

CODE OF ORDINANCES

FOR THE

CITY OF HARDWICK

STATE OF MINNESOTA

[REV. 7/2021]

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SECTION 100. INTRODUCTORY PROVISIONS

100.01. Code Citation. This code of ordinances shall be known as the Hardwick City Code and may be cited as the “Hardwick City Code” and reference the appropriate chapter, section, and subdivision.

Subd. 1. Internal Citations. This code of ordinances may be cited or referred to herein as “this Code” or “the Code.” Reference or citation to the Code will be deemed to include amendments and additions to the Code.

100.02. Application. The provisions of this Chapter shall be applicable to all the chapters, sections, subdivisions, paragraphs and provisions in the City Code, and the City Code shall apply to all persons and property within the City of Hardwick, Minnesota, and within such adjacent area as may be stated in specific provisions.

100.03. Statutory Rules of Interpretation Adopted. The definitions and rules of construction, presumptions, and miscellaneous provisions pertaining to construction contained in Minn. Stat. § 645.00 et. Seq. are adopted by reference and made a part of this Code. As so adopted, references in that chapter to laws and statutes mean provisions of this Code and references to the legislature mean the Council.

100.04. Title Headings; Cross References. A title or caption to or in any chapter, section, subdivision, subparagraph, or other provision of the City Code is for convenience only and shall not limit, expand, or otherwise alter or control the content, wording, or interpretation thereof.

100.05. Numbering. Each section number of this Code consists of two component parts separated by a decimal. The first digit of the decimal represents the chapter number and the digits after the period refer to the position of the section within the chapter. If the chapter is divided into parts, the figure immediately to the left of the decimal corresponds to the part number. combined enumeration of the chapter number and subsection number. (E.g. Section 105.01, refers to Chapter 1, part 5, subsection 1; and Section 1010.03, refers to Chapter 10, part 10, subsection 3).

100.06. Amendments. New ordinances proposing amendments or additions to the Code shall be assigned appropriate code numbers and shall be incorporated into the Code as of their effective date. Reference or citation to the Code shall be deemed to include such amendments and additions. When an ordinance is integrated into the Code, there may be omitted from the ordinance the title, enacting clause, section numbers, definitions of terms identical to those contained in this Code, the clause indicating date of adoption, and validating signatures and dates. In integrating ordinances into the Code, the Clerk-Treasurer, in cooperation with the city attorney, may correct obvious grammatical, punctuation, and spelling errors; change reference numbers to conform with sections, articles, and chapters; substitute figures for written words and vice versa; substitute dates

for the words “the effective date of this ordinance;” and perform like actions to ensure a uniform code of ordinances without, however, altering the meaning of the ordinances enacted.

100.07. Separability. If any portion of this Code, or any part of it hereafter enacted, is held invalid or suspended, such invalidity or suspension shall not apply to any other part of the Code unless it is specifically provided otherwise.

100.08. Existing Rights and Liabilities. The repeal of prior ordinances and the adoption of this Code are not to be construed to affect in any manner rights and liabilities existing at the time of repeal and the enactment of this Code. Insofar as provisions in this Code are substantially the same as preexisting ordinances, they shall be considered as continuations and not as new enactments. Any act done, offense committed, or right accruing or liability, penalty, forfeiture, or punishment incurred or assessed prior to the effective date of this Code is not affected by the enactment of the Code, nor shall this Code authorize an act or omission otherwise prohibited by State or Federal law.

100.09. Copies. Copies of this Code shall be kept in the office of the clerk-treasurer for public inspection or sale for a reasonable charge.

SECTION 105. DEFINITIONS.

105.01. General Definitions. Unless the language or context clearly indicates that a different meaning is intended, the following words, terms and phrases, for the purpose of every chapter, section, subdivision, paragraph and provision of this City Code, shall have the following meanings and inclusions:

Subd. 1. "City" means the City of Hardwick, Minnesota, acting by or through its duly authorized representative.

Subd. 2. "Council" and "City Council" mean the City Council of the City of Hardwick, Minnesota.

Subd. 3. "Person" includes all firms, partnerships, associations, corporations and natural persons.

Subd. 4. "Written" and "In Writing" mean any mode of representing words and letters in the English language.

Subd. 5. "Street" means the entire area dedicated to public use, or contained in an easement or other conveyance or grant to the City, and shall include, but not be limited to, roadways, boulevards, sidewalks, alleys, and other public property between lateral property lines in which a roadway lies.

Subd. 6. "Public Property" and "Public Place" mean any place, property or premises dedicated to public use, owned by the City, occupied by the City as a lessee, or occupied by the City as a street by reason of an easement, including, but not limited to, streets, parks or parking lots so owned or occupied.

Subd.7. "Private Property" means all property not included within the definition of public property or public place. **Subd. 8. "Intersection"** means the area embraced within the prolongation or connection of the lateral curb line or, if no curb, then the lateral boundary lines of the roadways or streets which join one another at, or approximately at, right angles or the area within which vehicles traveling upon different streets joining at any other angle may come in conflict.

Subd. 9. "Roadway" means that portion of a street improved, designed, or ordinarily used for vehicular travel. In the event a street includes two or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

Subd. 10. "Misdemeanor" means the crime for which a sentence of not more than ninety (90) days or a fine of not more than \$700.00, or both, may be imposed.

Subd. 11. "Petty Misdemeanor" means an offense, which does not constitute a

crime, and for which a sentence of a fine of not more than \$200.00 may be imposed.

Subd. 12. "Conviction" means either of the following accepted and recorded by the Court:

- A. A plea of guilty; or,
- B. A verdict of guilty by a jury or a finding of guilty by the Court.

Subd. 13. "Crime" means conduct which is prohibited by Federal or State law or ordinance and for which the actor may be sentenced to imprisonment or fine.

Subd. 14. "Ordinance" means an ordinance duly adopted by the City Council of Hardwick, Minnesota.

Subd. 15. "Ex Officio Member" means a person who is not counted for the purpose of determining a quorum, and has no right to vote, but shall have the right and obligation (within his discretion) to speak to any question coming before the board, commission or other deliberative body of which he is such member.

Subd. 16. "May" is permissive.

Subd. 17. "Shall" is mandatory.

Subd. 18. "Violate" includes failure to comply with.

Subd. 19. "Premises" means any lot, piece or parcel of land within a continuous boundary whether publicly or privately owned, occupied or possessed.

105.02. Special Rules. The term "may" is permissive and the term "shall" is mandatory. The singular shall include the plural and the plural shall include the singular. The use of the masculine shall include the feminine and neuter, and vice-versa.

SECTION 110. VIOLATIONS AND PENALTIES.

110.01. Petty Misdemeanors. Whenever an act or omission is declared by this Code to be a petty misdemeanor, any person violating the provision shall, upon conviction, be subject to a fine not more than the maximum permitted by law.

110.02. Misdemeanors. Unless another penalty is expressly provided in this Code, any person violating any provision of this Code, or any rule or regulation adopted in the pursuance thereof, or any other provision of any code adopted in this Code by reference, including any provision declaring an act or omission to be a misdemeanor, shall, upon conviction, be subject to a fine and/or imprisonment for a term not to exceed the maximum allowed by law, plus, in either case, the costs of prosecution.

110.03. Conviction. A conviction shall be either a plea of guilty accepted and recorded by the Court, or a verdict of guilty accepted and recorded by the court.

110.04. Separate Violations. Unless otherwise provided, each act of violation and every day on which a violation occurs or continues constitutes a separate offense.

110.05. Failure to Enforce. The failure of any officer or employee of the City to perform any official duty imposed by this Code shall not subject the officer or employee to the penalty imposed for violation unless such a penalty is specifically provided for such failure.

110.06. Payment into City Treasury. All fines, forfeitures, and penalties recovered for the violation of any ordinance, charter, rule, or regulation of the City shall be paid into the City Treasury by the Court or officer thereof receiving such monies. Payment shall be made in the manner, at the time, and in the proportion provided by law.

CHAPTER 2: ADMINISTRATION AND LOCAL GOVERNMENT

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SECTION 200. AUTHORITY AND PURPOSE

200.01. Authority and Purpose. Pursuant to authority granted by Minnesota Law, this City Code is enacted so as to provide for the enforcement of government and good order of the City of Hardwick, Minnesota, by and through the city council.

200.02. Violation a Misdemeanor. Every person violates a section, subdivision, paragraph or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

SECTION 205. THE COUNCIL, MEMBERS, POWERS, AND DUTIES

205.01. Composition of the City Council. The city council shall consist of the mayor, and four council members. A majority of all the members shall constitute a quorum.

205.02. Publication of Council Proceedings. Publication of council proceedings may be made by the city council. The city council, after every regular or special meeting, shall make available to any resident upon request the official council proceedings, which shall include action on motions, resolutions, ordinances, and other official proceedings.

205.03. Enactment of Ordinances. Every ordinance shall be enacted by a majority vote of all the members of the council, except where a larger number is required by law. Ordinances shall be signed by the mayor, attested by the clerk and published once in the official newspaper, in no less than eight-point type. In the case of lengthy ordinances, or ordinances which include maps or charts, if the city council determines that publication of the title and a summary of an ordinance would clearly inform the public of the intent and effect of the ordinance, the council may by a four-fifths vote of its members direct that only the title of the ordinance and a summary be published, with notice that a printed copy of the ordinance is available for inspection by any person during regular office hours at the office of the city clerk and any other location which the council designates. A copy of the entire text of the ordinance shall be posted in any other public location which the council designates. Prior to the publication of the title and summary, the council shall approve the text of the summary and determine that it clearly informs the public of the intent and effect of the ordinance. Proof of publication shall be attached to and filed with the a copy of the ordinance at the office of the city clerk. Every ordinance shall be recorded in the ordinance book within 20 days after publication of the ordinance or its title and summary.

205.04. City Seal; Execution of Instruments and Contracts. All contracts to which the City is a party shall be sealed with the City Seal. Said Seal shall be kept in the custody of the City Clerk or Treasurer and affixed by him or her. The official City Seal shall be a circular disc having engraved thereupon "CITY OF HARDWICK" and such other words, figures or emblems as the city council may, by resolution, designate.

Subd. 1. Every contract, conveyance, license, or other written instrument shall be executed on behalf of the City by the mayor and Clerk, with the corporate seal affixed, and only pursuant to authority of the city council. Reference: Minn. Stat. § 412.201

Subd. 2. Except as provided by other law, no member of the city council shall be directly or indirectly interested in any contract made by the city council without first notifying the council of such interest. No council member shall vote on a motion involving a contract in which he or she is either directly or indirectly interested. Whenever the amount of a contract for the purchase of merchandise, materials, equipment, or for any kind of construction work undertaken by the City is estimated to exceed the amount specified in Minn. Stat. § 471.345, Subd. 3, the contract shall be let to the lowest responsible bidder, after notice has been published once in the official newspaper at least ten (10) days in advance of the last day for the submission of bids. If the amount of the contract exceeds \$1,000.00, it shall be

entered into only after compliance with Minn. Stat. § 471.345. Reference: Minn. Stat. § 412.311.

205.05. Specific Powers of the Council. The City Council shall have power to perform all functions granted by Minn. Stat. § 412.221, including but not limited to:

Subd. 1. To make such contracts as may be deemed necessary or desirable to make effective any power possessed by the council;

Subd. 2. To construct or acquire structures and buildings needed for city purposes;

Subd. 3. To provide for the prosecution and defense of actions or proceedings at law in which the city may be interested;

Subd. 4. To lay out, open, change, widen, or extend streets, alleys, parks, squares, and other public ways and grounds and to grade, pave repair control and maintain the same;

Subd. 5. To establish and maintain drains, canals, and sewers and to alter, widen, or straighten water courses;

Subd. 6. To lay, repair, or otherwise improve or discontinue sidewalks, paths, and crosswalks;

Subd. 7. To provide for lighting the streets, buildings, or other grounds by gas, electricity, or other means;

Subd. 8. To provide for and regulate the setting out and protection of trees, shrubs, and flowers in the city or upon its property;

Subd. 9. To acquire, hold, manage, and regulate cemetery grounds;

Subd. 10. To establish markets, and restrain sales in streets;

Subd. 11. To provide and regulate the use of wells, cisterns, reservoirs, waterworks, and other means of water supply;

Subd. 12. To provide hospitals and establish a hospital board;

Subd. 13. To establish a fire department, appoint its members and prescribe their duties;

Subd. 14. To name or rename the streets and public places of the city and to number the lots and blocks of the city;

Subd. 15. To restrain or license and regulate auctioneers and transient merchants;

Subd. 16. To regulate the keeping of animals and to restrain their running at large;

Subd. 17. To restrain and punish vagrants, prostitutes, and persons guilty of lewd conduct;

Subd. 18. To regulate the construction of buildings;

Subd. 19. To provide for the health or safety of the city;

Subd. 20. To define nuisances and provide for their prevention or abatement;

Subd. 21. To regulate and prevent noise or other disorder;

Subd. 22. To provide for the government, good order, and the general welfare of the City.

205.06. Council to Control Finances. The city council shall have full authority over the

financial affairs of the City, and shall provide for the collection of all revenues and other assets, the auditing and settlement of accounts, and the safekeeping and disbursement of public monies.

205.07. Annual Tax Levy. The city council shall make its annual tax levy by resolution, which may contain taxes for the following levies as authorized by law:

Subd. 1. A tax for the payment of principal and interest on outstanding obligations of the city as provided by Minn. Stat. §§ 475.61, 475.73, and 475.74;

Subd. 2. A tax for the payment of judgments;

Subd. 3. A tax to provide musical entertainment to the public;

Subd. 4. A tax for band purposes pursuant to Minn. Stat. § 449.09;

Subd. 5. A tax for municipal forests pursuant to Minn. Stat. § 459.06;

Subd. 6. A tax for advertising purposes pursuant to Minn. Stat. § 469.189;

Subd. 7. A tax for forest fire protection pursuant to Minn. Stat. § 88.04;

Subd. 8. A tax for the public utilities fund pursuant to Minn. Stat. § 412.251, Subd. 8;

Subd. 9. A tax for support of a public library pursuant to Minn. Stat. § 134.07;

Subd. 10. A tax for firefighters' relief association purposes pursuant to Minn. Stat. §§ 69.772, Subd. 4; 69.773, Subd. 5; or other statutes; and

Subd. 11. Any other special taxes authorized by law.

205.08. Disbursements. No disbursements of city funds shall be made except by an order-check drawn by the Mayor and attested by the Clerk or Treasurer. No order-check shall issue until the claim to which it relates has been audited and allowed by the council, except when the exact amount of such claim has been previously determined by contract authorized by the council and is issued for the payment of a judgment; salary or wage previously fixed by the council or by statute; principal or interest on an obligation; rent or other fixed charge; or as otherwise provided in subdivisions 3, 4, and 6 of this Subsection.

Subd. 1. Payment of Claims. Except for wages paid on an hourly basis, a claim for money due on goods or services shall be made in writing, shall be itemized and shall contain a signed declaration by the person claiming payment or the claimant's agent that the claim is just and correct and that no part of it has been paid; but the council, in its discretion, may allow a claim prepared by the Clerk or Treasurer without declaration, if the declaration is made by an endorsement on the order-check by which the claim is paid. All payment of claims for wages shall be made in accordance with the provisions of Minn. Stat. § 412.271, Subd. 2.

Subd. 2. Endorsement on Claims. The Clerk or Treasurer shall endorse on each claim required to be audited by the council the word "disallowed" if such be the fact, or, "allowed in the sum of \$," if approved in whole or in part, specifying in the latter case the items rejected. Each order-check issued on a claim made without declaration, shall have printed on its reverse side the declaration required in Subd. 1 of this subsection: "The undersigned payee, in endorsing this order-check, declares that the same is received in payment of a just and correct claim

against the City of Hardwick, and that no part of such claim has heretofore been paid."

Subd. 3. Immediate Payment of Claims. When payment of a claim based on contract cannot be deferred until the next council meeting, without loss to the city through forfeiture of discount privileges or otherwise, it may be paid immediately if the itemized claim is endorsed for payment by at least a majority of all the members of the council. The claim shall be acted upon formally at the next council meeting in the same manner as if it had not been paid, and the earlier payment shall not affect the right of the city or any taxpayer to challenge the validity of the claim

Subd. 4. Imprest Funds. The council may establish one or more imprest funds, by a transfer from the general fund, for the payment in cash of any proper claim against the city which it is impractical to pay in any other manner, except that no claims for salary or personal expenses of an officer or employee shall be paid from such funds. The council shall appoint a custodian of each such fund who shall be responsible for its safekeeping and disbursement according to law. A claim itemizing all the various demands for which disbursements have been made from the fund shall be presented to the council at the next council meeting after the disbursements have been made. The council shall act upon said claim as in the case of other claims and an order shall be issued to the fund custodian for the amount approved to replenish the fund. If the council fails to approve the claim in full for any sufficient reason, the fund custodian shall be personally responsible for the difference.

Subd. 5. Independent Boards and Commissions. Subdivisions 3 and 4 of this subsection shall apply to any independent board or commission of the city having authority to disburse funds without the prior approval of the council. In such case, references in these provisions to "the council" shall be considered to be to the board or commission and the money for the fund may be secured from any undedicated fund under the jurisdiction of the board or commission.

Subd. 6. No Delegation of Authority for Paying Claims. No delegation of the council's authority, pursuant to Minn. Stat. § 412.271, Subd. 8, to pay certain claims made against the city has been made to any city official.

205.09. Official Newspaper. The city council shall, annually at its first meeting of the year, designate a legal newspaper of general circulation in the city as its official newspaper, in which shall be published such ordinances and other matters as are required by law to be published and such other matters as the council may deem it advisable and in the public interest to have published in this manner. Reference: Minn. Stat. § 412.831.

SECTION 210. COUNCIL MEETINGS.

210.01. Time and Place. Regular meetings of the city council shall be held in the Council Chambers on the second Tuesday of each month. Special and adjourned meetings shall also be held in the Council Chambers. In the event that any regular meeting falls on a holiday, then the meeting shall be held on an alternative date to be set by the city council. All council meetings shall be open to the public pursuant to the Minnesota Open Meeting Law, unless closed to the public pursuant to statute.

210.02. Special Meetings. Special meetings of the city council may be called by the Mayor, or by any two other members of the city council, by writing filed with the City Clerk or Treasurer stating the time, place and purpose of the meeting. Notice of a special meeting shall be given by the City Clerk or Treasurer to each member of the city council by mailing a copy of such filing to all members who did not sign or issue the call at least three (3) days prior to the time stated therein, or by personal service at least seventy-two (72) hours prior to the projected time of meeting. Special meetings may be held without prior written notice to the city council when all council members are present at the meeting or consent thereto in writing. Any such consent shall be filed with the City Clerk or Treasurer prior to the beginning of the meeting. Any special meeting attended by all council members shall be a valid meeting for the transaction of any business that may come before the meeting. Meetings of the city council which are adjourned from time-to-time shall not be subject to the foregoing notice requirements; nor shall special meetings which, in the judgment of the city council, require immediate consideration to meet an emergency require such notice, but may be called by telephone communication or any other expeditious means. Notice to the public and to news media shall be given as required by statute. Reference: Minn. Stat. § 471.705 (Open Meeting Law).

210.03. Order of Council Business.**Subd. 1 Order Established.**

- (a) Call to Order;
- (b) Roll Call;
- (c) Approval of Minutes;
- (d) Consent Agenda;
- (e) Public Hearings;
- (f) Petitions, Requests, and Communications;
- (g) Ordinances and Resolutions;

- (h) Reports of Officers, Boards, and Commissions;
- (i) Unfinished Business;
- (j) New Business;
- (k) Miscellaneous;
- (l) Adjournment

Subd. 2 Petitions and Agenda. Petitions and other papers addressed to the council shall be read by the clerk upon presentation of the same to the council. All persons desiring to present new business before the council, shall inform the clerk thereof at least 72 hours before said new business is to be heard. The clerk may prepare an agenda of said new business for submission to the council on or before the time of the next regular meeting.

210.031. Approval of Minutes. Minutes shall be approved in the manner provided by Section 220.05 of this Ordinance.

SECTION 215. ELECTION; DATE AND TERMS OF OFFICE.

215.01. Date of Election. The regular City election shall be held biennially on the first Tuesday after the first Monday in November in every even-numbered year.

215.02. Terms. Council members shall be elected for four-year staggered terms, with two council members standing for election at each biennial election. The Mayor shall be elected for a four-year term. The terms of elective office shall commence on the first business day of January following the election at which the officer is chosen. All officers chosen and qualified as such shall hold office until their successors qualify.

215.03. Vacancy. A vacancy in office shall be filled by council appointment until an election is held as provided by Minn. Stat. § 412.02, Subd. 2a.

SECTION 220. CITY CLERK OR TREASURER.

220.01. Offices Combined. Pursuant to the authority granted by Minn. Stat. § 412.591, the offices of the Clerk and Treasurer may be combined in the office of the Clerk or Treasurer and thereafter the duties of the Treasurer and Clerk shall be performed by the Clerk or Treasurer.

220.02. Audit. It shall be the responsibility of the Clerk and Treasurer to arrange for, in conformance with the laws of the State of Minnesota, an annual audit of the City's financial affairs by the State Auditor or a public accountant in accordance with minimum procedures prescribed by the State Auditor.

220.03. Duties of Clerk and Treasurer.

Subd. 1. The Clerk and Treasurer shall give the required notice of each regular and special election, record the proceeding thereof, notify officials of their election or appointment to office, certify to the county auditor all appointments and the results of all city elections. The Clerk or Treasurer shall keep

- (a) a minute book, noting therein all proceedings of the council;
- (b) an ordinance book to record at length all ordinances passed by the council; and
- (c) an account book to enter all money transaction of the city including the dates and amounts of all receipts and the person from whom the money from whom the money was received and all orders drawn upon the treasurer with their payee and object.

Subd. 2 The Clerk or Treasurer shall act as the clerk and bookkeeper of the City, shall be the custodian of its seal and records, shall sign its official papers, shall post and publish such notices, ordinances and resolutions as may be required and shall perform such other appropriate duties as may be imposed by the council.

Subd. 2a. With the consent of the council, the Clerk or Treasurer may appoint a deputy for whose acts the Clerk or Treasurer shall be responsible and whom the Clerk or Treasurer may remove at pleasure.

Subd. 3. The Clerk or Treasurer shall possess all powers granted by Minn. Stat. § 412.151.

220.04. Financial Duties.

Subd. 1. The Clerk and Treasurer shall receive and safely keep all monies belonging to the City, including monies received in operations of any municipal

liquor dispensary maintained by the city, and shall promptly enter in a book provided for the purpose an account of all monies received and disbursed as treasurer, showing the source and objects thereof with the date of each transaction.

Subd. 2. The Clerk or Treasurer shall pay out money only upon the written order of the Mayor, duly approved by the council and attested by the Clerk or Treasurer; or upon the written order of such other officers of independent boards or commissions as are authorized to issue orders in the course of board or commission operations; or as otherwise allowed by law. Such orders when paid and canceled shall be retained as treasurer's vouchers. Such accounts and vouchers shall be exhibited to the council upon request.

Subd. 3. The Clerk or Treasurer shall, immediately after the close of the calendar year, make out and file in the Office of the City Clerk for public inspection, a report of balances, receipts and disbursements of city funds for the year.

Subd. 4. The Clerk or Treasurer shall possess all powers granted by Minn. Stat. § 412.141.

220.05. Approval of Minutes. The minutes of each council meeting shall be reduced to typewritten form, shall be signed by the Clerk or Treasurer, and copies thereof shall be delivered to each council member as soon as practicable after the meeting. At the next regular council meeting following such delivery, approval of the minutes shall be considered by the council. The minutes need not be read aloud, but 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.

SECTION 225. DEPARTMENTS GENERALLY.

225.01. Appointment. All Department Heads and employees shall be appointed by the city council. All appointments shall be for an indeterminate term.

225.02. Compensation. All wage and salary scales shall be fixed and determined by the city council.

225.03. Table of Organization and Lines of Responsibility. The city council may by resolution adopt, amend, and from time-to-time revise, a Table of Organization and define lines of responsibility and authority for the efficient governmental organization of the City.

225.04. Budgetary Information. The Heads of all Departments shall, prior to September 15 in each year, file with the City or Treasurer the projected financial needs of his or her Department for the ensuing year. Such projections shall include information as to maintenance and operation of equipment, new equipment, personnel, and such other information as may be requested by the City.

SECTION 226. LAW ENFORCEMENT.

226.01. Establishment. The council may contract for the provision of such law enforcement services as are deemed necessary for the health, safety, and welfare of its citizenry.

SECTION 227. FIRE DEPARTMENT.

227.01. Establishment, Composition, and Remuneration. A Volunteer Fire Department is hereby established. The size, composition and remuneration shall all be established by resolution of the city council and any such other board or boards having control over, or an interest in said volunteer fire department. Composition and remuneration may be changed from time-to-time by subsequent resolution.

227.02. Permission to Establish Written Rules. The city council and such other board or boards which may have an interest therein, may also establish written rules and regulations of the Department, a copy of which shall be distributed to each voting member.

227.03 Officers. The members of the Department shall elect their own Chief, Assistant Chief, and other officers subject to confirmation and approval by the city council and any such other board having an interest therein.

227.04 Duties of Fire Chief. The Chief of the Fire Department shall have general superintendence of the Fire Department and the custody of all property used and maintained for the purposes of said Department.

Subd. 1. The Chief shall see that the same are kept in proper order and that all rules and regulations and all provisions of the laws of the State and ordinances of the City relative to a Fire Department and to the prevention and extinguishment of fires are duly observed.

Subd. 2. The Chief shall superintend the preservation of all property endangered by fire and shall have control and direction of all persons engaged in preserving such property.

Subd. 3. In case of the absence or disability of the Chief for any cause, the Assistant Chief shall exercise all the responsibilities of the Chief.

Subd. 4. The Chief of the Fire Department shall make and file such reports as may be requested by the city council.

SECTION 228. LEGAL DEPARTMENT.

228.01. Establishment. A Legal Department is hereby established. The city council shall appoint a City Attorney, who shall be Head of the Legal Department, together with such assistants as may be necessary, who shall serve at the pleasure of the city council. The City Attorney shall perform such duties as are required of him by law or referred to him by the city council. It shall be the official duty of the City Attorney to act as "Revisor of Ordinances".

SECTION 240. BOARDS AND COMMISSIONS, GENERALLY.

240.01 Appointments. All Board and Commission appointments authorized by ordinance or resolution shall be made by the Mayor, and such appointment confirmed by the city council at the first regular meeting in December of each year.

240.02 Commencement of Term. The term of each appointee shall be established and stated at the time of his appointment, and terms of present Board and Commission members may be re-established and changed so as to give effect to this Section. New appointees shall assume office on January 1st, December 31st being the date of expiration of terms. Provided, however, that all appointees to Boards and Commissions shall hold office until their successor is appointed and qualified.

240.021 Term Limits. Board members shall be limited to serving six consecutive years, or two terms, whichever is greater.

240.03 Vacancies. All vacancies shall be filed in the same manner as for an expired term, but the appointment shall be effective immediately when made and only for the unexpired term.

240.04 Stipends and Reimbursements. All appointed Board and Commission members may receive a stipend to be established by the city council and may be reimbursed for out-of-pocket expenses incurred in the performance of their duties when such expenses have been authorized by the city council before they were incurred.

240.05. Chairman and Secretarial Requirements. The Chairman and Secretary shall be chosen from and by the Board or Commission membership annually to serve for one year, provided that no Chairman shall be elected who has not completed at least one year as a member of the Board or Commission.

240.06. Removal. Any Board or Commission member may be removed by the city council for misfeasance, malfeasance or non-feasance in office and his position filled as any other vacancy.

240.07. Scheduled Meetings. Each Board and Commission shall hold its regular meetings at a time approved by the city council. All members shall be residents of the City, except that one member of each Board or Commission may be a resident of Rock County and non-resident of the City, if the city council deems such arrangement more representative.

240.08. Serving On Multiple Boards Prohibited. Except for members of the city council, no person shall serve on more than one Board or Commission at the same time. Except as otherwise provided, this Section shall apply to all Boards and Commissions.

SECTION 245. PERSONNEL RULES AND REGULATIONS.

245.01. Establishment. The City Council may, by resolution, establish personnel rules setting forth the rights, duties, and responsibilities of employees. Such rules may from time-to-time be amended.

SECTION 250. ADMINISTRATIVE APPEALS. (INCLUDES 2.73 AND 2.74 MAYBE THE ADMINISTRATIVE CODE ORDINANCE WITH CITATIONS AND WHATEVER)

250.01. Right of Administrative Appeal. If any person shall be aggrieved by any administrative decision of the City Clerk or Treasurer or any other City official, or any Board or Commission not having within its structure an appellate procedure, such aggrieved person is entitled to a full hearing before the city council upon serving a written request therefor upon the Mayor and City Clerk or Treasurer at least five (5) days prior to any regular city council meeting. Such request shall contain a general statement setting forth the administrative decision to be challenged by the appellant. At such hearing the appellant may present any evidence he deems pertinent to the appeal, but the City shall not be required to keep a verbatim record of the proceedings. The Mayor, or other officer presiding at the hearing, may, in the interest of justice or to comply with time requirements and on his own motion or the motion of the appellant, the City Clerk or Treasurer, or a member of the city council, adjourn the hearing to a more convenient time or place, but such time or place shall be fixed and determined before adjournment so as to avoid the necessity for formal notice of reconvening.

250.02. Rules of Procedure for Appeals and Other Hearings. The city council may adopt by resolution certain written rules of procedure to be followed in all administrative appeals and other hearings to be held before the city council or other bodies authorized to hold hearings and determine questions therein presented. Such rules of procedure shall be effective thirty (30) days after adoption and shall be for the purpose of establishing and maintaining order and decorum in the proceedings.

SECTION 255. INTERIM EMERGENCY SUCCESSION.

255.01. Purpose. Due to the existing possibility of a national emergency or a natural disaster requiring a declaration of a state of emergency, it is necessary to insure the continuity of duly elected and lawful leadership of the City to provide for the continuity of the government and the emergency interim succession of key governmental officials by providing a method for temporary emergency appointments to their offices.

255.02. Succession to Local Offices. In the event of an act or declaration of war upon the United States or a natural disaster affecting the vicinity of the City, the Mayor, council members and City Clerk or Treasurer shall be forthwith notified by any one of said persons and by any means available to gather at the City Hall. In the event that safety or convenience dictate, an alternative place of meeting may be designated. Those gathered shall proceed as follows:

(a) By majority vote of those persons present, regardless of number, they shall elect a Chairman and Secretary to preside and keep minutes, respectively.

(b) They shall review and record the specific facts relating to the national emergency or natural disaster and injuries to persons or damage to property already done, or the imminence thereof.

(c) They may, based on such facts, declare a state of emergency.

(d) By majority vote of those persons present, regardless of number, they shall fill all positions on the city council, (including the office of Mayor) of those persons upon whom notice could not be served or who are unable to be present.

(e) Such interim successors shall serve until such time as the duly elected official is again available and returns to his position, or the state of emergency has passed and a successor is designated and qualifies as required by law, whichever shall occur first.

255.03. Duties of the Interim Emergency Council. The Interim Emergency Council shall exercise the powers and duties of their offices, and appoint other key government officials to serve during the emergency.

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SECTION 300. GENERAL PROVISIONS

300.01. Definitions. As used in this Chapter, the following words and terms shall have the meaning(s) stated below:

(a) **“Municipal Utility”** and **“Utility”** means a City owned utility system, including, but not by way of limitation, water, sewerage, electric, and refuse service.

(b) **“Consumer”** and **“Customer”** mean any user of a utility.

(c) **“Service”** means providing a particular utility to a customer or consumer.

(d) **“Public Utilities Commission”** or **the “Commission”** means the Public Utilities Commission of the City. Certain specific references in this Chapter to **the “City”** shall include the City acting through the Commission where the language or context clearly indicates such reference and usage.

300.02. Contractual Contents. Provisions of this Chapter relating to municipal utilities shall constitute portions of the contract between the City and all consumers of municipal utility services, and every such consumer shall be deemed to assent to the same.

300.03. Violation a Misdemeanor. Every person violates a section, subdivision, paragraph, or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

SECTION 305. WATER AND SEWER SYSTEMS – GENERALLY

305.01. Rates. The City Council shall fix the rates of all public utilities.

305.02. Use of Water or Sewer System Restricted. No person other than a city employee shall uncover or make or use any water or sewer service installation connected to the city water or sewer system except pursuant to application and permit as provided in this Chapter. No person shall make or use any such installation contrary to the regulatory provisions of this Chapter.

305.03. Applications for Service. Application for a water or sewer service installation and for water service shall be made to the City Council of Hardwick on forms furnished by the city. The applicant's signature shall be an agreement to conform to this Chapter and to rules and regulations that may be established by the city as conditions for the use of water.

305.04. Fees or Deposit. Application for a service installation shall be made by the owner of the property to be served or by the owner's agent. The applicant shall at the time of making application pay to the city the amount of the fees or deposit required for the installation of the service connection as provided in this Chapter. When a water service connection has been installed, application for water service may be made either by the owner or the owner's agent or by the tenant or occupant of the premises.

SECTION 310. CHARGES FOR SERVICE CONNECTIONS.

310.01. Permit and Fee. No connection shall be made to the city water or sanitary sewer system without a permit received from the clerk. Fees shall be as set by the Council.

310.02. Connection Fees. When a connection requires installation of a service line from the main to the property line, the applicant for a permit shall pay to the city an amount not less than the cost of making the necessary connections, taps, and installation of pipe and appurtenances to provide service to the property and the necessary street repairs.

310.03. Permit Issuance Requirements. No permit shall be issued to connect with any water or sanitary sewer main unless the clerk certifies to the truth of one of the following or the payment required under Section 310.04 is made:

Subd. 1. That the lot or tract to be served has been assessed for the cost of construction of the main with which the connection is made or that proceedings for levying such assessment has been or will be commenced in due course;

Subd. 2. That the cost of construction of the main has been paid by the developer or builder platting the lot or tract; or

Subd. 3. That, if neither of the foregoing Subdivisions are true, a sum equal to the portion of the cost of constructing the main which would be assessable against the lot or parcel has been paid to the city.

310.04. Additional Connection Fee. If no such certificate can be issued, the applicant shall pay an additional connection fee equal to the portion of the cost of construction of the main upon the same basis as any assessment previously levied against other property for the main. The determination shall be made by the council. If no such assessment has been levied, the assessable cost shall be determined upon the basis of the uniform charge which may have been or will be charged for similar connection with the main. The amount shall be determined on the basis of the total assessable cost of the main allocated on the basis of frontage or other equitable means.

SECTION 315. ACCOUNTING, BILLING, AND COLLECTION.

315.01. Owner Responsibility. The owner shall be liable for water supplied or sewer service provided to the owner's property, whether the owner is occupying the property or not, and any charges unpaid shall be a lien upon the property.

315.02. Bills for Service. Water and sewer service charges shall be billed in such manner as the council shall deem appropriate.

315.03. Delinquent Accounts. All charges for water and sewer shall be due on the date specified by the city for the respective account and shall be delinquent 30 days thereafter. The city shall endeavor to collect delinquent accounts promptly. In any case, where satisfactory arrangements for payment have not been made, the clerk may, after the procedural requirements of Section 315.04 have been complied with, cause a discontinuance of service to the delinquent customer by shutting off the water at the stop box. When water service to any premises has been discontinued, service shall not be restored except upon the payment of all delinquent bills and a fee and/or deposit as deemed appropriate by the council. Delinquent accounts shall be certified to the city clerk who shall prepare an assessment roll each year providing for assessment of the delinquent amounts against the respective properties served. The assessment roll shall be delivered to the council for adoption on or before October 1 of each year for certification to the county auditor for collection along with taxes. Such action is optional and may be subsequent to taking legal action to collect delinquent accounts.

315.04. Procedure for Shutoff of Service. Water shall not be shut off under Section 315.03 or for a violation of rules and regulations affecting utility service until notice and an opportunity for a hearing have first been given the occupant of the premises involved. The notice shall be delivered by certified mail and shall state that if payment is not made before a day stated in the notice but not less than 10 days after the date on which the notice is given, the water supply to the premises will be shut off. The notice shall also state that the occupant may, before such date, demand a hearing on the matter, in which case the supply will not be cut off until after the hearing. If the customer requests a hearing before the date specified, a hearing shall be held on the matter by the council at least one week after the date of the request. If as a result of the hearing, the council finds that the amount claimed to be owing is actually due and unpaid and that there is no legal reason why the water supply of the delinquent customer may not be shut off in accordance with this ordinance, the city may shut off the supply.

SECTION 320. PROTECTION OF PUBLIC AND CITY.

320.01. Permit and Bond. A permit for construction and connection of the extension between a building drain and the sewer main or stub, herein called the building sewer, or for construction of a water main or stub, shall be issued only upon application by a person who has furnished a bond either to the clerk or to the secretary of state under Minn. Stat. 326.40. The bond shall be in the amount of \$2,000.00 conditioned so as to secure compliance by the principal with the provisions of this code and to further secure the person's performance of all work undertaken within the city.

320.02. Liability Insurance. Before undertaking the construction work authorized by the permit, the person shall secure and maintain a policy of insurance against damages to property or injury or death to individuals. The policy shall indemnify and save harmless the city and its personnel against any claim, damages, or cause of action arising out of the work and from any expenses of defending the same. The property damage insurance coverage shall be in the amount of at least \$300,000 per claimant and \$750,000 for any number of claims per occurrence. Proof of such insurance shall be filed with the city prior to construction work and such policy shall provide that the city shall be notified immediately of any termination or modification of such insurance. If the insurance coverage be inadequate in amount, the person shall indemnify and save harmless the city and its personnel in like manner.

320.03. Indemnification by Owner. The owner shall bear the costs and expenses incident to the installation and connection of the building sewer or extension of water service to private property. The owner shall indemnify the city for any loss or damage directly or indirectly caused by its installation. The clerk shall establish rules and regulations for the improper implementations of these requirements which, when approved by the council by resolution, shall govern the installation of building sewers and connections.

SECTION 325. WATER REGULATIONS.

325.01. Discontinuance of Service. The city may discontinue service to any water consumer without notice for necessary repairs or, upon notice as provided in Section 3.13, Subdivision 4, for non-payment of charges, or for violation of rules and regulations affecting utility service.

325.02. Supply from One Service. No more than one house or building shall be supplied from one service connection except by special permission of the council. Whenever two or more parties are supplied from one pipe connecting with a service main, each building or part of building separately supplied shall have a separate stop box and a separate meter.

325.03. Turning on Water, Tapping Mains. No person except an authorized city employee shall turn on any water supply at the stop box or tap any distributing main or pipe of the water supply system or insert a stop cork or other appurtenance therein without a city permit.

325.04. Repair of Leaks. The consumer or owner shall be responsible for maintaining the service pipe from the curb box into the building served. If the consumer fails to repair any leak in such service pipe within 24 hours after notice by the city, the city may turn the water off. The water shall not then be turned on again until the sum of \$25.00 has been paid to the city. When the waste of water is great or damage is likely to result from the leak, the city shall turn the water off immediately upon the giving of notice if repair is not commenced immediately.

325.05. Use of Fire Hydrants. No person other than an authorized city employee shall operate a fire hydrant or interfere in any way with the city water system without first obtaining authority to do so from the city fire chief or council.

325.06. Private Water Supply. No water pipe of the city water supply system shall be connected with any pump, well, or tank that is connected with any other source of water supply. When any such connection is found, the clerk shall notify the owner to sever the connection and if this is not done immediately, the city shall turn off the water supply forthwith. Before any new connection to the city system is permitted, city employees shall ascertain that no cross connection will exist when the new connection is made.

325.07. Restricted Hours. Whenever the council determines that a shortage of water supply threatens the city, it may, by resolution, limit the times and hours during which city water may be used for sprinkling, irrigation, car washing, air conditioning, or other specified uses. After publication of the resolution or two days after the mailing of the resolution to each customer, no person shall use or permit water to be used in violation of the resolution and any customer who does so shall be charged a sum of \$25.00 for each day of violation and the charge shall be added to his next water bill. If the emergency requires immediate compliance with terms of the resolution, the council may provide for

the delivery of a copy of the resolution to the premises of each customer, and any customer who has received such notice and thereafter uses or permits water to be used in violation of the resolution shall be subject to the above charge. Continued violation shall be cause for discontinuance of water service.

SECTION 330. METERS.

330.01. Meters Required. Except for extinguishing fires, no person other than an authorized city employee shall use water from the city water supply system or permit water to be drawn therefrom unless the water passes through a meter supplied or approved by the city. No person not authorized by the clerk shall connect, disconnect, take apart, or in any manner change or interfere with any such meter or its use.

330.02. Maintenance. The city shall maintain and repair at its expense any meter that has become unserviceable through ordinary wear and tear and shall replace it if necessary. Where repair or replacement is made necessary by act or neglect of the owner or occupant of the premises it serves, any city expense caused thereby shall be a charge against and collected from the water consumer, and water service may be discontinued until the cause is corrected and the amount charged is paid.

330.03. Complaints; Meter Testing. When a consumer complains that the bill for any past service period is excessive, the city shall have the meter reread on request. If still dissatisfied, the consumer may, on written request and the deposit of \$50.00 have the meter tested. If the test shows an error in the city's favor exceeding five percent of the water consumed, the deposit shall be refunded, an accurate meter shall be installed, and the bill shall be adjusted accordingly. Such adjustment shall not extend back more than one service period from the date of the written request.

330.04. Meters Property of the City. Water meters shall be the property of the city and may be removed or replaced as to size and type when deemed necessary

330.05. Meter reading and Inspection. Authorized meter readers shall have free access at reasonable hours of the day to all parts of every building and premises connected with the city water supply system in order to read meters and make inspections.

SECTION 335. PLUMBING REGULATIONS.**335.01. Service Pipes.**

Subd. 1. Every service pipe shall be laid with sufficient bend to allow not less than one foot of extra length and in such manner as to prevent rupture by settlement.

Subd. 2. The service pipe shall be placed not less than six feet below the surface and be so arranged as to prevent rupture by freezing. A shut-off or other stop cork with waste valve of the size and strength required shall be placed close to the inside wall of the building and be well protected from freezing.

Subd. 3. PVC tubing shall be used for all services of two inches or less. Joints on tubing shall be as few as possible and not more than one joint shall be used for a service up to 70 feet in length. Each joint shall be left uncovered until inspected by the city.

Subd. 4. Every service over two inches shall be PVC.

Subd. 5. Connections with the mains for domestic supply shall be at least three-fourths of an inch per residential unit or equivalent and shall be fitted with appropriate saddles.

335.02. Water Meter Setting. Every water meter shall be installed in accordance with the following provisions:

Subd. 1. The service pipe from the water main to the meter shall be brought through the floor in a vertical position where the pipe enters the building. The stop and waste valve shall be 12 inches above the floor.

Subd. 2. The bottom of the meter shall be between six and 12 inches above the finished floor line. The meter shall be set not more than 12 inches horizontally from the inside of the of the basement wall unless a different position is approved by the city clerk or the clerk's designee. A suitable bracket shall be provided to support the meter in a proper vertical position and prevent noise from vibration.

Subd. 3. Each meter installation shall have a stop and waste valve on the street side of the meter. In no case shall more than 12 inches of pipe be exposed between the point of entrance through the basement floor and the stop and waste valve. A stop and waste valve shall also be installed on the house side of the meter.

Subd. 4. The water pipe connecting with the main shall not exceed two feet under the basement floor from the inside of the basement wall to the water meter connection.

Subd. 5. Deviation from the installation specifications in Section 335.02 shall be by council approval only.

SECTION 340. WELL CONSTRUCTION PERMIT.

340.01. Permits. Before proceeding within the city with construction or reconstruction of any well, which involves drilling or casing insertion, the owners of the premises upon which the well is located or to be located shall obtain a permit from the council.

340.02. Application and Fee. Application for a well permit shall be in writing on a form provided by the clerk, shall contain the information required thereon and shall be accompanied by a fee of \$25.00.

340.03. Council Consideration. The council shall study the proposed well location, design, depth, capacity, cost, and proposed water use, and consider the impact of the proposed private well upon present and planned public water supply and the health, safety, and welfare of the city and surrounding areas. The council shall deny the permit if it finds facts that show, and determines by resolution that the health, safety, and welfare of the public, require denial.

SECTION 345. SEWER SYSTEM REGULATIONS

345.01. Sanitary Sewer System – Requirements for Building Sewer. Building sewer construction shall meet the requirements of the Minnesota Building and Plumbing Codes.

345.02. Sump Pump and Other Surface Water Discharge. In adopting this ordinance, the City Council finds that the discharge of water from any roof, surface ground, sump pump, footing tile or swimming pool or other natural precipitation into the City sewerage system will and has on occasion in the past, flooded and overloaded the sewerage system to such an extent as to cause significant and grave damage to the property of large numbers of City residents. Such damage is caused by the backup of sewage into the living quarters of residents and in addition to other damage creates a hazard to health. The City Council therefore finds it essential to the maintenance of health and to minimize damage to property that the provisions of this ordinance be strictly enforced to avoid emergencies in the future.

Subd. 1. Definition and Method. No water from any roof, surface, ground, sump pump, footing tile, swimming pool, or other natural precipitation shall be discharged into the sanitary sewerage system. Dwellings and other buildings and structures which require, because of the infiltration of water into basements, crawl spaces and the like, a sump pump system to discharge excess water, shall have a permanently installed discharge line which shall not at any time discharge water into the sanitary sewerage system, except as provided herein. A permanent installation shall be one which provides for year-around discharge capability to either the outside of the dwelling, building or structure, or is connected to the City storm sewer or discharges through the curb and gutter to the street. It shall consist of a rigid discharge line, without valving or quick connections for altering the path of discharge, and if connected to the City storm sewer line, include a check valve.

Subd. 2. Disconnection. Any person, firm, or corporation having a roof, surface, ground, sump pump, footing tile, or swimming pool connected and/or discharging into the sanitary sewer system shall disconnect and/or remove the same. Any disconnects or openings in the sanitary sewer shall be closed or repaired in an effective, workmanlike manner, as approved by the City.

Subd. 3. Inspections. At any time, if the City has reason to believe an illegal connection may exist in a premises, the owner, by written notice, shall comply with the provisions of Chapter 2 of this Code. As the City deems necessary, persons owning improved real estate that discharges into the City's sanitary sewer system shall allow an employee of the City of Hardwick or a designated representative to inspect the building to confirm there is no sump pump or other prohibited discharge into the sanitary sewer system. Any property owner found in violation of this ordinance shall make the necessary changes to comply with this ordinance.

Subd. 4. Waivers. The City shall have the power and duty of hearing and deciding

requests for waivers from the applicability of the provisions of this ordinance where strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration or cause a safety problem.

Subd. 4a. Application for Waivers Application for waivers pursuant to this section shall be addressed in writing to the City. The application shall, at a minimum, identify the property for which the waiver is being applied for, the name of the property owner/applicant, and describe in detail what characteristics of the subject property create an undue hardship. Within a reasonable time, the City shall make its order deciding on the matter and serve a copy of such order upon the applicant by mail. Upon approval of an application for a waiver, a property owner shall be allowed to temporarily pump directly into the sanitary sewer system between the dates of October 15 and May 1, and provided the applicant agrees to pay an additional fee as is determined by the council is hereby proposed per year for the additional sewer service, payable October 15 of the year.

Subd. 5. Penalty. A surcharge in an amount to be determined by the council is hereby imposed and added to every sewer billing mailed to property owners who are not in compliance with this ordinance if any discovered violation is not corrected within 30 days. The surcharge shall be added every month until the property is in compliance. The surcharge shall continue to be levied monthly of every year on properties not complying with this ordinance.

345.03. Non-Acceptable Wastes. No person shall discharge or permit to be discharged into any public sewer any of the following wastes:

Subd. 1. Any liquid or vapor having a temperature in excess of 180 degrees Fahrenheit;

Subd. 2. Any water or waste having a five-day biological oxygen demand exceeding 1,000 parts per million by weight as averaged during any 12-month period;

Subd. 3. Any gasoline, benzine, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas;

Subd. 4. Any garbage that has not been properly shredded;

Subd. 5. Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, manure, grit, brick, cement, onyx, carbide, or other matter that may interfere with the proper operation of the sewers or sewage treatment plant;

Subd. 6. Any water or waste having a pH lower than five and one-half or higher than nine or having any other corrosive property capable of causing damage or

hazard to structures, equipment, or personnel of the sewage works;

Subd. 7. Any water or waste containing a toxic or poisonous substance, whether or not listed as a hazardous waste by Section 7045.0135, Minnesota Rule 1985, in sufficient quantities to constitute a hazard to humans or animals, injure or interfere with sewage treatment, or create any hazard in the receiving waters of the sewage treatment plant;

Subd. 6. Any noxious or malodorous gas or substance capable of creating a public nuisance.

345.04. Interceptors. Grease, oil, and sand interceptors shall be provided when they are necessary for the proper handling of any liquid waste containing grease in excessive amounts or any flammable waste, sand, or other harmful ingredients; but such interceptors shall not be required for private living quarters or dwelling units. Interceptors shall be located so as to be easily accessible for cleaning and inspection.

345.05. Control Manhole Required. The owner of any property served by a building sewer carrying industrial waste shall install a suitable control manhole in the building sewer to facilitate observation and sampling of the waste. The manhole shall be constructed by the owner in accordance with plans approved by the city engineer. The owner shall maintain the manhole so as to be safe and accessible for cleaning and inspection.

345.06. Separate Sewers. A separate and independent sewer shall be provided for every building connected to the sewer system except that the council may waive this requirement where it finds that a separate sewer for a building is impractical.

345.07. Right of Entry. Authorized employees of the city, bearing proper credentials and identification, shall at reasonable times be permitted to enter upon all properties connected to the city sanitary sewer system for the purpose of inspection, observation, measurement, sampling, and testing.

Subd. 1. The premises of any property owner or occupant, who refuses entry to a city employee, after a proper request as provided for in this Section, shall be terminated from the connection with the city sanitary sewer system. Such termination from the connection shall be effected by the city only after a hearing before the city council upon 10 days mailed notice to the owner or occupant concerned.

Subd. 2. The requirements of this code section for connection to the city sanitary sewer system, shall not be applicable to property disconnected under this Section. However, any such property producing sewage shall be equipped with an adequately maintained and liquid tight holding tank.

345.08. Sewer Connection Required.

Subd. 1. General Requirement. When property abuts upon any public street or alley along which water and sewer mains have been constructed, the owner of any dwelling or commercial establishment on the property shall install suitable toilet facilities therein and connect them with the sanitary sewer in accordance with the provisions of this ordinance within 90 days after the date of mailing or delivering official notice to do so. The notice shall be given to the owner or occupant in writing by the city clerk on order of the council.

Subd. 2. Connection by City. Whenever any owner or occupant fails to comply with such written notice, the council shall by resolution direct that a toilet be installed and connection made with the water and sewer system and that the cost of the installation be paid in the first instance out of the general fund and then assessed against the property benefitted.

Subd. 3. Assessment. After the installation and connection have been completed pursuant to council resolution, the clerk shall serve a written notice of the assessment upon the owner or the owner's representative directing the owner to pay the assessment to the treasurer within 10 days after the service of the notice. If the assessment is not paid within 10 days, the clerk shall certify the amount to the county auditor for collection in the same manner as other special assessments. The council may by resolution spread the assessment over a three-year period. The Council may, by resolution, assess the cost over an extended period at its own discretion, unless otherwise negotiated.

345.09. Sewer Rates. The City Council shall fix the rates of all public utilities.

Subd. 1. Effluent of Unusual Strength or Quantity. Where it appears that sewage of unusual strength or quantity is being disposed from any premises, the council may cause an investigation to be made and upon the facts may determine equitable and reasonable sewer charges against the owner, occupant, or lessee of the premises for sewer service.

Subd. 2. Required Information. The owner, occupant, or person in charge of any premises shall supply the city with such information as it may reasonably require relating to use of water, use of sewer, or sewer rates. Willful failure to provide such information, willful falsification of such information, or willful failure to comply with any requirement or order issued pursuant to this Section constitutes a violation of this Section.

Subd. 3. Disposition of Revenues. All revenues derived from charges imposed under this Section shall be credited to the sewer fund.

SECTION 346. INFLOW AND INFILTRATION

346.01: Applicability. This section shall apply to all water entering the sanitary sewer system unless explicitly exempted by the City. The City and its representatives are authorized to administer, implement, and enforce the provisions of this section.

346.02: Definitions. For the purpose of this Ordinance, the following terms are defined:

1. *“Clear water” means storm water, natural precipitation, melting snow, ground water, roof drainage, ground surface and subsurface drainage, down spout, yard drain, sump pump, foundation drain, yard fountain, pond, swimming pool, cistern overflow, or any other water that is not required to be treated by state or federal law. Swimming pool water that is required to be treated in accordance with city, county or state regulations shall not be considered clear water.*
2. *“Sewer service lateral” means all sewer service pipes that extend from the municipal sewer main to the structure that it serves.*

346.03: Compatibility with Other Regulations. This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall apply.

346.04: Prohibition Against Discharge into the Sanitary Sewer System. No person shall discharge or cause to be discharged into the municipal sanitary sewer collection system, or infiltrate into the sanitary sewer system any clear water because of a sump pump, defective plumbing, a defective sewer service lateral or by any other means.

346.05: Sump Pump Regulation. Any dwelling, structure or building that has a sump pump discharge system to remove groundwater from its foundation drain must have a permanently installed discharge line.

1. A “permanently installed discharge line” shall be one which provides for year-around discharge capability to either the outside of the dwelling, building or structure, or is connected to the City storm sewer. It shall consist of a rigid discharge line, without valving or quick connections for altering the path of discharge and, if connected to the City storm sewer line, include a check valve. It shall not be capable of connection or reconnection to the municipal sanitary sewer system.

346.06: Inspection by City. Every person owning improved real estate, or contractors and builders who are building a structure connected to the City's sanitary sewer system, shall obtain an inspection of each building located on such property by an inspector designated by the City. The purpose of this city inspection shall be to confirm that there is no prohibited discharge into the municipal sanitary sewer system.

This inspection requirement may also be met by having the property owner contract with a licensed plumber to perform the inspection. The plumber must inspect the property's sump pump, sewer service lateral, and groundwater drainage system, and upon completion, return an inspection form provided by the City documenting the results of the inspection. All costs associated with an inspection by a privately retained plumber shall be the responsibility of the property owner.

- (a) A certificate of compliance shall be issued by the city upon successful completion of an inspection. A certificate of compliance shall be valid for ten years.
- (b) The owner or owner's representative is required to complete an inspection and obtain a certificate of compliance issued by the City before such property is offered for sale, gifted or transferred, and before the owner or owner's representative enters into any contract for deed or other transaction changing the party responsible for the property.
- (c) A certificate of compliance shall be issued by the City upon successful completion of an inspection. A certificate of compliance shall be valid until the property is again offered for sale, gifted or transferred, and before the owner or owner's representative enters into any contract for deed or other transaction changing the party responsible for the property.

346.07: Corrections Upon notice that the discharge of clear water on a property is not in compliance with this ordinance, the owner or occupant of the property shall cease from discharging clear water in violation of this ordinance and shall make the necessary repairs and corrections to discharge the clear water in accordance with this ordinance. Discharge of clear water in compliance with this ordinance shall be completed within 90 days of the date of notice of noncompliance, or as determined by the **public works director/maintenance personal**. A second inspection of the property will be completed after 90 days following the notice of noncompliance.

346.08: Violations. A monthly surcharge in an amount duly adopted by the City Council and set forth in the City's fee schedule shall be assessed against any property on which clear water is discharged in violation of this ordinance. The monthly surcharge will be charged on the property's municipal utility billing statement if one or more of the following conditions apply: (1) an inspection as required herein has not been allowed by the property owner or occupant or a certificate of compliance has not been issued by the

city within **60** days after the city's notice of inspection; (2) the property owner or occupant fails to make the sewer line cleanout readily available for the inspection; (3) the necessary corrections have not been made within the time specified; and (4) the property owner or occupant reconnects a clear water discharge line to the municipal sanitary sewer system after it has been previously disconnected at the city's or a court's direction. A surcharge will be assessed for every month during which the property is not in compliance.

346.09: Temporary Waivers. The City may grant a temporary waiver from the provisions of this section where strict enforcement would cause a threat of damage or harm to other property, the environment, or public safety because of circumstances unique to the individual property or due to weather conditions. A written request for a temporary waiver must be first submitted to the **public works director/maintenance personal** specifying the reasons for the temporary waiver.

If a temporary waiver is granted, the property owner shall pay an additional fee for sewage service charges based on the number of gallons discharged into the City's sanitary sewer system as estimated by the **public works director/maintenance personal**.

The **public works director/maintenance personal** may set conditions to the temporary waiver. The **public works director/maintenance personal** may terminate the temporary waiver upon a failure to comply with any conditions imposed on the temporary waiver. The **public works director/maintenance personal** must give a five-day written notice of the termination to the property owner and occupant setting forth the reasons for the termination. After expiration or termination of a temporary waiver, the property owner shall comply with the provisions of this ordinance.

346.10: Appeals. Applications for appeal of any administrative determination made pursuant to this Ordinance shall be addressed in writing to the **Hardwick City Council** within 30 days of the determination.

Applications shall at a minimum identify the property for the appeal is sought, the name of the property owner, and describe in detail the determination which is being appealed. Within 60 days of receipt of the application, the City Council shall make its decision on the matter and send a written copy of such decision to the property owner by mail.

346.11: Severability and Validity. The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances be declared by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of other provisions or application of this ordinance.

SECTION 350. INDIVIDUAL SEWAGE DISPOSAL SYSTEMS.

350.01. Definitions. For the purposes of this part, the following words and phrases have the meanings given them in this Section.

(a) **“Sewage”.** Sewage is any water-carried domestic waste, exclusive of footing and roof drainage, of any residence, industry or commercial establishment, whether treated or untreated, and includes the liquid wastes produced by bathing, laundry, and culinary operations, and from toilets and floor drains. Raw sewage is sewage which has not been subjected to any treatment process.

(b) **“Individual Sewage Treatment System”.** An individual sewage treatment system is a sewage disposal system, other than a public or community system, which receives sewage from an individual establishment. Unless otherwise indicated, the word "system" as it appears in this ordinance means "individual sewage treatment system."

(c) **“Building Drain”.** The building drain is that part of a building drainage system which receives the discharge from soil, wastes, and other drainage pipes inside the walls of any building and conveys the same to the building sewer.

(d) **“Building Sewer”.** The building sewer is that part of the horizontal portion of the building drainage system extending from the building drain to its connection with the septic tank and carrying the sewage of but one building.

350.02. Code Adopted. Minnesota Rules 1988, Chapter 7080 as amended (Individual Sewage Treatment Standards) are hereby adopted by reference and made a part of this ordinance as if fully set forth herein. Before publication of this code of ordinances the clerk shall mark at least one copy of Chapter 7080 as an official copy and file it in the clerk's office for use and examination.

SECTION 355. LICENSING.

355.01. License Required. No person shall engage in the business of installing or constructing sewage treatment systems within the city without first obtaining a license to carry on such occupation from the city and procuring and posting with the city clerk a bond in the amount of \$1,000 in favor of the city and the public, conditioned upon the faithful performance of contracts and compliance with this part of the ordinance.

355.02. Renewal. Such license shall be renewable annually on or before January 1st and may be revoked as provided in this code for licenses generally.

355.03. Revocation/Refusal to Renew License. Any installation, construction, alteration or repair of a system by a licensee in violation of the provisions of Section 350.02 or refusal on the part of a licensee to correct such defective work performed by such licensee, shall be cause for revocation of or refusal to renew a license.

355.031. Hearing on Revocation/Refusal. Before any license issued under the provisions of the foregoing Section 355.031 may be revoked or its renewal refused, the licensee shall be given a hearing to show cause why such license should not be revoked or refused. Notice of the time, place, and purpose of such hearing shall be in writing.

SECTION 360. PERMITS.

360.01. Permit Required. No person shall install, alter, repair, or extend any individual sewage treatment system in the city without first obtaining a permit therefor from the council or its authorized representative for the specific installation, alteration, repair, or extension.

360.02. Applications. Applications for permits shall be made in writing upon printed blanks or forms furnished by the clerk and shall be signed by the applicant.

Subd. 1. Contents of Application. Each application for a permit shall detail the following information:

- (a) The correct legal description of the property on which the proposed installation, alteration, repair, or extension is to take place;
- (b) A plot plan of the land showing the location of any proposed or existing buildings located on the property with respect to the boundary lines of the property;
- (c) Complete plans of the proposed system with substantiating data, if necessary, attesting to the compliance with the minimum standards of this ordinance. A complete plan shall include the location, size, and design of all parts of the system to be installed, altered, repaired, or extended;
- (d) The present or proposed location of water supply facilities and water supply piping;
- (e) The name of the person who is to install the system; and
- (f) Applicant must provide any and all further information as may be required by the council.

SECTION 365. ADMINISTRATION AND INSPECTION.

365.01. Inspection Required. The City Council shall designate an individual to enforce the provisions of this Chapter and shall make such inspection or inspections as are necessary to determine compliance with the provisions of the ordinance.

365.011. Covering Prohibited. No part of the system shall be covered until it has been inspected and accepted by a designated city employee.

365.012. Responsibilities.

Subd. 1. Applicant. It shall be the responsibility of the applicant for the permit to notify the designated city employee that the job is ready for inspection or re-inspection.

Subd. 2. City Employee. it shall be the duty of the designated city employee to make the indicated inspection within 48 hours after receiving notice.

Subd. 3. Owner/Occupant of Property. It shall be the duty of the owner or occupant of the property to give the designated city employee free access to the property at reasonable times for the purpose of making such inspections.

365.02. Issuance of Certificate. Upon satisfactory completion and final inspection of the system the designated city employee shall issue to the applicant a certificate of approval.

365.03. Violation and Reinspection. If, upon inspection, the city discovers that any part of the system is not constructed in accordance with the minimum standards provided in this part, the city shall give the applicant written notification describing the defects. The applicant shall pay an additional fee of \$25.00 for each re-inspection that is necessary. The applicant shall be responsible for the correction or elimination of all defects, and no system shall be placed or replaced in service until all defects have been corrected or eliminated.

365.035. Fees Subject to Change by Council. All fees listed in the above Section 365.03 may be revised by Resolution of the City Council from time-to-time.

365.04. Objectives. The objectives of this part are to provide adequate and safe methods of sewage disposal and to prevent the contamination of any existing or future water supply by any existing or future sewage disposal system. Any system of special, unusual, or new design which will satisfy the stated objectives may be accepted as complying with this ordinance and any permit granted for the construction, installation, alteration or repair of any such special system shall be subject to such conditions and guarantees as may be stated in the permit.

SECTION 370. GARBAGE AND RUBBISH/FRANCHISES.

370.01. Purpose. In order to provide for a continuous system of refuse collection and disposal in a manner which meets the needs and conveniences of the residents of this city; and in order to protect the area from the problems of uncoordinated, unsanitary, and improper solid waste disposal, the council hereby determines that it is in the best interest of the residents of the city to require licenses of persons collecting and/or hauling garbage and rubbish for hire, reserving to the city the right and authority to grant an exclusive refuse collection franchise to a single operator.

370.011. Definitions. For the purpose of Sections 3.60 through 3.67, garbage and recyclable are defined as follows:

Subd. 1. “Garbage” means and includes all drained organic material resulting from the preparation of food and spoiled and decayed food from any source, non-recyclable cans, non-recyclable bottles, non-recyclable glassware, no-recyclable paper or paper products, crockery, ashes, rags, discarded clothing, putrescible sludge in solid, semisolid, liquid, or contained gaseous form. Garbage does not include medical waste, yard waste, or demolition materials.

Subd. 2. “Recyclable” means newsprint, corrugated cardboard, office and computer paper, plastic containers, glass containers, aluminum foil and cans, tin cans, steel cans and bimetal cans, free of food, dirt, and other contaminants. Also included is any other material the City may hereafter be required to collect and recyclable by the County of Rock.

Subd. 3. “Demolition materials” means solid waste resulting from the demolition of buildings, roads, and other structures including concrete, brick, bituminous concrete, wood, masonry, glass, trees, rock and plastic building parts.

Subd. 4. “Yard waste” means the garden wastes, leaves, lawn cuttings, weeds, and prunings.

Subd. 5. “Medical waste” means any waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals by a medical facility, hospital, clinic, dental facility, mortuary, or other facility wherein such wastes are produced, used, or stored.

370.015. Collection and Disposal of Garbage and Recyclables Accumulated in Residential Properties. All garbage accumulated in residential properties or city owned facilities within the City of Hardwick shall be only be collected by the City of Hardwick, or its designated contractor, in a sanitary manner to ensure the health, safety and general welfare of its residents, under such terms and conditions as the City may, from time to time, deem appropriate. Each residential household shall be charged a monthly fee as established by resolution of the council for the availability of said garbage service. The

fee shall be subject to such solid waste management tax and other fees as may be required by the State of Minnesota.

370.02. Franchise Right Reserved. The council hereby reserves the right to grant a franchise for the collection of garbage and rubbish. At some future time, the council may exercise its reserved right to provide for a franchise to a single operator for the collection of garbage and rubbish within the city.

370.03. License Required. No person may collect or haul garbage within the City of Hardwick without first obtaining a written license therefore from the council.

370.04. Application for License. An application for license shall be submitted in writing to the City Clerk.

Subd. 1. Application Contents. The application shall contain the following information:

- (a) Name and address of the applicant.
- (b) Description of the equipment will be used within the city of the applicant;
- (c) A schedule of the rate that will be charged by the applicant for the various categories of customers within the city;
- (d) Evidence of compliance with other applicable Sections of this Chapter.

Subd. 2. License Fee. The application for a license shall be accompanied by a license fee as is from time to time established by the council, which shall be refunded if the license is denied. The annual license fee shall be established by resolution of the council.

Subd. 3. License Term and Renewal. Licenses shall be for a term of one year commencing on January 1st of each year, but may be issued on a pro rata basis. Application for license renewal shall be submitted in writing to the City Clerk on or before December 1st of each year, and shall contain the information and fee required by the initial application for a license.

370.05. Suspension of License or Franchise. A license or franchise issued under the provisions of this Chapter may be revoked or suspended for a violation of Section 370 or other applicable regulations of law, or upon a showing that the licensee or franchisee has failed to comply with the same.

370.06. Financial Responsibility and Bond.

Subd. 1. Insurance Required. The licensee or franchisee shall show financial

responsibility or a certificate of insurance coverage prior to obtaining the license or franchise whereby each vehicle to be used by said licensee or franchisee shall be covered against loss or injury in the following amounts: \$1,000,000.00 when the claim is one for death by wrongful act or omission and \$1,000,000.00 to any claimant in any other case; \$1,000,000.00 for any number of claims arising out of a single occurrence. Said licensee or franchisee shall also provide evidence of worker's compensation insurance for employees. Such insurance policy or policies shall be for the full term of the license or franchise and shall provide for the giving of 10 days prior notice to the city of the termination or cancellation of said policies. In case any of said policies are terminated, the license or franchise shall be automatically revoked upon receipt by the clerk of said termination or cancellation.

Subd. 2. Bond. The licensee or franchisee may be required to furnish a surety bond in such amount as the council deems necessary, running to and approved by the council, guaranteeing the licensee's or franchisee's faithful and continuous performance of the terms of the franchise, license, or contract and of this ordinance.

370.07. Design of Equipment. All trucks or motor vehicles used by the licensee or franchisee shall be watertight so as not to allow leakage of liquids or refuse while hauling the same and shall be covered with a metal covering to prevent the scattering of its contents upon the public streets or private properties in the city.

**CHAPTER 4: BEER, WINE, AND LIQUOR LICENSING AND
REGULATION**

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SECTION 400. APPLICATIONS AND LICENSES – GENERALLY

400.01. Definitions. As used in this Chapter, unless otherwise stated in specific Sections, the following words and terms shall have the meanings stated:

1. "**Application**" means a form with blanks or spaces thereon, to be filling in and completed by the applicant as his request for a license, furnished by the City and uniformly required as a prerequisite to the consideration of the insurance of a license for a business.
2. "**Applicant**" means any person making an application for a license under this Chapter.
3. "**License**" means a document, issued by the City, to an applicant permitting him to carry on and transact the business stated therein.
4. "**Licensee**" means an applicant who, pursuant to his approved application, holds a valid, current, unexpired license, which has neither been revoked nor suspended, from the City or carrying on the business stated therein.
5. "**License fee**" means the money paid to the City pursuant to an application and prior to issuance of a license to transact and carry on the business stated therein.
6. "**Liquor**" means ethyl alcohol and distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2 percent of alcohol by weight. (This definition includes so-called "wine coolers" and "malt coolers" with the alcoholic content limits stated herein.)
7. "**Wine**" means a beverage made without rectification or fortification by the fermentation of sound ripe grapes, grape juice, other fruits, or honey, and also carbonated wine, wine made from condensed grape must, wine made from other agricultural products, imitation wine, compounds sold as wine, vermouth, cider, perry and sake, containing not less than one-half of one percent nor more than fourteen percent alcohol by volume. (This definition includes so-called "wine coolers" with the alcoholic content limits stated herein.)
8. "**Beer**" means malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight. (This definition includes so-called "wine coolers" and "non-alcoholic" beer with the alcoholic content limits stated herein.)
9. "**Off-sale**" means the retail sale of beer or liquor in original packages for consumption off or away from the premises where sold.
10. "**On-sale**" means the retail sale of beer, wine or liquor, by the glass or by the

drink, for consumption on the premises where sold only.

11. "**Sale**", "**Sell**" and "**Sold**" mean all barters and all manners or means of furnishing beer, wine or liquor to persons, including such furnishing in violation or evasion of law.

12. "**Manufacturer**" means every person who, by any process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending, or by the combination of different materials, prepares or produces liquors, wine or beer for sale.

13. "**Wholesaler**" means any person engaged in the business of selling liquor, wine or beer to retail dealers.

14. "**Package**" and "**Original package**" mean any container or receptacle holding liquor, wine or beer, which container or receptacle is corked, capped or sealed by a manufacturer or wholesaler.

15. "**Club**" means any corporation duly organized under the laws of this State for civic, fraternal, social, or business purposes or for intellectual improvement or for the promotion of sports, or a congressionally chartered veterans organization, which shall have more than fifty members, and shall, for more than a year, have owned, hired, or leased a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable accommodation of its members, and whose affairs and management are conducted by a Board of Directors, Executive Committee, or other similar body chosen by the members at a meeting held for that purpose, none of whose members, officers, agents, or employees are paid directly or indirectly any compensation by way of profit from the distribution or sale of beverages to the members of the club, or to its guests, beyond the amount of such reasonable salary or wages as may be fixed and voted each year by the Directors or other governing body. Such club or congressionally chartered veterans organization must be incorporated and must have been in existence for at least three years.

16. "**Fraternal club**" means a club which serves only members and their guests which uses any profits derived from liquor sales principally for sponsoring activities beneficial to the community and not for the profit of any individual.

17. "**Restaurant**" means any establishment, other than a hotel, under the control of a single proprietor or manager, having appropriate facilities for the serving of meals, and where, in consideration of payment therefor, meals are regularly served at tables to the general public, which employs an adequate staff to provide the usual and suitable service to its guests, and which shall have seating facilities for seating not less than thirty guests at one time.

18. "**Hotel**" and "**Motel**" mean and include any establishment having a resident proprietor or manager, where, in consideration of payment therefor, food and lodging are regularly furnished to transients, and which contains not less than ten guest rooms with bedding and other suitable and necessary furnishings in each room, and which is provided with a suitable lobby, desk and office for the registration of its guests at the main entrance and on the ground floor, which employs an adequate staff to provide suitable and usual service, and which maintains under the same management and control as the rest of the establishment and has, as an integral part thereof, a dining room with appropriate facilities for seating not less than thirty guests at one time, where the general public is, in consideration of payment therefor, served with meals at tables.

19. "**Exclusive liquor store**" as herein used means an off-sale or on-sale establishment used exclusively for the sale of beer or liquors, at retail and under the control of an individual owner or manager, and as an incident thereof may also sell cigars, cigarettes, ice, all forms of tobacco, and soft drinks at retail.

20. "**Church**" means a building which is principally used as a place where persons of the same faith regularly assemble for the public worship of God.

21. "**Alcoholic Beverage**" means any beverage containing more than one-half of one percent alcohol by volume, including, but not limited to, beer, wine, and liquor as defined in this Section.

22. "**Minor**" means any natural person who has not attained the age of 21 years.

23. "**Malt Liquor**" means any beer, ale, or other beverage made from malt by fermentation and containing not less than one-half of one percent alcohol by volume.

400.02. Procedure and Administration.

Subd. 1. Application. All applications shall be made at the office of the City Clerk or Treasurer upon forms prescribed by the City, or if by the State of Minnesota, then together with such additional information as the Council may desire. Information required may vary with the type of business organization making application. All questions asked or information required by the application forms shall be answered fully and completely by the applicant.

Subd. 2. False Statements. It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application, or any willful omission to state any information called for on such application form shall, upon discovery of such falsehood, work an automatic refusal of license, or if already issued, shall render any license issued pursuant thereto void and of no effect to protect the applicant from prosecution for violation of this

Chapter, or any part thereof.

Subd. 3. Application and Investigation Fees. At the time of the initial application, an applicant for a liquor license, or temporary beer license, shall pay to the City a fee as set by Resolution of the council, which fee shall be considered an application and investigation fee, not refundable to applicant, to cover the costs of the City in processing the application and the investigation thereof.

Subd. 4. Action.

(a) Granting. The Council may approve any application for the period of the remainder of the then current license year or for the entire ensuing license year. All applications including proposed license periods must be consistent with this Chapter. Prior to the consideration of any application for a license, the applicant shall pay the license fee, and if applicable, pay the investigation fee. Upon rejection of any application for a license, or upon withdrawal of an application before approval of the issuance by the Council, the license fee shall be refunded to the applicant. Failure to pay any portion of a fee when due shall be cause for revocation.

(b) Issuing. If an application is approved, the City Clerk or Treasurer shall forthwith issue a license pursuant thereto in the form prescribed by the City or the proper Department of the State of Minnesota, as the case may be, and upon payment of the license fee. All licenses shall be on a calendar year basis unless otherwise specified herein. For licenses issued and which are to become effective other than on the first day of the licensed year, the fee to be paid with the application shall be a pro rata share of the annual license fee. Licenses shall be valid only at one location and on the premises therein described.

(c) License Refund in Certain Cases. In the event that, during the license year, the licensed premises shall be destroyed or so damaged by fire, or otherwise, that the licensee shall cease to carry on the licensed business, or in case the business of the licensee shall cease by reason of his illness or death, or if it shall become unlawful for the licensee to carry on the licensed business under his license, except when such license is revoked, the City shall, upon the happening of any such event, refund to the licensee, or to his estate, such part of the license fee paid by him as corresponds to the time such license had yet to run. In the event of death of the licensee, his personal representative is hereby authorized to continue operation of said business for not more than ninety days after the death of such licensee.

(d) Transfer. A license shall be transferable between persons upon consent of the Council and payment of the investigation fee. No license shall be

transferable to a different location without prior consent of the Council and payment of the fee for a duplicate license. It is unlawful to make any transfer in violation of this Subparagraph.

(e) Refusal and Termination. The Council may, in its sole discretion and for any reasonable cause, refuse to grant any application. No license shall be granted to a person of questionable moral character or business reputation. Licenses shall terminate only by expiration or revocation.

(f) Revocation or Suspension. The Council may revoke or suspend, for a period not to exceed sixty days, a license granted under the provisions of this Chapter, or impose a civil fine not to exceed \$2,000.00, for each violation on a finding that the licensee has failed to comply with a statute, regulation or provision of the City Code relating to alcoholic beverages. The Council may revoke the license upon conviction of any licensee or agent or employee of a licensee for violating any law relating to the sale or possession of beer, wine or liquor upon premises of the licensee, or if such revocation is mandatory by Statute. If it shall be made to appear at the hearing thereon that such violation was not willful, the Council may order suspension; provided that revocation shall be ordered upon the third such violation or offense. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing before the Council, a committee of the Council, or a hearing under the Administrative Procedures Act, as may be determined by the Council in action calling the hearing. Such hearing shall be called by the Council upon written notice to the licensee served in person or by certified mail not less than fifteen nor more than thirty days prior to the hearing date, stating the time, place and purpose thereof. As additional restrictions or regulations on licensees under this Chapter, and in addition to grounds for revocation or suspension stated in the City Code or Statute, the following shall also be grounds for such action: (1) that the licensee suffered or permitted illegal acts upon licensed premises unrelated to the sale of beer, wine or liquor; (2) that the licensee had knowledge of such illegal acts upon licensed premises, but failed to report the same to police; (3) that the licensee failed or refused to cooperate fully with police in investigating such alleged illegal acts upon licensed premises; or, (4) that the activities of the licensee created a serious danger to public health, safety, or welfare.

(g) Waiver of Hearing on Revocation or Suspension. If within five (5) days after receipt of written notice of hearing on revocation or suspension, the licensee executes and delivers to the City Clerk or Treasurer an unequivocal waiver of hearing thereon, no hearing shall be held and the Council shall, at its next regular or special meeting, revoke or suspend the license on the basis of reports and other information then in its possession.

If no such waiver is filed with the City Clerk or Treasurer within the time limited, the hearing shall proceed as noticed and all costs and expenses for such hearing incurred by the City (as well as those incurred by the licensee) shall be paid by the licensee.

Subd. 5. Duplicate Licenses. Duplicates of all original licenses under this Chapter may be issued by the City Clerk or Treasurer without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of a fee of \$2.00 for issuance of the duplicate. All duplicate licenses shall be clearly marked DUPLICATE.

Subd. 6. Posting. All licensees shall conspicuously post their licenses in their places of business.

Subd. 7. Persons Disqualified.

(a). No license under this Chapter may be issued to:

(1) a person not a citizen of the United States or a resident alien;

(2) a person who within five years of the license application has been convicted of a willful violation of a Federal or State law, or local ordinance governing the manufacture, sale, distribution, or possession for sale or distribution, of alcoholic beverages;

(3) a person who has had an alcoholic beverage license revoked within five years of the license application, or to any person who at the time of the violation owns any interest, whether as a holder of more than five percent of the capital stock of a corporate licensee, as a partner or otherwise, in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested;

(4) a person under the age of twenty-one years; or

(5) a person not of good moral character and repute.

(b). No person holding a license from the Commissioner as a manufacturer, brewer or wholesaler may have any ownership, in whole or in part, in a business holding an alcoholic beverage license from the City.

400.03. Renewal of Licenses. Applications for renewal of all licenses under this Chapter shall be made at least sixty (60) days prior to the date of expiration of the license, and shall contain such information as is required by the City. This time requirement may be waived

by the Council for good and sufficient cause, and upon payment of a \$25.00 late application fee.

400.04. Delinquent Taxes and Charges. No license under this Chapter shall be granted for operation on any premises upon which taxes, assessments, or installments thereof, or other financial claims of the City, are owned and are delinquent and unpaid.

400.05. Conditional Licenses. Notwithstanding any provision of law to the contrary, the Council may, upon a finding of the necessity therefor, place such special conditions and restrictions, in addition to those stated in this Chapter, upon any license as it, in its discretion, may deem reasonable and justified.

400.06. Premises Licensed. Unless expressly stated therein, a license issued under the provisions of this Chapter shall be valid only in the compact and contiguous building or structure situated on the premises described in the license, and all transactions relating to a sale under such license must take place within such building or structure.

400.07. Financial Responsibility of Licenses.

Subd. 1. Proof. No beer, wine, or liquor license shall be issued or renewed unless and until the applicant has provided proof of financial responsibility imposed by Minnesota Statutes by filing with the City:

- (a) A Certificate that there is in effect an insurance policy or pool providing minimum coverages of:
 - (i) \$50,000.00 because of bodily injury to any one person in any one occurrence, and, subject to the limit for one person, in the amount of \$100,000.00 because of bodily injury to two or more persons in any one occurrence, and in the amount of \$10,000.00 because of injury to or destruction of property of others in any one occurrence, and
 - (ii) \$50,000.00 for loss of means of support of any one person in any one occurrence, and, subject to the limit for one person, \$100,000.00 for loss of means of support of two or more persons in any one occurrence; an annual aggregate of \$300,000 may be included in the insurance coverage;

Or

- (b) A bond of a surety company with minimum coverages as provided in Subparagraph (a) of this Subdivision; or
- (c) A certificate of the State Treasurer that the licensee has deposited with

him \$100,000.00 in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of \$100,000.00

Subd. 2. Exception. This Section does not apply to on-sale beer licensees with sales of beer of less than \$10,000.00 for the preceding year, nor to off-sale beer licensees with sales of beer of less than \$20,000.00 for the preceding year, nor does it apply to holders of on-sale wine licenses with sales of wine of less than \$10,000.00 for the preceding year. An affidavit of the licensee shall be required to establish the exemption under this Subdivision.

400.08. Insurance Certificate Requirements. Whenever an insurance certificate is required by this Chapter the applicant shall file with the City Clerk or Treasurer a certificate of insurance showing

- (a) that the limits are at least as high as required;
- (b) that coverage is effective for at least the license term approved; and
- (c) that such insurance will not be canceled or terminated without thirty days' written notice served upon the City Clerk or Treasurer.

Cancellation or termination of such coverage shall be grounds for license revocation.

SECTION 405. BEER

405.01. License Required. It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale, or otherwise dispose of beer, as part of a commercial transaction, without a license therefor from the City. This section shall not apply to sales by manufacturers to wholesalers or to sales by wholesalers to persons holding beer licenses from the City. Annual on-sale beer licenses may be issued only to drug stores, restaurants, hotels, bowling centers, clubs, and establishments used exclusively for the sale of beer with the incidental sale of tobacco and soft drinks. Any person licensed to sell liquor at on-sale shall not be required to obtain an on-sale beer license, and may sell beer on-sale without an additional license. Any person licensed to sell liquor off-sale shall not be required to obtain an off-sale beer license, and may sell beer off-sale without an additional license.

405.02. Fees.

Subd. 1. The annual on-sale beer license fee shall be established by Resolution of the council.

Subd. 2. The annual off-sale beer license fee shall be established by Resolution of the council.

Subd. 3. The daily temporary on-sale beer license fee shall be established by Resolution of the council.

405.03. Temporary Beer License.

Subd. 1. Applicant. A club or charitable, religious, or non-profit organization, duly incorporated as a non-profit or religious corporation under the laws of the State of Minnesota, and having its registered office and principal place of activity within the City, may qualify for a temporary on-sale beer license, for serving beer off school grounds, and not in school buildings.

Subd. 2. Conditions.

(a) An application for a temporary license shall state the exact dates and place of proposed temporary sale.

(b) No applicant shall qualify for a temporary license for more than a total of seven (7) days in any calendar year.

(c) The Council may, but at no time shall it be under any obligation whatsoever to, grant a temporary beer license. Any such license may be conditioned, qualified or restricted as the Council sees fit. If the premises to be licensed are owned or under the control of the City, the applicant shall

file with the City, prior to issuance of the license, a certificate of liability insurance coverage in at least the sum of \$50,000.00 for injury to any one person and \$100,000.00 for injury to more than one person, naming the City as an insured during the license period. Such license shall be issued only on the condition that the applicant will not sell in excess of \$10,000.00 (retail value) worth of beer in any calendar year, and thereupon shall be exempt from proof of financial responsibility as provided for herein.

405.04. Restrictions and Regulations.

Subd. 1. No gambling or gambling device shall be permitted on any licensed premises, except such as are licensed by or under the control of the Charitable Gambling Control Board.

Subd. 2. No licensee shall, during the effective period of such license, be the owner or holder of a Federal retail liquor dealer's tax stamp for the sale of intoxicating liquor, unless such owner or holder also holds a liquor license from the City, and ownership or holding thereof shall be grounds for immediate revocation, without a hearing.

Subd. 3. No license shall be granted to a wholesaler or manufacturer of beer or to anyone holding a financial interest in such manufacture or wholesaling.

Subd. 4. No person who has not attained the age of eighteen (18) years shall be employed to sell or serve beer in any on-sale establishment.

Subd. 5. Except as otherwise provided in this Chapter, no license shall be granted for any building within 300 feet of any public elementary or secondary school structure, or within 100 feet of any church structure.

Subd. 6. Every license shall be granted subject to the provisions of this Chapter and all other applicable provisions of the City Code and other laws relating to the operation of licensee's business.

405.05. Hours and Days of Beer Sales.

Subd. 1. "On Sale". Unless otherwise allowed under Section 410.051 no "on-sale" sale of Beer shall be made:

- (a) After 2:00 a.m. on Sunday;
- (b) Between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday;
- (c) After 5:00 p.m. on Christmas Eve day; or

(d) On Christmas Day, Thanksgiving Day, or Easter.

Subd. 2. “Off Sale”. Unless otherwise allowed under Section 410.051 no “off-sale” sale of beer shall be made.

(a) Between the hours of 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday;

(b) After 10:00 p.m. on any week day;

(c) On Sunday;

(d) After 5:00 p.m. on Christmas Eve day; or

(e) On Christmas Day, Thanksgiving Day, or Easter.

SECTION 410. LIQUOR

410.01. License Required. It is unlawful for any person to sell, or keep or offer for sale, any liquor without a license therefor from the City. This section does not apply to:

(a) possession or handling for sale or otherwise of sacramental wine or any representative of any religious order or for use in connection with a legitimate religious ceremony;

(b) such potable liquors as are prescribed by licensed physicians and dentists for therapeutic purposes;

(c) to industrial alcohol and its compounds not prepared or used for beverage purposes;

(d) wine in the possession of a person duly licensed under this Chapter as an on-sale wine licensee; or

(e) sales by manufacturers to wholesalers duly licensed as such by the State of Minnesota and to sales by wholesalers to persons holding on-sale or off-sale licenses from the City.

410.02. License Fees.

Subd. 1. The annual on-sale liquor license fee shall be established by Resolution of the council.

Subd. 2. The annual off-sale liquor license fee shall be established by Resolution of the council.

Subd. 3. The annual fraternal club on-sale liquor license fee shall be established by Resolution of the council.

Subd. 4. The daily temporary on-sale liquor license fee shall be established by Resolution of the council.

410.03. Temporary Liquor License.

Subd. 1. License Authorized. Notwithstanding any provision of the City Code to the contrary, the Council may issue a license for the temporary on-sale of liquor in connection with a social event sponsored by the licensee. Such licensee may provide that the licensee may contract with the holder of a full-year on-sale license, issued by the City, for liquor catering services.

Subd. 2. Applicant. The applicant for a license under this Section must be a Club or charitable, religious, or other non-profit organization in existence for at least three years.

Subd. 3. Terms and Conditions of License.

(a) No license is valid until approved by the Commissioner.

(b) No license shall be issued for more than three consecutive days.

(c) Licenses may authorize sales on premises other than those owned or permanently occupied by the licensee.

410.04. Liquor License Restrictions and Regulations.

Subd. 1. Prior to issuance of any license the applicant shall file with the City Clerk or Treasurer a bond with a corporate surety, cash, or United States government bonds in the sum of \$3,000.00 for an on-sale license and \$1,000.00 for an off-sale license.

Subd. 2. No license shall be granted to a wholesaler or manufacturer of liquor, or to anyone holding a financial interest in such manufacture or wholesaling.

Subd. 3. No license shall be effective until a permit shall be issued to a licensee under the laws of the United States, if such permit be required under such laws or the State of Minnesota.

Subd. 4. No gambling or gambling device shall be permitted on any licensed premises, except such as are licensed by or under the control of the Charitable Gambling Control Board.

Subd. 5. No person under eighteen (18) years of age may sell or serve liquor on

licensed premises.

Subd. 6. No licensee shall sell, offer for sale, or keep for sale, liquor in any original package which has been refilled or partly refilled.

Subd. 7. No licensee shall display liquor for sale to the public during hours when the sale of liquor is prohibited.

Subd. 8. No license shall be granted for any building within 300 feet of any public elementary or secondary school structure or within 100 feet of any church structure.

Subd. 9. No more than one license shall be held by any person. For the purpose of this Subdivision, any person owning a beneficial interest of five percent, or more, of any licensed establishment shall be considered a licensee.

Subd. 10. On-sale licenses shall be granted only to exclusive liquor stores, hotels, motels, restaurants, bowling centers, clubs, fraternal clubs, and congressionally chartered veterans' organizations.

Subd. 11. The Council may issue the number of licenses authorized by statute or restrict such number from time to time as it may, in its discretion, deem proper.

Subd. 12. Every license shall be granted subject to the provisions of this Chapter and all other applicable provisions of the City Code and other laws relating to the operation of the licensed business.

410.05. Hours and Days of Liquor Sales.

Subd. 1. On Sale. Unless otherwise allowed under Section 410.051, no sale of "on-sale" liquor shall be made:

- (a) After 2:00 a.m. on Sunday.
- (b) Between the hours of 2:00 a.m. and 8:00 a.m. on any day.
- (c) After 5:00 p.m. on Christmas Eve day.
- (d) On Christmas Day, Thanksgiving Day, or Easter.

Subd. 2. Off Sale. Unless otherwise allowed under Section 410.051, no "off-sale" sale of liquor shall be made:

- (a) Between the hours of 2:00 a.m. and 8:00 a.m. on any day.
- (b) After 10:00 p.m. on any week day.

- (c) On Sunday.
- (d) After 5:00 p.m. on Christmas Eve Day.
- (e) On Christmas Day, Thanksgiving, or Easter.

410.051. Sunday On-Sale Liquor Sales

Subd. 1. Sales Allowed. A restaurant, club, bowling center or hotel with a seating capacity for at least 30 persons, which is open regularly on every Sunday, and which holds an on-sale liquor license may sell liquor for consumption on the premises in conjunction with the sale of food between hours of 12:00 o'clock noon on Sunday and 2:00 a.m. on the following Monday, unless otherwise limited by the terms of the license. On any Sunday that falls on December 31 the permitted hours of sale shall be extended to 12:00 midnight.

Subd. 2. License Required. Any establishment serving intoxicating liquors on Sunday must obtain a Sunday license, to be issued by the Council, upon such terms and conditions as the Council may determine. The annual license fee shall be set by resolution.

Subd. 3. Part Year Licenses. Any restaurant, club, bowling center or hotel which holds an on-sale license, may apply to the City Council for a half year Sunday license. Said license shall run for a period commencing September 1 and ending March 1 and shall be issued by the Council upon such terms and conditions as the Council may determine. The license fee shall be set by resolution.

Subd. 4. Special One Day Licenses. Any restaurant holding an on-sale liquor license may apply to the City Council for a special one day Sunday license. Said application must be made and presented to the Council prior to its regularly posted meeting and shall be accompanied by the payment of \$20.00 fee for each license request. The license shall be issued by the Council upon such terms and conditions as the Council may determine.

SECTION 415. ON-SALE WINE.

415.01. License Required. It is unlawful for any person to sell, or keep or offer for sale, any wine without a license therefor from the City. This Section shall not apply:

- (a) to possession or handling for sale or otherwise of sacramental wine or any representative of any religious ceremony;
- (b) to sales by manufacturers to wholesalers duly licensed as such by the State of Minnesota;
- (c) to sales by wholesalers to persons holding on-sale or off-sale liquor licenses from the City; or
- (d) to sales by wholesalers to persons holding on-sale wine licenses from the city.

415.02. License Fee. The annual on-sale wine license fee shall be established by Resolution of the council.

415.03. Restrictions and Regulations.

Subd. 1. Prior to issuance of any on-sale wine license the applicant shall file with the City Clerk or Treasurer a bond with a corporate surety, cash, or United States government bonds in the sum of \$3,000.00.

Subd. 2. No license shall be granted to a wholesaler or manufacturer of wine, or to anyone holding a financial interest in such manufacture or wholesaling.

Subd. 3. No gambling or gambling device shall be permitted on any licensed premises, except such as are licensed by or under the control of the Charitable Gambling Control Board.

Subd. 4. No person under the age of eighteen (18) years may sell or serve wine on licensed premises.

Subd. 5. No licensee shall display wine for sale to the public on days or during hours when the sale of wine is prohibited.

Subd. 6. No license shall be granted for any building within 300 feet of any public elementary or secondary school structure or within 100 feet of any church structure.

Subd. 7. No more than one license shall be held by any person. For the purpose of this Subparagraph, any person owning a beneficial interest of five percent, or more, of any licensed establishment shall be considered a licensee.

Subd. 8. On-sale wine licenses shall be granted only to restaurants as defined in

this Chapter. Provided, however, for purposes of this Section, such restaurant shall have appropriate facilities for seating not less than twenty-five guests at one time.

Subd. 9. Every license shall be granted subject to the provisions of this Chapter and all other applicable provisions of the City Code and other laws relating to the operation of the licensed business.

415.04. Hours and Days of Sales by On-Sale Wine Licensees.

Subd. 1. On-Sale. Unless otherwise allowed under Section 410.051, no “on-sale” sale of liquor shall be made:

- (a) After 2:00 a.m. on Sunday.
- (b) Between the hours of 2:00 a.m. and 8:00 a.m. on any day.
- (c) After 5:00 p.m. on Christmas Eve day.
- (d) On Christmas Day, Thanksgiving Day, or Easter.

Subd. 2. Off-Sale. Unless otherwise allowed under Section 410.051, no “off-sale” sale of liquor shall be made:

- (a) Between the hours of 2:00 a.m. and 8:00 a.m. on any day.
- (b) After 10:00 p.m. on any week day.
- (c) On Sunday.
- (d) After 5:00 p.m. on Christmas Eve Day.
- (e) On Christmas Day, Thanksgiving, or Easter.

SECTION 420. CONSUMPTION AND DISPLAY

420.01. Definition. For purposes of this Section, the term "bottle club" is a "club" as defined in this Chapter, or an unincorporated society which, except for its lack of incorporation, otherwise meets the requirements of a club, and which is not otherwise licensed for the sale of liquor, either on-sale or off-sale or both.

420.02. License Required. It is unlawful for any bottle club or for any business establishment to allow the consumption or display of liquor or the serving of any liquid for the purpose of mixing liquor without a license therefor from the City, but a bottle club as herein defined and licensed may permit its members to bring and keep a personal supply of liquor in lockers assigned to such members.

420.03. License Fee. The annual consumption and display license shall be established by Resolution of the council, but in no event shall it be less than \$300.00.

420.04. Restrictions and Regulations.

(a) Every bottle, container or other receptacle containing liquor stored by a member of a bottle club shall have attached to it a label signed by the member of the club, shall be kept in a locker designated to the use of such member, and no other liquor shall be on bottle club premises.

(b) It is unlawful for any club member who is a minor to be assigned a locker for the storage of liquor or to consume or display liquor on any premises under control by such club.

(c) No license may permit a person to consume or display liquor, and no person may consume or display liquor, between 1:00 o'clock A.M. and 12:00 o'clock noon on Sundays, nor between 1:00 o'clock A.M. and 8:00 o'clock A.M. on Monday through Saturday.

(d) No license shall be issued to any bottle club when a member of the board, management, executive committee, or other similar body chosen by its members, or when a business establishment or the owner thereof holds a Federal retail liquor dealer's special tax stamp for the sale of liquor.

(e) Liquor sold, served or displayed in violation of this Section shall be subject to seizure for purposes of evidence.

420.05. Other Licenses. An on-sale liquor or wine licenses may also be licensed for consumption and display.

SECTION 425. UNLAWFUL ACTS

425.01. Conduct Generally. Except as herein provided, every licensee under this Chapter shall be responsible for the conduct of his place of business and shall maintain conditions of sobriety and order therein.

425.02. Unlawful Acts – Consumption and Closing

Subd. 1. Consumption. It is unlawful for any person to consume, or any licensee to permit consumption of, beer, wine or liquor on licensed premises more than thirty (30) minutes after the hour when a sale thereof can legally be made.

Subd. 2. Closing. It is unlawful for any person, other than a licensee or his bona fide employee actually engaged in the performance of his duties, to be on premises licensed under this Chapter more than thirty (30) minutes after the legal time for making licensed sales.

425.03. Sale by Employee. Any sale of an alcoholic beverage in or from any premises licensed under this Chapter by any employee authorized to make such sale in or from such place is the act of the employer as well as of the person actually making the sale; and every such employer is liable to all of the penalties, except criminal penalties, provided by law for such sale, equally with the person actually making the sale.

425.04. License Condition and Unlawful Act.

Subd. 1. All premises licensed under this Chapter shall at all times be open to inspection by any police officer to determine whether or not this Chapter and all other laws are being observed. All persons, as a condition to being issued such license, consent to such inspection by such officers and without a warrant for searches or seizures.

Subd. 2. It is unlawful for any licensee, or agent or employee of a licensee, to hinder or prevent a police officer from making such inspection.

425.05. Unlawful Acts – Minors. For the purposes of this section, the term “Minor” shall be interpreted as stated in the above section 401.01(22):

Subd. 1. Consumption. It is unlawful for any:

- A. Licensee to permit any minor to consume alcoholic beverages on licensed premises.
- B. Minor to consume alcoholic beverages except in the household of the minor's parent or guardian, and then only with the consent of such parent or guardian.

Subd. 2. Purchasing. It is unlawful for any person:

- A. To sell, barter, furnish, or give alcoholic beverages to a minor unless such person is the parent or guardian of the minor, and then only for consumption in the household of such parent or guardian.
- B. Minor to purchase or attempt to purchase any alcoholic beverage.
- C. To induce a minor to purchase or procure any alcoholic beverage.

Subd. 3. Possession. It is unlawful for a minor to possess any alcoholic beverage with the intent to consume it at a place other than the household of the minor's parent or guardian. Possession of an alcoholic beverage by a minor at a place other than the household of the parent or guardian is prima facie evidence of intent to consume it at a place other than the household of his parent or guardian.

Subd. 4. Entering Licensed Premises.

- (1) It is unlawful for any minor, as defined in this Chapter, to enter licensed premises for the purpose of purchasing or consuming alcoholic beverage.
- (2) It is unlawful for a license to permit a person under the age of eighteen years to enter a licensed premises unless attending a social event at which alcoholic beverages are not served, or in the company of a parent or guardian.

Subd. 4a. Exceptions. It is not unlawful for any person who has attained the age of eighteen (18) years to enter licensed premises for the following purposes:

- (1) to perform work for the establishment, including the serving of alcoholic beverages, unless otherwise prohibited by statute;
- (2) to consume meals; and
- (3) to attend social functions that are held in a portion of the establishment where liquor is not sold.

Subd. 5. Misrepresentation of Age. It is unlawful for a minor to misrepresent his age for the purpose of purchasing an alcoholic beverage.

Subd. 6. Proof of Age. Proof of age for purchasing or consuming alcoholic beverages may be established only by a valid driver's license, a Minnesota Identification card, or, in the case of a foreign national, by a valid passport.

425.06. Unlawful Acts – Beer. It is unlawful for any:

Subd. 1. Person to knowingly induce another to make an illegal sale or purchase of beer.

Subd. 2. Licensee to sell or serve beer to any person who is obviously intoxicated.

Subd. 3. Licensee to fail, when doubt could exist, to require adequate proof of age of a person upon licensed premises.

Subd. 4. Licensee to sell beer on any day, or during any hour, when such sales are not permitted by law.

Subd. 5. Licensee to allow consumption of beer on licensed premises on any day when sales of beer are not permitted by law.

Subd. 6. Person to purchase beer on any day, or during any hour, when sales of beer are not permitted by law.

425.07. Unlawful Acts – Liquor. It is unlawful for any:

Subd. 1. Person to knowingly induce another to make an illegal sale or purchase of liquor.

Subd. 2. Licensee to sell liquor on any day, or during any hour, when sales of liquor are not permitted by law.

Subd. 3. Person to purchase liquor on any day, or during any hour, when sales of liquor are not permitted by law.

Subd. 4. Licensee to sell or serve liquor to any person who is obviously intoxicated.

Subd. 5. Licensee to fail, where doubt could exist, to require adequate proof of age of a person upon licensed premises.

Subd. 6. Licensee to allow consumption of liquor on licensed premises on any day when sales of liquor are not permitted by law.

425.08. Unlawful Acts – Wine. It is unlawful for any

Subd. 1. Person to knowingly induce another to make an illegal sale or purchase of wine.

Subd. 2. Licensee to sell wine on any day, or during any hour, when sales of wine are not permitted by law.

Subd. 3. Person to purchase wine on any day, or during any hour, when sales of

wine are not permitted by law.

Subd. 4. Licensee to sell or serve wine to any person who is obviously intoxicated.

Subd. 5. Licensee to fail, where doubt could exist, to require adequate proof of age of a person upon licensed premises.

Subd. 6. Licensee to allow consumption of liquor on licensed premises on any day when sales of liquor are not permitted by law.

Subd. 7. Licensee to sell wine except in conjunction with the sale of food.

425.09. Nudity or Obscenity Prohibited.

Subd. 1. Unlawful Act. It is unlawful for any person issued a license provided for in this Chapter to permit upon licensed premises any nudity, obscene performance, or continued use of obscenities by any agent, employee, patron, or other person.

Subd. 2. Definitions. For the purposes of this Section, the following words and terms shall have the meanings stated:

(a) "**Nudity**" means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

(b) "**Obscene performance**" means a play, motion picture, dance, show or other presentation, whether pictured, animated or live, performed before an audience and which in whole or in part depicts or reveals nudity, sexual contact, sexual excitement or sado-masochistic abuse, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct.

(c) "**Obscenities**" means those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.

(d) "**Sado-masochistic abuse**" means flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

(e) "**Sexual conduct**" means human masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

(f) "**Sexual excitement**" means the condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

425.10. Violation A Misdemeanor. Every person violates a section, subdivision, paragraph or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

CHAPTER 5: BUSINESS REGULATION AND LICENSING

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SECTION 500. GENERAL PROVISIONS.

500.01. Terms and Definitions. As used in this Chapter, the following words and terms shall have the meanings stated:

1. "**Applicant**" means any person making an application for a license under this Chapter.
2. "**Application**" means a form with blanks or spaces thereon, to be filled in and completed by the applicant as his request for a license, furnished by the City and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.
3. "**Bond**" means a corporate surety document in the form and with the provisions acceptable and specifically approved by the City Attorney.
4. "**Business**" means any activity, occupation, sale of goods or services, or transaction that is either licensed or regulated, or both licensed and regulated, by the terms and conditions of this Chapter, and not regulated by any other Chapter of the City Code.
5. "**License**" means a document issued by the City to an applicant permitting him to carry on and transact a business.
6. "**Licensee**" means an applicant who, pursuant to his application, holds a valid, current, unexpired and unrevoked license from the City for carrying on a business under this Chapter.
7. "**License fee**" means the money paid to the City pursuant to an application and prior to the issuance of a license to transact and carry on a business.
8. "**Sale**", "**Sell**" and "**Sold**" mean all forms of barter and all manner or means of furnishing merchandise to persons.

500.02. Violation A Misdemeanor. Every person who violates a section, subdivision, paragraph or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

SECTION 501. APPLICATIONS AND LICENSES.

501.01. Applications—How Made. All applications shall be made as follows:

Subd. 1. All applications shall be made at the office of the City Clerk or Treasurer upon forms that have been furnished by the City for such purposes.

Subd. 2. All initial applications shall be accompanied by a payment of an investigation fee, if any, to cover the cost of investigation as herein provided.

Subd. 3. All such applications must be subscribed, sworn to, and include, but not be limited to, the following:

- A. Applicant's name, age and citizenship.
- B. Applicant's present address and length of time he has lived at that address.
- C. Applicant's occupation and length of time so engaged.
- D. Applicant's addresses and occupations for the three years last preceding the date of application.
- E. Names and addresses of applicant's employers, if any, for the three years last preceding the date of application.
- F. Whether or not applicant has ever been convicted of a felony, gross misdemeanor, or misdemeanor, including violation of a municipal ordinance but excluding traffic violations, and if so, the date and place of conviction and the nature of the offense.
- G. Type of license and location of premises for which application is made.
- H. At least four character references if applicant has not resided in the City for two years last preceding the date of application.
- I. Such other information as the Council shall deem necessary considering the nature of the business for which license application is made.

Subd. 4. It is unlawful for any applicant to intentionally make a false statement or omission upon any application form. Any false statement in such application, or any willful omission to state any information called for on such application form, shall, upon discovery of such falsehood work an automatic refusal of license, or if already issued, shall render any license or permit issued pursuant thereto, void, and of no effect to protect the applicant from prosecution for violation of this Chapter, or any part hereof.

Subd. 5. The City Clerk or Treasurer shall, upon receipt of each application completed in accordance herewith, forthwith investigate the truth of statements made therein and the moral character and business reputation of each applicant for license to such extent as he deems necessary. The Council shall not consider an application before such investigation has been completed.

Subd. 6. Applications for renewal licenses may be made in such abbreviated form as the Council may by resolution adopt.

501.02. Action of Application.

Subd. 1. Granting. The Council may grant any application for the period of the remainder of the then current calendar year or for the entire ensuing license year. All applications, including proposed license periods, must be consistent with this Chapter.

Subd. 2. Issuing. If an application is approved, the City Clerk or Treasurer shall forthwith issue a license pursuant thereto in the form prescribed by the Council, payment of the appropriate license fee, and approval of the bond or insurance as to form and surety or carrier, if required. All licenses shall be on a calendar year basis unless otherwise specified herein as to particular businesses. Unless otherwise herein specified, license fees shall be pro-rated on the basis of 1/12th for each calendar month or part thereof remaining in the then current license year. Provided, that for licenses where the fee is less than \$100.00 a minimum license fee equal to one-half of the annual license fee shall be charged. Except as to licenses which are specifically City-wide, licenses shall be valid only at one location and on the premises therein described.

501.021. Transferability. A license shall be transferable between persons upon consent of the Council and payment of the investigation fee. No license shall be transferable to a different location without prior consent of the Council and upon payment of the fee for a duplicate license. It is unlawful to make any transfer in violation of this Section.

501.022. Termination. Licenses shall terminate only by expiration or revocation.

501.03. Refusal and Revocation. The Council may, for any reasonable cause, refuse to grant any application, or revoke any license. No license shall be granted to a person who has been convicted of a felony within the past five years. Before revocation of any license, the Council shall give notice to the licensee and grant such licensee opportunity to be heard. Notice to be given and the exact time of hearing shall be stated in the resolution calling for such hearing. Grounds for revocation may be, but are not limited to, any of the following:

(1) that the licensee suffered or permitted illegal acts upon licensed premises;

(2) that the licensee had knowledge of such illegal acts but failed to report the

same to police;

(3) that the licensee failed or refused to cooperate fully with police in investigating such alleged illegal acts; or,

(4) that the activities of the licensee created a serious danger to public health, safety, or welfare.

501.04. Duplicate License. Duplicates of all original licenses may be issued by the City Clerk or Treasurer, without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of a fee of \$5.00 for issuance of the duplicate. All duplicate licenses shall be clearly marked DUPLICATE.

501.05. Fixing License Fees. Except as otherwise herein provided, all fees for licenses under this Chapter shall be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such license fees may, from time-to-time, be amended by the Council by resolution. A copy of the resolution setting forth currently effective license fees shall be kept on file in the office of the City Clerk or Treasurer, and open to inspection during regular business hours. For the purpose of fixing such fees, the Council may subdivide and categorize licenses under a specific license requirement, provided, that any such subdivision or categorization shall be included in the resolution authorized by this Section.

501.06. Carrying or Posting. All solicitors shall at all times when so engaged, carry their license on their person. All other licensees shall post their licenses in their place of business near the licensed activity. Provided, however, that in the case of machine or other device, the City may provide a sticker for the current license year which shall be affixed to each machine or device requiring such sticker. All licensees shall display their licenses upon demand by any officer or citizen.

501.07. Conditional Licenses. Notwithstanding any provision of law to the contrary, the Council may, upon a finding of the necessity therefor, place such conditions and restrictions upon a license as it, in its discretion, may deem reasonable and justified.

501.08. Renewal of Licenses. Applications for renewal of an existing license shall be made at least thirty (30) days prior to the date of expiration of the license, and shall contain such information as is required by the City. This time requirement may be waived by the Council for good and sufficient cause.

SECTION 505. FRANCHISES.

505.01. Definition. The term "franchise" as used in this Section shall be construed to mean any special privileges granted to any person in, over, upon, or under any of the streets or public places of the City, whether such privilege has heretofore been granted by it or by the State of Minnesota, or shall hereafter be granted by the City or by the State of Minnesota.

505.02. Franchise Ordinances. The city council may grant franchises by ordinance. Franchise rights shall always be subject to the superior right of the public to the use of streets and public places. All persons desiring to make any burdensome use of the streets or public places, inconsistent with the public's right in such places, or desiring the privileges of placing in, over, upon, or under any street or public place any permanent or semi-permanent fixtures for the purpose of constructing or operating railways, telegraphing, or transmitting electricity, or transporting by pneumatic tubes, or for furnishing to the City or its inhabitants or any portion thereof, transportation facilities, water, light, heat, power, gas, or any other such utility, or for any other purpose, shall be required to obtain a franchise before proceeding to make such use of the streets or public places or before proceeding to place such fixtures in such places.

505.03. Power of Regulation Reserved. The City shall have the right and power to regulate and control the exercise by any person, of any franchise however acquired, and whether such franchise has been heretofore granted by it or by the State of Minnesota.

505.04. Conditions in Every Franchise. All conditions specified in this Section shall be a part of every franchise even though they may not be expressly contained in the franchise:

Subd. 1. That the grantee shall be subject to and will perform on its part all the terms of this Section and will comply with all pertinent provisions of the City Code, as the same may from time to time be amended.

Subd. 2. That the grantee shall in no case claim or pretend to exercise any power to fix fares, rates, and charges; but that such fares, rates, and charges shall at all times be just, fair and reasonable for the services rendered and shall in all cases be fixed and from time to time changed, unless regulated by an agency of the State of Minnesota, in the manner following:

A. A reasonable rate shall be construed to be one which will, with efficient management, normally yield above all operating expenses and depreciation, a fair return upon all money invested.

B. If possible, maximum rates and charges shall be arrived at by direct negotiation with the city council.

C. If direct negotiations fail to produce agreement, the city council shall,

not less than thirty days before the expiration of any existing rate schedule or agreement, appoint an expert as its representative, the franchisee shall likewise appoint an expert as its representative and the two of them shall appoint a third person, preferably an expert, and the three of them shall constitute a board of arbitration. The board shall report its findings as soon as possible and the rates and charges it shall agree upon by majority vote shall be legal and binding, subject only to review by a court of competent jurisdiction upon application of one of the parties.

Subd. 3. That the city council shall have the right to require reasonable extensions of any public services system from time to time, and to make such rules and regulations as may be required to secure adequate and proper service and to provide sufficient accommodations for the public.

Subd. 4. That the Grantee shall not issue any capital stock on account of the franchise or the value thereof, and that the grantee shall have no right to receive upon condemnation proceedings brought by the City to acquire the public utility exercising such franchise, any return on account of the franchise or its value.

Subd. 5. That no sale or lease of said franchise shall be effective until the assignee or lessee shall have filed with the City an instrument, duly executed, reciting the facts of such sale or lease, accepting the terms of the franchise, and agreeing to perform all the conditions required of the grantee thereunder.

Subd. 6. That every grant in said franchise contained of permission for the erection of poles, masts, or other fixtures in the streets and for the attachment of wires thereto, or for the laying of tracks in, or of pipes or conduits under the streets or public places, or for the placing in the streets or other public places of any permanent or semi-permanent fixtures whatsoever, shall be subject to the conditions that the city council shall have the power to require such alterations therein, or relocation or rerouting thereof, as the city council may at any time deem necessary for safety, health, or convenience of the public, and particularly that it shall have the power to require the removal of poles, masts, and other fixtures bearing wires and the placing underground of all facilities for whatsoever purpose used.

Subd. 7. Every franchise shall contain a provision granting the City the right to acquire the same in accordance with statute.

Subd. 8. That the franchisee may be obligated by the City to pay the City fees to raise revenue or defray increased costs accruing as a result of utility operations, or both, including, but not limited to, a sum of money based upon gross operating revenues or gross earnings from its operations in the City.

505.05. Further Provisions of Franchise. the enumeration and specification of particular matters which must be included in every franchise or renewal or extension thereof, shall not be construed as impairing the right of the City to insert in any such franchise or renewal or extension thereof such other and further conditions and restrictions as the city council may deem proper to protect the City's interest, nor shall anything contained in this Section limit any right or power possessed by the City over existing franchises.

SECTION 510. DANCES.

510.01. Definitions. As used in this Section, the following words and terms shall have the meanings stated:

A. "**Public dance**" means any dance wherein the public may participate by payment, directly or indirectly, of an admission fee or price for dancing, which fee may be in the form of a club membership, or payment of money, directly or indirectly.

B. "**Public dancing place**" means any room, place, or space open to the public patronage in which dancing, wherein the public may participate, is carried on and to which admission may be had by the public by payment, directly or indirectly, of an admission fee or price for dancing.

510.02. License Required. It is unlawful for any person to operate a public dancing place, or hold a public dance, without a license therefor from the City.

510.03. Application and License.

Subd. 1. A verified application for a dance license shall be filed with the City and shall specify the names and addresses of the person, persons, committee or organization that is to hold the dance, time and place thereof, and the area of the dance floor.

Subd. 2. All applications shall be accompanied by affidavits of two residents showing that the applicant is of good character and reputation in the community in which he lives, that he had not been convicted of a felony, gross misdemeanor, or violation of any public dance laws within the past five years. No license shall be issued to any person who has been so convicted.

Subd. 3. No license shall be granted by the Council for any place having so-called "private apartments" or "private rooms" furnished or used for any purposes other than a legitimate business purpose which adjoins such dancing place, or which may be reached by stairs, elevators, or passageway leading from such dancing place. Nor shall a license be granted for any place which is not properly ventilated and equipped with necessary toilets, washrooms or lighting facilities.

Subd. 4. Applications may be referred by the Council to any law enforcement agency for investigation and report prior to being acted upon by the Council.

Subd. 5. The Council shall act upon all dance license applications at a regular or special meeting thereof, whether or not it is included in the call or agenda of the meeting.

Subd. 6. A natural person shall be employed by the licensee, as an observer, to be present during the entire time the dance is held. The observer shall have available telephone or radio communication with on-duty police, and shall use such communication to report any violation of this Section, another provision of the City Code, or any other law.

Subd. 7. The dance license shall be posted in the public dancing place and shall state the name of the licensee, the amount paid therefor, and the time and place licensed. The license shall also state that the licensee is responsible for the manner of conducting the dance.

Subd. 8. No license shall be issued to any applicant under the age of eighteen (18) years.

510.04. Dance Regulations.

Subd. 1. Obscenity and Immorality Prohibited. It is unlawful for any person to dance, or for a licensee to permit or suffer any person to dance at any public dance in an indecent or immodest manner. It is also unlawful for any person at a public dance to speak in a rude, boisterous, obscene, or indecent manner or for any licensee to suffer or permit any person so to act or speak in any public dancing place.

Subd. 2. Illumination. Every public dancing place shall be brightly illuminated while in public use, and dancing therein while the lights are extinguished, dimmed or turned low so as to give imperfect illumination is prohibited.

Subd. 3. Certain Persons Prohibited. No licensee shall permit any unmarried person under the age of sixteen (16) years, unless said unmarried person is accompanied by his parent or guardian, to remain in a public dancing place. Nor shall any licensee permit any intoxicated person, or other person who persists in violating the law, to be or remain in a public dancing place.

Subd. 4. Hours of Dancing. No public dance shall be held on Sunday between the hours of 1:00 o'clock A.M. and 12:00 o'clock noon. No public dance shall be held on any day between the hours of 1:00 o'clock A.M. and 6:00 o'clock A.M.

SECTION 515. SHOWS.

515.01. License Required It is unlawful for any person to present any public show, movie, caravan, circus, carnival, theatrical or other performance or exhibition without first having obtained a license therefor from the City.

515.02. Exceptions. No license shall be required in the following instances:

- (a) Performances presented in the local schools, under the sponsorship of such schools, and primarily for the students thereof only.
- (b) Performances of athletic, musical or theatrical events sponsored by local schools or colleges using student talent only.
- (c) Any performance or event in, or sponsored by, bona fide local church and non-profit organizations, provided that such organization shall be incorporated.

515.03. Obscenity Prohibited**Subd. 1. Definitions.**

- (a) "**Nudity**" means uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the uncovered human male genitals in a discernibly turgid state. For purposes of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.
- (b) "**Obscene performance**" means a performance which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sado-masochistic abuse, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct.
- (c) "**Obscenities**" means those slang words currently generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily, sexual or excretory meaning.
- (d) "**Performance**" means any play, motion picture film, dance, or other exhibition pictured, animated, or live, performed before an audience.
- (e) "**Sado-masochistic abuse**" means flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically

restrained on the part of one so clothed.

(f) "**Sexual conduct**" means human masturbation, sexual intercourse, or any touching of the genitals, pubic areas or buttocks of the human male or female, or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

(g) "**Sexual excitement**" means the condition of human male or female genitals or the breast of the female when in a state of sexual stimulation, or the sensual experience of humans engaging in or witnessing sexual conduct or nudity.

Subd. 2. It is unlawful for any licensee, for a monetary consideration or other valuable commodity or service, to knowingly or recklessly

(a) exhibit an obscene performance; or,

(b) directly or indirectly sell an admission ticket or other means to gain entrance into an obscene performance, or,

(c) directly or indirectly permit admission of a person to premises whereon there is exhibited an obscene performance

Subd. 3. Any prosecution under this Subdivision shall include the following elements:

(a) that the average person, applying contemporary community standards, would find the performance, taken as a whole, appealing to the prurient interest of the audience;

(b) that the performance describes or depicts, in a patently offensive way, sexual conduct included in the definition of "obscene performance"; and

(c) that the performance, taken as a whole, lacks serious literary artistic, political or scientific value.

SECTION 520. TOBACCO.

520.01. Definition. As used in this Section, the term "tobacco" means and includes tobacco in any form, including but not limited to, cigarettes, cigars, bagged, canned or packaged product.

520.02. License Required. It is unlawful for any person, directly or indirectly, to keep for retail sale, sell at retail, or otherwise dispose of any tobacco in any form unless a license therefor shall first be obtained from the City, or such licensing agent as is vested with the authority to issue licenses by the City. The City may, by resolution, delegate authority to license and regulate the retail sale of tobacco within the Hardwick City limits.

520.03. Restrictions.

Subd. 1. Separate licenses shall be issued for the sale of tobacco at each fixed place of business, and no license shall be issued for a movable place of business.

Subd. 2. It is unlawful for any person to sell or give away any tobacco in any form to any person under the age of eighteen (18) years.

SECTION 525. SOLICITORS.

525.01. Purpose. This Section is not intended to in any way hinder, delay or interfere with legitimate business or organizational activities. The Council finds, however, that solicitors have used public streets and their direct contract with residents of the City for the illegitimate solicitation practices of harassment, nuisance, theft, deceit, or menacing, troublesome or unlawful activities. This Section is intended to ferret out and control:

- (1) businesses and organizations using solicitation as a means of concealing unlawful activities;
- (2) businesses and organizations which, though its activities be lawful or even commendable, use such illegitimate practices in solicitation; and,
- (3) individual natural persons who, though they represent lawful businesses and organizations, use such illegitimate solicitation practices.

The Council further finds that a large number of the residents of the City are employed as their livelihood and means of support by manufacturing plants and other businesses on shifts rotating between night and day, and to disturb them during their sleeping hours for the purpose of solicitation is a source of nuisance or even harassment and should be subject to control.

525.02. Definitions. The following terms, as used in this Section, shall have the meanings stated:

- (a) "**Solicitor**" means any person making the solicitation, including such common terms as "peddler", "transient merchant" and "canvasser".
- (b) "**Solicitee**" means the person solicited.
- (c) "**Goods**" means any tangible thing of value, but not including money, things in action or intangible personal property other than merchandise certificates or coupons as herein described. The term includes such chattels as are furnished or used at the time of sale or subsequently in the modernization, rehabilitation, repair, alteration, improvement or construction of real property so as to become a part thereof whether or not severable therefrom. The term also includes merchandise certificates or coupons, issued by a retail seller, not redeemable in cash and to be used in their face amount in lieu of cash, in exchange for goods or services sold by such seller.
- (d) "**Services**" means work, labor, or services of any kind.
- (e) "**Established place**" means real estate in the City owned, leased on a month-to-month or term-certain longer than thirty (30) days. The term includes a booth,

compartment, or area leased or assigned during and for the length of an event or occasion.

(f) "**Business solicitation**" means an attempt by a solicitor, engaging in transactions of the same kind, to sell or distribute for a consideration any goods or services primarily for personal, family, or household purposes, when either the solicitor or person acting for him contracts the solicitee by telephone or in person, other than at the established place of business of solicitor, except:

(1) an attempted solicitation in which the solicitee personally knows the identity of the solicitor, the name of the business firm or organization he represents, and the identity or kinds of goods, services or things of value offered;

(2) an attempted solicitation in which the solicitee has first initiated the contract with the solicitor;

(3) an attempted solicitation of a newspaper subscription in which the solicitor is a minor child engaged in both the delivery and sale of the newspaper; or

(4) an attempted solicitation for the sale of products of a farm or garden occupied or cultivated by the solicitor, when facts of such occupancy or cultivation are proven by the solicitor.

(g) "**Contribution solicitation**" means an attempt by a solicitor to obtain money from a solicitee for any cause or purpose, when either the solicitor or person acting for him contacts the solicitee by telephone or in person other than at the established place of meeting, business, service, or activity of the organization represented by the solicitor, except:

(1) an attempted solicitation in which the solicitee personally knows the identity of the solicitor, the name of the organization he represents, and the identity of the services performed or offered by the organization, or,

(2) an attempted solicitation in which the solicitee has first initiated the contract with the solicitor or the organization represented by him.

525.03. Prohibited Solicitation Practices.

Subd. 1. It is unlawful for any solicitor to engage in solicitation for any unlawful business or organizational purpose or activity.

Subd. 2. It is unlawful for any solicitor to practice harassment, nuisance, theft, deceit, or menacing, troublesome or otherwise unlawful activities during the course

of solicitation.

Subd. 3. It is unlawful for any solicitor to enter, or attempt to gain entrance, to residential premises displaying at such entrance a sign at least 3-3/4 inches long and 3-3/4 inches high with the words "Peddlers and Solicitors Prohibited" or "Solicitors Prohibited" in type not smaller than 48 point.

Subd. 4. It is unlawful for any solicitor to refuse to leave business premises when requested by the owner, lessee, or person in charge thereof.

Subd. 5. It is unlawful for any person to engage in contribution solicitation without completion of licensing or registration as herein provided.

Subd. 6. It is unlawful for any person to engage in business solicitation without a license as herein provided

525.04. Application. Applications for licensing or registration shall contain the name and address of the solicitor, the name and address of the business or organization for which solicitations are sought and such other information as may reasonably be required by the Council as a condition to registration or licensing or to permit investigation into the applicant's background and past solicitation practices.

525.041. Application – Investigation, Approval, or Disapproval.

Subd. 1. All applications for licensing or registration shall be immediately referred to the Sheriff of Rock County, and by him or other person acting in his stead, investigated as to the truth thereof.

Subd. 2. If he finds no past history of the applicant indicating violations similar to those declared unlawful in this Section he shall recommend issuing a license or approving registration, as the case may be, and the City Clerk or Treasurer shall forthwith advise the applicant. The City Clerk or Treasurer shall issue a license, upon payment of the fee therefor, to the approved applicant for business solicitation, and shall approve the completion of registration by the applicant for a contribution solicitor.

Subd. 3. If the Chief of Police finds a past history of the applicant indicating violations similar to those declared unlawful in this Section, he shall recommend denial of the license or registration. In all matters of recommended denial the applicant shall be forthwith advised thereof, and the application shall be referred to the Council and considered by it at its next regular or special meeting occurring more than ten (10) days thereafter. The applicant shall be afforded an opportunity to be heard at such meeting.

525.05. Duration of Contribution Solicitation Registration. Registration of contribution solicitation shall expire sixty (60) days after registration is approved.

SECTION 530. SEWER SERVICE CONNECTION INSTALLER.

530.01. License Required. It is unlawful for any person to engage in the work or business of making service connections with any public sewer without a license therefor from the City.

530.02. Application. Any person desiring a license to make a service connection with public sewers, shall apply in writing to the 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 Utilities Superintendent for recommendations to the Council. If approved by the Council, such license shall be issued by the City upon the filing of bond as herein provided

CHAPTER 6: STREETS AND SIDEWALKS GENERALLY

THIS CHAPTER CONTAINS PROVISIONS AS TO DEFINITIONS, APPLICATION, AND SCOPE RELATING TO CHAPTERS 7 AND 8 AS WELL AS THIS CHAPTER.

**SECTION 600
GENERAL PROVISIONS**

- 600.01 Application
- 600.02 Definitions
- 600.03 Scope and Orders of Officers
- 600.04 Private Use of Public Streets and Parking Lots
- 600.05 Motorized Vehicles Prohibited on Sidewalks
- 600.06 Numbering Buildings
- 600.07 Violation a Misdemeanor or Petty Misdemeanor

**SECTION 601
TRAFFIC AND PARKING CONTROL**

- 601.01 Council Action
- 601.02 Temporary Restrictions
- 601.03 Traffic Restrictions and Prohibitions
- 601.04 Parking Restrictions and Prohibitions
- 601.05 Damaging Moving Markings
- 601.06 Truck Parking
- 601.061 Semitrailers
- 601.062 Commercial Vehicles Weighing More Than One Ton
- 601.063 Street Parking Prohibited.
- 601.064 Parking in Designated Loading Zones
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- 601.066 Liability for Damages

**SECTION 605
OBSTRUCTIONS, HAZARDS, AND EXCAVATIONS**

- 605.01 Ice and Snow on Public Sidewalks
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**SECTION 610
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- 610.01 Generally
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**SECTION 615
MAINTENANCE**

- 615.01 Regulation of Grass, Weeds, and Trees
- 615.02 Curb Set-back
- 615.03 Load Limits
- 615.04 Requirement of Sewer and Water Main Service Lateral Installation
- 615.05 Curb and Gutter, Street and Sidewalk Painting or Coloring
- 615.06 Sidewalk Maintenance and Repair

SECTION 600. GENERAL PROVISIONS

600.01. Application. The provisions of City Code, Chapters 6, 7 and 8, are applicable to the drivers of all vehicles and animals upon streets, including, but not limited to, those owned or operated by the United States, the State of Minnesota, or any county, town, city, district, or other political subdivision.

600.02. Definitions. The provisions of City Code Chapters 6, 7, and 8, are applicable to the drivers of all vehicles and animals upon streets, including, but not limited to, those owned or operated by the United States, the State of Minnesota, or any county, town, city, district, or other political subdivision.

600.03. Scope and Orders of Officers.

Subd. 1. Scope. The provisions of Chapters 6, 7, and 8 relate exclusively to the streets and alleys in the City, and the operation and parking of vehicles refer exclusively to the operation and parking of vehicles upon such streets and alleys.

Subd. 2. Orders of an Officer. It is a misdemeanor for any person to willfully fail or refuse to comply with any lawful order or direction of any police or peace officer invested by law with authority to direct, control or regulate traffic.

600.04. Private Use of Public Streets and Parking Lots.

Subd. 1. Authority, Permission and Procedure. Upon an application duly made, the Council may in its discretion, grant special permission whereby on-street parking or the use of City-owned parking lots or ramps or public sidewalks may be temporarily or permanently prohibited or restricted for private reasons and purposes (including, but not limited to, establishment of private or "leased" parking, "loading zones", or benches) at such places, on such terms and for such consideration as the Council may deem just and equitable. In establishing the amount of such consideration to be paid to the City, the Council shall consider the amount of space, location thereof, if any, public inconvenience, and hazards to persons or property. Upon complaint of any aggrieved person at any time and by reason of any specific special permission so granted, the Council shall at its next regular meeting after receipt of such complaint, call a hearing thereon to be held after ten days' notice in writing to applicant and complainant and published notice at least ten days prior to such hearing. After such hearing the Council shall by resolution decide whether to terminate, continue or redefine the terms of such permission and such decision shall be final and binding on all persons directly or indirectly interested therein, except that the Council may, in its own motion, reconsider the same.

Subd. 2. Public Vehicles. Free and reserved on-street parking shall be limited to City-owned and operated vehicles.

Subd. 3. Forbidden Practices. It is unlawful for any person to park or otherwise

infringe upon a grant of right under this Section, when clearly and distinctly marked or sign-posted. It is unlawful for any person not granted such right to assert the same, or for any grantee of such right to exceed the same under claim thereto.

Subd. 4. Condition. Before granting any permit under any of the provisions of this Section, the Council may impose such insurance or bonding conditions thereon as it, considering the projected danger to public or private property or to persons, deems proper for safeguarding such persons and property. Such insurance or bond shall also protect the City from any suit, action or cause of action arising by reason thereof.

600.05. Motorized Vehicles Prohibited on Sidewalks. It is unlawful for any person to drive or operate a motorized vehicle, except for sidewalk maintenance equipment, on any public sidewalk or public property designated for use as a pedestrian walkway or bicycle trail, except when crossing the same for ingress and egress to private property lying on the other side thereof.

600.06. Numbering Buildings.

Subd. 1. Requirement. The current address of all homes and other buildings occupied for living purposes and business buildings shall be displayed on the exterior of said home or business facing the street adjacent to said home or business building in compliance with this Section.

Subd. 2. Size of Numbers. Each number of the address attached to the home or business shall be three (3) inches or greater in size. The numbers shall be of a color that contrasts to the color of the building to which it is attached. The numbers of the address shall be in Arabic numbers. Roman numerals and numbers in writing still have to display Arabic numbers.

Subd. 3. Location. All numbers attached to a home or business place shall display the address of said home or business place and shall be located in a position near the front door of said building so it may be seen from the street and road clearly at night with a spotlight or a porch light attached to the building.

600.07. Violation a Misdemeanor or Petty Misdemeanor. Every person violates a section, subdivision, paragraph or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as follows:

Subd. 1. Where the specific section, subdivision, paragraph or provision specifically makes violation a misdemeanor, he shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, he shall be punished as for a misdemeanor; where he stands convicted of violation of any provision of this Chapter, exclusive of violations relating to the standing or parking

of an unattended vehicle, within the immediate preceding 12-month period for the third or subsequent time, he shall be punished as for a misdemeanor.

Subd. 2. As to any violation not constituting a misdemeanor under the provisions of Subdivision 1 hereof, he shall be punished as for a petty misdemeanor.

SECTION 601. TRAFFIC AND PARKING CONTROL.

601.01. Council Action. No device, sign or signal shall be erected or maintained for traffic or parking control unless the Council shall first have approved and directed the same, except as otherwise provided in this Section; provided, that when traffic and parking control is marked or sign-posted, such marking or sign-posting shall attest to Council action thereon.

601.02. Temporary Restrictions. The City, acting through Law Enforcement, may temporarily restrict traffic or parking for any private, public or experimental purpose. It is the duty of Law Enforcement to so restrict traffic or parking when a hazardous condition arises or is observed.

601.03. Traffic Restrictions and Prohibitions. It is a misdemeanor for any person to drive a vehicle contrary to lane restrictions or prohibitions painted on any street, or contrary to sign-posted, fenced, or barricaded restrictions or prohibitions.

601.04. Parking Restrictions and Prohibitions. It is unlawful for any person to park a vehicle, except an emergency vehicle, contrary to lane restrictions or prohibitions painted on any curb, or contrary to sign-posted, fenced, or barricaded restrictions or prohibitions.

601.05. Damaging Moving Markings. It is a misdemeanor for any person to deface, mar, damage, move, remove, or in any way tamper with any structure, work, material, equipment, tools, sign, signal, barricade, fence, painting or appurtenance in any street unless such person has written permission from the City or is an agent, employee or contractor for the City, or other authority having jurisdiction over a particular street, and acting within the authority or scope of a contract with the City or such other authority.

601.06. Truck Parking. It is unlawful to park a detached semitrailer upon any street, City owned parking lot, or other public property, except on streets as specifically designated by the Council by resolution.

601.061. Semitrailers. It is unlawful to park a semitrailer, truck trailer, or box whether or not attached to a truck-tractor or to its original chassis, within a residential district zone, except for the purpose of promptly loading or unloading the same, or when the same is used in direct conjunction with a building permit for bona fide construction purposes and in accordance with the terms contained in said permit.

Subd. 1. In a business district zone, the use of semi trailers, truck trailers, or boxes for the permanent or temporary storage of materials and products is prohibited and the parking or placing of said items for more than seven (7) calendar days on private property is prohibited except under the following conditions.

- (a) When the same are completely screened behind an opaque fence or wall, or contained within the confines of an enclosed building;

- (b) When the same are used in direct conjunction with a building permit for the bona fide construction purposes and in accordance with the terms contained in said permit;
- (c) When the same are used for a Council approved not for profit community recycling/used material drop off point provided the same are routinely removed and/or exchanged;
- (d) When the same are located in the B-2 District if the nearest point of the trailer or box is not less than 100 ft. from any property line and the same are maintained in good condition without visible deterioration (e.g. rusting, peeling paint, etc.) or any form of written advertising on any surface visible from public or private property;
- (e) When the same are located in the B-2 District as part of a bona fide trailer sales and service business and are maintained in good, usable road condition or awaiting prompt repair, and if not awaiting repair, held for bona fide sale at a reasonable market price.

This paragraph does not apply to completely enclosed truck boxes (not to exceed 160 square feet) in good condition without visible deterioration or any form of written advertising on any surface visible from public or private property, the axle and wheels have been removed, and the same has been converted to a permanent accessory structure in conformance with the State Building Code, State Fire Code, and City zoning regulations.

601.062. Commercial Vehicles Weighing More than One Ton. It is unlawful to park a commercial vehicle of more than one ton capacity upon any street in the Business District unless it has been duly sign-posted permitting the same, but parking of such vehicle for a period of not more than twenty (20) minutes shall be permitted in such a space for the purpose of necessary access to abutting property for loading or unloading when such access cannot reasonably be secured from an alley or from an adjacent street where truck parking is not so restricted.

601.063. Street Parking Prohibited. It is unlawful to park a truck or other vehicle using or equipped with a trailer, or extended body or other extension or projections beyond the original length of such vehicle, or any passenger bus, diagonally along any street except for a time sufficient to load or unload. Provided, however, that a truck may stand backed up to the curb if the weight or bulk of the load makes parallel parking impractical, but then only for a period of time sufficient to load or unload.

601.064. Parking in Designated Loading Zones. Parking of commercial vehicles is permitted in duly designated and sign-posted loading zones, and in alleys, for a period of up to twenty (20) minutes, provided that such alley parking does not prevent the flow of traffic therein, all of which shall be for the purpose of access to abutting or adjacent property for loading or unloading.

601.065. Council’s Authority to Designate Truck Parking. The Council may by resolution taken at any regular or special meeting designate certain streets or parts thereof on which trucks may be parked, and establish the times and conditions under which said trucks may be parked.

601.066. Liability for Damages. The cost of repairing damage to any street surface caused by any vehicle parked in violation of this Section shall be the responsibility of the owner of the vehicle causing said damage.

SECTION 605. OBSTRUCTIONS, HAZARDS, AND EXCAVATIONS**605.01. Ice and Snow on Public Sidewalks.**

Subd. 1. Ice and Snow a Nuisance. All snow and ice remaining upon public sidewalks is hereby declared to constitute a public nuisance and shall be abated by the owner or tenant of the abutting private property within forty-eight (48) hours after such snow or ice has ceased to be deposited.

Subd. 2. City to Remove Snow and Ice. The City may cause to be removed from all public sidewalks, beginning seventy-two (72) hours after snow or ice has ceased to fall, all snow or ice which may be discovered thereon, and it shall keep a record of the cost of such removal and the private property adjacent to which such accumulations were found and removed.

Subd. 3. Cost of Removal to be Assessed. The City Clerk or Treasurer shall, upon direction of the Council, and on receipt of the information provided for in the preceding Subdivision, extend the cost of such removal of snow or ice as a special assessment against the lots or parcel of ground abutting on walks which were cleared, and such special assessments shall at the time of certifying taxes to the County Auditor be certified for collection as other special assessments are certified and collected.

Subd. 5. Civil Suit for Cost of Removal. The City Clerk or Treasurer shall, in the alternative, upon direction of the Council, bring suit in a court of competent jurisdiction to recover from the persons owning land adjacent to which sidewalks were cleared, as provided in Subdivision 2 hereof, the cost of such clearing and the cost and disbursement of a civil action therefor.

605.02. Construction and Reconstruction of Roadway Surfacing, Sidewalk, Curb, and Gutter.**Subd. 1. Methods of Procedure.**

A. Abutting or affected property owners may contract for, construct or reconstruct roadway surfacing, sidewalk or curb and gutter in accordance with this Section if advance payment is made therefor or arrangements for payment considered adequate by the City are completed in advance.

B. With or without petition by the methods set forth in the Local Improvement Code of Minnesota Statutes, presently beginning with Section 429.011, as the same may from time to time be amended.

Subd. 2. Permit Required. It is a misdemeanor to construct or reconstruct a sidewalk, curb and gutter, driveway, or roadway surfacing in any street or other public property in the City without a permit in writing from the City. Application

for such permit shall be made on forms approved and provided by the City and shall sufficiently describe the contemplated improvements, the contemplated date of beginning work, and the length of time required to complete the same, provided, that no permit shall be required for any such improvement ordered installed by the Council. All such applications shall contain an agreement by the applicant to be bound by this Chapter and plans and specifications consistent with the provisions of this Chapter and good engineering practices shall also accompany the application. A permit from the City shall not relieve the holder from damages to the person or property of another caused by such work.

Subd. 3. Specifications and Standards. All construction and reconstruction of roadway surfacing, sidewalk and curb and gutter improvements, including curb cuts, shall be strictly in accordance with standards prescribed by the City.

Subd. 4. Inspection. The City shall inspect such improvements as deemed necessary or advisable. Any work not done according to the applicable standards shall be removed and corrected at the expense of the permit holder. Any work done hereunder may be stopped by the City if found to be unsatisfactory or not in accordance with the standards, but this shall not place a continuing burden upon the City to inspect or supervise such work.

605.03. Obstructions in Streets.

Subd. 1. Obstructions. It is a misdemeanor for any person to place, deposit, display or offer for sale, any fence, goods or other obstructions upon, over, across or under any street without first having obtained a written permit from the Council, and then only in compliance in all respects with the terms and conditions of such permit, and taking precautionary measures for the protection of the public. An electrical cord or device of any kind is hereby included, but not by way of limitation, within the definition of an obstruction.

Subd. 2. Fires. It is a misdemeanor for any person to build or maintain a fire upon a street.

Subd. 3. Dumping in Streets. It is a misdemeanor for any person to throw or deposit in any street any nails, dirt, glass or glassware, cans, discarded cloth or clothing, metal scraps, garbage, leaves, grass or tree limbs, paper or paper products, shreds or rubbish, oil, grease or other petroleum products, or to empty any water containing salt or other injurious chemical thereon. It is a violation of this Section to haul any such material, inadequately enclosed or covered, thereby permitting the same to fall upon streets. It is also a violation of this Section to place or store any building materials or waste resulting from building construction or demolition on any street without first having obtained a written permit from the Council.

Subd. 4. Signs and Other Structures. It is a misdemeanor for any person to place

or maintain a sign, advertisement, or other structure in any street without first having obtained a written permit from the Council. In a district zoned for commercial or industrial enterprises special permission allowing an applicant to erect and maintain signs overhanging the street may be granted upon such terms and conditions as may be set forth in the zoning or construction provisions of the City Code.

Subd. 5. Placing Snow or Ice in a Roadway or on a Sidewalk.

A. It is a misdemeanor for any person, not acting under a specific contract with the City or without special permission from the City, to remove snow or ice from private property and place the same in any roadway or on a sidewalk.

B. Where permission is granted by the City the person to whom such permission is granted shall be initially responsible for payment of all direct or indirect costs of removing the snow or ice from the street or sidewalk. If not paid, collection shall be by civil action or assessment against the benefitted property as any other special assessment.

Subd. 6. Continuing Violation. Each day that any person continues in violation of this Section shall be a separate offense and punishable as such.

Subd. 7. Condition. Before granting any permit under any of the provisions of this Section, the Council may impose such insurance or bonding conditions thereon as it, considering the projected danger to public or private property or to persons, deems proper for safeguarding such persons and property. Such insurance or bond shall also protect the City from any suit, action or cause of action arising by reason of such obstruction.

SECTION 610. STREET OPENINGS OR EXCAVATIONS.

610.01. Generally. It is a misdemeanor for any person, except a City employee acting within the course and scope of his employment or a contractor acting within the course and scope of a contract with the City, to make any excavation, opening or tunnel in, over, across or upon a street or other public property without first having obtained a written permit from the City as herein provided.

610.02. Application. Application for a permit to make a street excavation shall describe with reasonable particularity the name and address of the applicant, the place, purpose and size of the excavation, and such other information as may be necessary or desirable to facilitate the investigation hereinafter provided for, and shall be filed with the City.

610.03. Investigation and Payment of Estimated Costs. Upon receipt of such application, the City shall cause such investigation to be made as he may deem necessary to determine estimated costs of repair, such as back-filling, compacting, resurfacing and replacement, and the conditions as to the time of commencement of work, manner or procedure and time limitation upon such excavation. The foregoing estimated costs shall include permanent and temporary repairs due to weather or other conditions, and the cost of such investigation shall be included in such estimate.

610.04. Protection of the City and the Public

Subd. 1. Non-Completion or Abandonment. Work shall progress expeditiously to completion in accordance with any time limitation placed thereon so as to avoid unnecessary inconvenience to the public. In the event that work is not performed in accordance therewith, or shall cease or be abandoned without due cause, the City may, after six hours' notice in writing to the holder of the permit of its intention to do so, correct the work, fill the excavation and repair the public property, and the cost thereof shall be paid by the person holding the permit.

Subd. 2. Insurance. Prior to commencement of the work described in the application, the applicant shall furnish the City satisfactory evidence in writing that the applicant will keep in effect the public liability insurance of not less than \$200,000.00 for any person, \$400,000.00 for any occurrence and property damage insurance of not less than \$50,000.00, issued by an insurance company authorized to do business in the State of Minnesota on which the City is named as a co-insured.

Subd. 3. Indemnification. Before issuance of a permit, the applicant shall, in writing, agree to indemnify and hold the City harmless from any liability for injury or damage arising out of the action of the applicant in performance of the work, or any expense whatsoever incurred by the City incident to a claim or action brought or commenced by any person arising therefrom.

610.05. Issuance of Permit. The City shall issue such permit after

- (1) completion of such investigation,
- (2) payment by the applicant in advance of all estimated costs as aforesaid;
- (3) agreement by the applicant to the conditions of time and manner as aforesaid;
- (4) agreement in writing by the applicant to pay all actual cost of repairs over and above such estimate, including cost of such investigation, and,
- (5) agreement in writing by the applicant to be bound by all of the provisions of this Section.

610.06. Repairs. All temporary and permanent repairs, including back-filling, compacting and resurfacing shall be made, or contracted for, by the City in a manner prescribed by the City and an accurate account of costs thereof shall be kept.

610.07. Cost Adjustment. Within sixty days following completion of such permanent repairs the City shall determine actual costs of repairs, including cost of investigation, and prepare and furnish to such permit holder an itemized statement thereof and claim additional payment from, or make refund (without interest) to, the permit holder, as the case may be.

610.08. Alternate Method of Charging. In lieu of the above provisions relating to cost and cost adjustment for street openings, the City may charge on the basis of surface square feet removed, excavated cubic feet, or a combination of surface square feet and excavated cubic feet, on an established unit price uniformly charged.

610.09. Emergency. During an emergency occurring during non-business hours or days, the Police Department may inspect and, upon making a determination that an emergency exists, waive a permit on the condition that one will be applied for within two (2) hours after the City offices are next open for business.

SECTION 615. MAINTENANCE.**615.01. Regulation of Grass, Weeds, and Trees.**

Subd. 1. City to Control Tree Planting (Standards). The City shall have control and supervision of planting shrubs and trees upon, or overhanging, all the streets or other public property. The City may establish and enforce uniform standards relating to the kinds and types of trees to be planted and the placement thereof.

Subd. 2. Permit Required. It is unlawful for any person to plant, spray, trim or remove trees or other plants which are upon City property, including rights-of-way, without first procuring from the City a permit in writing to do so.

Subd. 3. Duty of Property Owners to Cut Grass and Weeds and Maintain Trees and Shrubs Every owner of property abutting on any street shall cause the grass and weeds to be cut from the line of such property nearest to such street to the center of such street. If the grass or weeds in such a place attain a height in excess of nine (9) inches it shall be prima facie evidence of a failure to comply with this Subdivision. Every owner of property abutting on any street shall, subject to the provision herein requiring a permit therefor, trim, cut and otherwise maintain all trees and shrubs from the line of such property nearest to such street to the center of such street.

Subd. 4. City May Order Work Done. The City may, in cases of failure to comply with this Section, perform such work with employees of the City, keeping an accurate account of the cost thereof for each lot, piece or parcel of land abutting upon such street.

Subd. 5. Assessment. If such maintenance work is performed by the City as set forth in the foregoing Subdivision, the City Clerk or Treasurer shall forthwith upon completion thereof ascertain the cost attributable to each lot, piece or parcel of abutting land. The City Clerk or Treasurer shall, at the next regular meeting thereof, present such certificate to the Council and obtain its approval thereof. When such certificate has been approved it shall be extended as to the cost therein stated as a special assessment against such abutting land and such special assessment shall, at the time of certifying taxes to the County Auditor, be certified for collection as other special assessments are certified and collected.

615.02. Curb Set-back

Subd. 1. Permit Required. It is a misdemeanor for any person to hereafter remove, or cause to be removed, any curb from its position abutting upon the roadway to another position without first making application to the Council and obtaining a permit therefor.

Subd. 2. Agreement Required. No such permit shall be issued until the applicant,

and abutting landowner if other than applicant, shall enter into a written agreement with the City agreeing to pay all costs of constructing and maintaining such set-back area in at least as good condition as the abutting roadway, and further agreeing to demolish and remove such set-back and reconstruct the area as was at the expense of the landowner, his heirs or assigns if the area ever, in the Council's opinion becomes a public hazard. Such agreement shall be recorded in the office of the County Recorder, and shall run with the adjoining land.

Subd. 3. Sign-Posting. ANGLE PARKING ONLY signs shall be purchased from the City and erected and maintained at the expense of the adjoining landowner in all such set-back areas now in use or hereafter constructed. It is unlawful for any person to park other than at an angle in such set-back areas, as such angle parking is herein described and allowed.

Subd. 4. Public Rights Preserved. Such set-back parking areas shall be kept open for public parking and the abutting landowner shall at no time acquire any special interest or control of or in such areas.

615.03. Load Limits. The City may from time to time impose upon vehicular traffic on any part or all of the streets such load limits as may be necessary or desirable. Such limits, and the specific extent or weight to which loads are limited, shall be clearly and legibly sign-posted thereon. It is a misdemeanor for any person to operate a vehicle on any street in violation of the limitation so posted.

615.04. Requirement of Sewer and Water Main Service Lateral Installation.

Subd. 1. Requirement of Sewer and Water Laterals. No petition for the improvement of a street shall be considered by the Council if such petition contemplates constructing therein any part of a pavement or stabilized base, or curb and gutter, unless all sewer and water main installations shall have been made therein, including the installation of service laterals to the curb, if the area along such street will be served by such utilities installed in the street.

Subd. 2. Sewer System Service and Water Main Service Laterals. No sewer system shall be hereafter constructed or extended unless service laterals to platted lots and frontage facing thereon shall be extended simultaneously with construction of mains.

Subd. 3. Waiver. The Council may waive the requirements of this Section only if it finds the effects thereof are burdensome and upon such notice and hearing as the Council may deem necessary or proper.

615.05. Curb and Gutter, Street and Sidewalk Painting or Coloring. It is unlawful for any person to paint, letter or color any street, sidewalk or curb and gutter for advertising purposes, or to paint or color any street, sidewalk or curb and gutter for any purpose, except as the same may be done by City employees acting within the course or scope of their

employment. Provided, however, that this provision shall not apply to uniformly coloring concrete or other surfacing, or uniformly painted house numbers, as such coloring may be approved by the City.

615.06. Sidewalk Maintenance and Repair.

Subd. 1. Primary Responsibility. It is the primary responsibility of the owner of property upon which there is abutting any sidewalk to keep and maintain such sidewalk in safe and serviceable condition.

Subd. 2. Notice - No Emergency. Where the City determines that no emergency exists, notice of the required repair or reconstruction shall be given to the owner of the abutting property. Such notice shall require completion of the work within ninety (90) days, and shall be mailed to the owner or owners shown to be such on the records of the County Officer who mails tax statements.

Subd. 3. Notice – Emergency. Where the City determines that an emergency exists, notice of the required repair or reconstruction shall be given to the owner of the abutting property. Such notice shall require completion of the work within ten (10) days, and shall be mailed to the owner or owners shown to be such on the records of the County Officer who mails tax statements.

Subd. 4. Failure of Owner to Reconstruct or Make Repairs. If the owner of the abutting property fails to make repairs or accomplish reconstruction as herein required, the City Clerk or Treasurer shall report such failure to the Council and the Council may order such work to be done under its direction and the cost thereof assessed to the abutting property owner as any other special assessment.

Subd. 5. Seasonal Exception. No maintenance or repair work involving poured concrete shall be required during the period from October 1 to May 1 of the year next following.

CHAPTER 7: TRAFFIC REGULATIONS.

**SECTION 700
GENERAL PROVISIONS**

- 700.01 Application
- 700.02 Definitions
- 700.03 Scope and Orders of Officers
- 700.04 U-Turns
- 700.05 Exhibition Driving
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**SECTION 701
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RECREATIONAL VEHICLES (INCLUDING SNOWMOBILES)**

- 705.01 Definitions
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**SECTION 710
SPECIAL VEHICLE USE BY HANDICAPPED**

- 710.01 Operation Authorized
- 710.02 Permits
- 710.03 Unlawful Acts

SECTION 700. General Provisions.

700.01. Application. The provisions of City Code, Chapters 6, 7 and 8, are applicable to the drivers of all vehicles and animals upon streets, including, but not limited to, those owned or operated by the United States, the State of Minnesota, or any county, town, city, district, or other political subdivision.

700.02. Definitions. The provisions of City Code Chapters 6, 7, and 8, are applicable to the drivers of all vehicles and animals upon streets, including, but not limited to, those owned or operated by the United States, the State of Minnesota, or any county, town, city, district, or other political subdivision.

700.03. Scope and Orders of Officers.

Subd. 1. Scope. The provisions of Chapters 6, 7, and 8 relate exclusively to the streets and alleys in the City, and the operation and parking of vehicles refer exclusively to the operation and parking of vehicles upon such streets and alleys.

Subd. 2. Orders of an Officer. It is a misdemeanor for any person to willfully fail or refuse to comply with any lawful order or direction of any police or peace officer invested by law with authority to direct, control or regulate traffic.

700.04. U-Turns. It is unlawful for any person to operate a motor vehicle by turning so as to proceed in the opposite direction upon any street except at a street intersection, and then only if the street intersection is not sign-posted prohibiting a U-turn or otherwise controlled by a traffic signal; provided, that any person making a permitted U-turn shall yield the right-of-way to all other vehicles.

700.05. Exhibition Driving.

Subd. 1. Prima Facie Evidence. It is prima facie evidence of exhibition driving when a motor vehicle stops, starts, accelerates, decelerates, or turns at an unnecessary rate of speed so as to cause tires to squeal, gears to grind, soil to be thrown, engine backfire, fishtailing or skidding, or, as to two-wheeled or three-wheeled motor vehicles, the front wheel to lose contact with the ground or roadway surface.

Subd. 2. Unlawful Act. It is a misdemeanor for any person to do any exhibition driving on any street, parking lot, or other public or private property, except when an emergency creates necessity for such operation to prevent injury to persons or damage to property; provided, that this Section shall not apply to driving on a racetrack. For purposes of this Section, a "racetrack" means any track or premises whereon motorized vehicles, horses, dogs, or other animals or fowl legally compete in a race or timed contest for an audience, the members of which have directly or indirectly paid a consideration for admission.

700.06. Emergency Vehicles. The provisions of this Chapter shall not apply to vehicles when operated with due regard for safety, under the direction of police officers in the chase or apprehension of violators of the law or of persons charged with or suspected of any such violation, nor to Fire Department or fire patrol vehicles when traveling in response to a fire alarm, nor to public ambulances when traveling in emergencies. This exemption shall not, however, protect the driver of any such vehicle from the consequences of a reckless disregard of the safety of others.

700.07. Violation A Misdemeanor or Petty Misdemeanor. Every person violates a section, subdivision, paragraph or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as follows:

Subd. 1. Where the specific section, subdivision, paragraph or provision specifically makes violation a misdemeanor, he shall be punished as for a misdemeanor; where violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, he shall be punished as for a misdemeanor; where he stands convicted of violation of any provision of this Chapter, exclusive of violations relating to the standing or parking of an unattended vehicle, within the immediate preceding 12-month period for the third or subsequent time, he shall be punished as for a misdemeanor.

Subd. 2. As to any violations not constituting a misdemeanor under the provisions of Subdivision 1 hereof, he shall be punished as for a petty misdemeanor.

Subd. 3. As to any violation of a provision adopted by reference, he shall be punished as specified in such provision, so adopted.

SECTION 701. BICYCLES.

701.01. Traffic Laws Apply. Every person riding a bicycle upon a roadway or upon any path set aside for the exclusive use of bicycles shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this Chapter, except as to special regulations in this Chapter and except as to those provisions of this Chapter which by their nature can have no application.

701.02. Manner and Number Riding.

Subd. 1. It is unlawful for any person propelling a bicycle to ride other than upon or astride a permanent and regular seat attached thereto.

Subd. 2. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped, except that on a baby seat attached to the bicycle, provided that such seat is equipped with a harness to hold the child securely in the seat and that protection is provided against the child's feet hitting the spokes of the wheel or in a seat attached to the bicycle operator.

701.03. Hitching Rides. It is unlawful for any person riding upon any bicycle, coaster, roller skates, toboggan, sled, skateboard or toy vehicle to attach the same or himself to any vehicle upon a roadway.

701.04. Where to Ride.

Subd. 1. Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

Subd. 2. Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

Subd. 3. Whenever a useable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such paths and shall not use the roadway.

701.05. Right of Way - Sidewalks. Whenever a person is riding a bicycle upon a sidewalk, such person shall yield the right of way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian. Provided, that it is unlawful for any person to ride a bicycle on a sidewalk in a Business District or to park a bicycle upon a sidewalk except where parking stalls have been provided.

701.06. Carrying Articles. It is unlawful for any person operating a bicycle to carry any package, bundle or article which prevent the driver from keeping at least one hand upon the handlebars.

SECTION 705. RECREATIONAL MOTOR VEHICLES (INCLUDING SNOWMOBILES)

705.01. Definitions. For the purposes of this Section, the terms defined shall have the meanings given them.

1. "**Motorcycle**" - Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, whether or not designed for use on streets and highways, including motor scooters, bicycles with motor attached other than those herein defined as motorized bicycles, and mini-bikes.
2. "**Motorized Bicycle**" - A bicycle with fully operable pedals which may be propelled by human power or a motor, or by both, with a motor of a capacity of less than 50 cubic centimeters piston displacement, and a maximum of two break horsepower, which is capable of a maximum speed of not more than 30 miles per hour on a flat surface with not more than one percent grade in any direction when the motor is engaged.
3. "**All-Terrain Vehicle**" or "ATV" - Trail bikes, amphibious vehicles and similar devices, other than snowmobiles, used at least partially for travel on natural terrain, but not "special mobile equipment" as defined in M.S.A. 168.011, Subdivision 22, which is hereby incorporated herein by reference.
4. "**Snowmobile**" - A self-propelled vehicle designed for travel on snow or ice or natural terrain steered by wheels, skis or runners.
5. "**Recreational Motor Vehicle**" - Any self-propelled vehicle and any vehicle propelled or drawn by a self-propelled vehicle used for recreational purposes, including but not limited to a motorcycle, motorized bicycle, all-terrain vehicle, snowmobile, hovercraft, or motor vehicle licensed for highway operation which is being used for off-road recreational purposes.
6. "**Owner**" - A person, other than a lien holder, having a property interest in, or title to, a recreational motor vehicle, who is entitled to the use or possession thereof.
7. "**Operate**" - To ride in or on and have control of a recreational motor vehicle.
8. "**Operator**" - The person who operates or is in actual physical control of a recreational motor vehicle.

705.02. Recreational Motor Vehicle Operating Restrictions. It is unlawful for any person to operate a recreational motor vehicle as follows:

- Subd. 1.** On a public sidewalk or walkway provided or used for pedestrian travel.

Subd. 2. On private property of another without lawful authority or permission of the owner or occupant.

Subd. 3. On any lands owned or occupied by a public body or on frozen waters, school grounds, park property, playgrounds, recreational areas, private roads, platted but unimproved roads, utility easements, public trails and golf courses. Provided, however, that the Council may, by resolution, specifically permit use on City property, in which event the shortest route to and from areas so permitted shall be used.

Subd. 4. While the operator is under the influence of liquor or narcotics, or habit-forming drugs.

Subd. 5. At a rate of speed greater than reasonable or proper under all of the surrounding circumstances.

Subd. 6. In a careless, reckless or negligent manner so as to endanger the person or property of another or cause injury or damage thereto.

Subd. 7. Towing any person or thing on a public street or highway except through the use of a rigid tow bar attached to the rear of an automobile.

Subd. 8. At a speed greater than 10 miles per hour when within 100 feet of an lake shore, except in channels, or of a fisherman, ice house, skating rink, or sliding area, nor where the operation would conflict with the lawful use of property or would endanger other persons or property.

Subd. 9. In a manner so as to create a loud, unnecessary or unusual noise which disturbs, annoys or interferes with the peace and quiet of other persons.

Subd. 10. Chasing, running over, or killing any animal, wild or domestic.

Subd. 11. During the hours between 11:00 o'clock P.M. of one day and 7:00 o'clock A.M. of the day next following, except that during such hours a vehicle licensed for highway use, if otherwise lawfully operated, may be operated on a public street.

705.03. Owner Responsibility.

Subd. 1. It is unlawful for the owner of any recreational motor vehicle to permit its operation on private property without permission of the owner or occupant, on City property without the permission of the Council, or on other public property without permission of the body in charge thereof. For purposes of this Section, the owner shall be conclusively presumed to have given such permission unless the recreational motor vehicle so operated shall have been stolen or reported stolen in a timely manner to a law enforcement agency.

Subd. 2. Every person leaving a recreational motor vehicle in a public place shall lock the ignition, remove the key and take the same with him.

705.04. Additional Snowmobile Operating Regulations.

Subd. 1. It is unlawful for any person to operate a snowmobile upon the roadway, shoulder or inside bank or slope of any street or highway. Operation in the ditch or on the outside bank within the right-of-way of any street or highway except interstate highways or freeways is permitted in conformance with State law and the City Code, unless the roadway directly abuts a public sidewalk or walkway or property used for private purposes. Between the hours of one-half hour after sunset to one-half hour before sunrise, any operation may only be on the right-hand side of such street or highway and in the same direction as the highway traffic on the nearest lane of the roadway adjacent thereto.

Subd. 2. A snowmobile may make a direct crossing of a street or highway except an interstate highway or freeway, provided:

- A. The crossing is made at an angle of approximately 90 degrees to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing.
- B. The snowmobile is brought to a complete stop before crossing the shoulder or main traveled way of the highway.
- C. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.
- D. 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.
- E. 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.

Subd. 3. No snowmobile shall enter any uncontrolled intersection without making a complete stop. The operator shall then yield the right-of-way to any vehicles or pedestrians which constitute an immediate hazard.

Subd. 4. Notwithstanding any prohibition in this Section, a snowmobile 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.

Subd. 5. No person under fourteen (14) years of age shall operate on streets or highways or make a direct crossing of a street or highway 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 or highways as permitted under this Section and make a direct crossing thereof only if he has in his immediate possession a valid snowmobile safety certificate issued by the Commissioner of Conservation as provided by Minnesota Statutes 1969, Section 84.86. It is unlawful for the owner of a snowmobile to permit the snowmobile to be operated contrary to the provisions of this Subparagraph.

705.05. Snowmobile Equipment. It is unlawful for any person to operate a snowmobile unless it is equipped with the following:

Subd. 1. Standard mufflers which are properly attached and in constant operation, and which reduce the noise of operation of the motor to the minimum necessary for operation. Mufflers shall comply with Minnesota Law. No person shall use a muffler cut-out, by-pass, straight pipe or similar device on a snowmobile motor, and the exhaust system shall not emit or produce a sharp popping or crackling sound.

Subd. 2. Brakes adequate to control the movement of and to stop and hold the snowmobile under any conditions of the operation.

Subd. 3. A safety or so-called "deadman" throttle in operating condition, so that when pressure is removed from the accelerator or throttle, the motor is disengaged from the driving track.

Subd. 4. At least one clear lamp attached to the front, with sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead during the hours of darkness under normal atmospheric conditions. Such head lamp shall be so aimed that glaring rays are not projected into the eyes of an oncoming vehicle operator. It shall also be equipped with at least one red tail lamp having a minimum candle power of sufficient intensity to exhibit a red light plainly visible from a distance of 500 feet to the rear during the hours of darkness under normal atmospheric conditions. The equipment to be in operating condition when the vehicle is operated between the hours of one-half hour after sunset to one-half hour before sunrise or at times of reduced visibility.

Subd. 5. Reflective material at least sixteen inches on each side, forward of the handlebars, so as to reflect or beam light at a 90 degree angle.

SECTION 710. SPECIAL VEHICLE USE BY HANDICAPPED.

710.01. Operation Authorized. Operation of motorized golf carts or four-wheel all-terrain vehicles are hereby authorized on the roadways of all streets, except such as are prohibited by resolution of the Council, and only in strict compliance with this Section. For the purpose of this Section, a four-wheel all-terrain vehicle is a motorized floatation-tired vehicle with four low-pressure tires that is limited in engine displacement of less than 800 cubic centimeters and total dry weight less than 600 pounds.

710.02. Permits. Permits shall be issued only to handicapped persons as defined by statute. Application for a permit to operate a motorized golf cart or a four-wheel all-terrain vehicle on the roadways of streets shall include the name and address of the applicant and such other information as may from time-to-time be required by the Council. Applications for initial or renewal permits shall be accompanied by a certificate signed by a physician stating that the applicant is capable of safely operating a motorized golf cart or a four-wheel all-terrain vehicle on the roadway of streets. All permits shall expire on December 31, unless renewed. The fee for a permit shall be fixed by resolution of the Council.

710.03. Unlawful Acts. It is unlawful for any person to operate a motorized golf cart or a four-wheel all-terrain vehicle on the roadway of a street unless

Subd. 1. The operator has in possession in valid, current and unrevoked permit from the City.

Subd. 2. The operation is on a roadway which has not been designated as prohibited for such operation, except crossing at an intersection.

Subd. 3. The operation is during daylight hours between sunrise and sunset.

Subd. 4. The operation is not during inclement weather, or when visibility is impaired by weather, smoke, fog, or other conditions, or when there is insufficient light to clearly see persons or vehicles thereon at a distance of 500 feet.

Subd. 5. The motorized golf cart or four-wheel all-terrain vehicle displays a slow moving vehicle emblem, as described by statute, on the rear thereof.

Subd. 6. The motorized golf cart or four-wheel all-terrain vehicle is equipped with rear view mirrors as required by statute for other vehicles.

Subd. 7. The operator has insurance coverage as provided by statute (presently Section 65B.48, Subdivision 5) for motorcycles.

Subd. 8. The operator observes all traffic laws, except such as cannot reasonably be applied to motorized golf carts or four-wheel all-terrain vehicles.

CHAPTER 8: PARKING REGULATIONS

**SECTION 800
GENERAL PROVISIONS**

- 800.01 Application
- 800.02 Definitions
- 800.03 Scope and Orders of Officers
- 800.04 Violation a Misdemeanor or Petty Misdemeanor

**SECTION 801
REGULATIONS AND RESTRICTIONS**

- 801.01 Presumption
- 801.02 General Parking Prohibitions
- 801.03 Recreational Camping Vehicle Parking
- 801.04 Unauthorized Removal
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- 801.10 Emergency
- 801.11 Parking Rules in City Parking Lots
- 801.12 Impounding and Removing Vehicles
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- 801.14 Unattended Vehicles
- 801.15 Vehicle Repair on Street
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- 801.17 Truck Parking

SECTION 800. GENERAL PROVISIONS

800.01. Application. The provisions of City Code, Chapters 6, 7 and 8, are applicable to the drivers of all vehicles and animals upon streets, including, but not limited to, those owned or operated by the United States, the State of Minnesota, or any county, town, city, district, or other political subdivision.

800.02. Definitions. The provisions of City Code Chapters 6, 7, and 8, are applicable to the drivers of all vehicles and animals upon streets, including, but not limited to, those owned or operated by the United States, the State of Minnesota, or any county, town, city, district, or other political subdivision.

800.03. Scope and Orders of Officers.

Subd. 1. Scope. The provisions of Chapters 6, 7, and 8 relate exclusively to the streets and alleys in the City, and the operation and parking of vehicles refer exclusively to the operation and parking of vehicles upon such streets and alleys.

Subd. 2. Orders of an Officer. It is a misdemeanor for any person to willfully fail or refuse to comply with any lawful order or direction of any police or peace officer invested by law with authority to direct, control or regulate traffic.

800.04. Violation A Misdemeanor or Petty Misdemeanor. Every person violates a section, subdivision, paragraph or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as follows:

Subd. 1. Where the specific section, subdivision, paragraph or provision specifically makes violation a misdemeanor, he shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, he shall be punished as for a misdemeanor; where he stands convicted of violation of any provision of this Chapter, exclusive of violations relating to the standing or parking of an unattended vehicle, within the immediate preceding 12-month period for the third or subsequent time, he shall be punished as for a misdemeanor.

Subd. 2. As to any violation not constituting a misdemeanor under the provisions of Subdivision 1 hereof, he shall be punished as for a petty misdemeanor.

SECTION 801. REGULATIONS AND RESTRICTIONS.

801.01. Presumption. As to any vehicle parking in violation of Chapters 6, 7 and 8 when the driver thereof is not present, it shall be presumed that the owner parked the same, or that the driver was acting as the agent of the owner.

801.02. General Parking Prohibitions. It is unlawful for any person to stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the specific directions of a police officer or traffic control device in any of the following places:

- (1) on a sidewalk;
 - (2) in front of a public or private driveway;
 - (3) within an intersection;
 - (4) within ten feet of a fire hydrant;
 - (5) on a crosswalk;
 - (6) within twenty feet of a crosswalk at any intersection;
 - (7) in a sign-posted fire lane;
 - (8) within thirty feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway;
 - (9) within fifty feet of the nearest rail of a railroad crossing;
 - (10) within twenty feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five feet of said entrance when properly sign-posted;
 - (11) alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic;
 - (12) on the roadway side of any vehicle stopped or parked at the edge or curb of a street;
 - (13) upon any bridge or other elevated structure upon a street;
 - (14) at any place where official signs prohibit or restrict stopping, parking or both;
 - (15) in any alley, except for loading or unloading and then only so long as reasonably necessary for such loading and unloading to or from adjacent premises;
- or,

(16) on any boulevard which has been curbed.

801.03. Recreational Camping Vehicle Parking.

Subd. 1. Definition. The term "recreational camping vehicle" means any of the following:

- A. "Travel Trailer" - A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses, permanently identified "Travel Trailer" by the manufacturer of the trailer.
- B. "Pick-up Coach" - A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.
- C. "Motor Home" - A portable, temporary building to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.
- D. "Camping Trailer" - A folding structure, mounted on wheels and designed for travel, recreation and vacation uses.

Subd. 2. Unlawful Act. It is unlawful for any person to leave or park a recreational camping vehicle on or within the limits of any street or right-of-way for the purpose of occupying it as living quarters.

801.04. Unauthorized Removal. It is unlawful for any person to move a vehicle not owned by such person into any prohibited area or away from a curb such distance as is unlawful.

801.05. Direction to Proceed. It is unlawful for any person to stop or park a vehicle on a street when directed or ordered to proceed by any police officer invested by law with authority to direct, control or regulate traffic.

801.06. Parallel Parking. Except where angle parking is specifically allowed and indicated by curb marking or sign-posting, or both, each vehicle stopped or parked upon a two-way road where there is an adjacent curb shall be stopped or parked with the right-hand wheels of the vehicle parallel with, and within twelve inches of, the right-hand curb, and, where painted markings appear on the curb or the street, such vehicle shall be within such markings, front and rear; provided that upon a one-way roadway all vehicles shall be so parked, except that the left-hand wheels of the vehicle may be parallel with and within twelve inches from the left-hand curb, but the front of the vehicle in any event and with respect to the remainder of the vehicle, shall be in the direction of the flow of traffic upon such one-way street; and it is unlawful to park in violation of this Section.

801.07. Angle Parking. Where angle parking has been established by Council resolution, and is allowed, as shown by curb marking or sign-posting, or both, each vehicle stopped

or parked shall be at an angle of approximately 45 to 60 degrees with the front wheel or bumper touching the plane of the curb and within any parking lines painted on the curb or street, provided that the front wheel not touching the curb shall be the portion of the vehicle furthest in the direction of one-way traffic; and it is unlawful to park in violation of this Section.

801.08. Streets Without Curb. Upon streets not having a curb each vehicle shall be stopped or parked parallel and to the right of the paving, improved or main traveled part of the street; and it is unlawful to park in violation of this Section.

801.09. Parking Hours. Parking on streets shall be limited as follows:

Subd. 1. It is unlawful for any person to stop, park or leave any vehicle upon any street for a continuous period in excess of twenty-four (24) hours.

Subd. 2. The Council may designate certain streets, blocks or portions of streets or blocks as prohibited parking zones, or five-minute, ten-minute, fifteen-minute, thirty-minute, one-hour, two-hour, four-hour, six-hour, eight-hour limited parking zones and shall mark by appropriate signs any zones so established. Such zones shall be established whenever necessary for the convenience of the public or to minimize traffic hazards and preserve a free flow of traffic. It is unlawful for any person to stop, park or leave standing any vehicle in a prohibited parking zone, for a period of time in excess of the sign-posted limitation, or during sign-posted hours of prohibited parking.

Subd. 3. It is unlawful for any person to remove, erase or otherwise obliterate any mark or sign placed upon a tire or other part of a vehicle by a police officer for the purpose of measuring the length of time such vehicle has been parked.

Subd. 4. For the purpose of enforcement of this Section, any vehicle moved less than one block in a limited time parking zone shall be deemed to have remained stationary.

801.10. Emergency.

Subd. 1. Definition. For purposes of this Section, the term "emergency" means a condition created on City streets because of the presence of snow, freezing rain, sleet or ice thereon, or other natural phenomenon which create or are likely to create hazardous road conditions or impede or are likely to impede the free movement of fire, health, police, emergency or other vehicular traffic, when the same has been duly declared.

Subd. 2. Declaration of Emergency. Whenever an emergency is declared, notice shall be given through local news media, or by any other reasonable means.

Subd. 3. Duration of Emergency. An emergency shall remain in effect on any

street until it has been plowed to full width, curb-to-curb, or until notice of termination is given.

Subd. 4. Unlawful Act. It is unlawful to park or leave standing a vehicle on any street during an emergency.

801.11. Parking Rules in City Parking Lots. In City-owned parking lots, the Council may limit the sizes and types of motor vehicles to be parked thereon, hours of parking, and prescribed method of parking, provided that such limitations and restrictions are marked or sign-posted thereon. It is unlawful to park or leave standing any vehicle backed into a parking place, to drive in a direction opposite the flow of traffic marked by "one-way" signs or arrows, or to park any vehicle in any City-owned parking lot contrary to the restrictions or limitations marked or sign-posted therein.

801.12. Impounding and Removing Vehicles. When any police officer finds a vehicle standing upon a street or City-owned parking lot in violation of any parking regulation, such officer is hereby authorized to require the driver or other person in charge of such vehicle to remove the same to a position in compliance with this Chapter. When any police officer finds a vehicle unattended upon any street or City-owned parking lot in violation of any parking regulation, such officer is hereby authorized to impound such unlawfully parked vehicle and to provide for the removal thereof and to remove the same to a convenient garage or other facility or place of safety; provided, that if any charge shall be placed against such vehicle for cost of removal or storage, or both, by anyone called upon to assist therewith the same shall be paid prior to removal from such place of storage or safekeeping.

801.13. Loading Zones. The Council may, by resolution, establish loading zones to be used for the specific purpose of loading or unloading merchandise from a commercial vehicle or vehicle temporarily being utilized in the transport of merchandise. Such loading zones shall be installed where, in the judgment of the Council, a commercial loading zone is justified, and duly sign-posted.

801.14 Unattended Vehicle.

Subd. 1. It is unlawful for any person to leave a motor vehicle, occupied by a child or children under the age of fifteen, unattended while the engine is running.

Subd. 2. It is unlawful for any person to leave a motor vehicle unattended with the key in the ignition.

801.15. Vehicle Repair on Street. It is unlawful for any person to service, repair, assemble or dismantle any vehicle parked upon a street, or attempt to do so, except to service such vehicle with gasoline or oil or to provide emergency repairs thereon, but in no event for more than three (3) hours.

801.16. Parking for Purpose of Advertising or Selling. It is unlawful for any person to

park a vehicle on any street for the purpose of advertising for sale or selling merchandise thereon or therein, or advertising any merchandise for sale or a forthcoming event.

801.17. Truck Parking.

Subd. 1. It is unlawful to park a detached semi-trailer upon any street, City-owned parking lot, or other public property except streets as specifically designated by the Council by resolution and sign-posted.

Subd. 2. It is unlawful to park a truck or commercial vehicle of more than one ton capacity in a zone sign-posted prohibiting truck parking, but parking of such vehicle for a period of not more than thirty (30) minutes shall be permitted in such area for the purpose of necessary access to abutting property while actively loading or unloading when such access cannot reasonably be secured from an alley or from an adjacent street where truck parking is not so restricted.

Subd. 3. It is unlawful to park a semi-tractor and/or semi-trailer upon any City street, or within 300 feet of the occupied dwelling of another, with any engine thereon running, for a period of more than one hour.

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SECTION 900. GENERAL PROVISIONS

900.01. Disorderly Conduct. It is unlawful for any person, in a public or private place, knowing, or having reasonable grounds to know, that it will, or will tend to, alarm, anger or disturb others or provoke any assault or breach of the peace, to do the following:

- (1) engage in brawling or fighting; or,
- (2) disturb an assembly or meeting, not unlawful in its character; or,
- (3) engage in offensive, obscene or abusive language or in boisterous and noisy conduct tending reasonably to arouse alarm, anger or resentment in others; or,
- (4) willfully and lewdly expose his person or the private parts thereof, or procure another to so expose himself; and any open or gross lewdness or lascivious behavior, or any act of public indecency; or,
- (5) whether or not posted with signs so prohibiting, voluntarily enter the waters of any river or public swimming pool at any time when said waters are not properly supervised by trained life-saving personnel in attendance for that purpose, or enter such waters without being garbed in a bathing suit sufficient to cover his person and equal to the standards generally adopted and accepted by the public; or,
- (6) urinate or defecate in a place other than
 - (a) if on public property then in a plumbing fixture provided for that purpose, or
 - (b) if on the private property of another, then in a plumbing fixture provided for that purpose, or
 - (c) if on private property not owned or controlled by another, then within a building; or,
- (7) cause the making or production of an unnecessary noise by shouting or by any other means or mechanism including the blowing of any automobile or other vehicle horn; or,
- (8) use a sound amplifier upon streets and public property without prior written permission from the City; or,
- (9) use a flash or spotlight in a manner so as to annoy or endanger others; or,
- (10) cause defacement, destruction, or otherwise damage to any premises or any property located thereon; or,

(11) strew, scatter, litter, throw, dispose of or deposit any refuse, garbage, or rubbish unto any premises except into receptacles provided for such purpose; or,

(12) enter any motor vehicle of another without the consent of the owner or operator; or,

(13) fail or refuse to vacate or leave any premises after being requested or ordered, whether orally or in writing, to do so, by the owner, or person in charge thereof, or by any law enforcement agent or official; provided, however, that this provision shall not apply to any person who is owner or tenant of the premises involved nor to any law enforcement or other government official who may be present thereon at that time as part of his official duty, nor shall it include the spouse, children, employee or tenant of such owner or occupier.

900.02. Unlawful Mechanical Devices and Uses Thereof. As to any mechanical devices, it is unlawful for any person to:

(1) sell or maintain a machine or device which is for gambling or contains an automatic pay-off device;

(2) give any prize, award, merchandise, gift, or thing of value to any person on account of operation of such device;

(3) sell or maintain, or permit to be operated in his place of business, any amusement device equipped with an automatic pay-off device;

(4) equip any amusement device with an automatic pay-off device; or

(5) permit the playing of coin amusement machines for public use within 300 feet of any church, public or parochial school or playground.

This Section shall not be construed to include the use, possession or sale of any device licensed by or under the control of the Charitable Gambling Control Board.

900.03. Rules and Regulations Governing Public Parks.

Subd. 1. Adoption. The Council may by resolution adopt, and from time to time amend, rules and regulations governing public parks. It is unlawful to violate such rules and regulations as are conspicuously sign-posted in such parks.

Subd. 2. Hours. It is unlawful for any person to park, be in or remain in, or leave any vehicle in any park between the hours of 10:00 o'clock P.M. and 7:00 o'clock A.M. of the day following; provided, however, that this Section shall not apply to those vehicles or persons involved in organized activities which are authorized by permit issued by the City to remain in a park.

900.04. Storage of Wood. It is unlawful to store wood outside a building or other structure unless such wood is stored on a platform or in some other manner so that the bottom of the storage pile is at least six (6) inches above ground, and the support for the platform has no more contact with the ground than is necessary for support.

900.05. Transportation of Termite-Infested Wood Prohibited. It is unlawful for any person to transport within the City any wood, lumber, logs, poles, sawdust or other wood products which are infested with termites. It is also unlawful to transport lumber obtained from razing a building without first having it inspected for termites and certified to be free of infestation.

900.06. Air Pollution Control.

Subd. 1. It is unlawful for any person to burn or permit burning of any grass, weeds, leaves, rubbish or other substance upon premises owned or occupied by him, except as otherwise provided by this Code.

Subd. 2. The Air Pollution Control Rules, 1976, APC 1 through 32, 6 MCAR 4.0033, 6 MCAR 4.0039 and 6 MCAR 4.0041, as updated, promulgated by the Minnesota Pollution Control Agency, are hereby adopted by reference as though set forth verbatim herein. One copy of said Rules shall be marked CITY OF HARDWICK - OFFICIAL COPY and kept on file in the office of the City Clerk or Treasurer and open to inspection and use by the public. It is unlawful to violate a provision of this Section or of the Air Pollution Control Rules hereby adopted by reference.

900.07. Minnesota Uniform Fire Code.

Subd. 1. Adoption. The 1982 Edition (as amended) of the Minnesota Uniform Fire Code is hereby adopted as though set forth verbatim herein. One copy of said Code shall be marked CITY OF HARDWICK - OFFICIAL COPY and kept on file in the office of the City Clerk or Treasurer and open to inspection and use by the public.

Subd. 2. Storage of Flammable and Explosives Material. No bulk plants for storage of flammable or combustible liquids, or bulk storage of liquefied petroleum gas, not established on the effective date of this Section, shall be permitted. No storage of explosives or blasting agents shall be permitted.

900.08. Violation a Misdemeanor. Every person violates a section, subdivision, paragraph or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, or performs an act prohibited or declared unlawful or fails to act when such failure is prohibited or declared unlawful by a Code adopted by reference by this Chapter,

and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

SECTION 901. CONTAINERS, STORAGE, AND DISPOSAL OF GARBAGE.

901.01. Generally. Every household or occupant of any dwelling house, boarding house, restaurant, or any place of business, having garbage to dispose of, who does not otherwise provide for the disposal of garbage in a sanitary manner, shall provide one or more fly-tight metal or plastic cans sufficient to receive all garbage which may accumulate between the times of collection. No person shall fail to dispose of in a sanitary manner, garbage and rubbish accumulated on property the person owns or occupies. All garbage and rubbish accumulating between the times of collection shall be placed and stored in approved cans or containers. Garbage cans shall be kept at the rear of the property if there is an alley, and shall be accessible to collectors at all reasonable times

901.02. Definitions. The following terms, as used in this Section, shall have the meanings stated:

A. **"Refuse"** - Includes all organic material resulting from the manufacture, preparation or serving of food or food products, and spoiled, decayed or waste foods from any source, bottles, cans, glassware, paper or paper products, crockery, ashes, rags, and discarded clothing, tree or lawn clippings, leaves, weeds and other waste products, except human waste or waste resulting from building construction or demolition.

B. **"Residential Dwelling"** - Any single building consisting of one through four dwelling units with individual kitchen facilities for each.

C. **"Multiple Dwelling"** - Any building used for residential purposes consisting of more than four dwelling units with individual kitchen facilities for each.

D. **"Commercial Establishment"** - Any premises where a commercial or industrial enterprise of any kind is carried on, and shall include restaurants, clubs, churches, and schools where food is prepared or served.

E. **"Recyclable"** - Newsprint, corrugated paper, glass containers, aluminum foil and cans, tin cans, steel cans and bimetal cans, reasonably free of food, dirt and other contaminants. Also included as a recyclable is any other material that the City may hereafter be required to collect as a recyclable by the Rock County Land Management Office.

901.03. Storage – Unlawful.

Subd. 1. It is unlawful for any person to store refuse on residential dwelling premises for more than one week. All such storage shall be in five to thirty gallon metal or plastic containers with tight-fitting covers, which shall be maintained in a clean and sanitary condition; provided, that tree leaves, weeds, and grass clippings

may be stored in plastic bags and tree limbs must be stored in bundles weighing no more than seventy-five pounds and no longer than four feet.

Subd. 2. It is unlawful for any person to store refuse on multiple dwelling premises for more than one week. Such storage shall be in containers as for residential dwelling premises, except that so-called "dumpsters" with close-fitting covers may be substituted.

Subd. 3. It is unlawful for any person to store any refuse on commercial establishment premises for more than seven (7) days. Such storage shall be in containers as for residential dwelling premises, except that so-called "dumpsters" with close-fitting covers may be substituted.

Subd. 4. It is unlawful to store organic refuse unless it is drained and wrapped.

901.04. Deposit. It is unlawful for any person to deposit refuse from any source, rubbish, offal, or the body of a dead animal, in any place other than a sanitary landfill.

901.05. Fire Danger. It is unlawful for any person to store, deposit or dispose of any refuse which is in flames or heated to the point where it could cause danger of fire in other refuse.

SECTION 905. RECYCLABLE COLLECTION AND DISPOSAL.**905.01. Acts Prohibited.**

Subd. 1. It is unlawful for any person to store or accumulate refuse or recyclables except as herein provided. Any unauthorized accumulations of refuse on any premises is a nuisance and is prohibited.

Subd. 2. It is unlawful for any person to transport refuse or recyclables over any street, for hire, except by

- (a) special permit from the Council,
- (b) acting within the course and scope of a written contract with the City, or
- (c) employment with the City.

Subd. 3. It is unlawful for any person to transport refuse or recyclables on any street unless it is carried in a vehicle equipped with a leak-proof body or container and completely covered with a heavy canvas or top to prevent loss of contents.

Subd. 4. It is unlawful for any person to haul and dispose of refuse or recyclables in a dumpster provided to a private business for that business's use.

905.02. Containers. All refuse shall be stored in clean, rust-resistant, water-tight, non-absorbent, and washable closed containers with a maximum capacity of 32 gallons and not exceeding total weight of 50 pounds for refuse. Paper shall be stored in containers protected from wind and other elements.

905.03. Collection and Disposal of Refuse. All garbage and refuse accumulated in residential properties within the City shall be collected only by a hauler licensed by the City in a sanitary manner to ensure the health, safety, and general welfare of its residents, under such terms and conditions as the City may, from time to time, deem appropriate. Containers shall be placed at designated collection point on days specified by the hauler.

905.04. Property of the City. All materials at public disposal sites are the property of the City. It is unlawful for any person to separate, collect, carry off or dispose of such materials except by direction of the City.

905.05. Disposal Site. All privately hauled refuse, non-refuse, and recyclables can be deposited at disposal sites with the hauler responsible for payment of disposal fees charged by site owner.

905.06. Burying of Refuse; Composting. No person shall bury any refuse in the City except in an approved sanitary landfill; but leaves, grass clippings an easily biodegradable,

non-poisonous garbage may be composted on the premises where such refuse has been accumulated.

SECTION 910. DANGEROUS WEAPONS AND ARTICLES

910.01. Acts Prohibited. It is unlawful for any person to:

Subd. 1. Recklessly handle or use a gun or other dangerous weapon or explosive so as to endanger the safety of another; or,

Subd. 2. Intentionally point a gun of any kind, capable of injuring or killing a human being and whether loaded or unloaded, at or toward another, or,

Subd. 3. Manufacture or sell for any unlawful purpose any weapon known as a slung-shot or sand club; or,

Subd. 4. Manufacture, transfer or possess metal knuckles or a switch blade knife opening automatically; or,

Subd. 5. Possess any other dangerous article or substance for the purpose of being used unlawfully as a weapon against another; or,

Subd. 6. Sell or have in his possession any device designed to silence or muffle the discharge of a firearm; or,

Subd. 7. Permit, as a parent or guardian, any child under fourteen years of age to handle or use, outside of the parent's or guardian's presence, a firearm or air gun of any kind, or any ammunition or explosive; or,

Subd. 8. Furnish a minor under eighteen years of age with a firearm, air gun, slung-shot, ammunition, or explosive without the written consent of his parent or guardian or of the Police Department.

910.015. Acts Prohibited -- Exception. Nothing in Section 910.01 of this Chapter shall prohibit the possession of any of the articles therein mentioned if the purpose of such possession is for public exhibition by museums or collectors of art.

910.02. Discharge of Firearms and Explosives.

Subd. 1. It is unlawful for any person to fire or discharge any cannon, gun, pistol or other firearm, firecracker, sky rocket or other fireworks, air gun, air rifle, or other similar device commonly referred to as a B-B gun.

910.025. Discharge of Firearms and Explosives – Exception. Nothing in Section 910.02 of this Chapter shall apply to a display of fireworks by an organization or group of organizations authorized in writing by the Council, or to a peace officer in the discharge of his duty, or to a person in the lawful defense of his person or family. This Section shall not apply to the discharge of firearms in a range authorized in writing by the Council.

910.03. Possession and Sale of Fireworks. It is unlawful for any person to sell, possess or have in possession for the purpose of sale, except as allowed in Section 910.025 of this Chapter, any firecrackers, sky rockets or other fireworks.

910.04. Exposure of Unused Container. It is unlawful for any person, being the owner or in possession or control thereof, to permit an unused refrigerator, ice box, or other container, sufficiently large to retain any child and with doors which fasten automatically when closed, to expose the same accessible to children, without removing the doors, lids, hinges or latches.

910.05. Use of Bow and Arrow. It is unlawful for any person to shoot a bow and arrow except in the Physical Education Program in a school supervised by a member of its faculty, a community-wide supervised class or event specifically authorized by the Chief of Police, or a bow and arrow range authorized by the Council.

SECTION 915. CURFEW AND LOITERING.

915.01. Curfew Imposed. Except as provided in 915.02, no person under the age of eighteen (18) years shall be on any public street or alley, public sidewalk, or in any park or other public ground or building, place of amusement, entertainment, or refreshment, vacant lot, or any other unsupervised place between the hours of 12:00 A.M. and 6:00 A.M. of the following day.

915.02. Curfew Imposed – 16 and under. Section 915.01 notwithstanding, no person under the age of sixteen (16) years shall be on any public street or alley, public sidewalk, or in any park or other public ground, vacant lot, or any other unsupervised place between the hours of 10:00 P.M. and 6:00 A.M. of the following day, provided, however, that on the days of Friday and Saturday, said hours shall run from 11:00 P.M. to 6:00 A.M. the following day.

915.03. Exceptions. The restrictions of Sections 915.01 and 915.02 do not apply when the minor:

- A. Is accompanied by a parent, guardian, or other person having the minor lawful care, custody, or control;
- B. Is returning home by direct route from and within fifteen minutes after a school activity or an activity of a religious or other voluntary association;
- C. Is on the way to or from the minor=s place of employment; or
- D. Is upon an emergency errand or other legitimate business directed by a parent, guardian, or other adult having the lawful custody of the minor.

915.04. Responsibility of Parent, etc. No parent, guardian, or other adult having custody and control of a minor under eighteen (18) years of age shall knowingly permit the minor to violate the provisions of sections 915.01 or 915.02.

915.05. Loitering Prohibited. No person shall loiter upon any public street or alley, public sidewalk, vacant lot, public or private lot, or any other unsupervised public place.

915.06. Responsibility of Other Persons. Whenever er the owner or person in charge or control of any place of amusement, entertainment, refreshment, or other place of business shall find any person under the age of eighteen (18) in such place in violation of sections 915.01 or 915.02, the owner or person in charge shall immediately order such minor to leave, and if such minor refuses to leave, the owner or person in charge shall immediately inform the police department of the violation.

915.07. Penalties. Any person who shall be found to be in violation of this Section shall be guilty of a petty misdemeanor.

SECTION 920. ANIMAL LICENSING AND REGULATION

920.01. Definition. For the purpose of this Section:

- A. "Owner" means a person who owns an animal hereby regulated.
- B. "Own" means to have a property interest in, or to, harbor, feed, board or keep.
- C. "Dangerous Animal" means an animal which has caused damage to property or injury to a person, or which animal, by its actions, exhibits a propensity for causing imminent danger to persons.
- D. "Dog" means both male and female and includes any animal of the dog kind.
- E. "Cat" means both male and female and includes any animal of the feline kind.
- F. "Animal" means a dog or a cat.
- G. "Animal Pound" means a city-owned facility or any facility with which a contract for services has been entered by it and approved by the Council.

920.02. Running at Large Prohibited. It is unlawful for the owner of any animal to permit such animal to run at large. Any dog shall be deemed to be running at large with the permission of the owner unless it is on a durable leash secured to an object which it cannot move and on the premises of the owner, or on a leash and under the control of an accompanying person of suitable age and discretion, or effectively confined within a motor vehicle, building, or enclosure. Any cat shall be deemed to be running at large with the permission of the owner unless it is on the premises of the owner, or effectively confined within a motor vehicle, building, or enclosure.

920.03. License Required. It is unlawful for the owner of any dog, three months of age or more, to fail to obtain a license therefor from the City.

920.04. License Issuance, Term and Renewal. All dog licenses shall be issued only upon presentation of a certificate issued by a veterinarian, licensed to practice veterinary medicine in the State of Minnesota, showing rabies immunization of the dog for at least the term of the license.

920.05. Adoption of Fees. All fees for the licensing, impounding and maintenance of animals, including penalties for late application, may be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such fees may from time to time be amended by the Council by resolution. A copy of the resolution setting forth currently effective fees shall be kept on file in the office of the City Clerk or Treasurer and open to inspection during regular business hours.

920.06. Tag Required. All licensed dogs shall wear a collar and have a tag firmly affixed thereto evidencing a current license. A duplicate for a lost tag may be issued by the City upon presentation of the receipt showing the payment of the duplicate license fee. Tags shall not be transferrable, and no refund shall be made on any license fee because of leaving the City or death of the dog before the expiration of the license.

920.07. Animal Pound. Any animal found in the City without a license tag, running at large, or otherwise in violation of this Section, shall be placed in an Animal Pound, and an accurate record of the time of such placement shall be kept on each animal. Every animal so placed in the Animal Pound shall be held for redemption by the owner for a period of not less than five regular business days. A "regular business day" is one during which the Pound is open for business to the public for at least four hours between 8:00 o'clock A.M. and 7:00 o'clock P.M. Impoundment records shall be preserved for a minimum of six months and shall show

- (1) the description of the animal by species, breed, sex, approximate age, and other distinguishing traits;
- (2) the location at which the animal was seized;
- (3) the date of the seizure;
- (4) the name and address of the person from whom any dog three months of age or over was received; and,
- (5) the name and address of the person to whom any dog three months of age or over was transferred.

If unclaimed, such animal shall be humanely destroyed and the carcass disposed of, unless it is requested by a licensed educational or scientific institution under authority of Minnesota Statutes, Section 35.71. Provided, however, that if a tag affixed to the animal, or a statement by the animal's owner after seizure specifies that the animal should not be used for research, such animal shall not be made available to any such institution but may be destroyed after the expiration of the five-day period.

920.08. Notice of Impounding. Upon the impounding of any animal, the owner shall be notified, or if the owner is unknown, written notice shall be posted for five days at the City Hall describing the animal and the place and time of taking.

920.09. Release from Animal Pound. Animals shall be released to their owners, as follows:

- A. If such animal is a dog and owned by a resident of the City, after purchase of a license, if unlicensed, and, if either a dog or a cat, after payment of the impounding

fee and maintenance.

B. If such animal is a dog and owned by a person not a resident of the City, after immunization of such dog for rabies, and, if either a dog or a cat, after payment of the impounding fee and maintenance.

920.10. Seizure by a Citizen. It is lawful for any person to seize and impound an animal so found running at large, but said person shall within six hours thereafter notify the Rock County Sheriff's Department of said seizure. It shall be the duty of the Rock County Sheriff's Department to place said animal in an appropriate impound. If the name or the owner of such animal so seized is known to the person who first takes such animal into custody, he or she shall inform the Rock County Sheriff's Department of the name of the owner, and the address if known.

920.11. Immobilization of Animals. For the purpose of enforcement of this Section any peace officer, or person whose duty is animal control, may use a so-called tranquilizer gun or other instrument for the purpose of immobilizing and catching an animal.

920.12. Other Unlawful Acts. It is unlawful for the owner of any animal to

- (1) fail to have the license tag issued by the City firmly attached to a collar worn at all times by the licensed dog, or
- (2) own a dangerous animal, or
- (3) interfere with any police officer, or other City employee, in the performance of his duty to enforce this Section, or
- (4) fail to keep his dog from barking, howling or whining, or
- (5) fail to keep his cat from emitting loud or unusual noise.

920.13. Summary Destruction. If an animal is diseased, vicious, dangerous, rabid or exposed to rabies and such animal cannot be impounded after a reasonable effort or cannot be impounded without serious risk to the person attempting to impound, such animal may be destroyed in a humane manner.

920.14. Rabies Control - Generally.

A. Every animal which bites a person shall be promptly reported to the Rock County Sheriff's Department and shall thereupon be securely quarantined at the direction of the Rock County Sheriff's Department for a period of fourteen (14) days, and shall not be released from such quarantine except by written permission of the City. In the discretion of the Rock County Sheriff's Department, such quarantine may be on the premises of the owner or at the veterinary hospital of his

choice. If the animal is quarantined on the premises of the owner, the City shall have access to the animal at any reasonable time for study and observation of rabies symptoms. In the case of a stray animal or in the case of an animal whose ownership is not known, such quarantine shall be at the animal pound, or at the discretion of the council the animal may be confined in a veterinary hospital designated by the council.

B. The owners, upon demand made by the Rock County Sheriff's Department or by any City employee empowered by the Council to enforce this Section, shall forthwith surrender any animal which has bitten a human, or which is suspected as having been exposed to rabies, for the purpose of supervised quarantine. The expenses of the quarantine shall be borne by the owner and the animal may be reclaimed by the owner if adjudged free of rabies upon payment of fees set forth in this Section and upon compliance with licensing provisions set forth in this Section.

C. When an animal under quarantine and diagnosed as being rabid or suspected by a licensed veterinarian as being rabid dies or is killed, the City shall immediately send the head of such animal and rabies data report to the State Health Department for pathological examination and shall notify all persons concerned of the results of such examination.

D. The City shall issue such proclamation and take such action when rabies is suspected or exists as is required by Minnesota Statutes.

920.15. Reports of Bite Cases. It is the duty of every physician, or other practitioner, to report to the council the names and addresses of persons treated for bites inflicted by animals, together with such other information as will be helpful in rabies control.

920.16. Responsibility of Veterinarians. It is the duty of every licensed veterinarian to report to the council his diagnosis of an animal observed by him as a rabies suspect.

920.17. Police Dogs, Seeing-Eye Dogs. The provisions of this Section shall not apply to the ownership or use of seeing-eye dogs by blind persons, or dogs used in police activities of the City, such as canine corps or tracking dogs used by or with the permission of the council or any law enforcement agency.

920.18. Animals in Heat. Except for controlled breeding purposes, every female animal in heat shall be kept confined in a building or secure enclosure, or in a veterinary hospital or boarding kennel, in such manner that such female animal cannot come in contact with other animals.

SECTION 921. ANIMALS AND FOWL – KEEPING, TRANSPORTING, TREATMENT, HOUSING.

921.01. Definitions. As used in this Section, the following definitions shall apply.

A. "Farm Animals" - Cattle, horses, mules, sheep, goats, swine, ponies, ducks, geese, turkeys, chickens, guinea hens and honey bees.

B. "Animals" - Include farm animals and all other animals, reptiles and feathered birds or fowl except dogs, cats, gerbils, hamsters, rabbits and caged household birds.

921.02. Keeping. It is unlawful for any person to keep or harbor any animal, not in transit, except

- (1) farm animals kept in that portion of the City zoned for agricultural purposes, or,
- (2) animals kept as part of a show licensed under the City Code, or,
- (3) animals used in a parade for which a permit has been issued, or,
- (4) animals kept in a laboratory for scientific or experimental purposes, or,
- (5) animals kept in an animal hospital or clinic for treatment by a licensed veterinarian.

921.03. Animals in Transit. It is unlawful for any person to transport animals unless they are

- (1) confined within a vehicle, cage or other means of conveyance, or,
- (2) farm animals being transported in a portion of the City zoned for agricultural purposes, or,
- (3) restrained by means of bridles, halters, ropes or other means of individual restraint.

921.04. Treatment. It is unlawful for any person to treat any animal as herein defined, or any other animal, in a cruel or inhumane manner.

921.05. Housing. It is unlawful for any person to keep any animal as herein defined, or any other animal, in any structure infested by rodents, vermin, flies or insects, or inadequate for protection against the elements.

921.06. Trespasses. It is unlawful for any person to herd, drive or ride any animal over and upon any grass, turf, boulevard, City park, cemetery, garden or lot without specific

permission therefor from the owner.

925. PROPERTY MAINTENANCE**925.01. Maintenance of Private Property.**

Subd. 1. It is the primary responsibility of any owner or occupant of any lot or parcel of land to maintain any weeds or grass growing thereon at a height of not more than nine (9) inches; to remove all public health or safety hazards therefrom; to install or repair water service lines thereon; and to treat or remove insect-infested or diseased trees thereon.

Subd. 2. If any such owner or occupant fails to assume the primary responsibility described in Subdivision 1 of this Section, and after notice given by the City Clerk or Treasurer has not within seven days of such notice complied, the City may cause such work to be done and the expenses thus incurred shall be a lien upon such real estate. The City Clerk or Treasurer shall certify to the county Auditor of Nobles County a statement of the amount of the cost incurred by the City. Such amount together with interest shall be entered as a special assessment against such lot or parcel of land and be collected in the same manner as real estate taxes.

925.02. Junk Cars, Furniture, Household Furnishings, and Appliances stored on Public or Private Property. It is unlawful to park or store any unlicensed, unregistered or inoperable motor vehicle, furniture, household furnishings or appliances, or parts or components thereof, on any property, public or private, unless housed within a building, and any violation is hereby declared to be a nuisance. This Section shall not apply to premises on which a duly licensed junk dealer properly carries on such licensed business, nor shall it apply to a disposal area operated by a governmental unit.

925.03. Abandoning a Motor Vehicle. It is unlawful for any person to abandon a motor vehicle on any public or private property without the consent of the person in control of such property. For the purpose of this Section, a "motor vehicle" is as defined in Minnesota Statutes, Chapter 169.

925.04. Nuisances.

Subd. 1. Public Nuisance Defined. Whoever intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor, and each day such act or failure to perform is suffered or permitted shall constitute a separate offense.

A. Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or

B. Interferes with, obstructs, or deposits garbage or refuse upon

or otherwise renders dangerous for passage, any public highway or right of way, or waters used by the public; or

C. Is guilty of any other act or omission declared by law or City Code to be a public nuisance and for which no sentence is specifically provided.

Subd. 2. Public Nuisances Affecting Health. The following are declared to be nuisances affecting health:

A. Exposed accumulation of decayed or unwholesome food or vegetable matter;

B. All diseased animals running at large;

C. Carcasses of animals not buried or destroyed within 24 hours after death;

D. Accumulations of manure, refuse, or other debris;

E. Privy vaults and garbage cans which are not rodent free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;

F. The pollution of any public or private well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances;

G. All noxious weeds and other rank growths of vegetation upon public or private property;

H. Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities.

I. Open or controlled burning in violation of state statutes and regulations.

J. All public exposure of persons having a contagious disease;

K. Any offensive trade or business as defined by statute and not licensed by the city.

Subd. 3. Public Nuisances Affecting Morals and Decency. The following are hereby declared to be nuisances affecting public morals and decency:

- A. All gambling devices, slot machines, and punch boards kept in
- B. Illegal betting, bookmaking, and all apparatus used in such
- C. All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses.
- D. All places where intoxicating liquor and illegal drugs are manufactured, or disposed of in violation of law or where, in violation of law, persons are permitted to resort for the purpose of drinking intoxicating liquor or using illegal drugs, or where intoxicating liquor or illegal drugs are kept for sale or other disposition in violation of law, and all liquor or illegal drugs and other property used for maintaining such a place.
- E. Any vehicle used for the transportation of illegal intoxicating liquor or drugs, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

Subd. 4. Public Nuisances Affecting Peace and Safety. The following are declared to be nuisances affecting public peace and safety:

- A. All snow and ice not removed from public sidewalks by the owner or occupant in control of the abutting private property adjacent thereto, within 24 hours after the snow or other precipitation causing the condition has ceased to fall;
- B. All deciduous tree leaves not promptly removed and cleaned up from private property and abutting public rights-of-way by the owner or occupant in control of said property after the type or variety of said deciduous trees has substantially seasonally lost its leaves;
- C. All grass or weeds growing upon any private property or abutting public rights-of-way by the owner or occupant in control of said property when said grass or weeds is greater than six (6) inches in height or is going to seed.
- D. All trees, hedges, signs, billboards, or other obstructions which

prevent persons within 50 feet of a street (or other public right-of-way) intersection from having a clear view of all other traffic approaching such intersection;

E. All wires and limbs of trees which are within 8 feet of the surface of a sidewalk or within 14 feet of a street or other public right-of-way or otherwise constitute a danger to pedestrians or vehicles;

F. All unnecessary noises and annoying vibrations;

G. Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks, or public grounds except under such conditions as are permitted by City Code or other applicable law;

H. Radio aerials or television antennae erected or maintained in a dangerous manner so as to constitute a hazard to surrounding property;

I. Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free uses of the streets or sidewalks unless the same is authorized by a permit issued by the City;

J. All hanging signs, awnings, and other similar structures over streets and sidewalks, or so situated so as to endanger public safety, or not permitted, constructed, and maintained as provided by City Code;

K. The allowing of rain water, ice, or snow to fall from any building or structure or to be deposited or placed by a private person upon any street or sidewalk or to flow across any sidewalk;

L. The pumping or intentional movement of any ground or subsurface water upon any street or sidewalk as to flow across any sidewalk;

M. Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way;

N. All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;

O. Untreated wastewater cast upon or permitted to flow upon any property;

P. The outdoor storage of abandoned, junked, discarded or unlicensed vehicles, whether self propelled or towed, upon private property within the City of Hardwick is hereby declared to be detrimental to the health, safety and general welfare of the community, aesthetically unattractive and detracting from the enjoyment of the environment by said residents, tending to depreciate neighborhood property values, and is an infringement on their properties and homes. The same also constitutes a potential nuisance to the community and may imperil safety. The control of the outdoor storage of abandoned, junked or discarded vehicles, seldom or never used recreational vehicles or trailers is therefore regulated for the preservation of the health, safety and general welfare of the City of Hardwick.

In addition, the accumulation or storage of discarded, worn out, inoperable materials or items which are no longer used for the purposes for which they were manufactured or made is hereby declared to be detrimental to the public health, safety and general welfare of the community, aesthetically unattractive and detracting from the enjoyment of the environment by said residents, tending to depreciate neighborhood property values, and is an infringement on their properties and homes. The same also constitutes a potential nuisance to the community and may imperil safety. The control of the accumulation and storage of such items and materials is therefore regulated for the preservation of the health, safety and general welfare of the City of Hardwick.

1. It shall be unlawful for any person or persons, firm, company, partnership or corporation, either as a private property owner, vehicle owner, occupant, lessee, agent, tenant or otherwise, to openly store or deposit or cause or permit to be openly stored or deposited an abandoned, junked, discarded or unlicensed vehicle or vehicles, whether self propelled or towed, or parts or pieces thereof, on any private property within the City of Hardwick, except as permitted in junkyards as described in other sections of this Code, unless such vehicle or part or piece thereof is stored or deposited in a completely enclosed building. The covering of said vehicles with a tarpaulin or car cover of any type will not be permitted and will be deemed a violation of this Code.

2. It shall be unlawful for any person or persons, firm, company, partnership or corporation, whether by principal or agent, to park, store or permit to be parked or stored any

abandoned vehicle or vehicles, whether self propelled or towed, on the public streets or alleys of the City of Hardwick.

3. The parking of any type vehicle or vehicles including automobiles, trailers, campers, camper shells, utility vehicles, snowmobiles and boats, whether self propelled or towed, shall be limited to three (3) per residential unit and shall be parked in garage, carport, parking pad or driveway of said residential unit. All such vehicles shall be in operable condition and must be currently registered or licensed.

4. No vehicles, whether self-propelled or towed, shall be parked or kept in the front or side yard area of a residence. Properly licensed and operable vehicles may be stored in the rear yard of a residential unit; however, such storage is limited to a maximum of three (3) vehicles. Parking areas, other than the principal driveway, must maintain a minimum 3-foot setback from lot lines and 10 feet from the principal structure. For this section definitions as described in Minnesota Statutes § 1688.011 shall apply.

5. At all times that a vehicle which is being repaired or restored is not being worked on, said vehicle shall be covered by a vehicle cover capable of resisting wind, rain and other weather-related circumstances. The area where the vehicle is being repaired or restored shall be free of debris, litter, discarded parts or equipment. The vehicle cover must cover the entire vehicle and be securely fastened to the vehicle. The use of bricks, stones, blocks or other material as a fastener shall not be permitted. Any such vehicle repairs or restoration shall be limited to a period not longer than 30 calendar days or the area wherein the vehicle is being repaired or restored shall be in an enclosed structure.

6. No vehicle, whether self propelled or towed, shall be stored or parked on any portion of the required front yard setback area, and in the case of a corner lot both setback areas adjacent to the streets.

7. No person operating a business within the City of Hardwick shall display or permit to be displayed any vehicle, whether self propelled or towed, for sale, unless he/she has obtained a license from the State of Minnesota to operate as a car dealer and operates under the regulations specified in that license.

8. No vehicle, whether self propelled or towed, shall be parked or stored or offered for sale on any vacant property in the City of

Hardwick, unless the property is zoned appropriately and a designated parking area for vehicle display has been established. The display or storage of vehicles on such sites shall be in compliance with other provisions of this Code in regards to time limits for parking.

9. No person shall store or accumulate any worn out or discarded materials or items which are no longer used for the purposes for which they were manufactured or made, including, but not limited to, motor vehicle parts, motor vehicle waste, household appliances or parts thereof, tools, building materials, tin cans, glass, furniture, mattresses, box springs, crates, cardboard or other debris, brush or materials. This section does not apply to persons and sites licensed as solid waste or recycling operations.

10. Tires, for sale at an appropriate business location, shall be stored in a totally enclosed structure or securely covered to prevent the collection of stagnant rain water to avoid mosquito infestation and breeding area. Any tires not stored in such a manner shall be considered waste material and must be disposed of in a proper and lawful manner to prevent the collection of stagnant rain water in said tires.

11. Cans, buckets, pots, tires, pools, and other similar containers that may hold standing/stagnant water are considered potential breeding grounds for mosquitoes and are thus considered a public nuisance and must be removed.

Q. Any well, hole, or similar excavation which is left uncovered or in such other condition as to constitute a hazard to any child coming on the premises where it is located;

R. Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials;

S. The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottle, dirt, snow, ice, or other substance which litters public property or which may injure any person or animal or damage any pneumatic tire when passing over such substance;

T. Entry upon the premises of another if the person entering has been given oral or written notice not to, or if the premises are clearly marked with "no trespassing" signs posted so as to be in plain view along all routes of access to the premises, unless such entry is upon official business of a

government agency or public utility;

U. The depositing of garbage, construction debris, or other refuse on a public right-of-way or on adjacent private property;

V. All other conditions or things which are likely to cause injury to the person or property of anyone.

Subd. 5. Duties of Law Enforcement. The Mayor and City Council shall enforce the provisions relating to nuisances affecting public health, peace, and safety. The law enforcement officials shall enforce provisions relating to nuisances affecting morals and decency and shall assist the Mayor and/or City Council in the enforcement of health, peace, safety, and other nuisances. Such officers shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances

Subd. 6. Abatement. Whenever the Mayor and/or City Council determines that a public nuisance is being maintained or exists on premises in the city, the Mayor and/or Council shall notify in writing the owner or occupant of the premises of such fact and shall order that such nuisance be terminated and abated. The notice shall be served in person or by certified mail. If the premises are not occupied and the owner is unknown, the notice may be served by posting it on the premises. The notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding 30 days, within which the nuisance is to be abated. The Council may, after the owner or occupant has an opportunity to be heard or fails to appear before the Hardwick City Council, provide for abating the nuisance by the City. The notice shall be served in the same manner as notice by the enforcing officer is served and shall be given at least 10 days before the date stated in the notice when the Council will consider the matter. If notice is given by posting, at least 30 days shall elapse between the day of posting the notice and the hearing.

Subd. 7. Emergency Procedure, Summary Enforcement. In cases where delay in abatement caused by the notice and procedure requirements set forth in Subdivision 6 will permit a continuing nuisance to unreasonably endanger public health safety or welfare, the Mayor and/or Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, council shall determine that a public nuisance exists or is being maintained on premises in the City and that delay in abatement of the nuisance will unreasonably endanger public health, safety, or welfare. The council shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the City's intention to seek summary enforcement and the time and place of a meeting with the City Council to consider the question of summary enforcement. The City Council shall determine whether or not the condition

identified in the notice to the owner or occupant is a nuisance, whether public health, safety, or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in Subdivision 6 and may order that such nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the Mayor and/or City Council may order summary enforcement and abate the nuisance and assess any expenses to the property owner.

The Council hereby finds that the removal of snow and ice from public sidewalks, grass and noxious weed mowing and destruction will unreasonably endanger the public health, safety, and welfare and that summary enforcement shall be ordered by the officer charged with enforcement after notice and the time to comply have been given as provided for in this Section.

Subd. 8. Immediate Abatement. Nothing in this Section shall prevent the City, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.

Subd. 9. Recovery of Cost - Personal Liability. The owner of premises on which a nuisance has been abated by the City shall be personally liable for the cost to the City of the abatement, including administrative costs. As soon as the work has been completed and cost determined, the clerk-treasurer or other designated City employee shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable.

Subd. 10. Assessment. Any unpaid charges by the City for the cost of elimination of the nuisance may be collected as a special assessment pursuant to City Code.

Subd. 11. Additional Remedies. The provision of this Section shall not be the exclusive remedy for abating nuisances, but the City may proceed as the City deems appropriate by seeking an injunction or other order from a court of competent jurisdiction requiring abatement, or under any other applicable statutory or City Code provision, or under applicable common law. The filing of criminal charges shall not prohibit, void, or nullify any abatement proceedings or alter any other remedy available to the City, nor shall the commencement or completing of abatement proceedings prohibit the filing of criminal charges or conviction thereof.

926. OBSTRUCTIONS ON PUBLIC PROPERTY.

926.01. Obstructions. It is unlawful for any person to place, deposit, display or offer for sale, any fence, goods or other obstructions upon, over, across or under any public property without first having obtained a written permit from the Council, and then only in compliance in all respects with the terms and conditions of such permit, and taking precautionary measures for the protection of the public. An electrical cord or device of any kind is hereby included, but not by way of limitation, within the definition of an obstruction.

926.02. Fires. It is unlawful for any person to build or maintain a fire upon public property except in prescribed areas.

926.03. Dumping on Public Property. It is unlawful for any person to throw or deposit on public property any nails, dirt, glass or glassware, cans, discarded cloth or clothing, metal scraps, garbage, leaves, grass or tree limbs, paper or paper products, shreds or rubbish, oil, grease or other petroleum products, or to empty any water containing salt or other injurious chemicals thereon. It is a violation of this Section to place or store any building materials or waste resulting from building construction or demolition on public property without first having obtained a written permit from the Council.

926.04. Signs and Other Structures. It is unlawful for any person to place or maintain a sign, advertisement, or other structure on public property without first having obtained a written permit from the Council.

926.05. Snow or Ice on Public Property. It is unlawful for any person not acting under a contract with the City to dump snow or ice on public property.

926.06. Continuing Violation. Each day that any person continues in violation of this Section shall be a separate offense and punishable as such.

926.07. Condition. Before granting any permit under any of the provisions of this Section, the Council may impose such insurance or bonding conditions thereon as it, considering the projected danger to public or private property or to persons, deems proper for safeguarding such persons and property. Such insurance or bond shall also protect the City from any suit, action or cause of action arising by reason of such obstruction.

930. ABANDONED MOTOR VEHICLES AND DISPOSAL THEREOF**930.01. Definitions.**

1. The term "abandoned motor vehicle" means a motor vehicle as defined in Minnesota Statutes, Chapter 169, that has remained for a period of more than forty-eight hours on public property illegally or lacking vital component parts or has remained for a period of more than forty-eight hours on private property without the consent of the person in control of such property, or in an inoperable condition such that it has no substantial potential further use consistent with its usual function unless it is kept in an enclosed garage or storage building. It shall also mean a motor vehicle voluntarily surrendered by its owner to, and accepted by, the City. A classic car or pioneer car, as defined in Minn. Stat. ' 168, shall not be considered an abandoned motor vehicle within the meaning of this Section. Vehicles on the premises of junk yards or automobile graveyards, which are licensed and maintained in accordance with the City Code, shall not be considered abandoned motor vehicles within the meaning of this Section.

2. The term "vital component parts" means those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including, but not limited to, to motor, drive train and wheels.

930.02. Custody. The City may take into custody and impound any abandoned motor vehicle.

930.03. Immediate Sale. When an abandoned motor vehicle is more than seven model years of age, is lacking vital component parts, and does not display a license plate currently valid in Minnesota or any other state or foreign country, it shall immediately be eligible for sale at public auction, and shall not be subject to the notification, reclamation, or title provisions of this Subdivision.

930.04. Notice.

Subd. 1. When an abandoned motor vehicle does not fall within the provisions of Subparagraph C of this Subdivision, the City shall give notice of the taking within ten days. The notice shall set forth the date and place of the taking, the year, make, model and serial number of the abandoned motor vehicle, if such information can be reasonably obtained, and the place where the vehicle is being held, shall inform the owner and any lien holders of their right to reclaim the vehicle under Subparagraph E of this Subdivision, and shall state that failure of the owner or lien holder to exercise their right to reclaim the vehicle and contents shall be deemed a waiver by them of all rights, title and interest in the vehicle and a consent to the sale of the vehicle and contents at a public auction pursuant to section 930.06.

Subd. 2. The notice shall be sent by mail to the registered owner, if any, of the abandoned motor vehicle and to all lien holders of record. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lien holders, the notice shall be published once in the official newspaper. Published notices may be grouped together for convenience and economy.

930.05. Right to Reclaim.

Subd. 1. The owner or any lien holder of an abandoned motor vehicle shall have a right to reclaim such vehicle from the City upon payment of all towing and storage charges resulting from taking the vehicle into custody within fifteen days after the date of the notice required by this Section.

Subd. 2. Nothing in this Section shall be construed to impair any lien of a garage keeper under the laws of this State, or the right of the lien holder to foreclose. For the purposes of this section 930.05 "garage keeper" is an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair or maintenance of motor vehicles.

930.06. Public Sale

Subd. 1. An abandoned motor vehicle and contents taken into custody and not reclaimed under 930.05 shall be sold to the highest bidder at public auction or sale, following one notice published at least seven days prior to such auction or sale. The purchaser shall be given a receipt in a form prescribed by the Registrar of Motor Vehicles which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. Before such a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

Subd. 2. From the proceeds of the sale of an abandoned motor vehicle, the City shall reimburse itself for the cost of towing, preserving and storing the vehicle, and all administrative, notice and publication costs incurred pursuant to this Subdivision. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lien holder for ninety days and then shall be deposited in the General Fund of the City.

930.07. Disposal of Vehicles Not Sold. Where no bid has been received for an abandoned motor vehicle, the City may dispose of it in accordance with this Section.

930.08. Contracts and Disposal.

Subd. 1. The City may contract with any qualified person for collection, storage, incineration, volume reduction, transportation or other services necessary to

prepare abandoned motor vehicles and other scrap metal for recycling or other methods of disposal.

Subd. 2. Where the City enters into a contract with a person duly licensed by the Minnesota Pollution Control Agency, the Agency shall review the contract to determine whether it conforms to the Agency's plan for solid waste disposal. A contract that does so conform may be approved by the Agency. Where a contract has been approved, the Agency may reimburse the City for the costs incurred under the contract which have not been reimbursed.

Subd. 3. If the City utilizes its own equipment and personnel for disposal of the abandoned vehicle, it shall be entitled to reimbursement for the cost thereof along with its other costs as herein provided.

931. DISPOSAL OF UNCLAIMED PROPERTY

931.01. Definition. The term "abandoned property" means tangible or intangible property that has lawfully come into the possession of the City in the course of municipal operations, remains unclaimed by the owner, and has been in the possession of the City for at least sixty days and has been declared such by a resolution of the city council.

931.02. Preliminary Notice. If the City Clerk or Treasurer knows the identity and whereabouts of the owner, he shall serve written notice upon him at least thirty days prior to a declaration of abandonment by the city council. If the City acquired possession from a prior holder, the identity and whereabouts of whom are known by the City Clerk or Treasurer notice shall also be served upon him. Such notice shall described the property and state that unless it is claimed and proof of ownership, or entitlement to possession established, the matter of declaring it abandoned property will be brought to the attention of the city council after the expiration of thirty days from the date of such notice.

931.03. Notice and Sale. Upon adoption of a resolution declaring certain property to be abandoned property, the City Clerk or Treasurer shall publish a notice thereof describing the same, together with the names (if known) and addresses (if known) of prior owners and holders thereof, and including a brief description of such property. The text of such notice shall also state the time, place and manner of sale of all such property, except cash and negotiables. Such notice shall be published once at least three weeks prior to sale. Sale shall be made to the highest bidder at public auction or sale conducted in the manner directed by the city council in its resolution declaring property abandoned and stated in the notice.

931.04. Fund and Claims Thereon. All proceeds from such sale shall be paid into the general Fund of the City and expenses thereof paid therefrom. The former owner, if he makes claim within eight months from the date of publication of the notice herein provided, and upon application and satisfactory proof of ownership, may be paid the amount of cash or negotiables or, in the case of property sold, the amount received therefor, less a pro rata share of the expenses of storage, publication of notice, and sale expenses, but without interest. Such payment shall be also made from the General Fund.

931.05. Persons Who May Not Purchase.

Subd. 1. No employee of the City who is a member of the administrative staff, department head, a member of the city council, or an advisor serving the City in a professional capacity, may be a purchaser of property under this Section. Other City employees may be purchasers if they are not directly involved in the sale, if they are the highest responsible bidder, and if at least one week's published or posted notice of sale is given.

Subd. 2. It is unlawful for any person to be a purchaser of property under this

Chapter if such purchase is prohibited by the terms of this Chapter.

932. DISPOSAL OF EXCESS PROPERTY.

932.01. Declaration of Surplus and Authorizing Sale of Property. The City Clerk or Treasurer may, from time to time, recommend to the city council that certain personal property (chattels) owned by the City is no longer needed for a municipal purpose and should be sold. By action of the city council, said property shall be declared surplus, the value estimated and the City Clerk or Treasurer authorized to dispose of said property in the manner stated herein.

932.02. Surplus Property with a Total Estimated Value of Less than \$100.00. The City Clerk or Treasurer may sell surplus property with a total value of less than \$100.00 through negotiated sale.

932.03. Surplus Property with a Total Estimated Value Between \$100.00 and \$500.00. The City Clerk or Treasurer shall offer for public sale, to the highest bidder, surplus property with a total estimated value of from \$100.00 to \$500.00. Notice of such public sale shall be given stating time and place of sale and generally describing the property to be sold at least ten days prior to the date of sale either by publication once in the official newspaper, or by posting in a conspicuous place in the City at the City Clerk or Treasurer's option. Such sale shall be by auction.

932.04. Surplus Property with a Total Estimated Value Over \$500.00. The City Clerk or Treasurer shall offer for public sale, to the highest bidder, surplus property with a total estimated value over \$500.00. Notice of such public sale shall be given stating time and place of sale and generally describing property to be sold at least ten days prior to the date of sale by publication once in the official newspaper. Such sale shall be to the person submitting the highest bid.

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SECTION 1000 -- GENERAL PROVISIONS AND DEFINITIONS

1000.01. Short Title. This Chapter shall be known and may be cited as the “Zoning Ordinance of Hardwick”.

1000.02. Purposes. This Chapter is enacted for the following purposes: Promote the health, safety, morals and general welfare of the inhabitants of the City of Hardwick by lessening congestion in the streets, securing safety from fire, panic and other dangers; providing adequate light and air; preventing the overcrowding of land; avoiding undue concentration of population; facilitating the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; conserving the value of properties; and encouraging the most appropriate use of land.

1000.03. Scope. From and after the effective date of this Chapter, the use of all land and every building or portion of land erected, altered with respect to height and area, added to, or relocated and every use within a building or use accessory thereto, in the City of Hardwick shall be in conformity with the provisions of this Chapter. Any existing building or structure and any existing use of properties not in conformity with the regulations herein prescribed shall be regarded as nonconforming, but may be continued, extended, or changed subject to the special regulations herein provided with respect to nonconforming properties or uses.

1000.04. Interpretation. In interpreting and applying the provisions of this Chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of this Chapter impose greater restrictions than those of any statute, other Chapter, ordinance or regulation, the provisions of this Chapter shall be controlling. Where the provisions of any statute, other Chapter, ordinance, or regulation impose greater restrictions than this Chapter, the provisions of such statutes, other ordinances, Chapters, or regulations shall be controlling.

1000.045. Validity. Should any section or provision of this Chapter be declared by a court competent jurisdiction to be invalid, such decision shall not affect the validity of the Chapter as a whole or any part thereof other than the part so declared to be invalid.

1000.05. Definitions. For the purposes of this Chapter the terms defined in this Section have the meanings given them:

Subd. 1. Accessory Building. A subordinate building or portion of the main building which is located on the same lot as the main building and the use of which is clearly incidental to the use of the main building.

Subd. 2. Agricultural Use. An area, which is used for the production of farm crops.

Subd. 3. Alley. A public thoroughfare less than thirty (30) feet in width which provides secondary access to abutting property.

Subd. 4. Apartment. A part of a building consisting of a room or suite of rooms which is designed for, intended for or used as a residence for one family or an individual and is equipped with cooking facilities.

Subd. 5. Apartment Building. Three (3) or more apartments grouped in one building.

Subd. 6. Automobile Wrecking. See “Junk Yards.”

Subd. 7. Building. Any structure for the shelter, support or enclosure of persons, animals, chattel or property of any kind, and when separated by party walls without openings, each portion of such building so separated shall be deemed a separate building.

Subd. 8. Building Height. The vertical distance from the average of the highest and lowest point of the portion of a lot covered by a building to the highest point of the roof.

Subd. 9. Building Setback Line. A line within a lot or other parcel of land parallel to a public road, street, alley or highway right-of-way defining a portion of the lot between said setback line and said right-of-way, on which buildings or structures may not be placed.

Subd. 10. Dwelling. Any building or part thereof which is designed or used exclusively for residential purposes by one or more human beings, either permanently or transiently; a mobile home, house trailer or tent shall not be considered a dwelling for the purposes of this Chapter.

Subd. 11. Dwelling, One Family. A building designed or occupied exclusively by one family.

Subd. 12. Dwelling, Two Families. A building designed or occupied by two families.

Subd. 13. Dwelling, Multiple Families. A building designed for or occupied by more than two families.

Subd. 14. Family. Any number of individuals living together on the premises or a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house or hotel as commonly understood.

Subd. 15. Floor Area. The sum of the gross horizontal area of the several floors of a building measured from the exterior wall, including basement and attached accessory buildings.

Subd. 16. Garage, Private. A garage with a capacity of not more than four power driven vehicles for storage only and which is erected as an accessory building.

Subd. 17. Garage, Public. Any premises except those described as a private garage used for the storage or care of power driven vehicles, or where any such vehicles are equipped for operation, repair, or kept for remuneration, hire or sale.

Subd. 18. Home Occupation. Any gainful occupation meeting all of the following requirements when engaged in only by persons residing in their dwelling, when that occupation is conducted within the principal structure, when evidence of occupation is not visible from the street, no signs other than those permitted in residential district are present, no stock in trade is stored on the premises, over-the-counter retail sales are not involved, and entrance to the home occupation is gained from within the structure.

A professional person may use his residence for consultation, emergency treatment or performance of religious rites but not for the general practice of his profession when such general practice will involve the need for more than three parking spaces for the occupant and visitors. No accessory building or attached garage shall be used for such home occupation. Home occupations include professional offices, minor repair services, photo or art studio, dressmaking, teaching limited to three students at any one time, and similar uses; however a home occupation shall not be interpreted to include beauty or barber shops, tourist homes, restaurants or similar uses.

Subd. 19. Hotel. Any building or portion thereof where lodging is offered to transient guests for compensation and in which there are more than five sleeping rooms with no cooking facilities in an individual room or apartment.

Subd. 20. Junk Yard. Any building structures, premises or place within the corporate limits of the City of Hardwick, Minnesota, at, upon or within which there is kept, stored or piled in quantities, whether temporarily, irregularly or continually, old, used or secondhand materials of any kind, including, but not limited to the following: clothing, paper, bottles, rubber materials, iron, brass or other scrap metals, furniture, used inoperative motor vehicles not currently licensed, parts of motor vehicles, agricultural or construction equipment or parts thereof, building materials, or any other article from which its worn conditions renders it practically useless for the purpose for which it was intended and for which it is commonly classified and referred to as junk.

Subd. 22. Lot. One unit of a recorded plan or subdivision occupied or to be occupied by a building and its accessory buildings and including as a minimum such open spaces as are required under this Chapter and having frontage on a public street.

Subd. 23. Lot Area. The lot area is the land area within the lot lines.

Subd. 24. Lot, Corner. A lot situated at the junction of, and abutting on two or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed one hundred thirty-five (135) degrees.

Subd. 25. Lot Depth. The mean horizontal distance between the mean front street and the mean rear lot line. The greater frontage of a corner lot is its depth and its lesser frontage is its width.

Subd. 26. Lot, Interior. A lot other than a corner lot.

Subd. 27. Lot Line. The property line bounding a lot except that where any portion of a lot extends into the public right-of-way; the line of such public right-of-way shall be the lot line for application of this Chapter.

Subd. 28. Lot Width. The horizontal distance between the side lot lines of a lot measured at the building setback line.

Subd. 29. Mobile Home. A mobile home or house trailer is a trailer, or other vehicle, designed and constructed for dwelling purposes.

Subd. 30. Premises. A lot, plot or tract of land with the required front, side and rear yards.

Subd. 31. Story. That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

Subd. 32. Story Half. That portion of a building under a gable, hip or gambrel roof the wall plates of which, on at least two opposite exterior walls, are not more than 2 feet above the floor of such story.

Subd. 33. Structure. Anything constructed or erected; the use of which requires location on the ground or attachment to something having a location on the ground.

Subd. 34. Structural Alterations. Any change in the supporting members of a building such as bearing walls, columns, beams or girders.

Subd. 35. Use. The purpose for which land or premises or a building thereon is designed, arranged or intended, or for which it is or may be occupied or maintained.

Subd. 36. Use, Accessory. A use incidental or accessory to the principal use of a lot or a building located on the same lot as the accessory use.

Subd. 37. Use, Conditional. A use classified as conditional which generally may be appropriate or desirable in a specified zone, but requires special approval because if not carefully located or designed, may create special problems such as excessive height, or bulk or abnormal traffic congestion.

Subd. 38. Use, Non-Conforming. A use lawfully in existence on the effective date of this Chapter and not conforming to the regulations for the district in which it is situated except that such a use is not non-conforming if it would be authorized under Conditional User Permit where located.

Subd. 39. Use, Permitted. A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations and performance standards of such districts.

Subd. 40. Variance. A modification or variation of the provisions of this Chapter where it is determined that by reason of special and unusual circumstances as relating to a specific lot, that strict application of the ordinance would cause undue or unnecessary hardship, or that strict conformity with the provisions of this Chapter would be unreasonable, impractical or unfeasible under the circumstances.

Subd. 41. Yard. Any space in the same lot with a building open and unobstructed from the ground to the sky.

Subd. 42. Yard, Front. An open unoccupied space on the same plot with a building, extending the full width of the lot and situated between the lot line and the front of the building projected to the side lines of the lot.

Subd. 43. Yard, Rear. An unoccupied open space except for accessory buildings on the same lot with a building between the rear lines of the building and the rear lines of the lot for full width of the lot.

Subd. 44. Yard, Side. An open unoccupied space on the same lot with a building between the buildings and side line of the lot and extending the front yard to the rear yard.

SECTION 1001- CLASSIFICATION AND ESTABLISHMENT OF DISTRICTS

1001.01. Districts. For the purposes of this Chapter, the City of Hardwick is hereby divided into classes of zoning districts which shall be designated as follows:

Subd. 1. “Agricultural District” or “A” District.

Subd. 2. “Residential District” or “R” District.

Subd. 3. “Commercial District” or “C” District.

Subd. 4. “Industrial District” or “I” District.

1001.02. Zoning Map. The location and boundaries of the districts established by this Chapter are set forth on the zoning map and said map is hereby made part of this section, which map shall be known as the City of Hardwick zoning map and all notations, references, and date shown thereon are hereby incorporated by reference into this section and shall be as much a part of it as if all were fully described herein. It shall be the responsibility of the City Council to maintain this map and amendments thereto shall be recorded on the official zoning map kept on file and available to the public in the City Hall.

1001.03. District Boundaries. The boundaries between districts are unless otherwise indicated, either the center lines of streets, alleys or railroad right-of-ways, or such lines extended or lines parallel or perpendicular thereto. Where figures are shown on the zoning map between a street and a district boundary line, they indicate that the district boundary line runs parallel to the street line at a distance therefrom equivalent to the number of feet so indicated, unless otherwise indicated.

SECTION 1005 - AGRICULTURAL DISTRICT REGULATIONS

1005.01. Agricultural Districts - Permitted Uses. The following uses shall be permitted in the Agricultural or “A” District:

Subd. 1. Single family dwellings;

Subd. 2. Agriculture, farming and truck gardening , farm buildings and the sale of produce grown only on the premises;

Subd. 3. Churches, memorial buildings;

Subd. 4. Public Schools and private schools having an equivalent curriculum;

Subd. 5. Water supply and sewage treatment facilities, except that no building shall be located within forty feet of any lot line of an abutting lot in any Residential District;

Subd. 6. Public administration buildings;

Subd. 7. Parks and recreational areas owned and operated by governmental agencies;

Subd. 8. Golf courses, country club, private swimming club, provided that no building shall be located within forty feet of any lot line of an abutting lot in any Residential District;

Subd. 9. Home occupations;

Subd. 10. Cemeteries;

Subd. 11. Railroad right-of-ways, but not including railroad yards and shops; and

Subd. 12. Accessory uses customarily incidental to the above uses.

1005.02. Agricultural Districts - Conditional Uses. The following uses may be allowed in the Agricultural District by Conditional Use Permit:

Subd. 1. Wind Energy Conversion Systems of 1kw nameplate rating or less.

Subd. 2. Small Solar Energy systems with a Direct Current (DC) rated capacity of less than 100 kilowatts.

Subd. 3. Airports.

Subd. 4. Signs as regulated by the appropriate section herein.

1005.03. Agricultural Districts - Height, Yard and Area Regulations.

Subd. 1. Height Regulations:

A. No height regulation shall be required for agricultural buildings.

B. No building other than agricultural buildings hereafter erected or altered, shall exceed two and one-half stories or 35 feet in height, except as may be permitted by the general regulations of this Chapter.

Subd. 2. Front Yard Regulations:

A. There shall be no front yard having a depth of not less than 75 feet, except that the setback shall conform to County and State requirements when the lot abuts on a County, County State Aid or State Highway.

B. Where a lot is located at the intersection of two or more streets or roads, the front yard depth regulations are applicable on each street side of each corner lot. No accessory buildings shall project beyond the front yard of either street.

Subd. 3. Side Yard Regulations: There shall be a side yard on each side of the building having a width of not less than 20 feet.

Subd. 4. Rear Yard Regulations: There shall be a rear yard having a depth of not less than 25 percent of the depth of the lot.

Subd. 5. Lot Area Regulation: Every lot or tract of land upon which a single family dwelling is erected shall have an area not less than 22,500 square feet and an average width of not less than 150 feet, except that if a lot or tract has less area or width than herein required and was legally platted and was of record at the time of the passage of this Chapter, that lot may be used for any of the uses permitted in this Section.

1005.035. Agricultural Districts – Other Requirements. Additional regulations for the Agricultural District are set forth in Section 1025.01 et seq.

SECTION 1010 - RESIDENTIAL DISTRICT REGULATIONS

1010.01. Residential District - Permitted Uses. The following uses shall be permitted in the Residential District:

Subd. 1. One family and two family dwellings.

Subd. 2. Parks and recreational areas owned and operated by a governmental agency.

Subd. 3. Public elementary and high schools, or private schools having an equivalent curriculum.

Subd. 4. Churches.

Subd. 5. Nursing homes or assisted living facilities.

Subd. 6. Accessory buildings and accessory uses customarily incident to the above uses, but not including home occupations or the conduct of business.

1010.02. Residential Districts - Conditional Uses. The following uses may be allowed in the Residential District by Conditional Use Permit:

Subd. 1. Multiple family residences and public or private housing for the elderly.

Subd. 2. Public buildings, memorial buildings, and water supply buildings and structures.

Subd. 3. Hospitals and clinics.

Subd. 4. Boarding and lodging houses.

Subd. 5. Mobile homes provided that they are set on a permanent foundation.

Subd. 6. Signs as regulated in the appropriate section of this Chapter.

Subd. 7. Customary home occupations provided that:

A. Adequate off-street parking facilities are provided.

B. Not more than 25 percent of the gross floor area of residence is used for this purpose.

C. Only articles made or originating on the premises shall be sold on the premises.

D. No article for sale shall be displayed so as to be visible from any street.

E. No mechanical or electrical equipment is used if the operation of such equipment interferes with the desired quiet residential environment of the neighborhood.

1010.03. Residential Districts - Height, Yard and Area Regulations.

Subd. 1. Height Regulations: No building hereinafter erected or altered shall exceed two and one-half stories or thirty-five feet in height.

Subd. 2. Front Yard Regulations:

A. There shall be a front yard a depth of not less than 30 feet unless 30 percent or more of the frontage of the same side of the street between two intersecting streets is improved with buildings having observed a greater or lesser depth of front yard in which instance no new building or portion thereof shall project beyond a straight line drawn between the point closest to the street line of the residence upon either side of the proposed structure, or if there be residences only upon one side, then beyond the straight line projected from the average front of the two nearest residences.

B. Where a lot is located at the intersections of two or more streets or roads, the front yard depth regulations are applicable on each street side of each corner lot. No accessory buildings shall project beyond the front yard of either street.

Subd. 3. Side Yard Regulations:

A. There shall be a side yard on each side of the building having a width of not less than 10 feet.

B. The interior side yard for multiple dwellings when permitted by Conditional Use Permit shall be $\frac{3}{4}$ of the building height or 15 feet, whichever is greater.

Subd. 4. Rear Yard Regulations: There shall be a rear yard having a depth of not less than 20 percent of the depth of the lot.

Subd. 5. Lot Area Regulations:

A. Every lot on which a one family dwelling is erected shall have a minimum depth of 100 feet and a minimum street or road frontage of 50 feet and shall contain a minimum of 7500 square feet.

B. A lot on which there is erected a new two family dwelling shall have an area of not less than 20,000 square feet and an average width of not less than 100 feet with an average depth of not less than 125 feet except that parking requirements listed in this Chapter must be provided.

C. A lot on which there is erected a new multiple family dwelling shall contain an area of not less than 20,000 square feet for the first three units plus 2,000 square feet for each additional dwelling unit except the parking requirements listed in this Chapter must be provided and not more than 35 percent of a lot or a plot shall be occupied by buildings.

- D. Two thousand square feet for each trailer or mobile home berth in a mobile home park is required.
- E. A lot or parcel of land of record upon the effective date of this Chapter which is in the Residential District and which does not meet the requirements of this Chapter as to area, width or other open space may be utilized for single family detached dwelling purposes provided the measurements of such area, width or yard space are within sixty percent of this requirements of this Chapter, but said lot or parcel shall not be more intensively developed.

1010.035 Residential Districts -- Other Requirements. Additional regulations for the Residential District are set forth in Section 1025.01 et seq.

SECTION 1015 – COMMERCIAL DISTRICT REGULATIONS**SECTION 1015- COMMERCIAL DISTRICT REGULATIONS**

1015.01. Commercial Districts - Permitted Uses. The following uses may be permitted in the Commercial District.

Subd. 1. Any use permitted in the Residential District as regulated therein.

Subd. 2. Automobile sales agency.

Subd. 3. Automobile service stations for the sale of gasoline, oil and accessories, or auto repair.

Subd. 4. Banks.

Subd. 5. Barber and beauty shops.

Subd. 6. Garage storage or other rental storage facilities.

Subd. 7. Hotel, motel, lodging or boarding houses.

Subd. 8. Mortuary.

Subd. 9. Newspaper publishing, job printing establishment.

Subd. 10. Outdoor vending machine.

Subd. 11. Professional offices.

Subd. 12. Restaurants and cafes.

Subd. 13. Retail outlets for plumbing, heating, glazing, paper hanging, roofing, ventilating and electrical businesses.

Subd. 14. Retail stores, sales or showrooms, office, agency or studios.

Subd. 15. Self-service laundry.

1015.02. Commercial Districts - Conditional Uses. The following uses may be permitted in the Commercial District by Conditional Use Permit.

Subd. 1. Other business activities of the same general character as listed in Section 1015.01.

Subd. 2. Advertising and business signs as regulated in other sections of this Chapter.

Subd. 3. Light industry which does not change the character of area.

Subd. 4. Custom animal processing centers processing not more than 10 animal units (as defined by Minnesota Administrative Rule 7020.0300, as amended) on a daily basis.

1015.03. Commercial Districts - Height, Yard and Lot Coverage Regulations:

Subd. 1. Height Regulations: No building shall hereafter be erected to exceed 60 feet in height.

Subd. 2. Front Yard Regulations: No front yard shall be required, except that any lot which is located adjacent to or across from a Residential District, the front yard shall be not less than 30 feet.

Subd. 3. Side Yard Regulations: No side yard shall be required except that any lot which is located adjacent to or across from a Residential District shall have a side yard of not less than 10 feet.

Subd. 4. Rear Yard Regulations: No rear yard shall be required except that on a lot which is located adjacent to or across from a Residential District, there shall be a rear yard of not less than 20 percent of the lot depth of any lot.

1015.035. Commercial Districts - Other Requirements. Additional requirements for the Commercial District are set forth in Section 1025.01 et seq..

SECTION 1020 - INDUSTRIAL DISTRICT REGULATIONS**1020.01. Industrial Districts - Permitted Uses.**

Subd. 1. Business or commercial establishments as provided in Section 1035.01 and regulated therein.

Subd. 2. Wholesaling, all commodities except live animals.

Subd. 3. All fabricating, manufacturing, production, processing and storage of materials, goods and products, other than livestock, subject to the performance standards as set forth in this Chapter.

Subd. 4. Accessory uses incidental to the forgoing principal uses.

1020.02. Industrial Districts - Conditional Uses. The following uses may be permitted in the Industrial District by Conditional Use Permit.

Subd. 1. Other uses of similar character to those listed in Section 1020.01.

Subd. 2. The slaughter, production or processing of livestock.

Subd. 3. Signs, as regulated by other provisions in this ordinance.

1020.03. Industrial Districts - Height, Yard, Area, Lot, Width and Lot Coverage Regulations:

Subd. 1. Height Regulations: No building shall hereafter be erected or structurally altered to exceed 75 feet in height.

Subd. 2. Front Yard Regulations: No front yard shall be required, except that on any lot which is located adjacent to or across the street from a Residential District, the front yard shall conform to the regulations governing a Residential District.

Subd. 3. Side Yard Regulations: No side yard shall be required except that buildings in an Industrial District which abut or are across the street from a Residential District shall conform to the side yard regulations of the Residential District.

Subd. 4. Rear Yard Regulations: No rear yard shall be required except that buildings in an Industrial District which abut or are across the street from a Residential District shall conform to the rear yard regulations of that Residential District.

Subd. 5. Lot Width Regulations: Every lot or tract shall have a width of not less than 10 feet abutting a public right-of-way.

Subd. 6. Lot Coverage Regulations: Not more than 50 percent of the total area of the lot shall be covered by buildings.

1020.035. Industrial Districts - Other Requirements. Additional requirements for all Industrial District are set forth in the Universal Regulations, Section 1002.13 et seq. listed in this Chapter.

SECTION 1025 - GENERAL DISTRICT REGULATIONS**1025.01. Height Regulations and Modifications.**

Subd. 1. Public, semi-public or public service buildings, hospitals, institutions, schools or churches may be erected to a height not exceeding 60 feet in the districts in which they are permitted if the building is set back from each yard line at least one foot for each foot of additional building height above the height limit otherwise provided for the district in which the building is located.

Subd. 2. Height limitations as set forth elsewhere in this Chapter may be increased 100 percent when applied to the following:

- A. Monuments.
- B. Flag poles.
- C. Cooling towers.
- D. Elevator penthouses.

Subd. 3. Height regulations as set forth elsewhere in this Chapter may be increased with no limitations when applied to the following:

- A. Church domes; spires, belfries and roof ridges.
- B. Schools, colleges and university buildings.
- C. Chimneys or smokestacks.
- D. Television and radio broadcasting antenna.
- E. Fire towers
- F. Lofts, tanks.
- G. Water towers.
- H. Ornamental towers and spires.

1025.02. General Area Regulations.

Subd. 1. No lot shall be so reduced so that the area of the lot or dimensions of the open spaces shall be smaller than herein prescribed.

Subd. 2. No dwelling shall hereafter be erected or altered unless there is direct access to it from a street or highway through an open space on the same lot. No building shall hereafter

be erected or altered so as to close the present means of access to an existing dwelling or so as to diminish this means of access to a width less than the width of the existing dwelling.

1025.03. Yard Regulations. Measurements shall be taken from the nearest point of the wall of the building to the lot line in question, subject to the following qualifications:

Subd. 1. Cornices, canopies, eaves or fire escapes may extend into the required front yard a distance not exceeding 4 feet.

Subd. 2. A landing place, uncovered porch, or deck may extend into the required front yard a distance not exceeding 6 feet, if the floor is no higher than the entrance floor of the building. An open railing no higher than 3 feet may be placed around such place.

Subd. 3. The above enumerated architectural features may also extend into any side or rear yard to the same extent, except that no porch terrace, deck or outside stairway shall project into the required side yard distance, except on existing lots that are 50 feet or less in width, in such instance, these allowable architectural features may project into the required side yard a distance of two feet.

Subd. 4. A wall, fence or hedge may occupy part of the required front yard but no wall or fence more than 3 feet high shall be constructed without a conditional use permit.

Subd. 5. On corner lots, including agricultural area, nothing shall be placed in such a manner as to materially impede vision between a height of two and one-half feet and ten feet above the centerline grades of the intersecting streets to a distance such that a clear line of vision is possible of the intersecting street from a distance of 50 feet from the intersection of the right-of-way lines.

Subd. 6. More than one institutional building may be erected upon a single lot or tract, but the yards and open spaces required around the boundaries of the lot or tract shall not be encroached upon by any such building, nor shall there be any changes in the area requirements.

1025.04. Accessory Uses and Buildings. The following accessory uses, in addition to those hereinbefore specified, shall be permitted in the Agricultural or Residential Districts if the accessory uses do not alter the character or the premises in respect to their permitted use:

Subd. 1. The operation of necessary facilities and equipment in connection with schools, colleges, universities, hospitals and other institutions permitted in that District.

Subd. 2. Recreation, refreshment and service buildings in public parks and playgrounds.

Subd. 3. Accessory buildings may be built in a required rear yard but such accessory buildings shall not be nearer to any side lot line than the required distance of the main building or to the main use of the premises to which the accessory building is incidental. Such accessory buildings shall not be nearer than 10 feet to any rear lot line or to any alley, nor shall any accessory building occupy more than 30 percent of the required rear yard.

1025.05. Off-Street Parking and Loading Requirements.

Subd. 1. Off-street parking areas of sufficient size to provide parking for patrons, customers, suppliers, visitors and employees shall be provided on the premises of each use. The minimum number of required off-street parking spaces for the following uses shall be as follows:

- A. Single family dwelling – one parking space. No garage shall be converted into living space unless other acceptable off-street parking space is provided.
- B. Two family dwelling – one parking space for each family or dwelling unit.
- C. Multiple dwelling – one and two-tenths (1.2) parking spaces per dwelling unit or apartment unit.
- D. Boarding and lodging house - one parking space for each 2 persons for whom sleeping accommodations are provided.
- E. Convalescent or nursing home – 1 parking space for each four beds for which sleeping accommodations are provided.
- F. Hospitals – one parking space for each 2 hospital beds plus one space for each employee on the major shift.
- G. Public park and recreation areas – five spaces for each acre of park, playground or playfield over two acres.
- H. Churches – one parking space for each eight seats based on the design capacity of the main sanctuary.
- I. Public junior and senior high schools or private school – one parking space for each classroom.
- J. Municipal administration buildings, community center, public library, museum, art galleries, post office and other municipal service buildings – five parking spaces plus one parking space for each 500 square feet of floor area over 1000 square feet of floor area.
- K. Professional offices, medical and dental clinics and animal hospitals – four spaces plus one space for each 500 square feet of floor area over 1000 square feet of floor area.
- L. Office buildings – One space for each 500 square feet of floor area over 1000 square feet of floor area.
- M. Automobile service stations – two spaces for each service stall. Such parking space shall be in addition to space required for gas pump areas.

- N. Auto sales, trailer sales, marine and boat sales, implement sales, garden supply store, building materials, sale, auto repair – one space for each 500 square feet of floor area.
- O. Drive-in restaurant – 10 spaces or one space for each 20 square feet of floor area whichever is less.
- P. Motel or motor hotel – one space for each rental room or suite.
- Q. Enclosed skating rinks or dance hall – one space for each 200 square feet of floor area.
- R. Wholesale, business, storage, or warehouse establishments – one space for each employee of the major shift or one space for each 2000 square feet of gross floor area, whichever is greater, plus one off-street space for each company motor vehicle which is customarily kept on the premises.
- S. Manufacturing or processing plant – one off-street space for each employee on the major shift or one off-street space for each 350 square feet of gross floor area within the building, whichever is greater, plus one off-street space for each company motor vehicle when customarily kept on the premises.
- T. Uses not specifically mentioned – as determined by the City Council following review by the Planning Commission.

Subd. 2. Required Loading Areas: A loading permit designating proper loading areas and other necessary restrictions must be obtained from the City Council for any building of new construction or major alteration. The Council in granting such loading permit shall consider the traffic congestion and public safety affected thereby.

1025.06. Signs. All signs hereafter erected or maintained, except official, traffic and street signs, shall conform with the provisions of this subdivision.

Subd. 1. General Provisions. The following regulations shall apply to all signs hereinafter permitted in all districts:

- A. Signs shall not be permitted within the public right-of-way or easement, except business signs where allowed may extend out from the building not exceeding 40 inches.
- B. All signs shall be constructed in a good, workmanlike manner and the copy thereof shall be neat and legible. The property immediately surrounding them shall be maintained in a clean and unoffensive condition free of unsightly growth and rubbish.

Subd. 2. Prohibited Signs. No signs shall be permitted:

- A. In any location which would interfere with the view of any traveler on any roadway or of approaching vehicles or of traffic control devices or signs for a distance of 500 feet.
- B. On rock, trees or other perennial plants or any public utility pole.

- C. Containing a rotating beam or beams of light resembling an emergency vehicle.
- D. Which simulates any official, directional or warning sign erected or maintained by the state, county, municipality or other governmental subdivision which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
- E. Which casts a distracting or confusing ray of light onto or visible from a public roadway.
- F. Which interferes with public utility facilities or the maintenance thereof.
- G. Which obstructs a window, door, fire escape, stairway or opening essential to the provision of light, air ingress and egress from any building.
- H. Within three hundred (300) feet of a church or school structure along a public roadway.
- I. Which contains more than 2 surface areas or facings.

Subd. 3. Exempt Signs. The following signs shall be exempt from the provisions of this section:

- A. Signs which identify the business or activity conducted on the premises or advertise goods or services made and-or sold on the premises; provided, that they meet the setback requirements established for the use and do not contain a total combined surface in excess of 250 square feet, limited to 2 in number and located within the plot limits of the use.
- B. Farm products signs; provided that they are located on the farm residence property and related to farm products, merchandise or services sold, produced, manufactured, or furnished on such farm; and provided further that no such devices shall exceed 20 square feet in area.
- C. For sale or for rent signs upon real property and advertising the same as being for sale or for rent.
- D. Directional signs; provided that they are of such design and meet such specifications as the County Highway Departments shall impose.
- E. Signs which either identify personal property or residence and provided that they are affixed flat thereto and do not contain flashing lights.

SECTION 1030 - PERFORMANCE STANDARDS

1030.01 Purpose. The performance standards established in this Section are designed to assure that neighboring land uses will be compatible. All future development in all districts shall be required to meet these standards. The standards shall also apply to existing development where so stated. Before any building permit is approved, the City Council shall determine whether the proposed use will conform to the performance standards. The developer or land owners shall supply data necessary to demonstrate such conformance. Such data may include the description of equipment to be used, hours of operation, method of refuse disposal, type and location of exterior storage, etc. it may be necessary for a developer or business to employ an independent testing organization to demonstrate that a given use will not exceed the performance standards.

1030.02. Residential Features. No activity or operation shall be established or maintained which by reason of its nature or manner of operation will cause the emission of noise, odor, toxic or noxious fumes, smoke, dust and particulate matter in such concentrations as to be detrimental to or endanger the public health, welfare, comfort or safety or cause injury to property or business.

1030.03. Glare. In all districts, any lighting used to illuminate an off-street parking area, sign, or other structure, shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding shall not be directed not any adjoining property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way.

1030.04. Waste Material. Waste material shall not be washed into the public storm sewer system rather than the sanitary sewer system without first having received a permit to do so from the City. If said permit is not granted, a method of disposal shall be devised which will not require continuous land acquisition for permanent operation and will not cause a detrimental effect to the adjacent land. Should the waste be of a solid form rather than fluid, the storage area shall be so located and fenced as to be removed from the public view. In all districts, all waste material, except animal waste, debris; refuse; garbage; materials not currently in use for construction or otherwise regulated herein shall be kept in an enclosed building or properly contained in a close container for such purpose. The owner of vacant land shall be responsible for keeping such vacant land free of waste material and noxious weeds. Existing uses shall comply with the provision within six months following enactment of this Chapter. Passenger vehicles and trucks in an operative state shall not be parked in residential districts for a period exceeding 30 days; inoperative shall mean incapable of movement under their own power and in need of repairs. All exterior storage not included as a permitted accessory use, a permitted use, or otherwise permitted by provisions of this Chapter shall be considered refuse.

1030.05. Vibration. Any use creating periodic earth-shaking vibrations, such as may be created from a drop forge, shall be prohibited if such vibrations are perceptible beyond the lot line of the site on which the use is located. The standards shall not apply to vibrations created during the process of construction.

1030.06. Explosives. Any use requiring the storage, utilization or manufacturing of products which could decompose by detonation shall be located not less than four hundred feet away from any Residential or Commercial District line provided that this section shall not apply to the storage or usage of liquefied petroleum or natural gas for normal residential or commercial purposes.

1030.07. Bulk Storage of Liquids. All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals and other similar liquid shall require a conditional use permit in order that the City Council may have assurance that fire, explosion or water contamination hazards are not present that would be detrimental to the public health, safety and general welfare. For ground liquid storage tanks having a capacity in excess of 270 gallons the Council may require the development of diking around said tanks, suitably sealed, to hold the leakage capacity equal to 115 percent of the tank capacity. Any existing storage tank that, in the opinion of the Council, constitutes a hazard to the public safety shall discontinue operations within five years following the enactment of this Chapter.

1030.08. Drainage. No land shall be developed and no use shall be permitted that results in water run-off, flooding or erosion on adjacent properties. Such run-off shall be properly channeled into a storm drain, water course ponding area, or other suitable facility.

1030.09. Traffic control. The traffic generated by any use shall be channelized and controlled in a manner that will avoid congestion on public streets, safety hazards or excessive traffic through residential area. Traffic into and out of commercial and industrial uses or areas shall in all cases be forward moving with no backing onto streets or pedestrian ways., No access drive to any lot shall be located within 30 feet of any two intersecting street right-of-way lines.

1030.10. Radiation and Electrical Emissions. No activities shall be permitted that emit dangerous radioactivity beyond enclosed areas. There shall be no electrical disturbance, (except from domestic household appliances), adversely affecting the operation at any point of any equipment including but not limited to radio and television reception other than that of the creator of the disturbance.

1030.11. Water Supply. Private water supply sources and facilities shall be designed and constructed in accordance with State standards and regulations.

1030.12. Waste Disposal. On site, waste disposal system for domestic sewage or industrial wastes shall be designed, constructed and operated in accordance with State and Federal standards and requirements. Pre-treatment of industrial wastes prior to discharge to the municipal sewage system shall comply with City, State and Federal standards and regulations.

SECTION 1035 - NON-CONFORMING USES

1035.01. Continuation. The lawful use of buildings or land existing at the effective date of this Chapter which does not conform to the provisions of this Chapter shall be discontinued within a reasonable period of amortization of the building. Uses of land which become non-conforming by reason of a subsequent change in this Chapter shall be discontinued within a reasonable period of amortization of the building. In no event shall the amortization period commencing with the completion or erection of the building, be more than:

Subd. 1. Three years for outdoor advertising structures (signs and billboards).

Subd. 2. Thirty years for buildings of ordinary wood frame construction.

Subd. 3. Forty years for buildings of wood and masonry construction.

Subd. 4. Fifty years for buildings of fireproof construction.

1035.02. Alterations The lawful use of a building existing at the time of the adoption of this Chapter may be continued, although the use does not conform with the provisions hereof. If no structural alterations are made, a non-conforming use of the building may be changed to another non-conforming use of the same or more restricted classification. The foregoing provisions shall apply to non-conforming uses in districts hereafter changed. Whenever a non-conforming use of the building has been changed to a more restricted use or to conforming use, such use shall not thereafter be changed to a less restricted use.

1035.03. Restoration. No building which has been damaged by fire, explosion, act of God, or the public enemy, to the extent of more than 50 percent of its value shall be restored except in conformity with the regulations of this Chapter.

1035.04. Discontinuance. In the event that a non-conforming use of any building or premises is discontinued or its normal operation stopped for a period of one year, the use of the same shall thereafter conform to the regulations of the district in which it is located.

1035.05. Junk Yards. No junk yard may continue as a non-conforming use for more than one year after the effective date of this Chapter except that a junk yard may continue as a non-conforming use in a commercial or industrial district if within that period it is completely enclosed within a building or within a continuous solid fence of such height, not less than 8 feet in any case, and with such construction materials as shall be approved by the City Council, so as to screen completely the operation of the junk yard. No erection of any fence shall be allowed until the plans have been approved by the City Council.

1035.06. Residential Alterations. Alterations may be made to a residential building containing non-conforming residential units when they will improve the livability of such units, provided, however, that they do not increase the number of dwelling units in the building.

1035.07. Normal Maintenance. Maintenance of a building or other structure contained or used for a non-conforming use may be permitted when it includes necessary non-structural repairs and incidental alteration which do not exceed or intensify the non-conforming building or use.

Nothing in this Chapter shall prevent the placing of a structure in a safe condition when said structures is declared unsafe by the City.

1035.10. Conditional Use Permit. Conditional use permits may be issued for any of the following:

Subd. 1. Any of the uses or purposes for which such permits are required or permitted by the provisions of this Chapter.

Subd. 2. Public utility or public service uses or public building in any district when found to be necessary for the public health, safety, convenience or welfare.

Subd. 3. Commercial excavating and storage of natural materials used for building or construction purposes, in any district

Subd. 4. To classify as a conforming use any non-conforming institutional use existing in any district at the time of the establishment of such district.

Subd. 5. To permit the location of any of the following uses in a district from which they are excluded by the provisions of this Chapter: airport, library, community center, church, hospital, nursing home, any institution of an educational, philanthropic or charitable nature, cemetery, or mausoleum.

1035.11. Application for Conditional Use Permit. Application for the issuance of a conditional use permit shall be made to the City Council, except that any proceedings to classify certain uses as conforming uses as provided in this section may be initiated by also making application to the City Council.

1035.115. Procedure. The City Council may hold such hearings on the proposal to issue a conditional use permit as it may consider necessary, but a least one public hearing shall be held on any application for a use permit for the establishment of any use listed in section 1035.10 Subd. 5. Following the hearing, the Council shall take action on whether or not to issue the permit, but it shall not recommend the granting of a permit unless it finds that the establishment, maintenance, or conducting of such use for which a conditional use permit is sought will not under the circumstances of the particular case be detrimental to the health, safety, morals, comfort, convenience or welfare of the persons residing or working in the neighborhood of such use, or to the public welfare, or injurious to property or improvements in the neighborhood. It may designate conditions and require guarantees in the granting of use permits as it deems necessary and appropriate.

SECTION 1040- BOARD OF ZONING ADJUSTMENT AND APPEALS

1040.01. Creation. The City of Hardwick may establish a Board of Zoning Adjustment and Appeals.

1040.02. Membership. The Board of Adjustment and Appeals shall consist of the following: three members appointed by the Council and one member selected by the Council from its own membership.

Subd. 1. Chairman and Secretary. The Board shall elect one of its own members as chairman and appoint a secretary who may, but need not, be one of its members.

Subd. 2. Quorum. Two members of the Board shall constitute a quorum, and all action by the Board requires the affirmative vote of the quorum.

Subd. 3. Compensation. The Board shall serve without compensation.

Subd. 4. Term. Its members shall serve from a term of two years beginning on the first day of January and until their successors are appointed.

1040.03. Powers and Duties. The Board of Zoning Adjustment and Appeals, subject to the approval and confirmation of the City Council in each case as hereinafter provided, shall have the power to grant adjustments in the exceptions to any of the provisions of this Chapter to the extent of the following and no further:

Subd. 1. To vary or modify the strict application of any regulations or provisions contained in this Chapter in cases in which there are practical difficulties or unnecessary hardships in the way of such strict application.

Subd. 2. To permit the extension of a district where the boundary lines thereof divides a lot in one ownership at the time of the passage of this Chapter, but such extension of any district shall not exceed 100 feet.

Subd. 3. The Board of Zoning Adjustment and Appeals shall not recommend the granting of any application and the Council shall not grant any application unless they find the following facts. At the hearing the applicant shall present a statement and evidence in such form as the Board of Zoning Adjustment may require to show these facts:

A. That there are special circumstances or conditions affecting land, building or use referred to in the application;

B. That the granting of the application is necessary for the preservation and enjoyment of substantial property rights;

C. That the granting of the application will not materially affect the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.

1040.04. Appeals. Any person, firm or corporation objecting to the ruling of any official or the City Council on administering the provisions of this Chapter shall have the right to appeal to the Board of Zoning Adjustment and Appeals.

1040.05. Application and Procedure. Application for any adjustment permissible under the provisions of this Section shall be made to the City Council in the form of a written application for a building permit or for a permit to use the property or premises as set forth in the application.

Subd. 1. Fee. An application for an adjustment shall be accompanied by a payment of a fee of \$5.00, in addition to the regular building permit fee, if any.

Subd. 2. Public Hearing. Upon receipt of an application, the City Council shall set a time and place for a public hearing before the Board of Zoning Adjustment and Appeals on such applications. At least ten days before the date of the hearing, notice of hearing shall be published once in the official newspaper. The Board of Zoning Adjustment and Appeals shall thereupon make its recommendation upon the application to the City Council, with 30 days of the application.

Subd. 3. Recommendation of Adjustment. In recommending any adjustment or variance under provisions of this Section, the Board of Zoning Adjustment and Appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially all objectives of the regulation provision to which the adjustment variance is granted, as to the public health, safety, comfort, convenience and general welfare.

Subd. 3a. Approval Required. No permit shall be issued under the provisions of this Section unless and until a recommendation of the Board of Zoning Adjustment and Appeals, as aforesaid, is approved and confirmed by the City Council.

Subd. 4. Findings. In reporting its recommendations the Board of Zoning Adjustment and Appeals shall report its findings with respect thereto and all facts in connection therewith, and shall specifically and fully set forth any adjustment and variance granted and the condition designated. Upon receipt of such report, the City Council by resolution shall either: a) approve and confirm the decision, with or without changes, whereupon the permit applied for may be issued; or b) refuse to approve and confirm the decision.

1040.06. Discretionary Requirements. In all cases in which adjustments or variances are granted under the provisions of this Section, the Board of Zoning Adjustment and Appeals and the City Council shall require such evidence and guarantees as it may deem necessary to insure compliance with the conditions designated in connection therewith.

SECTION 1045- ENFORCEMENT

1045.01. Zoning Administration. The City Council may establish the office of Zoning Administrator and may appoint such employee or employees of the City as it may deem proper. The City Council and Zoning Administrator, if so established and appointed, shall enforce this Chapter and shall perform the following duties:

Subd. 1. Issue occupancy and building permits, and make and maintain records thereof.

Subd. 2. Conduct inspections of buildings and use of land to determine compliance with the terms of this Chapter.

Subd. 3. Maintain permanent and current records of this Chapter, including but not limited to, all maps, amendments, conditional and special uses, variances, appeals, and applications therefore.

Subd. 4. Receive, file and forward all applications for appeals, variances, conditional or special uses or other matters to the designated official bodies.

Subd. 5. Institute in the name of the City, any appropriate actions or proceedings against the violator as provided for.

Subd. 6. Should there be an established and appointed Zoning Administrator, such persons should serve as an ex-officio non-voting member of the Planning Commission and Board of Zoning Adjustment and Appeals.

1045.02. Building Permits. No person shall erect, alter, wreck, or move any building or part thereof without first securing a building permit therefore. No permit shall be required for an alteration costing less than \$400.00 or if no structural alteration of the building is involved.

1045.03. Application for Building Permit. Applications for a building permit shall be made to the City Council or Zoning Administrator, should there be one, on the blank forms to be furnished by the City. Each application for a permit to construct or alter a building shall be accompanied by the plan drawn to scale showing the dimensions of the lot to be built upon and the size and location of the building and accessory buildings to be erected. Applications for any kind of building permit shall contain such other information as may be deemed necessary for the proper enforcement of this Chapter or any other.

Subd. 1. Fee. The fee for a building permit shall be determined by resolution of the City Council.

Subd. 2. Compliance. The Zoning Administrator, should there be one, or the City Council in its absence shall issue the building permit only after determining that the building plans together with the application, comply with the terms of this Chapter.

SECTION 1050 - AMENDMENTS AND ADJUSTMENTS

1050.01 Amendment. This Chapter may be amended whenever the public necessity the convenience and the general welfare require such amendment by the procedure specified as follows:

Subd. 1. An amendment may be initiated by the City Council or the Planning Commission, or by the petition of not less than fifty percent of the property owners affected by the proposed amendment and fifty percent of those property owners within 350 feet of the proposed change.

Subd. 2. An amendment not initiated by the planning Commission or the City Council shall be referred to the Commission or Council for study and report and the Council shall not act on the amendment until it has received the recommendation of the Planning Commission or until sixty days have elapsed from the date of reference of the amendment without report by the Commission.

Subd. 3. Before any amendment is adopted, the Planning Commission or City Council shall hold at least one public hearing thereon after a notice of the hearing has been published in the official newspaper at least ten days before the hearing. Following the hearing, the City Planning Commission, if there be one, shall make a report of its findings and recommendations on the proposed amendment and shall file copy with the City Clerk within sixty days after the hearing. Failure of the City Planning Commission to so report shall be deemed to be approval by the Commission of the proposed amendment.

Subd. 4. Upon the filing of such report or upon the expiration of such sixty days as aforesaid, the City Council may hold such public hearing upon the amendment as it deems advisable. After the conclusion of the hearings, if any, the City Council may adopt the amendment or any part thereof in such form as it deems advisable. The amendment shall be effective only if two-thirds of all members of the Council concur in its passage.

1050.02 Fees – Payment Required. Any person filing a petition requesting a variance from a Board of Adjustment and Appeals or an amendment of the zoning Chapter rezoning property or changing regulations within any use district shall pay a fee according to the schedule established by resolution of the City Council. The fee is payable at the time of filing of the petition and is not refundable.

1050.03. Contents of Petition. The Petition must contain the following information:

Subd. 1. The street address of the land as to which the Petition is made

Subd. 2. The legal description of the property,

Subd. 3. The mailing address of the owner or owners, and

Subd. 4a. Clearly describe the structure to be built or altered if the petition is granted; or

Subd. 4b. If the petition is for a change in any regulation of this Chapter, it shall state the change and the reasons therefore.

1050.035. Other Information May Be Required. In addition to the requirements set forth in Section 1050.03, the Planning Commission or City Council may require the petitioner to submit a certificate by a registered land surveyor verifying the front, rear and side yards, setbacks and all buildings situated on or adjacent to the property described in the petition.

SECTION 1055 - VIOLATIONS AND PENALTIES

1055.01. Violations and Penalty. Any person, firm, or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists enforcement of any of the provisions of this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided by law for each offense or both, plus the costs of prosecution in either case. Each day that a violation is permitted to exist shall constitute a separate offense.

1055.02. Enforcement. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this Chapter, the City Council or Zoning Administrator in addition to other remedies, may institute any proper action or proceeding in the name of the City of the Hardwick and hereby shall have the powers of a police officer to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use to restrain, correct or abate such violations to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about said premises

CHAPTER 11: ADMINISTRATIVE ENFORCEMENT PROGRAM

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PENALTIES**

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SECTION 1100 – PURPOSE

1100.01. Administrative Citations and Civil Penalties. Chapter 11 governs administrative citations and civil penalties for violations of the City Code.

1100.02. Applicability of Ordinance. The administrative enforcement program shall apply only to the following provisions of the Municipal Code:

- A. Building Regulations
- B. Streets and Sidewalks
- C. Parking Regulations
- D. Unlawful Deposit of Garbage, Litter, and the Like
- E. Animals and Fowl
- F. Shade Tree Disease and Prevention
- G. Open Burning of Leaves
- H. Nuisances; and
- I. Land Use (Zoning) Regulations and Requirements.

1100.03. Violation. The Hardwick City Code provides that any person, firm, corporation or other group found to be in violation of any ordinance or law of the City, as defined in this section, shall be deemed to be guilty of a misdemeanor. Every day any violation of the Municipal Code or any other ordinance continues shall constitute a separate offense. Any condition caused or permitted to exist in violation of the Code or any ordinance is deemed to be a public nuisance and may be summarily abated as such.

SECTION 1101 – GENERAL PROVISIONS

1101.01. Administrative Offense. A violation of any provision of the city code noted in Section 1100.02 is an administrative offense that may be subject to an administrative citation and civil penalties. Each day a violation exists shall constitute a separate offense.

1101.02. Code Compliance Officer. The Mayor and City Council in conjunction with law enforcement shall serve as compliance officers.

1101.03. Exemption. Alcohol and Tobacco license violations are not subject to administrative citation under this Chapter.

1101.04. Civil Penalty. Any violation for which an Administrative Citation shall be issued pursuant to this Chapter may be subject to a civil penalty not to exceed the maximum penalty for a misdemeanor violation under state law.

1101.05. Schedule of Fines and Fees. The standard fine for a violation under this Chapter shall be one hundred dollars (\$100.00) per offense per day plus seventy-five dollars (\$75.00) assessment of costs. The City Council shall annually review the schedule of fines and fees and may amend or modify by resolution the schedule of fines and fees for offenses initiated by administrative citation.

SECTION 1105 – ADMINISTRATIVE CITATION PROCEDURES**1105.01. Notice of Violation.**

- A. Upon the discovery of a violation, the Code Compliance Officer shall issue an Administrative Citation to the person alleged to be responsible for the violation. The citation shall set the date, time, and nature of the alleged offense, the actions required to correct the alleged offense, the amount of the scheduled fine, and the manner for paying the fine or appealing the citation.
- B. The City shall deliver the Administrative Citation to the person alleged to be responsible for the violation in person by certified mail or it may be served by an authorized representative of the Sheriff's office. In the case of an offense related to Parking Violations, the Administrative Citation may be attached to the motor vehicle.
- C. The person alleged to be responsible for the violation shall have ten (10) calendar days to correct the alleged violation after issuance of the Administrative Citation. This subdivision does not apply to Parking violations.
- D. If the person alleged to be responsible for the violation is making a good-faith attempt to remedy the violation, the Code Compliance Officer may, in their sole discretion, grant an extension to the time allowed to correct the alleged violation, the length of which must be stated in writing by the Code Compliance Officer. The Code Compliance Officer shall promptly inform the person alleged to be responsible for the violation of any such time extension. This subdivision shall not apply to Parking violations.

1105.02. Imposition of Fine. If the person alleged to be responsible for the violation fails to correct the violation within the time period provided in the Administrative Citation, or in any extension granted thereto, the Code Compliance Officer shall issue a fine. The Code Compliance officer must issue the notice of fine resulting from the Administrative Citation to the person alleged to be responsible for the violation in person or by certified mail, or it shall be served by an authorized representative of the Sherriff's office. In case of a Parking violation, the notice of fine may be attached directly to the vehicle.

1105.03. Payment. The person alleged to be responsible for the violation must pay the scheduled fine within fifteen (15) calendar days after issuance of the notice of fine. Penalties for failure to correct the violation or late payment of the fine may be imposed as set forth in this Chapter. The Code Compliance Officer may issue additional citations for each day the violation continues to exist after the date on which the Administrative Citation is issued. Payment of the fine associated with an Administrative Citation does not relieve the person responsible for the violation from acting to correct the violation.

1105.04. Abatement. The City Council may order the violation to be abated and all fines, costs, and other expenses associated with the alleged violation shall be charged to the person alleged to be responsible for the violation or to the real property owned by the person alleged to be responsible for the violation on which the alleged violation has

occurred. In cases where the person alleged to be responsible does not now property, the City shall file suit seeking judicial relief to collect the fine, associated penalties, and costs.

SECTION 1106 – ADMINISTRATIVE HEARING

1106.01. Due Process. The Administrative Hearing provides due process of the law to any person who is issued an Administrative Citation. Due process of law provides that the person alleged to be responsible for the violation shall be given adequate notice, an opportunity to participate in the hearing, and adequate explanation of the reasons justifying the Administrative Citation.

1106.02. Hearing Requests.

Subd. 1. The person alleged to be responsible for the violation must make a request for the Administrative Hearing within fifteen (15) days on which the city issued the fine associated with the Administrative Citation.

Subd. 2. All requests for an Administrative Hearing must be made in writing to the attention of the Code Compliance Officer.

1106.03. Administrative Hearing Officer. The City Council shall appoint an “Administrative Hearing Officer” who shall act as the hearing officer for the Administrative Hearing. The Administrative Hearing Officer shall be an attorney licensed to practice in the State of Minnesota. The Administrative Hearing Officer shall be appointed for a term of two years beginning on January 1 of each odd-numbered year. If such an appointment cannot be made, an Administrative Hearing Officer shall be appointed on a case-by-case basis.

1106.04. Notice of Hearing. At least ten (10) calendar days prior to the scheduled Administrative Hearing, written notice delivered by mail shall be provided to the person alleged to be responsible for the violation regarding the time, date, and location of the Administrative Hearing.

1106.05. File Transmittal.

Subd. 1. Upon receipt of any request for an Administrative Hearing, the Code Compliance Officer shall compile a summary report detailing the facts in support of any determination that the alleged offense constitutes a violation. The summary report will include:

- A. A copy of the citation issued;
- B. A copy of any notice or notices which preceded the citation;
- C. A copy of any case history on the property;
- D. Photographs or other audiovisual recording of the property where available; and
- E. Proof of mailing or posting of notice on the property if the citation was not personally served on the person alleged to be responsible for the violation.

Subd. 2. The file must be delivered to the Administrative Hearing Officer and the person alleged to be responsible for the violation at least five (5) business days preceding the scheduled Administrative Hearing. The delivery of the file to the person alleged to be responsible for the violation shall be considered completed upon mailing the file via first class mail.

1106.06. Presentation of Case. The Parties shall have the opportunity to present testimony and question any witnesses at the Administrative Hearing, but strict rules of evidence will not apply. The Administrative Hearing Officer shall tape record the hearing and receive testimony and exhibits. The Administrative Hearing Officer must receive and give weight to evidence, including hearsay evidence that possesses probative value commonly accepted by reasonable and prudent people in the conduct of their affairs. The Administrative Hearing Officer shall have the authority to determine that a violation occurred, to dismiss a citation, to impose the scheduled fine, and to reduce, stay, or waive a scheduled fine either unconditionally or upon compliance with appropriate conditions. When imposing a penalty for a violation, the Administrative Hearing Officer may consider any or all of the following factors:

- A. The duration of the violation;
- B. The frequency of reoccurrence of the violation;
- C. The seriousness of the violation;
- D. The conduct of the person alleged to be responsible for the violation after issuance of the Administrative Citation;
- E. The good faith effort by the person alleged to be responsible for the violation to correct the alleged violation and to comply with the ordinances;
- F. The impact of the violation upon the community;
- G. The prior record of city code violations of the person alleged to be responsible for the violation; and
- H. Any other factors the Administrative Hearing Officer deems appropriate.

1106.07. Decision. Within fifteen (15) calendar days of the date of the Administrative Hearing, the Administrative Hearing Officer shall provide the person alleged to be responsible for the violation with an Administrative Order constituting its decision. The decision of the Administrative Hearing Officer shall be final. A decision in favor of the person alleged to be responsible for the violation constitutes dismissal of the violation and no fine shall be assessed. If the Administrative Hearing Officer renders a decision confirming the Administrative Citation and finding that a violation has occurred, the person alleged to be responsible for the violation shall correct the violation and comply with the Citation Order. A report of each hearing shall be provided to the City Clerk.

1106.071. Limitation on Fine. The Administrative hearing officer may not impose a fine greater than the established fine, except that the Administrative Hearing Officer may

impose a fine for each day that the violation continues if:

- A. The violation caused or is causing a serious threat of harm to the public health, safety, or welfare; or
- B. The violator intentionally and unreasonably refused or refuses to comply with the code requirement.

1106.08. Failure to Appear. The failure to attend the hearing constitutes a waiver of the rights of the person alleged to be responsible for the violation to an administrative hearing. The Administrative Hearing Officer shall consider such failure to appear as constituting an admission of the violation.

1106.081. Discretion of Hearing Officer. The Administrative Hearing Officer may waive the result of an individual's failure to appear upon a showing of good cause.

Subd. 1. Examples of "good cause" include, but are not limited to:

- A. Death in the immediate family of the person alleged to be responsible for the violation;
- B. Documented incapacitated illness of the person alleged to be responsible for the violation;
- C. A court order requiring the person alleged to be responsible for the violation to appear for another hearing at the same time; or
- D. Lack of proper service of the citation or notice of the hearing.

Subd. 2. Good cause" does not include:

- A. Forgetfulness;
- B. intentional delay;
- C. lack of transportation; or
- D. lack of childcare.

SECTION 1110 – JUDICIAL REVIEW

1110.01. Right to obtain. An aggrieved party may obtain judicial review of the decision of the Administrative Hearing Officer as provided in state law.

1110.02. Recovery of Civil Penalties. If a civil penalty is not paid within the time specified, such non-payment shall constitute:

- (a) A lien on the real property upon which the violation occurred if the property or improvements on the property was the subject of the violation and the property owner was found responsible for that violation; or
- (b) A personal obligation of the person alleged to be responsible for the violation in all other situations.

1110.03. Lien. A lien may be assessed against the property and collected in the same manner as taxes.

1110.04. Personal Obligation. A personal obligation may be collected by appropriate legal means.

1110.05. Late Fees/Charges.

Subd. 1. If after fifteen (15) calendar days of the date on which the fine was issued to the person found to be responsible for the violation, the fine has not been paid, or a hearing requested, the fine will increase by \$50.00 or 50% of the fine levied, whichever is greater.

Subd. 1a. If, after eight (8) weeks of the date on which the fine was issued to the person alleged to be responsible for the violation, the fine and penalties have not been paid, the total fine and penalties shall be assessed to the property taxes of the person found to be responsible for the violation, and all City licenses issued to such person shall be revoked. For continued violations, the City may correct the violation and assess the charges for doing so onto the property taxes of the person found to be responsible for the violation and criminal charges may be filed.

Subd. 2. If the same person found to be responsible for the violation is charged with a subsequent violation in a twelve (12) month period for the same or substantially similar offense, the fine shall be increased by 25%. After a third infraction in a 12-month period, the fine shall increase by 50%. After a fourth infraction in a 12-month period the fine shall increase by 100%.

1110.06. License Revocation or Suspension. Failure to pay a fine within the time established for such payment shall constitute grounds for suspending or revoking any license or permit issued to the person found to be responsible for the violation.

SECTION 1115 – PENALTIES

1115.01. Violation a Misdemeanor or Petty Misdemeanor. Every person who violates a section, subdivision, paragraph, or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, or performs and act prohibited or declared unlawful, or fails to act when such failure is prohibited or declared unlawful by a Code adopted by reference by this Chapter, and, upon conviction thereof, shall be guilty of a misdemeanor or petty misdemeanor and shall be punished as outlined in Sections 1115.011 through 1115.013.

1115.011. Specific Provisions Explicit. Where the specific section, subdivision, paragraph, or provision specifically makes a violation a misdemeanor, he shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or to be likely to endanger any person or property, he shall be punished as for a misdemeanor.

1115.012. Petty Misdemeanor. As to any violation not constituting a misdemeanor under the provisions of Section 1115.011 hereof, he shall be punished as for a petty misdemeanor.

1115.013. Offenses Continuing in Nature. Violation of any section, subdivision, paragraph, or provision of this Chapter, shall be deemed continuing in nature, and may be treated as a new and separate offense on each day (consisting of a 24-hour period commencing at 12:00 midnight) during which said violation occurs.

1115.02. Misdemeanors. The following are misdemeanors, punishable in accordance with state law:

Subd. 1. Failure, without good cause, to pay a fine or request a hearing within fifteen (15) days after issuance of an Administrative Citation;

Subd. 2. Failure, without good cause, to appear at an Administrative hearing that was scheduled under Section 806 and for which Administrative Hearing proper notice was provided;

Subd. 3. Failure to pay a fine imposed by the Administrative Hearing Officer within 15 calendar days after it was impose, or such other time as may be established in the administrative order issued by the Administrative Hearing Officer.

Subd. 4. If the final adjudication in the administrative penalty procedure is a finding of no violation, then the City may not prosecute a criminal violation in District Court based on the same set of facts. This does not preclude the City from pursuing a criminal conviction for a violation of the same provisions based on a different set of facts. A different date of violation shall constitute a different set of facts

