
Liquor Store	NP	NP	NP	NP	NP	P	P	NP	NP		
Manufactured home parks	NP	NP	NP	NP	NP	NP	NP	NP	NP		
Manufactured home sales	NP	NP	NP	NP	NP	NP	P	C+	NP		
Mobile home sales	NP	NP	NP	NP	NP	NP	NP	NP	NP		
Commercial athletic fields or courts	NP	NP	NP	NP	NP	P	P	NP	NP		

Private boarding house	C	C	C	P	NP	NP	NP	NP	NP		Conditional use considered if over 500 square feet of lot area per boarder is provided
Produce sales: vegetables, fruit, flowers, etc.	NP	NP	C	P	NP	P	P	NP	NP		
Professional offices	NP	NP	NP	NP	C	P	P	NP	NP		
Restaurant - fast food	NP	NP	NP	NP	NP	C	P	NP	NP		
Restaurant - liquor serviced, bar grill	NP	NP	NP	NP	NP	P	P	NP	NP		
Restaurant - traditional (no liquor, sit down restaurant)	NP	NP	NP	NP	NP	P	P	NP	NP		
Retail of product produced on site.	NP	NP	NP	NP	NP	P	P	P	NP		
Retail stores	NP	NP	NP	NP	C	P	P	NP	NP		
Salvage yard (auto or scrap iron)	NP	NP	NP	NP	NP	NP	NP	C+	C+		
Storage - mini-storage/ cold storage	NP	C	C	C	NP	NP	NP	P	NP		
Trucking	NP	NP	NP	NP	NP	NP	NP	P	NP		
Wholesale sales and mail order	NP	NP	NP	NP	NP	NP	NP	P	C		
Wind or solar energy utilities or facilities	NP	NP	NP	C	NP	NP	NP	P/C	P/C		Any facilities over 20KW CUP required

Principal Or Accessory use											
Industrial Uses											
Industrial research laboratories	NP	NP	NP	NP	NP	NP	NP	C	C		
Manufacturing	NP	NP	NP	NP	NP	NP	NP	p	p		See restrictions: I-1 vs I-2
Retail sale, installation and remanufacturing of vehicle parts and accessories	NP	NP	NP	NP	NP	NP	NP	P	NP		
Storage and distribution of bulk liquid fertilizer, chemicals or similar materials	NP	NP	NP	NP	NP	NP	NP	C	NP		As per MPCA Requirements and Conditions
Storage and distribution of bulk petroleum products, oil & gasoline	NP	NP	NP	NP	NP	NP	NP	C	NP		
Warehousing with inside storage Non Hazardous Material	NP	NP	NP	NP	NP	NP	NP	P	C		
Wholesale Greenhouse	NP	NP	NP	NP	NP	NP	NP	P	NP		

Section 81.05. ANNEXATIONS. Any territory annexed into the City of Rice will automatically, upon annexation, be classified as AG Agricultural District. That land will be subject to the requirements of the AG Zoning District unless otherwise provided for in the annexation agreement or until the territory is rezoned.

Any floodplain areas that are annexed into the City after the adoption date of this ordinance shall immediately be subject to the provisions of this ordinance and any floodplain requirements upon the date of annexation into the City of Rice.

Section 81.06. ZONING MAP.

- a) The use districts are delineated on the Official Zoning Map, created pursuant to M.S. § 462.357, Subd. 1, as it may be amended from time to time. The Official Zoning Map is hereby adopted by reference and declared to be part of this Ordinance. This map shall be on permanent file and available for public inspection in the City Office. It shall be the responsibility of the Clerk or other person appointed by the City Council to administer this Ordinance to maintain and keep the map up to date. The date of any amendment or change to the Zoning Map shall be recorded on the current version of the Zoning Map.
- b) All property within the city shall have the zoning designation shown on the official zoning map. If there is any discrepancy or inconsistency between the official zoning map and any other map, ordinance or source that purports to indicate the zoning of property, the official zoning map shall take precedence. The provisions of this Ordinance shall not be interpreted to require the city to zone all properties within the city limits or to prevent zoning only a portion of the city.
- c) Zoning district boundary lines shown on the official zoning map are intended to follow lot lines, the center lines of streets and alleys, the center lines of street or alleys projected, railroad right-of-ways, the center of watercourses or the corporate limits of the city, unless otherwise specifically indicated.

CHAPTER 8: ZONING REGULATIONS

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Section 82.01. GENERAL REQUIREMENTS FOR ALL RESIDENTIAL DISTRICTS. The following sections/subdivisions shall apply to all Residential Districts, except as otherwise provided in Sections 82.11, 82.12, 82.13, and 82.14.

The use must be of similar nature to the listed PERMITTED AND CONDITIONAL USES EXHIBIT for Residential Districts, consistent with the Intent of the District and found not to be detrimental to the general health and welfare of the city. When a use could be classified under two (2) similar but different types of uses, the most restrictive or specific classification for what type of use will govern.

Subd. 1. Certificate of Occupancy.

- a) No land may be occupied or used, and no structure that is erected, reconstructed, or structurally altered may be occupied or changed in use, in whole or in part, for any purpose unless a certificate of occupancy has been issued by the City Building Official.
- b) Every application for a residential building permit is also deemed an application for a certificate of occupancy.
- c) Temporary Certificate. If the Building Official finds that no substantial hazard will result from occupancy of any building or portion thereof before the same is completed, he/she may issue a temporary
- d) Certificate of Occupancy for the use of a portion or portions of a building or structure prior to the completion of the entire building or structure.
- e) In the case where a temporary certificate of occupancy is issued by the Building Official, the property owner shall deposit with the city sufficient funds for completion of all items left outstanding. All remaining items shall be completed within the time specified by the Building Official.

Subd. 2. Approval of Governing Body. All plans for the improvement, development, alteration or expansion and use of any property situated in any district shall be examined and approved by the Zoning Administrator, Building Official, or by the governing body prior to the issuance of any permit whatsoever.

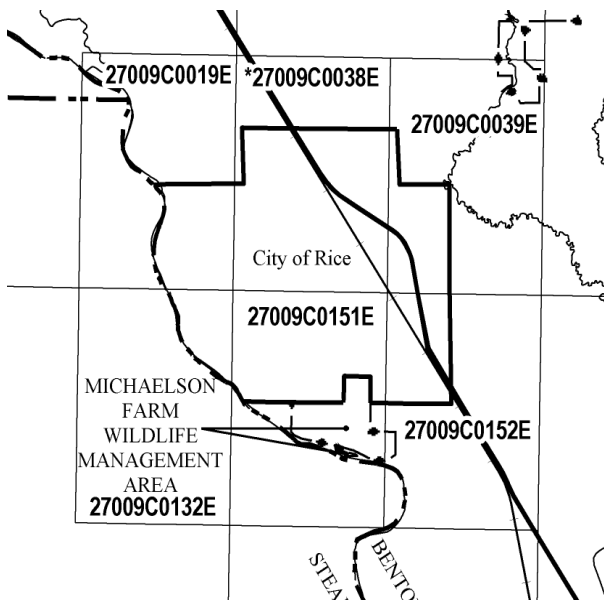
Subd. 3. Public Hearing & Fee. All public hearings referred to in this ordinance shall be held by the City after notice of the time and place of such hearing has been published in accordance with the legal requirements of the municipality. All public hearings will be held by the City and shall conform with the procedures set forth in this Ordinance. The application fee, and fees for special meetings or hearings, are outlined in the City of Rice Fee schedule, as amended from time to time.

Subd. 4. Conformance with Municipal Thoroughfare Plan. No building permit shall be issued and no structure shall be placed, nor land subdivided, in such a way as to interfere with

the future platting or construction of streets or roads as shown on the street plan if such plan exists, or is amended, or adopted in the future.

Subd. 5. Obstruction of View. No wall, fence or other structure shall be erected or altered and no hedge, tree, shrub or other growth shall be maintained that may cause danger to traffic on a street or public way by obscuring the view. Any such wall, fence or structure shall be placed within the property line, and located so as not to obstruct the line of sight with respect to oncoming traffic or where it is necessary to main a clear sight triangle, in which case the overstory of any vegetation in the sight triangle of an intersection may not be more than three feet high or extend below ten feet above the critical street level as determined by the City Engineer or the City's Superintendant of Public Works.

Subd. 6. Land Subject to Flooding. All development or redevelopment of land that is located within the flood plain shall occur in conformance with the Rice Flood Plain Management Ordinance plan if such plan exists, or is amended, or adopted in the future. Land subject to flooding within the City of Rice shall be as designated by FEMA panels: 27009C0019E, 27009C0032E, 27009C0038E, 27009C0039E, 27009C0051E, and 27009C0052E.



Subd. 7. Antennas, Satellite Dish Antennas, and Towers. The purpose of this subdivision is to establish provisions for the installation of non-commercial antennas, satellite dish antennas, and towers so that the owners may enjoy the benefits of such structures without detriment to the health, safety, aesthetics, or adverse impact on the property values of others. Antennas shall be allowed to be placed in a position to receive usable signals. Signal strength capable of providing receiver quality equivalent to reception from a local commercial stations or cable television shall be deemed usable signal strength.

- a) The antennas shall be located on an existing structure, if possible, and shall not extend more than twenty-five feet above the highest point of the roof of the building or structure. In the event an antenna or tower is to be mounted on a free standing

base, the maximum height of the tower or antenna shall be thirty-five feet, and the base, and any overhang and/or supportive devices shall be at least ten feet from the property line.

- b) Not more than one antenna shall be allowed in any single family residential district lot. More than one antenna may be allowed by conditional use permit if the property owner holds a valid amateur radio license and is using the antennas for experimentation or non-commercial use.
- c) In all residential districts, antennas shall be located and designated to reduce visual impact from surrounding properties and public streets.
- d) If a useable signal is not obtainable under the provisions of this ordinance, the applicant may request a variance.
- e) Antennas and satellite dish antennas may be placed on the roof of a building in accordance with the Uniform Building Code requirements and accepted engineering standards.

Subd. 8. Solar Collectors. Solar collectors shall adhere to the setback requirements of the District in which they are placed and, if possible, shall be located on an existing building or structure. When placed on the roof of structures, solar collectors shall be subject to height requirements of the District in which they are located. When considering a variance for the placement of solar collectors, Minnesota Statutes, Section 462.357, provides that lack of sufficient solar access may be considered as a legitimate hardship.

Subd. 9. Windmills. Windmills exceeding fifteen (15) feet in height shall require a conditional use permit as provided in this Ordinance.

Subd. 10. Removal of Topsoil & Appearance of Land. No person shall strip, excavate, or otherwise remove topsoil for sale, or for the use other than on the premises from which the same is taken, except in connection with the construction or alteration of a building on said premises and excavating or grading incidental thereto, except as provided elsewhere in this Ordinance.

Subd. 11. Building Line Established by Development. In platted areas, where buildings on more than thirty percent (30%) of the lots on the same street on that block have been constructed with front yard setbacks less than those described as minimum in this Ordinance, the setback line for subsequent construction shall be a straight line drawn between the points closest to the street line of the residences on either side. No new building or portion thereof shall be closer to the street than such setback line or have a front yard more than twenty (20) feet deeper than such setback line. However this subdivision shall not be interpreted to require a front yard of more than fifty (50) feet. When the street is curved the line shall follow the curve of the street rather than a straight line.

Subd. 12. Corner Lots. In residential districts where the rear boundary lines of a corner lot is part of the side yard boundary line of another residential lot, no part of any structure or building on the corner lot shall be nearer to its side lot line (long side) or its front yard (short side) than the required minimum front yard setback (30') or the setback established by existing structures. In the case of a narrow corner lot where compliance with would give an impracticable depth to a structure or building, the City Council may permit the construction of such structure as near to the side street lot line as will give a practicable depth after the matter has been considered by the city's Planning Commission and they have given their recommendations to the City Council. (see Definitions; "Yard, Front" and "Yard, Double Frontage")

Subd. 13. Double Frontage. On doubled frontage lots, the required front yard shall be provided on both streets. (see Definitions; Yard, Double Frontage)

Subd. 14. Height Exemptions. Height Limitations set forth in this Ordinance shall not apply to church spires, cupolas, water towers, observation towers, flag poles, chimneys, smoke stacks, commercial radio and television towers, grain elevators, and similar construction unless, in the opinion of the Building Official, such construction might be dangerous or in other ways detrimental to surrounding property in which case a conditional use permit shall be required.

Subd. 15. Parking. Parking shall be regulated by the Off Street Parking and Loading Ordinance.

Subd. 16. Fire Escapes. Fire escapes may not extend into the front yard.

Subd. 17. Building Relocation. To maintain a high standard of residential development, and to protect such areas from deleterious effects, relocated buildings shall meet the following specified requirements:

- a) The Building Official will inspect the building proposed to be moved, to ascertain whether it meets the standards prescribed in this Ordinance and the State of Minnesota Building code. If the building does not comply, it shall be made compliant and the applicant must obtain a conditional use permit, before the Building Official shall issue a building permit.
- b) Each location of a relocated building shall require a conditional use permit from the governing body and all such buildings shall conform with and be situated in a properly zoned area in accordance with all provisions of the Ordinance and the building code.
- c) The Planning Commission shall report to the Council whether the structure will be compatible with other development in the area. If the Council concurs with the decision of the Planning Commission that a structure would depreciate properties in the area into which it is to be moved, the Council may withhold issuance of a permit for such relocation. The Building Official shall submit a report concerning structural soundness and improvements that should be made if the building is relocated. The applicant shall submit photographs taken from two (2) or more angles of the structure

to be moved and photos of the lot on which the structure is to be located together with adjacent lots and structures.

- d) The application for a permit or conditional use permit to move a building may be granted or denied by the governing body.
- e) These requirements do not apply to the construction of shed or other temporary structures to be located on a lot for eighteen (18) months or less.

Subd. 18. On-Site, Private Sewer Systems. New onsite systems, either sewer or water, shall not be permitted within any Residential Districts after the date of adoption of this ordinance if City utilities are available. In the event an onsite system that was in existence prior to the adoption date of this ordinance, fails or is required to be replaced, such replacement shall not be permitted if City utilities are available as regulated by the City's Municipal Water and Municipal Wastewater Ordinances.

In the case where City Municipal Water and/or Sewer services are not available, new and existing onsite private systems shall comply with the requirements of the City's Municipal Water and Municipal Wastewater Ordinances, as amended, and of Minnesota Rules (MCAR) 7080. Except that the following minimum standards shall apply:

- a) Minimum tank capacity will be 1000 gallons.
- b) Drain field and soil treatment sites must be sized according to MCAR 7080 except that disposal sites shall have a minimum size that meets the requirements for a three bedroom home.
- c) All drain field site(s) must be properly protected at the time of platting and/or before construction begins at the property.
- d) In any new developments, whether single-family dwelling developments or Multi-family housing developments, particularly in Rural Residential areas where municipal water and sewer services may not be available or the connection of such services would be cost prohibitive, a Community Sewer and Water System is required.

Subd. 19. Riparian Lots. In any zoning district where a parcel of land is contiguous to a lake or pond exceeding 5 acres below the ordinary high water level, either natural or man-made, and said parcel also abuts a platted right of way dedicated to the for the purpose of developing a public or private roadway, such parcel may be considered as a Double Frontage Lot if the following conditions are met:

- a) The parcel has at least 70 lineal feet of water frontage and a lot depth of at least 100 feet for each dwelling unit or each single-family unit to which riparian use privileges are extended or dedicated, and
- b) The parcel has a width of 33 feet or more at the right of way.

Section 82.02. STRUCTURES AND ACCESSORY BUILDINGS IN RESIDENTIAL DISTRICTS.

Subd. 1. Dwelling Unit Requirements. All dwellings, manufactured and modular single-family dwellings constructed or established after the adoption of this Code shall meet the following criteria:

- a) The dwelling and manufactured or modular single-family dwelling shall have a minimum length and width of twenty (20) feet at all points, providing that such measurements shall not include overhangs and other projections beyond the principal exterior walls. No dwelling shall have less than nine hundred and sixty square feet of finished, livable floor space or a foundation footprint of less than six hundred (600) square feet;
- b) The dwelling, manufactured or modular single-family dwelling shall include an attached or detached private garage on the lot;
- c) The dwelling shall comply with the state building code and the manufactured or modular single family dwelling shall comply with applicable Minnesota Statutes.

Subd. 2. Dwelling Unit Restrictions.

- a) The purpose of this section is to maintain neighborhood property values and otherwise promote health, safety, order and general welfare while providing for manufactured homes in safe, attractive, residential neighborhoods with all urban services and desired amenities as other residential dwellings.
- b) Single family detached dwelling units, which shall include manufactured or modular homes meeting the regulations of this section, shall be governed by the following regulations:
 - 1) All dwellings shall be anchored by being placed on State Building Code compliant frost footings or permanent foundation (solid for the complete circumference of the dwelling) that meets the requirement of the State Building Code. (see Definitions, "Foundations")
 - 2) The pitch of the main roof shall not be less than four (4) feet of rise for each twelve (12) feet of horizontal run (or shall have a pitched main roof). The roof shall have eaves of not less than six inches and be covered with shingles, tiles, or standing seam metal roofings. Galvanized sheet roofs of corrugated or ribbed metal, shall not be permitted.
 - 3) Dwelling units shall have exterior siding of a conventional exterior dwelling type material. Metal siding must have horizontal edges and overlap in sections no wider than twelve (12) inches. Sheet metal siding is not permitted. All units shall

have exterior siding extending to within six (6) inches of the grade and overlap concrete by two (2) inches.

- c) No manufactured home shall be located outside of a manufactured home park located in the designated district unless it is in compliance with this subdivision and with Sections 327.31 - 327.35 of Minnesota Statutes and the requirements of this Ordinance.
- d) In the event of a denial of a building permit based on the requirements of this subdivision the matter may be referred to the governing body. The governing body may refuse to grant a permit for the construction or location of any building in such a manner as to significantly diminish neighboring property values or otherwise impair the health, safety and welfare of the community. The governing body shall have the additional power to require appropriate screening to the extent that such screening sufficiently ameliorates deficiencies of any design or construction.

Subd. 3. Accessory Structures, Standards in Residential Districts. All accessory structures or buildings constructed or established in Residential Districts after the adoption of this Code shall meet the following criteria:

- a) No accessory building, other than a garage, shall be located within any yard other than the rear yard.
- b) Swimming Pools & Spas. Where noncommercial swimming pools with a capacity of over five thousand (5,000) gallons are constructed in residential districts, building permits are required and they shall be regulated by the Minnesota State Building Code. Pools are permitted in the rear yard only, and must be at least five (5) feet from any lot line. Spas are permitted in the rear and side yards only, and must be located at least five (5) feet from any lot line. All outdoor spas require a safety cover.
- c) Air Conditioning Units. All air conditioning units excluding window units shall not be located within the front yard.
- d) Attached Accessory Buildings. If an accessory building is attached to the main building, it shall be made structurally a part of the main building and shall comply in all respects with the requirements of this Chapter applicable to the main building.
- e) Detached Accessory Buildings. A detached accessory building shall not be placed closer than six (6) feet from the main structure, and shall not be placed closer to the public right-of-way than the front of the principal structure on the lot. They shall also:
 - 1) Not cause the maximum allowed impervious area to be exceeded in the district, and

- 2) Be no more than two detached buildings per lot or exceed the maximum aggregate square footage permitted in the district in which they are placed.
- f) Doghouses, children's playhouses, tree houses and other similar buildings that are less than fifty (50) square feet in total area are not included in the maximum number of detached buildings allowed or in lot coverage requirements.
- g) Homogenous Design. In all residential districts, accessory buildings must be consistent with the architecture and design of the principal building. Consistency of design includes use of the same palette of materials as the principal building, roofing, roof pitch, trim and colors.
- h) Gazebos. Gazebos are permitted in the rear yard, provided they comply with the following:
 - 1) Each wall of the gazebo is at least twenty-five percent (25%) open.
 - 2) Gazebos are limited to twelve feet in height, as measured to the peak of the roof.
 - 3) The gazebo platform must be no higher than four (4) feet above grade. Gazebos are limited to one hundred twenty (120) square feet in area.
 - 4) The gazebo must be set back a minimum of five (5) feet from any lot line.

Section 82.03. SETBACKS. For specific setback requirements by Zoning District, refer to the Specific Requirements for the Zoning District in which any building or structure is to be placed.

Subd. 1. Setback Exemptions. The following shall not be considered as encroachments on setback requirements:

- a) Twenty-five Percent Occupancy. When more than twenty-five (25) percent of the frontage on one side of the street between intersections is occupied by structures having setbacks from street rights-of-way that are greater or lesser than required by this ordinance, the average setback of all existing buildings between the intersections, or to a distance of two hundred (200) feet in either direction, whichever is closer, shall be maintained by all new or relocated structures.
- b) Other: In Residential districts. For lots platted before this ordinance with widths between 75 feet and 50 feet, setbacks shall be determined by the Zoning Administrator to reflect established setbacks in the neighborhood in which the structure is located.
- c) On lots with structures that were built prior to the adoption of this ordinance, setbacks shall be determined by the Zoning Administrator to reflect established setbacks in the neighborhood in which the structure is located.

Section 82.04. FENCES IN R-1, R-2 DISTRICTS.

- a) Corner Lots: No fence, structure, building, hedge, or planting shall rise over four (4) feet in height above the level of the public sidewalk within twenty (20) feet of any street right-of-way corner or ten (10) feet of any front property line where it will interfere with traffic or pedestrian visibility across the driveway, alley, or street.
- b) Fences shall not exceed the following heights. (The * means to refer to General Provisions, Ordinance 80, "Definitions.")
 - 1) Front Yard* - Maximum Height – four feet (4'); Setback zero feet (0')
 - 2) Side Yard* - Maximum Height – six feet (6'); Setback zero feet (0')
 - 3) Rear Yard* - Maximum height – six feet (6'); Setback zero feet (0')
 - 4) Alley* - Maximum Height – six feet (6'); Setback two feet (2')
- c) Fences that are provided for tennis courts shall be allowed a maximum height of ten feet (10'). The fence shall not exceed twenty-five percent (25%) opacity.
 - 1) Fences exceeding six (6') in height will require a variance and a building permit. Fences exceeding six (6) feet in height will be regulated by the governing body and Minnesota Building Code.
- d) Setback requirements from easements. Fences or overstory vegetation may be located with zero feet (0') setback from any easement, provided that the property owner bears all removal costs of said fences and vegetation if the removal is requested by the entity benefitting from the easement.
- e) Exceptions: Trees and shrubs shall not be regulated as a fence or hedge, except for situations as detailed by Section 1405.03, Subd. 2, OBSTRUCTION OF VIEW.

Section 82.05. GENERAL LANDSCAPING REQUIREMENTS. No certificate of occupancy shall be issued for any residence until such time as the lot area remaining, after providing for driveways, sidewalks, patios, building site and/or other requirements, shall be sodded or seeded, in accordance with the requirements of this Ordinance.

Landscaping may not be initiated before April 30th and no later than October 15th of any given year. If landscaping is not completed within said time period, the owner shall enter into an escrow agreement with the City, which will specify the amount, manner, and time in which said landscaping shall be completed as provided in the paragraphs below.

Subd. 1. Minimum Standards. All areas of land not covered by structures or pavement or undisturbed vegetation, shall be landscaped according to the provisions of this section:

- a) At least two (2) over story trees shall be provided. One shall be located in the private front yard for each one hundred (100) feet of lot frontage. The second tree shall be provided in the boulevard. If a coniferous tree is planted, it shall be planted outside of the right of way.
- b) All landscaping plans for Residential Developments shall be appropriate to the physical characteristics of the site in terms of hardiness, salt-tolerance, and sun or shade tolerance. Trees provided shall be at least twenty five percent (25%) over story deciduous and at least twenty five percent (25%) coniferous. All deciduous trees provided shall be long-lived hardwood species. All coniferous trees must be planted outside of the right of way.
- c) Before issuance of a Certificate of Occupancy, the front yard setback shall be sodded. Property in the area behind the front set back may be seeded. Escrow shall be established to ensure compliance.

Exceptions are as follow:

- 1) If the property has an operational sprinkler system, the property owner may elect to seed the front yard setback area. Escrow shall be established to ensure compliance.
 - 2) Any property located with an AG District may be landscaped according to Best Management Requirements. All areas not utilized for livestock or crop management purposed shall be stabilized with suitable landscaping, within 10 days of being disturbed.
 - 3) Areas having undisturbed but established vegetation and as defined by the building plans need not be sodded or seeded, provided that the property owner maintains said vegetation in compliance with the City's weed management control standards or weed ordinance.
- d) Cross property line drainage is not permitted unless provided for within established easements.
 - e) Slopes and Berms. Final slope grades steeper than the ratio of 3:1 shall not be permitted without special landscaping treatments such as terracing, retaining walls, or ground cover.
 - f) Berming used to provide screening of parking lots shall be a minimum of three (3) feet in height and shall have a maximum slope ratio of 3:1.
 - g) Plant Size Requirements. Plant size requirements for landscaping areas shall be as follows:

- 1) Deciduous trees shall be at least 2 ½ inches in diameter.
- 2) Ornamental trees shall be a minimum of 1 ½ inches in diameter.
- 3) Evergreen trees shall have a minimum height of 6 feet.
- 4) Potted shrubs shall be in a 5 gallon pot or larger.
- 5) Evergreen shrubs used for screening purposes shall be at least 3 feet in height at planting. Evergreen shrubs will have a minimum spread of 24 inches.

Subd. 2. Escrow Requirements. Prior to the issuance of a certificate of occupancy for any newly constructed residential dwelling, the property owner, person, or company requesting the certificate of occupancy shall have installed the improvements to the property upon which the dwelling is located as required by this Ordinance or in any applicable development agreement.

- a) In the event the certificate of occupancy is requested after October 15th and before April 30th of any given year, the City may issue the conditional certificate of occupancy, provided the requestor or property owner:
 - 1) Provides the City with a deposit of such type and in the amount as shall be acceptable to the City, in the City's sole discretion to assure completion of required improvements.
 - 2) Enters into an agreement with the City that requires the requestor to install said improvements by a date certain as specified by the City and that provides the City with the authority to enter upon the property to install said improvements using the money deposited in the event the improvements are not installed by said specified date. The requestor or property owner shall be responsible for the difference between the deposit amount and the actual cost of installation.
 - a) The City may require that the agreement provide that improvements must be completed by a designated date. In the event the improvement is not installed by this date, the City may undertake to install the improvements.
 - 3) Pays to the City a non-refundable administration fee of \$100.00 for the processing of the deposit and the agreement.
- b) In the event deposit amount is paid to the City under this subdivision, remaining funds will be refunded without interest within thirty (30) days of certification that the improvements have been satisfactorily installed.

Section 82.06. HOME OCCUPATIONS.

Subd. 1. Minimum Performance Standards. Permitted Home Occupations must conform to the following performance standards:

- a) They shall not be conducted in any building on the premises other than the building that is used by the occupant as the private dwelling (including garage); not more than twenty percent (20%) of the total floor space of the dwelling and garage on the lot may be used for such purpose.
- b) No more than one person who does not reside on the premises shall be employed in the performance of such occupation.
- c) Signs shall conform with the City's Sign Ordinance.
- d) There shall be no exterior storage of equipment or materials used in permitted home occupations.
- e) No structural alterations or enlargements shall be made for the sole or primary purpose of conducting the home occupation.
- f) No traffic shall be generated by such home occupation in greater volumes than would normally be found in a similar residential neighborhood.
- g) Any needed parking generated by the conduct of such home occupation shall be met off the street on a dust free surface, and other than in a required front yard.
- h) There shall be no detrimental effect to the residential character of the neighborhood due to the emission of noise, odor, smoke, dust, gas, heat, glare, vibration, electrical interference, traffic congestion, or any other annoyance from the premises.
- i) Any waste disposed of in the sewer system shall not create or cause greater volume than that which is normally generated by a similar residential dwelling in the district.
- j) Business hours shall be restricted to no more than 6:00 am to 7:00 pm Monday through Saturday. No business home occupation business shall be conducted on Sundays or on any public holidays recognized by the City of Rice.
- k) Vehicles associated with a home occupation shall be limited to two automobiles, pick-up trucks or vans on the premises, one of which shall be parked in a garage if the name of the home occupation or advertising appears on the vehicle. Any vehicles associated with a rural home occupation must be parked in a specified storage area or accessory structure.
- l) Unusual parking and traffic patterns that are not normally found in the neighborhood shall not be created, and in no case shall customer vehicles be parked on public or private roads.

Subd. 2. Home Occupation Restrictions. Permitted home occupations shall not include any of the following:

- a) The operation of any wholesale or retail business unless it is entirely conducted by mail or phone and does not include the sale, shipment, or delivery of merchandise on the premises.
- b) Any manufacturing business.
- c) Any schools, excluding nursery schools, with organized classes of more than one pupil at a time.
- d) Repair of internal combustion engines, body shops, machine shops, welding, or other services that requires equipment other than that normally found in dwellings.
- e) Animal hospital or pet shops.
- f) Clinics, hospitals or mortuaries.
- g) Renting or painting of vehicles, trailers, or boats.
- h) Medical Facilities.
- i) Homeschooling over five children that do not reside at the dwelling. Homeschools exceeding five children that do not reside at the dwelling are required to obtain a Conditional Use Permit from the governing body.

Section 82.07. ACCESSORY APARTMENTS. The purpose of this section is to permit the installation of no more than one accessory apartment in an existing single family dwelling. This opportunity is allowed only in neighborhoods with established utility systems. Parking, traffic patterns, architectural character and the installation and use of accessory apartments must be strictly controlled to avoid physical, health, safety, economic, and aesthetic impacts. By allowing only those accessory apartments that are in compliance with all of the performance standards of this section, the health and safety of occupants and the character and quality of existing neighborhoods will be protected.

Subd. 1. Permit Procedures.

- a) Application Procedures. No one shall install an accessory apartment without first having obtained a permit from the Zoning Administrator. Application for the permit shall be made on forms designated by the Zoning Administrator and shall be accompanied by a permit fee as set by the City Council. Within ten (10) working days of application, the Building Official shall inspect the property to determine whether the proposed accessory apartment meets building code standards. Within thirty (30) days of application, after reviewing the building inspector's report and the application, the Zoning Administrator shall deny or approve the application for an accessory apartment based upon conformance with the performance standards. The decision to issue or deny the permit may be appealed to the City Council.

- b) Permit Renewal. The permit shall be renewed yearly and a permit renewal fee, as set by the council, paid. Permit renewal may be conditional upon an inspection.
- c) Revocation of Permits. Violation of the performance standards shall be grounds for the revocation of the permit. Notice of intent to revoke the permit shall be sent (by certified mail) by the Zoning Administrator to the permit holder. The notice shall state the grounds for revocation and the date, at least ten days after the notice is sent, when the City Council shall consider revocation. Operation of the accessory apartment shall cease within 60 days from the date of revocation by the City Council.

Subd. 2. Performance Standards.

- a) All remodeling for the addition of the accessory apartment shall be on the inside of the structure. Exceptions to this condition will be made only if the applicant submits exterior elevation drawings determined by the Zoning Administrator to be architecturally compatible with the adjacent structures and consistent with the Zoning Ordinance.
- b) In addition to the normal parking required for the dwelling unit, there shall be at least one additional paved off-street parking space per accessory apartment dweller.
- c) Detached garages shall not be converted to living spaces.
- d) Both the principle and accessory structure must meet the standards of the Minnesota State Building Code.
- e) The owner(s) of the residence in which the accessory unit is created shall occupy at least one of the dwelling units on the premises, except for temporary absences.
- f) House numbers shall be placed on the structure to indicate that the structure has more than one dwelling unit.
- g) The accessory apartment must at all times be kept in conformity to all state and local codes and ordinances.
- h) The accessory apartment shall occupy no more than 50% of the total dwelling space.

Section 82.08. DEMOLITION. Any demolition of any structure, building or accessory building shall first obtain a building permit from the City, and be done in compliance with all state and county pollution guidelines.

Section 82.09. OUTDOOR STORAGE. Any Outdoor Storage:

- a) shall be incidental to a principal use;

- b) shall be screened by suitable materials, such as fencing or natural landscaping features (trees, shrubbery, berms), as determined by the Council. The screen must be, at minimum, equal to the height of the tallest item stored on the site;
- c) must be located in a rear or side yard and is prohibited in and required side or rear yard setback;
- d) shall be kept in a neat and orderly fashion; and
- e) shall not be operated in such a manner as to constitute a nuisance or harborage of rodents or other wild animals.

Section 82.10 SPECIFIC STANDARDS FOR NONRESIDENTIAL LICENSED DAYCARE FACILITIES. Non-residential licensed daycare facilities shall:

- a) Provide loading and drop-off points designed to avoid interfering with traffic and pedestrian movements and designed to promote the safety of children entering the center; and
- b) Provide one parking space for each six attendees based on the licensed capacity of the center; and
- c) Provide outdoor play areas that shall be fenced, located and designed in a manner that mitigates visual and noise impacts on adjoining residents, if any ; and
- d) Shall obtain all applicable state, county and city licenses.

Section 82.11. R-1 SINGLE FAMILY RESIDENCE DISTRICT – SPECIFIC REQUIREMENTS.

Subd. 1. Intent. The R-1 Residential District provides space for low density residential living with full provision of necessary urban service facilities. Existing agricultural uses are allowed to continue, within regulations, on land not yet needed for residential development, but other nonresidential uses are limited to the minimum necessary for residential convenience and welfare.

Subd. 2. Permitted and Conditional Uses. Permitted and Conditional uses in the R-1 Single Family Residence District may be found in the “PERMITTED AND CONDITIONAL USE EXHIBIT” as found in Ordinance 81. Uses determined by the City to be of similar nature and found not to be detrimental to the general health and welfare of the city will be additionally permitted. When a use could be classified under two (2) similar but different types of uses, the most restrictive or specific classification for that type of use will govern. If the use is not substantially similar to any other use regulated in the land use classification chart, the Zoning Administrator shall refer the matter to the Planning Commission for a recommendation or to the City Council for determination.

- a) Permitted Accessory Uses. Customary accessory uses incidental to the principal uses such as gardens, private garages, screen porches, play equipment, signs, and other uses, as set forth in this section:
- 1) Private detached garages or utility buildings, not to exceed the total aggregate square footage requirements permitted in the Residential District in which it is placed.
 - 2) Private tennis court.
 - 3) Signs as regulated by the Sign Ordinance.
 - 4) Temporary buildings for construction purposes for a period not to exceed six consecutive months or the period of construction, whichever is less.
 - 5) Gardening and other horticultural uses where no sale of products is conducted on the premises.
 - 6) Keeping of not more than a total of two (2) boarders or roomers by a resident family.
 - 7) Non-commercial antennas, satellite dish antennas, and towers, compliant with the standards provided in the General Requirements Section above.
 - 8) Private swimming pools and spas, compliant with the standards provided in the General Requirements Section above.
 - 9) Dog kennels with two or fewer dogs over the age of six months.
 - 10) Gazebos.
 - 11) Playhouses and play equipment for the use of minors, compliant with the standards provided in General Requirements Section above.
 - 12) Accessory apartments compliant with the standards provided in the General Requirements Section above.
- b) Lot, Yard, Area and Height, and Setback Requirements for Structures and Accessory Buildings or Uses.
- 1) Minimum areas of lots in R-1 Residence Districts shall be as follows:
 - a) When the lots are serviced by city water and sewer the minimum area shall be 9,500 square feet.

- b) Where the lots are not serviced by city water and sewer and are located more than 1,000 feet from shore land, the minimum area shall be 2.5 acres.
- 2) The minimum width of lots in new plats in R-1 Residence Districts shall be as follows:
- a) Where the lots have a minimum area of 9,500 square feet, the width of the lots shall average at least 75 feet.
 - b) Where the lots have a minimum area of 2.5 acres the width of the lots shall average at least 250 feet.
- 3) Front yard regulation. The front yard setback in the R-1 Residential district shall be thirty (30) feet.
- 4) Side yard regulation. The side yard setback in the R-1 Residential district shall be ten (10) feet, except corner lots on which the side yard setback on the intersecting street shall be thirty (30) feet.
- a) Driveways and Entrances shall maintain a minimum side yard setback of two (2) feet, except for corner lots on which the side yard setback on the intersection street shall be 30 feet.
- 5) Rear yard regulation. The rear yard setback in the R-1 Residential district shall be fifteen (15) feet.
- 6) Accessory Structure(s) Setback Regulations. The minimum setback for accessory structures shall be 5' unless modified by this Ordinance.
- a) Swimming pools, temporary or permanent, spas, playhouses, Doghouses or kennels, playground equipment, and any similar structures must maintain a minimum of five (5) feet setback from all lot lines.
 - b) Decks or platforms twelve inches or less shall maintain a minimum of five (5) feet setback from all lot lines. Decks or platforms exceeding twelve inches shall comply with the all front, side, and rear setback provisions stated in paragraphs C, D, and E above.
 - c) Patios, concrete pads or slabs, landscaping stones and pavers shall not be placed closer than two (2) feet from side and rear lot lines.
- 7) Height regulation. Maximum height of buildings may be two (2) stories or thirty five (35) feet, not including the basement if one exists, whichever is less. Accessory buildings or structures shall not exceed fifteen (15) feet in height unless otherwise specified.

- 8) Lot coverage regulation. Not more than thirty five percent (35%) of a lot or plot of land shall be occupied by buildings and/or impervious surfacing.
 - a) The maximum total aggregate square footage for all detached buildings, including garages, on a lot that is less than 2.5 acres in size and in an R-1 Residential District shall not exceed eight hundred (800) square feet, inside area.
 - b) The maximum total aggregate square footage for all detached buildings, including garages, on a lot that is 2.5 acres to 5.0 acres in size and in an R-1 Residential District shall not exceed 2,400 square feet, inside area with a height not to exceed thirty five feet.

Section 82.12. R-2 MULTIPLE FAMILY RESIDENTIAL DISTRICT – SPECIFIC REQUIREMENTS.

Subd. 1. Intent. By providing for space for apartment building and other styles of multiple dwelling and multi-family structures, the R-2 Residential District permits a variety of housing options while still promoting a neighborhood atmosphere.

Subd. 2. Permitted and Conditional Uses. Permitted and Conditional uses in the R-2 Multiple Family Residential District may be found in the “PERMITTED AND CONDITIONAL USE EXHIBIT” as found in Ordinance 81. Uses determined by the City to be of similar nature and found not to be detrimental to the general health and welfare of the city will be additionally permitted. When a use could be classified under two (2) similar but different types of uses, the most restrictive or specific classification for that type of use will govern. If the use is not substantially similar to any other use regulated in the land use classification chart, the Zoning Administrator shall refer the matter to the Planning Commission for a recommendation or to the City Council for determination.

- a) Use Requirements. The following uses shall be permitted or permitted with conditions within the R-2 Multiple Family Residence District:
 - 1) Multiple Family Dwelling Structures, including Townhouses, consisting of up to four residential dwelling units per structure, provided:
 - a) Each dwelling unit must have a separate entrance to the front and rear yards;
 - b) Privately owned dwelling units must have separate utility service and meter; and
 - c) Home occupations are permitted.
 - 2) Multiple Family Dwelling Structures, including Townhouses, consisting of more than four residential dwelling units per structure, provided:

a) The structures must have a minimum lot size as follows: The following lot area credits and allowances shall be applied to lots in R-2 districts but in no event shall the minimum lot area with allowances be less than five thousand (5,000) square feet per dwelling unit in the R-2 district nor less than two thousand two hundred (2,200) based on the following schedule:

1) For each unit containing bedrooms in excess of two (2), add three hundred (300) square feet.

b) Privately owned units must have separate utility service and meter.

c) Home occupations are not permitted.

d) Accessory Apartments are not permitted.

3) Apartments.

a) In any case where the apartment has privately owned units, whether in units less than or greater than four, each unit must be provided with separate utility service and meters.

4) Boarding Houses, provided the site shall contain not less than five hundred (500) square feet of lot area for each person to be accommodated.

5) Buildings used for the treatments of human ailments; nursing homes, halfway homes, and homes for the aged that serve no more than 7 unrelated persons.

6) Schools, including trade, college, vocational, and associated facilities shall:

a) Not exceed a 10,000 square foot footprint;

b) Not be located within fifty (50) feet of an abutting lot in an "R" district.

7) Churches, synagogues, temples and associated facilities, except schools, shall:

a) Not exceed a 10,000 square foot footprint;

b) Not be located within one hundred (100) feet of any lot line abutting a lot in an "R" district.

8) Uses determined by the Planning Commission to be of similar nature to those listed in the Permitted and Conditional Uses Exhibit, and found not to be detrimental to the general health and welfare of the City.

b) Lot, Yard, Area and Height Requirements.

1) Minimum lot area requirements in an R-2 District.

Single Family Dwelling:	9,500 square feet per dwelling
Multi-Family Dwelling fewer than four units:	2,500 square feet per dwelling
Efficiency Unit :	2,000 square feet per unit
1 Bedroom:	2,500 square feet per unit
2 Bedroom:	3,000 square feet per unit
3 Bedroom or more:	3,500 square feet per unit
Townhouse:	4,000 square feet per unit
Other Uses	As determined by the Zoning Administrator

- a) In no event shall the minimum lot area be less than 9,500 square feet.
- b) Multiple Family Residential projects shall contain an adequate amount of land for park, recreation or local open space use, exclusive of wetland and drainage areas, which shall not be less than twenty percent (20%) of the gross area of the property and shall consist principally of land within the setback lines.

2) Lot Width Regulations.

- a) Each Lot shall have an average width of at least one hundred fifty (150) feet.
- b) Each lot shall have a minimum frontage on a street of seventy five (75) feet.

3) Minimum Floor Area for Multiple Dwellings. The minimum floor area of an efficiency dwelling unit shall not be less than four hundred (400) net square feet, that of a one-bedroom dwelling unit shall be not less than seven hundred (700) net square feet, and that of a two-bedroom dwelling unit shall not be less than nine hundred (900) net square feet. Units containing three (3) or more bedrooms shall have an additional one hundred fifty (150) net square feet of floor area for each bedroom in excess of two (2) bedrooms.

For purposes of measurement, the net floor area of a dwelling unit shall mean that area within a building used as a single dwelling unit, and shall be measured from the inside walls to the center of partitions bounding the dwelling unit being measured, but shall not include public stairways, public entries, public foyers, public balconies, or unenclosed public porches, separate utility rooms, community furnace areas or rooms, storage areas not within the apartment or garages.

- 4) Front yard regulation. The front yard setback in the R-2 Residence District shall be thirty (30) feet.
- 5) Side yard regulation. The side yard setback in the R-2 Residence District shall be ten (10) feet, except corner lots on which the side yard on the intersecting street shall be not less than thirty (30) feet, and except where the side yard setback

abuts an R-1 District said side yard setback shall not be less than fifty (50) feet on the side abutting the said R-1 District.

- 6) Rear yard regulation. The rear yard setback in the R-2 Residential District shall be forty (40) feet except where the lot abuts an R-1 District, where the rear yard shall not be less than fifty (50) feet on the sides adjoining said R-1 District.
- 7) Height regulation. The maximum height of buildings shall be three (3) stories or fifty (50) feet, not including the basement, whichever is less.
- 8) Lot Coverage Regulation. No more than forty five percent (45%) of a lot or plot of land shall be occupied by buildings, structures, and/or impervious surfacing.

c) Unit Requirements.

- 1) Efficiency Dwelling Units. No more than twenty (20) percent of the dwelling units in any one (1) building shall be efficiency dwelling units.
- 2) Multi-Family Structures shall be provided a common party fire wall between units up to the most recent version of the State Building Code.
- 3) Closets and Bulk Storage. The following minimum amounts of closet and bulk storage shall be provided for each dwelling unit:
 - a) One bedroom unit: ten (10) lineal feet of closet space and eighty (80) cubic feet of bulk storage. Only closet space having a minimum clear finish to finish depth of two (2) feet, zero (0) inches, shall be considered in determining the lineal feet of closet space provided;
 - b) Two bedroom unit: twenty-four (24) lineal feet of closet space and one hundred (100) cubic feet of bulk storage. Only closet space having a minimum clear finish to finish depth of two (2) feet, zero (0) inches, shall be considered determining the lineal feet of closet provided.
 - c) Three (3) or more bedrooms: for each bedroom in excess of two (2) in any one dwelling unit, an additional ten (10) lineal feet of closet space and fifty (50) cubic feet of bulk storage volume.
- 4) Sound. Party and corridor partitions and floor systems shall be of a type rated by a laboratory regularly engaged in sound testing as capable of accomplishing an average sound transmission loss (using a nine-frequency test) of not less than fifty (50) decibels. Door systems between corridors and dwelling units shall be of solid core construction and include gaskets and closure plates. Room relationships, hallway designs, door and window placements and plumbing and ventilating

installations shall be such that they assist in the control of sound transmission from unit to unit.

- 5) Projecting air conditioning and heating units. Air conditioning or heating units projecting through exterior walls or windows shall be so located and designed that they neither unnecessarily generate nor transmit sound nor disrupt the architectural amenities of the building. Units projecting more than four (4) inches beyond the exterior finish of a building wall shall be permitted only with the written consent of the building inspector, which shall be given when building structural systems prevent compliance.
 - 6) Trash incinerators and garbage. Except for townhouse and multiple residence sites of four (4) or fewer units, no exterior trash or garbage disposal or storage shall be permitted. In the case of townhouse and multiple residences with four (4) or fewer units, there shall be no exterior incineration, and any storage shall be completely enclosed by walls and roof.
 - 7) Elevators. Any multiple residences building of three (3) stories or more shall be equipped with at least one public elevator.
- d) C.I.C. Plats. The Subdivision of properties in the R-2 District wherein the intent is to provide for separate unit ownership or rental use may be subdivided in accordance with State Law and shall include:
- 1) The owner of property to be subdivided shall execute and record, at their expense, a Declaration of Covenants, Conditions and Restrictions, to be approved by the City Attorney. The Declaration shall provide protection to the individual owners and public on the following: maintenance, repair and construction, building use and restrictions, party walls, relationships among owners of adjoining living units and arbitration of disputes.
- e) Accessory Buildings in Multiple-Family District (R-2).
- 1) General Requirements.
 - a) Accessory Buildings shall not exceed fifteen (15) feet in height. Attached accessory buildings shall conform to all setback regulations set forth in this Ordinance. Detached accessory buildings shall be located in the rear yard and shall have a rear yard setback of not less than five (5) feet unless abutting an R-1 District, in which case, a 10 feet setback shall be provided.
 - b) Detached garages shall be constructed in rear yards when the property abuts an alley. Detached garages shall have a side and rear yard setback of not less than five (5) feet unless abutting an R-1 District, in which case, a 10 feet setback shall be provided. Detached garages constructed on corner lots shall have a side yard setback of thirty (30) feet on the intersecting street.

- c) All accessory buildings in multi-family dwellings, four units or fewer shall be homogenous in design and materials to the principal structure. All accessory buildings in multi-family dwellings with units greater than four shall have the same material and be homogeneous in design to the principal building.
- d) No lot may have more than two (2) detached accessory buildings, excluding detached refuse enclosures, and shall not result in exceeding the maximum lot coverage requirements for an R-2 Residential District.
- e) The maximum total aggregate square footage for all of the detached buildings, including garages, on a multi-family lot shall be:
 - 1) In the instance of a lot containing four dwelling units or fewer the maximum square footage per detached accessory building shall be 350 square feet.
 - 2) In the instance of a lot containing more than four dwelling units the maximum square footage of all detached accessory buildings shall be 600 square feet.
 - 3) On a lot greater than 2.5 acres in size with a single dwelling unit the maximum total aggregate square footage for all of the detached buildings shall be 10,500 square feet.
- f) Other Accessory Uses & Structures. All other accessory uses or structures shall maintain a minimum of 5 feet setback from all lot lines. Any accessory building abutting an R-1 District shall maintain a setback of 10 from the lot line(s) abutting the R-1 District.
 - 1) Private, permanent swimming pools or spas, playhouses or playground equipment, and any similar structures must maintain a minimum of 15 feet setback from side and rear lot lines.
- g) Private Community Centers as an Accessory Structure To A Multi-Family Use shall meet the following setbacks:
 - 1) Side yard setbacks shall be doubled.
 - 2) No building shall be located within thirty feet of any lot line abutting any Residential District.
 - 3) Adequate screening from abutting Residential uses must be provided.
 - 4) Adequate off street parking shall be provided either on-site or directly abutting the site.

f) Multi-Family Residential Building Design Review Standards. All multifamily residential units proposed for construction on existing vacant lots or lots that become vacant by reason of demolition or destruction of existing structures shall be reviewed according to the following process:

1) Site Plan Review and Review Process.

- a) Initial Meeting. The applicant shall first meet with the Zoning Administrator. The Zoning Administrator will explain the goals and intent of the Design Permit, Site Plan, and Design Review Process, along with the guidelines, application requirements, and schedule.
- b) Site Plan and Building Elevations. The applicant shall submit a Site Plan to the city for new residential buildings on a vacant lot. The site plans shall be drawn to scale and show the following: site location, all proposed buildings, driveways, sidewalks, and other impervious surfaces, the number of dwelling units the building is intended to accommodate, and building elevations drawn to scale.
- c) Application Submission and Filing Fee. The applicant must submit the Site Plan and building elevations to the City, along with a permit application and filing fee set by the City Council.
- d) Site Plan Review. The Zoning Administrator shall review and may approve the site plans. The Zoning Administrator shall notify the Planning Commission of all approved plans. The Zoning Administrator may request that the Planning Commission review the site plan and building elevations and provide comments or recommended conditions for approval. The Planning Commission may hold a public hearing on the application. Notice of the public hearing must be published in the City newspaper at least ten days before the hearing and notice mailed to property owners with 350' of the site. At the hearing, the Planning Commission will either recommend approval, recommend with conditions, or disapproval of the proposed Site Plan.
- e) Approval. If the application is approved, the Zoning Administrator will issue a Design Permit to the applicant and a copy to the Building Inspector.
- f) Appeal. The applicant or any interested person aggrieved with the Zoning Administrator's decision, may, within ten days, revise and resubmit the application to the Zoning Administrator or appeal the decision to the City Council.
- g) Building Permit. After the application is approved, the plans may be completed and submitted to the Building Inspector for Building Permit review. The final plans will also be reviewed for Design Permit compliance by the

Zoning Administrator. The Building Inspector and the Zoning Administrator will monitor compliance with the Design Permit and any conditions of approval.

2) Design and Construction Requirements.

a) Design Review. Plans for all multiple family dwellings must be approved by the City Council upon a recommendation from the Planning Commission after review of the plans set forth in Paragraph B below. The Planning Commission and Council may designate conditions or guarantees in connection with the approval of said plans, which will substantially secure the provisions of the district. In granting the permit, the Planning Commission and Council shall consider the requirements of Paragraph B below and may consider other factors affecting the public health, safety and welfare.

b) Building Design and Construction. A Building Permit and/or Conditional Use Permit, as required, for a multiple dwelling, shall not be issued unless the applicant's building plans, including the site plan, are certified by an architect registered in the state stating that the design of the building and site has been prepared under his direct supervision. Any building of type I or II construction, as provided in the State Building Code, shall have its electrical, mechanical, and structural systems designed by registered engineers. Provisions of this paragraph shall not prohibit the preparation of the site plan by a profession site planner. Such plans shall include the following:

- 1) Complete details of the proposed site development, including location of buildings, driveways, parking spaces, lot dimensions, lot area, and yard dimensions;
- 2) Certificate of survey, showing an overlay of proposed structures and roads;
- 3) Complete landscaping plans including the species and size of the trees and shrubs proposed;
- 4) Complete plans for proposed sidewalks to service parking, recreation and service areas within the proposed development;
- 5) Complete plans for storm water drainage systems sufficient to drain and dispose of all surface water accumulations within the area;
- 6) Complete structural, electrical and mechanical plans for the buildings; and
- 7) Complete plans and specifications for exterior wall finishes proposed for all principal and accessory buildings.

3) Building Design Standards.

- a) Relationship to Adjacent Buildings. All new buildings proposed on vacant lots or lots that become vacant through demolition shall relate to the design of adjacent traditional buildings in scale, size, proportions, porch elements, roof form and line, rhythms and proportions of openings, building materials, details and colors. Historic architectural styles need not be replicated.
- b) A primary entrance shall face an improved abutting street or be located off of a front porch, foyer, courtyard or similar architectural feature, and set back at least ten (10) feet from the side lot line.
- c) For principal structures, above grade window and door openings shall comprise at least fifteen percent (15%) of the total area of exterior walls facing a public street or sidewalk. In addition, above grade window and door openings shall comprise at least ten (10) percent of the total area of all exterior walls. Windows in garage doors shall count as openings; the area of garage doors themselves shall not count as openings. Windows shall be clear or translucent.
- d) Multifamily residential structures shall be set back far enough from the street to provide a private yard area between the boulevard and the front door. Landscaping, steps, porches, grade changes, and low ornamental fences or walls may be used to provide increased privacy and livability.
- e) Building materials and architectural treatments used on sides of buildings facing an abutting street and on accessory structures should be similar to those used on principal facades.
- f) The design and siting of the building shall preserve existing trees on the site and immediately adjacent lots to the extent reasonably possible. The landscape design shall consider permeable materials for paths and driveways to protect existing mature trees in sensitive areas.

Section 82.13. R-R RURAL RESIDENTIAL DISTRICT – SPECIFIC REQUIREMENTS.

Subd. 1. Permitted and Conditional Uses. Permitted and Conditional uses in the R-R Rural Residential District may be found in the “PERMITTED AND CONDITIONAL USE EXHIBIT” in Ordinance 81. Uses determined by the City to be of similar nature and found not to be detrimental to the general health and welfare of the city will be additionally permitted. When a use could be classified under two (2) similar but different types of uses, the most restrictive or specific classification for that type of use will govern. If the use is not substantially similar to any other use regulated in the land use classification chart, the Zoning Administrator shall refer the matter to the Planning Commission for a recommendation or to the City Council for determination.

- a) Home Occupations in an R-R District. In addition to the general standards for home occupations in residential districts, the following are exceptions or additional requirements that apply to home occupations located within the Rural Residential District.
- 1) Such occupation shall be carried on in the principal structure and not more than twenty-five percent (25%) of the floor space of the residence may be used for this purpose;
 - 2) No articles for sale may be displayed so as to be visible from the street;
 - 3) Signage, shall be as regulated by the Sign Ordinance;
 - 4) Adequate off-street parking based on number of employees and customers per day shall be provided and any parking area(s) shall be screened from offsite views;
 - 5) No more than two vehicles being repaired, which are not owned and registered by an occupant of the property may be parked outside. Said vehicles shall be parked in a screened location; and
 - 6) No outside storage is allowed.
- b) Bed and Breakfast Inns. The conduct of the bed and breakfast inn shall result in no change in the outside appearance of the building or land, or other visible evidence of the conduct of the bed and breakfast inn.
- 1) No traffic shall be generated by such bed and breakfast inn in greater volume than would normally be expected to be generated by a four unit dwelling in an R-2 District.
- c) Multi-Family Housing, Four or Fewer Units. Multi-Family Housing, containing four or fewer units may be authorized by conditional use permit in the Rural Residential District. However, the applicant shall adhere to all standards and provisions in the both the General Requirements and specific requirements of this Ordinance.
- d) Accessory Uses. Any accessory uses permitted in an R-1 Residential District are permitted in the R-R Rural Residential, plus the addition of the following:
- 1) Operation and storage of vehicles, equipment and machinery that are owned by the property owner and are incidental to permitted or conditional uses allowed in this district.
 - 2) Boat houses, piers and docks serving a single-family residence.
 - 3) The renting of rooms by a resident family for lodging purposes only, and for not more than two rooms in a one-family dwelling.

e) R-R District Requirements. The following minimum requirements shall be observed in the Rural Residential District, subject to additional requirements, exceptions and modifications set forth in this chapter.

1) Lot Requirements and Setbacks.

a) Lot Area. A minimum of five acres of upland area, upland being land above the 100-year flood elevation or non-wetland.

b) Lot Width. A minimum of 200 feet.

c) Lot Depth. A minimum of 300 feet.

d) Impervious Surface: No more than forty-five percent (45%) of a lot or plot of land shall be occupied by buildings and/or impervious surfacing.

e) Setbacks:

1) Front yard: a minimum of thirty (30) feet.

2) Side Yards: A minimum of ten (10) feet, except as otherwise provided in this Ordinance for accessory buildings and except on corner lots where the side yard setbacks on the intersecting street shall be not less than thirty (30) feet.

3) Rear Yard: a minimum of thirty (30) feet, except on corner lots where the setback shall be a minimum of thirty (30) feet on side adjacent to street, but in no case less than the setback of an adjacent lot that has its rear yard on the same street.

f) Access. All lots shall front on and have ingress and egress by means of a public right-of way.

1) Driveways shall not be constructed closer than twenty (20) feet to side and rear property lines without written authorization from the adjacent property owner and approval of the Planning Commission.

g) Building Requirements, Height. The maximum height for buildings, with the exception of accessory buildings as hereinafter specified, shall be three stories or fifty (50) feet, not including the basement, whichever is less.

h) Additional Landscaping Requirement. Undisturbed, non-erodible areas containing existing viable natural vegetation that can be maintained free of foreign and noxious plant material shall be considered to have acceptable landscaping.

- i) Detached Accessory Requirements.
 - 1) All accessory buildings shall have the same exterior material as, or be homogenous in materials and design, to the principal structure.
 - 2) Accessory buildings shall not exceed thirty five (35) feet in height.
 - 3) Size Requirements:
 - a) Aggregate square footage for all accessory buildings on a lot that has 2.5 acres to 5.0 acres in size shall not exceed 1,600 square feet.
 - b) Aggregate square footage for all of the accessory buildings on a lot that is 5.0 acres in size to 7.5 acres in size shall not exceed 4,000 square feet.
 - c) Aggregate square footage for all accessory buildings on a lot that is 7.5 acres or greater in size shall not exceed 6,000 square feet.
 - 4) Setback Requirements:
 - a) The side yard setback shall be a minimum of fifteen (15) feet.
 - b) The rear yard setback shall be a minimum of fifteen (15) feet.
 - c) Swimming pools, temporary or permanent, spas, playhouses, doghouses, playground equipment for the use of minors and any similar structure must maintain a minimum of 15 feet setback from lot lines.
 - d) Patios, concrete pads or slabs, landscaping stones and pavers, or fountains shall not be placed closer than 15 feet from any lot line abutting a right-of-way. Driveways are exempt from this requirement on the lot line accessing the right-of-way.

Section 82.14. A-G AGRICULTURE DISTRICT – SPECIFIC REQUIREMENTS.

Subd. 1. Uses. Permitted and Conditional uses in the AG Agriculture District may be found in the “PERMITTED AND CONDITIONAL USE EXHIBIT” in Ordinance 81. Uses determined by the City to be of similar nature and found not to be detrimental to the general health and welfare of the city will be additionally permitted. When a use could be classified under two (2) similar but different types of uses, the most restrictive or specific classification for that type of use will govern. If the use is not substantially similar to any other use regulated in the land use classification chart, the Zoning Administrator shall refer the matter to the Planning Commission for a recommendation or to the City Council for determination.

The following uses are additional permitted or conditional uses within the A-G Agriculture District that may not be listed specifically on the “Permitted and Conditional Use Exhibit.”

- a) Permitted Uses. The following uses shall be permitted within the A-G Agriculture District:
- 1) General farming and gardening.
 - 2) Raising of domestic farm animals, including hogs and fur bearing animals, not greater one (1) animal per acre.
 - 3) Agricultural buildings as principal structures on parcels of land forty (40) acres or greater. Use of building limited to active farm operations including general farming or livestock.
 - 4) Nurseries.
 - 5) Boarding Kennels for up to 10 animals of greater than six months of age.
 - 6) Guest House provided the Building Official and governing body are satisfied that the lot area is adequate for parking and commercial deliveries and that two on-site sewage disposal systems may be located within the property. Rental of any guest house is not permitted.
 - 7) Private stables with a density not exceeding one horse per acre or more than ten horses in aggregate. They shall comply with the following provisions:
 - a) Maximum Density – one horse per acre.
 - b) Must obtain a Minnesota Pollution Control Agency feedlot permit.
 - c) Building(s) used for sheltering, training or riding horses shall have a minimum two hundred (200) foot setback from any property line.
 - d) Fences to control livestock adjacent to an R-1 Residential Zoning District shall have a minimum of twenty five (25) feet front yard setback.
- b) Permitted Accessory Uses. Any accessory uses permitted in an R-1 Single Family Residential District and in the R-R Rural Residential District are permitted in the AG Agriculture, plus the following:
- 1) Signs as regulated in the Sign Ordinance.
 - 2) Keeping of not more than two (2) borders and/or roomers per dwelling unit.

- 3) Commercial daycare accessory to a legal conforming church or school.
 - 4) Barns for storage of farm equipment.
 - 5) Structures for storage of product grown on the property.
- c) District Requirements. The following minimum requirements shall be observed in the Agricultural District, subject to additional requirements, exceptions and modifications set forth in this chapter:
- 1) Lot requirements and setbacks:
 - a) Lot Area: Minimum lot area of ten acres.
 - b) Lot Width: Minimum width of 300 feet.
 - c) Lot Depth: Minimum depth of 660 feet.
 - d) Lot Frontage: Minimum frontage of 300 feet.
 - e) Height: The maximum height for buildings, with the exception of accessory buildings as hereinafter specified, shall be three stories or fifty (50) feet, not including the basement, whichever is less.
 - f) Setbacks:
 - 1) Front yard: 45 feet for house/principal building, 45 feet for garage/accessory building, 200 feet for accessory buildings sheltering domestic farm animals.
 - 2) Side Yard: 20 feet for house/principal building, 20 feet for garage/accessory building, 50 feet for accessory buildings sheltering domestic farm animals.
 - 3) Rear Yard: 30 feet for house/principal building, 30 feet for garage/accessory building, 50 feet for accessory buildings sheltering domestic farm animals.
 - 4) Corner Lot: 45 feet for house/principal building, 45 feet for garage/accessory building, 200 feet for accessory buildings sheltering domestic farm animals.
 - g) Access: All lots shall front on and have ingress and egress by means of a public right-of way.

- 1) Driveways shall not be constructed closer than twenty (20) feet to the property line without written authorization from the adjacent property owner and Planning Commission.
- h) Additional Landscaping Requirement. Undisturbed, non-erodible areas containing existing viable natural vegetation that can be maintained free of foreign and noxious plant material shall be considered to have acceptable landscaping.
- i) Accessory Building Requirements.
 - 1) Height: Accessory building height shall not exceed: three stories or forty (40) feet, whichever is greater.
 - 2) Accessory buildings shall only be located in the side or rear yard.
 - 3) The architectural style and color of a garage/accessory building shall be consistent with an Agricultural use.

CHAPTER 8: ZONING REGULATIONS

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Section 83.01. GENERAL REQUIREMENTS FOR NONRESIDENTIAL DISTRICTS. This Ordinance is applicable in B-1, B-2, B-3, I-1 I-2 and RD Districts.

Subd. 1. Use. Applicants must demonstrate that the intended use and building configuration proposed in any Nonresidential District meets the intent of that district. Applicants for a permit to change use or develop any property in a Nonresidential District in the municipality shall submit a complete and accurate statement concerning the specific nature of the use to which the property is to be put. This statement shall include detailed information relative to the control of smoke, odors, noise, vibrations or other effects that may be considered by the governing body or the Planning Commission to be detrimental to health, safety, or general welfare.

The applicant shall also submit a complete plot plan showing the proposed building or buildings and also the proposed use of the balance of the property. The plan shall show waste disposal, water supply, drainage, ingress and egress, landscaping, screening and other pertinent data (including, when the City deems necessary, distances from surrounding buildings). The plot plan must be accompanied by a signed authorization from the property owner. The City Council, or Planning Commission may require any additional information, corrections, or control deemed necessary for the protection of the public. Also;

- a) The use must be the same or of similar nature to the listed PERMITTED AND CONDITIONAL USES EXHIBIT for Nonresidential Districts, consistent with the Intent of the District and found not to be detrimental to the general health and welfare of the city.
- b) The use must be consistent with the goals, policies and objectives of the Comprehensive Plan.
- c) The use must not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements and must meet the following requirements:
 - 1) The use and site design shall provide a quality business environment that is compatible with the permitted use;
 - 2) Parking spaces shall be provided as required in Ordinance 84;
 - 3) The principal structure must be in compliance with all applicable building housing, electrical, plumbing, heating, and related city codes;
 - 4) The land use must not have an undue adverse impact on adjacent properties or cause a substantial alteration of the neighborhood character; and

5) The use shall include buffering or screening if required by the city.

Subd. 2. Certificate of Occupancy.

- a) No land may be occupied or used, when a structure has been erected, reconstructed, or structurally altered, in whole or in part, for any purpose unless a certificate of occupancy has been issued by the City Building Official.
- b) Every application for a building permit is deemed to include an application for a certificate of occupancy.
- c) Temporary Certificate. If the Building Official finds that no substantial hazard will result from occupancy of any building or portion thereof before the same is completed, the Building Official may issue a temporary Certificate of Occupancy for the use of a portion or portions of a building or structure prior to the completion of the entire building or structure.

Before a temporary certificate of occupancy is issued by the Building Official, the property owner shall deposit with the city an amount sufficient to complete all items left outstanding. All remaining items shall be completed within a term specified by the Building Official.

Subd. 3. Approval of Governing Body. All plans for the improvement, development, alteration or expansion and use of any property situated in any district shall be examined and approved by the Zoning Administrator, Building Official, or by the governing body prior to the issuance of any permit whatsoever.

Subd. 4. Public Hearing & Fee. All public hearings referred to in this Ordinance shall be held by the City after notice of the time and place of such hearing has been published in accordance with the legal requirements of the municipality. All public hearings will conform with the procedures set forth in this Ordinance. The application fee, and fees for special meetings or hearings, are outlined in the City of Rice Fee schedule, as amended from time to time.

Subd. 5. Conformance with Municipal Thoroughfare Plan. No building permit shall be issued and no structure shall be placed, nor land subdivided, in such a way as to interfere with the future platting or construction of streets or roads as shown on the street plan if such plan exists, or is amended, or adopted in the future.

Subd. 6. Obstruction of View. No wall, fence, or other structure shall be erected or altered and no hedge, tree, shrub, or other growth shall be maintained that may cause danger to traffic on a street or public way by obscuring the view. Any such wall, fence or structure shall be placed within the property line, and located so as not to obstruct the line of sight with respect to oncoming traffic, or where it is necessary to maintain a clear sight triangle, in which case the over

story of any vegetation in the sight triangle of an intersection may not be more than 3 feet high or extend below 10 feet above the critical street level as determined by the City Engineer or Public Works Director.

Subd. 7. Truck Access. Uses that require access by vehicles with an axle loading that exceeds 12,000 lbs. shall only be permitted if the property abuts and is accessible from a roadway designed for at least a 9 ton load per axle.

Subd. 8. Land Subject to Flooding. All development or redevelopment of land that is located within the flood plain, shall occur in conformance with the Rice Flood Plain Management Ordinance, if such an ordinance exists.

Subd. 9. Commercial Antennas, Satellite Dish Antennas, and Towers. The purpose of this subdivision is to establish provisions for the installation of antennas, satellite dish antennas, and towers that are used for business purposes, so that the property owners may enjoy the benefits of such structures without detriment to the health, safety, aesthetics, or adverse impacts on the property values of others. Antennas shall be allowed to be placed in a position to receive usable signals. Signal strength capable of providing receiver quality equivalent to reception from a local commercial stations or cable television shall be deemed usable signal strength.

The use of Commercial use of towers and wireless antennas may be permitted as a conditional use in B-2, B-3, I-1, I-2, RD Districts. Applicants shall provide the following for Conditional Use consideration;

- a) All structures regulated under this Subdivision shall meet the same location and setback requirements as other accessory structures in the district.
- b) Antennas and satellite dish antennas may be placed on the roof of a building in accordance with the Uniform Building Code requirements and accepted engineering standards, the distance of any supportive device shall be at least ten feet from the property line.
- c) If a useable signal is not obtainable under the provisions of this Ordinance, the applicant may request a variance.
- d) Applicants shall provide the following for Conditional Use Permit consideration:

A report from a Registered engineer that:

- 1) Describes the tower and antenna height and design including a cross section and elevations;
- 2) Documents the height above grade for all potential mounting positions for co-located antennas;

- 3) Describes the tower's capacity, including the number and type of antennas that it can accommodate;
 - 4) Includes the Engineer's stamp and registration number;
 - 5) Show that tower meets the setbacks of the underlying zoning district with the exception of the industrial zoned districts, where the tower may encroach into the rear setback area, provided the rear property abuts another industrial zoned property and the tower does not encroach upon easements, and the distance to the nearest residential property line is equal to two times (2x) the height of the tower. In all other zoning districts, the engineer will certify, in writing, that if said tower would collapse, it would fully collapse onto the same Lot;
 - 6) Shows that no guy wires shall be used;
 - 7) Shows that lighting, including lighting required by the FAA or other federal or state authority, shall be oriented inward so as not to project onto surrounding property;
 - 8) Shows that non-climbable fencing shall enclose the area of the commercial use antenna tower.
- e) For all commercial wireless telecommunication service towers, a letter of intent committing the tower owner and its 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, including without limitation, reasonable rental rates for shared use as approved by the City.
- f) If the construction, use or maintenance of the tower violates these standards or endangers the public health, safety, welfare, and/or causes interference to existing reception systems, the City may require the abatement of said tower from its current site. The City will provide notice to the commercial use antenna tower owner of the violations, and provide an opportunity for the owner to address the City Council regarding the proposed action. The City may require immediate abatement if there is an immediate public health threat.

Subd. 10. Solar Collectors. Solar collectors shall adhere to the setback requirements of the District in which they are placed. If possible, solar collectors shall be located on an existing building or structure. When placed on the roof of structures, solar collectors shall be subject to height requirements of the District in which they are located. When considering a variance of the placement of solar collectors, Minnesota Statutes, Section 462.357 provides that lack of sufficient solar access may be considered as a legitimate hardship.

Subd. 11. Windmills. Windmills shall require a conditional use permit as provided in this Ordinance.

Subd. 12. Removal of Topsoil & Appearance of Land. No person shall strip, excavate, or otherwise remove topsoil for sale, or for use other than on the premises from which the same shall be taken, except in connection with the construction or alteration of a building on said premises and excavation or grading incidental thereto, except as provided elsewhere in this Ordinance.

Subd. 13. Landscaping Requirements. In all districts, the lot area remaining after providing for off-street parking, sidewalks, driveways, building sites, and other requirements, shall be planted and maintained in grass, sodding, shrubs, or other acceptable vegetation or treatment generally used in landscaping within one year of the issuance of the building permit. If the aforementioned planting and maintenance is not completed within said one year period, the City may enter upon the property and complete the planting. The cost of such planting by the City plus an additional 20% shall be billed to the owner of the lot. If not paid, the cost of planting plus the additional 20% will be levied against the property as a special assessment and collected as in the case of other special assessments.

Subd. 14. Height Exemptions. Height Limitations set forth in this Ordinance shall not apply to church spires, cupolas, water towers, observations towers, flag poles, chimneys, smoke stacks, radio and television towers, grain elevators, and similar construction unless, in the opinion of the Building Official, such construction might be dangerous or in other ways detrimental to surrounding property in which case a special permit by the governing body shall be required.

Subd. 15. Fences.

- a) A wall or fence or hedge not exceeding the maximum height allowed in the underlying zoning district may occupy part of the required front, side, or rear yard.
- b) Fences shall be constructed out of low maintenance/composite materials. Barbed wire and electrical fences are strictly prohibited except as allowed by conditional use permit in an industrial area. Use of creosote lumber is strictly prohibited. Other materials that are not specifically prohibited may be permitted by variance if they do not conflict with the stated purposes of this Ordinance.

Subd. 16. Off-Street Parking and Loading. Off-Street Parking and Loading within Nonresidential Districts shall be as regulated by the Off-Street Parking and Loading Ordinance.

Subd. 17. Fire Escapes. Fire escapes may not extend into the front yard.

Subd. 18. Signage. Signs within Nonresidential districts shall be as regulated by the Sign Ordinance.

Subd. 19. Building Relocation. To maintain a high standard of development, and to protect such areas from deleterious effects, relocated buildings shall meet the following requirements:

- a) The Building Official will inspect the building proposed to be moved to ascertain whether it meets the standards prescribed in this Ordinance and the State of Minnesota Building Code. If the building does not comply, it shall be made compliant and the applicant must obtain a conditional use permit before the Building Official shall issue a building permit.
- b) Each location of a relocated building shall require a conditional use permit from the governing body and all such buildings shall conform with and be situated in a properly zoned area in accordance with all provisions of the Ordinance and the building code.
- c) The Planning Commission shall report to the Council whether the structure will be compatible with other development in the area. If the Council concurs with the decision of the Planning Commission that a structure would depreciate properties in the area into which it is to be moved, the Council may withhold issuance of a permit for such relocation. The Building Official shall submit a report concerning structural soundness and improvements that should be made if the building is relocated. The applicant shall submit photographs taken from two (2) or more angles of the structure to be moved and photos of the lot on which the structure is to be located together with adjacent lots and structures.
- d) The application for a permit or conditional use permit to move a building may be granted or denied by the governing body.
- e) These requirements do not apply to the construction of shed or other temporary structures to be located on a lot for eighteen (18) months or less.

Subd. 20. On-Site Private Sewer Systems. New onsite systems, either sewer or water, shall not be permitted within Nonresidential Districts after the date of adoption of this Ordinance. In the event an on-site system that was in existence prior to the adoption date of this Ordinance fails or is required to be replaced, such replacement shall require a conditional use permit. In no event shall a system in need of replacement or upgrading, be permitted in any District if the City utilities are available as required by the City of Rice and regulated by the City's Municipal Water and Municipal Wastewater Ordinances.

Section 83.02. PERFORMANCE STANDARDS, NONRESIDENTIAL DISTRICTS.

- a) The Zoning Administrator or Planning Commission shall review all proposed uses and all building plans of structures in Nonresidential Districts for compliance with the District's Intent and with the general and specific performance standards.

- b) One and two family dwellings, and multiple family dwellings, including manufactured homes meeting the standards as set forth in Ordinance 82, "Residential Districts", shall be permitted in the Business B-1, District.
- c) Every primary and accessory building in a nonresidential district shall have all of its entrances be uniform in design and materials, if such entrances have visual exposure from a public street or are adjacent to a residential zoning district.
 - 1) Exterior surfaces of all buildings in any Business District shall be faced with a combination of brick, stone, decorative architecturally textured concrete products, wood veneer, glass, stone, decorative pre-cast panels, equivalent products or better.
 - 2) Facades and roofs of primary and accessory buildings in any Industrial District shall be constructed of non-textured cinder concrete block, sheet aluminum, steel, corrugated aluminum or steel, or similar products.
 - 3) Primary or accessory building facades in any Industrial, or Rail Road District not fronting on a public street, not having extensive visual exposure from a public street and not adjacent to a Residential Zone may be constructed of non-textured cinder block, sheet aluminum, steel, corrugated block, corrugated aluminum or steel or similar products.
 - 4) Within an Industrial District a multi-tenant, mini-storage or trucking terminal with extensive use of garage doors on many sides of a building or groups of buildings may be constructed of metal textured block, sheet aluminum, steel, corrugated aluminum or steel or similar products, provided that facades constructed of such materials are not facing, or are screened from, a public street and do not have visual exposure to a residential district.
 - 5) Metal-like materials, in a nonresidential district, other than Industrial or Rail Road Districts, are only acceptable as trim, fascia, mansards, portions of the main facade, or the like. No structural metal roofs, except architectural uses of copper incorporating visible metal exteriors, are permitted.
 - 6) Accessory tanks, exterior equipment, stacks, pipes, towers and the like are exempt from these requirements.

Section 83.03. ACCESSORY USES AND STRUCTURES. All accessory uses within the Nonresidential Districts shall meet the following minimum performance standards;

Subd. 1 Sidewalk Cafes and Outdoor Eating or Dining Areas. All sidewalk cafes and outdoor eating areas:

- a) Shall be located in a controlled or cordoned-area with at least one opening to an acceptable pedestrian walk. When a liquor license is involved, an enclosure is required. The enclosure shall not be interrupted and access shall only be through the principal building;
- b) Shall not be permitted within 200 hundred feet of any residential parcel and shall be separated from residential parcels by the principal structure or other method of screening acceptable to the city;
- c) Shall be located and designed so as not to interfere with pedestrian and vehicular circulation;
- d) Shall not be located to obstruct parking spaces; and
- e) Shall be located adjacent to an entrance to the principal use.

Subd. 2. Drive Thru or Drive-Up Windows and Stacking Areas, Amusement Places, Carwashes, and Storage Facilities. Drive thru or drive-up windows and stacking areas, amusement places, carwashes, and storage facilities that are accessory to a principal use shall:

- a) Provide an enclosed environment for all activities conducted pursuant to that use. Except that:
 - b) Not be located within 300 feet of a residential parcel;
 - c) Provide for a minimum of six cars per aisle;
 - d) Not have public address system, speakers, or audio equipment that are audible from any residential, or adjacent parcel;
 - e) Provide screening suitable materials between any outdoor storage and adjacent parcels;
 - f) Be designed to avoid interfering with traffic and pedestrian movements;
 - g) Be equipped with refuse containers and periodically patrolled for liter pick-up; and
 - h) Provide sufficient parking as determined by the Zoning Administrator for the intended use.

Subd 3. Other Accessory Structures within Business Districts. Other accessory structures within the Business Districts shall be as restricted as follows, additional restrictions may be imposed if necessary to meet the intent of the district:

- a) Accessory Structures within B-1 Neighborhood Business Districts shall meet the same requirements as those within the R-2 District.
- b) Accessory structures within B-2 and RD Districts may be permitted by conditional use permit and shall be limited to 2 structures per lot not exceeding an aggregate square footage of 1,000 square feet or 25% of the floor area of the principal use structure, whichever is less.
- c) Accessory Structures within I-1 and I-2 districts may be approved for the storage of equipment necessary for business operations or product storage with an area up to 70% of the square footage of the principal structure. Accessory buildings exceeding 70% shall require a conditional use permit.
- d) Temporary buildings for construction purposes are allowed but only during construction.
- e) All roof mounted equipment must be screened from public view unless designed as an integral part of the building and compatible with the site lines of the building as determined by the Zoning Administrator.

Section 83.04. EXTERIOR STORAGE. Commercial and industrial uses are permitted to have outdoor storage in accordance with the following provisions:

- a) Outdoor storage shall not be located within 100 feet of any residential parcel.
- b) Within the commercial districts, all outdoor storage must be on a paved surface. Within the industrial districts, outdoor storage may be on a paved or gravel surfaces.
- c) No materials, product or equipment shall be stored outside of an enclosed building in a B-1 or B-2 District without a conditional use permit, except for daily display (during store hours) of merchandise.
 - 1) Exceptions: Outdoor seating areas will be a permitted outdoor use if the seating areas are enclosed by screening of a fence or wall. Outdoor seating areas may be uncovered, partially covered or fully covered by means of umbrellas, awnings or canopies.
- d) All manufacturing, assembly, repair or work activity must take place inside enclosed buildings.
- e) Temporary buildings for construction purposes are allowed but only during construction.
- f) No required off-street parking area may be used as outdoor storage. Overnight, outside storage of vehicles required for business purposes shall be screened from public views.

- g) Outdoor storage shall be screened by suitable materials, such as fencing or natural landscaping features (trees, shrubbery, berms), as determined by the City. The screen must be, at minimum, equal the height of the tallest item stored on the site.
- h) Outdoor storage shall be located in a rear or side yard.
- i) Outdoor storage shall be kept in a neat and orderly fashion.
- j) Outdoor storage shall not contain any unlicensed or inoperable motor vehicles.
- k) Outdoor storage shall not be operated in a manner as to constitute a nuisance or provide harborage for rodents or other wild animals.
- l) All refuse and recycling containers shall be stored inside a principal or fully enclosed accessory structure. Outdoor storage shall be allowed when screened by suitable materials, such as fencing or natural landscaping features (trees, shrubbery, berms), as determined by the City. The screen must, at minimum, equal the height of the tallest item stored on the site.

Section 83.05. B-1 NEIGHBORHOOD BUSINESS DISTRICT – SPECIFIC REQUIREMENTS.

Subd. 1. Intent. The Neighborhood Business District (B-1) shall provide a friendly land use pattern that enables residential uses to co-exist with small scale specialty retail uses and small scale commercial facilities and offices where they will be easily accessible to adjacent to residential areas. Development is intended to be compatible with the scale of surrounding residential areas. Parking areas are restricted in this zone in order to limit the impact on the neighborhood.

Subd. 2. Permitted and Conditional Uses. Permitted and Conditional uses in the B-1 Neighborhood Business District may be found in the “PERMITTED AND CONDITIONAL USE EXHIBIT” in Ordinance 81. Uses determined by the City to be of similar nature and found not to be detrimental to the general health and welfare of the city will be additionally permitted. When a use could be classified under two (2) similar but different types of uses, the most restrictive or specific classification for that type of use will govern. If the use is not substantially similar to any other use regulated in the land use classification chart, the Zoning Administrator shall refer the matter to the Planning Commission for a recommendation or to the City Council for determination.

a) Use Requirements.

1) Non-residential licensed daycare facilities shall:

- a) Provide loading and drop-off points designed to avoid interfering with traffic and pedestrian movements and designed to promote the safety of children entering the center;

- b) Provide one parking space for each six attendees based on the licensed capacity of the center;
- c) Provide outdoor play areas that shall be fenced, located and designed in a manner that mitigates visual and noise impacts on adjoining residents, if any; and
- d) Shall obtain all applicable state, county and city licenses.

b) Accessory Building and Structure Requirements.

- 1) Yard, Height and Coverage Requirements. Any lot line that abuts a residential district shall provide a minimum setback of 2.5 times that districts setback.
 - a) Front yard regulation: Each building shall have a front yard setback of not less than thirty (30) feet.
 - b) Side yard regulation: No side yard setbacks shall be required, except that no structure shall be placed closer than twenty five (25) feet from the boundary line of an R-1 district, or a five (5) feet minimum setback if abutting another B-1, B-2, or B-3 Districts on both sides.
 - c) Height regulation: No structure or building shall exceed two (2) stories or thirty five (35) feet in height, whichever is less.
 - d) Impervious Surface: Not more than thirty five percent (35%) of a lot or plot of land shall be occupied by buildings and/or impervious surfacing.
- 2) Outside Storage. Outside Storage of merchandise or equipment necessary for operating the business may be permitted, if screened, as prescribed in General Requirements Paragraph above (see 1415.03 above). The City may consider other outside storage alternatives as a conditional use.
- 3) Signs. Signs shall be regulated by the Sign Ordinance.

Section 83.06. B-2 GENERAL BUSINESS DISTRICT – SPECIFIC REQUIREMENTS.

Subd. 1. Intent. The intent of the B-2 - General Business District shall be to provide areas for concentrated general business and commercial activities or central business district, at

locations where the interaction between such activities can be maximized with minimal infringement on residential neighborhoods.

Subd. 2. Permitted and Conditional Uses. Permitted and Conditional uses in the B-2 General Business District may be found in the "PERMITTED AND CONDITIONAL USE EXHIBIT" in Ordinance 81. Uses determined by the City to be of similar nature and found not to be detrimental to the general health and welfare of the city will be additionally permitted. When a use could be classified under two (2) similar but different types of uses, the most restrictive or specific classification for that type of use will govern. If the use is not substantially similar to any other use regulated in the land use classification chart, the Zoning Administrator shall refer the matter to the Planning Commission for a recommendation or to the City Council for determination.

a) Use Requirements.

1) Non-residential licensed daycare facilities shall:

- a) Provide loading and drop-off points designed to avoid interfering with traffic and pedestrian movements and designed to promote the safety of children entering the center;
- b) Provide one parking space for each six attendees based on the licensed capacity of the center;
- c) Provide outdoor play areas that shall be fenced, located and designed in a manner that mitigates visual and noise impacts on adjoining residents, if any; and
- d) Shall obtain all applicable state, county and city licenses.

b) Permitted Accessory Uses. Permitted accessory uses in the B-2 District are uses incidental to the forgoing principal uses, such as:

- 1) Off-street parking, loading and unloading areas, as regulated by the Off-Street Parking and Loading Ordinance;
- 2) Signs, as regulated by the Sign Ordinance;
- 3) Commercial or business buildings for a use accessory to the principal use as approved by the City;
- 4) Indoor storage of merchandise and wholesaling and manufacturing, when incidental to a permitted use; and

- 5) Outside Storage of merchandise or equipment necessary for operating the business may be permitted, if screened, as prescribed in Section 82.09. The City may authorize other outside storage alternatives by a conditional use permit.

c) Accessory Building & Structure Requirements (B2).

- 1) Lot requirements and setbacks. The following minimum requirements shall be observed in B-2 Districts, subject to additional requirements, exceptions and modifications set forth in this Chapter.
 - a) Lot area: 5,000 square feet.
 - b) Lot Width: 50 feet.
 - c) Impervious Surface: Not more than sixty five percent (65%) of a lot or plot of land shall be occupied by buildings and/or impervious surfacing.
 - d) Height: No structure shall exceed three stories or forty-five (45) feet, whichever is greater.
 - e) Setbacks: Any lot line that abuts a residential district shall provide a minimum setback of 4 times that districts setback.
 - 1) Front Yards: Minimum setback shall be Zero (0') feet.
 - 2) Side Yards: Building may be placed on the property line, or, if the governing body determines that because of the type of construction a setback is required in order to maintain the building, a side yard setback will be required. No structure shall be placed closer than fifty (50) feet from the boundary line of a Residential District.
 - 3) Rear Yards: Fifteen feet.
 - 4) Corner Lots: Front yard setback shall be consistent with the setback of structures on that block. In the event that there no existing structures, the minimum front yard setback shall be Zero (0') feet.

Section 83.07. B-3 HIGHWAY BUSINESS DISTRICT – SPECIFIC REQUIREMENTS.

Subd. 1 . Intent. The intent of the B-3 Highway Business District shall be to provide areas with ready access to major transportation routes to meet the needs of an automobile oriented society. Businesses catering to travelers, serving the needs of vehicle owners, and of commercially oriented businesses that require larger buildings or acreage that are compatible

with other business districts, may be located in this district. The B-3 Highway Business District is not intended to provide areas for industrial or manufacturing uses.

Subd. 2. Permitted and Conditional Uses. Permitted and Conditional uses in the B-3 Highway Business District may be found in the "PERMITTED AND CONDITIONAL USE EXHIBIT" in Ordinance 81. Uses determined by the City to be of similar nature and found not to be detrimental to the general health and welfare of the city will be additionally permitted. When a use could be classified under two (2) similar but different types of uses, the most restrictive or specific classification for that type of use will govern. If the use is not substantially similar to any other use regulated in the land use classification chart, the Zoning Administrator shall refer the matter to the Planning Commission for a recommendation or to the City Council for determination.

- a) Permitted Accessory Uses. Accessory uses permitted in the B-2 General Business District shall be permitted within the B-3 Highway Business District.
- b) Accessory Building and Structure Requirements (B3). The following minimum requirements shall be observed in B-3 Districts, subject to additional requirements, exceptions and modifications set forth in this chapter:
 - 1) Lot Requirements and Setbacks
 - a) Lot Area: 10,000 square foot minimum.
 - b) Lot Width: 100-foot minimum.
 - c) Height: No structure shall exceed three stories or forty five (45) feet, whichever is greater.
 - d) Impervious Surface: Not more than sixty five percent (65%) of a lot or plot of land shall be occupied by buildings and/or impervious surfacing. Coverage of up to eighty percent (80%) impervious surface may be allowed by conditional use permit.
 - e) Setbacks: Any lot line that abuts a residential district shall provide a minimum setback of 5 times that districts setback.
 - 1) Front Yards: Ten (10) Feet
 - 2) Side Yards: Five (5) Feet
 - 3) Rear Yards: Fifteen (15) feet
 - f) All lots shall front and have ingress and egress by means of a public right-of-way. The side facing the highway shall be considered the front of the property.

Section 83.08. I-1 LIGHT INDUSTRIAL BUSINESS DISTRICT – SPECIFIC REQUIREMENTS.

Subd. 1. Intent. The I-1 Light Industrial District shall provide areas adjacent to major thoroughfares in areas where public utilities are available for the express use of industrial uses in areas adequately buffered with open land to permit storage of regulated materials and storage, and uses that create a minimum degree of refuse by-products, air or noise pollution, and requiring a relatively low level of on-premises processing. Several of these activities include secondary commercial functions that may also be conducted on site. Designation of industrial districts will help attract industry, thereby stabilizing the tax base and increasing employment in the City.

Subd. 2. Permitted and Conditional Uses. Permitted and Conditional uses in the I-1 Light Industrial Business District may be found in the “PERMITTED AND CONDITIONAL USE EXHIBIT” in Ordinance 81. Uses determined by the City to be of similar nature and found not to be detrimental to the general health and welfare of the city will be additionally permitted. When a use could be classified under two (2) similar but different types of uses, the most restrictive or specific classification for that type of use will govern. If the use is not substantially similar to any other use regulated in the land use classification chart, the Zoning Administrator shall refer the matter to the Planning Commission for a recommendation or to the City Council for determination.

a) Permitted Accessory Uses.

- 1) Restaurants, lunch counters, confectioneries to serve the employees of the district.
- 2) Off-street parking and off-street loading as regulated by the provisions in the Off-Street Parking and Loading Ordinance.
- 3) Signs.
- 4) Outside Storage of merchandise or equipment necessary for operating the business may be permitted, if screened, as prescribed in Section 82.09. The City may authorize other outside storage alternatives by conditional use permit.

b) Accessory Building and Structure Requirements.

- 1) Lot, yard, area and height requirements.
 - a) Lot area regulation: The City, after considering widths and areas proposed by the builder, shall determine lot area requirements sufficient to allow room for the construction and use of buildings and still conform to this Ordinance.

- b) Setbacks: Any lot line that abuts a residential district shall provide a minimum setback of 8 times that districts setback.
- c) Front yard regulation:
 - 1) The front yard setback shall be forty (40) feet. On corner lots, the setback from all street lines shall be forty (40) feet, where this Industrial District is separated from a Residential District by a street, the setback from the street in the Industrial District shall not be less than 100 feet.
 - 2) The front yard bordering upon a street shall be landscaped and shall not be used for the parking of employees.
- d) Side yard regulation:
 - 1) The side yard setback shall be not less than fifteen (15) feet.
 - 2) The Industrial District side yard adjacent to a residential boundary line shall provide for a landscaped strip 60 feet in width along such boundary line. A portion of this landscaped strip shall be planted to provide a screen. The governing body may require additional side yard width in these cases. When such additional width is required, such additional width shall not exceed 100 feet and parking in this area will be permitted.
 - 3) The side yard bordering upon a street shall be landscaped and shall not be used for the parking of employees.
- e) Rear yard regulation: The rear yard setback shall be a minimum of twenty (20) feet, which may be used for parking. If the rear yard of an Industrial District abuts on or is across an alley from a Residential District, the setback shall be equal to at least eight times the setback of the Residential District.
- f) Structure Height Regulation: No building may be constructed to a height of more than forty five (45) feet in height except by conditional use permit.
- g) Impervious Surface: Not to exceed a maximum of 80%.
- h) Landscaping Requirement: Undisturbed, non-erodible areas containing existing viable natural vegetation that can be maintained free of foreign and noxious plant material shall be considered to have acceptable landscaping.

Section 83.09. I-2 HEAVY INDUSTRIAL BUSINESS DISTRICT – SPECIFIC REQUIREMENTS.

Subd. 1. Intent. The I-2 Industry District provides space for industrial activities that are deemed to involve significant levels of hazards or nuisance to workers or to adjacent uses. Designated I-2 districts are to be located so that they are always adequately separated from any residential or commercial districts by buffer zone of land or by designated I-1 district. Development within this district shall be regulated through the performance standards outlined in this chapter to promote sensitive site design and to mitigate external site impacts.

Subd. 2. Permitted and Conditional Uses. Permitted and Conditional uses in the I-2 Heavy Industrial Business District may be found in the “PERMITTED AND CONDITIONAL USE EXHIBIT” as found in Ordinance 81. Uses determined by the City to be of similar nature and found not to be detrimental to the general health and welfare of the city will be additionally permitted. When a use could be classified under two (2) similar but different types of uses, the most restrictive or specific classification for that type of use will govern. If the use is not substantially similar to any other use regulated in the land use classification chart, the Zoning Administrator shall refer the matter to the Planning Commission for a recommendation or to the City Council for determination.

- a) Use Requirements. Additional permitted or conditional uses, unique to the I-2 Heavy Industrial Business District, are as follows:
- 1) Manufacturing uses such as: Acetylene gas manufacture, electrical power plants, alcohol manufacture, battery manufacture, brick/tile/terra cotta manufacture, cement products manufacture, ready-mix concrete production, stove manufacture, shoe polish manufacture, may be considered as a Permitted Use, providing the applicant’s submittals are sufficient to demonstrate that the uses are consistent with the intent and performance requirements for an I-2 District.
 - 2) Storage including: contractor’s supply or storage yard for lumber, coal, brick and stone, which requires outside storage of product and raw material provided such use is entirely enclosed with a substantial opaque fence not less than eight (8) feet in height, may considered a Permitted Use, providing the applicant’s submittals are sufficient to demonstrate that the proposed use is consistent with the intent and performance requirements for an I-2 District.
 - 3) Processing Industries such as: tire capping or retreading, food processing including smoking, canning, and curing, iron or steel foundry, fabrication plant for heavy casing, rolling mills, Quarry and stone mills, railroad repair shops that have access to a spur line may be considered as a Permitted Use, providing the applicant’s submittals are sufficient to demonstrate that the proposed use is consistent with the intent and performance requirements for an I-2 District
 - 4) Assembly plants with industrial processes including blast furnaces, coke ovens, or boiler works providing fabrication of heavy metal castings and stampings may considered a Permitted Use, providing the applicant’s submittals are sufficient to

demonstrate that the proposed use is consistent with the intent and performance requirements for an I-2 District.

- b) Conditional Uses, Specific Standards. In addition to the standards specified no conditional use permit shall be granted in an I-2 District unless the City Council determines that each of the following specific standards will be met:
- 1) When a mix of retail, or service and manufacturing is proposed, the retail or service related uses may only occupy up to 50% square footage of the principal structure:
 - a) No exterior modifications to the building shall be permitted to facilitate a retail or service use.
 - b) No outside storage or display and or accessory structures may be used to enhance the retail purpose.
 - c) Sufficient parking shall be provided to accommodate additional retail traffic.
 - 2) When an energy source such as wind or solar is proposed to supplement or fulfill the energy requirements of the proposed use.
 - a) Setbacks from the abutting property lines shall be at a minimum equal to the height of the energy producing equipment.
 - b) The design of the proposed energy producing equipment shall be certified by a professional engineer as being adequate for the climatic conditions of the proposed site.
 - c) Wind powered generators shall be equipped with rotational regulators to prevent over-speed of the rotors and shall be designed to prevent disintegration.
 - d) The use shall comply with all building and electrical code requirements of the city, the noise regulations of the Minnesota Pollution Control Agency and the rules and regulations of the Federal Communications Commission and Federal Aviation Administration.
 - e) If the WECS has not been operated for a period of one year or fails to meet the conditions of this chapter, the City Council may order it be dismantled and the site restored to its original condition; and
 - f) If the owner or person responsible for the WECS does not maintain it or comply with all requirements of this chapter, the city may take such steps as

are necessary to achieve compliance. The cost of such work, including administrative costs, shall be a lien against the property and may be collected as a special assessment. The city may sell salvaged and valuable materials at public auction on ten days' notice.

3) Automobile Wrecking and/or Junk Yards:

- a) All junk yards or auto wrecking uses shall be screened with an eight-foot high, opaque perimeter fence.
- b) Adequate methods and production controls shall be included to prevent ground or air contamination.
- c) Sufficient parking shall be provided to accommodate the retail and process needs of the proposed use.

c) Permitted Accessory Uses.

- 1) Restaurants, lunch counters, confectioneries to serve the employees of the district.
- 2) Off-street parking and off-street loading as permitted by Ordinance 84.
- 3) Signs as permitted by the Sign Ordinance.
- 4) Outside storage, meeting the provisions specified in the General Requirements Section above, including fuel storage, provided it is screened from general public view.
- 5) Other uses customarily associated with but subordinate to a permitted use, as determined by the city.

d) District Standards. No building or land in the I-2 Heavy Industrial District shall be used except in conformance with the following:

- 1) Building Height: Maximum of 45 feet or three stories, whichever is less.
- 2) Setbacks: Any lot line that abuts a residential district shall provide a minimum setback of 4 times that district's setback.
- 3) Front yard setback: Minimum of thirty-five (35) feet from local and neighborhood collector streets as identified in the comprehensive plan, or the zoning map and from major collector or arterial roadways as designated in the comprehensive plan, if any or the zoning map if no comprehensive plan is in existence.

- 4) Side and Rear Yard Setbacks:
 - a) 100 feet from all Residential uses
 - b) 50 feet from B-1, B-2 and B-3 Business uses; and
 - c) 20 feet from L-1 Light Industrial Districts or abutting I-2 Districts.
- 5) Lot coverage: Impervious area coverage shall not exceed 80% of the property.
- 6) Trash enclosures or accessory buildings that exceed 600 square feet in size shall be considered a conditional use. All trash enclosures or accessory buildings shall be located behind the front building line of the principal building and may not impinge upon any required set back.

Section 83.10. R-D RAILROAD BUSINESS DISTRICT – SPECIFIC REQUIREMENTS.

Subd. 1. Intent. The Railroad Business District shall provide areas adjacent to mainline and spur trackage for the use of businesses that require such access, or to businesses providing services to businesses that utilize access to trackage. Uses may include transportation of rail freight, minor manufacturing or processing of materials shipped by rail. Development within the Rail Road District will take advantage of the rail facilities that transect the City of Rice.

Subd. 2. Conditional Use Permit Required. Within the RD – Railroad District, all structures or uses of land shall be considered by the City Council for a conditional use permit. In each case, the Council, with recommendation from the Planning Commission, will consider the proposed use, to ensure that the proposed use is consistent with abutting zoning districts, the Comprehensive Plan, and will not have adverse economic, social, or environmental impacts on the overall community.

The application for a Conditional Use Permit in Railroad Industrial Districts shall be accompanied by a complete plot plan showing the proposed building or buildings and also the proposed use of the balance of the property.

The plan shall show waste disposal, water supply, drainage, ingress and egress, landscaping, screening and other pertinent data. Distances to the surrounding buildings may also be shown on the plot plan. This plot plan shall also be accompanied by a signed authorization from the property owner. The Governing Body may submit these plans to the Planning Commission for consideration and recommendation. In any event no building permit shall be issued for any construction in a railroad industrial district until authorized by a majority vote of the Governing Body.

- a) RD District Requirements.
 - 1) Setback and Height Requirements.

- a) The front yard setback: Ten (10) feet.
 - b) The side yard setback: Shall be not less than five (5) feet except on street intersections where the side yard setback on the intersecting street shall be not less than fifteen (15) feet.
 - c) The rear yard setback: Shall be a minimum of ten (10) feet.
 - d) Height: Shall not be more than forty (40) feet in height.
 - e) It shall be a policy of the Governing Body to issue permits for the construction of buildings in the railroad industrial districts on the basis of the actual widths and areas required by the builder to allow room for such building and its use to conform with this Ordinance. Each proposal may be referred to the Planning Commission for study and recommendation.
- b) Permitted Accessory Uses.
- 1) Restaurants, lunch counters, confectionaries to serve the employees of the district.
 - 2) Off-street parking and off-street loading.
 - 3) Signs as permitted in Ordinance 85.
 - 4) Temporary buildings for construction purposes, but only during the period of construction.
 - 5) Outside storage of product or equipment, including fuel storage, must be screened from general public view, and shall be considered a conditional use.
 - 6) Other uses customarily associated with but subordinate to a permitted use, as determined by the city

CHAPTER 8: ZONING REGULATIONS

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ORDINANCE 84 OFF-STREET PARKING AND LOADING REQUIREMENTS

Section 84.01. PURPOSE. The off-street parking and loading regulations of this Ordinance are intended to provide accessible, attractive, secure and well-maintained off-street parking and loading areas with the appropriate number of spaces in proportion to the needs of the proposed use, increase public safety by reducing congestion of public streets, and encourage the use of alternative modes of transportation where appropriate.

Section 84.02. GENERAL REQUIREMENTS.

Subd. 1. Minimum Standards.

- a) A parking space, as referred to in this Ordinance, shall be at least eight (8) feet wide by twenty (20) feet long. In parking lots, a standard of three hundred (300) square feet per parking space shall be used as a guide to compute minimum requirements including maneuvering areas.
- b) Any off-street parking areas containing five (5) or more parking spaces must be screened from any adjacent residential area by proper landscaping.
- c) All parking areas and drives shall be constructed of concrete, blacktop, or similar durable hard surface free of dust. The periphery of all parking areas and drives in B-1, B-2 and RD with over ten (10) spaces shall be constructed with poured-in-place concrete curbing, unless otherwise approved by the City.
- d) In all Nonresidential Districts, temporary, daily off-street parking of vehicles, for a period of no more than forty-eight (48) consecutive hours, for employees or patrons of a business, need not be screened in side and rear yards adjacent to other business or industrial uses, but shall be completely screened from residential uses.
- e) Overnight parking, from dusk to dawn, is permissible in B-3 District, provided screening is provided as outlined above.
- f) Spaces for residential parking shall be on the same lots or an immediately adjacent lot as the principal building.
- g) All off-street parking spaces shall have access from a private driveway and shall not access directly onto a public street.
- h) On and off-street parking in residential districts shall be used only for the parking of vehicles of under 12,000 pounds gross weight. Recreational Vehicles shall be exempt from this provision and are regulated in Section 84.06 below. No commercial repairs of any vehicle will be permitted. (see Definitions, "Recreational Vehicles")

- i) All off-street required parking and loading spaces, together with driveways, aisles and other circulation areas, shall be improved in such a way as to provide a durable and dust-free concrete or asphalt surface. All high volume traffic areas shall have a hard surface. All parking and loading areas shall provide for proper drainage of surface water to prevent the drainage of such water onto adjacent properties or walkways. The owner of any parking lot or loading area shall maintain the area in good condition without holes and free of all dust, trash, and other debris. If lighting is used it shall not exceed five (5) foot candles.
- j) All surfacing shall be completed prior to occupancy of the structure, unless specific approval otherwise has been granted by the City with an adequate performance guarantee approved by the City.
- k) The application for any building permit shall be accompanied by a site (plot) plan, which in addition to other information, shall show the location of the off-street parking area provided for such building.
- l) No entrance to or exit from a parking area shall be more than twenty-four (24) feet in width in Residential Districts and thirty two feet in width in Nonresidential Districts. Entrances and driveways in all Nonresidential Districts must be constructed with a concrete apron. Except for residential uses, under no circumstances will off-street parking areas be designed so that vehicles must back into the street or public way. Determination of Nonresidential entrance requirements will be at the discretion of the City and considered during the site plan review process. The following variables will be considered:
 - 1) The property's location with respect to the adjoining street and the volume of traffic on said street.
 - 2) The site of the structure located on such commercial/industrial property.
 - 3) The number of customers and employees using such commercial/industrial property.
 - 4) The likely number of commercial vehicles and/or trucks servicing the business to be located on such commercial/industrial property.
- m) At an intersection or at an entrance, nothing shall be placed or allowed to grow in such a manner as to obstruct a motorist's sight triangle between a height of two and one-half (2 ½) and ten (10) feet above the centerline grades of the intersecting streets.

- n) No public or private garage in a Nonresidential District for more than five (5) motor vehicles shall have an entrance or exit within thirty (30) feet of a residential district boundary line or within one hundred (100) feet from an intersecting road.

Subd. 2 . Damage or Destruction. When a building is reconstructed or repaired after being damaged or destroyed, off-street parking and loading facilities must be restored or maintained in an amount at least equivalent to that at the time of such damage or destruction. However, it is not necessary to restore or maintain parking and loading facilities in excess of the applicable requirements of this section.

Subd. 3. Change in Land Use. When the existing use of a building, structure, or parcel of land is changed to a new use, parking and loading spaces must be provided as requirement for the new use.

Subd. 4. Change in Intensity.

- a) When the intensity of use of any building, structure or parcel of land is increased, additional parking and loading spaces must be provided. The number of additional parking and loading spaces is based on the change in use or the increase in the number of dwelling units, gross floor area, seating capacity, or other unit of measurement used to calculate the required number of parking or loading spaces.
- b) When the intensity of use of any buildings, structure or parcel of land is decreased, the number of parking and loading spaces may be reduced so long as the parking requirements of this Ordinance are met for the entire building, structure or parcel of land as modified.

Subd. 5. Striping. All non-residential and multi-family off-street parking areas where ten (10) or more spaces are required must be marked by a durable painted stripe designating the parking spaces.

Subd. 6. Lighting. Lighting fixtures shall be of a downcast, cutoff type, concealing the light source from view and preventing glare from spilling into residential areas. Lighting levels shall be measured in foot-candles five (5) feet off the ground or floor level. The following light levels shall be met:

- | | |
|--|-------------------------|
| a) Lot line of adjacent residential property | 0.5 foot candle maximum |
| b) Open parking areas | 1.0 foot candle minimum |
| c) Covered parking facilities/night (minimum): | |
| General parking & pedestrian areas | 5 foot candles |
| Ramps & corners | 5 foot candles |
| Entrances & exits | 5 foot candles |
| Stairwells | 20 foot candles |

d) Covered parking facilities/day (minimum):	
General parking & pedestrian area	5 foot candles
Ramps & corners	10 foot candles
Entrances & exits	50 foot candles
Stairwells	20 foot candles

Subd. 7. Required Parking Spaces.

- a) Daycare and nursery school facilities: One (1) per each four (4) children the facility is licensed to serve.
- b) Single Family Dwellings: Two (2) parking spaces per living unit and one additional space per boarder or accessory apartment dweller who has a car or other passenger vehicle.
- c) Multiple Family Dwellings: Two and one-half (2-1/2) spaces for each living unit.
- d) Motels: One and one-fourth (1¼) space per unit plus one space for each two (2) employees.
- e) Churches: One (1) space for every three (3) seats or one (1) space for every five (5) feet of pew length, whichever is greater.
- f) Schools: Eight (8) spaces for each four (4) classrooms in grade schools, plus adequate loading areas for bus service.
- g) Private clubs, community centers, libraries, museums, and places of assembly: One (1) space for each five (5) seats.
- h) Bowling alley: Five (5) spaces for each lane.
- i) Retail business: One (1) space for every five hundred (500) square feet of sales area.
- j) Restaurants: One (1) space for every three (3) seats.
- k) State licensed residential facility: Four (4) spaces plus one (1) space for each three (3) beds for which accommodations are offered.
- l) Other businesses: One (1) space for every three hundred (300) square feet of floor area.
- m) All industrial districts: Two (2) spaces for every three (3) employees and shall provide for sufficient visitor and/or retail parking.

- n) For any and all uses or structures not specifically provided for in the foregoing: Such parking space as the governing body shall determine to be necessary, considering all the parking generating factors involved.
- o) Handicap Spaces Requirements. One parking space, designated with the appropriate signage, shall be provided for handicap parking, plus any additional parking spaces in accordance with the applicable requirements with the Americans with Disabilities Act of 1990 and the Minnesota State Building Code, as amended from time to time, or any other applicable laws, with a minimum of one (1) for every fifty (50) parking spaces.
- p) Mixed Uses. In the case of mixed uses, the parking facilities required shall be the sum of the requirements for the various individual uses, computed separately in accordance with this Ordinance. Parking facilities for one use shall not be considered as providing the required parking facilities for any other use except that the governing body may consider the joint use of a parking area (other than residential) where it is known that because of a time element, the parking facilities will not be needed by more than one of the users thereof at one time.

The City Council shall have the right to waive, vary, or modify the strict application of any of the regulations or provisions contained in this subdivision cases in which there are practical difficulties, unnecessary hardships or in the judgment of the Council no necessity for strict application of the provisions in the Ordinance or its amendments.

Section 84.03. RESIDENTIAL DISTRICT PARKING.

- a) In the event the driveway and parking areas required by Section 84.02, have not been installed at the time the final certificate of occupancy is requested due to weather, as determined in the sole discretion of the Building Official, the City may issue a conditional certificate of occupancy, provided the requestor shall enter into an escrow agreement with the City, which will specify the amount, manner, and time in which said driveway shall be completed.
- b) Licensed vehicles with a license decal greater than "D" or in excess of 12,000 pounds as described in Minnesota Statutes, Section 186.013 are prohibited from on or off street parking in any Residential District.

Section 84.04. NONRESIDENTIAL DISTRICTS PARKING & LOADING.

Subd. 1. Driveways. All driveways in Nonresidential Districts shall be constructed with a concrete apron. Driveways in B-1, B-2 and B-3 Districts are restricted to a single driveway per lot with a maximum width of twenty-four (24) feet. Driveways in I-1, I-2, and RD Districts shall be limited to two (2) entrances with a maximum width of thirty-two (32) feet. Driveways shall adhere to the setback requirements per zoning district, except for the principal access to the public thoroughfare.

Subd. 2 Parking Lots.

- a) Parking Lots in B-1, B-2, and B-3 Nonresidential Districts shall be constructed with curb and gutter and shall have a concrete, asphalt or bituminous surface.
- b) Employee and customer parking lots in I-1, I-2 and RD Nonresidential Districts shall be constructed with curb and gutter and may have a concrete or bituminous surface. Truck parking may be gravel, with appropriate runoff controls.
- c) Surface Parking Lots in the Nonresidential Districts B-1, B-2, and B-3 shall be located at the side or rear of buildings and not in the front yard area, except as specifically authorized in this Code.
- d) Parking space dimensions for angled parking shall be approved by the City, based on acceptable planning standards.
- e) An exemption in I-1, I-2 and RD Districts may be approved by the Zoning administrator to allow employee and truck parking in the front of the lot where the primary structure in any Industrial or Rail Road District fronts on a public street, but is further than three hundred (300) feet from, or is not visible from a Residential Zone.

Subd. 3 Loading and Unloading.

- a) On the same premises with every building devoted to retail trade, retail and wholesale food markets, warehouses, supply houses, wholesale or manufacturing trade, laundry, dry cleaning establishments or other buildings that do not rely primarily on railroad transfer and where large amounts of goods are received or shipped, erected in any district after the effective date of this Ordinance, loading and unloading space shall be provided as follows:
 - 1) In Nonresidential Districts, the property owners shall ensure the off-street capacity parking needs will be able to accommodate the truck services required specifically for the unique needs of each business servicing that use.
 - 2) In neighborhood business districts, one (1) off-street loading and unloading space shall be provided for each store unit.
- b) No required off-street loading space shall be less than three hundred (300) feet from any residential district boundary line.

Section 84.05. SHARED PARKING IN R-2 AND NONRESIDENTIAL DISTRICTS.

- a) Required parking facilities serving two (2) or more uses may be located on the same lot or in the same structure, provided that the total number of parking spaces furnished shall not be less than the sum of the separate requirements for each use.
- b) A shared parking plan, involving fewer than ten parking spaces may be approved by the City. A shared parking plan involving in excess of ten (10) may be approved with a Conditional Use Permit if at least the following conditions are met:
 - 1) No more than fifty percent (50%) of the required parking spaces for a given use may be shared with another use.
 - 2) The applicant shall show that there is no substantial conflict between the principal operating hours of the uses that will share parking spaces.
 - 3) A properly drawn legal instrument covering access easements, cross parking arrangements, maintenance, or other pertinent issues, executed by the parties involved, and approved by the City Attorney, shall be filed with the City Clerk-Administrator and the County.

Section 84.06. RECREATIONAL VEHICLE PARKING & STORAGE IN RESIDENTIAL DISTRICTS.

- a) Time. On-street parking for a recreational vehicle shall be permitted but not to exceed thirty six (36) hours within a consecutive seven-day period.
- b) Number. The maximum number of recreational vehicles permitted to be parked or stored outside of a building in a residential district will be one (1).
- c) Size. No recreational vehicles greater than forty five (45) feet in length shall be permitted on any residential lot in the City.
- d) Location. Recreational vehicles may be parked or stored in the front yard, interior side yard, street side yard, and rear yard, provided that a five (5) foot setback is maintained.
- e) Ownership & Guest Parking. All recreational vehicles parked or stored shall be owned or leased by an occupant of the premises where parked or stored. Guests of the occupant of the premises may park on a driveway on the premises for a period not exceeding seven (7) days in any consecutive thirty (30) day period. No nuisances, including noise, light, odor created by such guest parking are permitted.

CHAPTER 8: ZONING REGULATIONS

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ORDINANCE 85 SIGNS

Section 85.01. PURPOSE. The purpose of these sign regulations is to establish a set of standards to control the erection and use of on-premises and off-premises advertising, symbols, markings, or devices within the City of Rice.

Section 85.02. DEFINITIONS.

Subd. 1. Accessory Sign: A sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services or activities on the premises on which it is located.

Subd. 2. Address Sign: Postal identification numbers only, whether written or in numeric form.

Subd. 3. Area Identification Sign: A free-standing sign that identifies the name of a neighborhood, a residential subdivision, a multiple residential complex consisting of three (3) or more structures, a shopping center or area, an industrial area, an office complex consisting of three (3) or more structures or any combination of the above that could be termed an area.

Subd. 4. Banners and Pennants: Attention-getting devices that resemble flags and are of a nonpermanent paper, cloth or plastic-like material.

Subd. 5. Bench Signs: A sign that is affixed to a bench or shelter at a bus stop.

Subd. 6. Bulletin Sign: An accessory sign that announces goods or services available through the use of changeable letters.

Subd. 7. Church Directional Sign: A sign that bears the address and/or name of a church and direction arrows pointing to a church location.

Subd. 8. Dynamic Display Sign: "Dynamic display" shall mean 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 itself, or any other component of the sign. This includes a display that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components. This also includes 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.

Subd. 9. Free-Standing Sign: A sign that is placed in the ground and not affixed to any part of any structure.

Subd. 10. Illuminated Sign: Any sign that is illuminated by an artificial light source, which shall include all electronic signs utilizing internal light sources and any sign that makes use of electric lighting to reflect off of an otherwise opaque message surface.

Subd. 11. Institutional Sign: Any sign or bulletin board that identifies the name and other characteristics of a public or private institution on the site where the sign is located.

Subd. 12. Non-Accessory Sign: A sign other than an accessory sign.

Subd. 13. Portable Sign: A sign that is not permanently attached to the ground or any structure and so designed as to be movable from one location to another.

Subd. 14. Permanent Sign: Any sign that is not a temporary sign.

Subd. 15. Pylon Sign: A free-standing area identification sign greater than twenty (20) feet in height, intended for freeway advertising.

Subd. 16. Roof Sign: Any sign erected upon or projecting above the roofline of a structure to which it is affixed.

Subd. 17. Sign: Any letter, word or symbol, device, poster, picture, statuary, reading matter or representation in the nature of an advertisement, announcement, message or visual communication whether painted, posted, printed, affixed or constructed, that is displayed outdoors or on a window or on the interior of a building within three (3) feet of a window and clearly visible from the outside of said building for informational or communicative purposes.

Subd. 18. Sign Area: That area within the marginal lines of the surface that bears the advertisement, or in the case of messages, figures or symbols attached directly to any part of the building, the area that is included in the smallest rectangle that can be made to circumscribe the message, figure or symbol displayed thereon. The stipulated maximum sign area for a free-standing sign refers to a single facing.

Subd. 19. Temporary Sign: A sign that is erected or displayed for a limited period of time.

Subd. 20. Traffic Directional Sign: A sign that is erected by a governmental unit for the purpose of directing or guiding traffic.

Subd. 21. Internal Traffic Directional Sign: A sign that is erected on private property by the owner of such property for the purpose of guiding vehicular and pedestrian traffic within the property. Such sign bears no advertising information.

Subd. 22. Wall Sign: Any sign that is affixed to a wall of any building.

Section 85.03: SIGNS IN RESIDENTIAL DISTRICTS.

Subd. 1. Permitted Signs.

- a) The following on-premises signs shall be permitted in residential districts:
- 1) Nameplate Signs: One (1) sign for each dwelling unit, not greater than two feet in area, indicating the name and/or address of the occupant.
 - 2) One unlighted identification sign for each use other than residential shall not exceed four (4) square feet in area.
 - 3) One unlighted sign, having a surface area not exceeding twenty-four (24) square feet and a height not exceeding eight (8) feet, per vehicle entrance identifying each subdivision or housing development.
 - 4) One (1) unlighted sign per vehicle entrance identifying a dwelling unit complex. Such signs may indicate the name and address of the building and rental or management offices. Such signs shall have a surface area not exceeding twenty-four (24) square feet and a height not exceeding eight (8) feet.
 - 5) One area identification sign for each multiple residential complex consisting of four (4) or more structures. In R-2 districts such signs shall have a surface area not exceeding seventy-five (75) square feet and in R-4 districts surface area may not exceed one hundred (100) square feet. The height of the signs may not exceed eight (8) feet.
 - 6) One home occupation sign, non-illuminated, attached to the wall of a dwelling and not exceeding four (4) square feet in area.
 - 7) Advertising signs attached to fences within a ballpark.
 - 8) Flags, badges, or signs of any governmental agency including but not limited to emergency signs.

Subd. 2. General Regulations.

- a) No sign shall be permitted that is a hazard to the public health, safety, convenience or welfare. No sign shall be erected or maintained so as to prevent free ingress or egress from any door, window or fire escape.
- b) Signs shall not be permitted within the public right-of-way or easements except public traffic control signs as determined by the city engineer.
- c) Signs or marquees that may extend beyond the building line shall not be constructed to extend over the property line. Signs located within three (3) feet of an alley, a driveway, or parking area shall have a clearance of fourteen (14) feet above finished grade.

- d) Except as provided in this Ordinance, all signs are required to follow the setback and side yard requirements for other structures in the district where located, provided that where a drive-in service or parking is permitted one (1) ground identification sign not exceeding thirty-five (35) square feet may be erected in any required front yard or setback area; however, it may not be located closer to the street or right-of-way than the required setback distance.
- e) All displays shall be shielded to prevent light from being directed at oncoming traffic in such brilliance as to impair the vision of any driver. No device shall be illuminated in such a manner as to interfere with or obscure an official traffic sign or signal.
- f) No advertising devices shall be erected or maintained in such a place or manner as to obscure or otherwise physically interfere with an official traffic control device or a railroad safety signal or sign, or to obstruct or physically interfere with the drivers' view of approaching, merging, or intersecting traffic.
- g) No advertising device shall be erected closer to any other such advertising device on the same side of the same street than 100 feet; provided, however, that this provision shall not prevent the erection of double-faced, back-to-back, or v-type advertising devices with a maximum of two signs per facing; the spacing between advertising devices does not apply to structures separated by buildings or other obstructions in such a manner that only one sign face located within the above spacing distances is visible from the street at any one time.
- h) Directional signs shall be permitted in all districts provided the total area of each sign shall not exceed four (4) square feet per sign face.
- i) It is unlawful to maintain for more than thirty (30) days, any sign that has become obsolete because of the discontinuance of the business, service, or activity that it advertises, removal from the location to which it directs, or for any other reason. The fact that an obsolete sign is nonconforming shall not be construed as modifying any of the requirements of this Ordinance.
- j) It is unlawful to erect or maintain any sign on any property, public or private, without the consent of the owner or occupant thereof.
- k) All signs shall be maintained in good condition and the area around them kept free from debris, bushes, and high weeds and from anything else that would be a nuisance.
- l) "Billboards" in commercial and industrial districts are permitted to the extent authorized under the terms of this Ordinance and provided that they do not contain more than twelve (12) square feet of area per lineal foot of frontage of such lot and must contain spacing of 1,000 feet between the billboards. The billboards must be supported by a metal drum base (monopole).

Subd. 3. Permit Requirements.

- a) Except as otherwise herein provided, it shall be unlawful for any person to erect, repair, alter, relocate, or maintain within the city any sign as defined in this Ordinance without first obtaining a permit from the Building Official and paying of the fee required. Fees for sign permits shall be in the amount established from time to time by the governing body. Sign permits shall be renewed annually. The renewal fee shall be in an amount established from time to time by the governing body.
- b) Application for permits shall be made upon forms provided by the city and shall be accompanied by:
 - 1) The name and address of the sign owner and sign erector.
 - 2) A drawing to scale showing the design, location, and construction of the sign.
 - 3) Written consent of the owner or lessee of any site on which the sign is to be located.
 - 4) Such other pertinent information as the Building Official may require insuring compliance with this Ordinance.
- c) The following signs shall be exempt only from a permit fee. The owner shall not be relieved from the responsibilities of following other regulations of erection and maintenance.
 - 1) One (1) on-premises unlighted or indirectly illuminated identification sign not exceeding two (2) square feet in area in residential zones and six (6) square feet in other zones. The identification sign may announce only the name and/or address of the occupants of the premises.
 - 2) Signs located on the rolling stock of common carriers, or on motor vehicles or trailers bearing current license plate, that are traveling or lawfully parked upon public highways, or lawfully parked upon other premises for a period not exceeding four hours, or for longer periods when the primary purpose of such parking is not the display of any sign, and where the number of vehicles bearing a sign or signs of any one advertiser does not exceed one plus one more for each 25,000 square feet of area of the premises.
 - 3) Signs that are located on the interior of a building and are not visible from outside the building.
 - 4) On-premises signs located inside an enclosed building and visible through a window or windows thereof where the area of such signs does not exceed twenty-five (25) percent of the area of the windows.

- 5) Signs indicating only the name and/or date of erection of a building, having an area not exceeding six (6) square feet, and made an integral part of the structure.
- 6) Public signs of a non-commercial nature erected by, or on the order of, a duly constituted public office of City, County, State or Federal Governments in pursuance of their public duties.
- 7) Temporary signs except as otherwise provided in Section 85.05.
- 8) One (1) sign for one hundred feet (100') of lineal frontage per lot, not to exceed two (2) signs for any lot provided such signs do not exceed two hundred square feet (200') per sign (with one face side considered). One (1) structure will be considered one (1) sign even if said structure advertises multiple businesses. The sign face will be a ratio of 1.25 square feet per one (1) lineal foot of property frontage. Building wall signs shall not exceed fifteen percent (15%) of the actual building frontage.
- 9) On-premises signs having an area of not more than six (6) square feet each, the message of which is limited to warning of any danger, prohibition or regulation of the use of this property or traffic or parking thereon.

Section 85.04. SIGNS IN BUSINESS DISTRICTS.

Subd. 1. Standards and Requirements. The following regulations shall apply to signs in business districts:

- a) On-premises identification, business, or area identification signs are permitted. There may be building signs, free standing signs and pylon signs, the last not exceeding thirty-five (35) feet in height. Nearby residents shall be protected from direct light if these signs are illuminated.
- b) In B-1 district, the business sign area for a lot shall not exceed the following:
 - 1) Building wall signs shall not exceed one (1) square foot per lineal lot front or ten percent (10%) of building frontage area, or fifty (50) square feet, whichever is the greatest.
 - 2) Free standing signs shall not exceed fifty (50) square feet.
 - 3) Total square footage of all signs shall not exceed one hundred (100) square feet.
- c) In B-2 districts, the business sign area per lot shall not exceed the following:
 - 1) Building wall signs shall not exceed two (2) square feet per lineal lot front or twenty (20%) of building frontage area or seventy-five square feet, whichever is the greatest.

- 2) Free standing signs shall not exceed fifty (50) square feet per side and shall have a maximum total sign face area of one hundred square feet (100) for all sides.
 - 3) Total square footage of all signs may not exceed two hundred (200) square feet per side and shall have a maximum total sign face area of one hundred fifty (150) square feet for all sides.
 - 4) One sign for 100 feet of lineal frontage per lot, not to exceed 2 signs for any lot.
 - 5) The maximum size of a sign shall be 200 square feet (with one face side considered.) One structure shall be considered one sign even if the structure advertises multiple businesses. The sign face will not exceed 1.25 square feet per one lineal foot of property frontage.
 - 6) Building wall signs shall not exceed fifteen percent (15%) of the actual building frontage.
- d) In B-3 districts, the business sign area per lot shall not exceed the following:
- 1) One sign for one hundred (100) feet of lineal frontage per lot not to exceed two (2) signs for any lot and a maximum of two hundred (200) square feet per sign (with one (1) face side considered).
 - 2) One (1) structure will be considered one (1) sign even if said structure advertises multiple businesses.
 - 3) The sign face will not exceed 1.25 square feet per one (1) lineal foot of property footage.
 - 4) Building wall signs shall not exceed fifteen percent (15%) of the actual building frontage.
- e) Signs in Industrial Districts. The following regulations shall apply to signs in Industrial Districts:
- 1) Where appropriate, any sign permitted in the residential or business district shall be permitted in the Industrial District. Signs shall be under the same restrictions specified for those districts except as modified in this paragraph 5.
 - 2) Identification signs shall not exceed six (6) square feet. Building wall signs shall not exceed twenty percent (20%) of building frontage area.
 - 3) Free standing, pylon, or area identification signs may not exceed two hundred (200) square feet.

- 4) The total square footage of sign area for each lot shall not exceed five (5) square feet for each lineal foot of lot frontage.

Section 85.05. TEMPORARY SIGNS.

- a) Temporary signs shall be allowed in any district without a permit, except as specifically provided herein. There shall not be more than three (3) such signs, excluding political or campaign signs, on any lot. All signs shall be set back a minimum of ten (10) feet.
- b) During the development of a new subdivision consisting of two or more lots, there shall be allowed one sign in the subdivision not to exceed fifty (50) square feet in surface area and not to exceed eight (8) feet in height. The sign shall advertise the development and may name the subdivision. Subdivision layout, developer, contractors, brokers and financial institutions involved. A permit shall be obtained for the placement of such signs and a fee paid as set by Council resolution. Additional signs having a surface area not exceeding four (4) square feet, and a height not exceeding six (6) feet, directing the public and/or identifying models in the subdivision are also permitted. Both types of signs shall be removed when fifty percent (50%) of the lots are developed or within two years, whichever shall occur first. Such signs shall not be illuminated.
- c) Campaign signs posted by a bona fide candidate for political office, or by a person or group promoting an issue or a political candidate, may be placed in any district providing such signs do not exceed six (6) square feet per sign in a residential district and thirty-two (32) square feet per sign in any other district. Such a sign may be erected for a period not to exceed sixty (60) days prior to the general election, or sixty (60) days prior to a primary if one is held for a particular office, and shall be removed within five (5) days following the date of the election. Removal shall be the responsibility of the person placing the sign. Each sign shall show the name and address of the person responsible for the placement and removal of the sign. In all cases where the sign is not removed within the time allowed, or after a notice to remove it by the city, the city may cause the sign to be removed and the cost of the removal shall be charged to the person named on the sign. This Ordinance shall not limit the number or size of signs where such limitation is prohibited by Minnesota Statutes, Section 211B.045.
- d) An unlighted, on-premises sign, for the purpose of selling, leasing, or renting of lots, premises, or parts of premises shall be permitted in all districts provided such signs shall not exceed four (4) square feet in residential districts and thirty (30) square feet in other districts. Such signs shall be removed within seven (7) days following sale or lease. A corner lot may have two signs.
- e) Construction signs that identify the architects, engineers, contractors and other individuals or firms involved with the construction, and announce the character of the building, enterprise or the purpose for which the construction is intended, may be erected during the construction period. Signs for this purpose are limited to thirty-two (32) square feet on any one site. The signs shall be confined to the site of construction and shall be removed by the beginning of the intended use of the project.

- f) Decorative banners, flags, cloth signs, portable signs and search lights may be temporarily used in non-residential districts on a business property for a promotional event not to exceed seven (7) days prior to the event and to be removed immediately after the event. These devices shall be allowed for thirty (30) days maximum.
- g) Temporary displays that are erected to celebrate, commemorate or observe a civil or religious holiday are permitted.
- h) Temporary signs for special events by non-profit organizations are permitted, provided the sign does not exceed thirty-two (32) square feet in size.
- i) Temporary signs not exceeding four (4) square feet advertising home or garage sales at private homes. Those placing such signs are responsible for their removal within twenty-four (24) hours of the conclusion of the sale. Each sign shall show the name and address of the person responsible for the placement and removal of the sign.
- j) Other temporary signs shall be authorized by the Zoning Administrator for not more than two (2) months in a calendar year by written permit, which shall show the size, shape, content, height, type of construction and location of such signs and the period during which authorized, upon a finding by the Zoning Administrator, on the basis of written information furnished by the applicant, that the proposed signs are necessary for the direction of the public and not contrary to the purpose and spirit of this Ordinance, and upon payment of a fee as established by the governing body for each permit and renewal of each sign.

Section 85.06. NONCONFORMING SIGNS.

- a) It is intended that the City will eliminate nonconforming signs, except as otherwise specifically set forth in this section, as rapidly as the police power of the city permits. Any lawfully erected sign the maintenance of which is made unlawful by this Ordinance may continue to be maintained as such existed at the time when the maintenance thereof became otherwise unlawful under the provisions of this Ordinance, except as herein specified.
- b) No nonconforming sign:
 - 1) Shall be changed to another nonconforming sign.
 - 2) Shall be structurally altered so as to change the shape, size, type or design of the sign.
 - 3) Shall be changed to enlarge or extend its nonconformity.
 - 4) Temporary signs, in use as of the date of this Ordinance, may continue in use for a period of 2 years after the adoption of this Ordinance, at which time all use shall terminate and all continued use of said signs shall be subject to the terms of this Ordinance.
- c) The Zoning Board of Appeals may permit variances from Section 85.06, or variances permitting the erection or maintenance of a nonconforming sign only upon the grounds established by law

for the granting of zoning variances or upon finding that a grant of a variance will reduce the degree of non-conformance of an existing sign or will result in the removal of one or more lawfully nonconforming signs and replacement by a sign or signs more in keeping with the spirit, purpose and provisions of this Ordinance.

- d) Normal maintenance of a legal nonconforming sign is permitted, including necessary structural repairs that do not intensify or extend the nonconforming status.
- e) Whenever a legal nonconforming sign has been damaged, and the damage is fifty percent (50%) or more of its fair market value as estimated by the Building Official, the sign must be removed unless a building permit is applied for within 180 days of such damage.

CHAPTER 9: DEVELOPMENT REGULATIONS

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ORDINANCE 90 DEVELOPMENT STANDARDS

Section 90.01. ADMINISTRATION OF CODE. Notwithstanding anything in this chapter to the contrary, the provisions of Minnesota Statutes, Section 15.99 as it may be amended from time to time, and the following sections shall govern the process for making decisions under this chapter. To the extent to which these sections conflict with the provisions of Minnesota Statutes, Section 15.99, as it may be amended from time to time, the provisions of that statute shall apply.

Any landowner may request a determination by the City Council that a use not included in the Zoning Ordinance is substantially similar to a use classified as permitted, conditional or accessory. An application for such a determination shall be filed with the Zoning Administrator who shall refer it to the Planning Commission. The Planning Commission shall consider the application and shall file its recommendations with the City Council. If the City Council determines that the use is substantially similar to a use included in these regulations, such use shall thereafter be permitted whenever the similar listed use is authorized.

Subd. 1. Zoning Administrator. The office of Zoning Administrator is hereby established. The duties of this office shall rest with the City Clerk-Administrator, except that he or she may assign all or a portion of these duties to City staff or consultants, or to an appointed position or positions, at the direction of the City Council. The duties of the office shall include the following:

- e) Periodically inspect buildings, structures, and uses of land to determine compliance with the terms of the Zoning Ordinance;
- f) Notify, in writing, any person responsible for violating a provision of the Zoning Ordinance, indicating the nature of the violation and ordering the action necessary to correct it;
- g) Order discontinuance of illegal use of land, buildings or structures; order removal of illegal buildings, structures, additions, alterations; order discontinuance of illegal work being done; or take any other action authorized by this Chapter or the Zoning Ordinance to ensure compliance with or to prevent violation of its provisions, including cooperation with the City Attorney in the prosecution of complaints;
- h) Maintain permanent and current records of the Zoning Ordinance, including all maps, amendments, conditional uses, and variances;
- i) Maintain a current file of all permits, all certificates, and all copies of notices of violation, discontinuance, or removal for such time as necessary to ensure a continuous compliance with the provisions of this Chapter and the Zoning Ordinance and, on request, provide information to any person having a proprietary or tenancy interest in any specific property;
- j) Provide clerical and technical assistance to the Planning Commission and Board of Appeals and Adjustments;

- k) Submit each month to the Planning Commission an itemized summary of certificates and permits granted and other significant activity of the preceding month;
- l) Receive, file and forward to the board of appeals and adjustments or Planning Commission all applications for conditional use permits, variances or amendments.

Subd. 2. Administrative Fees.

- a) Permit Charges. No person shall be issued a permit pursuant to this Chapter or the Zoning Ordinance until the applicant has paid to the Administrator the fixed and additional costs incurred by the City in reviewing the application as provided for in this Chapter or the Zoning Ordinance.
- b) Fixed Administrative Costs. Each applicant shall be charged the fixed fee specifically provided in this Chapter or the Zoning Ordinance or in duly enacted resolutions of this City as required to cover the costs incurred by the City in administratively processing, reviewing and issuing, if granted, each permit.
- c) Variable Additional Costs. Each applicant shall be charged an amount equal to the additional costs incurred by the City in processing and reviewing each application for a permit including, but not limited to, engineering, legal and planning consultant costs when authorized by the City Council.
- d) Initial Payment. At the time of making application for a permit, each applicant shall pay the fixed fee as described above in paragraph 2 plus a deposit for the costs described above in paragraph 3, which shall equal the City Clerk-Administrator's estimate of the additional costs the City will incur in processing and reviewing the applicant's particular permit application if such an estimate can be made.
- e) Payment of Costs. If no estimate of costs can be made by the administrator, the applicant shall receive a monthly statement of costs incurred by the City, which shall be payable fifteen (15) days after receipt by the applicant. Failure to pay such costs shall result in a suspension of action on the application. If a payment of estimated costs has been made, such payment shall be a credit against such statements until the sum is exhausted in which event the excess shall be due upon receipt of the statement. Any unused portion of the deposit shall be refunded upon final action on the application. No permits shall be issued until an applicant shall make payment in full of costs billed to the applicant.
- f) Unpaid Costs. The City Council shall certify all unpaid costs described above in paragraph 5 to the County Auditor who shall enter them upon the tax records as a lien upon such land to be collected in the same manner as other real estate taxes are collected.

- g) Establishment of Fees. An administrative fee schedule for planning and zoning applications shall be established by City Council resolution at the first City Council meeting of each year.

Subd. 3. Severability. If any court of competent jurisdiction adjudges any provisions of this Code to be invalid, such judgment will not affect the validity and continued enforcement of any other provisions of this Code. If any court of competent jurisdiction adjudges the application of any provisions of this Code to any property, structure, or use to be invalid, such judgment will not affect the application of that provision to any other property, structure, use not specifically included in that judgment.

Subd. 4. Inconsistent Provisions. If the text of this Ordinance or the Zoning Ordinance conflicts with an exhibit on the chart, the text will supersede the exhibit or chart, but if the text is omitted but listed on the chart, the chart will supersede.

Subd. 5. Enforcement. This Code is administered and enforced by the Zoning Administrator who is the designated enforcing agent. In carrying out this general authority, the Zoning Administrator shall:

- a) Cause inspections of buildings and the use of land to determine compliance with the terms of this Code.
- b) Maintain permanent and current records pertaining to this Ordinance and the Zoning Ordinance, including, but not limited to maps, amendments, conditional uses, variances, appeals, and applications thereof.
- c) Receive, file, and forward applications for rezoning, variances, conditional use permits, or other action to the appropriate official bodies.
- d) Provide clerical and technical assistance to the Planning Commission and the City Council.
- e) Make recommendations to the City Council on the institution of appropriate actions or proceedings for enforcement of this Chapter and the Zoning Ordinance on amendments, and on any other matters relating to the administration of this Chapter and the Zoning Ordinance.
- f) The City shall require that any application for a building permit, and the accompanying site plan for all construction, contain all of the information necessary to enable them to determine whether the proposed structure complies with the provisions of this Chapter and the Zoning Ordinance. No building permit shall be issued for the construction, structural alteration, or moving of a structure until the City has verified that the proposed building other alteration complies with all the provisions of this Ordinance and the Zoning Ordinance and other applicable regulations.

- g) The Police Department, as the enforcing agency of this Ordinance and Zoning Ordinance, shall have all the powers, duties, and responsibilities, necessary to enforce the provisions of this Chapter and the Zoning Ordinance and to issue such directives as may be necessary to carry the intent thereof.
- h) After conviction becomes final, the continued violation of such provision constitutes a separate offense for each day such violation continues, with the exception of Subdivision regulations. Anyone violating any of the Subdivision regulations of this Code is guilty of a misdemeanor, and each month such violation continues constitutes a separate offense.

Subd. 5. Violations and Penalties.

- a) Violations. A failure to comply with any of the requirements of this Ordinance and the Zoning Ordinance, including violations of conditions and safeguards established in connection with the granting of variances, conditional use permits, subdivisions, and planned unit development plan approvals shall constitute a violation of this Ordinance and the Zoning Ordinance. Any violation of the terms and provisions of this Chapter or the Zoning Ordinance shall constitute a misdemeanor.
- b) Legal Proceedings. The Zoning Administrator, the Planning Commission, the Board of Zoning Appeals or any designated enforcement official may bring to the attention of the Planning Commission, City Council, or City Attorney a violation of the provisions of this Ordinance or the Zoning Ordinance in order to initiate legal proceedings pursuant to law.
- c) Mandatory Injunction. In the event of a violation, or threatened violation of this Chapter or the Zoning Ordinance, the City Council and/or Administrative Officer, in addition to other remedies may institute appropriate action or proceedings to prevent, restrain, correct, or abate such violations or threatened violations and it shall be the duty of the City Attorney to institute such action. This will include, but not be limited to mandamus, injunction, or any other appropriate remedy in any court of competent jurisdiction. The Zoning Administrator, the Planning Commission, the Board of Zoning Appeals or a designated enforcement official may request the Planning Commission, City Council, or City Attorney to bring an action for a mandatory injunction directing any person to remove a structure and/or discontinue working in violation of the provisions of this Ordinance or the Zoning Ordinance pursuant to law.
- d) Common Nuisance. Any structure erected, raised, or converted, or land or premises used in violation of any provision of this Ordinance or the Zoning Ordinance or the requirements thereof, is hereby declared to be a common nuisance and as such, may be abated in such a manner as nuisances are now or may hereafter be abated under existing law.

- e) Fines. Any violation of this Ordinance or the Zoning Ordinance is a misdemeanor. For the purposes of this Ordinance and the Zoning Ordinance, each twenty-four hour day that a violation continues shall constitute a separate offense.
- f) Person in Violation. Any person, who attempts, commits, participates in, assists or maintains a violation of this Ordinance or the Zoning Ordinance may be found guilty as a principal and suffer the penalties herein provided.
- g) Remedy for Failure. The remedy provided in this Ordinance for failure to comply with any of the requirements of this Ordinance or the Zoning Ordinance, whether civil, criminal, or otherwise, shall be cumulative and shall be in addition to any other remedy provided by law.

Section 90.02. TRANSITION RULES. In determining the applicability of this Code, with respect to the previous applicable regulations, the following rules apply.

- a) Existing Unlawful Uses and Structures. A structure or use not lawfully existing at the time of adoption of this Code must be deemed lawful as of the effective date of this Code if it conforms to all requirements of this Code. If such structure or use does not conform to all the requirements of this Code, then the structure or use must remain unlawful.
- b) Existing Permitted Uses. When a lot is used for a purpose that was classified as a permitted use prior to the effective date of this Code, and such use is classified as a conditional use by this Code that use is hereby deemed a lawful conditional use for the purpose of this Code. Any addition, enlargement or expansion of such use must conform to the requirements for conditional uses within this Code.
- c) Uses Rendered Nonconforming. When a lot is used for a purpose that was a lawful use before the effective date of this Code, and this Code, or any amendment thereto, no longer classifies the use as either a permitted or conditional use in the zoning district in which it is located, that use is deemed a legal nonconforming use and is controlled by the provisions of Section 90.11 “Nonconformities” below.
- d) Structures and Lots Rendered Nonconforming. Where any lawful structure or lot existing on the effective date of this Code does not meet all standards set forth in this Code, or any amendment thereto, that structure or lot is deemed nonconforming and is controlled by the provisions of Section 90.11 “Nonconformities” below.
- e) Previously Issued Building Permits. Where construction has lawfully begun prior to the effective date of this Code, or subsequent amendment thereto, such construction is permitted, provided:
 - 1) A complete building or signed permit application is received that contains all requested and required information, prior to City Council action adopting or amending this Code.
 - 2) Actual construction is begun within thirty (30) days after City Council action to adopt or amend this Code and is diligently prosecuted to completion. Actual building construction

means the placing of construction materials in a permanent position and fastened in a permanent manner, and does not include the demolition or removal of an existing building.

There is no entitlement under this paragraph e to continue construction that is inconsistent with this Ordinance or the Zoning Ordinance or the Subdivision Ordinance, or any amendment, on the basis of any permit issued during consideration of adoption or amendment of such ordinances when the applicant is authorized to make improvements at the applicant's risk and the applicant elects to commence construction.

Section 90.03. BUILDING PERMITS.

Subd. 1. Building Permits Required.

- a) No person or corporation may erect, construct, enlarge, repair, move, improve, convert, or demolish any structure in the City, or cause the same to be done, without first obtaining a separate building permit for each such structure from the Building Official.
- b) No building permit or other permit or certificate pertaining to the use of land or buildings shall be issued unless such building is designed and arranged to conform to the provisions of this Chapter and the Zoning Ordinance.

Subd. 2. Site Plan Required. Every application for building permit shall be accompanied by a site plan, in duplicate, drawn to scale showing actual dimensions of the following, if applicable:

- a) the lot or lots to be built upon;
- b) the location and size of the structures;
- c) improvement or use to be erected, altered or placed on the lot;
- d) location of required parking and loading areas;
- e) size of yards and open spaces;
- f) existing and proposed streets and alleys adjoining or within the lot;
- g) such other information as may be necessary to provide for the enforcement of this Chapter; and
- h) in the case of flood land areas, elevations and locations of the following must be shown: lot, existing or proposed structures, fill, and storage of material and stream channel.

Subd. 3 . Occupancy Certificate Required. No land shall be occupied or used and no building erected, reconstructed or structurally altered after the adoption of this Code shall be occupied or used, in whole or in part, for any purpose whatsoever, until a certificate of occupancy has been issued by the Building Official stating that the building and the use appears to comply with all of the provisions of this Chapter or the Zoning Ordinance applicable to the building or premises of the use in the district in which it is located.

Subd. 4. Change in Use. No change in use shall be made in any building or part thereof, now existing or hereafter erected, reconstructed or structurally altered, without a certificate of occupancy having been issued by the Zoning Administrator, and no such permit shall be issued to make such a change unless it is in conformity with the provisions of this Chapter or the Zoning Ordinance. Application for a certificate of occupancy shall be made with the application for a building permit and shall be issued within ten (10) days after the lawful erection, reconstruction or structural alteration is completed.

Subd. 5. Expiration of Permits.

- a) Work not Begun or Abandoned. Every permit issued under this Chapter or the Zoning Ordinance shall expire by limitation and become null and void if the work authorized thereby is not commenced within one hundred twenty (120) days from the date of issue of such permit, or if the work authorized thereby is suspended or abandoned at any time after work has been commenced for a period of one hundred twenty (120) days.
- b) New Construction. In the case of a permit issued under this Chapter or the Zoning Ordinance for new construction of a one- or two-family dwelling, such permit shall expire and become null and void if the dwelling is not completed by the end of two (2) years from the date of issuance of the permit.
- c) Alterations. In the case of a permit issued under this Chapter or the Zoning Ordinance for the construction of additions, alterations or improvements to an existing one- or two-family dwelling, or accessory structures thereto, such permit shall expire and become null and void if the dwelling is not completed by the end of one (1) year from the date of issuance of the permit.
- d) Extensions. The time limits set forth in Subdivisions 1 through 3 may be extended with the approval of the Planning Commission provided that a written application for such extension, with stated reasons for the extension, is submitted to the Zoning Administrator at least two (2) weeks prior to the regularly scheduled Planning Commission meeting prior to the date the permit would otherwise expire.

Subd. 6. Completion of Work. The terms completed or completion of work shall mean:

- a) Completion of all visible exterior construction with approved finished materials in accordance with a posted list available at City Hall.

- b) Painting, staining, or other exterior finishing.
- c) Finishing of driveways and walks as proposed in building plans.
- d) Removal of construction materials, equipment, debris, and excess earth from the building and property.
- e) Placement of top soil and finish grading.
- f) Finish grading of any swales within established drainage easements necessary to accommodate natural drainage of adjacent properties.

Section 90.04. APPLICATION PROCESS, GENERALLY.

Subd. 1. Submitting an Application. Notwithstanding anything to the contrary in this Chapter, all applications for any site plan, conditional use permit, variance, or for any other city approval required by this Chapter or the Zoning Ordinance, or to amend this Chapter or the Zoning Ordinance, shall be made in writing to the Zoning Administrator or other person appointed by the City Council to administer this Chapter or the Zoning Ordinance. The Zoning Administrator is authorized to reject in writing any incomplete application within fifteen (15) business days of the receipt if the application is incomplete, stating the reasons for its rejection, including what information is missing. This rejection shall be sent by first class mail to the applicant. Every application shall contain the legal description of the property and a statement of the specific permit or action being sought. Nothing in this Ordinance shall be deemed to prevent the city from requesting additional information from the applicant upon which to base a decision.

The purpose of this section is to outline the general application, notice, public hearing procedures for the Zoning applications and approvals found within this Code.

- a) Filing. An application for any application or approval may be filed by those persons, councils, boards, commissions, and officials indicated in this section or other sections of this Code for each application or approval.
 - 1) All applications are to be filed with the Zoning Administrator.
 - 2) The application will be filed in such number as the instructions provide.
 - 3) All applications must include the following information (additional information may be requested by the City). Also see specific sections for details.
 - a) Site address, legal description, lot, block, and parcel ID;
 - b) The name, address and contact information of the property owner;
 - c) The present zone classification of the property;

- d) A description of the proposed use of the property;
 - e) A map or plot showing the property and all the properties within 500 feet of the boundaries; and
 - f) A list of names and addresses of all property owners within five hundred fifty (500) feet of the parcel included in the request, plus the required fee, as set forth in the City's fee schedule, as amended from time to time.
- b) Completeness. The Zoning Administrator will determine whether the application is complete. If the application is not complete, the Zoning Administrator will notify the applicant of any deficiencies, and take no steps to process the application until the deficiencies are remedied. Once the Zoning Administrator determines that the application is complete, the application will be scheduled for consideration by the Planning Commission and a public hearing, where applicable.
- c) Fees. Every application must be accompanied by the required filing fee as established and modified from time to time, by the City Council. The failure to pay such fee when due is ground for refusal to process the application, and for denying or revoking any permit or approval for the subject property.
- d) Withdrawal of Application. An applicant has the right to withdraw an application at any time prior to the decision on the application by a City Official, commission or board. Such withdrawal must be done in writing.
- e) Successful Applications. Within one year of the date of denial, a subsequent application cannot be reviewed or heard unless there is substantial new evidence available, or if a significant mistake of law or of fact affected the prior denial. Such subsequent application must include a detailed statement of the grounds justifying its consideration. The Zoning Administrator will make a determination as to whether the subsequent application is making essentially the same request. If the Zoning Administrator finds that there are no grounds for consideration of the subsequent application, the Zoning Administrator will summarily, and without hearing, denies the request.
- f) Timeline. All application procedures must follow the timelines required by the Minnesota Statutes, Section 15.99 (Timeline for Agency Action), if applicable.

Subd. 2 . Referral to Planning Commission. Any proposed zoning amendment shall be submitted to the Planning Commission who will hold whatever public hearings it deems advisable in the manner provided in this Ordinance. The Planning Commission must then transmit to the City Council its conclusions and recommendations concerning the proposed amendment.

Subd. 3. Giving Public Notice.

- a) Time Frame. Unless otherwise specified, all notice timeframes are measured in calendar days.
- 1) All determinations for rezoning, conditional uses, variances requests shall have sixty days from the date a complete application is received. Extensions by the Planning Commission or City Council may be sought but notice shall be provided to the applicant with reasons for the extension and anticipated determination date. All subdivision requests, including preliminary and final plats, shall have one hundred twenty (120) days from the date a complete application is received for preliminary plat approval and sixty (60) days for final plat approval.
- b) Required Notice. The table below indicates which type of notice is applicable for each type of land use application and approval.

PUBLIC NOTICE TABLE:

APPLICATION AND APPROVAL NOTICE					
APPLICATION	PUBLISHED NOTICE		MAILED NOTICE		POSTED NOTICE
	Planning Commission/Zoning Board of Appeals	City Council	Planning Commission/Zoning Board of Appeals	City Council	
Text Amendment	X	X			
Rezoning	X	X	X	X	X
Administrative Variance	X		X		X
Major Variance	X		X		X
Appeals of Zoning Administrator Determination	X				
Appeals to Zoning Board of Appeals Determination		X			
Preliminary Plat	X	X			X
Final Play	X	X			X

- 1) Mailed Notice. For applications that require a mailed notice in accord with the above Table:

- a. Written notice for public hearings will be mailed to the owners of all properties located within three hundred fifty (350) feet from the property line of the subject property at least ten (10) days prior to the public hearing or the nearest twenty (20) property owners, whichever will provide notice to the greatest number of owners. The three hundred fifty (350) feet is measured in all directions from the perimeter of the subject property.
 - b. Copies of all notices to consider a text amendment or variance to the regulations, a rezoning of land, or for a conditional use permit in a Flood Plain District must be sent to the FEMA, and postmarked at least ten (10) days before the public hearing. A copy of any approved amendment, rezoning, variance or conditional use permit must be sent to FEMA and postmarked within ten days of final action.
 - c. For minor variances or minor conditional use permits that do not require a public hearing, notification must be given at least ten days prior to the date of the Zoning Administrator's decision to the owners(s) of all properties adjacent to the subject property, as well as property located directly across the street.
 - d. The giving of such notice pursuant to this section does not prevent the applicant from giving such additional notice as he/she may deem appropriate.
 - e. For the purposes of giving mailed notice, the person responsible for mailing the notice may use any appropriate records to determine the names and addresses of owners, including the local Tax Assessment Records. A copy of the notice and a list of the owners and addresses to which the notice was sent must be attested to by the responsible person.
 - f. The body conducting the hearing will hear no application unless the applicant complies in all respects with the requirements herein. The failure to give mailed notice to individual property owners, or defects in the notice, does not invalidate the proceedings, provided a bona fide attempt to comply with this requirement has been made.
- 2) Posted Notice. A public notice sign will be posted for applications for zoning map amendments, any conditional use permits, administrative and major variances, and other actions for which a public hearing is required. The following standards are required for the placements of public notice signs:
- a. The City will provide public notice sign(s) to the applicant for posting on the subject property. The sign(s) must be picked up from the City on the Friday prior to the posting date before 4:00 PM.
 - b. Sign(s) must be in place at least ten (10) days prior to the date of the public hearing and must be removed by the applicant within forty-eight (48) hours after the public hearing.

- c. The intent of the public notice sign is to notify the public of the proposed action. Therefore, the sign must be located and installed so it will be readily visible and not obscured from public view due to blockage by vegetation, fencing or other structures.
 - d. Failure to post may result in a delay of permit processing and postponement of public hearing.
 - e. Public notice signs are exempt from the requirements of the Sign Ordinance of this Code.
- 3) Convening and Location. Public hearings regarding zoning matters may be held within the corporate limits of the City by order of the City Council, Planning Commission or board of appeals and adjustments whenever said bodies deem such hearings necessary or when required by this Chapter or the Zoning Ordinance. Public hearings for amendments to the zoning ordinance or for conditional use permits shall be held in the manner provided in Minnesota Statutes, Section 462.357, subdivision 3.
 - 4) Notice Requirements. Notice of a public hearing shall be given by publication at least once in the official newspaper of the City, not less than ten (10) days and not more than thirty (30) days prior to the hearing, stating the time, place and purpose of the hearing together with a description of property affected. Not less than ten (10) days nor more than thirty (30) days prior to the hearing a copy of the notice shall be mailed by the City Clerk or Zoning Administrator to the owner or owners of the property affected and to the owner or owners of property within five hundred (500) feet of the property affected.
 - 5) Mailings. For the purpose of giving mailed notice, the person responsible for mailing the notice may use any appropriate records to determine the names and addresses of owners. Proof of mailing of notice shall be made by affidavit of the person mailing same and shall be made a part of the proceedings.
 - 6) Impact of Improper Notice. 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 has been made.

Subd. 4. Public Examination. During normal business hours, any person may examine the application and material submitted in support of, or in opposition to, the application, subject to the exceptions set forth in the Minnesota Data Practices Act. Upon reasonable request, any person is entitled to copies of the application and related documents. The City will make copies of such materials available for a fee as specified by the City.

Subd. 5. Public Hearing. All public hearings will be conducted in accordance with the rules and procedures of the body conducting the hearing. After the public hearing the Planning

Commission will make a recommendation to the City Council to approve, not approve, or approve with conditions.

Subd. 6. City Council. Upon receipt of the recommendation of the Planning Commission the City Council shall consider the proposed amendment. In considering the proposed amendment, due allowance shall be made for existing conditions, for the conservation of property values, for the direction of building development to the best advantage of the entire City, and for the uses to which the property affected is being devoted at the time. No change to the Zoning Ordinance shall be recommended unless it is required of the public good, is in the interest of the public health, safety, and welfare, and is compatible with the Comprehensive Plan of the City and any applicable requirements of this Chapter. The Council may approve, not approve or approve with conditions.

Subd. 7. Approval.

- a) A conditional use permit approved by the Council shall be established within one (1) year following the Council's determination, unless an extension of time has been granted by the City Council, as recommended by the Planning Commission. Such extension must be requested in writing and filed with the City Clerk at least thirty (30) days before the expiration of the original conditional use permit. The request for extension shall state facts showing a good-faith attempt to complete the work permitted in the conditional use permit.
- b) A certified copy of any approved conditional use permit shall be filed with the County Recorder by the owner. The Conditional Use Permit shall include the legal description of the property involved. The owner shall provide the governing body with receipt verifying said Conditional Use Permit was properly filed and recorded within thirty (30) days from mailing the city's determination.

Subd. 8. Denial. The proposed amendment may be denied by motion of the City Council and such motion shall constitute a finding and determination by the City Council that the conditions required for approval do not exist.

Section 90.05. REZONING & TEXT AMENDMENTS.

- a) Proceedings for amendment that are initiated by the petition of the owner or owners of the property and are consistent with the goals of the Comprehensive Plan shall be filed with the Zoning Administrator.
- b) Initiation. The City Council, Planning Commission, or owner of property within the City may propose a text amendment or rezoning.

Subd. 1. Application Requirements. Applications shall additional include the following information:

- a) The present zone classification of the area and the proposed zone classification;

- b) A description of the present use of each separately owned tract within the area, and the intended use of any tract of land therein;
- c) A site plan showing the location and extent of the proposed building, parking, loading, access drives, landscaping and any other improvements;
- d) A statement of how the rezoning would fit in with the general zoning pattern of the neighborhood, and the zoning plan of the entire City;
- e) A map showing the property to be rezoned, and the present zoning of the surrounding area for at least a distance of three hundred fifty (350) feet, including the street pattern of such area, together with the names and addresses of the owners of the lands in each area.

Subd. 2. Findings of Fact. The Planning Commission, in making recommendation, and the City Council, in granting approval or denial, must consider the following standards:

- a) Consistency with the Comprehensive Plan;
- b) Conservation of property values and rights, and whether the amendment will have an adverse effect on adjacent properties;
- c) Effect of the change upon existing uses of property and the zoning district(s).

Subd. 3. Retention of Zoning Power. No amendment adopted to rezone property, upon petition of its owner(s), prohibits the City Council from subsequently rezoning the same property.

Section 90.06. INTERIM USES.

Subd. 1. Authorization. The City Council may authorize an interim use of property, by means of an Interim Use Permit, which shall be processed in the same manner as a Conditional Use Permit as established in Section 90.07.

Subd. 2. Consistent Use. Interim uses may or may not be consistent with the land uses designated on the adopted Land Use Plan, and may also fail to meet all of the zoning standards established for the zoning district within which it is located.

Subd. 3. Termination. In reviewing the Interim Use Permit application, the City will establish a specific date or event that will terminate the use on the property, but in no case more than three (3) years from the date of approval of the interim use, after which the applicant shall have the right to use the property only in a manner consistent with the land use designations and policies of the City Comprehensive Plan and Zoning Ordinance.

Subd. 4. Conditions. The City Council may attach additional conditions to an Interim Use Permit to insure that it will not have adverse effects on the public health, safety, and welfare,

and that it will not impose additional costs on the public if it is necessary for the public to take the property in the future. Such conditions will be reviewed annually within the period of the Interim Use Permit, and the City Council may order the inspection and revocation of the permit as provided for in this Chapter.

Section 90.07. CONDITIONAL USES.

Subd. 1. Generally. The City Council may grant Conditional Use Permits when such permits are authorized by the Zoning Ordinance and may impose conditions and safeguards in such permits to protect the health, safety and welfare of the community and assure harmony with the comprehensive plan of the City.

Subd. 2. Criteria. In acting upon an application for a Conditional Use Permit, the City shall consider the effect of the proposed use upon the health, safety, and general welfare of the City including but not limited to the factors of noise, glare, odor, electrical interference, vibration, dust, and other nuisances; fire and safety hazards; existing and anticipated traffic conditions; parking facilities on adjacent streets and land; the effect on surrounding properties, including valuation, aesthetics and scenic views, land uses, character and integrity of the neighborhood; consistency with the Comprehensive Plan; impact on governmental facilities and services, including roads, sanitary sewer, water and police and fire; effect on sensitive environmental features including lakes, surface and underground water supply and quality, wetlands, slopes, flood plains and soils; and other factors as found relevant by the City. The City may also consider whether the proposed use complies or is likely to comply in the future with all standards and requirements set out in other regulations or ordinances of the City or other governmental bodies having jurisdiction over the City. In permitting a new conditional use or the alteration of an existing conditional use, the City may impose, in addition to the standards and requirements expressly specified by this Chapter, additional conditions that it considers necessary to protect the best interest of the surrounding area or the community as a whole.

Subd. 3. Initiation. Any owner of any property in the City may request a Conditional Use Permit.

Subd. 4. Applications. Applications for a Conditional Use Permit may be completed on a form as provided by the City, together with supplemental information as required below. All requests must comply with the provisions in Subdivision 2 above and be accompanied with an administrative fee as set by Council resolution. Additionally, applications shall include the following information:

- a) A description of the proposed use;
- b) A site plan showing the location and extent of the proposed building, parking, loading, access drives, landscaping and any other improvements;
- c) A map or plot showing the property and all property within five hundred (500) feet of the boundaries of the property;

- d) The names and addresses of the owners of record of all property within five hundred (500) feet of the boundaries of the property;
- e) Any other information required by the Zoning Administrator, Planning Commission or City Council;
- f) Applications shall be accompanied with a Site Plan, showing such information as necessary to show compliance with this Ordinance and the Zoning Ordinance, including but not limited to:
 - 1) Description of site (full legal description)
 - 2) Site Plan drawn to scale showing parcel and building dimensions
 - 3) Location of all easements
 - 4) Curb cuts, driveways, access roads, parking spaces, off-street loading areas and sidewalks
 - 5) Landscaping and screening plans
 - 6) Drainage Plan
 - 7) Sanitary sewer and water plan with estimated use per day
 - 8) Soil Type
 - 9) Any additional written or graphical data reasonably required by the Zoning Administrator or the Planning Commission.

Subd. 5. Planning Commission Action. No Conditional Use shall be recommended by the Planning Commission unless the Commission shall find:

- a) That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.
- b) That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property or predominant uses in the area.
- c) Those adequate utilities, access roads, drainage, and other necessary facilities have been or will be provided.
- d) Those adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

- e) That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.
- f) Those proper facilities are provided that would eliminate any traffic congestion or traffic hazard that may result from the proposed use.
- g) The demonstrated need for the proposed use.
- h) The proposed use is in compliance with the Comprehensive Land Use Plan adopted by the City.
- i) That the use does not have an undue adverse impact on governmental facilities, utilities, services, or existing or proposed improvements.
- j) Those proper facilities are provided that would eliminate any traffic congestion or traffic hazard which may result from the proposed use.
 - 1) That the proposed use shall provide buffering or screening as required by the City.
 - 2) The demonstrated need for the proposed use.

Subd. 6. Recording. A certified copy of any Conditional Use Permit shall be filed with the County Recorder by the property owner. The permit shall include a copy of the resolution authorizing the permit and subsequent conditions, the legal description and parcel I.D. of the property included. A recorded, certified copy must be provided to the City within thirty (30) days.

Subd. 7. Lapse Due to Non-Use. Whenever one (1) year after granting a Conditional Use Permit, the work permitted by the permit shall not have been completed, then such permit shall become null and void unless a petition for an extension of time for a period not to exceed and additional one (1) year term, in which to complete the work that has been granted by the City Council. Such extension must be requested in writing and filed with the City Clerk at least thirty (30) days before the expiration of the original Conditional Use Permit. There shall be no charge for filing such petition. The request for extension shall state facts showing good faith attempt to complete the work permitted in the conditional use permitted in the Conditional Use Permit. Such petition shall be presented to the Planning Commission for recommendation and to the City Council for a decision. Further, whenever a conditional use has not been in operation for a period of twelve months, the conditional use shall be considered null and void.

Subd. 8. Conditional Use Compliance. Any use permitted under the terms of any Conditional Use Permit shall be established and conducted in conformity to the terms of such permits and of any conditions designated in connection therewith. The effectiveness of Conditional Use Permit may be reviewed at any time but at least annually by the City Council.

Subd. 9. Inspection and Revocation. The City may at any time inspect the conditionally permitted use to determine if the applicant is strictly adhering to the Conditional Use Permit and the conditions thereof. If it is found that the permit and the conditions of the permit are not being adhered to, the applicant shall be notified in writing by the City and given ten (10) days to come into strict compliance. If compliance is not achieved after that ten day period, the City Council shall hold a public hearing to consider the matter and may revoke the Conditional Use Permit.

Subd. 10. Conditional Use Permits within Floodplain Districts. A copy of all decisions granting Conditional Use Permits in Flood Plain Districts shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

Section 90.08. VARIANCES.

Subd. 1. Generally. The City Council may grant variances from the strict application of the provisions of the Zoning Ordinance and impose conditions and safeguards to the variance so granted, but no variance shall be granted unless the City Council finds that the conditions of Minnesota Statutes, Section 462.357, Subd. 6 are met.

Subd. 2. Prohibited Uses. No variance shall be granted to allow any use that is not permitted under this Chapter for property in the zone where the applicant's land is located.

Subd. 3. Applications. Applications for a variance may be completed on a form as provided by the City, together with supplemental information as required below. All requests must comply with the provisions in Subdivision 1 above and be accompanied with an administrative fee set by Council resolution. Additionally, applications shall include the following information:

- a) A description of the proposed use and how it varies from the applicable provisions of the Zoning Ordinance;
- b) A legal description of the property, including plot and parcel number;
- c) A map or plat showing the property and all property within five hundred (500) feet of the boundaries of the property;
- d) A site plan showing the location and extent of the proposed building, parking, loading, access drives, landscaping and any other improvements;
- e) The names and addresses of the owners of record of all property within five hundred (500) feet of the boundaries of the property;
- f) A statement of the applicant, referring to specific facts, describing the following:

- 1) The exceptional or extraordinary circumstances or conditions applying to the land, building, or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings, or uses in the same zone classification;
- 2) The practical difficulties to the applicant if the variance is not granted;
- 3) That the granting of such application will not, under the circumstances of the particular case, materially adversely affect the health or safety of persons residing or working in the neighborhood of the property of the applicant, and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood;
- 4) Any other information required by the Zoning Administrator, Planning Commission or Council.

Subd. 4. Authority.

- a) Findings of Fact. No variance from the provisions of the Zoning Ordinance will be granted unless the Zoning Board of Appeals makes specific findings of fact based directly on the standards and conditions imposed in this section. These standards are as follows:
 - 1) Because of the particular physical surroundings, shape or topographical conditions of the specific parcel of land involved, practical difficulties to the owner would result if the strict letter of the law were carried out.
 - 2) There are exceptional circumstances or conditions that are unique and applicable to the property or building that do not apply generally to other properties or buildings in the same zone or neighborhood and that were not created by the property owner.
 - 3) The granting of the variance is a reasonable request and will not be materially detrimental to public health, safety, or welfare, or injurious to the property or improvements in the zone or neighborhood in which the property is located.
 - 4) The proposed variance will not be contrary to the essential character of the neighborhood, or the intent of this Code or the Comprehensive Plan.
 - 5) When considering a variance for shoreland properties, excluding those within a floodway, where development exists on both sides of the proposed building site, water and road setback may be varied to conform to the existing established setbacks.
 - 6) When considering a variance for shoreland properties, the Zoning Board of Appeals must also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round,

whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

- 7) The following additional variance criteria of the Federal Emergency Management Agency (FEMA) must also be satisfied:
 - a) 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;
 - b) A determination that the failure to grant the variance would result in exceptional hardship to the applicant; and
 - c) A determination that the granting of a variance will not result in increased flood height, 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.

Subd. 5. Term of Variance. The structure authorized by a variance must be established within one (1) year, unless an extension of time has been granted by the City Council, or the variance will lapse.

Subd 6. Recording of Variance. A certified copy of all variances granted shall be filed with the Benton County Recorder by the property owner. The filing shall include a copy of the resolution authorizing the variance and the legal description and parcel I.D. of the applicable property or properties. A recorded, certified copy must be provided to the City within thirty (30) days.

Section 90.09. ABANDONMENT OF CONDITIONAL USE OR VARIANCE.

Subd. 1. Abandonment. Whenever within one (1) year after the granting of a conditional use permit or a variance the owner or occupant shall not have substantially completed the erection or alteration of a building or structure described, then the permit or variance shall become null and void unless a petition for extension of time in which to complete the proposed construction of alterations has been granted.

Subd. 2. Extension of Time. A petition to extend time of a conditional use permit or variance shall be in writing and filed with the Zoning Administrator no later than twenty (20) days before the expiration of one (1) year from the date the permit or variance was approved. It shall state facts showing a good faith attempt to use the permit or variance, and shall state the additional time requested to complete the construction or alteration. Such petition shall be presented to the board of appeals and adjustments for hearing and decision in the same manner as the original request. In determining whether the petitioner has made a good faith attempt to use the permit or variance, the board may consider such factors as the design, size, expense and type of the proposed construction or alteration.

Subd. 3. Two-Year Period. It shall be within the power of the Planning Commission or board of appeals and adjustments, at the time of granting the original request for a conditional use permit or variance, to grant a two-year period for the substantial construction of the building or structure, but such two-year period may not thereafter be extended.

Section 90.10. SUBDIVISION REQUESTS. The provisions of this section must be followed in addition to those specified in the Subdivision Ordinance.

Subd. 1. Pre-application Meeting. Prior to the submission of any plat for consideration by the Planning Commission, the subdivider shall meet with the City staff to introduce himself/herself as a potential subdivider and learn the relevant requirements of the City's code. The applicants may prepare a sketch plan for discussion purposes prior to preparing a preliminary plat.

Subd. 2. Review for completion.

- a) Before any plat submission is considered complete, the Zoning Administrator will, within ten (10) working days, review the plat to determine if it complete and in general compliance with the provisions of this section and this Ordinance. When a plat application is determined to be incomplete or not in general compliance with provisions in this Code, the Zoning Administrator will notify the applicant within five (5) working days.
- b) When a plat is deemed complete, the City Clerk will notify the applicant in writing and schedule the application for next available Planning Commission meeting. The City Clerk shall also forward the application to Commissioner of Transportation for review if the plat includes or borders on a trunk highway or state rail bank property. Within five (5) days after receiving the preliminary plat that includes or borders on an existing or proposed county road or state rail bank property, the Administrative Officer must submit it to the county Engineer for review. The Commissioner of Transportation and the County Engineer must report to the city within thirty (30) days with any comments or recommendations they may have. The Administrative Officer must also submit the plat to the City's Fire Chief and Engineer, who must report to the City within ten (10) days with any comments and recommendations they may have.

Subd. 3. Action on Preliminary Plats. Once an application for a preliminary plat is determined to be complete, the Planning Commission must recommend approval or denial within sixty (60) days and the Council must act on the application within one hundred twenty (120) days. Failure to approve or deny by the Council within the review period is deemed approval. Upon demand of the applicant, the Zoning Administrator may execute a certificate of approval for the preliminary plat.

Subd. 4. Action on Final Plats.

- a) Once an application for a final plat has been determined to be complete, the Planning Commission must recommend approval or denial of the final plat within thirty (30)

days and the Council must act on the application within sixty (60) days. A final plat is considered complete when the applicant has complied with all conditions and requirements of preliminary approval either through assuring satisfactory performance or the execution of appropriate agreements assuring satisfactory performance.

- b) After receiving the recommendation from the Planning Commission, the City Council must approve or deny the final plat. Failure to certify approval within sixty (60) days, if the applicant has complied with all conditions and requirements, is deemed approval. Upon demand of the applicant, the City Administrative Officer and the Zoning Administrator may execute a certificate of approval for the final plat.
- c) The owner of the subject property must record the final plat with the County Recorder within one hundred twenty (120) days of final plat approval; otherwise, such approval will become null and void. The City Council may confirm their prior approval without the necessity of the Planning Commission review if a plat is not recorded in one-hundred twenty (120) days and no changes have been made to the original approval.

Subd. 5. Subdivision Agreement. Upon approval, the subdivider will enter into a Subdivision agreement with the City.

Section 90.11. NONCONFORMITIES.

Subd. 1. General Standards of Applicability.

- a) Authority to Continue. Any use, structure, or lot that existed as a lawful nonconformity at the time of the adoption of this Code, and any use, structure or lot that has been made nonconforming because of the terms of this Code or its subsequent amendments, may continue subject to the provisions of this section so long as it remains otherwise lawful. A structure or use that is illegal at the time of the adoption of this Code remains illegal if it does not conform to each and every requirement of this Code.
- b) Burden on Property Owner to Establish Legality. In all cases, the burden of establishing the legality of nonconformity under the provisions of this Code is upon the property owner of the nonconforming use, structure or lot.
- c) Safety Regulations. The City may permit an expansion to a nonconforming use, in accordance with Subdivision 2 below or impose on nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, and safety. All police power regulations enacted to promote public health, welfare and safety, including but not limited to, all building, fire and health codes, apply to nonconforming structures.

- d) Nuisances. Nonconforming structures and/or uses that are determined by the City Council to be public nuisances are not authorized to continue.
- e) Nonconformity in Floodplain Area. The City may regulate the repair, replacement, maintenance, improvement or expansion of nonconforming uses and structures in floodplain areas to the extent necessary to maintain eligibility in the National Floodplain Insurance Program and to avoid an increase in the flood damage potential or increase the degree of obstruction to flood flows in the floodway.
- f) Ordinary Repairs and Maintenance. Normal repair, replacement, or improvement may be performed on any structure that is devoted in whole or in part to a nonconforming use, provided it will not create any new nonconformity or increase the bulk or density of the nonconforming use.
- g) Structural Alterations. Structural Alterations to a structure containing a nonconforming use are permitted so long as they do not create any new nonconformity or increase the bulk or density of the nonconforming use. In addition, alterations are allowed:
 - 1) When the alteration is required by law or is necessary to restore the building or structure to a safe condition upon the order of any official charged with protecting the public safety.
 - 2) When the alteration is for the purpose of bringing the use into conformity.
- h) Relocation. A nonconforming structure may not be relocated, in whole or in part, to any other location on the same lot or parcel unless brought into full compliance with this Code.

Subd. 2. Permit for Expansion of Nonconforming Uses. In certain cases, nonconforming uses may be permitted to expand where it can be shown that such action will not be harmful and will be beneficial to the surrounding properties, the neighborhood and the community. An exception, granted by ordinance, may be issued for an existing nonconforming use by the Board of Appeals only where the applicant demonstrates that the proposed activity will comply with all of the following criteria:

- a) The use occurs entirely within an existing site;
- b) The use is not detrimental or injurious to other uses permitted within the district;
- c) The use is appropriate and consistent with the general welfare of the community and enjoyment of adjacent property;
- d) The off-street parking is adequate to serve the use;
- e) The use is in substantial agreement with the Comprehensive Plan;

- f) Hardship would result if the use were not allowed to expand;
- g) Rezoning the property would result in “spot zoning” or zoning inappropriate to surrounding land uses;
- h) The expansion will be beneficial to surrounding properties, the neighborhood and the community;
- i) The use is one of the following:
 - 1) Single-family, multi-family, townhouses, apartments or other residential facilities located in a Nonresidential district;
 - 2) Any commercial use in an industrial district;
 - 3) General, medical, and dental office uses in residential districts; or
 - 4) Any residential use in an industrial district.

Subd. 3. Change of Use. A nonconforming use must not be changed to any use, other than one permitted within the zoning district in which it is located. When such a nonconforming use has been changed in whole or in part, to a conforming use, the whole or part that has been made to conform may not be changed back to a nonconforming use. A change of use is deemed to occur when an existing nonconforming use has been terminated and another use has commenced. Any change in use in violation of this Code is deemed an abandonment of the previously existing lawful conforming use.

Subd. 4. Discontinuation or Abandonment. If a nonconforming use or occupancy is discontinued for a continuous period of one (1) year, such nonconformity or occupancy is deemed to be abandoned and may not be reestablished or resumed regardless of the intent to resume or continue the use. Any subsequent use of such land or structure must conform to all regulations of the zoning district in which such land use or structure is located. The period of such discontinuance caused by government action, acts of God, or other acts without any contributing fault by the user, must not be included in calculating the length of discontinuance for this Ordinance.

Subd. 5. Damage or Destruction.

- a) If a structure and/or property devoted in whole or in part to a nonconforming use is damaged or destroyed to the extent of fifty percent (50%) or less of the market value at that time, then the structure and/or property may be repaired, reconstructed or restored and the nonconforming use continued, provided that no new nonconformities are created and that the existing degree of nonconformity is not increased. A building permit must be obtained for such rebuilding, restoration, repair or reconstruction within one hundred eighty (180) days of the date of the damage or

destruction, and construction must be completed within one (1) year of issuance of the building permit. If a building permit is not obtained within one hundred eighty (180) days, then the nonconforming use cannot be continued.

- b) If a nonconforming structure and/or property devoted in whole or in part to a nonconforming use is damaged or destroyed to the extent of greater than fifty (50%) of its market value at that time and no building permit has been applied for within one-hundred eighty (180) days of when the property is damaged, the nonconformity may not be continued, repaired or replaced. The City may impose reasonable conditions upon a building permit issued under this Subdivision in order to mitigate any newly created impact on adjacent property.

Subd. 6. Nonconforming Lots of Record. This Subdivision regulates lots of record that at one time were conforming, but that no longer conform to the lot area requirements of the zoning district in which they are located.

- a) If there are two or more lots of record with contiguous frontage in common ownership, and one or more of the lots does not meet the requirements for lot width or lot area as established by this Code, the land so involved is considered a single undivided zoning lot for the purposes of this Code. If such zoning lot is comprised of existing lots of record that each meet ninety percent (90%) or more of the required lot width or lot area of the district in which they are located, such lots of record may be used, transferred or conveyed, so long as the remaining lots of record within that zoning lot meet ninety percent (90%) or more of the required lot area or lot width.
- b) A use that is permitted within a zoning district is allowed to be erected upon an existing nonconforming lot of record providing the square footage of the lot is 5,000 square feet or greater.

Section 90.12. APPEAL FROM ADMINISTRATIVE DECISIONS.

Subd. 1. Time for Appeal. An appeal may be taken to the board of appeals and adjustments by any person aggrieved by any order, requirement, decision or determination made by the Zoning Administrator or any other administrative office of the City in the enforcement of this Chapter or the Zoning Ordinance. Such an appeal shall be made by written notice to the Zoning Administrator within twenty (20) days of the order, requirement, decision or determination, shall be accompanied by an administrative fee as prescribed by the City fee schedule and shall specifically describe the facts involved and the basis for appeal.

Subd. 2. Proceedings. Upon receipt of a notice of appeal, the Zoning Administrator shall transmit the notice to the board of appeals and adjustments, together with all papers constituting a record upon which the action appealed was taken and shall set a time and place for a hearing on the appeal. Such time shall not be less than ten (10) and not more than thirty (30) days after receipt of the notice. Due notice of the hearing shall be given to the parties.

Subd. 3. Decision and Review. Within a reasonable time after the hearing, the board shall make its order deciding the matter and serve a copy of such order upon the applicant by mail. The applicant may, within thirty (30) days, file with the City Clerk an appeal to the Council from the decision of the board.

Subd. 4. Board of Appeals and Adjustments. A board of appeals and adjustments is hereby established. The board shall consist of all the members of the Planning Commission and shall have the following powers and duties:

- a) To review and hold public hearings on all applications for variances and to make recommendations on said applications to the City Council;
- b) To hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator or any other administrative officer of the City in the enforcement of this Chapter or the Zoning Ordinance;
- c) To hear and decide appeals by landowners who have been denied building permits due to the location of their land within an area governed by an official map duly adopted and filed by the City.

CHAPTER 9: DEVELOPMENT REGULATIONS

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ORDINANCE 91 GENERAL SUBDIVISION PROVISIONS

Section 91.01. PURPOSE.

- a) Purpose. The purpose of this Chapter is to provide a process for the orderly and predictable subdivision of land within the City. In order to integrate new subdivisions with the development objectives of the City and to contribute to an attractive, stable, and wholesome environment, adequate public services and an integrated safe road and highway system, the subdividing of the land in the City shall be required. If the City has in effect as of the effective date of this chapter, any ordinances regulating the subdivision of land within shore lands or floodplains, the provisions of those ordinances shall supersede the provisions of this chapter within the areas regulated. The provisions of this chapter shall not be in effect until a certified copy of this chapter is filed with the County Recorder as required by Minnesota Statutes, Section 462.36, as it may be amended from time to time.
- b) Applicability. These regulations governing plats and subdivision of lands apply within the corporate limits of the City and as provided in areas designated for orderly annexation, or where otherwise provided in Minnesota Statutes.
- c) Minimum Design Features. The design features set forth in this chapter are minimum requirements. The City may impose additional or more stringent requirements concerning lot size, streets and overall design as deemed appropriate considering the property being subdivided.
- d) Zoning Ordinance and Zoning Map Consistency. Subdivisions and preliminary or final plats may only be approved if they are consistent with the City's Zoning Ordinance (Land Use Development Code) and official Zoning Maps.

Section 91.02. LEGAL AUTHORITY. This chapter is enacted pursuant to M.S. 462.358, as may be amended from time to time.

Section 91.03. CONVEYANCES SUBJECT TO SUBDIVISION REGULATIONS.

- a) The following land or parcel subdivisions or conveyances are subject to the subdivision requirements:
 - 1) Any subdivision of unplatted property.
 - 2) Lands that are to be divided into more than two (2) lots or parcels, any one of which is less than forty acres in size.
 - 3) Any unplatted land transferred from one zoning district to another at the request of the property owner.

- b) The following land or parcel subdivisions or conveyances are subject to the administrative subdivision requirements.
 - 1) Relocation of a common boundary line.
 - 2) Subdivision of an existing platted lot(s).
 - 3) Lands that are to be divided into two (2) lots or parcels, either of which is less than forty acres in size.
- c) The provisions of this Code do not apply to conveyance and land division if the land described:
 - 1) Was or is a cemetery lot(s), as defined by Minnesota Statutes.
 - 2) Resulted from a court order.
 - 3) Is a common Interest Community (CIC) Plat that meets the requirements of Minnesota Statutes, Chapter 505.
 - 4) Within the Rural Residential District, all subdivisions that create two (2) or more lots or parcels that are 10 acres or less in size will be processed as a plat in accordance with Minnesota Statutes, Chapter 505 and this Code. No permit for construction of buildings or sewage treatment systems will be issued unless the lot was approved as a part of a formal subdivision.

Section 91.04. OVERVIEW OF SUBDIVISION CLASSIFICATIONS. Before any land is subdivided, the owner of the property proposed to be subdivided, or the owner’s authorized agent, must apply for and secure approval of the proposed subdivision based on the following subdivision classifications:

Subd. 1. Subdivisions. Subdivision shall mean all subdivisions not classified as administrative subdivisions, including but not limited to the division of a lot, parcel, or tract of land into more than two (2) lots, or the consolidation of more than two (2) lots, or any size subdivision requiring any new street or extension of the local government facilities, or the creation of any public improvements. Relocation of a common boundary line or subdivision of an existing platted lot(s) is considered an administrative subdivision as defined in Subd, 3 below. A subdivision application requires submittal of the following:

- a) Sketch Plan
- b) Preliminary Plat
- c) Final Plat

Subd. 3. Administrative Subdivision. An “administrative subdivision” involves relocation of a common boundary or subdivision of existing platted lot(s) and may be approved or denied by the Planning Commission or City Council. An “administrative subdivision” shall not involve any new street or road, or the extension of municipal facilities, or the creation of any public

improvements, and shall not adversely affect the remainder of the parcel or adjoining parcels and not be in conflict with any provisions or portion of the Comprehensive Plan, Official Zoning Map, Zoning Ordinance or these regulations. An administrative subdivision application requires submittal of the following:

- a) Administrative Plat

Subd. 4. Nonresidential Subdivision. A “Nonresidential Subdivision” shall mean a subdivision whose intended use is other than residential, such as commercial or industrial. Such subdivision shall comply with the application provisions of these regulations and shall require submittal of the following:

- a) Sketch Plan
- b) Preliminary Plat
- c) Final Plat

Subd. 5. Resubdivision. A “resubdivision” shall mean a change in map of an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved thereon for public use, or any lot; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions. Such subdivision shall comply with the application provisions of these regulations and shall require submittal of the following:

- a) Sketch Plan
- b) Preliminary Plat
- c) Final Plat

Section 91.05. COMPLIANCE. Any subdivision creating parcels, tracts, or lots that results in one or more parcels or tracts shall be platted. The provisions of Minnesota Statutes, Chapter 505 shall prevail over any inconsistent provisions in this chapter.

- a) No conveyance or other document creating a subdivision of any real property other than by a duly approved plat shall be recorded unless accompanied by a registered surveyor’s drawing for recording and city approval of the subdivision. The surveyor’s drawing shall accurately illustrate the subdivider’s entire lot, parcel or tract that is subdivided by the conveyance or other document, and shall illustrate the location of any wetlands, lakes, rivers, streams, or other public waters on that property. No conveyance or other document shall be recorded unless accompanied by this surveyor’s drawing. If the parcel can be described as a rectangular portion of a parcel of the government rectangular survey system, a surveyor’s drawing will not be required.
- b) Any surveyor performing a survey in the City shall file a copy of that survey with the City Clerk and also the County Recorder if applicable.

- c) No deed or other document purporting to subdivide property shall be recorded or certified for recording by the County Auditor, County Treasurer, or County Recorder unless it meets the requirements set forth above.

Section 91.06. SAVINGS CLAUSE. All plats approved under this chapter are approved for City purposes only and shall not release the subdivider from any liability or obligation imposed by Minnesota Statutes or Federal Law. In the event any provision shall be found contrary to law by a court of competent jurisdiction from whose final judgment no appeal has been taken, such provision shall be considered void. All other provisions of this chapter shall continue in full force and effect as though the voided provision never existed.

Section 91.07. EXEMPTIONS. The following are considered exemptions from this Subdivision Ordinance and its requirements:

- a) The division of a surveyed lot, parcel or tract for the purpose of attachment to contiguous platted lots where no residual plat or lot or real property is left unattached is exempted from the provisions of this chapter.

Section 91.08. METES AND BOUNDS STANDARDS. No subdivision of real property in which the divided tract is described by metes and bounds shall be permitted, unless all tracts meet the following standards:

- a) Each lot, located in a shore land area or containing a wetland area must be a minimum of five acres in size; and all other lots must be a minimum of two and one-half acres in size;
- b) Certification of public road access;
- c) All roads must be identified on the surveyor's drawing;
- d) Sufficient suitable area for the installation of two standard on-site sewage treatment systems unless city sanitary sewer is available;
- e) A registered surveyor's drawing accompanies the document creating the subdivision for recording, as required by 1500.05 above; and
- f) The surveyor's drawing contains the following form for signature by the property owner; "I hereby certify that the subdivided property described in this survey meets the City requirements for public road frontage and access and sewage treatments systems."

Subd. 1. Required Information. Metes and Bounds descriptions prepared shall at a minimum contain the following items:

- a) A preamble containing the Quarter Section, Section, Township, Range, Principal, Meridian and County and/or City of the tract of land being described or a preamble containing the Lot and/or Block number, subdivision name and if available, the

recording information of the plat and the City, if applicable, and County in which it is filed of record, and;

- b) A beginning point (if applicable) referenced to a point such as a section corner, quarter-section corner, sixteenth section corner, or a Lot/Block corner of a recorded subdivision, and;
- c) Distances listed to the nearest hundredth of a foot, if surveyed, and;
- d) Bearings or angles listed in degrees, minutes and seconds, if surveyed, and;
- e) A reference to all bearings shown must be clearly stated, i.e., whether to “True North”; “Grid North” as established by state plane datum”; “Assumed North based on the bearing of a well established line”; a “Deed call for a particular line”; or “the bearing of a particular line shown upon a plat”, and;
- f) Curved lines with circular curves shall show:
 - 1) Direction of the curve (right or left);
 - 2) The radius;
 - 3) Arc distance;
 - 4) Chord distance and chord bearing.
- g) The name and license number of the professional surveyor who prepared the description;
- h) The date of preparation of the legal description, and;
- i) Each metes and bounds description must return to the Point of Beginning and close mathematically within the allowable closure error stated in this section.

Subd. 2. Exceptions.

- a) Aliquot descriptions may be used in lieu of a metes and bounds description and shall at a minimum contain the following items:
 - 1) Quarter Section, Section, Township, Range, Principal meridian, City, if applicable, and the County of the tract of land being described.
- b) Lot and Block description may be used in lieu of a metes and bounds description and shall at a minimum contain the following items:

- 1) Lot and/or Block number, subdivision name, City, if applicable, and County in which it is filed of record and, if available, the recording information of the plat.
- c) A written legal description of the surveyed tract of land must provide sufficient information to locate the property on the ground and distinctly set it apart from all adjoining properties.

Section 91.09. DEFINITIONS. The definitions below are those specific for the application of this Subdivision Ordinance. Additional definitions that also apply in this ordinance can be found in the City of Rice Zoning Ordinance.

Subd. 1. Applicant. "Applicant" shall mean the owner of land proposed to be subdivided or the owner's representative. Consent shall be required from the legal owner of the premises.

Subd. 2. Backlot. "Backlot" shall mean Residential lots without water frontage located in the shoreland area of the City.

Subd. 3. Backslope. "Backslope" shall mean the portion of the roadway cross-section beginning at the outside edge of the ditch bottom, sloping upward to a point where the slope intersects the existing ground line.

Subd. 4. Bond. "Bond" shall mean any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the Governing Body. All bonds shall be approved by the City Council wherever a bond is required by these regulations.

Subd. 5. Butt Lot. "Butt lot" shall mean a lot at the end of a block and located between two corner lots.

Subd. 6. Collector Street or Road. "Collector Street or road" shall mean a road intended to move traffic from local roads to secondary roads.

Subd. 7. Contour Map. "Contour map" shall mean a map on which irregularities of land surface are shown by lines connecting points of equal elevations. Contour interval is the vertical height between contour lines.

Subd. 8. Covenants or Protective Covenants. "Covenants or Protective Covenants" are contracts made between private parties and constitute an agreement between these parties as to the manner in which land may be used, with a view to protecting and reserving the physical, social, and economic integrity of any given area.

Subd. 9. Cul-de-Sac. "Cul-de-sac" shall mean a minor street with only one outlet and having a turnaround.

Subd. 10. Dedicated Street. "Dedicated Street" shall mean a roadway designated for public use.

Subd. 11. Development Agreement. "Development Agreement" shall mean a financial agreement between the governing body and the developer.

Subd. 12. Development Objectives. "Development Objectives" shall mean those goals defined as part of the city's comprehensive planning program that indicates how the city wishes to develop itself.

Subd. 13. Developer. "Developer" shall mean the owner of land proposed to be subdivided or the owner's representative. Consent shall be required from the legal owner of the premises.

Subd. 14. Development. "Development" shall mean the act of building structures and installing site improvements.

Subd. 15. Drainage Course or Drainage Way. "Drainage Course" or "Drainage Way" shall mean a water course or way for the drainage of surface water.

Subd. 16. Final Plat. "Final Plat" shall mean the map or plan or record of a subdivision and any accompanying material, as described in these regulations.

Subd. 17. Local Road or Street. "Local road or street" shall mean a road intended to provide access to other roads from individual properties and to provide right-of-way beneath it for sewer, water and storm drainage pipes.

Subd. 18. Inslope. "Inslope" shall mean the portion of the roadway cross-section beginning at the outside edge of the roadway shoulder, sloping downward to the inside edge of the ditch bottom.

Subd. 19. Metes and Bounds. "Metes and bounds" shall mean a method of describing land by measure of length (metes) of the boundary lines (bounds). Most common method is to recite direction and length of each line as one would walk around the perimeter. In general the "metes" and "bounds" can be recited by reference to record, natural or artificial monuments at the corners; and record, natural or cultural boundary lines.

Subd. 20. Minimum Subdivision Design Standards. "Minimum subdivision design standards" shall mean the guides, principles and specifications for the preparation of subdivision plans indicating among other things, the minimum and maximum dimensions of the various elements set forth in the plan.

Subd. 21. Natural Water Way. "Natural water way" shall mean a natural passageway in the surface of the earth so situated and having such a topographical nature that surface water flows through it from other areas before reaching a final ponding area. The term also includes all

drainage structures that have been constructed or placed for the purpose of conducting water from one place to another.

Subd. 22. Outlot. "Outlot" shall mean a lot remnant or any parcel of land included in a plat that may be used as open space. Such outlot may be a large tract that could be subdivided in the future or may be too small to comply with the minimum size requirements of zoning and subdivision ordinances or otherwise unsuitable for development and therefore not usable as a building site.

Subd. 23. Owner. "Owner" shall mean an individual, firm, association, syndicate, co-partnership, corporation, trust, or any 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.

Subd. 24. Pedestrian Way. "Pedestrian way" shall mean a public right-of-way across or within a block, to be used by pedestrians.

Subd. 25. Preliminary Plat. "Preliminary plat" shall mean the preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Planning Commission or City Council for approval. Preliminary Plat shall contain data required as outlined in Section 92.02.

Subd. 26. Private Street. "Private Street" shall mean a street serving as vehicular access to two (2) or more parcels of land that is not dedicated to the public but is owned by one or more private parties.

Subd. 27. Public Road. "Public Road" shall mean a particularly described and identified right-of-way, at least 33 feet in width, dedicated to public use for road or highway purposes.

Subd. 28. Resubdivision. "Resubdivision" shall mean 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 thereon 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.

Subd. 29. Right-of-Way. "Right-of-way" shall mean the land covered by a public road or land dedicated for public use or for certain private use such as land over which a power line passes.

Subd. 30. Road, Dead-End. "Road, dead-end" shall mean a road or a portion of a street with only one (1) vehicular-traffic outlet.

Subd. 31. Service Road. "Service Road" shall mean a public road having a traveled surface of at least 24 feet in width lying parallel and adjacent to an ARTERIAL ROAD or HIGHWAY that provides access to abutting properties and protection from through traffic.

Subd. 32. Sketch Plan. "Sketch plan" shall mean a drawing showing the proposed subdivision of property. This plan is not necessarily drawn to scale and exact accuracy is not a requirement.

Subd. 33. Street Width. "Street width" shall mean the shortest distance between the lines delineating the right-of-way of a street.

Subd. 34. Subdivider. "Subdivider" shall mean the owner, agent, or person having control of such land as the term is used in this ordinance

Subd. 35. Subdivision. "Subdivision" shall mean the division of a parcel of land after the effective date of this Ordinance into two (2) 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.

Subd. 36. Subdivision Agreement. "Subdivision Agreement" shall mean an agreement between the governing body and the subdivider pertaining to special subdivision requirements and/or conditions.

Subd. 37. Survey, Land. "Survey, land" shall mean the process of determining boundaries and areas of tracts of land. Also called property survey; boundary survey.

Subd. 38. Surveyor. "Surveyor" shall mean a land surveyor registered and licensed under Minnesota State Laws.

Subd. 39. Vicinity Map. "Vicinity map" shall mean a map drawn to comparatively small scale that definitely shows the area proposed to be platted in relation to known geographical features, i.e., town centers, lakes, roads.

Subd. 40. Zoning Administrator. "Zoning Administrator" shall mean the Clerk of the City or another person appointed by the City Council to administer this chapter.

Section 91.10. MINIMUM SUBDIVISION REQUIREMENTS.

Subd. 1. Streets.

a) Below is a chart for road and street standards required for all proposed subdivisions.

	Primary	Major	Minor	Local
	Arterial	Collector	Collector	Road
Right-of-way (ft.)	100	100	100	66
Pavement width (ft.)	50	44	36	32
Type of Curb				
Barrier Curb (B)	B-24	B-24	B-18	B-18
Drive over Curb (D)				D-18
Sidewalk width (ft.)	5	5	5	5
Sidewalk distance from curb face (ft.)	9	9	9	11
Minimum sight distance (ft.)	300	300	300	300
Maximum grade	8%	8%	8%	8%
Minimum Grade C&G	0.50%	0.50%	0.50%	0.50%
Minimum Grade no C&G	1.00%	1.00%	1.00%	1.00%
Intersection approach	200	200	200	200
Maximum Approach Grade	2%	2%	2%	2%
Maximum cul-de-sac length (ft.)	N/A	N/A	N/A	1000
Minimum cul-de-sac radius (ft. of R.O.W.)	N/A	N/A	N/A	45
Frontage road (ft. of R.O.W.)	66	66	66	N/A
Alley right-of-way width (ft.)				20
Alley pavement width (ft.)				16

b) Blocks.

- 1) Length: Block length shall not exceed 1,200 feet and shall not be less than four hundred feet.
 - 2) Pedestrian Ways: In blocks longer than six hundred feet a pedestrian crossway easement or right of way with a minimum width of 20 feet will be required at the center of the block. The use of additional access ways to schools, parks and other destinations may be required.
- c) Corners.
- 1) Curb lines at street intersection shall be rounded at a radius of not less than fifteen feet.
- d) Private Streets.
- 1) Public improvements shall not be approved for any private street.
- e) Design Speed.
- 1) Street alignment for local streets, both vertical and horizontal, shall meet MNDOT state aid standards for thirty mph designed speed.
- f) Sidewalks.
- 1) Sidewalks are required on one side of all arterial streets and are generally required on both sides along through streets within a development, along streets in commercial areas, and connecting neighborhoods to parks, trails, and playgrounds.
 - 2) Sidewalks extended through driveways shall be constructed of concrete and be at least six inches thick.
- g) Access Roads with a Fire Hydrant.
- 1) Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be twenty six feet.
- h) Local Service Drives.
- 1) Where a proposed plat is adjacent to a major thoroughfare, the council may require the developer to provide local service drives along the right of way, or they may require that lots shall back on thoroughfares, in which case, vehicle and pedestrian access between the lots and thoroughfares shall be prohibited.
- i) Trail Easements.

- 1) Shall be at least twenty feet wide, unless abutting public right of way.
- 2) The required width of trail easements abutting public right of way shall be determined by the City Engineer.

j) Easement Protection.

- 1) All roads shall be constructed outside of all easements except for access drives crossing such easements.

Subd. 2. Street Lighting.

a) Installation.

- 1) In all new developments, street lights shall be installed at the same time electrical service to the development is installed.
- 2) Street lighting plans require approval of the city engineer.

b) Requirements. In subdivisions, developers shall:

- 1) Pay the full capital cost of every light to be installed.
- 2) Pay operation and maintenance and projects street lighting system until the city accepts the project or until the development is fifty percent built, whichever is longer.
- 3) Place street lights at intersections. Placed mid-block when intersections are more than five hundred feet apart and at the end of cul de sacs.

Subd. 3. District Lot Regulations. For minimum area, setbacks, and height requirements, refer to the City of Rice Zoning Ordinances (Chapter 8) for specific Zoning District specifications. All proposed subdivisions shall meet the minimum lot requirements for the district in which they will be placed.

Subd. 4. Grading & Erosion Control Standards.

a) Grading Plan. Grading plans shall show the following:

- 1) Platted lot and block numbers and street names if the grading plan is updated after plat approval.
- 2) A box to record the date of the latest revision approval from the City.

- 3) Finish grades and surface drainage of all parcels including overall final contours at two foot intervals, with existing contours shown as dashed and proposed contours shown as solid.
 - 4) Extension of existing two feet contour lines a minimum of one hundred feet beyond the property boundary or more as needed to accurately depict the existing drainage patterns.
 - 5) Limits of clearing and grading.
 - 6) Adjacent plats, parcels and property lines, section lines, streets, existing storm drains and appurtenances, etc.
 - 7) Detail of housing types proposed with basements, first floor, lowest opening and garage floor elevations.
 - 8) Proposed corner lot elevations.
 - 9) All drainage swales and critical drainage plan with elevations.
 - 10) Existing benchmarks used for surveying grading plan.
 - 11) Other right of way or easement locations, width and purpose.
 - 12) The Normal Water Level (NWL), High Water Level (HWL) and overflow elevation for all storm water ponds.
- b) Erosion Control Plan. The Erosion Control features may be illustrated on the submitted grading plan or on a separate plan sheet. Erosion control features such as silt fence, rock access driveways, inlet protection, concrete truck wash out areas, rock check dams, dirt stockpiles and temporary sedimentation basins shall be clearly identified on the erosion control plan.
- c) Grading Standards. The developer shall be responsible for maintenance of all ponds until the later of: Two years after the improvements are accepted by the City or until fifty percent of the lots are developed.
- 1) NPDES Permit. Prior to the start of construction, the Developer shall obtain all regulatory agency permits and approvals including those from the Minnesota Pollution Control Agency for "General Storm Water Permit for Construction Activity" and the signature of the company responsible for erosion and sediment control plan preparation, implementation and maintenance.
 - 2) Minimum Grades. Minimum grade for drainage swales and lot grading shall be two percent or greater.

- 3) Maximum Grades. Maximum 4:1 slopes are allowed in “maintained” areas approved by the City Engineer. Maximum slopes in ponding basins are 5:10. Approved slopes greater than 4:1 shall have erosion control blanket installed immediately after finished grading.
- 4) Drainage Swales. Maximum length for drainage swales shall be 30 feet or a total of eight lots, or as approved by the City Engineer. All drainage plans shall contain a detail of a typical drainage “Swale” with a minimum depth of eighteen inches and a minimum width of ___ inches at the bottom; 5:1 side slopes, and minimum two percent grade. All swales must be contained within easements of sufficient size and width. All cross lot drainage must be contained in such swales, which shall be located in defined and protected easements.
- 5) Emergency Overflow Swales. The grading plan shall show emergency overflow routes from all low points and show elevation of high point along emergency overflow route. Submit design calculations verifying the adequacy of the overland drainage route capacity. The following emergency overflow construction and design requirements shall apply:
 - a) Emergency over flows that drain over vegetated areas shall be lined with Geotextile Erosion Control Matting such as: Enkamat, Tensar, LAN lock, or approved equal.
 - b) After overflow area is fine graded, the area shall be sodded to match the specified overflow elevation and is to be protected with a temporary fence, which shall delineate the easement limits and protect the overflow swale from disturbance by adjacent home construction and lot grading.
 - c) Abutting structure “lowest” openings shall be at least twenty four inches above the 100-year overflow profile (HWL) of the emergency swale.
 - d) There shall be at least a fifteen foot separation from the overflow swale drainage easement to any livable structure.
- 6) Ponding and Sedimentation Basins. If suitable soil conditions are available for use, infiltration of runoff on-site shall be required for site development storm water management. Water quality treatment measures to promote sedimentation of suspended particles in storm water runoff are required for all developments. Dual purpose ponds that provide both water quality treatment and storm water detention without creating a permanent pool are encouraged. If a permanent pool is to be construed as part of the sedimentation basis (rather than a dual purpose pond) the following minimum design criteria shall govern:
 - a) An average permanent pool depth of four to ten feet;

- b) A permanent pool length to width ratio shall be 3:1 or greater;
 - c) Pool side slopes shall not exceed 5:1;
 - d) A protective buffer strip of vegetation surrounding the permanent pool shall be constructed at a minimum width of 16.5 feet and a maximum slope of 10:1.
- d) Storm Water Design Review. The applicant shall provide detailed hydrologic/hydraulic design calculations that include:
- 1) Drawings showing the existing and proposed drainage boundaries.
 - 2) 1-year, two year, and 100 year design drainage boundaries.
 - 3) Existing and proposed hydrologic/hydraulic calculations for 1, 2 and 100 year storms.
- e) Retaining Walls. Retaining walls will not be allowed within the City's Right-of-ways or easements, unless approved with the overall subdivision grading plan. Approved subdivision retaining walls within the right of way or easement areas shall meet current MNDOT standards and specifications. Detailed plans and specifications for retaining walls shall be submitted for review.
- f) Maintenance Access Routes. The plans shall show or define access routes for maintenance purposes to all inlets or outlets at ponding areas (must be a maximum of 8% grade, 2% cross slope and 10' wide) and side yard or back yard utility manholes and drainage structures. Ten foot wide bituminous trails may be required to be constructed to provide access for maintenance vehicles. Bituminous maintenance shall have a minimum cross section of 1.5 inches of wearing course, 1.5 inches of base course, and six inches of aggregate base.
- g) Buffer Strip Requirement. A buffer strip shall be maintained around the perimeter of the all wetlands.

CHAPTER 9: DEVELOPMENT REGULATIONS

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ORDINANCE 92 PLATTING PROCEDURES

Section 92.01. PLATTING PROCEDURES. The following procedures shall be followed in the administration of this Ordinance and no real property or conveyance of land within the jurisdiction of this Ordinance shall be subdivided and offered for sale, transferred or conveyed, or a plat recorded contrary to the provisions of this Code. Failure to comply with these provisions shall result in the City denying the issuance of building permits to any parcel.

Section 92.02. PRELIMINARY PLATS.

Subd. 1. Pre-application Meeting. Prior to the submission of any plat for consideration by the Planning Commission, the subdivider shall meet with the City staff to introduce himself/herself as a potential subdivider and learn the relevant requirements of the City's code. The applicants may prepare a sketch plan for discussion purposes prior to preparing a preliminary plat.

Subd. 2. Submission Requirements. The applicant must submit the following at least ten (10) working days before the next regularly scheduled Planning Commission Meeting:

- a) Six (6) full size copies, not to exceed twenty-four inch by thirty-six inch (24" x 36") in size, of the proposed preliminary plat and fourteen (14) eleven inch by seven inch (11" x 7") copies. All sets must be assembled, collated, stapled, and rolled.
- b) One electronic copy of the proposed preliminary plat to the email address specified by the City.
- c) Supplemental material, necessary to address specific physical conditions of the proposed subdivision as determined by City staff.
- d) The preliminary plat review fee as set forth in the City's fee schedule.

Subd. 3. Plat Requirements. Each preliminary plat must contain the following information:

- a) Existing Conditions.
 - 1) Proposed name of subdivision, which name cannot duplicate the name of any plat recorded in Benton County.
 - 2) Location by section, township, range or other legal description and Benton County Property Identification Number (P.I.N.) of all parcels included with the proposed plat.

- 3) Names, electronic and postal addresses of the owner(s), subdivider(s) and all persons currently having ownership interest or control of the lands or parcels comprising the proposed plat.
- 4) Graphic scale, not less than one inch to one hundred feet (1":100'), unless a larger scale is approved by the Zoning Administrator based upon the site size.
- 5) North point, designated as true north.
- 6) Date of preparation and any subsequent revisions, including a signature of the person who prepared the drawing, together with any registration number or other professional certificate number or title.
- 7) Boundary line survey, including measured distances and angles, which must close by latitude and departure with an error of closure not exceeding one (1) foot in five thousand (5,000) feet.
- 8) Total acreage of the preliminary plat computed to one-hundredth of an acre.
- 9) Location and names of existing or platted streets, or other public ways, parks, and other public open spaces, permanent buildings and structures, easements and section and corporate lines within the tract and to a distance of one-hundred (100) feet beyond the tract.
- 10) If the proposed subdivision is a rearrangement or replat of any former plat, the lot and block arrangement of the original plat, along with its original name must be indicated by dotted or dashed lines. Any revised or vacated roadways of the original plat must also be indicated.
- 11) Location and size of existing paved streets, curbs and curb cuts, driveways, free-standing signs, railroads, sewers, water mains, storm drains, gas mains, electric and telephone lines, utility poles, including utilities stubbed into the property, quarries, gravel pits, culverts, or other underground facilities within the tract and to a distance of one-hundred (100) feet beyond the tract. Also, such data as grades, invert elevations and location of catch basins, personnel access structures and hydrants.
- 12) Boundary lines of adjoining platted or unplatted land and owners of all tracts within one hundred (100) feet. Adjoining addresses, as shown on the County 911 system.
- 13) Complete topographical map with contour intervals not greater than two feet, water courses, marshes, wetlands, rock outcrops, and other significant features, all superimposed on at least one (1) print of the preliminary plat. United State

Geodetic Survey datum must be used for all topographical mapping. High water elevation and date thereof if parts of plat are wet or have been wet.

- 14) Floodplain, 100 year Flood elevation and shoreland district boundaries within the proposed plat.
- 15) The subdivider shall define and shall provide an exhibit prepared by a Civil Engineer showing drainage areas contributing to the preliminary plat and shall show a calculation of existing runoff contributed by storms with a return frequency of 1 year, 2 years, and 100 years.
- 16) A wetland report completed by a Certified Wetland Scientist if requested by City staff.
- 17) Report of soil borings and tests, if required by City staff.
- 18) An Environmental Assessment Worksheet (EAW) when required and subject to the provisions of Minnesota State Statutes.

b) Proposed Features.

- 1) Layout of streets, showing right-of-way widths and names of streets.
- 2) Proposed centerline grades of streets and alleys, if any, and a complete set of profiles showing both existing and proposed grade lines.
- 3) Street and lot grading, including the phasing of grading.
- 4) Location and widths of alleys, pedestrian ways, sidewalks, trails, and fire lanes.
- 5) Written description that provides information about the proposed plat including, but not limited to: number of lots, development type, and anticipated completion date.
- 6) Locations of all easements, including oversize or non-typical easements.
- 7) Areas other than those mentioned above, intended to be dedicated for public use, including area and dimensions scaled to the nearest foot.
- 8) Layout, lot outlots, and block numbers, and typical lot dimensions scaled to the nearest foot. Square footage for each lot must be denoted.

c) Other Requirements.

- 1) An erosion control plan, pursuant to the requirements of this chapter and meeting the requirements of BMP as defined by Minnesota Pollution Control Agency.
- 2) When eligible, if municipal water and sewer utilities are not available to the proposed subdivision, a utility plan shall be provided, which shall include completed plans, operational arrangements, and financial guarantees. Plans and design conditions for Community Water and Sewer systems shall be prepared in accordance with the requirements of State and Federal regulatory agencies and Ten State Standards for Sewage and Water Works as prepared by Great Lakes – Upper Mississippi River Board.
 - a) Community Sewer and Water Systems shall utilize only proven technologies.
 - b) Community Sewer and Water Systems shall be prepared under the direct supervision of a Minnesota Licensed professional engineer and approved by the City Engineer.
 - c) Community Sewer and Water Systems shall be designed to facilitate connection to the City Sewer and Water utilities in the future.
 - d) Ownership of Community Sewer and Water Systems shall be either private or public. In the event of private ownership, the financial viability of the organization owning the said facilities shall be personally guaranteed by the property owners utilizing said facilities.
- 3) A tentative plan for future platting, if the proposed plat includes any areas intended for future re-subdivision.
- 4) A tentative plan for project phasing, if applicable.

Subd. 4. Plat Review Standards.

- a) The Planning Commission, in review of a preliminary plat, will take into consideration the requirements of the community and the best use of the land being subdivided. Particular attention will be given to the arrangement, location and widths of streets, the general drainage situation, lot sizes and arrangements, as well as master plan requirements such as parks, school sites, boulevards and highways.
- b) When a tract is subdivided into larger than building lots or parcels, as set forth in this Code, such lots or parcels must be arranged to permit the logical location and openings of future streets and appropriate resubdivision, with provision for adequate utility connections for such resubdivisions.
- c) Any residentially zoned lot, excluding the Rural Residential District, that is larger than one-half acres or has street frontage in excess of one hundred fifty (150) feet that is

intended to be initially served by a private or community septic system must include a proposed “ghost plat” within the preliminary plat for the lot that depicts future subdivision of the property that may be permitted following extension of municipal utility services.

- d) Subdivisions showing unplatted strips or private streets controlling access to public ways or private or public lots will not be approved.
- e) Deviations from standards may be approved by the City Council when recommended by Planning Commission to be deemed necessary to satisfy or achieve an outcome provided for in a City goal, policy, or ordinance (e.g. affordable housing initiatives, natural resource protection).

Section 92.03. FINAL PLAT.

Subd. 1. Submission Requirements. The applicant must submit the following at least ten (10) working days before the next regularly scheduled Planning Commission Meeting:

- a) Six (6) full size copies of the proposed final plat and fourteen (14) eleven inch by seven inch (11” x 7”) copies.
- b) One electronic copy of the proposed final plat to the email address specified by the City.
- c) Supplemental material, necessary to address specific physical conditions of the proposed subdivision as requested by City Staff.
- d) The final plat fee as set forth in the City’s fee schedule.

Subd. 2. Plat Requirements.

- a) The graphic scale of the plat must be one (1) inch equals one hundred (100) feet (1”:100’), unless a larger scale is approved by the Zoning Administrator based upon site size.
- b) Square footage per lot, lot dimensions, delineation of wetlands, dedicated streets and public sites and open spaces, and total platted land area must be calculated and submitted with the final plat.
- c) The name of the subdivision must be lettered in prominent print at the top of the plat, together with the name of the City and County wherein the subdivision lies. The name of the subdivision must be simple in nature, easy to pronounce, and cannot duplicate an exact name of any plat of record in the County.

- d) Notarized certification by owner and any mortgage holder of record, of the adoption of the plat and the dedication of public streets, sites and open spaces, and other public areas.
- e) Certifications showing that all taxes and special assessments due on the property have been paid in full.
- f) Form of approval by the City Council as follows:

Approved by the City Council of Rice, Minnesota this ____ day of ____, 20__.

Signed

Attest

Mayor

City Clerk

- g) Form of approval by the Planning Commission as follows:

Approved by the Planning Commission of Rice, Minnesota this ____ day of _____, 20__.

Signed

Planning Chairperson

- h) Form of approval by County authorities as required by their standards.
- i) All other information and requirements in accordance with Minnesota Statutes, Chapter 505.

Subd. 3. Action on a Final Plat.

- a) Once an application for a final plat has been determined to be complete, the Planning Commission must recommend approval or denial of the final plat. A final plat is considered complete when the applicant has complied with all conditions and requirements of preliminary approval either through assuring satisfactory performance or the execution of appropriate agreements assuring satisfactory performance.
- b) After receiving the recommendation from the Planning Commission, the City Council must approve or deny the final plat. Failure to certify approval within sixty (60) days, if the applicant has complied with all conditions and requirements, is deemed

approval. Upon demand of the applicant, the Zoning Administrator may execute a certificate of approval for the final plat.

- c) The owner of the subject property must record the final plat with the County Recorder within one hundred twenty (120) days of final plat approval; otherwise, such approval will become null and void. The City Council may confirm its prior approval without the necessity of the Planning Commission review if a plat is not recorded in one-hundred twenty (120) days and no changes have been made to the original approval.

Subd. 4. Subdivision Agreement.

- a) When a final plat requires a subdivision agreement, before a final plat is approved by the City Council, the owner and subdivider of the land covered by the plat must execute and submit a subdivision agreement to the City Council which is binding on his/her or their heirs, personal representatives and assigns, that he/she will cause no private construction to be made on said plat or file or cause to be filed any application for building permits for construction until all improvements required under this Code have been made or arranged for in the manner prescribed in this Code.
- b) The subdivision agreement must provide that all of the required improvements will be made in accordance with standards established by the City Engineer, and must include adequate provisions in the form of escrow deposits or other form of deposit acceptable to the City Council to insure that all the improvements made by the applicant will comply with such standards.
- c) If approved by the City Council, required improvements may be installed under contract by the City after petition for the same by the owner. The cost must be assessed in accordance with the City assessment policy or as otherwise determined by the City Council.
- d) Approval of the final plat and subdivision agreement of the City Council is contingent on the deposit of those sums to the City required by the agreement. No signatures indicating the City's approval of the plat will be affixed to the plat until such sums have been deposited with the City Clerk.
- e) Subdivision agreement must be recorded concurrently with the final plat. All costs associated with recording the final plat and subdivision agreement are the responsibility of the applicant.

Section 92.04. CERTIFICATE REQUIREMENTS.

- a) Legal Description Certificate. Each secondary plat submitted shall contain a metes and bounds legal description prepared by a registered professional land surveyor of the outside boundary of the complete survey.

- b) Land Surveyor's Certificate. Each secondary plat submitted shall carry a certificate signed by a registered professional land surveyor in substantially the following form:

*I _____, hereby certify that I am a Registered Professional Land Surveyor of the State of Minnesota; and that this plat correctly represents a survey completed by me or under my direct supervision on _____, 20____; and that any changes from the description appearing on the last recorded transfer of land contained in the secondary plat are so indicated; that all monuments shown thereon actually exist or will be installed (before the release of financial surety) and their location, size, type and material are accurately shown in compliance with the City of Rice Subdivision Control ordinance, and that all monument dimensional data, as well as of the data included with the secondary play is correct and in compliance with both the City of Rice Zoning Ordinance and the City of Rice Subdivision Control Ordinance. SEAL _____
Signature: _____*

- c) Dedication Certificate. Each secondary plat submitted to carry a deed of dedication, either on the secondary plat or incorporated by reference, in substantially the following form:

We, the undersigned owners of the real estate shown and described herein, do hereby certify that we have laid off, platted and subdivided, and do hereby lay off, plat, and subdivide, said real estate in accordance with the herein plat.

The subdivision shall be known and designated as _____ consisting of _____ lots and _____ blocks containing _____ acres.

All streets and alleys and open public spaces show and not heretofore dedicated are hereby dedicated to the public.

Clear title to the land contained in this plat is guaranteed. (Any encumbrances and special assessments are explained as follows):

The setback lines shall be determined by the regulations of the City of Rice Zoning Ordinances of current adoption.

There are strips of ground on this plat and marked easement, reserved for the installation and maintenance of utilities and drainage facilities. Within these easements, no structure, planting, or other material shall be placed or permitted to remain that may change the direction of flow of drainage channels in the easements, or that may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility is responsible.

The right to enforce these provisions by injunction, together with the right to cause the removal, by due process of law, of any structure or part thereof erected or maintained in violation hereof,

is dedicated the public, and reserved to the several owners of the several lots in this subdivision and to their heirs and assigns.

Section 92.05. ADMINISTRATIVE PLAT. The process and submission requirements for an administrative plat are the same as for a preliminary plat, with the following exceptions:

Subd. 1. Review of Administrative Plat. The Zoning Administrator will, within twenty working days, review the administrative plat to determine if it is in compliance with the provisions of this Ordinance. If an administrative plat is determined to be incomplete or not in compliance with provisions of this Code, then the Zoning Administrator will notify the applicant within ten (10) working days.

Subd. 2. Action on Administrative Plat. In an administrative plat is determined to be complete and in compliance with the provisions of this Code, then it will be approved or denied by the Zoning Administrator within ten (10) working days. The timeline may be extended before the initial ten (10) working day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, and cannot exceed thirty (30) working days unless approved by the applicant.

Section 92.06. COMMON INTEREST COMMUNITY (CIC) PLATS.

- a) A Common Interest Community (CIC) Plat is required for those lots held in separate ownership but considered one (1) zoning lot in order to fulfill Code requirements, because common site elements are shared between the lots. The City is not responsible for maintenance of perpetual rights between private owners for common elements, such as off-street parking spaces, access drives and open spaces, that are shared between lots in separate ownership. CIC plats must be prepared by a licensed land surveyor in accordance with Minnesota Statutes, Section 515B.2-110.
- b) Prior to the date of adoption of this Code, those lots held in separate ownership, but considered one (1) zoning lot in order to fulfill Code requirements that were established through the Certificate of Survey process or a cross-access agreement are permitted to continue under such approved Certificates of Survey or previously established agreements.

CHAPTER 9: DEVELOPMENT REGULATIONS

ORDINANCE 93 REQUIRED IMPROVEMENTS..... 93-1
 Section 93.01: REQUIRED IMPROVEMENTS/FINANCIAL AGREEMENTS..... 93-1

ORDINANCE 93 REQUIRED IMPROVEMENTS.

Section 93.01. REQUIRED IMPROVEMENTS/FINANCIAL AGREEMENTS. Improvements Required. The subdivider shall arrange for installation of all the following required improvements in the development subject to the development contract and the requirements defined in the City Public Works Design Manual, if such manual exists or is amended or is adopted in the future. The City reserves the right to elect to install all or any part of the basic improvements required under this Ordinance pursuant to Minnesota Statutes, Chapter 429, as may be amended.

- a) All of the following required basic improvements to be installed under the provisions of this Ordinance shall be designed and constructed in accordance with the design standards of Ordinance 82 (Platting Procedures), this Ordinance, and the City of Rice Public Works Design Manual, if such manual exists or is amended or is adopted in the future and approved by the City Engineer. All of the City's expenses incurred as the result of the required improvements shall be paid to the City by the subdivider.
 - 1) Streets
 - 2) Sanitary sewer
 - 3) Water main
 - 4) Surface water facilities (pipes, ponds, rain gardens, etc.)
 - 5) Grading and erosion control
 - 6) Sidewalks and trails
 - 7) Street lighting
 - 8) Street signs and traffic control signs
 - 9) Landscaping required by the Zoning Ordinance
 - 10) Wetland mitigation and buffers
 - 11) Monuments required by Minnesota Statutes
 - 12) Miscellaneous facilities
 - 13) The subdivider shall arrange for the installation of telephone, CATV, electrical and natural gas service following the grading of boulevard or utility easements

- b) Completion of Basic Improvements.

- 1) Reproducible and electronic files showing record plans of all public improvements as required by the City Engineer shall be furnished to the City by the subdivider. Such record plans shall be in mylar format and, unless previously exempted from the electronic format requirements, an electronic dwg. format approved by the City Engineer and shall be certified to be true and accurate by the registered engineer responsible for the installation of the improvements said plans shall be submitted to the City within 30 days of the City's substantial approval of the project.

c) Payment for Installation of Improvements and Financial Guarantees.

- 1) The required improvements listed in this chapter are to be furnished and installed at the sole expense of the subdivider. However, if the cost of an improvement would by general policy be assessed only in part against the improved property and the remaining cost paid out of general tax levy, provision may be made for the payment of part of the cost by the community.
- 2) Subsequent to execution of the development contract but prior to the release of a signed final plat mylar for recording, the subdivider shall provide the City with a automatically renewing financial guarantee in the form of a performance bond, letter of credit from a bank, cash escrow, or a combination of a performance bond, letter of credit, and cash deposit with the City. The guarantee shall be in an amount equal to 125 percent of the estimated cost of completion of the specified basic improvements. The security shall be acceptable to the City. The financial guarantee required as part of the subdivision agreement shall be one of the following:
 - a) Escrow deposit. The community shall be entitled to reimburse itself out of such deposit for any cost or expense incurred by the community for completion of the work in case of default of the subdivider under such contract, and for any damages sustained on account of any breach thereof. The escrow agent shall have a legal duty to deliver the funds to the City whenever the City Administrator or the Administrator's designee presents an affidavit to the agent attesting to the City's right to receive funds whether or not the subdivider protests that right.
 - b) Performance bond. The subdivider may furnish a performance and payment bond with corporate surety, in a penal sum equal to one hundred twenty-five percent (125%) of the total cost, as estimated by the engineer, of all the improvements to be furnished and installed by the subdivider pursuant to the subdivision agreement. The total costs shall include costs for inspection by the community engineer. The bond shall be approved as to form by the attorney and filed with the clerk.
 - c) Letter of credit. The subdivider may deposit with the community, from a bank subject to the approval of the governing body, an irrevocable letter of credit, which shall certify the following:

- 1) The term is sufficient to cover the completion, maintenance and warranty periods identified in this section.
- 2) That in the case of failure on the part of the subdivider to complete the specified improvements within the required time period, the creditor shall pay to the community immediately, and without further action, such funds as are necessary to finance the completion of those improvements, up to the limit of credit stated in the letter, or at the city's discretion the creditor may renew the letter of credit.
- 3) That this letter of credit may not be withdrawn, or reduced in amount, until released by the governing body, and require only that the City present the credit with a sight draft and an affidavit signed by the City Administrator or the Administrator's designee attesting to the City's right to draw funds under the letter of credit.

d) Release and Expiration of Financial Guarantees.

- 1) The financial guarantee shall be held by the City until, upon written notice by the subdivider and certification from a professional engineer that all of the required improvements have been completed and upon verification of such by the City staff, a portion or the entire financial guarantee is released by the City Engineer. No financial guarantee shall be released in full until the City has received 1) certified, reproducible record plans of all required improvements installed by the subdivider and 2) a title insurance policy approved by the City Attorney indicating that the improvements are free and clear of any and all liens and encumbrances.
 - a) It shall be the responsibility of the subdivider to insure that a submitted financial guarantee shall continue in full force and effect until the City Engineer has approved and accepted all of the required improvements, and thereby is authorized to release the guarantee or reduce the amount of the guarantee as provided above.
 - b) Letters of credit having expiration dates shall provide that they are automatically extended without change for 12 months from the expiration date unless 60 days prior to the expiration date; the financial institution notifies the City in writing by certified mail that it does not elect to renew the financial guarantee for an additional period. If the instrument is not to be renewed and has not been released by the City Engineer, another acceptable financial guarantee in the appropriate amount shall be submitted at least 60 days prior to the expiration. The term of any extension shall be approved by the City Engineer and subject to the requirements of this section. Upon receipt of an acceptable substitute financial guarantee the City Engineer may release the original guarantee.

e) Performance Guarantee.

- 1) The subdivider shall submit either 1) a performance bond or 2) a letter of credit for 25 percent of the amount of the original cost of the improvements for warranties.

- 2) The required warranty period for materials and workmanship from the utility contractor installing public sewer and water mains shall be 2 years from the date of final written City acceptance of the work.

- 3) The required warranty period for all work relating to street construction, including concrete curb and gutter, sidewalks and trails, materials and equipment shall be subject to one year from the date of final written acceptance, unless the wearing course is placed during the same construction season as the bituminous base course. In those instances, the subdivider shall guarantee all work, including street construction, concrete curb and gutter, sidewalks and trails, material and equipment for a period of 2 years from the date of final written City acceptance of the work. The required warranty period for sod, trees and landscaping is one growing season following installation.

CHAPTER 9: DEVELOPMENT REGULATIONS

ORDINANCE 94 DEDICATION REQUIREMENTS..... 94-1
Section 94.01: DEDICATION REQUIREMENTS..... 94-1

ORDINANCE 94 DEDICATION REQUIREMENTS.

Section 94.01. DEDICATION REQUIREMENTS. As a condition of subdivision approval, subdividers shall dedicate a portion of any proposed subdivision for conservation purposes or for public use as parks, recreational facilities as defined and outlined in M.S. § 471.191, playgrounds, trails, wetlands or open space; provided that the city may choose to accept an equivalent amount in cash for part or all of the portion required to be dedicated based on the fair market value of the land following the criteria of M.S. § 462.358, Subd. 2b, as it may be amended from time to time.

- a) Land shall be reasonably suitable for its intended use and shall be at a location convenient to the people to be served. Factors used in evaluating the adequacy of propose park and recreation areas shall include size, shape, topography, geology, hydrology, tree cover, access, and location. Land with trash, junk, pollutants, flooding or wetlands and/or unwanted\structures are not acceptable.
- b) The Planning Commission and the City Council shall determine the land and/or cash contribution requirements for proposed subdivision.
- c) Any increase in density of subdivisions shall be reviewed for reconsideration of park land and/or cash contribution requirements.
- d) Cash contributions shall be deposited in the park dedication fund at the time of final subdivision approval.

Any person or entity proposing to plat real estate in the City of Rice shall pay a park dedication fee of \$500 per single lot or \$300 per multi-family unit (i.e. townhouse, apartment condominium, etc.).

APPENDIX A
City Fee Schedule

CITY OF RICE 2017 ANNUAL FEE SCHEDULE		
<u>CITY FEES</u>		<u>AMOUNT</u>
<u>ADMINISTRATION</u>		
Copies (Per Page) 8 1/2 x 11 Black and White		\$ 0.25 /page
Copies (Per Page) 8 1/2 x 11 Color		\$ 0.50 / page
Fax		\$ 0.25 /page
insufficient Funds (NSF) Check + \$25.00 Late Fee if Applicable		\$30.00
Labels		\$ 0.50 / page
Mailing Documents		Postage Costs
Minimum Wage		Federal Standards
Notary Fees (Non- Rice Resident)		\$1.00
Notary Fees (Rice Resident)		Free
Research/ Consult Fees (After first 15 minutes)		\$ 30.00 / half an hour
Special Assessment Searches		\$10.00
Tape Dubbing (Audio/Video)		
PDF		\$10.00
Video		\$20.00
<u>BUILDING RENTAL</u>		
Class I Users		No Charge
Class II Users		\$15.00/day, \$25.00/quarter
Class III Users		\$50.00/day + MN Sales tax
Class IV Users		\$75.00/day + MN Sales tax
Damage Deposit (Event Attendance 1-74)		\$50.00
Damage Deposit (Event Attendance 75 +)		\$100.00
<u>COUNCIL/BOARD/ COMMISSION</u>		
Food- Actual Expense		\$30.00/day, \$15.00/half day
Mileage		Federal Standards
Hotel		Actual Cost
Per Diem		\$50.00/day, \$25.00/half day
<u>LICENSING/PERMITS</u>		
Animal Redemption		\$50.00/day
Dog Tag (Lifetime License)		\$30.00
Dog Tag (Replacement)		\$10.00
Kennel License		\$50.00
Kennel License Renewal		\$25.00
Large Gathering Permit		\$25.00

LICENSING/PERMITS CONTINUED		
Liquor Permits:		
Intoxicating (off Sale)		\$100.00
Intoxicating (On Sale)		\$1,800.00
Intoxicating (Sun. On Sale)		\$200.00
Non-Intoxicating (On/Off Sale)		\$25.00
Multiple Animal Permit - includes dog tag if applicable		\$50.00
Multiple Animal Permit Renewal with an inspection		\$30.00
Multiple Animal Permit Renewal - if no complaints within 1 calendar year - no inspection		\$10.00
Non-Domestic Animal Permit		\$65.00
Registration of a Dangerous Dog		\$500.00
UTILITY/PUBLIC WORKS		
City Assits		\$50.00/hour/per person
City Clean-up of Private Property		\$50.00/hour/per person
City Lawn Mowing of Private Property		\$50.00/mowing
Compost Site Sticker (City Resident)		Free
Compost Site Sticker (Non-City of Rice Resident)		\$25.00/year - \$5.00/day
Utilities:		
Bulk Water Usage		\$5.00/1,000 gallons
Hook-Up Water		\$2,000.00
Hook-Up Sewer		\$3,100.00
Water Meter		\$225.00
Water Shut-Off/On Delinquent (\$50.00 On / \$50.00 Off)		\$100.00
Water Shut-Off/On Onwers Request (\$5.00 On / \$5.00 Off)		\$10.00
Monthly Late Fee		\$25.00
Water Conservation Plan Violation (One warning will be given)		\$50.00 /Offense

<u>FIRE DEPARTMENT FEES</u>		
Fire Department Daycare Inspection		\$50.00/Inspection
Fire Department Plan Review		\$50.00/Time
Fire Sprinkler Installation Fee (1.2 % of installation cost)		\$50.00 Minimum
Fire Alarm/Monitoring		
Plan Review Fee		25% of Permit Fee
Installation Permit (1.2% of installation cost)		\$50.00 Minimum
Special Fire Suppression:		
Plan Review Fee		25% of Permit Fee
Installation Permit (1.2% of installation cost)		\$50.00 Minimum
False Alarms (third and Subsequent False Alarms)		\$310.00/call
All calls are a minimum of 1 hour charge		Charge per Township Agreement
Gasoline/Flammable Fluids License - Fire Department Inspection:		
Bulk Storage of Flammable Fluids		\$175.00
Bulk Storage of Liquefied Petroleum (LP)		\$175.00
First Nozzle		\$15.00
Each Additional Nozzle (Not to exceed \$100 for each station dispensing gasoline)		\$8.00
Tents under 200 sq feet and Canopy's under 400 sq feet are exempt		\$50.00

<u>PLANNING/ZONING/DEVELOPMENT FEES</u>		
Public Hearing		\$550.00
Annexeation (Includes Public Hearing)		\$225.00 + Public Hearing
Appeal Application		\$225.00
Comp Plan or Text Amendment (Includes Public Hearing)		\$225.00 + Public Hearing
Conditional or Interim Use Permit (Includes Public Hearing)		\$225.00 + Public Hearing
Concept Plan Review (Includes Public Hearing)		\$225.00 + Public Hearing
Driveway Escrow		\$2,500.00
Landscaping Escrow		\$3,000.00
Land Use Application Fee (Includes Public Hearing)		\$225.00 + Public Hearing
Park Dedication Fee (Single Family)		\$800.00
Park Dedication Fee (Multi Family)		\$600.00/unit
Preliminary Plat Review (Includes Public Hearing)		\$225.00 + Public Hearing
Site Plan Review		\$150.00
Final Plan Review		\$225.00
Rezoning Application (Includes Public Hearing)		\$225.00 + Public Hearing
Variance Application (Includes Public Hearing)		\$225.00 + Public Hearing
Special Meeting Request (Planning Commission or Council)		\$300.00
Special Meeting Request (Planning Commission and Council)		\$500.00
Variance Application		\$225.00 + Public Hearing
Applicant will also be responsible for all engineering, attorney, Fire Dept. Building Official fees, special meeting, and/or private meeting costs fees		Additional to the Developer

RIGHT OF WAY FEES AND CHARGES		
Registration Fee		Time Involved (hour) x Rate/Hour = Cost
Administration		1/4 hour @ \$40.00/hr = \$10.00
Review		1/2 hour @ \$40.00/hr = \$20.00
Recording		1/4 hour @ \$40.00/hr = \$10.00
Proposed Title Fee		\$40.00
EXCAVATION PERMIT FEE		
Hole		
Administration		1/2 hour @ \$40.00/hr = \$20.00
Verification		
1. Plan Review (By City Engineer)		1/2 hour @ \$130.00/hr = \$65.00
2. Inspection		
a. Location Before Work		1/2 hour @ \$130.00/hr = \$65.00
b. Compliance During Work		1/2 hour @ \$40.00/hr = \$20.00
c. Completion After Work		1/2 hour @ \$40.00/hr = \$20.00
d. Re-Inspection		1/2 hour @ \$130.00/hr = \$65.00
3. Mapping		
a. Review Data		1/2 hour @ \$130.00/hr = \$65.00
b. Transfer Data to Autocad		1/2 hour @ \$130.00/hr = \$65.00
c. Insert to Overlay to Tie-In		1/2 hour @ \$130.00/hr = \$65.00
Total Cost		\$450.00
Proposed Fee		\$450.00
Emergency Hole		
Administration		1/2 hour @ \$130.00/hr = \$65.00
Inspection After Completion		1 1/2 hour @ \$40.00/hr = \$60.00
Total Cost		\$125.00
Proposed Fee		\$125.00
Trench		
Administration		1/2 hour @ \$130.00/hr = \$65.00
Verification		
1. Plan Review (By City Engineer)		1 1/2 hour @ \$130.00/hr = \$195.00
2. Inspection		
a. Location Before Work		1/2 hour @ \$40.00/hr = \$20.00
b. Compliance During Work		1 1/2 hour @ \$40.00/hr = \$60.00
c. Completion After Work		1 1/2 hour @ \$40.00/hr = \$60.00
d. Re-Inspection		3/4 hour @ \$40.00/hr = \$30.00
3. Testing Result Review		
a. Compaction		1/4 hour @ \$130.00/hr = \$32.50
b. Material		1/4 hour @ \$130.00/hr = \$32.50
4. Mapping		
a. Review Data		1/2 hour @ \$130.00/hr = \$65.00
b. transfer to Autocad		1/2 hour @ \$130.00/hr = \$65.00
c. Insert to Overlay to Tie-In		1/2 hour @ \$40.00/hr = \$20.00
Total Cost		\$645.00
Proposed Fee		\$645.00

The average trench is 330 lin. Feet past the width of a hold. Therefore, the number of 100 lin ft (Or portion thereof) units is 4. The cost per 100 lin ft unit is \$360.00/4 = \$90.00/100' unit		
Proposed Fees		\$90.00/100 lin ft (Plus Hole fee)
Obstruction Permit Fee		
Administration		1/2 hour @ \$130.00/hr=\$65.00
Recording		1/4 hour @ \$40.00/hr = \$10.00
Review		3/4 hour @ \$40.00/hr = \$30.00
Minimum Base Coat		\$105.00
Proposed Base Fee		\$100.00
Plus Additional Fee Based on Length		
Inspection		
a. Compliance during Work		1 1/2 hour @ \$40.00/hr = \$60.00
b. Completion After		1/4 hour @ \$40.00/hr = \$10.00
Additional fee on assumed 1000 lin ft Permit		\$52.50
Additional Cost per lineal foot = \$70.00/1000		\$0.07
		\$75.00 PLUS .05 lineal foot
Delay Penalty		
Administration		1 1/2 hour @ \$40.00/hr = \$60.00
For up to 3 days of non-completion and non-prior notice before specified completion date		
After 3 days, in addition of \$20.00/day will be levied		
Total Penalty Charge		\$60.00
Each Day Late Over 3 Days		\$60.00 + \$20.00/day

ORDINANCE	DESCRIPTION	FEE
14.07.4	Administrative Penalty Late Fee	\$10
51.11	Impound Fees	
	Private Company	Actual Cost
	City Impound	\$15/day
	City Administration Fee	\$50 one time fee
51.12.2	Parking Fines	
	Violation (Administrative)	\$25
	Notice of unpaid violations	\$50
	Criminal Complaint	\$100 + court costs
51.12	Snowmobile, Golf Carts & Recrational Vehicles	
	1st Offense	\$100 + court costs
	2nd Offense within 12 months	Court
60.24	Underage present in liquor establishment	
	1st Offense	\$100 + court costs
	2nd Offense within 12 months	Court
60.24	After Hours Sale/Display Liquor/Occupancy & Compliance Violations & Sales to Minors	
	1st Violation (Owner and/or Bartender)	\$75 + court costs
	2nd Violation within 12 months (Owner and/or Bartender)	\$200 + court costs

		3rd Violation within 12 months (Owner and/or Bartender)			\$500 (+ court costs) + 3 consecutive days liquor license suspension
		4th Violation within 12 months (Owner and/or Bartender)			\$1000 (+ court costs) + 5 consecutive days liquor license suspension
60.24	Minor Consumption/Possession				
		1st Offense			\$145 + court costs
		2nd Offense within 12 months			Court
60.24	Liquor Consumption in Public Place				
		1st Offense			\$100 + court costs
		2nd Offense within 12 months			Court
60.24	ID for Liquor Purchase				
		1st Offense			\$100 + court costs
		2nd Offense within 12 months			Court
61.09	Transient Merchants, Peddlers, and Solicitors Violations				
		1st Offense			\$200 + court costs
		2nd Offense within 12 months			Court
63.07	Curfew Penalties				
		1st Violation (Administrative)			\$25
		2nd Violation within 12 months (Administrative)			\$50
		3rd Violation within 12 months			Court
70.07	Public Nuisances Penalties				
		1st Offense (Administrative)			\$100
		2nd Offense within 12 months			Court

71.19	Animal Violations			
	1st Offense (Administrative)			\$25
	2nd Offense within 12 months (Administrative)			\$50
	3rd Offense within 12 months			Court
71.2	Other fees for Dangerous Dogs			Actual Costs
72.07	Noise Violations			
	1st Offense (Administrative)			\$50
	2nd Offense within 24 months (Administrative)			\$100
	3rd Offense within 24 months			Court
73.11	Unlawful Burns			
	1st Offense			\$100 + court costs
	2nd Offense within 12 months			\$200 + court costs
	3rd Offense within 12 months			Court
75.09	Abandoned, Junk, Unauthorized Vehicles/Abandoned Appliance/Discarded Furniture			
	1st Offense (Administrative)			\$100
	2nd Offense within 12 months			Court

APPENDIX B
Special Ordinances