CITY CODE

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2016 CODE AMENDMENTS AND ORDINANCES ADOPTED

LUVERNE CITY CODE NEW, AMENDED, OR REPEALED. This table should be checked to assure that a particular section, subdivision, etc. of the Code has not been amended or repealed. New sections are also noted. (N) indicates the coding of new sections, (A) indicates Amendments and (R) indicates Repeals.

Ordinance No.	Date Adopted Effective Date	City Code Chapter	Section	Subdivision	Paragraph
(A) 343	01-12-16 01-28-16	5	5.44 5.45	1 1	
(N) 344	03-08-16 03-24-16	N/A	Sale of Real Estate		
(N) 345	03-22-16 04-07-16	N/A	Sale of Real Estate		
(A) 346	05-10-16 05-26-16	11	11.09	5	Added Residential as Conditional Use
(A) 347	06-14-16 06-30-16	3	3.20	6	
(A) 348	08-23-16 09-01-16	11	11.09	4	

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CHAPTER 1: GENERAL PROVISIONS

SECTION 1.01. 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 Luverne, Minnesota, and within such adjacent area as may be stated in specific provisions.

Source: City Code
Effective Date: 11-1-80

SEC. 1.02. 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 provisions of this City Code, shall have the following meanings and inclusions:

1. "Chief Law Enforcement Officer" -The chief executive officer of any law enforcement agency with which the City contracts for law enforcement services.
2. "City" - The City of Luverne, Minnesota, acting by or through its duly authorized representative.
3. "City Administrator" - The person duly appointed by the City Council and acting in such capacity, or his duly authorized representative.
4. "Conviction" - 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.
5. "Council" and "City Council" - The City Council of the City of Luverne, Minnesota.
6. "Crime" - Conduct which is prohibited by ordinance and for which the actor may be sentenced to imprisonment or fine.
7. "Ex Officio Member" - A person who is not counted for the purpose of determining a quorum and who has no right to vote, but who 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.
8. "Intersection" - 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.
9. “Law Enforcement Officer” - Any licensed peace officer authorized to direct or regulate traffic, or to perform other law enforcement duties employed either directly by the City or employed and acting under the authority of any other governmental body with which the City has contracted for law enforcement services.
10. "May" - Is permissive.
11. "Misdemeanor" - 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.

12. "Ordinance" - An ordinance duly adopted by the City Council of Luverne, Minnesota.

13. "Person" - Includes all firms, partnerships, associations, corporations, and natural persons.

14. "Petty Misdemeanor" - 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.

15. "Premises" - Any lot, piece, or parcel of land within a continuous boundary whether publicly or privately owned, occupied, or possessed.

16. "Private Property" - All property not included within the definition of public property or public place.

17. "Public Property" and "Public Place" - 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.

18. "Right-of-Way" or "Public Right-of-Way" - 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, streets, alleys, and other public property between lateral property lines in which a roadway lies.

19. "Roadway" - 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.

20. "Shall" - Is mandatory.

21. "Violate" - Includes failure to comply with.

22. "Written" and "In Writing" - Any mode of representing words and letters in the English language.

Source: Ordinance No. 235, Third Series
Effective Date: 12-21-00

SEC. 1.03. VIOLATION A MISDEMEANOR OR A PETTY MISDEMEANOR. Every person violates a chapter, section, subdivision, paragraph, or provision of this City Code 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, or as for a petty misdemeanor, except as otherwise stated in specific provision herein, as set forth in the specific chapter in which the section, subdivision, paragraph, or provision violated appears. Upon conviction for a crime, the actor may be convicted of either the crime charged, if it is a misdemeanor, or a petty misdemeanor as an included offense necessarily proved if the misdemeanor charge were proved.

SEC. 1.04. OTHERWISE UNLAWFUL. The City Code does not authorize an act or omission otherwise prohibited by law.

SEC. 1.05. SEVERABILITY. Every chapter, section, subdivision, paragraph, or provision of the City Code shall be and is hereby declared severable from every other such chapter, section, subdivision, paragraph, or provision, and if any part or portion of any of them shall be held invalid, it shall not affect or invalidate any other chapter, section, subdivision, paragraph, or provision.

SEC. 1.06. PAYMENT INTO CITY TREASURY OF FINES AND PENALTIES. 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.

SEC. 1.07. MEANINGS. As used in this City Code, words of the male gender shall include the female and neuter, and the singular shall include the plural and the plural shall include the singular.

SEC. 1.08. CITATION. This codification of the ordinances of the City of Luverne, Minnesota, shall henceforth be known as the City Code and cited thus: "CITY CODE, Sec._____."

SEC. 1.09. PENALTIES FOR EACH OFFENSE. When a penalty or forfeiture is provided for the violation of a chapter, section, subdivision, paragraph, or provision of this City Code, such penalty or forfeiture shall be construed to be for each such violation

Source: City Code
Effective Date: 11-1-80

SEC. 1.10. TITLES. 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.

SEC. 1.11. REFERENCE TO A PUBLIC OFFICIAL. Wherever an appointed public official is referred to in the City Code, the reference shall include such public official or his designee.

Source: Ordinance No. 43, Third Series
Effective Date: 3-31-88

(Sections 1.12 through 1.99, inclusive, reserved for future expansion.)

CHAPTER 2: GENERAL ADMINISTRATION

SECTION 2.01. AUTHORITY AND PURPOSE. This Chapter is enacted so as to set down for enforcement the administrative powers of the City by and through its chief legislative body, the Council, and its chief administrative officer, the City Administrator. This Chapter shall constitute the "administrative code" referred to in the Chapter, City Code, and other official documents of the City.

SEC. 2.02. REGULAR COUNCIL MEETINGS. Regular meetings of the Council shall be held at the time or times established by resolution passed at least thirty (30) days prior to the effective date thereof, said times may be changed in a similar manner. Special meetings shall be called as provided in the Charter provided, however, that whenever all members of the Council are present at any special meeting by unanimous consent any business can be transacted which could be transacted at a regular meeting, and any defect as to notice or any notice whatsoever may be waived in writing. All meetings shall also meet all statutory requirements. The City Administrator shall, at least two (2) days prior to the first regular meeting in each month, prepare the following items: (1) an agenda for the forthcoming meeting; (2) a statement showing the condition, based on reasonably available data, of each fund as of the close of business of the preceding month; and (3) a compiled list of all claimants who have filed verified accounts claiming payment for goods or services rendered the City during the preceding month. The City Administrator shall forthwith cause to be delivered to the Mayor and each Alderman copies of said agenda, statement of condition of City funds and financial report, together with a copy of all unapproved minutes. Roberts' Rules of Order (Newly Revised) shall govern all Council meetings on matters not set forth in the Charter or Ordinance. The Council may adopt such additional rules of procedure as it seems appropriate and not in conflict with those provided for herein.

SEC. 2.03. COUNCIL REORGANIZATION. At its first regular meeting in January the Council shall (1) select an Acting Mayor with the duties as prescribed in the Charter, and (2) perform such organizational acts or functions as may be permitted or required. The City Administrator shall function as Secretary of the Council or with the advice and consent of the Council, he may designate another individual to act in such capacity.

Source: Ordinance No. 54, Third Series
Effective Date: 5-5-8

SEC. 2.04. ALTERATION IN WARD BOUNDARY. In compliance with State law and City Charter, the City of Luverne shall be divided into two wards by a line running generally in an easterly and westerly direction.

A. Ward Number 1 (North) shall consist of that portion of the City lying north of the following described line:

Commencing at the center line of Dodge Street and the west boundary of the City's corporate limits; thence east along the center line of said Dodge Street to the intersection of Kniss Avenue; thence south along the center line of Kniss Avenue to the intersection of Brown Street; thence east along the center line of Brown Street to the intersection of Blue Mound Avenue; thence south along the center line of Blue Mound

Avenue to the intersection of Main Street; thence east along the center line of Main Street to the most easterly portion of the east boundary of the City's corporate limits.

B. Ward Number 2 (South) shall consist of all that part of the City which is not located within Ward Number 1 described above.

C. New Annexations. Unless otherwise specifically provided by ordinance, any newly annexed property to the City lying north of the dividing line between Ward Number 1 and Ward Number 2 and the easterly and westerly extensions thereof shall be upon such annexation a part of Ward Number 1, and any property lying south of said boundary line and the easterly and westerly extensions thereof shall upon said annexation be part of Ward Number 2.

D. This section shall be effective and shall govern the 2002 City and State primary election (September 10, 2002) and all elections held thereafter, and shall further, in accordance with the City Charter, govern the election of City officials to be elected at the City's general election in 2002 and thereafter.

Source: Ordinance No. 247, Third Series
Effective Date: 5-02-02

SEC. 2.05. CITY ADMINISTRATOR. The City Administrator is established by the Charter of The City as the chief administrative officer of the City.

Subd. 1. Powers and Duties. The powers and duties of the City Administrator are specified by the City Charter and may hereafter be modified, revoked, amended, or altered by ordinance.

Source: Ordinance No. 44, Third Series
Effective Date: 3-24-88

Subd. 2. Boards and Commissions. The City Administrator shall be an ex-officio voting member of all Boards and Commissions.

Source: Ordinance No. 181, Third Series
Effective Date: 3-21-96

SEC. 2.06. LEGAL DEPARTMENT. A Legal Department is hereby established. The 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 Council. The City Attorney shall perform such duties as are required of him by law or referred to him by the Council. It shall be the official duty of the City Attorney to act as "Reviser of Ordinances."

Source: City Code
Effective Date: 11-1-80

SEC. 2.07. DEPARTMENTS GENERALLY.

Subd. 1. Appointment. All division and department heads, and other employees shall be appointed by the City Administrator. All appointments shall be for an indefinite term.

Subd. 2. Compensation. All wage and salary scales shall be fixed and determined by the Council.

Source: Ordinance No. 54, Third Series
Effective Date: 5-5-88

Subd. 3. Departmental Organization. The administrative service of the City shall be organized under the City Administrator into a management team consisting of Divisions and Departments and their respective heads. Such organizational structure shall be subject to the approval to the City Council by resolution from time to time as necessary. Division/Department Heads shall be responsible for the operation, employees, and interdepartmental coordination of the departments within each division. Division/Department Heads shall report directly to the City Administrator and shall further be responsible for the operation and personnel in their departments. Each shall perform such duties as assigned to them by law, the City Code, the City Administrator and, when applicable, the Division Head.

The City Administrator, may, if the need arises, temporarily assign part of all of the duties of one department to another department or make such other reassignments as may be necessary for the effective and efficient operation of the City. Operations of the City not directly assigned to any of the aforementioned divisions or departments shall be assigned and administered in such manner as directed by the City Administrator. Individual members of the Council shall not attempt to control nor influence the operations of the City, and collectively the Council shall issue and execute all matters of policy through the City Administrator.

Subd. 4. Duties of Division/Department Heads. The duties, responsibilities authorities, and qualifications of Division/Department Heads shall be specified in Position Descriptions for each position, which Position Descriptions shall be subject to City Council review and approval from time to time. A copy of said Position Descriptions shall be on file with the City Clerk at all times.

Source: Ordinance No. 260, Third Series
Effective Date: 2-12-04

Subd. 5. Budgetary Information. The heads of all divisions or, when applicable, a department head, shall, upon request, file with the City Administrator or, when applicable, a department head, the projected financial needs of his department for the ensuing year. Such projection shall include information as to maintenance and operation of equipment, new equipment, personnel, and such other information as may be requested by the City Administrator.

Source: Ordinance No. 121, Third Series
Effective Date: 12-12-91

SEC. 2.08. OATH OF OFFICE. The Mayor, Alderman, City Administrator, City Attorney, and each department head of the administrative service shall, before entering upon the duties of his office, take and subscribe to an oath of office and file same with the City Administrator in substantially the following form:

"I,_____, do solemnly swear that I will support the Constitution of the United States and of the State of Minnesota, and faithfully and to the best of my ability discharge the duties of _____ in and for the City of Luverne, during my continuance in office."

SEC. 2.09. BONDS. The City Administrator shall, before entering upon the duties of his office, obtain a corporate surety bond for the City in such form as security for the faithful performance of his official duties and the safekeeping of the public funds. Such bond may be either an individual or blanket bond at the discretion of the Council. It shall be approved as to form by the City Attorney and filed with the City Administrator. The provisions of the laws of the State of Minnesota relating to official bonds consistent with the City Charter shall be complied with. The premiums on such bonds shall be paid by the City. The amount of said bond shall be set by the Council.

SEC. 2.10. ADMINISTRATIVE POLICY AND PROCEDURES.

Subd. 1. Officers.

A. Perform Duties. Each officer shall perform all duties required of his office by State Law, the Charter, the City Code, and such other duties not in conflict therewith as may be required by the City Administrator or Council.

Source: City Code
Effective Date: 11-1-80

Subd. 2. Division Heads. The head of any division shall be responsible to the City Administrator and have same duties, responsibilities, and authority over the departments, department heads, and employees as does the City Administrator provided the City Administrator consents to the exercise of any such authority and may reverse the action of any Division Head at any time. Division Heads shall manage, control, and coordinate the activities under his jurisdiction through the respective Department Heads.

Subd. 3. Department Heads. The heads of departments shall:

A. Responsibility to City Administrator. Be immediately responsible to the City Administrator or when applicable a Division Head for effective administration of their respective departments and all activities assigned thereto.

B. Inaugurate Sound Practices. Keep informed as to the latest practices in their particular field and shall inaugurate, with the approval of the City Administrator, such new practices as appear to be of benefit to the service and to the public.

C. Report to City Administrator. Submit as requested reports of the activities of their departments to the Council, City Administrator, and when applicable, Division Head.

D. Maintain Reports. Establish and maintain a system of filing and indexing records and reports in sufficient detail to furnish all information necessary for proper control of departmental activities and to form the basis of the periodic reports to the Council, City Administrator, and when applicable, their Division Head.

E. Maintain Equipment. Be responsible for the proper maintenance of all City property and equipment used in his department.

F. Recommendations. Be responsible for recommending to the City Administrator, and when applicable their Division Head, changes in codes, City Code provisions, and internal departmental organization which will improve the operation of their department.

G. Authority Over Employees. Have power to recommend to the City Administrator the appointment, promotion, discipline, demotion, suspension, or removal of employees within their department; have authority to hire, subject to the approval of the City Administrator, all part-time and temporary employees for their departments.

Source: Ordinance No. 54, Third Series
Effective Date: 5-5-88

Subd. 4. Departments.

A. Cooperate With Other Departments. Each department shall furnish, upon the direction of the City Administrator, any other department such service, labor, and materials as may be needed by such department and as its own facilities permit.

Source: Ordinance No. 121, Third Series
Effective Date: 12-12-91

SEC. 2.11. REPEALED.

SEC. 2.12. REPEALED.

SEC. 2.13. REPEALED.

Source: Ordinance No. 260, Third Series
Effective Date: 2-12-04

SEC. 2.14. REPEALED.

Source: Ordinance No. 235, Third Series
Effective Date: 12-21-00

SEC. 2.15. REPEALED.

SEC. 2.16. REPEALED.

SEC. 2.17. REPEALED.

SEC. 2.18. REPEALED.

SEC. 2.19. REPEALED.

Source: Ordinance No. 260, Third Series
Effective Date: 2-12-04

(Sections 2.20 through 2.29, inclusive, reserved for future expansion.)

SEC. 2.30. EXECUTION OF CONTRACTS AND CITY SEAL. All contracts to which the City is a party, in addition to being signed by the Mayor and City Administrator, shall be sealed with the City Seal. Said Seal shall be kept in the custody of the City Administrator and affixed by him. The official City Seal shall be a circular disc having engraved thereupon "CITY OF LUVERNE" and such other words, figures or emblems as the Council may, by resolution, designate.

Source: City Code
Effective Date: 11-1-80

SEC. 2.31. RIGHT TO ADMINISTRATIVE APPEAL. If any person shall be aggrieved by any administrative decision of the City Administrator or any Board or Commission not having within its structure an appellate procedure, such aggrieved person is entitled to a full hearing before the Council upon serving a written request therefore upon the Mayor and City Administrator at least five (5) days prior to any regular Council meeting. Provided, however, that no appeal shall be considered if final and irreversible action has been taken which would affect the rights of another. 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 Administrator, or a member of the 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.

Source: Ordinance No. 44, Third Series
Effective Date: 3-24-88

SEC. 2.32. RULES OF PROCEDURE FOR APPEALS AND OTHER HEARINGS. The 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 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.

SEC. 2.33. ACCOUNTS, CLAIMS OR DEMANDS

Subd. 1. Generally. Except as to an annual salary, fees of jurors or witnesses fixed by law, or wages or salaries of employees which have been fixed on an hourly, daily, weekly, or monthly basis by the Council and which by law are authorized to be paid on the payroll basis, any account, claim, or demand against the City which can be itemized in the ordinary course of business, the Council shall not audit or allow the claim until the person claiming payment, or his agent, reduces it to writing, in items, and signs a declaration to the effect that such account, claim, or demand is just and correct and that no part of it has been paid.

Subd. 2. Discretionary Exception. The Council may, in its discretion, allow a claim prepared by the City Administrator prior to such declaration by the claimant if the declaration is made on the check by which the claim is paid.

Subd. 3. Form of Declaration. The declaration provided for in Subdivision 1 hereof is sufficient in the following form: "I declare under the penalties of law that his account, claim, or demand is just and correct and that no part of it has been paid. Signature of Claimant."

Subd. 4. Form and Effect of Declaration on Check. The declaration provided for in Subdivision 2 hereof shall be printed on the reverse side of the check, above the space for endorsement thereof by the payee, as follows: "The undersigned payee, in endorsing this check, declares that the same is received in payment of a just and correct claim against the City, and that no part of it has heretofore been paid." When endorsed by the payee named in the check, such statement shall operate and shall be deemed sufficient as the required declaration of claim.

Subd. 5. Signing Checks. All checks shall be signed by the Mayor and City Administrator.

SEC. 2.34. FACSIMILE SIGNATURES. The Mayor and City Administrator are hereby authorized to request a depository of City funds to honor an order for payment when such instrument bears a facsimile of their signatures, and to charge the same to the account designated thereon or upon which it is drawn, as effectively as though it were their manually written signatures. Such authority is granted only for the purpose of permitting such officers an economy of time and effort.

SEC. 2.35. INTERIM EMERGENCY SUCCESSION.

Subd. 1. Purpose. Due to the existing possibility of a nuclear attack or a natural disaster requiring a declaration of a state of emergency, it is found urgent and 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.

Subd. 2. Succession to Local Offices. In the event of a nuclear attack upon the United States or a natural disaster affecting the vicinity of the City, the Mayor, Council, and City Administrator 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 nuclear attack 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 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.

Subd. 3. 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.

Source: City Code
Effective Date: 11-1-80

SEC. 2.36. WORKER'S COMPENSATION. Pursuant to Minnesota Statutes 176.011, Subd. 9, Clause 6, only the City Council as elected officials of the City or members of the City Council appointed to fill a Council vacancy as provided in the City Charter shall be included in the coverage of the workers' compensation act.

Source: Ordinance No. 68, Third Series
Effective Date: 3-20-89

SEC. 2.37. SALARIES OF MAYOR AND ALDERMAN.

Subd. 1. The salary of the Mayor shall be $5,900.00 per year and for each alderman $5,000.00 per year. Salaries shall be paid in conjunction with the regular City payroll for administrative personnel and shall include such deductions and withholdings as are required or authorized by law.

Source: Ordinance No. 287, Third Series
Effective Date: 12-18-06

Subd. 2. REPEALED.

Source: Ordinance No. 131, Third Series
Effective Date: 8-10-92

Subd. 3. Per diems. In addition to the salary, each member of the Council shall receive a per diem for substantially attending any board, commission, or committee meeting; or when attending to official business or travel, but only when such attendance or activity is a formal appointment or has been specifically approved by action of the Council. The per diem shall be $35.00 for 1/2 day of four hours or less and $65.00 for a full day of more than four hours. Each member of the Council shall at least on a quarterly calendar year basis certify his attendance or approved activity prior to receiving payment. No per diem shall be paid for attendance or activity occurring more than four months prior to certification. In addition to the per diem, each member of the Council shall receive reimbursement for authorized travel expenses on the same basis as regular full-time City administrative personnel.

Subd.4. Effective Date. This ordinance shall be in full force and effect sixty (60) days after publication and the salaries and per diems authorized herein shall take effect upon Council reorganization occurring in January, 2007, as provided for in City Code, Sec. 2.03. The salaries and per diems provided for in this section are deemed reasonable and are based upon salaries paid to other Rock County elected public officials with similar duties and responsibilities.

Source: Ordinance No. 287, Third Series
Effective Date: 12-18-06

SEC. 2.38. REPEALED.

SEC. 2.39. PERSONNEL RULES. Upon the recommendation of the City Administrator, the Council may establish personnel rules setting forth the rights, duties, and responsibilities of employees which shall govern the employer-employee relationship between the City and each employee unless otherwise provided for by written contract. A personnel policy containing such rules and amendments thereto shall become effective upon receipt by the employees.

Source: Ordinance No. 54, Third Series
Effective Date: 5-5-88

SEC. 2.40. APPLICANTS FOR CITY EMPLOYMENT. The purpose and intent of this section is to establish regulations that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of employment background checks for the positions described in Subd. 1.

Subd. 1. CRIMINAL HISTORY EMPLOYMENT BACKGROUND INVESTIGATIONS: The Rock County Sheriff's Department is hereby required, as the exclusive entity within the City, to do a criminal history background investigation on the applicants for the following positions within the city, unless the city's hiring authority concludes that a background investigation is not needed:

1. Employment positions: All regular part-time or full-time positions of the City of Luverne.

2. In conducting the criminal history background investigation in order to screen employment applicants, the Rock County Sheriff's Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Rock County Sheriff's Department under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the Computerized Criminal History data may be released by the Rock County Sheriff's Department to the hiring authority, including the City Council, the City Administrator or designee.

3. Before the investigation is undertaken, the applicant must authorize the Rock County Sheriff's Department by written consent to undertake the

investigation. The written consent must fully comply with the provisions of Minn. Stat. Chap. 13 regarding the collection, maintenance and use of the information. Except for the positions set forth in Minnesota Statutes Section 364.09, the city will not reject an applicant for employment on the basis of the applicant's prior conviction unless the crime is directly related to the position of employment sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the City rejects the applicant's request on this basis, the City shall notify the applicant in writing of the following:

A. The grounds and reasons for the denial.

B. The applicant complaint and grievance procedure set forth in Minnesota Statutes Section 364.06.

C. The earliest date the applicant may reapply for employment.

D. That all competent evidence of rehabilitation will be considered upon reapplication.

Source: Ordinance No. 327, Third Series
Effective Date: 05-03-2013

(Sections 2.41 through 2.49, inclusive, reserved for future expansion.)

SEC. 2.50. BOARDS AND COMMISSIONS GENERALLY. Appointments to any board or commission, whether now existing or hereafter created, shall be made by the Mayor from residents of the City and approved by the City Council. The Mayor shall make his appointments for each expiring term at the first regular meeting in January of each year, and thereafter the Council shall proceed forthwith to consider their acceptance or rejection. Except as otherwise provided by the Council, the term of office of each person so appointed shall commence with the first meeting of the board or commission following approval of appointment. Appointees shall hold their offices until their successors are appointed and qualified. Vacancies in any board or commission shall be filled in the same manner in which the original appointment was made and any person so appointed shall serve the unexpired portion of the term in which the vacancy occurred. Every member (except ex officio and Council members who have taken oaths of office by virtue of their office) shall, before entering office and discharging of duties, take an oath of office which shall be filed with the City Administrator. Unless otherwise provided by law, City Charter, or City Code, members of any board or commission may be removed without cause at any time by the Council. The Council may declare a vacancy for any member who fails to attend any three (3) consecutive regular meetings. Each board or commission shall elect from and by its members a Chair, Vice Chair, and such other officers it deems appropriate including selection of a secretary. Minutes of all meetings shall be kept, and all records and meetings of the Board shall be open to the public. Archives of the minutes shall be kept pursuant to Minnesota Statutes section 138.17. Officers shall be selected each year at the first regular meeting following the Mayor's announcement of his appointments to the Council and they shall serve at the pleasure of the board or commission. A quorum for each board or commission shall consist of a majority of the voting members currently holding office except that the City Administrator, as an ex officio voting member, shall not be counted for purposes of establishing the quorum requirement or the making thereof.

Source: Ordinance No. 332, Third Series
Effective Date: 11-7-2013

SEC. 2.51. AIRPORT BOARD. An Airport Board is hereby established for the purpose of managing the municipal airport, Quentin Aanenson Field.

Source: Ordinance No. 173, Third Series
Effective Date: 5-18-95

Subd. 1. Composition. The Airport Board shall be composed of five (5) members, one of whom shall be an elected Council member, who shall be appointed by the Mayor with the approval of the Council. Notwithstanding the provisions of City Code Section 2.50, the Mayor may appoint one member to the Airport Board who resides outside city limits. All appointments shall be for a term of two (2) years provided that the initial appointments shall be for terms as follows:

Two members - one year
Two members - two years
Council member - two years or for such other period as is deemed appropriate, provided said appointment does not exceed the term of the elected office.

Vacancies during the term shall be filled by the Council for the unexpired portion of the term.

Source: Ordinance No. 322, Third Series
Effective Date: 3-1-2012

Subd. 2. Meetings. The Airport Board shall meet regularly at least twice each year in February and July and may hold such special meetings as may be necessary or expedient to the proper exercise of its authority. Such meetings may be called upon request by the City Council or the Chairman of the Airport Board.

Source: Ordinance No. 9, Third Series
Effective Date: 10-9-81

Subd. 3. Powers and Duties. The Airport Board shall make recommendations to the City Council and City Administrator on the operation of the Luverne Municipal Airport and may exercise such limited administrative powers and authorities as are granted or allowed from time-to-time by the City Council. Specifically, the Airport Board shall:

A. Recommend the establishment of such rules and regulations as are consistent with State and Federal authority and that are necessary and advisable for the operation and management of the municipal airport.

B. Recommend the establishment and, when necessary, updates to an airport master plan and, when consistent therewith, recommend the establishment of building and tie-down sites, construction of improvements, repairs, removal of structures, and such other improvements required for the proper and efficient operation of the municipal airport.

C. Recommend an annual budget and capital improvement plan in such form as is required by the Council which must contain provisions for an Airport Manager, capital outlay, maintenance expenses, and all other expenses and income including the establishment of appropriate rental and sales charges and rates.

D. Submit an annual report and minutes of each regular and special meeting to the City Council.

E. Recommend the performance of such other activities as may be necessary for the safe and efficient management, operation, and maintenance of the municipal airport which are consistent with sound and prudent businesslike principles.

Source: Ordinance No. 173, Third Series
Effective Date: 5-18-95

Subd. 4. Compensation. Members of the Airport Board shall serve without compensation or remuneration.

Source: Ordinance No. 54, Third Series
Effective Date: 5-5-88

SEC. 2.52. REPEALED.

Source: Ordinance No. 234, Third Series
Effective Date: 12-21-00

SEC. 2.53. REPEALED. (Library Board-Joint)

SEC. 2.54. REPEALED. (Pool Commission-Joint)

Source: Ordinance No. 303, Third Series
Effective Date: 2-26-09

SEC. 2.55. PLANNING COMMISSION.

Subd. 1. Establishment of Commission. A Planning Commission is hereby established. The Commission shall be the City Planning Agency. Any and all actions of the Commission shall be subject to approval of the Council.

Source: City Code
Effective Date: 11-1-80

Subd. 2. Composition, Appointment, and Term of Office. Said Commission shall consist of five (5) members. Four (4) members of the Board shall be appointed by the Mayor with the approval of the Council and shall serve for a term of four (4) years; provided that the initial appointments shall be for terms of one (1), two (2), three (3), and four (4) years. The fifth member shall be an Alderman or the Mayor who shall be appointed by the Mayor with the approval of the Council. The Council member will serve at the will and pleasure of the Council for a term of one year but only while continuing as a member of the Council.

Subd. 3. Meetings. The Planning Commission shall, if there is business to transact, hold at least one regularly scheduled meeting each month and such other special meetings as are needed.

Source: Ordinance No. 101, Third Series
Effective Date: 1-24-91

Subd. 4. Adoption of Program of Work. Upon the appointment and organization of the Commission, it shall proceed with the preparation and adoption of a program of work, outlining activities proposed to be undertaken in the exercise of its powers and the performance of its duties. Such a program will include:

A. An outline of data and information to be assembled as a basis of the City Plan,

B. An outline of subjects to be covered by the City Plan,

C. An outline of types of procedure necessary to make the City Plan effective.

D. The Planning Commission may, by resolution, revise its program of work from time to time.

Subd. 5. Preparation of Comprehensive City Plan. It shall be the function and duty of the Planning Commission to recommend to the Council a Comprehensive City Plan for the physical, economic, and social development of the City, including, but not limited to, proposed public buildings, street arrangements and improvements, public utility services, parks, playgrounds and other similar developments, the use of property, the density of population, and other matters relating to the development of the City. The Comprehensive Plan may also include a land use plan, a community facilities plan, a transportation plan, and recommendations for plan execution. The Plan may be prepared in sections, each of which shall relate to a major subject of the Plan or to a major geographical section of the City as outlined in the Commission's program of work.

Subd. 6. Procedure for Adoption of Plan.

A. Before adopting the City Plan or any section of it or any substantial amendment thereof, the Commission shall hold at least one public hearing thereon, notice of the time, place, and purpose of which shall be given by publication in the official City newspaper at least ten days before the day of the hearing. The adoption of the City Plan or any section or amendment thereof shall be by resolution of the Commission, approved by a majority of all the members of the Commission. The Commission may from time to time amend or add to the City Plan or section thereof as herein provided for the adoption of the original Plan whenever changed conditions or further studies by the Commission indicate that such amendment or addition is necessary.

B. An attested copy of the Plan or of any section, amendment, or addition to the City Plan adopted by the Planning Commission shall be certified to the Council.

Subd. 7. Procedure for Plan Effectuation. Upon the adoption of the Comprehensive City Plan or any section thereof, it shall be the duty of the Planning Commission to recommend to the Council reasonable and practicable means for putting into effect such Plan or section thereof in order that the same will serve as a pattern and

guide for the orderly physical, economic, and social development of the City and as a basis for the efficient expenditure of the funds thereof relating to the subjects of the City Plan. Such means shall consist of zoning regulations, regulations for the control of subdivision plats, an official map, coordination of the normal public improvements of the City, a long term program of capital expenditures, and such other matters as will accomplish the purposes of this Subdivision.

Subd. 8. Zoning Ordinance. At any time after the adoption of a land use plan for the City, the Planning Commission, for the purpose of carrying out the policies and goals of the land use plan, may, and upon instructions by the Council shall, prepare a proposed ordinance and submit it to the Council with its recommendation for adoption. No zoning ordinance or amendment thereto shall be adopted by the Council until a public hearing has been held thereon by the Planning Commission and/or the Council after a notice similar to that required by Subdivision 6 A.

Subd. 9. Official Map.

A. After adoption of a major thoroughfare plan and a community facilities plan, the Planning Commission, may and upon instructions by the Council shall, prepare or cause to be prepared an official map of the platted and unplatted portions of the City and adjoining territory, or portions thereof, indicating upon such map the land that is needed for future street purposes and as sites for other necessary public facilities and services within the City.

B. After such map has been prepared, it shall be submitted to the Council, which shall thereupon consider such map and may adopt it or any part of it with such amendments as it deems advisable. Before such adoption by the Council, a public hearing shall be held upon the proposal at least ten days after a notice of the time, place, and purpose thereof has been published in the official City newspaper. After such map has been adopted by the Council and filed with the County Recorder, whenever any street or highway is widened or improved, or any new street is opened, or interests in land for other public purposes are acquired by the City, it is not required in such proceedings to pay for any building or structure placed without a permit or in violation of conditions of the permit within the limits of the mapped street or outside of any building line that may have been established upon the existing street or within any area thus identified for public purposes.

Subd. 10. Plats.

A. Every proposed plat of land within the City or within two miles of the limits of the City and not within a town, which itself requires the approval of plats, shall be submitted to the Council before being filed, and no plat of land shall be filed unless and until the same shall first have been approved by the Council.

B. It is unlawful for any person to violate this provision, or to sell land or offer land for sale, or contract for the sale of land by reference to or by other use of any plat before such plat has been approved by the Council in accordance with the provisions of this Subdivision.

C. Before approving a plat, the Council shall submit the same to the Planning Commission for its recommendations. The Planning Commission, within sixty (60) days after any such plat has been referred to it by the Council, shall act on the

same and shall make its recommendations with respect thereto. Such recommendations may consist of:

1. Recommendation that the Council approve such plat, or
2. Recommendation that the Council disapprove plat, in which case such recommendation shall include a statement of the specific reasons for such recommendation, or
3. Recommendation that the Council approve such plat after specified changes or revisions are made therein, which recommendations may include the condition that a revised plat, containing such changes or revisions, be submitted to the Planning Commission, in which case such revised plat shall be so submitted to the Planning Commission for its further consideration and recommendations before action thereon by the Council.

Subd. 11. Procedure for Amendments. No change shall be made in the Comprehensive City Plan or any portion thereof or regulations governing the platting of land after such plans or regulations have been adopted by the Council until the proposed change has been referred to the Planning Commission for report thereon and an attested copy of such report has been filed with the Council, and no ordinance or resolution establishing any such plans or regulations shall be adopted by the Council until such ordinance or resolution has been referred to the Planning Commission for a report thereon and an attested copy of such report has been filed with the Council. Failure of the Planning Commission so to report within forty days or such longer period as may be designated by the Council after such reference shall be deemed to be approval of the proposed change.

Source: City Code
Effective Date: 11-1-80

SEC. 2.56. REPEALED.

Source: Ordinance No. 44, Third Series
Effective Date: 3-24-88

SEC. 2.57. BOARD OF APPEALS AND ADJUSTMENTS.

Subd. 1. Establishment and Composition. A Board of Appeals and Adjustments is hereby established. The Board shall be composed of three members, at least one of whom shall be a member of the Council and at least one of whom shall be a member of the Planning Commission. Members shall serve one year terms.

Subd. 2. Powers and Duties. The powers and duties of the Board shall be as prescribed by Minnesota Law and the City Code.

Source: Ordinance No. 71, Third Series
Effective Date: 6-22-89

SEC. 2.58. BOARD OF CODE APPEALS.

Subd. 1. City Code Issues.

A. Establishment and Composition. A Board of Code Appeals is hereby established. The Board shall be composed of members of the Council.

B. Powers and Duties. The powers and duties of the Board shall be to handle all appeals as to matters concerning City Code and housing maintenance as governed by Minnesota Law, Rule, or Regulation; and the City Code.

Subd. 2. Minnesota State Building Code Issues.

A. General: In order to hear and decide appeals of orders, decisions, or determinations made by the building official relative to the application and interpretation of the state building codes, the appellant may appeal to the State Appeals Board in the State of Minnesota Building Codes & Standards Division.

B. Scope: Appeals shall be made and handled as set forth in Minnesota Rule 1300.0230 as contained in the Minnesota State Building Code, as adopted by the City of Luverne, pursuant to Minnesota Statutes Sections 471.465 to 471.469, and 16B.67.

Source: Ordinance No. 279, Third Series
Effective Date: 11-24-05

SEC. 2.59. CABLE TELEVISION ADVISORY BOARD.

Subd. 1. Establishment and Composition. A Cable Television Advisory Board is hereby established. The Board shall be composed of seven members, at least one of whom shall be a member of the Council who shall serve a one-year term and at the will and pleasure of the Council. Other members shall serve staggered three-year terms so that the term of two members expire each year.

Subd. 2. Powers and Duties. The Cable Television Advisory Board shall make recommendation to the City Council and City Administrator on the conduct, operation, and maintenance of the Cable Television Franchise and such other functions as are authorized in the Cable Television Franchise Ordinance, assigned by the Council, or authorized by State and Federal law.

Source: Ordinance No. 98, Third Series
Effective Date: 9-6-90

SEC. 2.60. REPEALED.

Source: Ordinance No. 210, Third Series
Effective Date: 11-19-98

SEC. 2.61. POOL COMMISSION. A Pool Commission is hereby established.

Subd. 1. Composition. The Pool Commission shall be composed of five (5) members, one of whom shall be an elected Council member, who shall be appointed by the Mayor with the approval of the Council. Notwithstanding the provisions of City Code

Section 2.50, the Mayor may appoint one member to the Pool Commission who resides outside city limits. All appointments shall be for a term of two (2) years provided that the initial appointments shall be for terms as follows:

Two members – one year
Two members – two years
Council member – appointed annually.

Vacancies during the term shall be filled by the Council for the unexpired portion of the term.

Subd. 2. Meetings. The Pool Commission shall, if there is business to transact, hold at least one regular scheduled meeting each month and such other special meetings as are needed. Such meetings may be called upon request by the City Council or by any two members of the Pool Commission.

Subd. 3. Powers and Duties. The Pool Commission shall make recommendations to the City Council and City Administrator on the operation of the Rock County Pool & Fitness Center and may exercise such limited administrative powers and authorities as are granted or allowed from time-to-time by the City Council. Specifically, the Pool Commission shall:

A. Recommend an annual budget and capital improvement plan in such form as is required by the Council which must contain provisions for capital outlay, maintenance expenses, and all other expenses and income.

B. Submit an annual report and minutes of each regular and special meeting to the City Council.

C. Recommend the performance of such other activities as may be necessary for the safe and efficient management, operation, and maintenance of the Rock County Pool & Fitness Center which are consistent with sound and prudent businesslike principles.

Subd. 4. Compensation. Members of the Pool Commission shall serve without compensation or remuneration.

Source: Ordinance No. 303, Third Series
Effective Date: 2-26-09

SEC. 2.62**.** PARKS AND TRAILS ADVISORY BOARD. A Parks and Trails Advisory Board is hereby established.

Subd. 1. Membership. The Parks and Trails Board shall consist of five (5) voting members, one of whom shall be an elected Council member, who shall be appointed by the Mayor with the approval of the Council. Notwithstanding the provisions of City Code Section 2.50, the Mayor may appoint one member to the Parks and Trails Advisory Board who resides outside city limits.

Subd. 2. Term. All appointments shall be for a term of three years. In the event of a vacancy, the vacancy shall be filled for the unexpired term in the same manner as the appointment was originally made. Members shall serve without compensation and shall

continue to hold office until their successors have been appointed and confirmed. Initial appointments shall be for terms as follows:

Two members – one year
Two members – two years
Council member – appointed annually.

Subd. 4. Meetings. The Parks and Trails Advisory Board shall, if there is business to transact, hold at least one regular scheduled meeting each month and such other special meetings as needed. Such meetings may be called upon request by the City Council or by any two members of the Parks and Trails Advisory Board.

Subd. 5. Powers and duties. The Parks and Trails Advisory Board shall make recommendations to the City Council and City Administrator on the conduct, operation, and maintenance of the parks and trails

Source: Ordinance No. 332, Third Series
Effective Date: 11-07-2013

(Sections 2.63 through 2.69, inclusive, reserved for future expansion.)

SEC. 2.70. REPEALED.

Source: Ordinance No. 102, New Series
Effective Date: 5-24-69

SEC. 2.71. DISPOSAL OF ABANDONED MOTOR VEHICLES, UNCLAIMED PROPERTY AND EXCESS PROPERTY.

Subd. 1. Disposal of Abandoned Motor Vehicles.

A. Definitions.

1. "Abandoned Motor Vehicle" - 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 Minnesota Statutes, Chapter 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.

Source: Ordinance No. 44, Third Series
Effective Date: 3-24-88

2. "Vital Component Parts" - Those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including, but not limited to, the motor, drive train, and wheels.

B. Custody. The City shall take into custody and impound any abandoned motor vehicle.

C. 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 provision of this Subdivision.

D. Notice.

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 F of this Subdivision, and shall state that failure of the owner or lien holder to exercise their right to reclaim the vehicle and contents be deemed a waiver by them of all rights, title, and interest in the vehicle and a consent to the sale of the vehicle at a public auction pursuant to Subparagraph F of this Subdivision.

2. The notice shall be sent by mail to the registered owner, if any, of the abandoned motor vehicle and to all readily identifiable 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.

E. Right To Reclaim.

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 Subdivision.

2. Nothing in this Subdivision 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 Subparagraph E, "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.

F. Public Sale.

1. An abandoned motor vehicle and contents taken into custody and not reclaimed under Subparagraph E of this Subdivision shall be sold to the highest bidder at public auction or sale, following one published 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.

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.

G. 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 Subdivision.

H. Contracts and Disposal.

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.

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.

3. If the City utilizes its own equipment and personnel for disposal of the abandoned motor vehicle, it shall be entitled to reimbursement for the cost thereof along with its other costs as herein provided.

Source: City Code
Effective Date: 11-1-80

Subd. 2. Disposal of Unclaimed Property.

A. Definition. The term "unclaimed 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 the City Administrator.

B. Preliminary Notice. The City Administrator shall make a reasonable effort to ascertain the identity and address of the true owner of unclaimed property. If the identity and address of the owner are ascertained, the City Administrator shall serve written notice upon such owner either in person or by certified mail that, unless such unclaimed property is claimed and proof of ownership and entitlement to possession are established within thirty (30) days after the date of notice, such property shall be subject to sale by the City.

C. Notice and Sale. If, after reasonable effort, the identity and address of the true owner cannot be ascertained, or if the thirty (30) day notice period expires without such owner having made claim and established proof of ownership and entitlement to possession, the property shall be sold to the highest bidder at public auction or sale. Notice of such sale shall be published once at least three weeks prior to the sale and contain a brief description of the property to be sold, the date, time, place, and manner in which the sale shall be conducted.

D. Fund and Claims Thereon. All proceeds from such sale shall be paid into the General Fund of the City and expenses thereof paid there from. The former owner, if he makes claim with 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.

E. Effective Law. The City Administrator may elect to proceed under the provisions of this Subdivision or any applicable statutory provisions.

Subd. 3. Disposal of Excess Property.

A. Estimated Value - Less Than $10,000.00. If the excess property has an estimated value of $10,000.00 or less, the City Administrator may sell the same either upon quotations or in the open market. If the agreement to sell is made upon quotations it shall be based, so far as possible, on at least two quotations which shall be kept on file for a period of at least one year after receipt thereof.

B. Estimated Value - $10,000.00 to $15,000.00. If the excess property has an estimated value exceeding $10,000.00 but not exceeding $15,000.00, the City Administrator may sell the same by direct negotiation, obtaining two or more quotations for the sale when possible and without advertising for bids or otherwise complying with competitive bidding. All quotations shall be kept on file for a period of at least one year after receipt thereof.

C. Estimated Value - Over $15,000.00. If the excess property has an estimated value over $15,000.00, the Council shall order it sold upon sealed bids solicited by public notice as required by law.

D. Receipts From Sales of Surplus Property. All receipts from sales of surplus property under this Section shall be placed in the General Fund.

Source: Ordinance No. 44, Third Series
Effective Date: 3-24-88

Subd. 4. Persons Who May Not Purchase - Exception.

A. No employee of the City who is a member of the administrative staff, department head, a member of the 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.

B. It is unlawful for any person to be a purchaser of property under this Section if such purchase is prohibited by the terms of this Section.

SEC. 2.72. FRANCHISES.

Subd. 1. 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.

Subd. 2. Franchise Ordinances. The 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 privilege 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 the place such fixtures in such places.

Subd. 3. 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.

Subd. 4. 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:

A. 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 any City Charter and City Code as the same may from time to time be amended.

B. 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:

1. 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.

2. If possible, maximum rates and charges shall be arrived at by direct negotiations with the Council.

3. If direct negotiations fail to produce agreement, the 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, 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.

C. That the Council shall have the right to require reasonable extensions of any public service 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.

D. 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.

E. 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.

F. 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 Council shall have the power to require such alterations therein, or relocation or rerouting thereof, as the Council may at any time deem necessary for the 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.

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

H. 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.

Subd. 5. Further Provisions of Franchises. 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 Council may deem proper to protect the City's interests, nor shall anything contained in this Section limit any right or power possessed by the City over existing franchises.

Source: City Code
Effective Date: 11-1-80

SEC. 2.73. LOCAL IMPROVEMENT POLICY.

Subd. 1. General Policy. When an improvement is of special benefit to properties in a definable area, it is the intent of this Section to levy special assessments on the benefited properties to finance such improvements. Improvement costs shall, whenever possible, be assessed in full against the benefited property.

Source: Ordinance No. 179, New Series
Effective Date: 1-19-79

Subd. 2. Petition Deadlines. No petition for construction of water distribution lines, sewage lines, storm drainage curb and gutter, street improvements, sidewalks, lighting, or other assessment improvements shall be accepted or acted upon by the Council unless it is filed with the City Administrator on or before September 1 of the year prior to the year of requested construction unless waived by the Council.

Source: Ordinance No. 72, Third Series
Effective Date: 7-20-89

Subd. 3. Classification of Projects.

A. In General. Public improvements are divided into three classes specified in the following Subparagraphs according to their respective benefit to the whole City, to property specially served by the improvement and taking into account past City practice.

B. Class A. Class A improvements are those which are of general benefit to the City at large, including (1) public buildings, except a building which is part of an improvement described in one of the following Subparagraphs; (2) any public park, playground, or recreational facility; (3) the installation and maintenance of street lighting systems; and, (4) any improvement not described in Minnesota Statutes, Section 429.021, Subdivision 1. Any such improvement shall be financed from general City funds and not from special assessments.

Source: Ordinance No. 179, New Series
Effective Date: 1-19-79

C. Class B. Class B improvements are those which are of both general benefit and special benefit to abutting or nearby property. Class B improvements include: (1) trunk water mains larger than six inches; (2) trunk sanitary sewer mains larger than ten inches; (3) permanently surfacing arterial streets as defined in Subdivision 4, Subparagraph B; (4) resurfacing by a bituminous overlay over an existing permanently surfaced street; (5) interceptor storm sewers; and, (6) the construction of off-street parking facilities.

D. Class C. Class C improvements are those which are primarily if not exclusively of benefit to property abutting or in the area of the improvement, including (1) the construction of water mains no larger than six inches in diameter; (2) the construction of sanitary sewer mains no larger than ten inches in diameter; (3) the construction of curbs and gutters; (4) permanently surfacing residential streets as defined in Subdivision 5, Subparagraph B; (5) resurfacing by a bituminous overlay over an existing permanently surfaced street or the replacement of existing curbs and gutter; (6) storm sewers of a local nature; and (7) sidewalks in areas not otherwise included in special Sidewalk Districts.

Source: Ordinance No. 72, Third Series
Effective Date: 7-20-89

E. Financing Class B and C Improvements. It is the policy of the City to finance Class B and C improvements by the methods prescribed in Subdivisions 4, 5 and 6. The apportionment of the cost between benefited property and the City at large and the method of levying assessments prescribed in those Subdivisions shall be followed in each case unless the Council, by resolution, finds that because of special circumstances stated in the resolution, a different policy is necessary or desirable in the particular case. Any local improvement described in Minnesota Statutes, Section 429.02 and not placed in Class A, B or C by this Subdivision shall be financed as the Council determines to be most feasible and equitable in each case.

Subd. 4. Assessment Regulations for Class B Improvements.

A. Trunk Water Mains and Sanitary Sewers. When a water or sewer main is laid across or adjacent to unplatted property, the City shall not defer the assessment against the unplatted property if the assessment would be made for such an improvement in the case of platted property, but the City shall make the assessment at the time the assessment against other property is made, apportioning the assessment against the unplatted property on the basis of area. When a trunk sewer or water main is constructed and is to serve also as a lateral sewer or water main for abutting property, the abutting property shall be assessed for the cost of a lateral sewer or water main of eight inches plus its proportionate share of the cost of the excess capacity. Other property benefited by the trunk sewer or water main but unable to utilize it until a lateral connected to the trunk sewer or water main has been built to serve the property shall not be assessed for its share of the cost of the trunk sewer or water main until the lateral is built. The assessment for the lateral shall then include the property's share of the trunk sewer or water main. The cost of the trunk sewer or water main in excess of the lateral assessment shall be assessed on the basis of area against all properties benefited. The cost of a lift station shall be assessed on the basis of area against that property actually benefited by the lift station.

Source: Ordinance No. 179, New Series
Effective Date: 1-19-79

B. Arterial Street Surfacing.

1. Definition. For the purpose of this Section, the term "arterial street" is defined as a street used primarily to carry traffic between the thoroughfares system and minor residential streets or non-residential areas when classified as such in the City's Comprehensive Transportation Plan.

Source: Ordinance No. 72, Third Series
Effective Date: 7-20-89

2. When an arterial street is paved with concrete, a bituminous mat, or other permanent surface, the cost of the pavement on a 36-foot roadway shall be assessed against the benefited property on the basis of frontage on the abutting street. When the standard for such paving is higher than those the City would use for a residential street, the cost to be assessed shall be based on the cost of paving a residential street of the same width. The rest of the cost shall be paid from general funds.

Subd. 5. Assessment Rules for Class C Improvements.

A. Water and Sewer. The cost of lateral water mains not exceeding six inches in diameter and of lateral sanitary sewer mains not exceeding ten inches in diameter shall be assessed against abutting property on the basis of frontage. The cost of water mains to be assessed includes the service lines, if furnished, hydrants, and valves. The cost of sewer mains includes lines, if furnished.

B. Residential Streets.

1. Definition. For the purpose of this Section, the term "residential streets" is a street used primarily for access to abutting property.

2. The cost of construction of curbs and gutters on any street or of applying permanent surfaces to residential streets shall be assessed on the basis of frontage.

Source: Ordinance No. 179, New Series
Effective Date: 1-19-79

C. Sidewalks. The cost of sidewalks shall be assessed on the basis of frontage.

Source: Ordinance No. 34, Third Series
Effective Date: 7-25-87

Subd. 6. Special Rules.

A. Corner Lots. In any assessment made on the basis of frontage, except for water or sanitary sewer, corner lots shall be assessed for footage along the front of the lot plus 50% of the side street footage. In the case of an assessment for a lateral water or sewer main, Class C, corner lots shall be assessed for the footage along the front side of the lot and shall not be assessed for the footage along the side street abutting the lot unless the lot is large enough to accommodate another building which would be benefited by construction of the second main. The side yard of a corner lot shall be the street side not contained in the property address assigned by the City and used for City utility record purposes. For a bare lot without an address, the side yard shall be the longest footage until the lot is improved and an address assigned by the City.

Source: Ordinance No. 72, Third Series
Effective Date: 7-20-89

B. Intersections. The cost of water and sewer improvements in street intersections shall be included as part of the total assessable cost. In the case of any kind of street improvement or sidewalk improvement, intersection costs shall be paid by the City.

Source: Ordinance No. 34, Third Series
Effective Date: 7-25-87

C. Adjusted Frontage. When the amount of an assessment is determined by frontage, an equivalent front footage shall be determined according to the following rules when an irregular lot requires such an adjustment to maintain fairness in the assessment:

1. Front footage shall be measured at setback on cul-de-sacs and sharply curved streets and irregularly shaped lots.

2. Equivalent front footage shall be determined by dividing the square footage of the lot by the general lot depth of the subdivision for pie-shaped lots and irregular shaped lots where other rules do not apply.

D. Federal, State, and County Aid Use. If the City receives financial assistance from the Federal government , the State, or the County to defray a portion of the cost of a street improvement project, such aid shall be used first to reduce the share

of the project cost which would be met from general City funds according to the assessment formula contained in this Section. If such aid is more than the amount of the improvement cost to be borne by the City, the remainder of the aid so received shall be used to reduce each individual assessment proportionately.

Source: Ordinance No. 179, New Series
Effective Date: 1-19-79

E. Sidewalks. For all sidewalk improvements in areas other than those specifically designated as or included in special Sidewalk Improvement Districts, the assessment shall be made on the basis of 50% of the frontage. In the case of corner lots, assessment shall be made for 50% of the footage along the front of the lot plus 25% of the side street footage.

Source: Ordinance No. 30, Third Series
Effective Date: 2-8-87

F. Alleys. In any assessment made on the basis of frontage for alley right-of-way improvement in the Central Business District as the same is appropriately zoned under the provisions of City Code, Chapter 11, improved lots located at the intersection of connecting street right-of-ways shall be assessed at the rate of 50 percent of the abutting alley footage if (i) no direct or indirect access is available from the building improvements to the alley right-of-way for purposes of pedestrian or vehicular ingress or egress or the delivery or pick up of goods or services, or (ii) the Council finds that the alley is not currently used in any way to benefit said adjoining improved property.

Source: Ordinance No. 58, Third Series
Effective Date: 7-7-88

G. Street Overlays. For all street resurfacing by a bituminous overlay over an existing permanently surfaced street, the assessment shall be calculated on the basis of fifty percent (50%) of the total project cost for both footages along the front of the lot and side street. The City shall pay the remaining 50% of total project costs. This provision does not apply to public property, which shall be assessed one hundred percent (100%) of the costs attributable to the overlay of the abutting street.

Source: Ordinance No. 72, Third Series
Effective Date: 7-20-89

H. Street Reconstructs. For all street improvements requiring reconstruction of an existing permanently surfaced street, the assessment shall be calculated on the basis of frontage at the rate of seventy-five percent (75%) of the total project costs with frontage footage adjusted as required in paragraph A for corner lots. The City shall pay the remaining twenty-five percent (25%) of the total project costs. This provision does not apply to public property, which shall be assessed one hundred percent (100%) of the costs attributable to the reconstruction of the abutting street.

Source: Ordinance No. 77, Third Series

Effective Date: 10-30-89

Subd. 7. Deferment of Special Assessments.

A. The Council may defer the payment of any special assessment on homestead property owned by a person who is 65 years of age or older, or who is retired by virtue of permanent and total disability, and the City Administrator is hereby authorized to record the deferment of special assessments where the following conditions are met:

1. The applicant must apply for the deferment not later than thirty days after the assessment is adopted by the Council.
2. The applicant must be 65 years of age, or older, or retired by virtue of permanent and total disability.
3. The applicant must be the owner of the property.
4. The applicant must occupy the property as his principal place of residence.
5. The projected amount of the first year's installment of principal and interest will exceed one percent (1%) of the applicant's income from all sources and the applicant's income from all sources does not exceed the low income limit as established by the Department of Housing and Urban Development for uses in determining the eligibility for Section VIII housing purposes.

Source: Ordinance No. 146, Third Series
Effective Date: 3-18-93

B. The deferment shall be granted for as long as period of time as the hardship exists and the conditions as aforementioned have been met. However, it shall be the duty of the applicant to notify the City Administrator of any change in his status that would affect eligibility for deferment.

C. The entire amount of deferred special assessments shall be due within sixty days after loss of eligibility by the applicant. If the special assessment is not paid within sixty days, the City Administrator shall add thereto interest at the rate originally certified from the due date through December 31 of the following year and the total amount of principal and interest shall be certified to the County Auditor for collection with taxes the following year. Should the applicant plead and prove, to the satisfaction of the Council, that full repayment of the deferred special assessment would cause the applicant particular undue financial hardship, the Council may order that the applicant pay within sixty days a sum equal to the number of installments of deferred special assessments outstanding and unpaid to date (including principal and interest) with the balance thereafter paid according to the terms and conditions of the original special assessment.

D. The option to defer the payment of special assessments shall terminate and all amounts accumulated plus applicable interest shall become due upon the occurrence of any one of the following:

1. The death of the owner when there is no spouse who is eligible for deferment.
2. The sale, transfer, or subdivision of all or any part of the property.
3. Loss of homestead status on the property.

4. Determination by the Council for any reason that there would be no hardship to require immediate or partial payment.

Source: Ordinance No. 44, Third Series
Effective Date: 3-24-88

Subd. 8. Prepayment and Assessment Certification.

A. Partial Prepayment. After the adoption by the Council of the assessment roll in any local improvement proceeding, the owner of any property specially assessed in the proceeding may, prior to the certification of the assessment of the first installment to the County Auditor, pay to the City any portion of the assessment. The remaining unpaid balance shall be spread over the period of time established by the Council for installment payment of the assessment.

B. Certification of Assessments. After the adoption of any special assessment by the Council, the City Administrator shall transmit a certified duplicate of the assessment roll with each installment, including interest, set forth separately to the County Auditor to be extended on the proper tax lists of the County. In the alternative, the City Administrator shall when directed by the Council annually certify each installment, including interest, to the County Auditor for collection with the taxes due the following year as provided for by law.

Subd. 9. Warranties. No abutting property shall be reassessed for the same or a similar improvement without receiving a pro-rata credit against what would normally be assessed under the provisions of this section. The credit given shall equal a factor of one minus the fraction where the numerator is the number of whole years since the improvement was last assessed and the denominator is the life span of the improvement in years, and then multiplied by the original assessed amount, but in any event not less than zero. For purposes of this subdivision, improvement spans in years are as follows:

Water & sewer	40 years
Storm sewers	35 years
Concrete streets/alleys/curb and gutter	30 years
Sidewalks	20 years
Bituminous streets/alleys/curb and gutter	20 years
Bituminous overlays	15 years

This subdivision shall apply only to improvements made directly by City forces or by City contract under the direct authority, supervision, and control of the City; it shall not apply to improvements whose proximate cause of damage is an act of nature, such as earthquake, flood, tornado, wind, tree growth, or similar matters not associated with or caused by defective workmanship or materials.

Source: Ordinance No. 72, Third Series
Effective Date: 7-20-89

Subd. 10. Contributions for Existing Utilities Systems. In addition to any other charges or fees for water and sewer connections and use, and for connection to or

drainage into the storm water drainage system, an incremental charge shall be made to reimburse the City for the cost of its existing water, sewer, and storm sewer systems and capacity. The Council shall determine from time to time the amount and basis for computing said charges by resolution. No building permit may be issued nor a subdivision plat given final approval until such charges are paid or provisions made therefore under terms agreed to by the Council. The charges shall be in addition to any other charges including but not limited to special assessments, hook up fees, or other charges for public improvements required to serve the property in question. The charges shall apply to all property or portions thereof that has been annexed into the City on or after January 1, 1990 and no building permit or subdivision plat has been approved by the City. The proceeds of such funds shall be placed in the respective separate accounts and used for the improvement, maintenance, or operation of such systems or as otherwise authorized by the Council.

Source: Ordinance No. 113, Third Series
Effective Date: 8-1-91

SEC. 2.731. ASSESSMENT PROCEDURES FOR COLLECTION OF SPECIAL CHARGES, COST FOR ABATEMENTS OF NUISANCES, AND OTHER MISCELLANEOUS CURRENT CHARGES AS SPECIAL ASSESSMENTS.

Subd. 1. Notwithstanding any other provision contained in City Code or State law and in addition to any other method authorized by law, Charter, or ordinance, the procedures contained in this Section may be used for the collection of current services for all or any part of the cost thereof.

Subd. 2. Definition. The term “current service” as used in this Section means any of the following: Snow and/or ice removal from streets and sidewalks; rubbish removal; the mowing or eradication of noxious weeds or other grasses and growth; the abatement, removal, or elimination of any nuisance as defined by law or other provisions of City Code; the elimination of hazardous buildings; installation or repair of any utility service lines; street sprinkling, flushing, oiling, or other dust treatment; repair of sidewalks and alleys; trimming and care of trees, and removal of unsounds, diseased, or insect infected trees from any property; the operation of a street lighting system; the improvement and maintenance costs or a sidewalk improvement or storm sewer district; the charges for any City utility service or costs related thereto; or any other cost or charge related to the provision of a service to or charges against real property or the occupants thereof where the assessment thereof to benefiting private property is allowable by law, Charter, or City Code.

Subd. 3. Assessment Procedure.

A. On approximately October 1 of each year or at such other time as the City Administrator Council may deem appropriate, the City Administrator shall cause to be prepared a list, by tax parcel number, of unpaid charges by type and listing the benefiting property owner and address as contained in the records of the County Auditor for real estate tax purpose and the amount of charges therein assessable against each tax parcel to which charges are attributable. The list thereof shall be presented to the City Council which shall order a public hearing, and the City Administrator shall

thereupon cause notice to be given, all in accordance with the procedures required in Minnesota Statutes, Section 429.101, which shall be the procedure utilized for the assessment of all unpaid charges authorized by this Section. In addition to mailed notice required by law, the City Administrator shall cause published notice to be given. At the hearing, the Council shall pass upon objections to the proposed assessment for current services whether the same be presented orally or in writing. The Council may amend the proposed assessment roll as to any charge or parcel and by resolution adopt the same as a special assessment and the interest rate to be charged from the date of the hearing against the lands named in the assessment roll attached thereto. Unless the Council orders otherwise, all assessments shall be paid in one installment collected together with the annual taxes for the next succeeding year. The Council shall generally follow procedures as detailed in Minnesota Statutes, Chapter 429, in the conduct of the hearing. No party may appeal an assessment unless, following notice of the hearing, the party provides written notice of its objection to the assessment. Written notice shall be provided by the party to the City Administrator at or prior to said hearing. Any all objections to assessments not so received shall be deemed waived unless the failure to so object is due to a reasonable cause.

B. Thereafter and upon adoption of said resolution, the City Administrator shall certify to the County Auditor on or before November 30 or at a later time when allowed by the Auditor or law, thereafter the assessment roll of all those assessments not paid prior to the certification and the same shall be collected as a special assessment as provided for herein and by law.

Source: Ordinance No. 333, Third Series
Effective Date: 01-30-2014

SEC. 2.74. FAIR HOUSING.

Subd. 1. Declaration of Policy. Racial, marital status, status with regard to public assistance or disability, and sex and religious discrimination in housing, public accommodations, and public services adversely affect the health, welfare, peace, and safety of the community. Persons subject to such discrimination suffer depressed living conditions, poverty, and lack of hope, injuring the public welfare, placing a burden upon the public treasury to ameliorate the conditions thus produced, and creating conditions which endanger the public peace and order. The public policy of the City is declared to be to foster equal opportunity for all to obtain housing, public accommodations, and public services without regard to their race, creed, color, national origin, marital status, status with regard to public assistance, disability, sex, or ancestry and strictly in accord with their individual merits as human beings.

Subd. 2. Definitions. For the purpose of this Section, the following terms, phrases, words, and their derivations shall have the meaning given herein unless the context otherwise indicates:

A. "Discriminate" or "Discriminating" includes segregate or separate.

B. "Person" includes individuals, partnerships, associations, organizations, corporations, legal representatives, trustees, receivers, political subdivisions, boards, commissions, and their officers and agents.

C. "Public Accommodations" includes every business, accommodation, refreshment, entertainment, recreation or transportation facility, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

D. "Disability" means a mental or physical condition which constitutes a handicap. Nothing in this Section shall be construed to prohibit any program, service, facility, or privilege afforded to a person with a disability which is intended to habilitate, rehabilitate, or accommodate that person.

E. "Status With Regard To Public Assistance" means the condition of being a recipient of Federal, State, or local assistance, including medical assistance, or of being a tenant receiving Federal, State, or local subsidies, including rental assistance or rent supplements.

F. "Marital Status" means the standing, state, or condition of one as a single or married person.

Subd. 3. Real Property. It is unlawful discriminatory practice:

A. For an owner, lessee, sublessee, assignee, or managing agent of, or other person having the right to sell, rent, or lease any real property, or any agent of any of these:

1. To refuse to sell, rent, or lease or offer for sale, rental, or lease any real property to any person or group of persons or to negotiate for the sale, rental, or lease of any real property to any person or group of persons because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance or disability, or represent that real property is not available for inspection, sale, rental, or lease when in fact it is so available or otherwise deny or withhold any real property or any facilities of real property to or from any person or group of persons because of race, color, creed, national origin, sex, religion, marital status, status with regard to public assistance or disability;

2. To discriminate against any person or group of persons because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance or disability in the terms, conditions, or privileges of the sale, rental, or lease of any real property or in the furnishing of facilities or services in connection therewith; or,

3. In any transaction involving real property, to print, circulate, or post or cause to be printed, circulated, or posted any advertisement or sign, or use any form of application for the purchase, rental, or lease of real property, or make any record or inquiry in connection with the prospective purchase, rental, or lease of real property which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance or disability or any intent to make any such limitation, specification or discrimination.

B. For a person, bank, banking organization, mortgage company, insurance company, or other financial institution or lender to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair, or maintenance of any real property, or any agent or employee thereof:

1. To discriminate against any person or group of persons because of race, color, creed, national origin, sex, marital status, religion, status with regard to public assistance or disability of such person or group of persons or of the prospective

occupants or tenants of such real property in the granting, withholding, extending, modifying, or renewing, or in the rates, terms, conditions, or privileges of any such financial assistance or in the extension of services in connection therewith;

2. To use any form of application for such financial assistance or make any record of inquiry in connection with application for such financial assistance which expresses directly or indirectly any limitation, specification, or discrimination as to race, color, religion, creed, national origin, sex, marital status, status with regard to public assistance or disability or any intent to make any such limitation, specification, or discrimination; or,

3. To discriminate against any person or group of persons who desire to purchase, lease, acquire, construct, rehabilitate, repair, or maintain real property in a specific urban or rural area or any part thereof solely because of the social, economic, or environmental conditions of the area in the granting, withholding, extending, modifying or renewing, or in the rates, terms, conditions, or privileges of any such financial assistance, or in the extension of services in connection therewith.

C. For any real estate broker or real estate salesman, for the purpose of inducing a real property transaction from which such person, his firm, or any of its members may benefit financially to represent that a change has occurred or will or may occur in the composition with respect to race, religion, creed, color, sex, marital status, status with regard to public assistance or disability of the owners or occupants in the block, neighborhood, or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood, or area in which the real property is located, including but not limited to the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other public facilities.

D. The provisions of this Subdivision shall not apply to:

1. The rental of a portion of a dwelling containing accommodations for two (2) families, one of which is occupied by the owner; or,

2. The rental, by an owner or occupier of a one-family accommodation in which he resides, of a room or rooms in such accommodation to another person or person if the discrimination is by sex, marital status, status with regard to public assistance or disability. Nothing in this Subdivision shall be construed to require any person or group of persons selling, renting, or leasing property to modify the property in any way, or exercise a higher degree of care for a person having a disability than for a person who does not have a disability; nor shall this Subdivision be construed to relieve any person or persons of any obligations generally imposed on all persons regardless of any disability in a written lease, rental agreement, or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations, of such lease.

Subd. 4. Public Accommodations. It is an unlawful discriminatory practice to deny any person the full and equal enjoyment of goods, services, facilities, privileges, advantages, and accommodations because of race, religion, color, creed, national origin, sex, or status with regard to public assistance or disability. Nothing in this Subdivision shall be construed to require any person owning or operating public accommodations to modify property in any way, or exercise a higher degree of care for a person having a disability than for a person who does not have a disability; nor shall this Subdivision be construed to relieve any person or person of any obligation generally

imposed on all persons regardless of any disability in a written lease, rental agreement, or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations, of such lease, agreement, or contract.

Subd. 5. Public Services. It is an unlawful discriminatory practice to discriminate against any person in the access to, admission to, full utilization of or benefit from any public service because of race, color, creed, religion, national origin, sex or status with regard to public assistance or disability.

Source: Ordinance No. 44, Third Series
Effective Date: 3-24-88

(Sections 2.75 through 2.98, inclusive, reserved for future expansion.)

SEC. 2.99. 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.

Source: City Code
Effective Date: 11-1-80

CHAPTER 3: UTILITIES

SECTION. 3.01. DEFINITIONS. The following terms, as used in this Chapter, shall have the meanings stated:

1. "Utility" - All utility services, whether the same be public City-owned facilities or furnished by public utility companies.
2. "Municipal Utility" - Any City-owned utility system, including, but not by way of limitation, water, sewerage, electric, and refuse service.
3. "Public Utility" - Any utility, other than a municipal utility, serving customers in the City under a franchise.
4. "Consumer" and "Customer" - Any user of a utility.
5. "Service" - Providing a particular utility to a customer or consumer.

SEC. 3.02. FIXING RATES AND CHARGES FOR MUNICIPAL UTILITIES. All rates and charges for municipal utilities, including, but not by way of limitation, rates for service, permit fees, connection and meter reading fees, disconnection fees, reconnection fees, including penalties for non-payment, if any, shall be fixed, determined, and amended by the Council and adopted by resolution. Such resolution, containing the effective date thereof, shall be kept on file and open to inspection in the office of the City Administrator and shall be uniformly enforced.

SEC. 3.03. FIXING RATES AND CHARGES FOR PUBLIC UTILITIES. All rates and charges for public utility franchisees not regulated by an agency of the State shall be fixed and determined by the Council and adopted by ordinance. Upon adoption, such rates and charges shall become provisions of this Chapter. Public utility company rates and charges may be fixed and determined by the respective franchisees in compliance with this Section as follows:

Subd. 1. No rate or charge involving an increase thereof shall become effective until approved by the Council. To request such increase, the franchisee shall prepare its written petition setting forth the then current and proposed rates and charges, the effective date of the proposed increase (which may not be within ninety days of filing the petition), and the reason or reasons necessitating the proposed increase or increases. Such petition shall be filed with the Council by serving the same on the City Administrator in person or by certified mail, return receipt requested.

Subd. 2. Within thirty days of such filing, the Council shall adopt a resolution and serve the same upon the resident superintendent of the franchisee in like manner as the petition may be served either approving the proposed increases or ordering a hearing thereon to be held within sixty days thereof. If no such action is taken by the Council, such increase or increases shall take effect on the date stated in the franchisee's petition as though approved by the Council.

Subd. 3. Prior to the hearing date the franchisee shall, without delay, comply with the City's reasonable requests for examination and copying of all books, records, documents, and other information relating to the subject matter of the petition.

Should the franchisee unreasonably delay, fail, or refuse such requests, the same shall be grounds for a continuance of the hearing date.

Subd. 4. Notice of hearing shall be in the form and manner stated in the resolution. At the hearing all persons wishing to be heard thereon shall be afforded a reasonable opportunity. Findings and a decision shall be made by the Council within fifteen days after the hearing and served upon the franchisee.

SEC. 3.04. 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. All contracts between franchisees and consumers of utility services other than municipal shall be in strict accord with the provisions of this Chapter.

Source: City Code
Effective Date: 11-1-80

SEC. 3.05. RULES AND REGULATIONS RELATING TO MUNICIPAL UTILITIES.

Subd. 1. Billing, Payment, Prepayment and Delinquency. All municipal utilities shall be billed monthly, and a utilities statement shall be sent to the owner or occupant of the premises following reading of any meter. All utility charges shall be delinquent if they are unpaid at the close of business on the eighth of the month following such billing, provided that if the eighth day shall fall on a Saturday, Sunday, or legal holiday, the time shall be extended to the close of business on the next succeeding day on which business is normally transacted. A bill not paid when due shall be delinquent and a penalty of 10% thereof shall be added to, and become a part of, all delinquent utility bills. The penalty may be waived by the City Administrator in cases of dire emergency of the customer, or if the account has been promptly paid, during the previous twelve-month period provided the payment is received within three business days after the due date. Municipal utilities may, at the option of the City, be suspended, as provided, when a bill is so delinquent. If service is suspended due to delinquency, it shall not be restored to that location until a reconnection charge as prescribed by the Council has been paid for each utility reconnect in addition to amounts owed for service, penalties, and deposit; or a repayment plan acceptable to the City Administrator is made and an agreement signed with the City providing that utilities will be immediately shut off if the terms of the payment plan are not strictly adhered to.

Source: Ordinance No. 331, Third Series
Effective Date: 8-30-2013

Subd. 2. Application, Deposit, Connection, and Sale of Service.

A. Application for municipal utility services shall be made upon forms supplied by the City, and strictly in accordance therewith.

B. At the time of filing an application for utility service, the applicant shall deposit a sum as approved by Council resolution.

C. No connection shall be made until consent has been received from the City to make the same.

D. All municipal utilities shall be sold and delivered to consumers under the then applicable rate applied to the amount of such utilities taken as metered or ascertained in connection with such rates.

Source: Ordinance No. 166, Third Series
Effective Date: 2-2-95

Subd. 3. Discontinuance of Service. All municipal utilities may be shut off or discontinued whenever it is found that:

A. The owner or occupant of the premises served, or any person working on any connection with the municipal utility systems, has violated any requirement of the City Code relative thereto and rules and/or regulations adopted thereunder or any connection therewith, or,

B. Any charge for a municipal utility service, or any other financial obligation imposed on the present owner or occupant of the premises served, is unpaid after due notice thereof, or,

C. There is fraud or misrepresentation by the owner or occupant in connection with any application for service or delivery or charges therefor.

Source: City Code
Effective Date: 10-19-89

Subd. 3A. Procedure. Utilities shall not be shut off or discontinued under Subd. 3 until notice and an opportunity for a hearing have first been given the consumer. The notice shall state the total amount due and the date by which the account must be paid to avoid shut off or discontinuation. The notice shall also notify the customer of the procedure for administrative appeal of the proposed shut off. Shut off will not occur until at least 10 days after the notice has been mailed. Shut off for non-payment shall take place only during business hours on Monday through Thursdays. During the period between October 15 and April 15 if the utility disconnection affects the primary heat source for a residential customer, the Laws of Minnesota pertaining to Cold Weather Disconnection of Municipal Utilities shall be followed.

Source: Ordinance No. 241, Third Series
Effective Date: 9-13-01

Subd. 3B. Administrative Appeal. Prior to shut off or discontinuation of any utility, the occupant shall be given an opportunity for a hearing before the City Council. The occupant may, prior to the date of shut off or discontinuation, demand a hearing, in which case the utilities will not be shut off or discontinued until after the hearing is held. The hearing shall be scheduled not later than the next regular Council meeting. 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 for non-payment, municipal utilities may be shut off or discontinued.

Source: Ordinance No. 132, Third Series
Effective Date: 6-18-92

Subd. 4. Municipal Utility Services and Charges a Lien.

A. Payment for all municipal utility (as that term is defined in City Code, Section 3.01) service and charges shall be the primary responsibility of the owner of the premises served and shall be billed to him unless otherwise contracted for and authorized by the owner and the tenant, as agent for the owner, and consented to by the City of Luverne, Minnesota. The City may collect the same in a civil action or, in the alternative and at the option of the City, as otherwise provided in this Subdivision.

B. Each such charge is hereby made a lien upon the premises served. All such charges, when directed by the Council, shall be certified by the City Administrator of the City of Luverne, Minnesota, to the County Auditor by the thirtieth day of November of each year, and the City Administrator, in so certifying such charges to the County Auditor, shall specify the amount thereof, the description of the premises served, and the name of the owner thereof. The amount so certified shall be extended by the Auditor on the tax rolls against such premises in the same manner as other taxes, and collected by the County Treasurer, and paid to the City along with other taxes.

Source: Ordinance No. 333, Third Series
Effective Date: 01-30-2014

Subd. 5. Ownership of Municipal Utilities. Ownership of all municipal utilities plants, lines, mains, extensions, and appurtenances thereto shall be and remain in the City, and no person shall own any part or portion thereof. Provided, however, that private facilities and appurtenances constructed on private property are not intended to be included in municipal ownership.

Subd. 6. Right of Entry. The City has the right to enter in and upon private property, including buildings and dwelling houses, in or upon which is installed a municipal utility or connection therewith, at all times reasonable under the circumstances, for the purpose of reading utility meters, for the purpose of inspection and repairs to meters or a utility system or any part thereof, and for the purpose of connecting and disconnecting service.

Source: City Code
Effective Date: 11-1-80

Subd. 7. Meter Accuracy and Billing Errors. All water and electric utilities service shall be supplied through a meter which shall accurately measure the amount thereof supplied to any consumer. The consumer shall supply a safe and proper place for the installation of such meters. Meters shall be tested for accuracy by the City upon the request of any consumer who believes his meter to be inaccurate. If, upon test, it appears that such meter overruns to the extent of 3% or more, the City shall pay the cost of such tests and shall make a refund for overcharges collected since the last known date of accuracy, but for not longer than six months, on the basis of the extent of the inaccuracy found to exist at the time of the tests. If, upon test, it appears that such meter is slow to the extent of 3% or more, the consumer shall pay for undercharges since the last known date of accuracy, but for not longer than six months, on the basis of the extent of the inaccuracy found to exist at the time of the test. If, when any meter is tested upon the demand of a consumer, it is found to be accurate or less than 3% fast or slow, the

consumer shall pay the reasonable cost of such testing. If a meter is registering accurately but for other reasons a billing error occurred, the amount used shall be appropriately billed or refunded by the City but without penalty or interest for the period of time that the error occurred but not in excess of seven years from the date of discovery of the error.

Subd. 8. Unlawful Acts.

A. It is unlawful for any person to willfully or carelessly break, injure, mar, deface, disturb, or in any way interfere with any buildings, attachments, machinery, apparatus, equipment, fixture, or appurtenance of any municipal utility or municipal utility system, or to commit any act tending to obstruct or cause waste or impairment of use of any municipal utility.

Source: Ordinance No. 75, Third Series
Effective Date: 10-19-89

B. It is unlawful for any person to make any connection with, opening into, use, or alter in any way any municipal utility system without first having applied for and received written permission to do so from the City.

C. It is unlawful for any person to turn on or connect a utility when the same has been turned off or disconnected by the City for non-payment of a bill, or for any other reason, without first having obtained a permit to do so from the City.

D. It is unlawful for any person to "jumper," or by any means or device to fully or partially circumvent a municipal utility meter, or to knowingly use or consume unmetered utilities or use the services of any utility system, the use of which the proper billing authorities have no knowledge.

Source: City Code
Effective Date: 11-1-80

Subd. 9. Damage to Municipal Utility Equipment, Facilities and Appurtance/Obstruction in Public Right-of Way.

1. Definitions. For the purpose of this Subdivision only, the following definitions shall apply: Municipal Utility Equipment, Facilities and Appurtenance. Any tangible asset which is owned, controlled or leased by the City of Luverne, Minnesota, and which is required to provide utility services.

2. Obstruction. Any tangible asset, whether organic or inorganic, above ground or below ground, and real, personal or mixed; which is located in a public right-of-way owned, controlled or leased by the City of Luverne; which has not been approved by the City of Luverne; and which includes, but is not limited to trees, shrubs, gardens, lawn ornaments and landscaping; underground cables, pipes, waterlines, electrical lines, and sprinkler systems; and above-ground structures such as buildings, sidewalks, driveways and fences.

B. Damage to Municipal Utility Equipment. It is unlawful for any person to intentionally cause damage to any Municipal Utility Equipment, Facilities or Appurtenance, including but not limited to, meters, street lights, water hydrants, and curb cocks. Anyone intentionally causing such damage shall pay the reasonable value thereof to the City, including labor for replacement and installation of any such equipment, facilities or appurtenances, and shall also be subject the penalties set forth in City Code Section 3.99.

C. Damage to Obstruction. When the City does work in a public right-of-way and finds it necessary to damage, dismantle, or remove an obstruction, the costs associated therewith will be billed to that obstruction's owner and must be paid within thirty (30) days from the date of billing. Any obstruction, including but not limited to water sprinkling systems, located in the public right-of-way, shall be the sole responsibility of the obstruction's owner, and the City shall not be responsible in any way for maintenance of, or damage to said obstruction.

Source: Ordinance No. 306, Third Series
Effective Date: 6-25-09

Subd. 10. Municipal Service Disruptions. In no event will the City be responsible for direct or indirect damages caused by disruptions in the service of any municipal utility whether the same be a complete or partial interruption, including but not limited to low or high voltages or pressure, line blockages, or other fluctuations in the delivery of services.

Source: Ordinance No. 75, Third Series
Effective Date: 10-19-89

SEC. 3.06. CONNECTION OR TAPPING PROHIBITED - DELINQUENT ASSESSMENTS OR CHARGES. No permit shall be granted to tap or connect with sewer or water mains when any assessment or connection charge for such sewer or water main against the property to be connected is in default or delinquent. If such assessment or connection charges are payable in installments, no permit shall be granted unless all installments then due and payable have been paid.

Source: City Code
Effective Date: 11-1-80

SEC. 3.07. ADDITIONAL RULES AND REGULATIONS. The Council may, by resolution, adopt, and from time-to-time amend, such additional rules, regulations, and conditions for furnishing municipal utility service as it, in its sole discretion, deems necessary and proper under the circumstances. All municipal utility customers shall, upon adoption or amendment thereof, be deemed to assent and be subject to any such rules and regulations, and municipal utilities shall be connected and such services continued, only upon customer compliance with such conditions for furnishing service.

Source: Ordinance No. 75, Third Series
Effective Date: 10-19-89

SEC. 3.08. VACATION OF PUBLIC GROUNDS.

Source: Ordinance No. 326, Third Series
Effective Date: 09-27-12

Subd. 1. Petition. No public grounds or streets shall be vacated except upon the petition directed to the Council of a majority of the owners of property on the line of such public grounds or streets residing within the City, payment of the initial non-refundable filing fee as determined by the Council, and completion of the procedure

hereinafter specified. Such petition shall set forth the reasons for such desired vacation, accompanied by a plat of such public grounds or streets proposed to be vacated, and such petition shall be verified by the oath of a majority of the petitioners residing within the City. A petition for a vacation of a street, alley or other public ground shall not be granted unless all of the abutting owners and encumbrancers agree to execute utility easement documents if required by the City.

Subd. 2. Action on Petition. If, in the discretion of the Council, it is expedient that the matter be proceeded with, it may order the petition filed for record with the City Administrator, order a hearing on such petition and fix the time and place of such hearing.

Subd. 3. Notice of Hearing. The City Administrator shall give notice of such hearing by publication once at least fifteen (15) days in advance of such hearing, and by mail to the last known address of all of the owners of property on the line of such public grounds or streets proposed to be vacated at least ten (10) days in advance of such hearing, such last known addresses to be obtained from the office of the County Auditor/Treasurer. Such notice shall state in brief the object of such hearing, the time, place and purpose thereof, and the fact that the Council, or a Board or Commission designated by it shall hear the testimony and examine the evidence of the parties interested.

Subd. 4. Council Action. The Council, after hearing the same, or upon the report of such Board or Commission designated to hold such hearing, may by resolution adopted by unanimous vote of all members, declare such public grounds or streets vacated, or deny such petition. In granting a petition the Council may reserve to the City or to any utility an easement to continue maintaining facilities upon the premises vacated. The resolution, if granting the petition shall, upon payment to the City of all expenses incurred, less the initial non-refundable filing fee, be certified by the City Administrator and shall be filed for record and duly recorded in the office of the County Recorder in and for Rock County, Minnesota.

Source: Ordinance No. 321, Third Series
Effective Date: 12-8-2011

SEC. 3.09 - 3.19, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SEC. 3.20. RULES AND REGULATIONS RELATING TO WATER SERVICE.

Subd. 1. Deficiency of Water and Shutting Off Water. The City is not liable for any deficiency or failure in the supply of water to customers, whether occasioned by shutting the water off for the purpose of making repairs or connections or by any other cause whatever. In case of fire, or alarm of fire, water may be shut off to insure a supply for fire fighting. In making repairs or construction of new works, water may be shut off at any time and kept off so long as may be necessary.

Subd. 2. Repair of Leaks. It is the responsibility of the consumer or owner to maintain the service pipe from the curb stop into the house or other building. In case of failure upon the part of any consumer or owner to repair any leak occurring in his service pipe within twenty-four (24) hours after oral or written notice has been given the owner or occupant of the premises, the water may be shut off and will not be turned on until a reconnection charge has been paid and the water service has been repaired. When the waste of water is great or when damage is likely to result from the leak, the water will be turned off if the repair is not proceeded with immediately.

Subd. 3. Abandoned Services Penalties. All service installations connected to the water system that have been abandoned or, for any reason, have become useless for further service shall be disconnected at the main. The owner of the premises served by this service shall pay the cost of the excavation. The City shall perform the actual disconnection, and all pipe and appurtenances removed from the street right-of-way shall become the property of the City. When new buildings are erected on the site of old ones and it is desired to increase the old water service, a new permit shall be taken out and the regular tapping charge shall be made as if this were a new service. It is unlawful for any person to cause or allow any service pipe to be hammered or squeezed together at the ends to stop the flow of water, or to save expense in improperly removing such pipe from the main. Also, such improper disposition thereof shall be corrected by the City, and the cost incurred shall be borne by the person causing or allowing such work to be performed.

Subd. 4. Service Pipes. Every service pipe must be laid in such manner as to prevent rupture by settlement. The service pipe shall be placed not less than seven feet below the surface, in all cases so arranged as to prevent rupture and stoppage by freezing. Frozen service pipes between the curb stop and the building shall be the responsibility of the owner. Service pipes must extend from the curb stops to the inside of the building, or if not taken into a building then to the hydrant or other fixtures which they are intended to supply. A valve, the same size as the service pipe, shall be placed close to the inside wall of the building, ahead of the meter and well protected from freezing. Joints on copper tubing shall be kept to a minimum. Not more than one joint shall be used for a service up to seventy feet in length. All joints shall be left uncovered until inspected. Minimum size connection with the water mains shall be 3/4 inch in diameter.

Subd. 5. Private Water Supplies. No water pipes of the City water system shall be connected with any pump, well, pipe, tank, or any device that is connected with any other source of water supply, and when such are found, the City shall notify the owner or occupant to disconnect the same and, if not immediately done, the City water shall be turned off. Before any new connections to the City system are permitted, the City shall ascertain that no cross-connections will exist when the new connection is made. When a building is connected to "City Water," the private water supply may be used only for such purposes as the City may allow.

Source: City Code
Effective Date: 11-1-80

Subd. 6. Restricted Hours of Sprinkling. Times and hours during which water may not be used from the City water system is between the hours of 8:00 a.m. and 8:00 p.m. for lawn sprinkling, except new lawns, new seedlings, new sod, and hand garden sprinkling. Watering is allowed for even numbered addresses on even numbered days between the hours of 8:00 p.m. and 8:00 a.m. (evening and early morning). Watering is allowed for odd numbered addresses on odd numbered days between the hours of 8:00 p.m. and 8:00 a.m. (evening and morning). Property in a Homeowner Association may water on even numbered days regardless of an even or odd house number. In addition, whenever the City determines a shortage of water threatens the City of any part of the City, it may further limit the times and hours during which water may be used from the City water system for any and all uses specified during such period of water shortage or emergency. It is unlawful for any water consumer to cause or permit water to be used in violation of such determination after public announcement hereof has been made through the news media specifically indicating the restrictions thereof.

Source: Ordinance No. 347, Third Series
Effective Date: 6-30-16

Subd. 7. Private Fire Hose Connections. Owners of structures with self-contained fire protection systems may apply for and obtain permission to connect the street mains with hydrants, large pipes, and hose couplings, for use in case of fire only, at their own installation expense and at such rates as the Council may adopt by resolution as herein provided.

Subd. 8. Opening Hydrants. It is unlawful for any person, other than members of the Fire Department or other persons duly authorized by the City in pursuance of lawful purpose, to open any fire hydrant or attempt to draw water from the same or in any manner interfere therewith. It is also unlawful for any person so authorized to deliver or suffer to be delivered to any other person any hydrant key or wrench, except for the purpose strictly pertaining to their lawful use.

Subd. 9. Unmetered Service. Unmetered service may be provided for construction, flooding skating rinks, and any other purpose. Such service shall be at a duly adopted rate. Where it is difficult or impossible to accurately measure the amount of water taken, unmetered service may be provided and the unmetered rate applied; provided, however, that by acceptance thereof the consumer agrees to have the City estimate the water used. In so estimating, the City shall consider the use to which the water is put and the length of time of unmetered service.

Subd. 10. Code Requirement. All piping, connections, and appurtenances shall be installed and performed strictly in accordance with the Minnesota Plumbing Code. Failure to install or maintain the same in accordance therewith, or failure to have or permit required inspections shall, upon discovery by the City, be an additional ground for termination of water service to any consumer.

Subd. 11. Connection Fees. Service shall be furnished only after proper application has been made and connection fees paid in full.

Source: City Code
Effective Date: 11-1-80

SEC. 3.21. RULES AND REGULATIONS RELATING TO SEWERAGE SERVICE.

Subd. 1. Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this Section shall be as follows:

1. "ACT" - The Federal Water Pollution Control Act also known as the Clean Waters Act, as amended, 33 U.S.C. 1251, et seq.

2. "BOD" (denoting Biochemical Oxygen Demand) - The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees C, expressed in milligrams per liter.

3. "Building Drain" - That part of the lowest horizontal piping of a drainage system which receives the discharge from soil,
waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning two (2) feet outside the outside face of the building wall.

4. "Building Sewer" - The extension from the building drain to the public sewer or other place of disposal.

5. "Combined Sewer" - A sewer receiving both surface run-off and sewage.

6. "Garbage" - Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

7. "Individual Sewage Disposal System" - 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 the Section means "individual sewage disposal system."

8. "Industrial Wastes" - The liquid wastes from industrial manufacturing processes, trade, or business, as distinct from sanitary sewage.

9. "Industrial User" - A person who discharges to the City's sewage works liquid wastes resulting from the processes employed in industrial, manufacturing, trade, or business establishments, or from the development of any natural resource.

10. "Interference" - The inhibition or disruption of the (City's) wastewater disposal system processes or operations which causes or significantly contributes to a violation of any requirement of the (City's) NPDES or State Disposal System Permit. The term includes prevention of sewage sludge use or disposal by the City in accordance with published regulations providing guidelines under Section 405 of the Act (33 U.S.C. 1251 et seq) or any regulations developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria applicable to the method of disposal or use employed by the City.

11. "pH" - The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

12. "Pretreatment" - The process of reducing the amount of pollutants, eliminating pollutants, or altering the nature of pollutant properties in sewage to a less harmful state prior to, or in lieu of, discharging or otherwise introducing such pollutants into the sewage works. The reduction, elimination, or alteration may be obtained by physical, chemical, or biological processes, process changes, or other means, except dilution.

13. "Public Sewer" - A sewer in which all owners of abutting property have equal rights and is controlled by public authority.

14. "Sanitary Sewer" - A sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

15. "Sewage" - The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which is discharged into or permitted to enter the City's wastewater disposal system.

Source: Ordinance No. 22, Third Series
Effective Date: 10-17-84

16. "Significant Industrial User" - A user that discharges to the City's treatment facility non-domestic wastewater that: (a) has a flow of 25,000 gallons per day or more of process wastewater; or (b) contains a loading of 156 pounds per day of BOD or more; or (c) has the potential, in the opinion of the City, to adversely impact the City's treatment works or the quality of its effluent.

Source: Ordinance No. 207, Third Series
Effective Date: 8-20-98

17. "Sewage Treatment Plant" - Any arrangement of devices and structures used for treating sewage.

18. "Sewer" - A pipe or conduit for carrying sewage.

19. "Slug" - Any discharge of water, sewage, or industrial waste which is a concentration of any given constituent or in quantity of flow exceeds, for any period of duration longer than fifteen (15) minutes, more than three (3) times the average twenty-four (24) hour concentration of flows during normal operation.

20. "State Disposal System Permit" - Any permit (including any terms, conditions, and requirements thereof), issued by the MPCA pursuant to Minnesota Statutes 115.07 for a disposal system as defined by Minnesota Statues 115.01 Subdivision 8.

21. "Storm Drain" (sometimes termed as "storm sewer") - A sewer which carried storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

22. "Suspended Solids" - Solids that either float on the surface of or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

23. "User" - Any person who discharges, causes or permits discharge of wastewater into the City's wastewater disposal system.

24. "Wastewater Disposal System" or "System" - Any devices, facilities, structures, equipment, or works owned or used by the City for the purpose of the transmission, storage, treatment, recycling, and reclamation of industrial and domestic wastewater or necessary to recycle or reuse water, including intercepting sewers, outfall sewers, sewage collection system, pumping, power, and other equipment, and their appurtenances; extension, improvements, remodeling, additions, and alterations thereof; elements essential to provide a recycled water supply such as standby treatment units

and clear well facilities; and any works, including land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

Source: Ordinance No. 22, Third Series
Effective Date: 10-17-84

Subd. 2. Use of Public Sewers Required.

A. Except as provided hereinafter, it shall be unlawful to construct or maintain any privy, private vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage. It is further unlawful for any person to place, deposit, or permit to be deposited in an unsanitary manner on public or private property within the City or in any area under its jurisdiction any human or animal excrement, sewage, garbage, or other objectionable material or waste.

B. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes from which sewage is discharged shall be required at the owner's expense to install a suitable service connection to the public sewer in accordance with the provisions of this Chapter within ninety (90) construction working days of the date of notice to said owner, provided that the Council may waive the requirements herein if said public sewer is located more than 200 feet from the property line and a private wastewater disposal system is connected and meets all requirements of Subd. 3. All future buildings constructed shall be required to immediately connect to the public sewer. If sewer connections are not made pursuant to this Section, an official thirty (30) day notice shall be served instructing the affected property owner to make said connection and no occupancy of the building shall be permitted until said connection is made.

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

Subd. 3. Private Wastewater Disposal.

A. Where a public sewer is not required under the provisions of Subd. 2, the building sewer must be connected to a private wastewater disposal system complying with the provisions of this Subdivision.

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

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

applicant for the permit shall notify the City when work is ready for final inspection before any underground portions are covered. The inspection shall be made within seventy-two (72) hours of the receipt of notice. The City may also request discovery work at the expense of the owner to verify the system was constructed and operating according to plans.

D. The type, capacities, location, design, and layout of a private wastewater disposal system shall comply with all requirements of Minnesota Rules Chapter 7080 entitled, “Individual Sewage Treatment System” and amendments or successor provisions thereto. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

E. At such time as a public sewer becomes available to a property serviced by a private wastewater disposal system, a direct connection shall be made to the public sewer within ninety (90) days of such availability in compliance with this section and within one hundred eighty (180) days, any septic tanks, cesspools, and similar private wastewater disposal systems shall be cleaned of sludge. The bottoms shall be broken to permit drainage and the tank or pit filled with suitable material.

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

G. No statement contained in this Subdivision shall be construed to interfere with any additional requirements that may imposed by the Minnesota Pollution Control Agency, Department of Natural Resources, the Department of Health, or any other State or Federal authority having jurisdiction thereof.

Source: Ordinance No. 120, Third Series
Effective Date: 12-12-91

Subd. 4. Building Sewers and Connections.

A. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Building Inspector.

B. There shall be two classes of building sewer permits: (1) for residential and commercial service, and (2) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgement of the Building Inspector. A permit and inspection fee shall be paid to the City at the time the application is filed, said fee to be an amount as currently on file in the city’s sewage rate schedule.

C. All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

D. A separate and independent building sewer shall be provided for every building except where one building sewer stands at the rear of another or an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

E. Old buildings' sewers may be used in connection with new buildings only when they are found, on examination by the Building Inspector, to meet all requirements of this Section.

F. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

G. No person shall make connection of roof down spouts, exterior foundation drains, areaway drains, or other source of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

H. The connection of the building sewer into the public sewer shall conform to the requirements of the Building and Plumbing Code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No.9. All such connections shall be made gas-tight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Building Inspector before installation. A copy of the controlling Code rules and regulations will be made available on request for an appropriate fee.

I. The applicant for the building sewer permit shall notify the Building Inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Building Inspector.

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

Subd. 5. Sewer System General Regulations.

A. Discharge of Surface Waters, Etc. No person shall discharge or cause to be discharged any storm water, surface water, ground water, cooling water, or unpolluted industrial process waters into any sanitary sewer. No rain spout or other form of surface drainage and no foundation drainage shall be connected with any sanitary sewer.

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

1. Any wastewater having a temperature greater than 150 degrees F. (65.6 degrees C), or causing, individually or in combination with other wastewater, the influent at the wastewater treatment plant to have a temperature exceeding 104 degrees F (40 degrees C).

2. Any water or waste having a biological oxygen demand exceeding 1,000 parts per million by weight for any 24 hour period.

3. Any gasoline, benzene, naphtha, fuel oil, kerosene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, bromates, carbides, hydrides or sulfides, or other flammable or explosive liquid, solid, or gas.

4. Any garbage that has not been properly shredded to particles of one-half inch (1/2") or less in any dimension.

5. Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, manure, grit, brick, cement, onyx, carbide,

animal guts or tissues, paunch, manure, bones, hair, hides of fleshings, entrails, whole blood, spend lime, stone or marble dust, straw shavings, grass clippings, spent grains, spent hops, waste paper, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes, or other matter that may interfere with the proper operation of the sewers or sewage treatment plant.

6. Any water or waste having a pH lower than 5.0 or higher than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the sewage works.

7. Any water or waste containing a toxic or poisonous substance 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.

8. Non-contact cooling water or unpolluted storm or ground water.

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

10. Any water or wastes containing strong acid, iron, pickling wastes, or concentrated plating solution, whether neutralized or not.

11. Any waters or wastes containing iron, chromium, copper zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Council for such materials.

12. Materials which exert or cause unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works, and unusual volume of low or concentration of wastes constituting “slugs” as defined herein.

13. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

14. National categorical pretreatment standards promulgated by the U.S. Environmental Protection Agency (EPA) shall be met by all uses which are subject to such standards unless otherwise modified in accordance with applicable Minnesota Statutes or EPA regulations.

15. No user shall increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained herein, contained in the national categorical pretreatment standards, or contained in any Minnesota state requirement.

16. Sludges, floats, skimmings, etc. generated by an industrial or commercial pretreatment system shall not be placed into the City’s sewage works. Such sludges shall be contained, transported, and disposed of in accordance with all federal, state, and local regulations.

C. Accidental Discharges. Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this ordinance. Where necessary, facilities to prevent accidental discharge of prohibited

materials shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review and approval.

Users shall notify the City immediately upon having a slug or accidental discharge of substances or wastewater in violation of this Ordinance in order to enable counter-measures to be taken to minimize damage to the sewage works and the receiving waters. Such notification will not relieve users of liability for any expense, loss, or damage to the sewage works or treatment process, or for any fines imposed on the City on account thereof under any state or federal law. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a slug or accidental discharge. Employers shall insure that all employees who may cause or discover such a discharge are advised of the emergency notification.

D. Monitoring Facilities. Monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems shall be provided and operated by all industrial users. The monitoring facility should normally be situated on the user's premises, but the City Administrator may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and composting of samples for analysis. The facility, and sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City Administrator's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the City Administrator, unless time extension is otherwise granted by the City Administrator.

E. Measurement Procedures. All measurements, tests, and analyses of the characteristics of waters and water to which reference is made in this Section shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided or upon suitable samples taken at said control manhole.

F. Inspection and Sampling. The City Administrator shall inspect the facilities of any user to ascertain whether the purpose of this Ordinance is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the City Administrator ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination, or in the performance of any of their duties. The City Administrator, Minnesota Pollution Control Agency, (MPCA), and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring, and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with any security guards so that upon presentation of suitable identification, duly authorized City employees, Minnesota Pollution Control Agency employees, and U.S. Environmental

Protection Agency employees bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, record, examination, observation, and performance, of their specific responsibilities.

G. Special cases. No statement contained in this Subdivision shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby any industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefor, by the industrial concern. In no event shall the terms and provisions of such special agreement cause the City to violate its NPDES permit or State Disposal System Permit or result in plant interference, pass through, or restrictions on sludge disposal. Additionally, any special agreement shall not agree to variances for industries from national categorical pretreatment standards. Whenever it is determined that any lot, parcel of land, building, or premises is discharging industrial wastes of unusual volume, concentration, or character, or of a greatly variable volume, a special rate for such class of users, taking into consideration the volume, biochemical-oxygen-demand value, and suspended-solids content of the industrial wastes, and the nature of the use made of the sewer system may be adopted by resolution of the Council.

Subd. 6. Powers and Authority of Inspectors. Duly authorized City employees bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Section. City employees shall have no authority to inquire into any processes, including metallurgical, chemical, oil refining, ceramic, paper, or other industries, beyond that point having a direct bearing of the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

Subd. 7. Enforcement.

A. The City Administrator may suspend the sewage treatment services to any user (after informal notice to the discharger) when such suspension is necessary, in the opinion of the City Administrator, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, or to the sewage system, or would cause the City to violate any condition of its NPDES or State Disposal System Permit.

Any user notified of a suspension of the sewage treatment service shall immediately stop the discharge. In the event of a failure of the user to comply voluntarily with the suspension order, the City Administrator shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the sewage system or endangerment to any individuals. The City Administrator shall reinstate the sewage treatment service upon proof of the elimination of the non complying discharge. A detailed written statement submitted by the user describing the causes of any slug or accidental discharge and the measures taken to prevent any future occurrence shall be submitted to the City Administrator within fifteen (15) days of the date of occurrence.

B. In accordance with the procedures set forth in this Ordinance, the City Administrator may revoke the permit of any user which fails to factually report the sewage constituents or characteristics; or which refuses reasonable access to the user's

premises for the purpose of inspection or monitoring or for violation of conditions of its permit, this Ordinance, or applicable state and federal regulations.

C. If any person discharges sewage, industrial wastes, or other wastes into the City's sewage system contrary to the provisions of this Ordinance, federal or state pretreatment requirements, or any order of the City, the City Attorney may, following the authorization of such action by the City Council, commence an action for appropriate legal and/or equitable relief.

D. A list of the users which were significantly violating applicable pretreatment requirements or national categorical pretreatment standards during the twelve (12) previous months shall be annually published by the City in a local newspaper. The notification shall also summarize any enforcement actions taken against the user(s) during the same twelve (12) months. For the purpose of this provision, significant violations would be those violations which remain uncorrected 45 days after notification of noncompliance, which are part of a pattern of noncompliance over a twelve month period, or which involve a failure to accurately report noncompliance.

Source: Ordinance No. 22, Third Series
Effective Date: 10-17-84

Subd. 8. Civil Penalties.

A. Any person who is found to have violated or who has failed to comply with any provision of this Section and the orders, rules, regulations, and permits issued hereunder, shall be subject to a civil penalty of not less than $100.00 nor more than $1,000.00 for each occurrence. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the City may recover reasonable attorney's fees, Court costs, Court Reporter's fees, and other expenses of litigation by an appropriate action against the person found to have violated this Section or the orders, rules, regulations, and permits issued hereunder.

B. Any person violating any of the provisions of this Section or who has caused a discharge which results in a deposit, obstruction, damage, or other impairment to the wastewater disposal system, shall be liable to the City for any expenses, loss, or damage caused by the violation or discharge. The City may add to the user's charges and fees the costs assessed for any cleaning, repair or replacement work resulting from the violation or discharge. Any refusal to pay the assessed costs shall constitute a violation of this Section.

C. If the City is penalized by any other governmental unit by reason of any violation, the penalties provided for this Subdivision shall be in addition to any penalty so levied by such other governmental unit.

Source: Ordinance No. 141, Third Series
Effective Date: 12-24-92

SEC. 3.215. REGULATING SUMP PUMP DISCHARGES INTO THE SANITARY SEWER SYSTEM.

Subd. 1. Purpose. 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. 2. 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. 3. Disconnection. Any person, firm, or corporation having a roof, surface, ground, sump pump, footing tile, or swimming pool now 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, approved by the City.

Subd. 4. 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 Section 2 above. 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 Luverne 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.

Source: Ordinance No. 167, Third Series
Effective Date: 3-9-95

Subd. 5. 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.

Application for waivers pursuant to this subdivision 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 of $35.00 per year for the additional sewer service, payable October 15 of the year.

Source: Ordinance No. 170, Third Series
Effective Date: 5-4-95

Subd. 6. Penalty. A surcharge of Seventy-Five and no/100 ($75.00) Dollars per month 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.

Source: Ordinance No. 167, Third Series
Effective Date: 3-9-95

SEC. 3.22. RULES AND REGULATIONS RELATING TO REFUSE AND RECYCLABLE COLLECTION AND DISPOSAL.

Subd. 1. Definition. Unless the context specifically indicates otherwise, the meaning of the terms used in this Section shall be as follows:

Source: Ordinance No. 246, Third Series
Effective Date: 4-11-02

A. The term “garbage” means and includes all drained organic material resulting from the preparation of food and spoiled or decayed food from any source, non-recyclable cans, non-recyclable bottles, non-recyclable glassware, non-recyclable paper or paper products, crockery, ashes, rags, discarded clothing, putrescible and nonputrescible solid wastes, rubbish, and other discarded waste materials and sludge in solid, semisolid, liquid, or contained gaseous form. Garbage does not include medical waste, yard waste, or demolition debris.

Source: Ordinance No. 261, Third Series
Effective Date: 4-08-04

B. The term “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 as a recyclable is any other material that the City may hereafter be required to collect as a recyclable by the Rock County Environmental Office.

C. The term “demolition debris” 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.

D. The term “yard waste” means the garden wastes, leaves, lawn cuttings, weeds, and prunings generated at residential or commercial properties.

Source: Ordinance No. 246, Third Series
Effective Date: 4-11-02

E. The term “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.

Source: Ordinance No. 261, Third Series
Effective Date: 4-08-04

Subd. 2. Storage and Transporting Garbage.

A. It is unlawful for any person to store or accumulate garbage except as herein provided. Any unauthorized accumulations of garbage on any premises is a nuisance and prohibited.

B. It is unlawful for any person to transport garbage over any street, for hire, except by special permit from the Council, acting within the course and scope of a written contract with the City, or his employment with the City.

C. It is unlawful for any person to transport garbage 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. Any vehicle transporting garbage shall meet all City and County weight requirements per axle when loaded.

D. Garbage and recyclables, in appropriate containers, are to be placed at the curb or other location as approved by the City, for property where the individual resides.

E. It is unlawful for any person to haul and dispose of garbage or recyclables in a dumpster provided to a private business for that business’s use.

Subd. 3. Garbage Containers. All garbage shall be stored in containers provided by the City of Luverne with a maximum capacity of 60 gallons and not exceeding total weight of 65 pounds with the lid closed. The container must be moved to the curb and face the street in order to be picked up on the scheduled day. The container must not be blocked by a vehicle/mailbox or other obstacle. The container must not have garbage items packed in so tight that the material will not come out. The Garbage Container must not include any grass, leaves, recyclable items, hazardous waste, or other non-garbage items.

Subd. 4. Recyclable Containers. All recyclable materials shall be stored in containers provided by the City of Luverne with the lids closed. Recyclable items are to

be placed in the appropriately labeled container and taken to the curb in time for pickup on the scheduled day.

Source: Ordinance No. 227, Third Series
Effective Date: 4-20-00

Subd. 5. Collection and Disposal of Garbage. All garbage accumulated in residential properties, City-owned facilities, Rock County-owned/operated facilities, and City/Rock County-owned facilities within the City of Luverne shall only be collected by the City of Luverne in a sanitary manner to insure 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 the designated collection point on days specified by the City. For purposes of this Section, residential properties shall include, but are not limited to, all single family dwellings, multi-family dwellings including single family residences, duplexes, tri-plexes, four-plexes and apartment complexes, churches, day-care facilities, retirement homes, homes for the elderly, home care or assisted living facilities, and hospice facilities. Residential properties shall not include nursing homes licensed by the State of Minnesota or commercial, industrial, or institutional properties not specifically included in the meaning or definition of residential properties.

A. In the event a large volume of garbage is generated at a residential property, as a result of extraordinary circumstances or events, a special or additional pickup(s) may be requested. The person requesting the special or additional pickup(s) shall be responsible for the costs of such special or additional pickup(s).

Source: Ordinance No. 261, Third Series
Effective Date: 4-08-04

Subd. 6. Property of the City. Once garbage is placed at the curb for collection, no private individual shall collect, carry off, take, or assume possession of any such materials except by express written direction and consent of the City.

Subd. 7. Burying of Garbage, Composting. No person shall bury any garbage within the City except in an approved sanitary landfill; but leaves, grass clippings and easily biodegradable, non-poisonous garbage may be composted on the premises where such garbage has been accumulated.

Subd. 8. Schedules. The City Council shall by resolution establish a schedule for the collection of garbage on a regular periodic basis. The City Council shall also establish, by resolution, the schedule for any additional pick ups including, but not necessarily limited to spring clean up or leaf pick up.

Source: Ordinance No. 277, Third Series
Effective Date: 4-20-00

Subd. 9. Additional Collections. The City Council, may from time to time establish guidelines to make provisions for special collections, including, but not necessarily limited to, a spring clean up for the purposes of receiving materials not included in the periodic garbage collection service, a leaf pick up, and a branch or other

debris pick up. Such special collections shall apply only to residential properties served by the City of Luverne under Section 3.22, Subd. 5.

Source: Ordinance No. 261, Third Series
Effective Date: 4-08-04

Subd. 10. Prohibited Practices. No person shall engage in “junking” or shall otherwise take, pick up, or collect garbage which has been placed on a public street for collection by the City. During a scheduled spring clean up, however, junking will be permitted during the hours from 8:00 A.M. to 8:00 P.M. Any violation of this subdivision shall be considered a misdemeanor.

Source: Ordinance No. 227, Third Series
Effective Date: 4-20-00

SEC. 3.23. RULES AND REGULATIONS RELATING TO ELECTRIC SERVICE.

Subd. 1. Code Requirements. All wiring, connections, and appurtenances shall be installed and performed strictly in accordance with the National Electric Code. Failure to install or maintain the same in accordance therewith, or failure to have or permit required inspections, shall, upon discovery by the City, be an additional ground for termination of electrical service to any consumer.

Subd. 2. Services. New or changed service installations shall be made at the expense of the consumer, placed underground where designated by the City, and the meter location shall also be designated by the City. Overhead service installations may be permitted by the City (1) temporarily during new construction; (2) temporarily during an emergency to prevent danger to person or property; (3) for a period of not more than seven months when soil conditions make excavation for underground service impractical, or (4) where to require underground service, the consumer has shown that such requirement is unduly burdensome.

Subd. 3. Replacing or Converting to Underground.

A. Converting to Underground. The City may, at its option and at its expense, convert any present service, where no change is otherwise required by the consumer, from overhead to underground. Where this is done, the City shall only cover and refill the trench and other ditching maintenance or repair, and all subsequent changing and repairing of the service shall be the obligation of the consumer.

B. Replacing. Nothing herein shall prevent the City from replacing an overhead service with the same type.

C. Meters and Placement Service. Placement of services and meters shall be determined by the City.

Source: City Code
Effective Date: 11-1-80

SEC. 3.24. ESTABLISHMENT OF RULES AND REGULATIONS OF THE STORM WATER DRAINAGE UTILITY.

Subd. 1. Pursuant to Minnesota Statutes, Section 444.075, the City establishes a storm water drainage utility and authorizes the imposition of just and reasonable charges for the use and availability of storm sewer facilities.

Subd. 2. Findings and Determinations.

A. In the exercise of its governmental authority and in order to promote the public health, safety, convenience, and general welfare, the City has constructed, operated, and maintained a storm sewer system ("the system"). This section is adopted in the further exercise of such authority and for the same purposes.

B. The system, as constructed, heretofore has been financed and paid for through the imposition of special assessments and ad valorem taxes. It is now necessary and desirable to provide an alternative method of recovering some or all of the future costs and improving, maintaining, and operating the system through the imposition of charges as provided in this section.

C. In imposing charges, it is necessary to establish a methodology that undertakes to make them just and equitable. Taking into account the status of completion of the system, past methods of recovering system costs, the topography of the City and other relevant factors, it is determined that it would be just and equitable to assign responsibility for some or all of the future costs of operating, maintaining, and improving the system on the basis of the expected storm water runoff from the various parcels of land within the City during a standard rainfall event. For the purposes of this section, a standard rainfall event is defined as the 100-year storm of one-day duration. It is assumed that there is five times as much runoff from impervious land as land covered with vegetation for the standard rainfall event.

D. Assigning costs and making charges based upon expected typical storm water runoff cannot be done with mathematical precision but can only be accomplished within reasonable and practical limits. The provisions of this section undertake to establish a reasonable and practical methodology for making such charges.

Subd. 3. Rates and Charges.

A. Residential equivalent factor. Rates and charges for the use and availability of the system shall be determined through the use of a "Residential Equivalent Factor" ("REF"). For the purposes of this section, one REF is defined as the ratio of the average volume of surface water runoff coming from one acre of land and subjected to a particular use, to the average volume of runoff coming from one acre of land subjected to typical single-family residential use within the City during a standard rainfall event.

Source: Ordinance No. 135, Third Series
Effective Date: 7-23-92

B. Storm water drainage charges. In determining charges, the City Council shall by resolution establish a basic system rate to be charged against one acre of land having an REF of one. The charge to be made against each parcel of land shall then be determined by multiplying the REF for the parcel's land use classification times

the parcel's acreage times the basic system rate. The REF's for the following land uses within the City and the billing classifications for such land uses are as follows:

CLASSIFICATION	LAND USES	REF
1	Cemeteries, Parks, Golf Courses	0.50
2	Single-family and Duplex Residential	1.00
3	Public and Private Schools and Institutional Uses	1.30
4	Multiple-family Residential and Churches	1.70
5	Commercial and Industrial	2.30
6	Farm Land (tillable and pasture)	0.10
7	Undeveloped Land in the 100 Year Flood Fringe or Floodway Zones, or Sloughs, Ponds, etc. without Drainage Outlet	0.00

For the purpose of calculating storm water drainage charges, all developed single-family and duplex parcels shall be considered to have an acreage of one-third (1/3) acre per unit. Double bungalows or duplexes shall be considered to be two units. Farmsteads with accessory structures and out buildings shall be classed in the single-family/ duplex residential class and considered to have an acreage of 2/3rds acre per dwelling unit plus any other land at its REF classification.

Source: Ordinance No 139, Third Series
Effective Date: 11-19-92

Subd. 4. Other Land Uses. Other land uses not listed in the foregoing table shall be classified by the City Administrator in consultation with the City Engineer by assigning them to classes most nearly like the listed uses, from the standpoint of runoff volume for the standard rainfall event. An appeal from the City Engineer's determination of the property classification may be made to the City Council.

Subd. 5. Adjustment of Charges. The City Council may by resolution adopt policies providing for the adjustment of charges for parcels or groups of parcels, based upon land use data supplied by affected property owners, which data demonstrates a runoff volume for the standard rainfall event substantially different from the REF being used for the parcel or parcels. Such adjustment shall be made only upon recommendation of the City Engineer and shall not be made effective retroactively.

Subd. 6. Exemptions. Public street rights-of-way are exempt from storm water drainage charges.

Subd. 7. Payment of Charge and Tax Lien. Storm water utility bills shall be paid in conjunction with other municipal utility charges and in accordance with the provisions of the City Charter and this Chapter. Notwithstanding any other provision of City Code, storm water drainage fees are specifically found to benefit the property so billed and served and shall constitute a lien thereon until paid. Past due fees may be certified to the County Auditor for collection with the real estate taxes in the following year pursuant to the City Charter and Minnesota Statutes, Section 444.075, Subd. 3. In

addition, the City shall have the right to bring a civil action or to take other legal remedies to collect unpaid charges.

Subd. 8. Recalculation of Charges. If the property owner or person responsible for paying the storm water drainage charge questions the correctness of such a charge, such person may have the determination of the charge recomputed by written request to the City Administrator. Such request shall be made within thirty (30) days of the mailing of the billing in question.

Subd. 9. Storm Water Drainage Districts. The Council may by resolution establish storm water drainage districts within the City and provide for a unique basic system rate for each district based upon the costs of improving, maintaining, and operating the system within said district. Unless the council by resolution specifically orders otherwise funds collected from one district shall not be used in another district; however this provision shall not preclude the co-mingling or use of funds for costs deemed to be common and substantially equivalent to all districts, nor temporary loans among districts, nor the pledging of revenues from all district to secure bonds or other indebtedness. All other provisions of this section not in conflict with this subdivision shall apply to each district.

Source: Ordinance No. 135, Third Series
Effective Date: 7-23-92

SEC. 3.25. TRANSMITTING, FURNISHING, DELIVERING, AND/OR RECEIVING OF ELECTRIC ENERGY.

Subd. 1. Franchise Required. Except as otherwise provided by law, no person, firm, or corporation shall transmit, furnish, deliver, or receive, or cause to be transmitted, furnished, delivered, or received electric energy for light, power, heat, and other purposes for public and/or private use within and through the limits of the City, or place or maintain any permanent or semi-permanent fixtures, over, upon, or under any street or public place for the purpose of operating a public utility or transmitting, furnishing, delivering, or receiving, or causing to be transmitted, furnished, delivered, or received electric energy or for any other purpose, except pursuant to a franchise from the City. A franchise shall be granted only by ordinance. Every ordinance granting a franchise shall contain all the terms and conditions of the franchise. The grantee shall bear the costs of publication of the franchise ordinance and shall make a sufficient deposit with the City Administrator or his designee to guarantee publication before the ordinance is adopted.

Subd. 2. Term. No perpetual franchise or privilege shall ever be created, nor shall any exclusive franchise or privilege be granted for a period of more than twenty (20) years.

Subd. 3. Franchise Fee. As a part of any franchise ordinance adopted, the City may impose upon the grantee a franchise fee. The franchise fee, set by resolution, shall be expressed as a specified charge per kilowatt hour of electric energy transmitted, furnished, delivered, or received, which fee shall be calculated by the City Council and

imposed upon each kilowatt hour of electric energy transmitted, furnished, delivered, or received within the City. The franchise fee may be changed by resolution from time to time; however, no change shall be adopted until at least 30 days after written notice enclosing such proposed resolution has been served upon the grantee by certified mail. The franchise fee may not be changed more often than once in each calendar year.

Subd. 4. Severability. If any portion of this ordinance is found to be invalid for any reason, the validity of the remainder shall not be affected.

Subd. 5. Public Hearing. Before any franchise ordinance is adopted or any rates, fares, or prices to be charged by a public utility are fixed by the Council, the Council shall hold a public hearing on the matter. Notice of such hearing shall be published at least once in the official newspaper not less than ten days prior to the date of the hearing.

Subd. 6. Power of Regulation Reserved. Subject to any applicable law, the Council may by ordinance reasonably regulate and control the exercise of any franchise, including the maximum rates, fares, or prices to be charged by the grantee. No franchise value shall be included in the valuation of the grantee's property in regulating utility rates, fares, or prices under any applicable law, ordinance, or regulation or in proceedings for municipal acquisition of the grantee's property by purchase or eminent domain.

Subd. 7. Renewals or Extensions. Every extension, renewal, or modification of any existing franchise or of any franchise granted hereafter shall be subject to the same limitations and shall be granted in the same manner as a new franchise.

Source: Ordinance No. 203, Third Series
Effective Date: 8-21-97

SEC. 3.26. AGGREGATION OF DEMAND RESPONSE IN THE MUNICIPAL ELECTRIC UTILITY SYSTEM.

Subd. 1. Legislative Findings. The City Council of the City of Luverne hereby finds the following:

A. The Federal Energy Regulatory Commission has issued Order No. 719, 125 FERC ¶ 61,071, 73 Fed. Reg. 64,099 (October 28, 2008).

B. Pursuant to Order No. 719, 18 C.F.R. § 35.28(g)(1)(iii) provides: "Each Commission-approved independent system operator and regional transmission organization must permit a qualified aggregator of retail customers to bid demand response on behalf of retail customers directly into the Commission-approved independent system operator's or regional transmission organization's organized markets, unless the laws and regulations of the relevant electric retail regulatory authority expressly do not permit a retail customer to participate."

C. Pursuant to Order No. 719, 18 C.F.R. §35.28 (g)(1)(i)(A) provides: "Every Commission-approved independent system operator or regional transmission organization that operates organized markets based on competitive bidding for energy

imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary service (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff) must accept bids from demand response resources in these markets for that product on a basis comparable to any other resources, if the demand response resource meets the necessary technical requirements under the tariff, and submits a bid under the Commission-approved independent system operator's or regional transmission organization's bidding rules at or below the market-clearing price, unless not permitted by the laws or regulations of the relevant electric retail regulatory authority."

D. Pursuant to Minnesota Law and the City Charter, the City of Luverne is authorized to enact regulations governing the provision of electric power to retail customers within the service territory of the Municipal Electric Utility.

E. It would be harmful to the demand response in the Municipal Electric Utility, and the collective interests of the municipal electrical system, as a load-serving entity with an obligation to serve at retail, the electrical system's retail customers to permit any entity other than the municipal electrical system itself or its authorized designee to aggregate demand response on behalf of its retail customers.

F. It to be desirable that the aggregation of demand response on behalf of retail customers served by the municipal electric system to be bid directly into the organized electric and ancillary services markets administered by the Regional Transmission Organization/Independent System Operators, or its successors or authorized designee, the following amendments to the City Code of the City of Luverne are hereby adopted.

Subd. 2. Based upon the aforementioned findings, the City Council hereby adopts the following utility regulations:

A. "Aggregation of Retail Customer Demand Response"

1. The Municipal Electric Utility or its authorized designee is the sole entity permitted to bid demand response on behalf of retail customers served by the municipal electrical system directly into any Commission-approved independent system operator's or regional transmission organization's organized electric markets.

2. Retail customers served by the municipal electrical system wishing to bid their demand response into a Commission-approved independent system operator's or regional transmission organization's organized electric markets may do so by participating in the program established by the municipal electrical system or its authorized designee. Retail customers are not permitted to participate in the demand response program of any other entity without the express prior authorization of the City Council.

B. "Ancillary Services Provided by Demand Response Resources"

1. The Municipal Electric Utility or its authorized designee is the sole entity permitted to bid demand response on behalf of retail customers served by the municipal electrical system directly into any Commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff).

2. Retail customers served by the Municipal Electric Utility wishing to bid their demand response into a Commission-approved independent system operator's or

regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff) may do so by participating in the program established by the Municipal Electric Utility or its authorized designee. Retail customers are not permitted to participate in the demand response program of any other entity without the express prior authorization of the City Council.

Source: City Code
Effective Date: 11-1-80

SEC. 3.27 - 3.29, Inclusive, Reserved for Future Expansion.

SEC. 3.30. RULES AND REGULATIONS RELATING TO EMERGENCY PROTECTON FIRE SERVICES.

Subd. 1. Purposes and Intent. This ordinance is adopted for the purpose of authorizing the City of Luverne to charge for fire service as authorized by Minn. Stat. 366.011, 366.012, and 415.01.

Subd. 2. Definitions.

1. "Fire service" means any deployment of firefighting personnel and/or equipment to extinguish a fire or perform any preventative measure in an effort to protect equipment, life, or property in an area threatened by fire. It also includes the deployment of firefighting personnel and/or equipment to provide fire suppression, rescue, extrication, and any other services related to fire and rescue as may occasionally occur.
2. "Fire service charge" means the charge imposed by the City for receiving fire service.
3. "Motor vehicle" means any self-propelled vehicle designed and originally manufactured to operate primarily on public roads and highways, and not operated exclusively upon railroad tracks. It includes semi trailers. It does not include snowmobiles, manufactured hoes, all terrain vehicles, or park trailers.
4. "Fire protection contract" means a contract between the City and a town or other city for the City to provide fire service.
5. "Mutual aid agreement" means an agreement between the City and a town or other city for the City's fire department to provide assistance to the fire department of a town or other city.

Subd. 3. Parties Affected. Owners of property in towns or cities to which the City provides fire service pursuant to a fire protection contract.

Subd. 4. Rates. The established rate for each fire service provided by the Luverne Fire Department is set at $750.00.

Subd. 5. Billing and Collection.

A. Parties requesting and receiving fire services will be billed directly by the City of Luverne Fire Department within 1 month of the fire service. Additionally, if the party receiving fire services did not request fire services but a fire or other situation exists which, at the discretion of the fire department personnel in charge requires fire service, the party will be charged and billed. All parties will be billed whether or not the fire service is covered by insurance. Any billable amount of the fire charge not covered by a party's insurance remains a debt of the party receiving the fire service.

B. Parties billed for fire service will have 30 days to pay. If the fire service charge is not paid by that time, it will be considered delinquent and the City of Luverne Fire Department will send a notice of delinquency.

C. If the fire service charge remains unpaid for 30 days after this notice of delinquency is sent, the City of Luverne Fire Department will use all practical and reasonable legal means to collect the fire service charge. The party receiving fire service shall be liable for all collection costs incurred by the City of Luverne Fire Department including, but not limited to, reasonable attorney fees and court costs.

D. If the fire service charge remains unpaid for 30 days after the notice of delinquency is sent, the City of Luverne Fire Department may turn the remaining balance over to collection. The City of Luverne Fire Department must give the property owner notice in writing of its intent to turn the unpaid fire service charge over to collection.

E. False alarms will not be billed as a fire call.

Subd. 6. Mutual Aid Agreement. When the City fire department provides fire service to another fire department pursuant to a Mutual Aid Agreement, the billing will be determined by the Mutual Aid Agreement.

Subd. 7. Billing Procedure for Fire Protection Contracts with Towns or Other Cities. When the City fire department provides fire service to another fire department pursuant to a Fire Protection Contract, the billing will be determined by the Contract.

Subd. 8. Application of Collections to Budget. All collected fire charges will be city funds and used to offset the expenses of the City of Luverne Fire Department in acquiring new fire suppression equipment.

Source: Ordinance No. 314, Third Series
Effective Date: 5-27-10

SEC. 3.31 - 3.98, Inclusive, Reserved for Future Expansion.

SEC. 3.99. 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.

Source: City Code
Effective Date: 11-1-80

CHAPTER 4: BUILDING REGULATIONS

SECTION 4.01. CODE ADOPTED BY REFERENCE. This ordinance, provides for the application, administration, and enforcement of the Minnesota State Building Code by regulating the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings and/or structures in this municipality; provides for the issuance of permits and collection of fees thereof; provides penalties for violation thereof; repeals all ordinances and parts of ordinances that conflict therewith. This ordinance shall perpetually include the most current edition of the Minnesota State Building Code along with the optional appendix chapters specified in Section 4.011.

Subd. 1. Adoption of Code. The Minnesota State Building Code, as adopted by the Commissioner of Labor and Industry pursuant to Minnesota Statutes chapter 16B.59 to 16B75, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Labor and Industry, through the Building Codes and Standards Division hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this ordinance. The Minnesota State Building Code is hereby incorporated in this ordinance as if fully set out herein.

Source: Ordinance No. 295, Third Series
Effective Date: 4-24-08

Subd. 2. Application. The application, administration, and enforcement of the code shall be in accordance with Minnesota State Building Code. The code shall be enforced within the extraterritorial limits permitted by Minnesota Statutes, 16B.62, subdivision 1, when so established by this ordinance.

Subd. 3. Administration. The code enforcement agency of this municipality is called the City of Luverne.

Source: Ordinance No. 251, Third Series
Effective Date: 5-02-03

Subd. 4. Enforcement. This code shall be enforced by the Minnesota Certified Building Official designated by the City of Luverne to administer the code (Minnesota Statute 16B.65) subdivision 1.

SEC. 4.011. BUILDING CODE OPTIONAL CHAPTERS. The Minnesota State Building Code, established pursuant to Minnesota Statutes 16B.59 to 16B.75, allows the municipality to adopt by reference and enforce certain optional chapters of the most current edition of the Minnesota State Building Code. The following optional provisions identified in the most current edition of the State Building Code are hereby adopted and incorporated as part of the building code for the City of Luverne.

1. Grading Appendix Minnesota Building Code.
2. Chapter 1335, Flood proofing Regulations, parts 1335.0600 to 1335.1200.
3. Current edition of the International Property Maintenance Code.

Source: Ordinance No. 295, Third Series
Effective Date: 4-24-08

SEC. 4.012. IT IS UNLAWFUL FOR ANY CONTRACTOR, PROPERTY OWNER, TENANT, or other person to commence or continue any work on any project for which a building permit is required by the State Building Code or a zoning permit is required by the City Code, and for which no permit has been granted by the City or the permit has been canceled or a stop order issued. All work permitted under this section shall be fully completed within the time specified on said permit, and, if no time is specified, within one (1) year from the issuance of said permit.

Source: Ordinance No. 171, Third Series
Effective Date: 5-4-95

SEC. 4.013. REPEALED.

SEC. 4.014. REPEALED.

Source: Ordinance No. 295, Third Series
Effective Date: 4-24-08

SEC. 4.02. REPEALED.

Source: Ordinance No. 46, Third Series
Effective Date: 3-31-88

SEC. 4.03. PERMIT FEES.

Subd. 1. Collection of Fees. The issuance of permits and the collection of fees shall be as authorized in Minnesota Statutes, 16B.62. Fees for permits under this chapter, which may include a surcharge in accordance with Minnesota Statute 16B.70, shall be determined by the Council and fixed by its resolution, a copy of which shall be in the office of the Administrative Authority (Building Official) and uniformly enforced.

Source: Ordinance No. 295. Third Series
Effective Date: 4-24-08

Subd. 2. If any construction requiring a permit by provision of the State Building Code or City Code is undertaken without first obtaining a building permit, the permit fee shall be double the amount it would have been if granted prior to the commencement of construction.

Source: Ordinance No. 118, Third Series
Effective Date: 12-12-91

Subd. 3. Authorization to Refund Fee. The Building Official or designee may authorize refunding of any fee paid which was erroneously paid or collected. The Building Official or designee may authorize refunding of not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with the code. The Building Official or designee may authorize refunding of not more than 80

percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan reviewing is done. The Building Official or designee shall not authorize refunding of any fee paid except on written application filed by the original applicant not later than 180 days after the date of fee payment.

Source: Ordinance No. 295, Third Series
Effective Date: 4-24-08

SEC. 4.031. COMPLETION TIME.

Subd. 1. Cancellation of Building Permit. Any single family residence and/or accessory structure for which a building permit has been issued shall be completed and ready for occupancy according to the approved plans and specifications within one year following the issuance of the building permit, and if not so completed, the building permit shall automatically cancel. All work must be pursued in a reasonable and timely manner to its ultimate completion. A building permit shall automatically cancel if for any reason work is not commenced within 180 days of the date of issuing the building permit or if work is substantially stopped for a period of 180 days, prior to said cancellation, an extension may be granted by the Building Official upon good cause shown by the applicant for such extension. If the Building Official believes that work is not being pursued in a reasonable and timely manner, he shall notify the applicant of the deficiency and establish a reasonable period during which all construction must be completed. If work is not commenced within 15 days after receipt of the notice or construction is not completed by the time so established, the Building Official may cancel the building permit and so notify the applicant. Thereafter, no work may be commenced until a new building permit is applied for and granted conditioned upon an approved timetable for completion.

Source: Ordinance No. 295, Third Series
Effective Date: 4-24-08

Subd. 2. The term “completed,” as used in Subd. 1 above, shall mean and include:

- Completion of all visible exterior construction;
- Painting, staining, or other exterior finishing;
- Finishing of driveways and walks;
- Removal of construction materials, equipment, debris, and excess earth;
- Placement of top soil, finish grading, and sodding or seeding of all lawn areas; and
- Finish grading of any swales within established drainage easements necessary to accommodate natural drainage of adjacent properties.

Source: Ordinance No. 118, Third Series
Effective Date: 12-12-91

Subd. 3. Stop Orders. Whenever any work is being done contrary to the provisions of the City Code or any other valid regulation, the Building Official,

Building/Zoning Administrator, or City Administrator or his designee, may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Building Official to proceed with the work.

Subd. 4. Occupancy Violations. Whenever any portion of a building or structure, or equipment therein, or land regulated by this code is being used contrary to the provisions of the City Code, the Building Official, Building/Zoning Administrator, or City Administrator or his designee, may order such use discontinued and the structure, or portion thereof, vacated by notice served on any person causing such use to be continued. Such person shall discontinue the use within the time prescribed by the City after receipt of such notice. Prior to reuse of said building or structure, or equipment thereon, or land, the use must comply with the requirements of the City Code.

Source: Ordinance No. 295, Third Series
Effective Date: 4-24-08

SEC. 4.04. PERMITS AND SPECIAL REQUIREMENTS FOR MOVING BUILDINGS.

Subd. 1. Definitions. The following terms, as used in this Section, shall have the meanings stated:

1. "Highway" means a public thoroughfare for vehicular traffic which is a State trunk highway, County State-aid highway, or County road.
2. "Street" means a public thoroughfare for vehicular traffic which is not a State trunk highway, County State-aid highway or County road.
3. "Moving Permit" means a document allowing the use of a street or highway for the purpose of moving a building.
4. "Highway Moving Permit" for which a fee is charged, means a permit to move a building on a highway, which does not include route approval, but does include regulation of activities which do not involve the use of the highway; which activities include, but are not limited to, repairs or alterations to a municipal utility required by reason of such movement.
5. "Street Moving Permit" for which a fee is charged, means a permit to move a building on a street, which does include route approval, together with use of the street and activities including, but not limited to, repairs or alterations to a municipal utility required by reason of such movement.
6. "Combined Moving Permit" means a permit to move a building on both a street and a highway.

Subd. 2. Application. The application for a moving permit shall state the dimensions, weight, and approximate loaded height of the structure or building proposed to be moved, the places from which and to which it is to be moved, the route to be followed, the dates and times of moving and parking, the name and address of the mover, and the municipal utility and public property repairs or alterations that will be required by reason of such movement. In the case of a street moving permit or combined moving permit, the application shall also state the size and weight of the

structure or building proposed to be moved and the street alterations or repairs that will be required by reason of such movement.

Subd. 3. Permit and Fee. The moving permit shall state date or dates of moving, hours, routing, movement, and parking. Permits shall be issued only for moving buildings by building movers licensed by the State of Minnesota. No permit shall be required for a person moving his own building which does not exceed 16 feet in width, 24 feet in length, and 14 feet in loaded height. Fees to be charged shall be separate for each of the following: (1) a moving permit fee to cover use of streets and route approval, and (2) a fee equal to the anticipated amount required to compensate the City for any municipal utility and public property (other than streets) repairs or alterations occasioned by such movement. All permit fees shall be paid in advance of issuance.

Subd. 4. Building Permit and Code Compliance. Before any building is moved from one location to another within the City, or from a point of origin without the City to a destination within the City, regardless of the route of movement, it shall be inspected and a building permit shall have been issued for at least work necessary to bring it into full compliance with the State Building Code.

Subd. 5. Unlawful Acts.

A. It is unlawful for any person to move a building on any street without a moving permit from the City.

B. It is unlawful for any person to move a building on any highway without a highway moving permit from the City.

C. It is unlawful to move any building (including a manufactured home) if the point of origin or destination (or both) is within the City, and regardless of the route of movement, without having paid in full all real and personal property taxes, special assessments, and municipal utility charges due on the premises of origin, and filing written proof of such payment with the City.

Source: Ordinance No. 46, Third Series
Effective Date: 3-31-88

SEC. 4.05. REPEALED.

SEC. 4.06. REPEALED.

Source: Ordinance No. 156, Third Series
Effective Date: 11-4-93

SEC. 4.07. REPEALED.

SEC. 4.08. REPEALED.

Source: Ordinance No. 279, Third Series
Effective Date: 11-24-05

SEC. 4.09. BUILDING DEMOLITION.

Subd. 1. Permit Required. It shall be the duty of the owner of any building to be demolished, regardless of reason for the demolition, to secure a permit prior to commencement of any demolition activities. Applications shall be submitted to the office of the Building/Zoning Official for review. Following a review and acceptance of the proposed demolition, the Building Official shall issue a permit and inform the applicant of any special provisions associated with the demolition activities. If the application is incomplete or denied, the Building Official will inform the applicant as to the reason for denial and information required to complete the application. A notification of intent to Perform a Demolition shall be filed with the Minnesota Pollution Control Agency and approval of all plans and required inspections completed (if required) prior to commencement of any demolition activities for all structures regulated by the MPCA.

Subd. 2. Exempt Buildings. One story detached accessory buildings used as tool/storage sheds, playhouses, and similar uses, provided the floor area does not exceed 120 square feet.

Subd. 3. General Provisions. Application for a demolition permit shall include, but not be limited to:

(1) Site address & legal description of subject property.
(2) Proof of ownership.
(3) Schedule of commencement and completion of work.
(4) Copies or original authorization documents as receive from any and all regulatory agencies as required.
(5) Verification of notification to all utility providers serving the property.
(6) Any additional information as required by the Building Official.

Protection of pedestrians during demolition shall be in accordance with Section 3303 of the Uniform Building Code in its entirety unless alternate plans are authorized by the Building Official. No building, building site, or excavation shall be allowed to be unprotected from the public at any time. Fences or other approved barriers are required to be erected and secured for unauthorized access during any time the owner or his authorized representative is not on the demolition site actively involved in the demolition.

Subd. 4. Clean Up and Disposal of Demolition Debris. All debris and waste materials generated from the demolition of any structure shall be disposed of in accordance with guidelines established by the Rock County Land Management Office and Minnesota Pollution Control Agency. All plans for disposal of demolition waste shall be submitted with the application for permit. No materials will be allowed to be left or buried on the site. This will include, but not be limited to, any waste materials from the structure as well as any foundation materials.

Subd. 5. Commencement and Completion. All activities authorized by issuance of a demolition permit shall be commenced within thirty (30) days of permit issuance. Unless approved, all demolition activities and site work restoration shall be completed in no more than thirty (30) days from date of commencement. Failure to complete all work authorized by permit shall constitute a violation of the Luverne City Code and said violation shall be punished as for a misdemeanor. Violations shall be

deemed continuing in nature and may be treated as a new and separate offense each day (consisting of a 24-hour period commencing at 12:00 midnight) during which said violation occurs. If, after a period of not less than thirty (30) days from the date of final notice and order to complete demolition activities has been issued by the Building Official, the Building Official may cause the property to be sold and building demolished and the materials, rubble, and debris therefrom removed and the lot cleaned. Any such demolition work shall be accomplished and the cost thereof paid and recovered as a personal obligation of the property owner or assess said charges against the property involved.

Source: Ordinance No. 212, Third Series
Effective Date: 12-24-98

SEC. 4.10. LUVERNE HERITAGE PRESERVATION COMMISSION ESTABLISHED. Pursuant to Minnesota Statutes section 471.193, there is hereby created and established a City of Luverne Heritage Preservation Commission, hereinafter called the "Commission". The Commission shall have the responsibility of recommending to the City Council the adoption of ordinances designating areas, places, buildings, structures, works of art, or other objects having special historical, cultural, or architectural interest for the community as heritage preservation landmarks or districts, as such terms are defined in section 9.19 of the City Code.

Subd. 1. Membership. The Commission shall consist of five voting members, all of whom are to be residents of the City, and one non-voting member who may reside outside the limits of the City of Luverne in Rock County, all of which shall be appointed by the Mayor with the approval of the City Council, one shall be a member of the Rock County Historical Society, and one shall be of the City of Luverne Planning and Zoning Commission. The member of the Planning and Zoning Commission shall serve upon the Commission only so long as such member remains on the Planning and Zoning Commission. Members shall be persons who have demonstrated an interest in the historical, cultural, or architectural development of the City or who own property within a heritage preservation district. At least one of the six members appointed by the Mayor shall be a person engaged in the building trades.

Subd. 2. Term. All appointments shall be for a term of three years. In the event of a vacancy, the vacancy shall be filled for the unexpired term in the same manner as the appointment was originally made. Members shall serve without compensation and shall continue to hold office until their successors have been appointed and confirmed.

Subd. 3. Organization. The Commission shall select from among its members such officers as it may deem necessary. The Commission shall have the power to designate and appoint from its members various committees with powers and duties consistent with the powers and duties of the Commission. The Commission shall make such rules and regulations as it may deem advisable and necessary for the purpose of carrying out the intent of this section and section 4.11, and which are not inconsistent with the laws of the City and the State of Minnesota. The Commission shall make and file with the City Council an annual report containing a statement of its activities. The City may provide the Commission with staff to perform the duties prescribed under this section.

SEC. 4.11. HERITAGE PRESERVATION.

Subd. 1. Declaration of public policy and purpose. The City hereby declares as a matter of public policy that the preservation, protection, perpetuation, and use of areas, places, buildings, structures, lands, districts, and other objects having a special historical, cultural, or aesthetic interest or value is a public necessity, and is required in the interest of public health, prosperity, safety, and welfare of the people of the City. The purposes of this section are to:

A. Safeguard the heritage of the City by preserving sites and structures that reflect elements of the City's cultural, social, economic, political, engineering, or architectural history;

B. Protect and enhance the City's attractions for residents, tourists, and visitors, and serve as a support and stimulus to business and industry;

C. Enhance the economic viability of heritage preservation landmarks and districts through the protection and promotion of their unique character;

D. Enhance the visual and aesthetic character, diversity, and interest of the City;

E. Foster civic pride in the beauty and notable accomplishments of the past; and

F. Promote the use and preservation of historic landmarks and districts for the educational and general welfare of the people of the City.

Subd. 2. Definitions.

A. "Heritage preservation district" shall mean a contiguous collection or group of lands, parcels, sites, structures, buildings, or objects that is determined to be historically, culturally, or architecturally significant as a whole and has been locally designated as a heritage preservation district pursuant to subdivision 3, paragraph A of this section.

B. "Heritage preservation guidelines" shall mean the established criteria by which any proposed changes, including architectural or site modifications, shall be judged.

C. "Heritage preservation landmark" shall mean any individual property, parcel, place, building, structure, work of art, or other object that has been determined to be historically, culturally, or architecturally significant and has been locally designated as a heritage preservation landmark pursuant to subdivision 3, paragraph A of this section.

D. "National Register of Historic Places" is the nation's official list of properties worthy of preservation designated by the United States Department of the Interior, National Park Service. Nominations to this list of properties within Minnesota are made through the auspices of the State Historic Preservation Officer, Minnesota Historical Society.

Subd. 3. Powers and duties of the Heritage Preservation Commission. The Heritage Preservation Commission established pursuant to section 4.10 (hereinafter referred to as "Commission") shall have the following powers and duties:

A. Designation of heritage preservation landmarks and districts.

1. Report. Prior to recommending a site or district to the City Council for designation, amending a designated site or district, or nominating a site or district to the National Register of Historic Places, an investigation and report on the historical, cultural, and architectural significance of the buildings, structures, sites, or objects proposed for designation shall be made. Such report shall also attempt to determine the economic status of the property or properties by providing such information as assessed value, recent real estate transactions, and other appropriate data. The Commission may conduct this investigation and prepare the report, or may require a person seeking such designation to conduct the investigation and prepare the report.

2. Criteria for designation. The Commission shall recommend the designation of heritage preservation landmarks and districts only when the property is found to meet one or more of the following criteria:

a. It has character, interest, or value as part of the development, heritage, or cultural characteristics of the City, State of Minnesota, or United States.

b. Its location was a site of a significant historical event.

c. It is identified with a person or persons who significantly contributed to the culture or development of the City, State of Minnesota, or United States.

d. It embodies a distinguishing characteristic of an architectural type.

e. It is identified as the work of an architect or master builder whose individual work has influenced the development of the City or State of Minnesota.

f. It embodies elements of architectural design, detail, materials, or craftsmanship that represent significant architectural innovation.

g. Its unique location or singular physical characteristics represent an established and familiar visual feature of a neighborhood, community, or the City as a whole.

3. Planning and Zoning Commission review. The Commission shall receive the comments of the Planning and Zoning Commission regarding any proposed heritage preservation landmark or district prior to forwarding its recommendation to the City Council. In its review and recommendation, the Planning and Zoning Commission shall consider any such designation's potential effects on the surrounding neighborhood, economics, environment, and other planning considerations. Said comments shall become part of the official record and be submitted as part of the Commission's report to the City Council.

4. Communication with the Minnesota Historical Society. A copy of the Commission's report on any proposed designation for a heritage preservation landmark or district, including boundaries, shall be sent to the State Historic Preservation Officer for review and comment in accordance with Minnesota Statutes, section 471.193, subdivision 6, including any amendments thereto. Any comments made by the State Historic Preservation Officer regarding a proposed designation must be received and forwarded to the City Council prior to final designation.

5. Heritage Preservation Commission hearings. Prior to the Commission recommending to the City Council the designation of any heritage preservation landmark or district, the Commission shall hold a public hearing and seek

the recommendation of all concerned citizens. Prior to such hearing the Commission shall cause to be published in the official newspaper of the City notice of said hearing at least 10 days prior to the date of the hearing, and notice of the hearing shall be sent to all owners listed on the current county records of property proposed to be designated a heritage preservation landmark or district.

6. Communication with City Council. If the Commission recommends to the City Council that a landmark or district be designated for heritage preservation, the Commission shall transmit to the City Council a complete report on the recommended heritage preservation landmark or district. Such communication shall include the initial investigation report, comments made by the Planning and Zoning Commission, required comments by the State Historic Preservation Office and the proposed heritage preservation guidelines.

7. City Council designation. The City Council may by ordinance designate a heritage preservation landmark or district. Prior to such designation, the City Council may hold a public hearing, notice of which shall be published in the official newspaper of the City at least 10 days prior to the day of the hearing, and the notice of the hearing shall be sent to the owners of all property proposed to be designated as a heritage preservation landmark or district.

B. Review of construction and demolition activity.

1. Type of activity. Except as provided in paragraph C below, the Commission shall review and approve or disapprove of construction and demolition activities, including all street and utility activities, within any heritage preservation landmark or district. In addition, the Commission shall review and approve or disapprove the issuance of City permits to do any of the following in a heritage preservation landmark or district:

a. Remodel, repair, or alter in any manner that will change the exterior appearance, including the installation, modification or removal of exterior signage;

b. New construction, including parking facilities;

c. Move a building;

d. Change the nature or appearance of a designated heritage preservation landmark, building or district, including landscaping features;

e. Demolish any building, structure, or portion thereof.

The performance of any of the foregoing activities without a permit issued in accordance with the requirements of this section, or the performance of any of the foregoing activities in a manner contrary to the conditions, restrictions, or limitations of a permit issued in accordance with the requirements of this section, shall constitute a violation of this section.

2. Permit application and plans. Every application for any type of permit for exterior renovation in relation to a property designated as a heritage preservation landmark or district shall be accompanied by detailed plans or sketches for the proposed work to be done. A copy of the application and plans or sketches submitted therewith shall be immediately referred by the City's Zoning Administrator to the Commission. The Zoning Administrator shall not issue permits in regard to an application until receiving written approval from the Commission, subject, however, to subparagraphs 3, 6, and 7 of this paragraph.

3. Commission review. The Commission may, but is not

required to, delegate to a subcommittee of the Commission, its power to review and recommend approval or denial of permit applications, such recommendation to be based on the proposed action's compliance with the adopted heritage preservation guidelines. The Commission shall review the permit application and such plans as were submitted therewith and the recommendation of its subcommittee or designated official if applicable, and shall render its decision thereon as a written order to the Zoning Administrator. The Zoning Administrator shall not issue any approved permit until after the 10-day appeal period, as provided for in subparagraph 5 below. In the case of a denial of the requested permit, the Commission shall furnish the applicant with a copy of the Commission's written order and decision, together with a copy of any recommendations for changes necessary to be made before the Commission will reconsider the permit application.

4. Findings. All decisions of the Commission with respect to construction and demolition activity shall be based on explicit findings which are in accordance with the adopted heritage preservation guidelines for each individual heritage preservation landmark or district and the Secretary of the Interior's standards of rehabilitation.

5. Appeal to City Council. The Commission, in any written order denying a permit application, shall notify the applicant of the appeal procedures provided herein. The permit applicant or any party aggrieved by the decision of the Commission shall, within 10 days of the date of the Commission's written order and decision, have a right to appeal such order and decision to the City Council. Such appeal shall be addressed to the City Council and submitted to the Zoning Administrator. Two copies of a notice of appeal and statement of reasons setting forth the grounds for the appeal shall be submitted by the appealing party. The Zoning Administrator shall transmit one copy of the notice of appeal and statement to the City Council and one copy to the Commission. The City Council may modify or overrule the Commission's decision, but only if the project is found to be consistent with the U.S. Secretary of Interior's recommended standards for preservation projects.

6. Commission's failure to act on permit application. If, within 60 days of receipt of the permit application by the Commission, it has neither approved nor denied the permit application, the applicant may request that such plans and permit application be reviewed by the City Council. Within 30 days of the applicant's request, the City Council must approve or deny the permit application. If approved by the City Council, and if all other requirements of the City have been met, the Zoning Administrator shall issue a permit for the proposed work.

7. Emergency repair. In emergency situations where immediate repair is needed to protect the safety of the structure, a neighboring structure, or any persons, the Zoning Administrator may, without Commission action, approve the repair of only those items needed to insure safety. In the case of a permit issued pursuant to this subparagraph, the Zoning Administrator shall require that such repairs be made in conformance with the U.S. Secretary of Interior's recommended standards for historic preservation projects and adopted heritage preservation guidelines for the landmark or district to the extent possible. In addition, the Zoning Administrator shall immediately notify the Commission of the action and specify the facts or conditions constituting the emergency situation.

8. Building code enforcement. One purpose of this section is to encourage the sensitive rehabilitation, restoration, stabilization and/or preservation of historic buildings throughout the City. These rehabilitation and preservation efforts should provide for the upgrading and maintenance of the safety features of the building or structure to provide a practical level of safety to the public and surrounding properties. While ensuring this increased level of public safety, the Commission shall be open to acceptable alternative solutions and alternative compliance concepts, where practical, that will permit the continued use of existing buildings and structures without creating overly restrictive financial burdens on owners or occupants. Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior elements of any building or structure required by the City Code.

9. Priority of regulations. To the extent that this section or any ruling or requirement of the Commission conflicts with any other provision of the City Code or applicable state, federal, or local rules or regulations, including building and fire codes, the following shall apply: (a) all state, federal, or local rules or regulations which relate to safety issues and the preservation or protection of life or property shall take priority over any conflicting provision in this section or ruling or requirement of the Commission; and (b) as to non-safety related regulations of this chapter, the same may be modified through the variance process set forth in this chapter.

C. Exception to requirement of Commission review. If the Zoning Administrator determines that a permit application is for ordinary repair or maintenance, or for alteration, change, restoration, color, or removal of any exterior architectural feature that does not involve significant changes in the architectural or historic value, style, general design or appearance of the building or structure, the Zoning Administrator may, within 7 days of receipt of the application, tentatively approve the application and forward a copy thereof to the chair of the Commission, or to the vice-chair if the Zoning Administrator is aware that the chair is not available. The chair or vice-chair of the Commission shall, within 3 business days, either approve the Zoning Administrator's decision or call for a meeting of the Commission to consider the application. If such a meeting is called, the provisions of paragraph B above shall apply. If the chair or vice-chair approves the application or does not take any action within 3 business days, the application shall be deemed to be approved by the Commission, and the Zoning Administrator may notify the applicant of the approval of the application. Approval of an application under this provision shall not affect the obligation to comply with the standards required by this section.

D. Additional powers and duties of the Commission. The Commission shall have the following powers and duties in addition to those otherwise specified in this section.

1. The Commission shall conduct a continuing survey of all areas, places, buildings, structures, or similar objects in the City which the Commission, on the basis of information available or presented to it, has reason to believe are or will be eligible for designation as heritage preservation landmarks or districts.

2. The Commission shall work for the continuing education of the citizens of the City with respect to the historic and architectural heritage of the City. It shall keep current and public an official list of designated heritage preservation landmarks and districts.

3. Upon prior approval by the City Council, the Commission may retain the services, on a permanent or part-time basis, of technical experts and other persons as may be required to perform the Commission's duties.

4. The Commission shall have authority to solicit gifts and contributions to be made to the City, and to assist in the preparation of applications for grant funds to be made to the City for the purpose of heritage preservation.

5. The Commission may recommend to the City Council, after review and comment by the City Planning and Zoning Commission, that certain properties eligible for designation as heritage preservation landmarks or districts be acquired by gift, negotiation, or other legal means.

6. Upon final designation of a heritage preservation landmark or district by the City Council, the Commission shall adopt heritage preservation guidelines specific to the landmark or district. Such guidelines shall detail allowable architectural and/or site modifications, essential features to be retained, and any other criteria by which future proposals for modifications shall be judged. These guidelines are intended to provide assurance to owners of properties within heritage preservation landmarks or districts that any permit review process will be based on clear and objective standards rather than the taste of individual Commission members.

7. The Commission may nominate a heritage preservation landmark or district to the National Register of Historic Places, but only with the consent of the City Council.

8. The Commission shall make an annual report to the State Historic Preservation Officer by October 31 of each year.

Subd. 4. Violations. An owner or occupant of any area, place, building, structure, or other object within a locally designated heritage preservation landmark or district, who violates any provision of this section, shall be guilty of a petty misdemeanor. Any person who assists in the commission of a violation of this section shall be guilty of a petty misdemeanor. Each day an owner or occupant of any area, place, building, structure, or object within a heritage preservation landmark or district allows any work to be performed on any area, place, building, structure or other object in violation of this section shall constitute a separate violation of this section and will be punishable as such. Any remodeling, repairing, altering, or construction activity of a heritage preservation landmark or district in violation of this section is hereby declared a nuisance. The imposition of the penalties herein prescribed shall not prevent the City from taking appropriate action or proceeding to prevent unlawful alteration of the building, district, and/or site in question. Such action may include restraining, correcting, and abating the violation.

Subd. 5. Filing of documents.

A. The office of the Zoning Administrator shall keep at least one copy of all studies, reports, recommendations, decisions and heritage preservation guidelines developed by the Commission and City Council. In addition, the Zoning Administrator shall maintain an official list of all locally designated heritage preservation landmarks and districts and shall forward the same to the Minnesota State Historic Preservation Officer. The Zoning Administrator shall also maintain an up-to-date copy of the U.S. Secretary of Interior's recommended standards for historic preservation projects.

B. The Heritage Preservation Commission is designated as the repository for at least one copy of all plans and reports required under subdivision 3 of this section. This information shall be available to the public for inspection during normal business hours.

Subd. 6. Recording heritage preservation sites. The office of the Zoning Administrator shall record or file with the Rock County Recorder the legal description of all properties designated as heritage preservation landmarks or districts by the City.

Source: Ordinance No. 324, Third Series
Effective Date: 4-20-2012

(Sections 4.12 through 4.98, inclusive, reserved for future expansion.)

SEC. 4.99. 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, 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 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.

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

Subd. 3. 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.

Source: Ordinance No. 134, Third Series
Effective Date: 6-18-92

CHAPTER 5: 3.2 MALT LIQUOR, WINE, & LIQUOR

SECTION 5.01. DEFINITIONS. As used in this Chapter, unless otherwise stated in specific section, the following words and terms shall have the meanings stated:

1. "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.
2. "Applicant" means any person making an application for a license under this Chapter at least 21 years of age or older.
3. "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.
4. "Brewer" means a person who manufacturers malt liquor for sale.
5. "Brewer Taproom" is a facility on or adjacent to premises owned by a brewer licensed under Minn. Statute Section 340A.301, Subd. 6(c), (i) or (j) and produces less than two hundred fifty thousand (250,000) barrels of malt liquor annually, and where the on-sale and consumption of malt liquor produced by the brewer is permitted pursuant to Minn. Statute Section 340A.301, Subd. 6(b).
6. "Church" means a building which is principally used as a place where persons of the same faith regularly assemble for public worship.
7. "City" means the City of Luverne.
8. "Club" means an incorporated organization organized under the laws of the State for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans' organization, which:
    a. has more than thirty members;
    b. has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members;
    c. is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent, or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body. Such club or congressionally chartered veterans' organization must have been in existence for at least three years.
9. "Commissioner" means the commissioner of public safety except as otherwise provided.
10. "Distilled spirits" means ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use.
11. "Farm Winery" means a winery operated by the owner of a Minnesota farm and producing table, sparkling, or fortified wines from grapes, grape juice, other fruit bases, or honey with a majority of the ingredients grown or produced in Minnesota.
12. "Hotel" means an establishment where food and lodging are regularly furnished to transients and which has: (1) a resident proprietor or manager; (2) a dining room serving the general public at tables and having facilities for seating at least fifty guests at one time; and (3) at least twenty guest rooms.

13. "Intoxicating liquor" is ethyl alcohol, distilled, fermented, spirituous, vinous, and malt beverages containing more than 3.2 percent of alcohol by weight.

14. “License” means a document, issued by the City, to an applicant permitting him to carry on and transact the business stated therein.

15. “Licensee” means an applicant who, pursuant to his approved application, holds a valid, current, unexpired license, which has neither been revoked nor is then under suspension, from the City for carrying on the business stated therein.

16. “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.

17. “Licensed premises” is the premises described in the approved license application, subject to the provisions of State Statute 340A.410 Subd. 7.

18. “Liquor caterer’s permit” a State of Minnesota Liquor Catering Permit for on-sale of intoxicating liquor as an incidental part of a food service that serves prepared meals at a place other than the premises for which the holder’s on-sale intoxicating license is issued.

19. "Malt liquor" is any beer, ale, or other beverage made from malt by fermentation and containing not less than one-half of one percent alcohol by volume.

20. "3.2 percent malt liquor" is malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight.

21. "Manufacturer" is a person who, by a process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending, or by the combination of different materials, prepares or produces intoxicating liquor for sale.

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

23. “Off-Sale” means the sale of alcoholic beverages in original packages for consumption off the licensed premises only.

24. “Off-Sale Malt Liquor (Growler)” means the sale of malt liquor in 64-ounce containers, commonly known as growlers, by a brewery licensed under Minnesota Statute 340A.301, for consumption off the premises. This license is exempt from maintaining minimum food service requirements. A State of Minnesota Wholesaler’s/Manufacturers Intoxicating Liquor License is required. Brewers are limited to producing less than 3,500 barrels of malt liquor per year. Example: Microbrewery.

25. “On-Sale” means the sale of alcoholic beverages for consumption on the licensed premises only.

26. “Package” and “Original Package” mean any container or receptacle holding alcoholic beverages, which container or receptacle is corked, capped or sealed by a manufacturer or wholesaler.

27. “Public facility” is a park, community center, or other accommodation or facility owned or managed by or on behalf of a subdivision of the state, including any county, city, town, township, or independent district of the state.

28. “Restaurant” is an establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly served at tables to the general public and having seating capacity for at least fifty guests.

29. “Retail” is sale for consumption.

30. “Sale”, “Sell” and “Sold” mean all barters and all manners or means of furnishing alcoholic beverages to persons, including such furnishing in violation or evasion of law.

31. "Theater" means a building containing an auditorium in which live dramatic, musical, dance, or literary performances are regularly presented to holders of tickets for those performances.

32. “Wholesaler” means any person engaged in the business of selling alcoholic beverages to a licensee from a stock maintained in a warehouse.

33. “Wine” is the product made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake, in each instance containing not less than one-half of one percent nor more than 24 percent alcohol by volume for nonindustrial use. Wine does not include distilled spirits as defined in subdivision 9.

Reference: Minnesota Statutes 340A.101

Source: Ordinance No. 335, Third Series
Effective Date: 06-26-2014

SEC. 5.02. APPLICATIONS AND LICENSES UNDER THIS CHAPTER – PROCEDURE AND ADMINISTRATION.

Subd. 1. Application. All applications shall be made at the office of the City Administrator upon forms prescribed by the City, or if by the Commissioner, 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. Every application for the issuance or renewal of a liquor or beer license must include a copy of each summons received by the applicant during the preceding year under Minnesota Statues, Section 340A.802.

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 the initial application is made, an applicant for a license under this Chapter shall accompany such application with payment of a fee to be considered an application and investigation fee, not refundable to the applicant, to cover the cost of the City in processing the application and the investigation of the applicant. No such fee shall be required of an applicant for a temporary beer license.

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 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 consideration 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 Administrator shall forthwith issue a license pursuant thereto in the form prescribed by the City or the Commissioner, 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. 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.

D. 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.

E. Public Interest. No license under this Chapter may be issued, transferred, or renewed if the results of any investigation show, to the satisfaction of the Council, that such issuance, transfer, or renewal would not be in the public interest.

Source: Ordinance No. 47, Third Series
Effective Date: 3-24-88

F. Revocation or Suspension. The Council shall 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, 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 and/or drugs or controlled substances. 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, or 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 or 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, City Code, or Statue, 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, liquor, drugs, or controlled substances; (2) that the licensee had knowledge of such illegal acts upon licenses premises but failed to report the same to law enforcement; (3) that the licensee failed or refused to cooperate fully with law enforcement 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.

Source: Ordinance No. 228, Third Series
Effective Date: 5-18-00

G. Corporate Applicants and Licensees. A corporate applicant, at the time of application, shall furnish the City with a list of all persons that have an interest in such corporation and the extent of such interest. The list shall name all shareholders and show the number of shares held by each, either individually or beneficially for others. It is the duty of each corporate licensee to notify the City Administrator in writing of any change in legal ownership, or beneficial interest in such corporation or in such shares. Any change in the ownership or beneficial interest in the shares entitled to be voted at a meeting of the shareholders of a corporate licensee, which results in the change of voting control of the corporation by the persons owning the shares therein, shall be deemed equivalent to a transfer of the license issued to the corporation, and any such license shall be revoked thirty days after any such change in ownership or beneficial interest of shares unless the Council has been notified of the change in writing and has approved it by appropriate action. The Council, or any officer of the City designated by it, may at any reasonable time examine the stock transfer records and minute books of any corporate licensee in order to verify and identify the shareholders, and the Council or its designated officer may examine the business records of any other licensee to the extent necessary to disclose the interest which persons other than the licensee have in the licensed business. The Council may revoke any license issued upon its determination that a change of ownership of shares in a corporate licensee or any change of ownership of any interest in the business of any other licensee has actually resulted in the change of control of the licensed business so as materially to affect the integrity and character of its management and its operation, but no such action shall be taken until after a hearing by the Council on notice to the licensee.

Subd. 5. Duplicate Licenses. Duplicates of all original licenses under this Chapter may be issued by the City Administrator without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of a fee of $15.00 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. Resident Manager or Agent. Before a license is issued or renewed to an individual who is not a resident of Rock County, to more than one individual whether or not they are residents of Rock County, or to a corporation, partnership, or association, the applicant or applicants shall appoint in writing an individual person who is a resident of Rock County as its Manager or Agent. Such Resident Manager or Agent shall, by the terms of the appointment, 1) take full responsibility for the conduct of the licensed premises, and 2) serve as agent for service of notices and other process relating to the license. Such Manager or Agent must be a person who, by reason of age, character, reputation, and other attributes, could qualify individually as a licensee. If such Manager or Agent ceases to be a resident of Rock

County or ceases to act in such capacity for the licensee without appointment of a successor, the license issued pursuant to such appointment shall be automatically suspended by the City Administrator and subject to permanent revocation by the Council. The suspension shall remain in effect for up to 60 days until a new Resident manager is appointed, background investigated, approved by the Council, and appropriate investigative fees paid. For the purposes of this Subdivision, the term "resident" means a bona fide resident who qualifies to vote and has a residence which, if owned by the Manager or Agent, could be homesteaded for real estate tax purposes.

Source: Ordinance No. 47, Third Series
Effective Date 3-24-88

Subd. 8. 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 an such person is in any manner interested; (4) a person under the age of twenty-one years; (5) a person not of good moral character and repute; or, (6) a person who, within five years of the license application, has been convicted of a willful violation of any Federal or State law, or local ordinance, governing the manufacture, sale, distribution, or possession of any drug or controlled substance.

B. No person holding a license from the Commissioner as a manufacturer, brewer or wholesaler may have a direct or indirect interest, in whole or in part, in a business holding an alcoholic beverage license from the City.

Source: Ordinance No. 142, Third Series
Effective Date: 12-24-92

SEC 5.021. APPLICANTS FOR CITY LICENSES. The purpose and intent of this section is to establish regulations that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of licensing background checks.

Subd. 1. CRIMINAL HISTORY LICENSE BACKGROUND INVESTIGATIONS: The Rock County Sheriff's Department is hereby required, as the exclusive entity within the City, to do a criminal history background investigation on the applicants for the following licenses within the city: Beer, Wine, and Liquor licenses.

1. In conducting the criminal history background investigation in order to screen license applicants, the Rock County Sheriff's Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions

Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Rock County Sheriff's Department under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the Computerized Criminal History data may be released by the Rock County Sheriff's Department to the licensing authority, including the City Council, the City Administrator or the designee.

2. Before the investigation is undertaken, the applicant must authorize the Rock County Sheriff's Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of Minn. Stat. Chap. 13 regarding the collection, maintenance and use of the information. Except for the positions set forth in Minnesota Statutes Section 364.09, the city will not reject an applicant for a license on the basis of the applicant's prior conviction unless the crime is directly related to the license sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the City rejects the applicant's request on this basis, the City shall notify the applicant in writing of the following:

A. The grounds and reasons for the denial.

B. The applicant complaint and grievance procedure set forth in Minnesota Statutes Section 364.06.

C. The earliest date the applicant may reapply for the license.

D. That all competent evidence of rehabilitation will be considered upon reapplication.

Source: Ordinance No. 328, Third Series
Effective Date: 05-03-2013

SEC. 5.03. RENEWAL LICENSE APPLICATIONS. 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.

SEC. 5.04. 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 owed and are delinquent and unpaid.

SEC. 5.05. LIMITATION ON OWNERSHIP. No person shall be granted liquor licenses at more than one location. For the purpose of this Section, any person owning an interest of 5% or more of the entity to which the license is issued, or such ownership by a member of his immediate family, shall be deemed to be a licensee.

SEC. 5.06. 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.

Source: Ordinance No. 47, Third Series
Effective Date: 3-24-88

SEC. 5.07. PREMISES LICENSED. Unless the express written permission of the Council is obtained, a license issued under the provisions of this Chapter shall be valid only in the compact and continuous 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.

Source: Ordinance No. 69, Third Series
Effective Date: 5-4-89

SEC. 5.08. FINANCIAL RESPONSIBILITY AND INSURANCE REQUIREMENTS OF LICENSEES.

Subd. 1. Proof. Applicants for a new or renewal license shall file with the City Administrator proof of financial responsibility with regard to the liability imposed by Minnesota Statutes, Section 340A.801, or acts amendatory and supplementary thereto, in the manner and in the amount sufficient to satisfy the requirements of Minnesota Statues, Section 340A.409, or acts amendatory and supplementary thereto, or such other insurance as may be required from time to time by the Commissioner of Public Safety. Any liability insurance policy required by this Section must further provide that no cancellation of the same for any cause can be made either by the insured or the insurance company without first giving ten (10) days written notice to the City of intention to cancel the same, such notice to be addressed to the City Administrator. Failure of any licensee to maintain insurance required under this Section throughout the license period shall result in the immediate suspension of the license for up to 60 days and until such time as the required insurance is obtained and proof filed with the City Administrator. Upon such administrative suspension, the Council shall thereafter require the licensee to show cause why the license should not be revoked. An annual aggregate of $300,000.00 may be included in the insurance coverage.

Subd. 2. Documents Submitted to Commissioner. All proofs of financial responsibility and exemption affidavits filed with the City under this Section shall be submitted by the City to the Minnesota Commissioner of Public Safety.

Subd. 3. Insurance Requirements. No liquor, 3.2 malt liquor or wine license may be issued, maintained or renewed unless the applicant demonstrates proof of financial responsibility with regard to civil liability or dram shop actions. This applies to all types of liquor licenses. The city must submit to the state the applicant's proof of financial responsibility. A local government may require higher insurance or bond coverage or a larger deposit of cash or securities. An insurer may provide the below coverage in combination with other insurance coverage. The minimum requirement for proof of financial responsibility is:

A. A certificate that there is in effect for the license period an insurance policy issued by an insurer providing at least $50,000 of coverage because of bodily injury to any one person in any one occurrence, $100,000 because of bodily injury to two or more persons in any one occurrence, $10,000 because of injury to or destruction of property of others in any one occurrence, $50,000 for loss of means of support of any one person in any one occurrence, $100,000 for loss of means of support

of two or more persons in any one occurrence, $50,000 for other pecuniary loss of any one person in any one occurrence, and $100,000 for other pecuniary loss of two or more persons in any one occurrence.

B. A bond of a surety company with minimum coverages as provided in the previous bulleted paragraph.

C. A certificate of the state treasurer that the licensee has deposited with the state treasurer $100,000 in cash or securities, which may legally be purchased by savings banks or for trust funds having a market value of $100,000.

Source: Ordinance No. 335, Third Series
Effective Date: 06-26-2014

SEC. 5.09. UNLAWFUL ACTS.

Subd. 1. Consumption. It is unlawful for any person to consume, or any licensee to permit consumption of alcoholic beverages on licensed premises more than thirty (30) minutes after the hour when a sale thereof can legally be made. Provided, further, that it is unlawful for any licensee to permit any glass, bottle or other container to remain upon any table, bar, stool or other surface where customers are served, 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's 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.

Subd. 3. Inspection. It is unlawful for any licensee, his employee or agent, to hinder or prevent a law enforcement officer from making an inspection to observe whether or not this Section and all other laws are being observed.

SEC. 5.10. EXCEPTIONS. Licensing requirements in this Chapter shall not apply to sales by manufacturers to wholesalers, nor to sales by wholesalers, as those terms are defined herein and within such definitions. Nor shall such requirements apply to sales made by municipal liquor store employees in municipal liquor store buildings.

SEC. 5.11. CONDUCT ON LICENSED PREMISES. 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.

SEC. 5.12. 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.

SEC. 5.13. LICENSE CONDITION AND UNLAWFUL ACT.

Subd. 1. All premises licensed under this Chapter shall at all times be open to inspection by any law enforcement 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 law enforcement officer from making such inspection.

SEC. 5.14. LICENSE FEES – FIXING AND REFUNDMENT.

Subd. 1. Fixing Fees. Except as otherwise specifically provided, all fees for licenses provided for in this Chapter, including, but not by way of limitation, license fees, investigation and administration fees, shall 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 shall be kept on file in the office of the City Administrator and open to inspection during regular business hours. For the purpose of fixing such fees, the Council may categorize and classify, provided, that such categorization and classification shall be included in the resolution authorized by this Section.

Subd. 2. Refundment. A pro-rata share of an annual license fee a license to sell liquor or beer, either on-sale or off-sale, shall be refunded to the licensee, or to his estate, if: (1) the business ceases to operate because of destruction or damage; (2) the licensee dies; (3) the business ceases to be lawful for a reason other than a license revocation or suspension.

SEC. 5.15. MINORS AS DEFINED IN SECTION 5.01 – UNLAWFUL ACTS.

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:

A. Person 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. Person 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. It is unlawful for any minor, as defined in this Chapter, to enter licensed premises or the municipal liquor store for the purpose of purchasing or consuming any alcoholic beverage. It is not unlawful for any person who has attained the age of eighteen 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. It is unlawful for a licensee to permit a person under the age of eighteen years to enter or remain upon licensed premises unless such person is in the company of his or her parent or guardian.

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

Source: Ordinance No. 47, Third Series
Effective Date: 3-24-88

Subd. 6. Proof of Age. Proof of age for purchasing or consuming alcoholic beverages may be established only by a valid driver's license issued by Minnesota, another State, or a province of Canada, and including the photograph and date of birth of the licensed person; or by a valid Minnesota identification card; or by a valid Canadian identification card with the photograph and date of birth of the person, issued by a Canadian province; or, in the case of a foreign national, from a nation other than Canada, by a valid passport.

Source: Ordinance No. 142, Third Series
Effective Date: 12-24-92

SEC. 5.16. GAMBLING PROHIBITED. It is unlawful for any licensee to keep, possess, or operate, or permit the keeping, possession, or operation on licensed premises of dice or any other gambling device, or permit raffles to be conducted, except as are licensed by the Charitable Gambling Control Board or exempt from such licensing.

Source: Ordinance No. 47, Thirds Series
Effective Date: 3-24-88

SEC. 5.17. CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES ON STREETS, PUBLIC PROPERTY, AND PRIVATE PARKING LOTS TO WHICH THE PUBLIC HAS ACCESS. It is unlawful for any person to consume, or possess in an unsealed container, any alcoholic beverage on any (1) City park, (2) street, (3) public property, (4) private parking lot to which the public has access, except on such premises when and where permission has been specifically granted by the City Administrator or licensed by the Council. Provided, that this Section shall not apply to the possession of an unsealed container in a motor vehicle when the container is kept in the trunk of such vehicle if it is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a

trunk. For the purpose of this Section, a utility or glove compartment shall be deemed to be within the area occupied by the driver or passengers.

Source: Ordinance No.69, Third Series
Effective Date: 5-4-89

SEC. 5.18. ALCOHOLIC BEVERAGES IN CERTAIN BUILDINGS AND GROUNDS. It is unlawful for any person to introduce upon, or have in his possession upon, or in, any school ground, or any schoolhouse or school building, any alcoholic beverage, except for experiments in laboratories and except for those organizations who have been issued temporary licenses to sell beer, and for any person to possess beer as a result of a purchase from those organizations holding temporary licenses.

SEC. 5.19. ALCOHOLIC BEVERAGES – CERTAIN UNLAWFUL ACTS. It is unlawful for any:

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

Subd. 2. Licensee to sell or serve an alcoholic beverage to any person who is obviously intoxicated.

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

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

Subd. 5. Licensee to allow consumption of an alcoholic beverage on licensed premises on any day, or during any hour, when such consumption is not permitted by law.

Subd. 6. Person to purchase an alcoholic beverage on any day, or during any hour, when such sales are not permitted by law.

Source: Ordinance No. 47, Third Series
Effective Date: 3-24-88

SEC. 5.20. COIN-OPERATED AMUSEMENT DEVICES PROHIBITED. It is unlawful for any person to permit coin-operated amusement devices on premises licensed for the off-sale of liquor.

Source: Ordinance No. 69, Third Series
Effective Date: 5-4-89

SEC. 5.21. LICENSES REQUIRED. Unless a specific exemption is provided in this Chapter, no sale of an alcoholic beverage shall be made without a license therefor from the City. It is the policy of the Council to permit only those sales on licensed premises for which an application has been made and a license granted.

(Sections 5.22 through 5.29, inclusive, reserved for future expansion.)

SEC. 5.30. 3.2 PERCENT MALT LIQUOR LICENSE REQUIRED.

Subd. 1. 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 3.2 percent malt liquor, 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 a person holding a 3.2 percent malt liquor license from the City. Annual 3.2 percent malt liquor on-sale 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.

Subd. 2. The council may authorize a holder of an on-sale 3.2 percent malt liquor license issued pursuant to Subd. 1 of this section who is also licensed to sell wine at on-sale pursuant to Minn. Stat. § 340A.404 to sell intoxicating malt liquors at on-sale without an additional license.

Reference: Minnesota Statutes 340A.404 and 340A.411

Source: Ordinance No. 335, Third Series
Effective Date: 06-26-2014

SEC. 5.31. TEMPORARY 3.2 PERCENT MALT LIQUOR LICENSE REQUIRED.

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, shall qualify for a temporary on-sale 3.2 malt liquor license.

Subd. 2. Conditions.

A. An application for a temporary license shall state the exact dates and premise (detailed description or drawing of where the sales and consumption will occur) of proposed temporary sale.

B. No applicant shall qualify for a temporary license for more than a total of twelve (12) days in any calendar year.

C. The applicant shall comply with all other restrictions, limitations and regulations for the sale of 3.2 malt liquor under the City Code and State Statutes.

Reference: Minnesota State Statute 340A.403
Source: Ordinance No. 335, Third Series
Effective Date: 06-26-2014

SEC. 5.32. 3.2 MALT LIQUOR LICENSE RESTRICTIONS AND REGULATIONS.

Subd. 1. No 3.2 malt liquor 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, and ownership or holding thereof shall be grounds for revocation.

Subd. 2. No license shall be granted to a manufacturer of 3.2 malt liquor or to anyone holding a financial interest in such manufacture.

Subd. 3. Except as herein otherwise provided, every licensee shall be responsible for the conduct of his place of business and shall maintain conditions of sobriety and order.

Subd. 4. No person who has not attained the age of eighteen (18) years shall be employed to sell or serve 3.2 malt liquor in any on-sale establishment.

Subd. 5. No person who has not attained the age of eighteen (18) years shall be employed to sell 3.2 malt liquor in any off-sale establishment except in the capacity of a cashier at a check-out counter.

Subd. 6. No license shall be granted for any building within 300 feet of any public elementary school or secondary school structure, or within 100 feet of any church structure. This provision shall not be applicable to a temporary 3.2 malt liquor license.

Reference: Minnesota State Statute 340A.411
Source: Ordinance No. 335, Third Series
Effective Date: 06-26-2014

SEC. 5.33. HOURS AND DAYS OF SALE OF 3.2 MALT LIQUOR. No sale of 3.2 malt liquor shall be made between the hours of 2:00 o'clock A.M. and 8:00 o'clock A.M. on any weekday, Monday through Saturday, inclusive, nor on any Sunday between the hours of 2:00 o'clock A.M. and 10:00 o'clock A.M.

Reference: Minnesota State Statute 340A.504
Source: Ordinance No. 335, Third Series
Effective Date: 06-26-2014

(Sections 5.34 through 5.39, inclusive, reserved for future expansion.)

SEC. 5.40. LIQUOR 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 liquor, as part of a commercial transaction, without a license therefor from the City. This Section shall not apply (1) to such potable liquors as are intended for therapeutic purposes and not as a beverage, (2) to industrial alcohol and its compounds not prepared or used for beverage purposes, (3) to wine in the possession of a person duly licensed under this Chapter as an on-sale wine licensee, (4) to sales by manufacturers to wholesalers duly licensed as such by the Commissioner, (5) to sales by wholesalers to persons holding liquor licenses from the City, or (6) to the municipal liquor store.

Subd. 1. The City may issue annual on-sale liquor licenses only to the following:

A. hotels;
B. restaurants;
C. bowling centers;
D. clubs or congressionally chartered veterans organizations with the approval of the commissioner, provided that the organization has been in existence

for at least three years and liquor sales will only be to members and bona fide guests, except that a club may permit the general public to participate in a wine tasting conducted at the club under section 340A.419;

Subd. 2. Theaters. The City may issue an on-sale intoxicating liquor license, an on-sale wine license, or an on-sale malt liquor license to a theater within the city, notwithstanding any law, local ordinance, or charter provision. A license issued under this paragraph authorizes sales on all days of the week to persons attending events at the theater.

Subd. 4. Optional 2:00 a.m. Liquor License. The city may issue an optional 2:00 a.m. liquor license to a licensed retailer of intoxicating liquor located in the city. Alcohol may be served or sold until 2:00 a.m. in establishments that have obtained a permit from the commissioner of public safety under Minnesota Statute Section 340A.504 subd. 7, permitting sales after 1:00 a.m.

Reference: Minnesota State Statute 340A.404
Source: Ordinance No. 335, Third Series
Effective Date: 06-26-2014

SEC. 5.41. 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 license 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. (1) a club or charitable, religious, or other nonprofit organization in existence for at least three years, (2) a political committee registered under State Statute 10A.14, or (3) a state university, a temporary license for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the licensee. The city may issue to a brewer who manufactures fewer than 3,500 barrels of malt liquor in a year a temporary license for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the brewer. The terms and conditions specified for temporary licenses under paragraph (a) shall apply to a license issued under this paragraph, except that the requirements of State Statute 340A.409, subdivisions 1 to 3a, shall apply to the license.

A. The city may issue to a farm winery licensed under State Statute 340A.315 a temporary license for the on-sale at a county fair located within the municipality of intoxicating liquor produced by the farm winery. The licenses are subject to the terms, including a license fee, imposed by the issuing municipality and all laws and ordinances governing the sale of intoxicating liquor not inconsistent with this section.

Subd. 3. Terms and Conditions of License.

A. No license is valid until approved by the Commissioner.

Source: Ordinance No. 47, Third Series
Effective Date: 3-24-88

B. No license shall be issued for more than four consecutive days.

Source: Ordinance No. 176, Third Series
Effective Date: 8-3-95

C. All licenses and licensees are subject to all provisions of statutes and the City Code relating to liquor sale and licensing. The licensee shall provide proof of financial responsibility coverage and, in the case of catering by a full-year on-sale licensee, such caterer shall provide proof of the extension of such coverage to the licensed premises.

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

Reference: Minnesota State Statute 340A.404
Source: Ordinance No. 335, Third Series
Effective Date: 06-26-2014

Subd. 4. Insurance Required. The Council may, but at no time shall it be under any obligation whatsoever to, grant a temporary liquor license on premises owned or controlled by the City. 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, $100,000.00 for injury to more than one person, and $10,000.00 for property damage, naming the City as an insured during the license period.

SEC. 5.42. SPECIAL PROVISIONS; SPORTS, CONVENTIONS, OR CULTURAL FACILITIES; COMMUNITY FESTIVALS.

Subd. 1. The city may authorize a holder of a retail on-sale intoxicating liquor license issued by the municipality or by an adjacent municipality to dispense intoxicating liquor at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the municipality or instrumentality thereof having independent policy-making and appropriating authority and located within the municipality. The licensee must be engaged to dispense intoxicating liquor at an event held by a person or organization permitted to use the premises, and may dispense intoxicating liquor only to persons attending the event. The licensee may not dispense intoxicating liquor to any person attending or participating in a youth amateur athletic event (for persons 18 years of age or younger) held on the premises.

Subd. 2. The city may authorize a holder of a retail on-sale intoxicating liquor license issued by the municipality to dispense intoxicating liquor off premises at a community festival held within the municipality. The authorization shall specify the area in which the intoxicating liquor must be dispensed and consumed, and shall not be issued

unless the licensee demonstrates that it has liability insurance as prescribed by section 340A.409 to cover the event and names the city as additional insured.

Reference: Minnesota State Statute 340A.404
Source: Ordinance No. 335, Third Series
Effective Date: 06-26-2014

SEC. 5.43. HOURS AND DAYS OF LIQUOR SALES. No sale of liquor shall be made after 2:00 o'clock A.M. on Sunday, nor until 8:00 o'clock A.M. on Monday, nor between the hours of 2:00 o'clock A.M. and 8:00 o'clock A.M. on any weekday, nor after 8:00 o'clock P.M. on December 24.

Source: Ordinance No. 281, Third Series
Effective Date: 1-12-06

SEC. 5.44. OFF-SALE MALT LIQUOR "GROWLERS".

Subd. 1. A brewer licensed under Minnesota Statute 340A.301, Subdivision 6(d), (i), or (j) may be licensed for the "off-sale" of malt liquor produced and packaged on the licensed premises, subject to the following conditions:

1. No off-sale of malt liquor may be made between 2:00 o'clock A.M. and 10:00 o'clock A.M on Sunday, nor between 2:00 o'clock A.M. and until 8:00 o'clock A.M. on Monday, nor between the hours of 2:00 o'clock A.M. and 8 o'clock A.M. on any weekday.
2. The malt liquor shall be packaged in sixty-four-ounce containers commonly known as "growlers" or in seven hundred fifty (750) milliliter bottles;
3. The malt liquor sold at "off-sale" must be removed from the licensed premise before the applicable closing time at exclusive liquor stores;
4. The "growler" must be sealed in such a manner that the seal must be broken in order to open the container and the seal must bear the name and address of the brewer, and the legend "Not for Consumption in Public" must be prominently displayed on the seal.

SEC. 5.45. BREWER TAPROOMS.

Subd. 1. A brewer licensed under Minnesota Statute Section 340A.301, Subd. 6(c), (i), or (j) may be issued an on-sale liquor license for the "on sale" of malt liquor produced on the licensed premises, subject to the following conditions:

1. No on-sale of malt liquor may be made between 2:00 o'clock A.M. and 10:00 o'clock A.M on Sunday, nor between 2:00 o'clock A.M. and until 8:00 o'clock A.M. on Monday, nor between the hours of 2:00 o'clock A.M. and 8 o'clock A.M. on any weekday.
2. A brewer may only hold one (1) brewer taproom license under this chapter.
3. The only beverage alcohol that may be sold or consumed on the premises of a brewery taproom will be the malt liquor produced by the brewer upon the brewery premises.
4. All other provisions of this chapter and chapter 6 shall be applicable to such licenses and licensees unless inconsistent with the provisions of this section.
5. Licensed brewer taprooms may operate a restaurant on the premises without additional licensure.

Reference: Minnesota State Statute 340A.301
Source: Ordinance No. 343, Third Series
Effective Date: 01-28-2016

(Sections 5.46 through 5.49, inclusive, reserved for future expansion.)

SEC. 5.50. ON-SALE WINE 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 wine on-sale, as part of a commercial transaction, without a license therefor from the City. This Section shall not apply (1) to sales by manufacturers to wholesalers duly licensed as such by the Commissioner, (2) to sales by wholesalers to persons holding on-sale or off-sale liquor licenses from the City, (3) to sales by wholesalers to persons holding on-sale wine license from the City, or (4) to sales by on-sale liquor licensees on days and during hours when on-sale liquor sales are permitted.

Subd. 1. An on-sale wine license may be issued by the city only with the approval of the commissioner to a restaurant having facilities for seating at least 25 guests at one time. A wine license permits the sale of wine of up to 24 percent alcohol by volume for consumption. A wine license authorizes the sale of wine on all days of the week unless the issuing authority restricts the license's authorization to the sale of wine on all days except Sundays.

Subd. 2. The council may authorize a holder of an on-sale wine license issued pursuant to subsection (a) of this section who is also licensed to sell 3.2 percent malt liquor at on-sale pursuant to Minn. Stat. § 340A.411 to sell intoxicating malt liquors at on-sale without an additional license.

Subd. 3. The city may issue an on-sale wine license with the approval of the commissioner to a licensed bed and breakfast facility. A license under this subsection authorizes a bed and breakfast facility to furnish wine only to registered guests of the facility.

Subd. 4. A farm winery licensed under Minn. Stat. § 340A.315 may be issued a temporary license for on-sale of intoxicating liquor produced by the farm winery at an approved festival or event pursuant to the provisions of this code. The licenses are subject to the terms, including a license fee, imposed by the city and all laws and ordinances governing the sale of intoxicating liquor. Licenses under this subdivision are not valid unless first approved by the city council.

Reference: Minnesota State Statute 340A.404
Source: Ordinance No. 335, Third Series
Effective Date: 06-26-2014

SEC. 5.51. HOURS AND DAYS OF SALES BY ON-SALE WINE LICENSEES. No on-sale of wine shall be made between 2:00 o’clock A.M. and 10:00 o’clock A.M. on Sunday, nor between 2:00 o’clock A.M. and until 8:00 o’clock A.M. on Monday, nor between the hours of 2:00 o’clock A.M. and 8:00 o’clock A.M. on any weekday.

Reference: Minnesota State Statute 340A.504
Source: Ordinance No. 335, Third Series
Effective Date: 06-26-2014

(Sections 5.52 through 5.54, inclusive, reserved for future expansion.)

SEC. 5.55. LIQUOR AND ON-SALE WINE LICENSE RESTRICTIONS, REGULATIONS AND UNLAWFUL ACTS.

Source: Ordinance No. 47, Third Series
Effective Date: 3-24-88

Subd. 1. REPEALED.

Source: Ordinance No. 80, Third Series
Effective Date:12-7-89

Subd. 2. The number of licenses which the Council may issue shall be one less than the number of on-sale liquor licenses authorized by State statute.

Subd. 3. A license may not be issued to a person in connection with the premises of another to whom a license could not be issued under the provisions of this Chapter. This Subdivision does not prevent the granting of a license to a proper lessee because the person has leased the premises of a minor, a non-citizen who is not a resident alien, or a person who has been convicted of a crime other than a violation of this Chapter.

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

Subd. 5. 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. This provision shall not be applicable to a temporary beer license.

Source: Ordinance No. 69, Third Series
Effective Date: 5-4-89

Subd. 6. No on-sale liquor or wine license shall be granted to any person unless the applicant shall have an investment in buildings, fixtures and equipment, but excluding land, of a fair market value of $100,000.00
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Source: Ordinance No. 335, Third Series
Effective Date: 06-26-2014

(Sections 5.56 through 5.59, inclusive, reserved for future expansion.)

SEC. 5.60. MUNICIPAL DISPENSARY.

Subd. 1. Establishment. A Municipal Dispensary is hereby established to be operated within the City for the sale of alcoholic beverages and related items. Such Dispensary shall be at such place or places as the Council shall determine and may be either leased or owned by the City. It shall be in the charge of a person known as the Manager who shall have such assistants as may be necessary.

Subd. 2. Dispensary Fund. A Liquor Dispensary Fund is hereby created into which all revenues received from the operation of the Dispensary shall be paid, and from which all operating expenses shall be paid.

(Sections 5.61 through 5.69, inclusive, reserved for future expansion.)

SEC. 5.70. CONSUMPTION AND DISPLAY.

Subd. 1. Consumption and Display License Required. It is unlawful for any business establishment or club, not holding an on-sale liquor license to directly or indirectly, or on any pretense or by any device, sell, barter, keep for sale, or otherwise dispose of any liquid for the purpose of mixing the same with liquor, or permit its members to bring and keep a personal supply of liquor in lockers assigned to such members, without a license therefor from the City.

Subd. 2. Consumption and Display Restrictions and Regulations.

A. Eligible Licensees. If the applicant is otherwise eligible, licenses may be issued only to (1) persons who have not, within five years prior to application, been convicted of a felony or of violating provisions of this Chapter of other law relating to the sale or furnishing of alcoholic beverages; (2) a restaurant; (3) a hotel; (4) a beer licensee; (5) a resort as defined by statute; or, (6) a club or an unincorporated club otherwise meeting the definition of a club, provided, that no license may be issued to a club holding an on-sale liquor license.

B. Unlawful Act. It is unlawful to sell liquor on licensed premises.

Source: Ordinance no. 47, Third Series
Effective Date: 3-24-88

C. License Expiration. In order to coordinate the expiration of a consumption and display license with a State permit, all licenses shall expire at the same time as the State Consumption and Display permit expires. Any changes in the State license period shall change the City license period, and the fees therefor shall be pro-rata adjusted for any partial year periods.

Source: Ordinance No. 111, Third Series
Effective Date: 7-4-91

D. State Permit Required. Licenses shall be issued only to holders of a consumption and display permit from the Commissioner.

E. Lockers. A club to which a license is issued under this Section may allow members to bring and keep a personal supply of liquor in lockers on a club's premises. All bottles kept on the premises must have attached labels signed by the member. No minor may keep a supply of liquor on club premises.

Source: Ordinance No. 47, Third Series
Effective Date: 3-24-88

F. Hours and Days. No licensee may permit a person to consume or display liquor, and no person may consume or display liquor, between 2:00 o'clock A.M. and 12:00 o'clock noon on Sundays, and between 2:00 o'clock A.M. and 8:00 o'clock A.M. on Monday through Saturday.

Source: Ordinance No. 281, Third Series
Effective Date: 1-12-06

SEC. 5.71. CONSUMPTION AND DISPLAY – ONE DAY LICENSE.

Subd. 1. License Required. Any non-profit organization desiring to serve liquids for the purpose of mixing with liquor and permitting the consumption and display of liquor in conjunction with a social activity sponsored by it, shall first obtain a license therefor from the City. It is unlawful for any such organization to fail to obtain such license.

Subd. 2. Term. The term of such license shall be one day only.

Subd. 3. Limitation on Number. The City shall issue no more than ten licenses in a calendar year.

Source: Ordinance No. 47, Third Series
Effective Date: 3-24-88

Subd. 4. REPEALED.

Source: Ordinance No. 69, Third Series
Effective Date: 5-4-89

Subd. 5. Approval. In addition to Council approval, such license must be approved by the Commissioner of Public Safety.

(Sections 5.72 through 5.89, inclusive, reserved for future expansion.)

SEC. 5.90. NUDITY OR OBSCENITY PROHIBITED.

Subd. 1. Definitions. As used in this Section, the following words and terms shall have the meanings stated:

A. "Nudity" – 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" – A play, motion picture, dance, show or other presentation, whether pictured, animated or live, performed before an audience and which is whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sadomasochistic abuse, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct.

C. "Obscenities" – 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. “Sadomasochistic Abuse” – 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” – 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” – 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.

Subd. 2. 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.

(Sections 5.91 through 5.98, inclusive, reserved for future expansion.)

SEC. 5.99. 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.

Source: Ordinance No. 47, Third Series
Effective Date: 3-24-88

136-139 Reserved

CHAPTER 6: BUSINESS REGULATIONS

SECTION 6.01. DEFINITIONS. As used in this Chapter, the following words and terms shall have the meanings stated:

1. "Applicant" – Any person making an application for a license under this Chapter.
2. "Application" – 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" – A Corporate surety document in the form and with the provisions acceptable and specifically approved by the City Attorney.
4. "Business" – 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.
5. "License" – A document issued by the City to an applicant permitting him to carry on and transact a business.
6. "Licensee" – An applicant who, pursuant to his application, holds a valid, current, unexpired and unrevoked license from the City for carrying on a business.
7. "License Fee" – The money paid to the City pursuant to an application and prior to issuance of a license to transact and carry on a business.
8. "Sale", "Sell" and "Sold" – All forms of barter and all manner or means of furnishing merchandise to persons.

SEC. 6.02. APPLICATIONS. All applications shall be made as follows:

Subd. 1. All applications shall be made at the office of the City Administrator upon forms that have been formulated by the City for such purposes.

Subd. 2. All such applications must be subscribed, sworn to, and include, but not be limited to, the following:

A. Applicant's name 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. 3. 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. 4. The City Administrator may 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. For such investigation the City Administrator may enlist the aid of the Chief Law Enforcement Officer.

Subd. 5. Applications for renewal licenses may be made in such abbreviated form as the Council may by resolution adopt.

SEC 6.021. APPLICANTS FOR CITY LICENSES. The purpose and intent of this section is to establish regulations that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of licensing background checks.

Subd. 1. CRIMINAL HISTORY LICENSE BACKGROUND INVESTIGATIONS: The Rock County Sheriff's Department is hereby required, as the exclusive entity within the City, to do a criminal history background investigation on the applicants for the following licenses within the city: Solicitors, Dance, Junkyard, Recycling Center, Commercial Refuse Collection, Arcade, Theaters/Shows, Tent Shows, Carnival, and Fireworks licenses.

1. In conducting the criminal history background investigation in order to screen license applicants, the Rock County Sheriff's Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Rock County Sheriff's Department under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the Computerized Criminal History data may be released by the Rock County Sheriff's Department to the licensing authority, including the City Council, the City Administrator or the designee.

2. Before the investigation is undertaken, the applicant must authorize the Rock County Sheriff's Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of Minn. Stat.

Chap. 13 regarding the collection, maintenance and use of the information. Except for the positions set forth in Minnesota Statutes Section 364.09, the city will not reject an applicant for a license on the basis of the applicant's prior conviction unless the crime is directly related to the license sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the City rejects the applicant's request on this basis, the City shall notify the applicant in writing of the following:

A. The grounds and reasons for the denial.

B. The applicant complaint and grievance procedure set forth in Minnesota Statutes Section 364.06.

C. The earliest date the applicant may reapply for the license.

D. That all competent evidence of rehabilitation will be considered upon reapplication.

Source: Ordinance No. 329, Third Series
Effective Date: 5-3-2013

SEC. 6.03. ACTION ON APPLICATION, TRANSFER, TERMINATION AND DUPLICATE LICENSE.

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 Administrator shall forthwith issue a license pursuant thereto in the form prescribed by the Council upon proof of ownership, 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. Applicable licenses shall be valid only at one location and on the premises therein described.

Subd. 3. Transfer. No license shall be transferable between persons. 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 Subdivision.

Subd. 4. Termination. Licenses shall terminate only by expiration or revocation.

Subd. 5. 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 of questionable moral character or business reputation. 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.

Subd. 6. Duplicate License. Duplicates of all original licenses may be issued by the City Administrator, 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.

SEC. 6.04. 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 licensing, 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.

SEC. 6.05. PENALTY FOR PROPERTY OWNERS. It is unlawful for any person to knowingly permit any real property owned or controlled by him to be used, without a license, for any business for which a license is required by this Chapter.

SEC. 6.06. RESPONSIBILITY OF LICENSEE. The conduct of agents and employees of a person to whom a license or permit is issued shall be deemed the conduct of the licensee himself.

SEC. 6.07. CONVICTION OF CRIME - DENIAL OF LICENSE. A license may be denied to an applicant by the Council solely or in part due to a prior conviction of a crime by an applicant only upon a finding that such conviction directly relates to the occupation for which the license is sought, and then only after considering evidence of rehabilitation and such other evidence as may be presented, all in accordance with Minnesota Statutes. Provided, however, that an applicant must show his present fitness to perform the occupation for which the license is sought.

SEC. 6.08. 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.

SEC. 6.09. 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.

Source: City Code
Effective Date: 11-1-80

SEC. 6.10. 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 Administrator,

and be 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.

Source: Ordinance No. 48, Third Series
Effective Date: 3-31-88

(Sections 6.11 through 6.19, inclusive, reserved for future expansion.)

SEC. 6.20. REPEALED.

Source: Ordinance No. 152, Third Series
Effective Date: 10-7-93

SEC. 6.21. DANCES.

Subd. 1. Definitions. As used in this Section, the following words and terms shall have the meanings stated:

1. "Public Dance" - 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. Dances sponsored indirectly by a public school or other unit of government for the purposes of this section are deemed to be public dances.

2. "Public Dancing Place" - Any room, place, or space open to 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 any admission fee or price for dancing.

Subd. 2. License Required. It is unlawful for any person to operate a public dancing place, or hold a public dance, without first having obtained a license therefor from the City. No license shall be issued to any applicant under the age of eighteen (18) years. In lieu of a per dance license for a specific dance, the Council may grant an annual license under such terms and conditions as it deems appropriate.

Subd 3. License Fee. The license fee shall be fixed and determined by the Council at the time the application is approved, which fee shall include the cost of any investigation and the fees and expenses of providing attendance of a law enforcement officer. An annual fee may be charged for the application processing and investigation portion when licensee applicants contemplate numerous public dances throughout a calendar year. Any portion or all the license fee may be waived if the Council finds that the applicant is a charitable, religious, or fraternal committee, association or organization operating on a purely non-profit basis and all dance proceeds other than direct operating expenses are used for benevolent and charitable purposes.

Subd. 4. Application and License.

A. 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, area of the dance floor, estimated number of dance patrons, and such other information as the City may reasonably request.

B. All applications shall be accompanied by an affidavit that the applicant has 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.

C. 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 passageways 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, and lighting facilities.

D. Applicants shall be referred to the Chief Law Enforcement Official for investigation prior to being acted upon by the Council.

E. The application shall require a detailed explanation of any security measures to be provided by the applicant. If recommended by the Chief Law Enforcement Official, the Council may require the law enforcement officials to provide security based on the facility in which the dance is located, the anticipated number of dance patrons, the availability of alcoholic beverages, or other factors the Council deems pertinent. The total cost of said law enforcement security must be paid by the applicant and the Council may require an advance deposit or a corporate surety bond guaranteeing payment.

F. 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. 5. Dance Regulations.

A. Obscenity and Immorality Prohibited. It is unlawful for any person to dance, or a licensee to permit or suffer any person to dance at any public dance with or without payment of consideration in an obscene performance as defined and regulated by City Code, Sec. 6.23, Subd. 4. It is also unlawful for any person at a public dance to speak in a rude, boisterous, obscene (as defined and regulated by City Code, Sec. 6.23, Subd. 4), or indecent manner or for any licensee to suffer or permit any person to so act or speak in any public dancing place.

B. Illumination. Every public dancing place shall be sufficiently illuminated while in public use so that individuals can be plainly seen and the conduct of the dance readily observed.

C. Certain Persons Prohibited. No licensee shall permit any intoxicated person, or other person who persists in violating the law, to be or remain in a public dancing place.

D. Hours of Dancing. The hours of a dance shall be as designated by the Council and placed on the license. The licensee shall strictly enforce the dance hours. Public dances shall not be held or conducted between the hours of 1:00 o'clock a.m. and 8:00 o'clock a.m. of any day. All dance patrons must be out of and off the dance location facility not later than 30 minutes after the hour designated for the closing of the dance.

Source: Ordinance No. 84, Third Series
Effective Date: 5-3-90

SEC. 6.22. REPEALED.

Source: Ordinance No. 152, Third Series
Effective Date: 10-7-93

SEC. 6.23. SHOWS.

Subd. 1. 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.

Source: City Code
Effective Date: 11-1-80

Subd. 2. REPEALED.

Source: Ordinance No. 48, Third Series
Effective Date: 3-31-88

Subd. 3. Exceptions. No license shall be required in the following instances:

A. Performances presented in the local schools and colleges, under the sponsorship of such schools and colleges, and primarily for the students thereof only.

B. Performance 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.

Subd. 4. Obscenity Prohibited.

A. Definitions. As used in this Subdivision, the following words and terms shall have the meaning stated:

1. "Nudity" - Uncovered, or less than opaquely covered, post-pubertal human genitals, pubic areas, the postpubertal 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.

2. "Obscene Performance" - A performance which in whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sadomasochistic abuse, or which includes obscenities or explicit verbal descriptions or narrative accounts of sexual conduct.

3. "Obscenities" - 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.

4. "Performance" - Any play, motion picture film, dance, or other exhibition pictured, animated, or live, performed before an audience.

5. "Sadomasochistic Abuse" - 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.

6. "Sexual Conduct" - 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.

7. "Sexual Excitement" - 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.

B. It is unlawful for any licensee, for a monetary consideration or other valuable commodity or service, to knowingly or recklessly (1) exhibit an obscene performance, or, (2) directly or indirectly sell an admission ticket or other means to gain entrance to an obscene performance, or, (3) directly or indirectly permit admission of a person to premises whereon there is exhibited an obscene performance.

C. Any prosecution under this Subdivision shall include the following elements: (1) that the average person, applying contemporary community standards, would find the performance, taken as a whole, appealing to the prurient interest of the audience; (2) that the performance describes or depicts, in a patently offensive way, sexual conduct included in the definition of "obscene performance"; and, (3) that the performance, taken as a whole, lacks serious literary, artistic, political or scientific value.

Source: City Code
Effective Date: 11-1-80

SEC. 6.24. REPEALED.

Source: Ordinance No. 48, Third Series
Effective Date: 3-31-88

(Sections 6.25 through 6.29, inclusive, reserved for future expansion.)

SEC. 6.30. REPEALED.

Source: Ordinance No. 210, Third Series
Effective Date: 11-19-98

(Sections 6.31 through 6.39, inclusive, reserved for future expansion.)

SEC. 6.40. SOLICITORS.

Subd. 1. 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 contact 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; and, (2) businesses and organizations which, though their 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.

Subd. 2. Definitions. The following terms, as used in this Section, shall have the meanings stated:

1. "Solicitor" - Any person making the solicitation, including such common terms as "peddler," "transient merchant" and "canvasser."

2. "Solicitee" - The person solicited.

3. "Goods" - 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.

4. "Services" - Work, labor, or services of any kind.

5. "Established Place" - Real estate in the City owned, leased on a month-to-month or term-certain longer than thirty (30) days. The terms includes a booth, compartment, or area leased or assigned during and for the length of an event or occasion.

6. "Business Solicitation" - 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 contacts 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; or, (2) an attempted solicitation in which the solicitee has first initiated the contact with the solicitor; or, (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.

7. "Contribution Solicitation" - 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 contact with the solicitor or the organization represented by him.

Subd. 3. Prohibited Solicitation Practices.

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

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

C. 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 wide with the words "Peddlers and Solicitors Prohibited" or "Solicitors Prohibited" in type not smaller than 48 point.

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

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

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

Subd. 4. 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.

Subd. 5. Investigation, Approval or Disapproval.

A. All applications for licensing or registration shall be immediately referred to the Chief Law Enforcement Officer, and by him or other person acting in his stead, investigated as to the truth thereof. The Chief Law Enforcement Officer shall have fifteen (15) business days within which to investigate and make a recommendation thereon.

B. 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 Administrator shall forthwith advise the applicant. The City Administrator 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.

C. If the Chief Law Enforcement Officer 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.

Source: City Code
Effective Date: 11-1-80

Subd. 6. REPEALED.

Source: Ordinance No. 48, Third Series
Effective Date: 3-31-88

Subd. 7. Duration of Contribution Solicitation Registration. Registration of contribution solicitation shall expire fifteen (15) days after registration is approved.

Source: City Code
Effective Date: 11-1-80

Subd. 8. Exclusions. The City may exclude certain classes of solicitor events from compliance with licensing or registration provisions of this Section. Provided, however, that such exclusion shall not extend to the prohibited solicitation practices set forth in Subdivision 3, Subparagraphs A through D, inclusive, of this Section.

Source: Ordinance No. 48, Third Series
Effective Date: 3-31-88

(Sections 6.41 through 6.49, inclusive, reserved for future expansion.)

SEC. 6.50. REPEALED.

Source: Ordinance No. 152, Third Series
Effective Date: 10-7-93

(Sections 6.51 through 6.59, inclusive, reserved for future expansion.)

SEC. 6.60. TAXICABS.

Subd. 1. Definitions. The following terms, as used in this Section, shall have the meanings stated:

1. "Taxicab" - Any passenger conveyance being driven, on call or traversing a scheduled or unscheduled route for public use or hire upon payment of a fare or at regular fare rates, but not including such as are designed for mass transportation as buses, trains or streetcars.
2. "Operator" - A licensee owning or otherwise having control of one or more taxicabs.
3. "Driver" - The person driving and having physical control over a taxicab whether he be the licensee or in the employ of the licensed operator.

Subd. 2. License Required. It is unlawful for any person to drive or operate a taxicab without a license therefor from the City.

Source: City Code
Effective Date: 11-1-80

Subd. 3. REPEALED.

Source: Ordinance No. 48, Third Series
Effective Date: 3-31-88

Subd. 4. Insurance Required. Before a taxicab license is issued by the Council, and at all times effective during such licensed period, the licensee shall have

and maintain public liability and bodily injury insurance in the amount of $100,000.00 for any one person and $300,000.00 for two or more persons injured in any one accident, as well as $50,000.00 property damage insurance. Such insurance shall cover all passengers carried by the insured licensee and shall be for public taxicab purposes. All such policies shall contain a clause providing for ten days' written notice to the City Administrator before cancellation and a memorandum of such insurance shall be furnished to the City before a license is issued.

Subd. 5. Rates. Each applicant shall file with the City Administrator, before a taxicab license is issued or renewed, a schedule of proposed maximum rates to be charged by him during the licensed period for which the application is made. The schedule of proposed maximum rates, or a compromise schedule thereof, shall be approved by the Council before granting the license. Such schedule shall be posted in a conspicuous place in the taxicab in full view of passengers riding therein. Nothing herein shall prevent a taxicab licensee from petitioning the Council for review of such rates during the licensed period, and the Council may likewise consider such petition and make new rates effective at any time. No taxicab licensee shall charge rates in excess of maximum rates approved by the Council.

Subd. 6. Mechanical Condition. Before issuing a taxicab license, the applicant shall present to the Council a certificate signed by a competent and experienced mechanic showing that the taxicab conveyance is in good mechanical condition, that it is thoroughly safe for transportation of passengers and that it is in neat and clean condition. Such similar certificate may be required from time to time during the licensed period. In lieu of such certificate the Council may accept the report of the Chief Law Enforcement Officer relative thereto.

Source: City Code
Effective Date: 11-1-80

(Sections 6.61 through 6.69, inclusive, reserved for future expansion.)

SEC. 6.70. JUNK YARDS.

Subd. 1. Definitions. As used in this Section and other portions of the City Code, the following words and terms shall have the meanings stated:

1. "Junk Yard" - Any building, structure, premise, or place at, upon, or within which there is kept, stored, or piled in any quantity, 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 including those not currently licensed; parts of motor vehicles; agricultural or construction equipment or parts thereof; building materials; or any other articles which from its worn or damaged condition renders it practically useless for the purpose for which it was intended and originally manufactured without substantial repair. A junk yard includes activities which are commonly referred to as salvage or salvage yards where the substantial purpose of the junk yard business is to salvage or remove usable parts or components for

replacement or resale. The term junk yard does not include "recycling centers" which are defined and regulated under other provisions of the City Code.

2. "Junk Dealer" - Any person, partnership, corporation, or other entity keeping, maintaining, or operating a junk yard. For purposes of this Section, the junk dealer for other than sole proprietorships shall be deemed to be any partner, officer, or other person who is directing said operation or authorized to apply for a junk yard license.

Source: Ordinance No. 133, Third Series
Effective Date: 6-18-92

Subd. 2. License Required. It is unlawful for any person to keep, maintain, or operate a junk yard without first having obtained a license therefor from the City.

Source: City Code
Effective Date: 11-1-80

Subd. 3. REPEALED.

Source: Ordinance No. 48, Third Series
Effective Date: 3-31-88

Subd. 4. Duration of License. Each junk dealer's license shall be valid for a period of one year commencing on the date of acceptance of the license application by the Council.

Source: City Code
Effective Date: 11-1-80

Subd. 5. Requirements for Licensing. No license shall be granted without a satisfactory showing to the Council that the following conditions exist and shall be maintained: (1) that the premises and all structures thereon, used for conducting the junk yard business, shall be adequately maintained so as to not constitute a health or safety hazard; and that all aisles within and exits from the structures upon the premises are kept clear and in usable condition. To assure compliance with this provision, the City Administrator shall cause the premises used in the applicant's junk yard business to be inspected at least once during the license year and the license is deemed to have given permission for said inspection; (2) that the premises upon which the junk yard business is conducted is enclosed with a fence or screened by natural growing material and of sufficient height so as to screen the entire premises from public view, all of which shall be maintained in good condition; that no articles shall be piled, stored, worked upon, or repaired outside of the enclosed area; that no articles shall be piled or stored so as to lean on or protrude through said fence or natural growth; that all gates, drives, and exterior aisles shall be kept clear at all times; and that all approaches to the premises shall be policed and kept free of material and articles that would cause damage to persons or vehicles; and that junk yards shall be located only in areas properly zoned for that purpose according to the Zoning Chapter of the City Code.

SEC. 6.71. RECYCLING CENTERS.

Subd. 1. Definitions. As used in this Section and other provisions of City Code, the following words and terms shall have the meanings stated:

1. "Recycling Center" - Any building, structure, premises, or place at, upon, or within which there is kept, stored, or piled in any quantity, whether temporary, 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 including those not currently licensed; parts of motor vehicles; agricultural or construction equipment or parts thereof; building materials; other materials which from its worn or damaged condition renders it practically useless for the purpose for which it was intended where the primary purpose is to assemble said materials in like kind or origin and in sufficient quantity to allow for the efficient and economical delivery of said materials to a recycling or remanufacturing facility. The term recycling center does not include "junk yards" which are defined and regulated under other provisions of the City Code. Recycling centers do not include operation which primarily collect and retain materials of any nature for the purpose of offering said material or parts thereof for sale as replacement parts.

2. "Recycling Center Operator" - Any person, partnership, corporation, or other entity keeping, maintaining, or operating a recycling center. For purposes of this Section, the recycling center operator for other than sole proprietorships shall be deemed to be any partner, officer, or other person who is in charge of said operation or authorized to apply for a recycling center license.

Subd. 2. License Required. It is unlawful for any person to keep, maintain, or operate a recycling center without first having obtained a license thereof from the City.

Subd. 3. Duration of License. Each recycling center's license shall be issued on a calendar year basis unless otherwise specified therein. For licenses that are to become effective on other than the first day of the license year, the fee to be paid with the application shall be pro-rated based on the number of months or portion thereof remaining in the license year. Licenses shall be valid only at one location and on the premises therein described.

Subd. 4. Requirements for Licensing. No license shall be granted without a satisfactory showing to the Council that the following conditions exist and shall be maintained: (1) that the premises and all structures thereon, used for conducting the recycling center business, shall be adequately maintained so as to not constitute a health or safety hazard; and that all aisles within and exits from the structures upon the premises are kept clear and in usable condition. To assure compliance with this provision, the City Administrator shall cause the premises used in the applicant's recycling center business to be inspected at least once during the license year and the license is deemed to have given permission for said inspection; (2) that the premises upon which the recycling center business is conducted is enclosed with a fence or screened by natural growing material and of sufficient height so as to screen the entire premises from public view, all of which shall be maintained in good condition; that no articles shall be piled, stored, worked upon, or repaired outside of the enclosed area; that no articles shall be piled or stored so as to lean on or protrude through said fence or natural growth; that all gates, drives, and exterior aisles shall be kept clear at all times;

and that all approaches to the premises shall be policed and kept free of material and articles that would cause damage to persons or vehicles; and that recycling centers shall be located only in areas properly zoned for limited industrial uses or light manufacturing including when the same is allowed by conditional use according to the zoning chapter of the City Code; and that the license complies with all provisions of the zoning chapter and, if applicable, the City Code.

Subd. 5. Any existing business or person currently operating a recycling center must obtain a recycling center license within thirty (30) days after the effective date of this section and must comply with all of the provisions contained herein including, but not limited to, the fencing or screening requirements not later than July 1, 1993, and all other reasonable conditions which may be imposed upon the issuing of the initial license and the first renewal thereof by the Council.

Source: Ordinance No. 133, Third Series
Effective Date: 6-18-92

SEC. 6.72. AMUSEMENT ARCADES.

Subd. 1. Definitions. The following terms, as used in this Section, shall have the meanings stated:

A. "Amusement Arcade" - the operation by any person, firm, partnership, or corporation of more than fifteen (15) mechanical amusement devices kept for public use upon premises solely within one enclosure.

B. "Mechanical Amusement Device" - Any machine which, upon the insertion of a coin, token, or slug, operates or may be operated and is available to the public generally for entertainment or amusement; any machine or contrivance including a pinball machine, pool tables, mechanical miniature pool table, bowling machine, shuffle board, electric rifle or gun range; any miniature and mechanical device and game or other amusement patterned after baseball, basketball, hockey, and similar games; any video or computerized games; and any amusement device designed for and used exclusively as a ride by children such as, but not limited to, a kiddie car, miniature airplane ride, mechanical horse, or other miniature mechanical devices, not operated as part of or in connection with any carnival, circus, show, or other entertainment or exhibition. All games and operations similar thereto under whatever name they may be indicated shall be included.

Subd. 2. License Required. No person shall own, operate, or permit the operation of an amusement arcade on premises owned, leased, or operated by him or engage in the business of operating an amusement arcade in the City unless he shall have first obtained a license therefor. The application forms and information required thereon shall be devised by the City Administrator.

Subd. 3. Unlawful Use and Devices. It is unlawful for any person to: (1) sell or maintain a machine or device which is for gambling or contains an automatic payoff 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/her place of business, any mechanical amusement device equipped with an automatic payoff device; (4) equip any mechanical amusement device with an automatic payoff device; (5) operate an amusement center within 300 feet of any church, public or private school grounds, or public playground.

Subd. 4. License Fees. The fee for an amusement arcade license shall be established by resolution adopted by the City Council.

Subd. 5. Granting of Licenses. Any application for a license hereunder shall be referred to the Chief Law Enforcement Officer and to such other persons on the City's staff as the City Administrator shall deem necessary. The City official to whom the application has been referred shall investigate the location wherein the applicant is proposing to operate the amusement arcade; shall ascertain if the applicant, or the manager of the licenses business, is under twenty one (21) years of age, an alien, or a foreign corporation; and shall ascertain whether the applicant, manager, or person owning the proposed licensed activity is of good moral character and repute, has not been convicted of an offense which relates to the conduct of the licenses business, has operated a similar business elsewhere which was not violative of the provisions of this code, and has never been denied a license to conduct a like or similar activity or had such a license suspended, revoked, or canceled. The Chief and any other City official to whom the application has been referred shall recommend approval or disapproval of the application.

Subd 6. Ineligibility for License. Existence of any of the following conditions shall render the applicant ineligible for a license, renewal thereof, or be cause for revocation or suspension unless the Council, in its sole opinion, determines that the applicant has shown sufficient extenuating circumstances to warrant the issuance of a license or not revoke or suspend regardless of said existing conditions:

A. If the applicant, or the manager of the licensed business, is
   1. Under twenty-one (21) years of age; or
   2. An alien; or
   3. A foreign corporation.

B. If the applicant, manager, or person owning the licensed activity:
   1. Is not a person of good moral character and repute; or
   2. Has been convicted of an offense which relates to the conduct of the license or had a similar license within or without the City suspended, revoked, or canceled
   3. Has been denied a license to conduct a similar activity or has had such license suspended, revoked, or canceled
   4. Has been convicted within ten (10) years of any controlled substance or alcohol-related crimes relating to the sale, distribution, growing, manufacture, or use thereof.

The foregoing shall not be the only grounds, however, for denial of the license.

Subd. 7. Insurance. If the mechanical amusement devices to be operated in the amusement arcade are of the type described in Subdivision 1 herein, the applicant shall also submit along with his application a certificate of liability insurance coverage in

at least the sum of $100,000 for injury to any one person, $300,000 for injury to more than one person, naming the City as an insured during the license period.

Subd. 8. Conditions of Licensure. The following conditions shall govern the issuance and holding of all amusement arcade licenses granted pursuant to this Section and the violation of any provision shall be cause for revocation or suspension thereof:

A. Order. It shall be the responsibility of the licensee to maintain order on the premises of the amusement arcade, and in and upon any parking lot appurtenant thereto, and adjacent premises, at all times.

B. Consumption of Alcoholic Beverages Prohibited. The consumption of alcoholic beverages, whether classified as intoxicating or non-intoxicating, or the use of any controlled substance shall not be permitted on any part of the premises of the amusement arcade.

C. Hours of Operation. On all weekdays of the year except Sunday, an amusement arcade shall be open only between the hours of 8:00 a.m. and 12:00 midnight. On all Sundays of the year, an amusement arcade shall be open only between the hours of 3:00 p.m. and 11:00 p.m.

D. Supervision. The licensee shall provide a full-time manager of at least twenty-one (21) years of age upon the premises of the amusement arcade during all hours in which it is open for business.

E. Entrance of Minors. No person under the age of ten (10) years shall be permitted to enter or remain on any part of the premises of the amusement arcade unless accompanied by his/her parent or legal guardian.

F. Compliance with Laws. The premises of the amusement arcade, and the licensee, shall fully comply with all applicable state, federal, and local regulations whatsoever dealing with the operation of the licenses business or activity.

G. Fire Hazards. It shall be the responsibility of the licensee, or his/her manager, to see that the premises of the amusement arcade do not become overcrowded and that the same are maintained in a clean and orderly manner so as to constitute a hazard to the health or safety of the persons therein.

H. Exits and Entrances. The premises of the amusement arcade shall have adequate entrances and exits at the front and rear thereof but may have no entrances to or exits from adjoining buildings.

I. Smoking Prohibited. The sale, use or smoking of tobacco or any other similar product in an amusement arcade is prohibited. The licensee shall be responsible to insure that this restriction is strictly enforced. This provision shall not apply if the premises of the amusement arcade is part of a licensed alcoholic beverage premise in which event no person under 18 is allowed unless accompanied by a parent or legal guardian or as otherwise authorized by City Code.

J. Illumination. All public portions of the interior of the amusement arcade shall be so illuminated as to insure proper and complete observation of patrons at all times.

Subd. 9. Suspension/Revocation. The City Council may suspend for a period not to exceed sixty (60) days, or revoke any license issued under this Code whenever the licensee, its owner, manager, employees, or agents of the licensee have engaged in any of the following:

A. Fraud, deception, or misrepresentation in connection with the securing of the license;

B. Conduct inimical to the interests of public health, safety, welfare, or morals;

C. Conduct involving moral turpitude;

D. Conviction of an offense involving moral turpitude by any court of competent jurisdiction;

E. Conviction of an offense which relates to the conduct of the licenses business;

F. Violation of any provision of this Code or any other federal, state, or local law, rule, or regulation with a potential penalty for violation thereof greater than a petty misdemeanor; or

G. Failure to comply with any of the conditions imposed on the license, or the conditions of licensure, or engaging in conduct which would be grounds for denial of an initial application for licensure.

Source: Ordinance No. 152, Third Series
Effective Date: 10-7-93

SEC. 6.73. TATTOOS, BODY ART AND BODY PIERCING

Subd. 1. Definitions. As used in this ordinance, unless the context otherwise indicates, the following definitions shall apply:

1. "Body Art" means the practice of physical body adornment by licensed establishments and operators using, but not limited to, the following techniques: body piercing, tattooing, cosmetic tattooing, branding, and scarification.

2. "Body Art Establishment" means any place or premise where the practices of body art, whether or not for profit, are performed, except where such practices are performed by a physician or surgeon who has a current license for the practice of medicine issued by the State of Minnesota.

3. "Body Piercing" means puncturing or penetration of the skin of a person and the insertion of jewelry or other adornment thereto in the opening, except that puncturing the outer perimeter or lobe of the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system shall not be included in this definition.

4. "Ear Piercing" means the puncturing of the non-cartilaginous perimeter or lobe of the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system following manufacturer's instructions.

5. "Operator" means any person who controls, operates, manages, conducts, or practices body art activities at a body art establishment. The term includes an assistant or technician who performs body art activities and who works under the supervision, control or authority of somebody else who is an operator.

6. "Person" means an individual, any form of business or social organization or any other non-governmental legal entity, including but not limited to corporations, partnerships, limited-liability companies, trusts or unincorporated organizations.

7. "Physician" means a person currently licensed by the State of Minnesota to practice medicine.

8. "Tattooing" means any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to

puncture the skin, resulting in permanent coloration of the skin or mucosa. This term includes all forms of cosmetic tattooing.

Subd. 2. Unlawful to Operate Body Art Establishment Without License-Exemptions. It shall be unlawful to operate a body art establishment unless a license is first obtained from the City Administrator. The provisions of this Subdivision do not apply to physicians or to individuals who pierce only the non-cartilaginous perimeter and lobe of the ear with a pre-sterilized single-use stud-and-clasp ear-piercing system; provided, however, that such individuals shall not be exempt from the applicable U.S. Food and Drug Administration requirements.

Subd. 3. License to Operate Body Art Establishment Issued Annually—Fee—Application Form—Display of License Required—Adoption of Regulations. The license described in Subd. 2 hereof shall expire December 31st of each year, except as necessary to coordinate expiration date, the license shall be for a one year term. The license shall be non-transferable. The license shall be displayed prominently in the body art establishment where clients may readily observe it. The City does hereby adopt the Regulations for Owners and Operators of Body Art Establishments for the City of Luverne. A copy of such regulations shall be posted in all Body Art Establishments in a prominent location so that clients, operators and technicians of a body art establishment may read them.

Subd. 4. Application for License.

A. Any person desiring a license to conduct a business where body art is practiced or to engage in the practice of body art shall file with the City an application in writing, signed by the applicant, containing the name of the applicant, if an individual; the names of co-partners, if a partnership; and if a corporation, the names of the principal officers of such corporation and the individuals who will engage in the practice of body art, the tax identification number for the business or individual, together with a brief description of the place or location at which the business is to be conducted, including therein for each individual named in the application, the appropriate date of birth.

B. The license fee and proof of insurance as hereinafter required shall accompany each application.

C. All applications for license shall be made upon forms furnished by the City, and upon presentation of the application, the license fee and the surety bond, the application shall thereafter be forwarded for investigation of the persons named in the application and inspection of the proposed location.

D. The services of the Sheriff's Department may be utilized to investigate the persons named in the application.

E. Upon completion of the investigation, the application shall be forwarded to the City Council with recommendations, for the City Council approval or denial of the license.

Subd. 5. License Fees and Terms. All licenses issued under the provisions of this Subdivision shall be for a period of one year with the initial license to expire on December 31 of each year and all renewals thereof to run from January 1 to December 31 of each year and the fee is established from time to time by the City Council.

Subd. 6. Evidence of Prepaid Insurance. All applicants for a tattoo license shall provide evidence of commercial general liability insurance. The following minimum limits are required:

- General Aggregate Limit $2 Million

- Products & Completed Operations $1 Million
- Personal Injury $1 Million
- Each Occurrence Limit $500,000
- Professional Liability $1 Million Per Claim & Aggregate

Subd. 7. Inspections of Licensed Premises. A law enforcement officer, or the City, or any agency which the City has contracted to do such work, may, at any time, enter upon any licensed premises for the purpose of inspection or to determine whether the licensed premises are in compliance with any and all ordinances of the City and regulations adopted by the City of Luverne. A copy of the inspection report must be furnished to the license holder or operator of the body art establishment.

Subd. 8. Licenses—Termination, Suspension, Revocation. All licenses issued under the provisions of this Subdivision, unless otherwise specifically provided, shall terminate on December 31 following the date of issuance; provided, however, that any license issued under the provisions of this Subdivision may, under certain circumstances, be terminated, suspended or revoked by the City Council.

A. The City Council may, in its discretion, suspend or revoke any license issued under the provisions of this Subdivision. The grounds for suspension or revocation shall, among others, include the following:

1. An individual licensee, one of the partners in a partnership licensee, or one of the officers in a corporation licensee, or any individual in active management of the licensed business violates any of the provisions of this Ordinance.

2. The licensee has been convicted of a felony under the laws of the United States or under the laws of one of the several states.

3. The licensee has made any false statement in his application for a license.

4. Any cause reasonably determined by the City Council to be necessary to promote public health or safety.

5. The licensee has violated one or more of the regulations created pursuant to Subd. 3.

The grounds enumerated in Subd. 8 A. shall not be deemed to be exclusive and any license issued under the provisions of this Subdivision may be suspended or revoked by the City Council for any other reason deemed by the City Council to be sufficient in order to promote and protect the health, safety, and welfare of the public. When any license is suspended or revoked by the City Council pursuant to the provisions of this Subdivision, or when the licensee voluntarily ceases business, no portion of the permit fee previously paid shall be returned to the licensee or to anyone claiming under or through him.

No license issued under the provisions of this Subdivision shall be suspended or revoked for cause by the City Council without a public hearing. In the event the City Council intends to consider the suspension or revocation of any license for cause, it shall direct the City Administrator to notify the licensee of its intention to consider the same. The notice shall specify the time and place of the suspension or revocation hearing and shall be served upon the licensee or his managing agent in the same manner as provided by law for the service of a summons in a civil action. No suspension or revocation hearing shall be held before the expiration of 15 days after the date of the service of the notice upon the licensee. If, upon such hearing, it appears to the City Council that sufficient cause exists for the suspension or revocation of a license
Issued pursuant to the provisions of this Subdivision, the Council shall make its order suspending or revoking the said license.

Subd. 9. Unlawful Practices. In addition to such other prohibitions as are contained in this Subdivision.

- No person shall perform body art on any body part of a person under the age of 18 unless the person provides written parental consent to the tattoo establishment. The consent must include both custodial and non-custodial parents where applicable (MS609.2246).
- No person shall obtain or attempt to obtain any body art establishment license by means of fraud, misrepresentation on concealment.
- No person shall perform body art procedures unless such procedures are performed in a body art establishment with a current license.
- No person shall perform body art procedures unless they are at least 18 years of age.
- No person shall interfere with an appropriate enforcement officer in the performance of an inspection or in the performance of any other duties–Failure by the licensee to post regulations, which are required to be posted pursuant to Subd. 3, shall be unlawful.
- No person shall violate the regulations for owners and operators of body art establishments enacted by the City Council.

Subd. 10. Location Restrictions. No person shall engage in the practice of body art at any place other than the place or location named or described in the application and license. Body art establishments may be located in any zone authorized by City Ordinance.

Source: Ordinance No. 311, Third Series
Effective Date: 11-26-09

(Sections 6.74 through 6.79, inclusive, reserved for future expansion.)

SEC. 6.80. REPEALED.

Source: Ordinance No. 48, Third Series
Effective Date: 3-31-88

SEC. 6.81. LODGING TAX.

Subd. 1. Definitions. For the purpose of this ordinance, the following terms, phrases and words, and their derivation shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

A. "Director" means the Fiscal & Management Services Coordinator of the City.

B. "City" means the City of Luverne.

C. "Lodging" means the furnishing for a consideration of lodging by a hotel, motel, or rooming house except where such lodging shall be for a continuous period of thirty (30) days or more to the same lodger(s). The furnishing of rooms owned or provided by religious, educational, or nonprofit organizations shall not constitute "lodging" for purposes of this ordinance.

D. "Operator" means a person who provides lodging to others or any officer, agent, or employee of such person.

E. "Person" means any individual, corporation, partnership, association, estate, receiver, trustee, executor, administrator, assignee, syndicate, or any other combination or individuals. Whenever the term "person" is used in any provision of this ordinance prescribing and imposing a penalty, the term as applied to a corporation, association, or partnership shall mean the officers or partners thereof as the case may be.

F. "Rent" means the total consideration valued in money charged for lodging whether paid in money or otherwise, but shall not include any charges for services rendered in connection with furnishing lodging other than the room charge itself.

G. "Lodger" means the person obtaining lodging from an operator.

. Subd. 2. Imposition of Tax. There is hereby imposed a tax of three (3) percent on the rent charged by an operator for providing lodging to any persons after April 1, 1995. The tax shall be stated and charged separately and shall be collected by the operator from the lodger. The tax collected by the operator shall be a debt owed by the operator to the City and shall be extinguished only by payment to the City. In no case shall the tax imposed by this section upon an operator exceed the amount of tax which the operator is authorized and required by this ordinance to collect from the lodger.

Source: Ordinance No. 323, Third Series
Effective Date: 3-1-2012

Subd. 3. Collections. Each operator shall collect the tax imposed by this ordinance at the time the rent is paid. The tax collection shall be deemed to be held in trust by the operator for the City. The amount of tax shall be separately stated from the receipt charged for the lodging and those persons paying the tax shall receive a receipt of payment from the operator.

Subd. 4. Exceptions and Exemptions.

A. No tax shall be imposed on rent paid by a lodger at any hotel, motel, or rooming house where fifty percent (50%) or more of the rent received from all lodgers is for lodging furnished for a continuous period of thirty (30) days or more to the same lodger(s).

B. Exceptions. No tax shall be imposed on rent for lodging paid by any officer or employee of a foreign government who is exempt by reason of express provisions of federal law or international treaty.

C. Exemptions. An exemption shall be granted to any person as to whom or whose occupancy it is beyond the power of the City to tax. No exemption shall be granted except upon a claim therefor made at the time the rent is collected and such a claim shall be made in writing and under penalty or perjury on forms provided by the City. All such claims shall be forwarded to the City when the returns and collections are submitted as required by this ordinance.

Subd. 5. Advertising No Tax. It shall be unlawful for any operator to advertise or hold out or state to the public or any customer, directly or indirectly, that the tax or any part hereof will be assumed or absorbed by the operator, or that it will not be added to the rent or that if added, it or any part thereof will be refunded. In computing the tax to be collected, amounts of tax less than one cent shall be considered an additional cent.

Subd. 6. Payment and Returns. The taxes imposed by this ordinance shall be paid by the operator to the City monthly not later than twenty-five (25) days after the end of the month in which the taxes were collected. At the time of payment the operator shall submit a return upon such forms and containing such information as the Director may require. The return shall contain the following minimum information:

A. The total amount of rent collected for lodging during the period covered by the return.

B. The amount of tax required to be collected and due for the period.

C. The signature of the person filing the return or that of an agent duly authorized in writing.

D. The period covered by the return.

E. The amount of uncollectible rental charged subject to the lodging tax.

The operator may offset against the taxes payable, with respect to any reporting period, the amount of taxes imposed by the ordinance previously paid as a result of any transaction the consideration for which became uncollectible during such reporting period, but only in proportion to the portion of such consideration which become uncollectible.

Subd. 7. Examination of Return, Adjustments, Notices and Demands. The Director shall, after a return is filed, examine the same and make any investigation or examination of the records and accounts of the person making the return deemed necessary for determining its correctness. The tax computed on the basis of such examination shall be the tax to be paid. If the tax due is found to be greater than that paid, such excess shall be paid to the City within ten (10) days after receipt of a notice thereof given either personally or sent by registered mail to the address shown on the return. If the tax paid is greater than the tax found to be due, the excess shall be

refunded to the person who paid the tax to the City within ten (10) days after determination of such refund.

Subd. 8. Refunds. Any person may apply to the Director for a refund of taxes paid for a prescribed period in excess of the amount legally due for that period, provided that no application for refund shall be considered unless filed within one year after such tax was paid, or within one year from the filing of the return, whichever period is the longer. The Director shall examine the claim and make and file written findings thereon denying or allowing the claim in whole or in part and shall mail a notice thereof by registered mail to such person at the address stated upon the return. If such claim is allowed in whole or in part, the Director shall credit the amount of the allowance against any taxes due under this ordinance from the claimant and the balance of said allowance, if any, shall be paid by the Director to the claimant.

Subd. 9. Failure to File a Return.

A. If any operator required by this Ordinance to file a return shall fail to do so within the time prescribed, or shall make, willfully or otherwise, an incorrect, false, or fraudulent return, the operator shall, upon written notice on demand, file such return or corrected return within five (5) days of receipt of such written notice and shall at the same time pay any tax due on the basis thereof. If such persons shall fail to file such return or corrected return, the Director shall make a return or corrected return, for such person from such knowledge and information as the Director can obtain, and assess a tax on the basis thereof, which tax (less any payments theretofore made on account of the tax for the taxable period covered by such return) shall be paid upon within five (5) days of the receipt of written notice and demand for such payment. Any such return or assessment made by the Director shall be prima facie correct and valid, and such person shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

B. If any portion of a tax imposed by this ordinance, including penalties thereon, is not paid within thirty (30) days after it is required to be paid, the City Attorney may institute such legal action as may be necessary to recover the amount due plus interest, penalties, the costs and disbursement of any action.

C. Upon a showing of good cause, the Director may grant an operator one thirty-day extension of time within which to file a return and make payment of taxes as required by this ordinance provided that interest during such period of extension shall be added to the taxes due at the rate of ten (10) percent per annum.

Subd. 10. Penalties.

A. If any tax imposed by this Ordinance is not paid within the time specified for the payment of an extension thereof, there shall be added thereto a specific penalty equal to ten (10) percent of the amount remaining unpaid.

B. In case of any failure to make and file a return within the time prescribed by this ordinance, unless it is shown that such failure is not due to willful neglect, there shall be added to the tax, in addition to the ten (10) percent specific penalty provided in "Subd. 10.A." above, ten (10) percent if the failure is for not more than thirty (30) days with an additional five (5) percent for each additional thirty (30) days or fraction thereof during which such failure continues, not exceeding twenty-five (25) percent in the aggregate. If the penalty as computed does not exceed the dollars

($10.00), a minimum penalty of ten dollars ($10.00) shall be assessed. The amount so added to any tax shall be collected at the same time and the same manner and as a part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.

C. If any person willfully fails to file any return or make any payment required by this ordinance, or willfully files a false or fraudulent return or willfully attempts in any manner to evade or defeat any such a tax or payment thereof, there shall also be imposed as a penalty an amount equal to fifty (50) percent of any tax (less any amounts paid on the basis of such false or fraudulent return) found due for the period to which such return related. The penalty imposed by this subdivision shall be collected as part of the tax, and shall be in addition to any other penalties provided by this ordinance.

D. All payments received shall be credited first to penalties, next to interest, and then to the tax due.

E. The amount of tax not timely paid, together with any penalty provided by this section, shall bear interest at the rate of eight (8) percent per annum from the time such tax should have been paid until paid. Any interest and penalty shall be added to the tax and be collected as part thereof.

Subd. 11. Administration of Tax. The Director shall administer and enforce the assessment and collection of the taxes imposed by this ordinance. The Director shall cause to be prepared blank forms for the returns and other documents required by this ordinance and shall distribute the same throughout the City and furnish them an application, but failure to receive or secure them shall not relieve any person from any obligation required of him under this ordinance.

Subd. 12. Examine Records. The Director and those persons acting on behalf of the Director authorized in writing by the Director may examine the books, papers, and records of any operator in order to verify the accuracy of any return made, or if no return was made, to ascertain the tax as provided in this ordinance. Every such operator is directed and required to give to the said Director or to this duly authorized agent or employee the mains, facilities, and opportunity for such examinations and investigations as are hereby authorized.

Subd. 13. Violations. Any person who shall willfully fail to make a return required by this ordinance, or who shall fail to pay the tax after written demand for payment, or who shall fail to remit the taxes collected or any penalty or interest imposed by this ordinance after written demand for such payment or who shall refuse to permit the Director or any duly authorized agents or employees to examine the books, records, and papers under his or her control, or who shall willfully make any incomplete, false, or fraudulent return shall be guilty of a misdemeanor.

Subd. 14. Use of Proceeds. Ninety-five (95) percent proceeds obtained from the collection of taxes pursuant to this ordinance shall be used in accordance with the Minnesota Statutes, Section 469.190, as the same may be amended from time to time to fund a local convention or tourism bureau for the purpose of marketing and promoting the City as a tourist or convention center.

Subd. 15. Appeals.

A. Any operator aggrieved by any notice, order, or determination made by the Director under this ordinance may file a petition for review of such notice, order, or determination. The petition shall contain the name of the petitioner, the petitioner's address and the location of the lodging subject to the order, notice, or determination.

B. The petition for review shall be filed with the City Administrator within ten (10) days after the notice, order, or determination for which review is sought has been mailed or served upon the person requesting review.

C. Upon receipt of the petition the City Administrator, or his designee, shall set a date for a hearing and give the petitioner at least five (5) days prior written notice of the date, time and place of the hearing.

D. At the hearing, the petitioner shall be given an opportunity to show cause why the notice, order, or determination should be modified or withdrawn. The petitioner may be represented by counsel of petitioner's choosing at petitioner's own expense.

E. The hearing shall be conducted by the City Administrator or his designee, provided only that the person conducting the hearing shall not have participated in the drafting of the order, notice, or determination for which review is sought.

F. The person conducting the hearing shall make written findings of fact and conclusions based upon the applicable sections of this ordinance and the evidence presented. The person conducting the hearing may affirm, reverse, or modify the notice, order, or determination made by the Director.

G. Any decision rendered by the City Administrator pursuant to this subdivision may be appealed to the City Council. A petitioner seeking to appeal a decision must file a written notice of appeal with the City Administrator within ten (10) days after the decision has been mailed to the petitioner. The matter will thereupon be place on the City Council agenda as soon as it is practical. The City Council shall then review the findings of fact and conclusions to determine whether they were correct. Upon a determination by the City Council that findings and conclusions were incorrect, the City Council may modify, reverse, or affirm the decision of the City Administrator or his designee upon the same standards as set forth in "Subd. 26.F".

Subd. 16. Effective Date: Expiration.

A. This ordinance is effective April 1, 1995, and the tax imposed should apply to rents collected for lodging furnished on that date and thereafter.

Source: Ordinance No. 168, Third Series
Effective Date: 3-9-95

(Sections 6.82 through 6.98, inclusive, reserved for future expansion.)

SEC. 6.99. 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.

Source: City Code
Effective Date: 11-1-80

CHAPTER 7: STREETS AND SIDEWALKS

SECTION 7.01. APPLICATION.

Subd. 1. The provisions of Chapters 7, 8 and 9 applicable to the drivers of vehicles upon the streets shall apply to the drivers of all vehicles including, but not limited to, those owned or operated by the United States, this State, or any county, city, town, district or any other political subdivision of the State, subject to such specific exemptions as may be set forth in Chapters 7, 8 and 9.

Subd. 2. Every person riding a bicycle or an animal or driving any animal drawing a vehicle upon a roadway shall be subject to the provisions of Chapters 7, 8 and 9 applicable to the driver of a vehicle, except those provisions which by their nature can have no application. Provisions specifically referring to bicycles shall be in addition to other provisions of these Chapters applying to vehicles.

SEC. 7.02. SCOPE AND ORDERS OF LAW ENFORCEMENT OFFICER.

Subd. 1. Scope. The provisions of Chapters 7, 8 and 9 relate exclusively to the streets, alleys and private roads in the City, and the operation and parking of vehicles refer exclusively to the operation and parking of vehicles upon such streets, alleys and private roads.

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

SEC. 7.03. TRAFFIC AND PARKING CONTROL.

Subd. 1. Council Action. No device, sign or signal shall be erected or maintained for traffic or parking control unless the Council shall have, by a resolution, approved and directed such erection and maintenance, except as otherwise provided in this Section.

Subd. 2. Temporarily Restricting or Directing Traffic and Parking; Curb Painting.

A. When clearly marked, barricaded or sign-posted, traffic and parking may be temporarily restricted for any public or private use. All such restrictions shall be in accordance with the uniform policy promulgated by the City, acting through the Chief Law Enforcement Officer, who shall be ultimately responsible to the Council for the proper enforcement thereof.

B. Restricted or prohibited use of parking and traffic lanes may be designated by painting the same upon streets and curbs. Such work shall be done under the direction of the City and in compliance with the provisions of Chapters 7, 8 and 9.

C. It is unlawful to use traffic or parking lanes contrary to sign-posting or marking authorized and described in this Section.

D. Experimental restrictions and directions may be placed on traffic and parking by the City, acting through the Chief Law Enforcement Officer, and it shall be his

duty to do so when an extra hazardous condition is observed or arises. It is unlawful to violate any restriction or direction when the same has been duly marked, barricaded or sign-posted.

Source: City Code
Effective Date: 11-1-80

SEC. 7.04. REPEALED BUT NOT AFFECTING OUTSTANDING LEGAL ACTION.

See Source.

Source: Ordinance No. 107, Third Series
Effective Date: 5-2-91

SEC. 7.05. PLACING SNOW OR ICE IN PUBLIC STREET OR ON OTHER CITY PROPERTY. It is a misdemeanor for any person, not acting under a specific contract with the City, to remove snow from private property or alleys and place the same on a public street in such quantity, or in such manner, as to cause a hazard to travel, without adequate arrangements for the immediate removal thereof; and it is also a misdemeanor for any person not acting under a contract with the City to dump snow on other City property.

SEC. 7.06. CONSTRUCTION AND RECONSTRUCTION OF ROADWAY SURFACING, SIDEWALK, CURB AND GUTTER.

Subd. 1. Methods of Procedure. Abutting of affected property owners may contract for, construct or reconstruct roadway surfacing, sidewalk or curb and gutter:

A. In accordance with this Section if advance payment is made therefor or arrangements for payment considered adequate by the City are completed in advance, or,

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 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 Council. 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 of work, and the length of time required to complete the same, provided, that no permit shall be required for any such improvements ordered installed by the Council. All applications shall be referred by the City Administrator to the City Engineer or Public Works Director and no permit shall be issued until approval has been received from the City Engineer or Public Works Director. 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 specifications and standards on file in the office of the City Administrator and open to inspection and copying there. Such specifications and standards may be amended from time to time by the City, but shall be uniformly enforced.

Subd. 4. Inspection. The Council shall designate a suitable and competent person to perform inspections required herein and such other inspection of such work as deemed necessary. Any work not done according to the applicable specifications and standards shall be removed and corrected at the expense of the permit holder. Any work done hereunder may be stopped by the Inspector if found to be unsatisfactory or not in accordance with the specifications and standards, but this shall not place a continuing burden upon the City to inspect or supervise such work.

Source: City Code
Effective Date: 11-1-80

SEC. 7.07. REGULATION OF GRASS, WEEDS AND TREES IN STREETS.

Subd. 1. Tree Ordinance.

A. Definitions. Street Trees: "Street trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation on land lying within the public right-of-way within the City.

Park Trees: "Park trees" are herein defined as trees, shrubs, bushes, and all other woody vegetation in public parks having individual names, and all areas owned by the City, or to which the public has free access as a park.

B. Creation and Establishment of a Forestry Department. There is hereby created and established a City of Luverne Forestry Department. The Forestry Department shall be administered by the Public Works Director of the City of Luverne.

C. Duties and Responsibilities. It shall be the responsibility of the Forestry Department to study, investigate, counsel, and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal, or disposition of trees and shrubs in parks, along streets, and in other public areas. Such a plan will be presented annually to the City Council and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the City of Luverne, State of Minnesota. The Forestry Department, when requested by the City Council, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.

D. Operation. The Forestry Department shall choose its own officers, make its own rules and regulations, and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

E. Public Tree Care. The City shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs within the lines of all streets, alleys, avenues, lanes, squares, and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The Forestry Department may remove, or cause to order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to

sewers, electric lines, or other public improvements, or is infected with any injurious fungus, insect, or other pest.

F. Tree Topping. It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempt from this ordinance at the determination of the Forestry Department.

G. Pruning, Corner Clearance. Every owner of any tree on private property overhanging any street or right-of-way within the City shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection. There shall be maintained a clear space of eight feet (8') above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light or interferes with visibility of any traffic control devise or sign.

H. Removal of Stumps. All stumps of street and park trees shall be removed below the surface of the ground so the top of the stump shall not project above the surface of the ground.

I. Review by City Administrator. The City Administrator shall have the right to review the conduct, acts, and decisions of the Forestry Department. Any person may appeal from ruling or order of the Forestry Department to the City Council who may hear the matter and make final decision(s).

Subd. 2. Permit to Plant or Remove Trees. It is a misdemeanor for any person to plant or remove any tree upon or overhanging streets without first procuring a written permit from the City.

Source: Ordinance No. 183, Third Series
Effective Date: 5-2-96

Subd. 3. Duty of Property Owners to Cut Grass and Weeds. Every owner of property abutting on any street shall cause the grass and weeds to be cut from the property line of such property nearest to such street to the center of such street. If the grass or weeds in such place attain a height in excess of six (6) inches, it shall be prima facie evidence of a failure to comply with this Subdivision.

Source: Ordinance No. 29, Third Series
Effective Date: 10-18-86

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 maintenance work described in the foregoing Subdivision is performed by the City, the City Administrator shall forthwith upon completion thereof ascertain the cost attributable to each lot, piece of parcel of abutting land. The City Administrator 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.

SEC. 7.08. REPEALED.

Source: Ordinance No. 330, Third Series
Effective Date: 5-3-13

SEC. 7.081. DRIVEWAYS AND ACCESS WAYS. Whenever a private driveway is replaced, improved, or substantially repaired by its owner, all driveway and access ways serving private property must comply with all provisions of Chapter 11 relative thereto. When the City is improving a public street by installation or replacement of curb and/or gutter, or by complete reconstruction or bituminous overlay, the following conditions must be met: (1) the number, location, and dimension of all driveway accesses serving private property must comply with the provisions of Chapter 11; and (2) abandoned, unimproved, or grassed driveway accesses must be improved and meet all other provisions of Chapter 11. In the event the above conditions are not met, the driveway access will be removed and closed and, if applicable, curb (and gutter, if appropriate) installed. The cost associated with bringing said driveways and accesses into compliance with this Section shall be the responsibility of the adjoining benefiting property owner and shall be 100 percent assessable against said benefiting property.

Source: Ordinance No. 126, Third Series
Effective Date: 3-5-92

SEC. 7.09. SIDEWALK CONSTRUCTION, MAINTENANCE, REPAIR AND REMOVAL.

Subd. 1. Primary Responsibility. It shall be the primary responsibility of all owners of land abutting any street or avenue to construct, reconstruct, and maintain in good repair sidewalks along any such street or avenue in accordance with the provisions of this Section.

Subd. 2. Construction, Reconstruction and Repair Specifications. All construction, reconstruction or repair of sidewalks shall be done in strict accordance with specifications on file in the office of the City Administrator.

Subd. 3. Sidewalk Construction. Concrete sidewalks shall be constructed on both sides of a street in all areas of the City described herein with the exception of the specific exemptions set forth in Subparagraph C below. All of said sidewalks shall be at

least four feet in width and shall be constructed and located within the right-of-way so the inside edge of said walk shall be one foot from the abutting property line.

A. Residential and Business Districts.

1. Lots that abut on a public street and are located and developed residential and commercial districts of the City, and upon which sidewalks have already been constructed shall be required to have missing sidewalks constructed, and broken, deteriorated, or otherwise damaged sidewalks repaired and reconstructed. For purposes of this section, "developed" shall be defined as areas in which 50% of the lots in a given block have had structures built upon and are ready for occupancy. However, the City Council may require that sidewalks be constructed in those areas that do not meet said 50% development rule so as to provide access to public buildings or in instances required by the public need.

2. Lots in newly annexed developed districts of the City that abut on a public street upon which sidewalks are not already constructed shall be required to have sidewalks constructed thereon within one year after annexation unless the City Council determines that early construction is required to protect the public safety and welfare due to the presence of unusual hazards in a particular location.

3. Any newly constructed residential or commercial buildings located in a lot abutting on a public street upon which sidewalks, meeting City specifications, are not already constructed, shall construct sidewalks within one hundred and twenty (120) calendar days after completion of the foundation walls; provided, the City Administrator may grant an extension, of up to eight (8) months, to allow for poor weather conditions or other conditions beyond the owner's control.

B. Arterial and Major Collector Streets.

Regardless of the zoning classification when the City Council deems such construction necessary to safeguard the safety and welfare of the public, sidewalks shall be constructed along all arterial and major collector streets. The Council may grant exceptions to the provisions of this paragraph in the following general instances, provided, however, that any such exceptions shall require the specific finding by the Council that construction of a sidewalk is not necessary to safeguard the public safety and welfare. Generally, exceptions would be major and secondary thoroughfares and arterial streets abutting:

1. Agricultural zones.
2. Cemetery.
3. Fairgrounds.
4. Parks larger than one acre.
5. Vacant land extending outward to the City limits and not situated between developed areas that could be expected to generate pedestrian traffic.
6. Areas where property is located intermittently and the abutting jurisdiction and the City so as to make impossible the construction of continuing sidewalks for at least 500 feet.
7. Industrial zones where workers generally reach their place of employment by motor vehicle.

C. Exemptions. New sidewalks shall not be required to be constructed as follows:

1. On any side of local streets unless sidewalk exists on more than 50% of the block and two or more houses abut and face on that side.

2. On any side of minor collector streets unless sidewalk is required under this section on 50% or more of that side of the two most adjacent blocks of the same street.

3. Any area contained in an active and improved Sidewalk Improvement District or other compact neighborhood with limited access specifically exempted by resolution adopted by majority vote of the Council.

4. All properties on dead-end streets and cul de sacs shall be exempt from construction of sidewalks unless two or more of the affected property owners petition for installation of sidewalks.

5. When sidewalk construction is physically impracticable due to the following circumstances:

(a) Nature of terrain.

(b) Insufficient right-of-way.

(c) Insurmountable engineering problems.

(d) Safety hazards that would arise by encouraging pedestrian traffic in dangerous areas such as along railroad tracks.

(e) Specimen healthy trees of 3" and greater in diameter would be substantially damaged.

6. Upon the request by the property owner, the Council may grant exemptions to the provisions of this section upon specific finding that construction of a sidewalk is not necessary to safeguard the public safety and welfare.

7. The City Administrator is hereby empowered to exempt properties from the requirement that the sidewalk be constructed with the inside edge one foot outside the property line when:

(a) To avoid taking specimen healthy trees or shrubs that cannot be moved.

(b) Sidewalk alignment within a block would be different from existing walks within said block.

(c) Insufficient right-of-way requires full use of the right-of-way.

(d) Severe grade problems would result.

8. A lot or lots abut an unimproved (lacking curb and gutter) street that is expected to be scheduled for improvement at some future date and when a delay of construction to coincide with street construction would be advisable.

Subd. 4. City to Construct, Reconstruct and Maintain Sidewalks.

A. If required sidewalks are not constructed in accordance with this Section, or whenever the City shall deem it necessary and expedient to construct, build or repair any sidewalk, the City shall perform such construction, reconstruction or maintenance and the cost thereof shall be assessed to the abutting property owner as any other special assessment.

B. Division of Cost. In any instance where the City requires that a sidewalk abutting a residential lot be constructed at a width greater than five feet, the cost of the additional width shall be paid entirely by the City. In all other cases, the cost of construction, reconstruction or maintenance of said sidewalk shall be shared and divided between the abutting property owner and the City in accordance with the

provisions of the Local Improvement Policy for the City of Luverne set forth in City Code, Section 2.73.

Source: Ordinance No. 34, Third Series
Effective Date: 7-25-87

Subd. 5. 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 Administrator 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. 6. Sidewalk Removal. If application is made to remove a sidewalk, the Council, in its discretion may authorize the removal of same if good and sufficient cause is shown.

Subd. 7. Duty to Inspect. In order to accomplish the purpose of this Section, it shall be the duty of the City Administrator to inspect sidewalks within the City, or cause the same to be inspected under his direction.

Source: City Code
Effective Date: 11-1-80

(Sections 7.10 through 7.19, inclusive, reserved for future expansion.)

SEC. 7.20. VACATION OF STREETS OR PUBLIC GROUNDS.

Subd. 1. Petition. No public grounds or streets shall be vacated except upon the petition directed to the Council of a majority of the owners of property on the line of such public grounds or streets residing within the City, payment of the initial non-refundable filing fee as determined by the Council, and completion of the procedure hereinafter specified. Such petition shall set forth the reasons for such desired vacation, accompanied by a plat of such public grounds or streets proposed to be vacated, and such petition shall be verified by the oath of a majority of the petitioners residing within the City. A petition for a vacation of a street, alley or other public ground shall not be granted unless all of the abutting owners and encumbrancers agree to execute utility easement documents if required by the City.

Subd. 2. Action on Petition. If, in the discretion of the Council, it is expedient that the matter be proceeded with, it may order the petition filed for record with the City Administrator, order a hearing on such petition and fix the time and place of such hearing.

Subd. 3. Notice of Hearing. The City Administrator shall give notice of such hearing by publication once at least fifteen (15) days in advance of such hearing, and by mail to the last known address of all of the owners of property on the line of such public grounds or streets proposed to be vacated at least ten (10) days in advance of such hearing, such last known addresses to be obtained from the office of the County Auditor/Treasurer. Such notice shall state in brief the object of such hearing, the time,

place and purpose thereof, and the fact that the Council, or a Board or Commission designated by it shall hear the testimony and examine the evidence of the parties interested.

Subd. 4. Council Action. The Council, after hearing the same, or upon the report of such Board or Commission designated to hold such hearing, may by resolution adopted by unanimous vote of all members, declare such public grounds or streets vacated, or deny such petition. In granting a petition the Council may reserve to the City or to any utility an easement to continue maintaining facilities upon the premises vacated. The resolution, if granting the petition shall, upon payment to the City of all expenses incurred, less the initial non-refundable filing fee, be certified by the City Administrator and shall be filed for record and duly recorded in the office of the County Recorder in and for Rock County, Minnesota.

Source: Ordinance No. 320, Third Series
Effective Date: 12-8-2011

SEC. 7.21. 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 Administrator.

SEC. 7.22. PRIVATE USE OF PUBLIC STREETS AND PARKING LOTS.

Subd. 1. Authority, Permission and Procedure. Upon an application duly made to the City Administrator and reviewed and recommended by the Chief Law Enforcement Officer, 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 display of merchandise on sidewalks) at such places, on such terms and for such compensation as the Council may deem just and equitable. In establishing the amount of such compensation to be paid to the City, the Council shall consider the amount of space, location thereof, public inconvenience, and hazards to person 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 re-define 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, on 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.

SEC. 7.23. FIRES, SIGNS, OBSTRUCTIONS AND REFUSE IN STREETS.

Subd. 1. Obstructions. It is unlawful for any person to place or deposit any fence or other obstruction upon any street without first having obtained a written permit to do so from the City Administrator 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.

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

Subd. 3. Dumping in Streets.

A. For purposes of this Section, the term "refuse" means and includes putrescible animal and vegetable waste resulting from handling, preparation, cooking and consumption of food; putrescible and non-putrescible solid wastes, ashes, street cleanings, dead animals, industrial wastes; combustible and non-combustible wastes such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery, dirt, metal scraps; and, liquids such as water containing salt, injurious chemicals, or petroleum products.

B. It is unlawful for any person to throw or deposit any refuse in a public street except when specifically authorized by the City Administrator or the Council.

Subd. 4. Signs and Other Structures. It is unlawful for any person to place or maintain a sign or other structure in the traveled or untraveled portion of any street or other public property 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. Continuing Violation. Each day that any person continues in violation of this Section shall be a separate offense and punishable as such.

SEC. 7.24. PARADES.

Subd. 1. Definition. The term "parade" means any movement of vehicle, persons or animals, or any combination thereof, which either moves together and as a body so as to in some way impede or affect the free and unobstructed flow of traffic, or which moves so that some part thereof is in violation of one or more traffic laws or regulations, if such movement is without a permit hereunder.

Source: City Code
Effective Date: 11-1-80

Subd. 2. Permit Required. It is unlawful to sponsor or participate in a parade for which no permit has been obtained from the City, and it is also unlawful to obtain a parade permit and not conduct the same in accordance with a permit granted by the City. Application for such permit shall be made to the City Administrator and accompanied by a fee adopted by resolution of the Council, at least fifteen (15) days in advance of the date on which it is to occur and shall state the sponsoring organization or individuals, the route, the length, the estimated time of commencement and termination, the general composition, and such application shall be executed by the individuals applying therefor or the duly authorized agent or representative of the sponsoring organization. The requirement for a permit may be waived by action of the Mayor, City Administrator and Chief Law Enforcement Officer or majority of said persons. All permittees shall agree to hold the City harmless from any claim, action or cause of action resulting from injury related to the parade.

Source: Ordinance No. 49, Third Series
Effective Date: 3-31-88

Subd. 3. Procedure and Granting. The City Administrator shall forthwith refer all applications for parades to the Chief Law Enforcement Officer for his consideration which shall take no longer than seven (7) days. If any State truck highways are in the route, the Chief Law Enforcement Officer shall make all necessary arrangements with the Minnesota Department of Highways for alternate routes or whatever may be necessary. If the Chief Law Enforcement Officer finds that such a parade will not cause a hazard to persons or property, and will cause no great inconvenience to the public, and if he is able to make arrangements for necessary direction and control of traffic, he shall endorse his acceptance and return the application to the City Administrator who shall then issue the permit. If the Chief Law Enforcement Officer finds the parade described in the application to be a hazard, a substantial inconvenience, or if he is unable to make adequate arrangements for direction or control of traffic, he shall return the same to the City Administrator with his reasons for denial, and the permit shall not be granted unless all conditions and objections of the Chief Law Enforcement Officer are met or removed by the applicant.

SEC. 7.25. CURB SET-BACK.

Subd. 1. Permit Required. It is unlawful 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. The Council may designate the type of parking to be permitted in the setback area and parking signs or markings shall be placed and maintained at the expense of the adjoining landowner.

Subd. 3. 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.

SEC. 7.26. LIMITING TIME OF RAILWAY-STREET CROSSING OBSTRUCTION. It is unlawful for any person operating or in charge of a railroad train, car, engine, or other railroad equipment, or combination of such equipment, to permit the same to be parked or left standing upon any street crossing so as to close such crossing to vehicular traffic for a longer period than twenty (20) minutes.

SEC. 7.27. LOAD LIMITS. The City Administrator, upon the recommendation of the City Engineer or Public Works Director, 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 unlawful for any person to operate a vehicle on any street in violation of the limitation so posted.

SEC. 7.28. 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.

Source: City Code
Effective Date: 11-1-80

(Sections 7.29 through 7.98, inclusive, reserved for future expansion.)

SEC. 7.99. 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.

Source: City Code
Effective Date: 11-1-80

199 – 209 Reserved

CHAPTER 8: TRAFFIC REGULATIONS

SECTION. 8.01. CERTAIN STATUTES ADOPTED BY REFERENCE.

Subd. 1. Except as otherwise provided in this Chapter, or in Chapters 7 and 9 of the City Code, the regulatory and procedural provisions of Minnesota Statutes, Chapter 169, commonly referred to as the Highway Traffic Regulation Act is hereby incorporated herein and adopted by reference, including the penalty provisions thereof.

Source: Ordinance No. 87, Third Series
Effective Date: 7-5-90

Subd. 2. Bicycle Riding on Sidewalks Within Business Districts. The term "business district" as used in Minnesota Statutes, Sections 169.222 means the area bounded on the east by the center line of Blue Mound Avenue; on the north by the center line of Lincoln Street; on the west by the center line of Estey Street; and on the south by the center line of Maple Street between the center line of Estey Street and a point 75 feet east of the McKenzie Street right-of-way, thence north along the extension of the property line between Lots 3 and 4, Block 7, of the Original Plat to the South line of the east-west alley in said Block 7, thence east along the south line of said alley and extensions thereof including the south line and extensions thereof of the east-west alleys in Blocks 5 and 6 of the Original Plat to the center line of Blue Mound Avenue. Upon the public sidewalks just prior to entering and at intersection crosswalks throughout the afore-described business district will be painted a logo or sign depicting a bicycle in black with an over painted red circle and slash mark through the circle signifying a prohibition of bicycle traffic. This depiction shall be similar to a bicycle prohibition sign as described in the 1986 Minnesota Manual of Uniform Traffic Control Devises issued by the Minnesota Department of Transportation.

Source: Ordinance No. 95, Third Series
Effective Date: 7-19-90

Subd. 3. Except as otherwise provided in this Chapter, or in Chapters 7 and 9 of this Code, Minnesota Statutes, Sections 171.01, 171.02, 171.08, 171.22, 171.23, and 171.24 are hereby incorporated herein and adopted by reference, including the penalty provisions thereof.

Source: Ordinance No. 87, Third Series
Effective Date: 7-5-90

Subd. 4. The Minnesota Statutes referred to herein are those as amended through Laws of 1992.

Source: Ordinance No. 140, Third Series
Effective Date: 12-24-92

(Sections 8.02 through 8.09, inclusive, reserved for future expansion)

SEC. 8.10. TRUCK ROUTE. It is unlawful for any person to drive a tractor, agricultural implement, truck (other than a pickup truck of one ton capacity or less), truck-trailer, tractor-trailer or truck-tractor, automobile trailer, or automobile to which a trailer is attached, in through traffic, upon any street except those which have been designated and sign-posted as truck routes. For the purpose of this Chapter, “through traffic” means originating without the City and with a destination without the City, as distinguished from “local traffic” which means traffic either originating or having a destination within the City.

Source: City Code
Effective Date: 11-1-80

(Sections 8.11 through 8.19, inclusive, reserved for future expansion.)

SEC. 8.20. 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 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 with the permission and under the auspices and direction of the owner.

SEC. 8.21. U-TURNS. It is unlawful for any person to operate a 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.

SEC. 8.22. DRIVING THROUGH PRIVATE PROPERTY TO AVOID TRAFFIC SIGNAL. It is unlawful for any person to avoid obedience to any traffic control device by driving upon or through any private property.

Source: City Code
Effective Date:11-1-88

SEC. 8.23. USE OF DYNAMIC BRAKING DEVICE PROHIBITED.

Subd. 1. Definition. A Dynamic Braking Device (commonly referred to as a Jacobs Brake, engine brake, or compression brake) means a device primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes.

Subd. 2. Use Prohibited. It is unlawful for any person to operate any motor vehicle with a Dynamic Braking Device engaged, except for the aversion of imminent danger within the City limits.

Source: Ordinance No. 189, Third series
Effective Date: 7-4-96

(Sections 8.24 through 8.49, inclusive, reserved for future expansion.)

SEC. 8.50. SNOWMOBILE TRAFFIC CONTROL AND REGULATIONS.

Subd. 1. Definitions. As used in this Section, the following words and terms shall have the meanings stated:

1. "Snowmobile" - A self-propelled vehicle designed for travel on snow or ice and steered by skis or runners.
2. "Owner" - A person, other than a lienholder, having the property in or title to a snowmobile and entitled to the use or possession thereof.
3. "Operate" - To ride in or on and control the operation of a snowmobile.
4. "Operator" - Every person who operates or is in actual physical control of a snowmobile.
5. "Commissioner" - The Commissioner of National Resources of the State of Minnesota acting directly or through his authorized agent.
6. "Roadway" - That portion of a street or highway improved, designed, or ordinarily used for vehicular travel.
7. "Daylight Hours" - Any time except from one-half hour after sunset to one-half hour before sunrise and at any other time there is not sufficient light to render clearly discernible persons and vehicles at a distance of 500 feet.

Subd. 2. Operation on Streets and Highways.

A. It is unlawful for any person to operate a snowmobile upon the roadway, shoulder, or inside bank or slope of any trunk, county state-aid or county highway in the City except that snowmobiles may be operated on Cedar, Edgehill, Donaldson and Warren Streets which are county state-aid streets and as further excepted as provided in this Section.

B. Notwithstanding any of the other provisions of this Section to the contrary, it is unlawful for any person to operate a snowmobile within the limits of the City between the hours of 11:00 o'clock P.M. and 6:30 o'clock A.M., on weekdays nor between the hours of 12:00 o'clock midnight and 6:30 o'clock A.M. on Sundays.

C. A snowmobile may make a direct crossing of a street or highway at any hour of the day provided:

1. A 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;
2. The snowmobile is brought to a complete stop before crossing the shoulder or main-traveled way of the highway; and,
3. The operator yields the right-of-way to all on-coming traffic which constitutes an immediate hazard; and

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

5. If the crossing is made between the hours of one-half hour after sunset to one-half hour before sunrise or in conditions of reduced visibility only if both front and rear lights are on.

D. A snowmobile may be operated upon a public street or highway other than as provided by Subparagraph B above in an emergency during the period of time when and at locations where snow upon the roadway renders travel by automobile impractical.

Subd.3. Traffic Laws and Rules Control Operation. All provisions of the City Code relating to the operation of motor vehicles upon streets or highways shall apply to the operation of snowmobiles, except for those relating to required equipment, and except those which by their nature are inapplicable.

Subd. 4. Operation Generally. It is unlawful for any person to drive or operate any snowmobile in the following unsafe or harassing ways:

A. At a rate of speed greater than reasonable or proper under all the surrounding circumstances and, in no event, at a rate of speed greater than 20 miles per hour during daylight hours and a rate of speed greater than 15 miles per hour at all other times;

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

C. While under the influence of intoxicating liquor or narcotics or habit-forming drugs;

D. Without a lighted head and tail light when required for safety;

E. In any tree nursery or planting in a manner which damages or destroys growing stock.

Subd. 5. Equipment Required. It is unlawful for any person to operate a snowmobile within the right-of-way limits of a street or highway unless it is equipped with:

A. Brakes each of which shall conform to standards prescribed by rule of the Commissioner.

B. At least one head lamp, one tail lamp, each of a minimum candle power as prescribed by regulation of the Commissioner, and reflective material of a minimum area of 16 square inches mounted on each side forward of the handlebars.

C. A muffler in good working order which blends the exhaust noise into the overall snowmobile noise and is in constant operation to prevent excessive or unusual noise. The exhaust system shall not emit or produce a sharp popping or crackling sound. No person shall have for sale, sell or offer for sale on any snowmobile any muffler that fails to comply with the specifications required by the rules and regulations of the Commissioner.

D. Safety or “dead men” throttle which, when pressure is removed from the accelerator or throttle, causes the motor to be disengaged from the driving track.

Subd. 6. Unattended Snowmobile. It is unlawful for the owner or operator to cause or permit a snowmobile to be or remain unattended on any public property, street or highway while the motor is running or while the keys to start the same are in the ignition switch.

Subd. 7. Permission to Enter Private Property. It is unlawful for any person operating a snowmobile to enter upon the lands of another without first having obtained permission from the owner or occupant thereof.

Subd. 8. Public Lands. It is unlawful for any person to operate a snowmobile on any publicly owned lands including, but not limited to, schools, park property, playgrounds, recreation areas, public boulevards and sidewalks, except areas designated for such use by resolution of the Council.

Subd. 9. Prohibited in Areas Dangerous to Persons or Property. It is unlawful for any person to operate a snowmobile within 100 feet of any skating rink or sliding area, or in any other areas where such operation would conflict with the use thereof by others or endanger the person or property of others.

Subd. 10. No snowmobile shall be operated with more than three persons thereon, including the operator; and any sled, trailer or other device being towed by a snowmobile must be equipped with reflective materials as required by rule and regulation of the Commissioner.

Subd. 11. Youthful Snowmobile Operators. Notwithstanding anything in Subdivision 2 to the contrary, it is unlawful for any person under fourteen (14) years of age to operate a snowmobile upon any public street or highway within the limits of the City.

Subd. 12. Registration. Except as otherwise provided by Minnesota Statutes, it is unlawful for any person to operate a snowmobile which has not been registered with the Commissioner and which does not bear the permanent registration number assigned thereto as required by law.

Source: City Code
Effective Date:1-1-80

(Sections 8.51 through 8.59, inclusive, reserved for future expansion.)

SEC. 8.60. SPECIAL VEHICLE USE BY HANDICAPPED.

Subd. 1. 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.

Subd. 2. Permits. Permits shall be issued only to handicap 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 or 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 licensed medial doctor stating that the applicant is capable of safely operating a motorized golf cart or a four-wheel all-terrain vehicle on the roadway or streets. All permits shall expire on December 31, unless renewed. The fee for a permit shall be fixed by resolution of the Council.

Subd. 3. 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:

A. The operator has in possession a valid, current, and unrevoked permit from the City.

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

C. The operation is during daylight hours between sunrise and sunset.

D. 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.

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

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

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

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

Source: Ordinance No. 40, Third Series
Effective Date: 12-31-87

SEC. 8.61. SKATEBOARDS, ROLLER SKATES, ROLLER BLADES, AND BICYCLES.

Subd. 1. Definitions. Unless the context clearly indicated otherwise, the words, combination of words, terms and phrases, as used in this subdivision shall have the following meanings:

1. “Person” includes an individual, partnership, corporation, and the State and its agencies and subdivisions, and any body of persons, whether incorporated or not.

2. “Skateboard” means a device for riding upon, usually while standing, consisting of an oblong piece of wood or other composition mounted on two or more wheels.

3. “Roller Skates or Roller Blades” means a form of skate with small wheels or rollers instead of a runner.

4. “Bicycle” means every device propelled by human power upon which a person may ride, having two tandem wheels either of which is over 14 inches in diameter, or any device generally recognized as a bicycle though equipped with two front or rear wheels; or a unicycle equipped with only one wheel.

5. “Operate” means to ride on or upon or control the operation of a skateboard, roller skates, roller blades, or bicycle in any manner other than carrying or walking beside and holding onto said devices.

6. “Operator” means every person who operates or is in actual physical control of a skateboard, roller skates, or roller blades.

Source: Ordinance No. 87, Third Series
Effective Date: 7-05-90

Subd. 2. It shall be unlawful for any person and the parent or guardian of any person under the age of 16 years of age to operate or allow said person to operate a skateboard, roller skates, roller blades, or bicycle under the circumstances set forth in this subdivision as follows:

1. On private property of another without the express permission to do so by the owner or occupant of said property.

2. In a careless, reckless, or negligent manner so as to endanger, or be likely to endanger, the safety of any person or property of any other person.

3. Upon any public sidewalk within the area prohibited and defined in City Code, Sec. 8.01, Subd. 2.

4. When emerging from an alley, driveway, or building; or upon approaching a sidewalk or the sidewalk area extending across any alleyway or driveway to not yield the right-of-way to all pedestrians approaching the sidewalk or sidewalk area.

5. In any manner by attaching the skateboard, roller skates, roller blades, or bicycle; or the person of the operator to any vehicle.

6. Upon a sidewalk or other roadway after sunset and before sunrise without being equipped with the following:

A. A 3-inch wide reflectorized arm band which encircles the arm, worn on both arms midway between the shoulder and elbow; and

B. Reflectorized material affixed to the entire rear portion of the rear track of the skateboard or the shoe or other foot wear of the operator of roller skates or roller blades; or

C. A bicycle equipped with night operating equipment in operable condition as required by State law.

7. Upon any public street or right-of-way except for bicycles, which shall be permitted thereon provided the operator obeys all laws and regulations relating to operation.

Subd. 3. In addition to the criminal penalties provided for violation of this Chapter, the person owning any skateboard, roller skates, roller blades, or bicycle is deemed to have consented by allowing or suffering its use upon public property and, as civil penalty, to the impoundment by a law enforcement officer of the skateboards, roller skates, roller blades, and bicycles for a minimum period of three (3) days to a maximum sixty (60) days when the operator is violating any provisions of law or the City Code relating to the operation of said devices.

Source: Ordinance No. 216, Third Series

Effective Date: 7-08-99

SEC. 8.62. FOUR-WHEEL ALL-TERRAIN VEHICLES AND MOTORIZED GOLF CARTS.

Subd. 1. Definitions. Four-Wheel All Terrain Vehicle. For purposes of this ordinance, a four-wheel all-terrain vehicle is a motorized flotation-tired vehicle with four low-pressure tires that is limited in engine displacement to less than 800 cubic centimeters, and includes Class 1 and Class 2 all-terrain vehicles. Class 1 all-terrain vehicle means an all-terrain vehicle that has a total dry weight of less than 900 pounds. Class 2 all-terrain vehicle means an all-terrain vehicle that has a total dry weight of 900 to 1500 pounds.

Subd. 2. Operation Prohibited. No motorized golf carts or Class 1 four-wheel all-terrain vehicles shall be operated in the City of Luverne at any time on county, state, or federal highways and roads within the city limits. No motorized golf carts or Class 1 or Class 2 four wheel all-terrain vehicles shall be operated in the City of Luverne on streets or alleys under the jurisdiction of the City without a valid City-issued permit.

Source: Ordinance No. 292, Third Series
Effective Date: 8-09-07

Subd. 3. Permits.

A. Permits Required. No person shall operate a motorized golf cart or four-wheel all-terrain vehicle on streets and alleys within the city limits or under the jurisdiction of the City without first obtaining a written permit from the City, except no permits will be required for parades. Said permits shall prohibit operation of a motorized golf cart or Class 1 four-wheel all-terrain vehicles on county, state, and federal highways and roads within the city limits; and also shall prohibit operation on school property and City park property. Said permits shall prohibit operation of a motorized golf cart or Class 1 four-wheel all-terrain vehicle between the hours of one-half hour after sunset to one-half hour before sunrise.

Source: Ordinance No. 317, Third Series
Effective Date: 5-12-11

B. Restriction of Permits. Permits are restricted to persons who are 19 years of age or older.

C. Application Form. Applications for a permit to operate a motorized golf cart or four-wheel all-terrain vehicle shall be made to the City Clerk on forms furnished by the City.

D. Permit Period. Permits shall be issued for periods of one (1) calendar year commencing on January 1 and ending on December 31 of each year, and may be annually renewed.

E. Permit Fee. A permit fee will be included in the rate resolution and will be required to be paid when an application for a permit is submitted to the City Clerk. The permit fee will not be prorated if issued after January 1 during any calendar year.

F. Permit Revocation. A permit may be revoked at any time by Court Order **or** the Rock County Sheriff if there is evidence that the permittee cannot safely operate the motorized golf cart or four-wheel all-terrain vehicle or has not complied with the terms of this ordinance for which the permit has been issued.

G. Work Endorsement. The City Clerk may issue a permit with a work endorsement upon the request of an applicant who demonstrates that the golf cart, or Class 1 or Class 2 four-wheel all-terrain vehicle, will be used for work purposes. Said work endorsement shall allow the permittee to operate said vehicle for work purposes at any time on the streets and alleys within the city limits of City of Luverne, including school property and City park property, which are not otherwise restricted by federal, state or county laws, rules or regulations.

Subd. 4. Insurance Required. Each applicant for a permit shall be required to furnish evidence of insurance equivalent to the insurance required for operation of a motorcycle under the provisions of M.S.A. Chapter 65B.48, Subdivision 5.

Subd. 5. Operation of Vehicles.

A. Where Operation is permitted. Permittees will be allowed to operate their golf carts or four-wheel all-terrain vehicles on all streets and alleys within the city limits which are under the jurisdiction of the City, except school property and City park property. The City Clerk shall prepare post and provide to each permittee a city map which identifies the streets and alleys within the city limits which are under the jurisdiction of the City of Luverne.

Source: Ordinance No. 292, Third Series
Effective Date: 8-09-07

B. Times of Operation. Motorized golf carts and Class 1 four-wheel all-terrain vehicles may not be operated on designated roadways between the hours of one-half hour after sunset to one-half hour before sunrise. They shall not be operated in inclement weather or when visibility is impaired by weather, smoke, fog, or other conditions, or at any time when there is insufficient light to clearly see persons and vehicles on the roadway at a distance of 500 feet.

Source: Ordinance No. 317, Third Series
Effective Date: 5-12-11

C. Speed Limit. The maximum speed at which a motorized golf cart or four-wheel all-terrain vehicle may be operated as permitted under the provisions of this ordinance shall not exceed posted speed limits.

Source: Ordinance No. 292, Third Series
Effective Date: 8-09-07

D. Required Equipment. Motorized golf carts shall display the slow moving vehicle emblem provided for in MSA Chapter 169.522. Four-wheel all-terrain vehicles shall display a safety flag (minimum 6 inches x 10 inches). The top of the flag shall be a minimum six (6) feet from the ground. Motorized golf carts and four-wheel all-terrain vehicles shall have the equipment required by MSA Chapters 84.92 to 84.929, as

permitted in this ordinance, on the streets and alleys within the city limits which are under the jurisdiction of the City.

Source: Ordinance No. 293, Third Series
Effective Date: 9-13-07

E. Passengers. Permittees shall be allowed to carry one passenger who is seated in a separate seat from the one occupied by the driver, provided that the permittee and passenger follow the provisions of MSA Chapter 84.9257 including, but not limited to age requirements for wearing a safety helmet on a Class 1 all-terrain vehicle, and use of a seat belt provided by the manufacturer on a Class 2 all-terrain vehicle.

F. Noise. It shall be unlawful for the permittee to create loud, unnecessary or unusual noise which is in excess of 96 decibels and which disturbs, annoys or interferes with the peace and quiet of other persons.

Subd. 6. Traffic Laws.

A. Application of Traffic Laws. Every person operating a motorized golf cart or four-wheel all-terrain vehicle, under permit, in the City has all of the duties applicable to the driver of any other vehicles under the provisions of MSA Chapters 84.92 to 84.929 and 169, and traffic ordinances and laws of the City, except when those provisions cannot reasonably be applied to motorized golf carts or four-wheel all-terrain vehicles and except as otherwise specifically provided in this ordinance.

B. Non-application of Certain Laws. The provisions of MSA Chapter 171 are not applicable to persons operating motorized golf carts or four-wheel all-terrain vehicles under permits issued pursuant to the provisions of this ordinance. The provisions of MSA Chapter 169 relating to equipment on vehicles, except for the requirements of MSA Chapters 84.92 to 84.929 and 169.70, are not applicable to motorized golf carts or four-wheel all-terrain vehicles operated under permits issued pursuant to the provisions of this ordinance.

Subd. 7. Penalty. Any person convicted of violating the requirements of this ordinance is guilty of a petty misdemeanor and shall be punished as provided for in Section 8.99.

Source: Ordinance No. 292, Third Series
Effective Date: 8-09-07

(Sections 8.63 through 8.98, inclusive, reserved for future expansion.)

SEC. 8.99. 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 violations not constituting a misdemeanor under the provisions of Subdivision1 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.

Source: City Code
Effective Date: 11-1-80

222-229 Reserved

CHAPTER 9: PARKING REGULATIONS

SECTION 9.01. PRESUMPTION. As to any vehicle parking in violation of Chapters 7,8, and 9 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.

Source: City Code
Effective Date: 11-01-80

SEC. 9.02. 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 law enforcement 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) within thirty feet upon the approach to any flashing beacon, stop sign, or traffic control signal located at the side of a roadway; (8) within fifty feet of the nearest rail of a railroad crossing; (9) alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic; (10) on the roadway side of any vehicle stopped or parked at the edge of curb of a street; (11) upon any bridge or other elevated structure upon a street; (12) at any place where official signs prohibit or restrict stopping, parking or both; (13) in any alley, except for loading and unloading and then only so long as reasonably necessary for such loading and unloading to or from adjacent premises; (14) on any boulevard which has been curbed; or, (15) in a sign-posted fire zone.

Source: Ordinance No. 249, Third Series
Effective Date: 4-10-03

SEC. 9.03. 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.

SEC. 9.04. HOUSE TRAILER, MOBILE HOME, CAMPING TRAILER AND BUS PARKING. It is unlawful for any person to leave or park a house trailer, mobile home, camping trailer, bus or other similar recreational vehicle on or within the limits of any street or right-of-way, except where signs are erected designating the place as a campsite, for more than six (6) consecutive hours. Provided, however, that during such six hour period, such vehicle shall not be occupied as living quarters.

SEC. 9.05. 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 law enforcement officer invested by law with authority to direct, control or regulate traffic.

SEC. 9.06. PARALLEL PARKING. Except where angle parking is specifically allowed and indicated by curb marking or sign-posting, or where curb setback parking is permitted, 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 12 inches of, the right-hand curb, and, where painted markings appear on the curb or the street, each 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 12 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.

SEC. 9.07. 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 touching 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.

SEC. 9.08. 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 travel part of the street; and it is unlawful to park in violation of this Section.

SEC. 9.09. PARKING HOURS. Parking on street shall be limited as follows:

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

Subd. 2. The Chief Law Enforcement Officer may, when authorized by resolution of the Council, designate certain streets, blocks or portions of streets or blocks as 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 any space so limited in excess of the time limitation when sign-posted.

Source: City Code
Effective Date: 11-1-80

SEC. 9.10. RESERVED AND RESTRICTED PARKING.

Subd. 1. Council Action. The Council may, by resolution, reserve certain streets, portions thereof, or zones thereon, or portions of public parking lots, for parking by a specified class of persons or restrict parking to those persons accomplishing a specified public or private purpose. Such reserved or restricted parking shall be appropriately sign-posted. The Council may, in its sole discretion and after consideration of all circumstances, make a rental charge for reserved or restricted parking in addition to the sign-posting expense incurred by the City.

Subd. 2. Unlawful Act. It is unlawful for any person not a member of the specified class, or for a purpose other than that specified, to stop, park or leave standing any vehicle in any space on any such street, portion thereof, or zone thereon, or portion of a public parking lot, in any violation of any such reservation or restriction.

Source: Ordinance No. 51, Third Series
Effective Date: 3-31-88

(Sections 9.11 through 9.19, inclusive, reserved for future expansion.)

SEC. 9.20. 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, ice, or snow drifts thereon, or other natural phenomenon which create or are likely to create hazardous road conditions or impede or likely to impede the free movement of fire, health, law enforcement, emergency, or other vehicular traffic.

Source: Ordinance No. 81, Third Series
Effective Date: 3-1-90

Subd. 2. Declaration of Emergency. Whenever in the discretion of the City Administrator, or his designated agent, an emergency exists, he may declare the same and the City Administrator shall cause an announcement thereof to be made over the local news media.

Source: City Code
Effective Date: 11-1-80

Subd. 3. Unlawful Acts.

A. During an emergency, it is unlawful to park or leave standing any vehicle upon a street on which parking has been restricted by the declaration of an emergency.

Subd. 4. A snow emergency declared under this Section shall remain in effect until termination by announcement of the City Administrator, or his designated agent; or on any street area which has been substantially cleared of snow and ice from curb to curb for the length of an entire block.

Source: Ordinance No. 81, Third Series
Effective Date: 3-1-90

(Sections 9.21 through 9.29, inclusive, reserved for future expansion.)

SEC. 9.30. TRUCK PARKING.

Subd. 1. 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.

Source: Ordinance No. 81, Third Series
Effective Date: 3-1-90

Subd. 2. 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.
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.

1. When the same are completely screened behind an opaque fence or wall, or contained within the confines of an enclosed building;

2. 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;

3. 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;

4. 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 and without visible deterioration (e.g. rusting, peeling paint, etc.) or any form of written advertising on any surface visible from public or private property;

5. When the same are located in the B-2 District as a 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.

Source: Ordinance No. 130, Third Series
Effective Date: 6-18-92

Subd. 3. 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 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.

Subd. 4. It is unlawful to park a truck or other vehicle using or equipped with a trailer, or extended body or other extension or projection 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.

Subd. 5. 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.

Subd. 6. 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.

Subd. 7. 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.

SEC. 9.31. PARKING RULES IN CITY PARKING LOTS AND RAMPS. In City-owned parking lots and ramps, 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 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 or ramp contrary to the restrictions or limitations sign-posted therein.

SEC. 9.32. IMPOUNDING AND REMOVING VEHICLES. When any law enforcement 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 law enforcement 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.

SEC. 9.33. 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 by order of the City Administrator where in the judgment of the Council a commercial loading zone is justified and duly sign-posted.

SEC. 9.34. UNATTENDED VEHICLES.

Subd. 1. It is unlawful for any person to leave a motor vehicle 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.

SEC. 9.35. 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 by adding gasoline or oil or to provide emergency repairs thereon.

SEC. 9.36. PARKING FOR THE PURPOSE OF ADVERTISING OR SELLING MERCHANDISE. It is unlawful for any person to park a vehicle on any street for the purpose of selling merchandise thereon or therein, or advertising any merchandise for sale or a forthcoming event, for a period longer than fifteen (15) minutes.

SEC. 9.37 COURTESY PARKING. The Council is hereby authorized, by resolution, to waive hours of parking limitations herein stated upon an application duly filed on any day and to any particular group; provided, that members of such group shall have displayed in their motor vehicles a “courtesy parking” sticker, card or other similar designation.

Source: City Code
Effective Date: 11-1-80

(Sections 9.38 through 9.49, inclusive, reserved for future expansion.)

SEC. 9.50. PHYSICALLY HANDICAPPED PARKING.

Subd. 1. Statutory parking privileges for physically handicapped shall be strictly observed and enforced. Law enforcement officers are authorized to tag vehicles on either private or public property in violation of such statutory privileges.

Subd. 2. It is unlawful for any person, whether or not physically handicapped, to stop, park, or leave standing, a motor vehicle (1) in a sign-posted fire lane at any time, or (2) in lanes where, and during such hours as, parking is prohibited to accommodate heavy traffic during morning and afternoon rush hours.

Source: Ordinance No. 51, Third Series
Effective Date: 3-31-88

(Sections 9.51 through 9.98, inclusive, reserved for future expansion.)

SEC. 9.99. 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.

Source: City Code
Effective Date:11-1-80

240 - 249 Reserved

CHAPTER 10: PUBLIC PROTECTION

SECTION 10.01. UNLAWFUL DEPOSIT OF GARBAGE, LITTER, AND THE LIKE.

Subd. 1. Definition. For purposes of this Section, the term "garbage" shall include, but not necessarily be limited to, refuse as defined in Sec. 3.22, Subd. 1; rubbish; junk as defined in Sec. 6.70, Subd. 1; offal; the body of a dead animal; wastes; or other litter.

Subd. 2. It is unlawful for any person to deposit, discharge, dump, or place garbage in or upon any public street, public waters or ice thereon, public lands, or, without the consent of the owner, private lands or water or ice thereon; except it shall not be a violation of this Section if said garbage is placed for the purposes of refuse collection in accordance with the provisions of Sec. 3.22 and established City policy and procedure.

Subd. 3. It is unlawful for any person, other than the owner or lessee of a refuse receptacle or dumpster, or the agent or employee of said owner or lessee, to deposit, discharge, dump, or place garbage in a private refuse receptacle or dumpster.

Subd. 4. It is unlawful for any person to deposit, discharge, dump, or place in a public refuse receptacle or dumpster, garbage generated at a place or location other than the location or immediate area of said refuse receptacle or dumpster. It is unlawful to bring or haul any garbage into a park, recreational area, public lands, or onto any public right-of-way and to deposit the same in any public refuse receptacle, dumpster, container, or commercial receptacle. Residential garbage is to be deposited for pickup as designated by the City.

Subd. 5. A person shall be presumed to have deposited, discharged, dumped, or placed garbage in a private or public receptacle if said garbage can be identified by names, addresses, correspondence, or other similar material and information, as belonging to or having been generated by said person.

Source: Ordinance No. 177, Third Series
Effective Date: 9-7-95

SEC. 10.02. UNLAWFUL USE AND FURNISHING OF TOBACCO.

Subd. 1. It is unlawful for any person under the age of eighteen (18) years, to use tobacco in any form.

Subd. 2. It is unlawful for any person to furnish tobacco, by any manner or means and in any form, to any person under the age of eighteen (18) years.

Source: City Code
Effective Date: 11-1-80

(Sections 10.03 through 10.09, inclusive, reserved for future expansion.)

SEC. 10.10. DANGEROUS WEAPONS AND ARTICLES.

Subd. 1. Acts Prohibited. It is unlawful for any person to:

A. Recklessly handle or use a gun or other dangerous weapon or explosive so as to endanger the safety of another; or,

B. 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,

C. Manufacture or sell for any unlawful purpose any weapon known as a sling-shot or sand club; or,

D. Manufacture, transfer or possess metal knuckles or a switch blade knife opening automatically; or,

E. Possess any other dangerous articles or substance for the purpose of being used unlawfully as a weapon against another; or,

F. Sell or have in his possession any device designed to silence or muffle the discharge of a firearm; or,

G. 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,

H. Furnish a minor under eighteen years of age with a firearm, air gun, ammunition, or explosive without the written consent of his parent or guardian or of law enforcement officials.

Subd. 2. Exception. Nothing in Subdivision 1 of this Section shall prohibit the possession of the articles therein mentioned if the purpose of such possession is for public exhibition by museums or collectors of art.

Subd. 3. Discharge of Firearms and Explosives. 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 a B-B gun.

Source: City Code
Effective Date: 11-1-80

Subd. 3A. Hunting Within City Limits. It shall be unlawful to hunt in any manner within the corporate limits of the City of Luverne. For purposes of this subdivision, the term “hunting” shall mean the taking of birds or mammals by any means including, but not limited to firearms, bow and arrow, snare, or trap, except the use of archery is allowed on the 34.5 acres located in Outlot 31 of the SE 1/4, Section 11-T102N-R45W (minus a small parcel described by metes and bounds according to the

survey on file in City Hall) owned and managed by the Minnesota Department of Natural Resources, Division of Fish and Wildlife.

Source: Ordinance No. 285, Third Series
Effective Date: 09-07-06

Subd. 3B. Trapping Within City Limits. The City Council may annually issue permits for the trapping of animals as allowed by law within the corporate limits of the City of Luverne. Such permits shall be issued by the City Clerk following approval by the City Council. For purposes of this subdivision, the term “trapping” shall have the meaning as defined by the Minnesota Department of Natural Resources.

Source: Ordinance No. 268, Third Series
Effective Date: 12-30-04

Subd. 4. Exception. Nothing in Subdivision 3 of this Section 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 lawful duties, 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.

Source: Ordinance No. 269, Third Series
Effective Date: 12-30-04

Subd. 5. 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 Subdivision 4 of this Section, any firecrackers, sky rockets or other fireworks.

Source: City Code
Effective Date: 11-1-80

A. Notwithstanding any other provision in this Chapter to the contrary, any retail seller who has obtained a permit from the City for the sale of fireworks as prescribed in Minnesota Statute 624.20 shall be allowed to display and sell the classes and types of fireworks permitted under the statutes.

B. The City Clerk shall determine the form of the permit allowing the display and sale of fireworks by a retail seller operating within the municipal boundaries of the City. The fee for such permit shall be Three Hundred Fifty Dollars ($350.00) annually as provided for under Minnesota Statute 624.40. No retail seller may display or offer for sale any fireworks until such retail seller has obtained a permit from the City Clerk and paid the permit fee.

Source: Ordinance No. 265, Third Series
Effective Date: 7-1-04

Subd. 6. 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.

Subd. 7. 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 Law Enforcement Officer, or a bow and arrow range authorized by the Council.

Source: City Code
Effective Date: 11-1-80

SEC. 10.11. ANIMAL LICENSING AND REGULATION.

Subd. 1. Definitions. The following terms, as used in this section and section 10.12, shall have the meanings stated:

A. "Animal" means cattle, horses, mules, sheep, goats, swine, ponies, ducks, geese, turkeys, chickens, guinea hens, dogs, cats, and all other animals and feathered foul.

B. The term "cat" means both the male and female sex whether neutered or not of any variety of the Felidae family, including all varieties and species of the common or domestic cat whether the same are wild or tame.

C. The term "dog" means both the male and female sex whether neutered or not of the Canidae family, including the common or domestic dog whether wild or tame.

D. The terms "dangerous dog" and "potentially dangerous dog" have the same meanings as given them in Minnesota Statutes, Section 347.50.

E. The terms "at large" and "running at large" means an animal off or away from the premises owned or directly controlled by its owner and not on a leash or under restraint.

F. The term "leash" means a cord, thong, rope, leather, or chain not exceeding eight feet in length and of sufficient strength and condition so as to endure unbroken the maximum strength or force placed against it by the animal in which the

devise is attached. For purposes of this definition, the collar, bridle, halter, or other harness on the animal to which the device is attached shall be included as part of the leash.

G. The term "neutered" means rendered permanently incapable of reproduction.

H. The term "restraint" and "under control" means that an animal shall be strictly located at all times within the real property limits owned or under the control of its owner, or by the direct permission of the owner or person in control of the real property, or secured by a leash with one end properly attached and secured to the animal and the other end held securely or fastened to a person of sufficient age and discretion

so as to maintain control over the animal and with sufficient strength to direct and control the movement or lack of movement of the animal.

I. The term "owner" means any person who owns, harbors, feeds, boards, keeps, or otherwise possesses an animal and is presumed to be the owner or tenant of the residence real estate at which the animal is normally kept, remains, or to which it returns; or the owner or manager in charge of the establishment or premises at which the animal is kept, remains, or to which it returns. Any parent or guardian of any non-emancipated minor owner under the age of 18 years of age shall be presumed to be the actual owner of the animal and the responsible party for the animal's care, control, licensing, and actions.

J. The term "person" means any individual, corporation, partnership, association, organization, or institution commonly recognized by law as a unit and if it consists of more than one person, not including husbands and wives, the person shall be deemed to be any of the officers, directors, leaders of said entity.

K. The term "animal pound" means the facility designated or recognized by the City of Luverne for the purposes of impounding and caring for animals impounded by the City whether the same is located within or outside the corporate limits of the City.

Subd. 2. License Required.

A. It is unlawful for any owner of a dog over six months of age to fail to obtain and maintain a current City license therefor; provided, however, that if the owner is a legally blind person and a dog is specifically trained and used for guide purposes, no license shall be required.

B. Applications for a dog license shall be on a form supplied by the City and shall be accompanied by a certificate from a licensed veterinarian which shall certify the immunization against rabies for at least the period for which the license is applied; provided, however, that if the immunization certificate expires prior to the expiration of the license period, the license will continue to be effective if the owner files with the City a new certificate covering the remaining period of the license.

Source: Ordinance No. 88, Third Series
Effective Date: 8-2-90

C. All licenses shall expire on April 1 of each year. The fee for a license shall be established and may, from time to time, be amended by resolution of the Council. The fees for impounding and maintenance of animals in the animal pound shall be fixed from time-to-time by resolution of the City Council. A copy of the resolution

setting forth current fees shall be kept on file in the office of the City Administrator and shall be open to inspection during regular business hours.

Source: Ordinance No. 273, Third Series
Effective Date: 3-31-05

D. The owner of any other animal other than a dog may voluntarily license said animal by meeting the same conditions as that required of a dog for licensing and payment of the same fees.

E. All licensed dogs shall wear a collar or other device around the neck of the dog and firmly affix thereto the current tag indicating that the dog is properly

licensed. In the event that such tag is lost, a duplicate tag may be obtained from the City upon the payment of a duplicate tag fee as set from time-to-time by resolution of the Council. Tags or licenses shall not be transferable and no refund shall be made of any license or duplicate tag fee because of leaving the City, death of the animal, or other reasons. License fees shall not be pro-rated, however, new license applications for dogs recently coming under the jurisdiction of the City shall be given without charge during the period three months prior to the expiration period for all licenses provided the application and fee for the next ensuring license period is paid and made at the same time as the initial application for the new license.

Subd. 3. Revocation of Licenses.

A. The City Council may revoke any license if the owner refuses or fails to comply with the provisions of City Code and regulations promulgated by the City or any other law governing the keeping and protection of animals.

B. If the owner is shown to have withheld or falsified any material information on the application for a license or other information requested by the City, it shall result in the immediate revocation of the license by the City Administrator. The giving of false information on an application shall, in addition, be grounds for refusing to issue the license by the City.

C. It shall be a condition of issuance of any license that the City shall be permitted to inspect the dog and the premises where the dog is kept at any reasonable time during normal business hours for purposes of assuring that the provisions of the City Code and other laws governing the keeping and protection of animals are being obeyed and complied with.

Source: Ordinance No. 88, Third Series
Effective Date: 8-2-90

Subd. 4. Impounding, Release, and Adoption. Any dog or cat found in the City without a license tag, or any animal running at large or in violation of any other provision of City Code or any law relating to the keeping or protection of animals, or required to be impounded hereunder, shall be placed in the animal pound, and an accurate record of the time of such placement shall be kept on each animal. In cases where the animal is found running at large and prior to impoundment, the City shall attempt to return a licensed animal to its registered owner. Every animal so placed in the animal pound shall be held for redemption by the owner for a period of not less than five (5) calendar days.

Source: Ordinance No. 273, Third Series
Effective Date: 3-31-05

Impoundment records shall be preserved for a maximum of six months and shall show: (1) the description of the animal by breed, sex, approximate or estimated age, and other distinguishing characteristics or traits; (2) the location at which the animal was seized; (3) the date and time of seizure: (4) the name and address of the person, if any, from whom any animal was received; and (5) the name and address of the person to whom any animal was transferred or released. A person claiming an interest in an animal in

custody is allowed to prevent disposition of the animal by posting a bond or security in an amount sufficient to provide for the animal's care and keeping for at least 30 days. The amount shall be determined based upon animal pound fees set by the Council. Even if a bond or security is provided, once the amount provided for is depleted all ownership rights of anyone shall expire; and upon expiration of said ownership rights, the animal shall be humanely destroyed and the carcass disposed of, unless it is requested by a licensed educational or scientific institution under the authority of Minnesota Statutes, Section 35.71; or, in the alternative, the animal may be released, delivered to, and ownership transferred to any other person agreeing to accept the animal and comply with all provisions of City Code (if the animal is to be kept within the City) and other laws and regulations relating to the keeping and treatment. Prior to the release of any animals from the animal pound, the owner thereof shall provide evidence that the animal is licensed and will be vaccinated within 48 hours after release against rabies unless the owner thereof can present a certificate of current vaccination. Animals shall not be released to the owner thereof until the owner has paid the appropriate animal pound fees for the keeping of such animal. A person desiring to claim an unclaimed animal (adoption) must register his/her interest in animal adoption prior to the time of the seizure of the animal the person desires to adopt. Animal pound fees for the keeping of animals shall be waived for adopted animals.

Source: Ordinance No. 114, Third Series
Effective Date: 6-18-92

Subd. 5. Notice of Impounding and Termination of Ownership Rights. Upon the impounding of any animal, the City shall attempt to notify the owner of said animal, if known. If the owner is unknown, a written notice shall be posted for five days at City Hall describing the animal and the place and time of taking. The notice shall also state the time and date on which the five-day redemption period shall expire and the animal eligible for being destroyed, donated for medical research, or adopted. A copy of Minnesota Statutes, Section 343.235 (Laws 91, Chapter 122, Sec. 4), shall be delivered by the authority taking custody of an animal to the person residing on the property or adjacent public right-of-ways or easements from which the animal was taken. If no one resides on the property, the authority shall post a copy of it at the place where the animal is taken into custody. All rights of ownership shall strictly expire and be null and void for all animals unclaimed by the owner at the expiration of the five-day redemption period unless a bond or deposit is placed pursuant to Subd. 4.

Source: Ordinance No. 231, Third Series
Effective Date: 6-29-00

Subd. 6. Rabies Control.

A. When any owner of an animal has been notified that such animal has, or is suspected to have, bitten or attacked any person, he must within 24 hours place the animal under the care and observation (quarantine) of the City or a licensed veterinarian for a period of not less 10 days except in those cases where an animal has bitten or attacked while on the premises of the owner and the owner has a current rabies vaccination for said animal, in which case, the City may, if it feels that the facilities are adequate and if the owner is a responsible person, quarantine the animal on the owner's

premises. In this case the owner must sign a statement acknowledging the understanding of the responsibility and assuming the liability that is involved with the quarantine of the animal that has bitten. The quarantined animal must at all times be available for inspection by the City or its agents during the quarantine period. At the end of the quarantine period, the animal shall be examined by the City and, if cleared, the quarantine reflect and, if applicable, reclaimed by the owner. The owner must pay the expense incurred incident thereto. Any animal not claimed within five calendar days may be disposed of as provided under the provisions of this section. Any animal placed under quarantine showing active signs of rabies, suspected of having rabies, or known to have been exposed to rabies, shall be confined under competent observation of a licensed veterinarian for such time as may be deemed necessary to determine a diagnosis. Any animal that has bitten or attacked that cannot be captured may be destroyed in such manner that the head is not damaged and can be submitted for a rabies examination to a laboratory.

B. Any person who shall suspect that an animal in the City is infected with rabies shall report said animal to the law enforcement officials describing the animal and giving the names and address of the owner, if known.

C. Any rabid animal may be destroyed by the law enforcement officials or a licensed veterinarian upon a diagnosis of rabies by a licensed veterinarian.

D. Whenever it is determined that there is a substantial danger of the existence or spread of rabies in the City and the same is confirmed by the public health officer having jurisdiction over the City, the Mayor, upon receipt of said facts, may, by proclamation, and in the interests of public safety and the general welfare of the citizenry, order all animals muzzled when off the premises of the owner. After the giving of notice of said proclamation as required for the adoption of emergency ordinances, all animals found off the premises of the owner and which are unmuzzled shall be seized and impounded or may be immediately destroyed if all reasonable effort including use of tranquilizer guns fail and said animal remains running at large. All animals seized and impounded shall be held for an observation period of not less than 10 days and may be claimed by the owner after examination and clearance by a licensed veterinarian certifying that the animal is free from rabies. The cost of such maintenance and examination must be paid prior to release by the owner. Any animal not claimed shall be kept for an additional five calendar days and may be disposed of as provided under the provisions of this section.

Subd. 7. Unlawful Acts and Remedies.

A. It is unlawful for the owner of any animal to permit such animal to run at large in the City. Whenever an animal is found running at large, the same shall constitute prima facie evidence that the owner permitted the animal to run at large.

B. It is unlawful for the owner of any potentially dangerous dog to allow such animal out of a contained secure premises, when not chained with a leash or one that is attached or securely held by a substantial stake or an owner or member of the owner's immediate family over 16 years of age and of substantial strength so as to control all movement or lack of movement by the dog. Any potentially dangerous dog which is not in compliance with the terms of this paragraph may be seized and impounded. If the animal cannot be seized, including the use of tranquilizer guns, and is

running at large, it may be destroyed. At the request of the City, the owner of any dangerous dog or potentially dangerous dog who has been seen running at large, bitten any person or other animal, or in any other manner endangered or threatened to endanger the lives or safety of humans or domestic animals shall forthwith deliver the dog to the animal pound and may be ordered by the City to appear in court to show cause why such animal should not be destroyed.

C. It is unlawful for the owner of any animal to suffer or permit said animal to disturb the peace and quiet of the City or any of its residents by howling, crying, barking, or making any other loud or unusual noise. If a dog is outside on any private premises and is so disturbing the peace, a law enforcement officer may summarily abate the nuisance by impounding the dog. It shall be prima facie evidence of a violation of this paragraph if an animal continues to disturb the peace and quiet for a period of five minutes or more during the hours of 9:00 p.m. to 12:00 midnight or 12:00 midnight through 7:00 a.m. on any day.

D. It is unlawful for any person to maltreat, abuse, or neglect, or in any other manner treat any animal in a cruel or inhumane manner.

E. It is unlawful for any person to harbor or keep any stray animal. Animals known to be strays shall be immediately reported to the law enforcement officials.

F. It is unlawful for any person, not acting under instructions from the owner or the City, to willfully or maliciously administer or cause to be administered, poison of any sort whatsoever to any animal, with the intent to injure or destroy such animal, or to willfully or maliciously place any poison or poison food where the same is accessible to any such animal. The provisions of this paragraph shall not apply to the poisoning of common rodents or insects, however, the placement of such poison shall be in areas which are inaccessible to domesticated animals.

G. It is unlawful for the owner or person attending any animal to allow it to defecate on any public or private property other than that owned by the owner or attendant or under their direct control and with consent of the owner; or to permit any accumulation thereof on the owner or attendant's property. If such animal does defecate on public or private property in violation of the provisions of this paragraph, it shall not be a violation of the provisions herein if said owner or attendant shall immediately and thoroughly clean up and remove the fecal material from said property and properly dispose of it in a manner permitted by law.

H. It is unlawful for any person to abandon or set loose any animal owned or controlled by said person.

I. It is unlawful for any parent or guardian of a non-emancipated minor under 18 years of age to allow said minor to own an animal in violation of this section or to allow said animal to be kept, maintained, or in any other manner controlled in violation of this section.

Subd. 8. Injured Animals.

A. When an animal without identification is injured and the owner cannot be found or is unknown, it is the duty of the law enforcement officials to determine if the animal for humane reasons and due to the extent of the injury and suffering should be destroyed and put to death. The law enforcement officials may, but is not obligated to,

use the services of a licensed veterinarian to determine the extent of such injuries. If the animal is destroyed, neither the City nor its agents shall be liable for its humane act.

B. When an animal with identification, including a dog license, is injured, the law enforcement officials shall immediately notify the licensed owner who shall immediately pick up the animal. In the event the owners are not able to be immediately located or the animal is not immediately picked up, the law enforcement officials shall deliver the animal to a licensed veterinarian. All expenses of the City and the veterinarian fees and charges shall be paid by the owner.

C. It shall be unlawful for any person to interfere with, hinder, or molest any Law Enforcement Officer or agent of the City in the performance of any duties provided for under the terms of this section.

Subd. 9. Purpose and Severability. The City Council hereby finds, determines, and declares that the provisions of this section are necessary for the preservation of the public health, safety, and welfare of the City and the inhabitants thereof. The owners of any animals which are located or allowed to enter the corporate limits of the City of Luverne are deemed to have consented to the provisions of this section. Any part or portion of this section which shall be held invalid or unenforceable to a court of competent jurisdiction shall be deemed to be severable and the invalidity thereof shall not affect the remaining portions.

Source: Ordinance No. 88, Third Series
Effective Date: 8-2-90

SEC. 10.12. ANIMALS AND FOWL - KEEPING, HOUSING, TREATMENT, RESTRAINT, CONFINEMENT AND TRESPASSES.

Subd. 1. Definition. The term "animals" means cattle, horses, mules, sheep, goats, swine, ponies, ducks, geese, turkeys, chickens, guinea hens, dogs, and all other animals and feathered fowl; provided, that this definition shall extend to this Section only.

Subd. 2. Keeping. It is unlawful for any person to keep any animal, not in transit, in any part of the City not zoned for agricultural purposes, except for domestic pets which shall be kept for personal use only.

Subd. 3. Housing. It is unlawful for any person to keep any animals in any structure infested with rodents, vermin, flies or insects.

Subd. 4. Treatment. It is unlawful for any person to treat any animal in a cruel or inhumane manner.

Subd. 5. Restraint and Confinement. It is unlawful for any person to suffer or permit animals to run at large in the streets or public places, or to be herded or driven thereon unless each animal is confined within a vehicle or restrained by means of bridles, halters, ropes or other means of individual restraint.

Subd. 6. 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.

Source: City Code
Effective Date: 11-1-80

SEC. 10.13. CURFEW AND LOITERING.

Subd. 1. Curfew Imposed. Except as provided in Subd. 3, 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.

Subd. 2. Subdivision 1 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. of the following day.

Subd. 3. Exceptions. The restrictions of Subdivisions 1 and 2 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 a 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.

Subd. 4. 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 Subd. 1 or 2.

Subd. 5. Loitering Prohibited. No person shall loiter upon any public street or alley, public sidewalk, vacant lot, public or private parking lot, or any other unsupervised public place.

Subd. 6. Responsibility of Other Persons. Whenever 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 Subd. 1 or 2, 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 law enforcement officials of the violation.

Subd. 7. Penalties. Any person who shall be found to be in violation of this section shall be guilty of a petty misdemeanor.

Source: Ordinance No. 178, Third Series
Effective Date: 11-2-95

SEC. 10.14. DISORDERLY CONDUCT - NOISY PARTIES.

Subd. 1. It is unlawful for any person or persons to congregate on any private lands because of, or participate in, any party or gathering of people from which noise emanates of a sufficient volume or of such nature as to disturb the peace, quiet or repose of other persons. Any owner or person in lawful possession or control of such private lands who has knowledge of the disturbance and fails to immediately abate said disturbance shall be guilty of a violation of this Section.

Subd. 2. It is unlawful for any person or persons to congregate on any private lands of another because of, or participate in, any party or gathering of people in the absence of the owner of said private lands being present, without first having obtained written permission from the landowner or other person in lawful possession of such private lands. Such written permission shall at all times be in the possession of one or more persons at the site of such congregation. The document containing the written permission must bear the signature of the landowner and date of the permitted use. Failure to display written permission upon request shall be considered prima facie evidence of an absence of permission from the owner.

Subd. 3. A violation of Subdivision 1 or 2 of this Section shall give a peace officer the authority to order all persons present, other than person identifying themselves as the owner or person in lawful possession or control of such land, to immediately disperse. Any person who shall refuse to leave after being ordered to do so by a peace officer shall be guilty of a violation of this Section.

Source: Ordinance No. 52, Third Series
Effective Date: 3-31-88

(Sections 10.15 through 10.19, inclusive, reserved for future expansion.)

SEC. 10.20. DANGEROUS TRESPASSES AND OTHER ACTS. It is unlawful for any person to : (1) smoke in the presence of explosives, or inflammable materials, or in a building, or area, in which "No Smoking" notices have been prominently posted; or, (2) interfere with or obstruct the prevention or extinguishing of any fire, or disobey the lawful orders of law enforcement officer or fireman present at the fire; or, (3) show a false light

or signal or interfere with any light, signal or sign controlling or guiding traffic upon a highway, railway track, or navigable water; or, (4) place an obstruction upon a railroad track; or, (5) expose another or his property to an obnoxious or harmful gas, fluid or

substance, with intent to injure, molest or coerce; or, (6) trespass or permit animals under his control to trespass upon a railroad track; or (7) permit domestic animals or fowls under his control to go upon the lands of another within the City; or, (8) interfere unlawfully with any monument, sign or pointer erected or marked to designate a point of a boundary, line or a political subdivision, or a tract of land; or, (9) trespass upon the premises of another, and without claim of right refuses to depart therefrom on demand of the lawful possessor; or, (10) occupies or enters the dwelling of another, without claim of right, or consent of the owner, or the consent of one who has the right to give consent, except in an emergency situation;, or (11) enter the premises of another with intent to take or injure any fruit, fruit trees or vegetables growing thereon without the permission of the owner or occupant; or, (12) without the permission of the owner tamper with or get into or upon a motor vehicle, or ride in or upon such motor vehicle knowing it was taken and is being driven by another without the permission of the owner.

Source: City Code
Effective Date: 11-1-80

SEC. 10.21. REPEALED.

Source: Ordinance No. 52, Third Series
Effective Date: 3-31-88

SEC. 10.22. 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 so permit upon premises owned or controlled by him, 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 exposes his person or the private parts thereof, or procures another to so expose himself; and any open or gross lewdness or lascivious behavior, or any act of public indecency; or, (5) voluntarily enters the water of any lake, river or City public swimming pool between the hours of 10:00 o'clock P.M. and 8:00 o'clock A.M. except with specific permission; or, enters such water 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) races the motor of any motor vehicle; or, (7) causes the spinning or skidding of wheels or tires causing tire squeals or similar noise; or (8) causes the making or production of an unnecessary noise by shouting or by any other means of mechanism including the blowing of any automobile or other vehicle horn; or, (9) use a flash or spotlight in a manner so as to annoy or endanger others; or, (10) drinks or displays any intoxicating liquor or non-intoxicating malt liquor in or about any premises where such drinking or display is prohibited by law; or, (11) causes defacement, destruction or otherwise damage to any premises or any property located thereon; or, (12) strews, scatters, litters, throws, disposes of or deposits any refuse, garbage or rubbish unto any premises except into receptacles provided for such purpose; or, (13) enters any motor vehicle of another without the consent of the owner or operator; or, (14) fails or refuses 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 wife, children, employee or tenant of such owner or occupier.

Source: City Code
Effective Date: 11-1-80

SEC. 10.23. REPEALED.
SEC. 10.24. REPEALED.
SEC. 10.25. REPEALED.
SEC. 10.26. REPEALED.
SEC. 10.27. REPEALED.
SEC. 10.28. REPEALED.
SEC. 10.29. REPEALED.
SEC. 10.30. REPEALED.
SEC. 10.31. REPEALED.

Source: Ordinance No. 52, Third Series
Effective Date: 3-31-88

SEC. 10.32. WINDOW PEEPING. It is unlawful for any person to go upon the private premises of another, and in a surreptitious manner, look, gaze, stare or peep into any window, door or other opening in any building located thereon which is occupied by a person or persons as a place of abode with intent to intrude upon the privacy of any member of the household thereof.

Source: City Code
Effective Date: 11-1-80

(Sections 10.33 through 10.39, inclusive, reserved for future expansion.)

SEC. 10.40. SHADE TREE DISEASE CONTROL AND PREVENTION.

Subd. 1. Policy and Purpose. The City has determined that the health of oak and elm trees is threatened by fatal diseases known as oak wilt and Dutch elm disease. It has further determined that the loss of oak and elm trees located on public and private property would substantially depreciate the value of property and impair the safety, good order, general welfare and convenience of the public. It is declared to be the intention of the Council to control and prevent the spread of these diseases, and provide for the removal of dead or diseased trees, as nuisances.

Subd. 2. Definitions. The following terms, as used in this Section, shall have the meanings stated:

A. "Shade Tree Disease" - Dutch elm disease or oak wilt disease.

B. "Tree Inspector" - The City Administrator, or such other employee of the City as the Council may designate and who shall thereafter qualify, together with his duly designated assistants.

C. "Nuisance" - (1) any living or standing tree infected to any degree with a shade tree disease; or, (2) any logs, branches, stumps or other parts of any dead or dying tree, so infected, unless such parts have been fully burned or treated under the direction of the Tree Inspector.

Subd. 3. Scope and Adoption by Reference. Minnesota Statutes, Sections 18.01 through 18.023, inclusive, are hereby adopted by reference, together with the Rules and Regulations of the Minnesota Commissioner of Agriculture relating to shade tree diseases; provided, that this Section shall supersede such Statutes, Rules and Regulations, only to the extent of inconsistencies.

Subd. 4. Unlawful Act. It is a petty misdemeanor for any person to keep, maintain or permit upon premises owned by him or upon public property where he has the duty of tree maintenance, any nuisance as herein defined.

Subd. 5. Inspection and Diagnosis. It is the power and duty of the Tree Inspector to enter upon public and private property, at any reasonable time, for the purpose of inspecting for, and diagnosis, shade tree disease. In cases of suspected shade tree disease, and in performance of his duties, the Tree Inspector may remove such specimens, samples and biopsies as may be necessary or desirable for diagnosis.

Subd. 6. Abatement of Nuisance. Abatement of a nuisance, defined herein, shall be by spraying, removing, burning, or otherwise effectively treating the infected tree or wood to prevent spread of shade tree disease. Such abatement procedures shall be carried out in accordance with the current technical and expert methods and plans as may be designed by the Commissioner of Agriculture of the State of Minnesota. The City shall establish specifications for tree removal and disposal methods consistent therewith.

Subd. 7. Procedure for Removal of Infected Trees and Wood.

A. Whenever the Tree Inspector finds with reasonable certainty that the infection, or danger of infection, exists in any tree or wood on any public or private property, he shall proceed as follows:

1. If the Tree Inspector finds that the danger of infection of other trees is not imminent because of dormancy of shade tree disease, he shall make a written report of his finding to the Council which shall proceed by (a) abating the nuisance as a public improvement under Minnesota Statutes, Chapter 429, or (b) abating the nuisance as provided in Subparagraph B of this Subdivision.

2. If the Tree Inspector finds that danger of infection of other trees is imminent, he shall notify the owner of the property, or the abutting property, as the case may be, by certified mail that the nuisance will be abated within a specified time, not less

than five (5) days from the date of mailing of such notice. The Tree Inspector shall immediately report such action to the Council, and after the expiration of the time limited by the notice he may abate the nuisance.

3. If the Tree Inspector finds with reasonable certainty that immediate action is required to prevent the spread of shade tree disease, he may proceed to abate the nuisance forthwith. He shall report such action immediately to the Council and to the abutting property owner, or to the owner of the property where the nuisance is located.

B. Upon receipt of the Tree Inspector's report required by Subparagraph A., Item 1, the Council shall by resolution order the nuisance abated. Before action is taken on such resolution, the Council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to affected property owners and published once no less than one (1) week prior to such meeting. The notice shall state the time and place of the meeting, the streets affected, action proposed, the estimated cost of the abatement, and the proposed basis of assessment, if any, of costs. At such hearing or adjournment thereof, the Council shall hear property owners with reference to the scope and desirability of the proposed project. The Council shall thereafter adopt a resolution confirming the original resolution with such modifications as it considers desirable and provide for the doing of the work by day labor or by contract.

C. The Tree Inspector shall keep a record of the costs of abatements done under this Subdivision and shall report monthly to the Council all work done for which assessments are to be made stating and certifying the description of the land, lots, parcels involved and the amount chargeable to each.

D. On or before September 1 of each year the City Administrator shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this Section. The Council may then spread the charges or any portion thereof against the property involved as a special assessment under Minnesota Statutes, Section 429.101 and other pertinent statutes for certification to the County Auditor and collection the following year along with current taxes.

E. No damage shall be awarded the owner for destruction of any tree, wood or part thereof pursuant to this Section.

Subd. 8. Spraying Trees.

A. Whenever the Tree Inspector determines that any tree or wood is infected or threatened with infection, he may spray or treat all nearly high value trees with an effective concentrate or fungicide or both. Activities authorized by this Subdivision shall be conducted in accordance with technical and expert opinions and plans of the Commissioner of Agriculture and under the supervision of the Commissioner and his agents whenever possible.

B. The notice and assessment provisions of Subdivision 7 apply to spraying and treatment operations conducted under this Subdivision.

Subd. 9. Transporting Wood Prohibited. It is unlawful for any person to transport elm wood into or through the City unless the same is debarked, or, in the months of April, May or June, to transport any oak wood, without having obtained a permit from the Tree Inspector, or into or through any designated "disease control area"

as defined by Minnesota Statutes, Section 10.023. The Tree Inspector shall grant such permits only when the purposes of this Section will be served thereby. This prohibition shall not apply to movement of such wood pursuant to any approved wood disposal or utilization program authorized by Minnesota Statutes, Section 18.023, or to transportation of elm wood intended for industrial use not to include firewood, provided such transportation of elm logs for industrial use continues without interruption through the City or "disease control area" to their intended destination lying outside the City and "disease control area".

Subd. 10. Interference Prohibited. It is a petty misdemeanor for any person to prevent, delay or interfere with the Tree Inspector while he is engaged in the performance of duties imposed by this Section.

Subd. 11. Additional Duties of Tree Inspector. It is the additional duty of the Tree Inspector to coordinate, under the direction and control of the Council, all activities of the City relating to the control and prevention of shade tree disease. He shall recommend to the Council the details of a program for the control of the diseases, and perform the duties incident to such a program adopted by the Council.

Subd. 12. Diseased Trees in Streets. The rights, duties and responsibilities of property owners set forth in this Section shall be equally applicable to, and binding upon, abutting property owners with tree maintenance responsibilities under the Section of the City Code entitled "Regulation of Grass, Weeds and Trees in Streets".

Subd. 13. Subsidies. The duty of any property owner to bear the cost of removing or maintaining trees, whether by private contract or assessment, shall be subject to a subsidy policy, if any, established by the City for the treatment or removal of trees infected with shade tree disease.

SEC. 10.41. 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.

Subd. 2. The Air Pollution Control Rules, 1976, APC 1 through APC 31, updated through 1977, promulgated by the Minnesota Pollution Control Agency, are hereby adopted by reference as though set forth verbatim herein. Three copies of said Rules shall be marked CITY OF LUVERNE - OFFICIAL COPY and kept on file in the office of the City Administrator 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.

Source: City Code
Effective Date: 11-1-80

SEC. 10.42. REPEALED BUT NOT AFFECTING OUTSTANDING LEGAL ACTION.

See Source.

Source: Ordinance No. 107, Third Series
Effective Date: 5-2-91

SEC. 10.43. RULES AND REGULATIONS GOVERNING CITY PARK.

Subd. 1. Adoption. The rules and regulations established herein shall become effective only after being sign-posted in conspicuous places in the City park, and it is unlawful for any person to violate the same when so sign-posted.

Subd. 2. Unlawful Acts.

A. Park Hours. It is unlawful for any person to be upon the park premises between the hours of 10:30 o'clock P.M. and 7:30 o'clock A.M.

B. Littering. Bottles, glass, nails, tacks, wire, cans, garbage, swill, papers, ashes, refuse, offal, trash, rubbish or any other form of offensive matter shall be disposed of by being placed in the park trash cans, and it is unlawful for any person to fail to so dispose of such litter.

C. Dog Regulations. It is unlawful for any person who is the owner, or other person in possession of a dog, to permit such dog to be upon the picnic/play area, such area being defined as the area whose perimeter abuts the traffic lane.

D. Removal of or Damage to Property. It is unlawful to damage or remove any of the structures, buildings, tables, play equipment, trees, or other components of or facilities within the City park.

Subd. 3. Traffic and Parking Control.

A. The maximum speed limit on roads in the City park shall be twenty miles per hour, and shall be so sign-posted.

B. The Council shall approve and direct the erection and maintenance of such devices, signs, or signals as are deemed appropriate for traffic and parking control within the City park.

Source: City Code
Effective Date: 11-1-80

SEC. 10.44. OPEN BURNING OF LEAVES.

Subd. 1. Burning Permitted. Subject to the provisions of Minnesota Statutes, Sections 88.16, 88.17 and 88.22, the open burning of dried leaves between September 15 and December 1 is hereby permitted.

Subd. 2. Limits and Conditions.

A. Such burning shall be limited to the areas of the City zoned for residential purposes only, and only on such days as are designated by the Council.

B. Burning shall be during daylight hours only.

C. No burning is permitted in streets.

D. All such fires shall be attended, at all times, by a person of suitable age and discretion.

E. No burning shall take place during an air pollution alert, warning or emergency declared by the Pollution Control Agency.

Subd. 3. A copy of this Section, or any amendment thereof, shall be submitted to the Minnesota Pollution Control Agency and the Minnesota Department of Natural Resources.

Source: Ordinance No. 52, Third Series
Effective Date: 3-31-88

(Sections 10.45 through 10.49, inclusive, reserved for future expansion.)

SEC. 10.50. REPEALED BUT NOT AFFECTING OUTSTANDING LEGAL ACTION.

See Source.

Source: Ordinance No. 107, Third Series
Effective Date: 5-2-91

SEC. 10.51. 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.

SEC. 10.52. PROHIBITED USE OF MOBILE HOMES AND RECREATIONAL CAMPING VEHICLES.

Subd. 1. Definitions. The terms "mobile home" and "recreational camping vehicle" shall mean and include the following definitions:

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 dwelling 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.

Subd. 2. It is unlawful for any person to park a mobile home or recreational camping vehicle upon public or private property for human habitation except in a licensed mobile home park.

Source: City Code

Effective Date: 11-1-80

SEC. 10.53. REPEALED.

SEC. 10.54. REPEALED.

Source: Ordinance No. 52, Third Series
Effective Date: 3-31-88

SEC. 10.55. FURNISHING OBSCENE MATERIAL.

Subd. 1. Definitions. As used in this Section, the following words and terms shall have the meanings stated:

A. "Furnish" - To sell, give, rent, loan or otherwise provide.

B. "Material" - Any printed matter, visual representation, or sound recording, and includes, but is not limited to books, magazines, motion picture films, pamphlets, newspapers, pictures, photographs, drawings, sculptures, and tape or wire recordings.

C. "Nudity" - 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.

D. "Obscene" - Material which is whole or in part depicts or reveals nudity, sexual conduct, sexual excitement or sado-masochistic abuse, or which includes obscenities or explicit descriptions or narrative accounts of sexual conduct.

E. "Obscenities" - 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.

F. "Sado-Masochistic Abuse" - 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.

G. "Sexual Conduct" - 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.

H. "Sexual Excitement" - 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.

Subd. 2. Unlawful Act. It is unlawful for any person to furnish another person obscene material.

Subd. 3. Defense. In any prosecution under this Section it is an affirmative defense and for the defendant to prove, that the defendant was bona fide school, museum or public library, or was acting in the course of his employment as an employee

of such organization or of a retail outlet affiliated with and serving the educational purpose of such organization.

Source: City Code
Effective Date: 11-1-80

SEC. 10.56. 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 violation of law;

B. Illegal betting, bookmaking, and all apparatus used in such occupations;

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-or-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;

Source: Ordinance No. 107, Third Series
Effective Date: 5-2-91

P. The outdoor storage of abandoned, junked, discarded or unlicensed vehicles, whether self propelled or towed, upon private property within the City of Luverne 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 Luverne.

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 Luverne.

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 Luverne, 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 Luverne.

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 § 168B.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 Luverne 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 Luverne, 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. 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.

Source: Ordinance No. 271, Third Series
Effective Date: 1-13-05

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 City Administrator or his designees 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 City Administrator or his designees 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 officer charged with enforcement determines that a public nuisance is being maintained or exists on premises in the city, the officer 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. If the notice is not complied with within the time specified, the enforcing officer shall report the fact forthwith to the City Administrator who shall schedule a hearing before the Council and give notice thereof to the owner or occupant. Thereafter the Council may, after the owner or occupant has an opportunity to be heard or fails to appear, 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 City Administrator may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the officer charged with enforcement 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 enforcement officer 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 Administrator to consider the question of summary enforcement. The City Administrator 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 City Administrator may order summary enforcement and abate the nuisance.

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 Finance Director 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.

Source: Ordinance No. 107, Third Series
Effective Date: 5-2-91

SEC. 10.57. PUBLIC NUISANCES WITHIN PUBLIC WATERS.

Subd. 1. Public Waters Defined. For the purpose of this section "public waters" shall have the meaning given in Minnesota Statutes 103G.005, Subd. 15.

Subd. 2. Public Water Nuisance Defined. Whoever does any of the following is guilty of a public waters nuisance, which is a misdemeanor, and each separate act shall constitute a separate offense.

A. Swimming or wading at any time in any public waters within the limits of the City.

B. Diving, jumping, or otherwise entering any public waters from any bridge, roadway, railroad bridge, railroad trestle, dam, or any other structure within or over the channel of any public waters.

C. Entering onto the ice of Veteran's Pond, or any other public waters within the limits of the City marked by signs indicating "Thin Ice."

D. Operating motorized watercraft in any public waters within the limits of the City, except watercraft propelled by an electric motor with battery power of 12 volts or less. No watercraft shall be operated within a water area that has been marked off or set aside as a swimming or bathing area as prescribed by rules of the Commissioner of Natural Resources.

Subd. 3. Exemption.

A. Authorized emergency and law enforcement personnel are exempt from the provisions of this ordinance while acting in the performance of their assigned duties.

B. Persons swimming or wading where “No lifeguard on duty” signs are posted.

Source: Ordinance No. 337, Third Series
Effective Date: 08-12-2014

SEC. 10.58. CLANDESTINE DRUG LAB SITES AND CHEMICAL DUMP SITES.

Subd. 1. Purpose and Intent. The purpose of this Section is to reduce public exposure to health risks where law enforcement officers have determined that hazardous chemicals from a suspected clandestine drug lab site or associated dumpsite may exist. The City Council finds such sites are a public health hazard as they

may contain suspended chemicals and residues that place people, particularly children or adults of child bearing age, at risk when exposed through inhabiting or visiting the site, now and in the future.

Subd. 2. Interpretation and Application. In their interpretation and application, the provisions of this Section shall be construed to protect the public health, safety and welfare.
Where the conditions imposed by any provision of this Section are either more or less restrictive than comparable provisions imposed by any other law, ordinance, statute, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or regulations shall prevail.

Should any court of competent jurisdiction declare any Section or subpart of this section to be invalid, such decision shall not affect the validity of the Section as a whole or any part thereof, other than the provision declared invalid.

Subd. 3. Fees. Fees for the administration of this Section may be established and amended periodically by resolution of the City Council, and shall be assessable to the property involved.

Subd. 4. Definitions.

1. Chemical dumpsite: shall mean any place or area where chemicals or other waste materials used in a clandestine drug lab have been located.
2. Clandestine drug lab: shall mean the unlawful manufacture or attempt to manufacture controlled substances.
3. Clandestine drug lab site: shall mean any place or area where law enforcement has determined that conditions associated with operation of unlawful clandestine drug lab exist. A clandestine drug lab site may include dwellings, accessory buildings, accessory structures, a chemical dumpsite or any land.
4. Controlled substance: shall mean a drug, substance or immediate precursor in Schedules I through V of M.S. § 152.02. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.
5. Household hazardous wastes: shall mean waste generated from a clandestine drug lab. Such wastes shall be treated, stored, transported or disposed of in a manner consistent with Minnesota Department of Health, Minnesota Pollution Control, and Nobles/Rock Public Health Department rules and regulations.
6. Manufacture, in places other than a pharmacy: shall mean and include the production, cultivation, quality control, and standardization, by mechanical, physical, chemical or pharmaceutical means, packing repacking, tableting, encapsulating, labeling, relabeling, filling, or by other process, of a controlled substance.
7. Owner: shall mean any person, firm or corporation who owns, in whole or in part, the land, buildings or structures associated with a clandestine drug lab site or chemical dumpsite.
8. Public Health Nuisance: All dwellings, accessory structures and buildings or adjacent property associated with a clandestine drug lab site are potentially unsafe due to health hazards and are considered a public health nuisance.

Subd. 5. Administration.

A. Law Enforcement Notice to Other Authorities. Law enforcement authorities that identify conditions associated with a clandestine drug lab site or chemical dump site that places neighbors, visiting public, or present and future occupants of the dwelling at risk for exposure to harmful contaminants and other associated conditions must promptly notify the appropriate municipal, child protection, and public health authorities of the property location, property owner if known, and conditions found.

B. Declaration of Property as a Public Health Nuisance. Upon notification by law enforcement authorities, the City Building Official shall promptly issue a Declaration of a Public Health Notice for the affected property and post a copy of the Declaration at the probable entrance to the dwelling or property. The

Building Official shall also notify the owner of the property and the following parties by US mail:

1. Occupants of the property;
2. Owners of property within 100 feet of the nuisance property;
3. The Rock County Sheriff's Department; and
4. Other state and local authorities, such as MPCA and MDH, which are known to have public and environmental protection responsibilities that are applicable to the situation.

C. Property Owner's Responsibility to Act. The Building Official shall also issue an order to abate the public health nuisance, including the following:

1. Immediately vacate those portions of the property, including building or structure interiors, which may place the occupants or visitors at risk.
2. Promptly contract with appropriate environmental testing and cleaning firms to conduct an on-site assessment, complete clean-up and remediation testing and follow-up testing, and determine that the property risks are sufficiently reduced to allow safe human occupancy of the dwelling. The property owner shall notify the City of actions taken and reach an agreement with the City on clean-up schedule. The City shall consider practical limitations and the availability of contractors in approving the schedule for clean-up.
3. Provide written documentation of the clean-up process, including a signed, statement from the contractor that the property is safe for human occupancy and that the clean-up was conducted in accordance with Minnesota Department of Health guidelines.

D. Property Owner's Responsibility for Costs. The property owner shall be responsible for all costs of decontamination or clean-up of the site, including contractor's fees and public costs for services that were performed in association with a clandestine drug lab site or chemical dump site clean-up. Public costs may include, but not limited to:

1. Posting of the site;

2. Notification of affected parties;

3. Expenses related to the recovery of costs, including the assessment process;

4. Laboratory fees;

5. Clean-up services;

6. Administrative fees; and

7. Other associated costs.

E. Recovery of Public Costs.

1. If, after service of notice of the Declaration of Public Health Nuisance, the property owner fails to arrange appropriate assessment and clean-up, the City Building Official is authorized to proceed in a prompt manner to initiate the on-site assessment and clean-up.

2. If the City is unable to locate the property owner within ten days of the Declaration of Public Health Nuisance, the City is authorized to immediately proceed to initiate the on-site assessment and clean-up.

3. The City may abate the nuisance by removing the hazardous structure or building, or otherwise, according to Minnesota Statutes Chapter 463.

4. If the City abates the public health nuisance, in addition to any other legal remedy, the City shall be entitled to recover all costs and fees for administration and enforcement hereof. The City may recover costs and fees by civil action against the person or persons who own the property or by assessing such costs and fees as a special tax against the property in the manner as taxes and special assessments are certified and collected pursuant to Minnesota Statutes Chapter 429.

F. Authority to Modify or Remove Declaration of Public Health Nuisance.

1. The Building Official is authorized to modify the Declaration conditions or to remove the Declaration of Public Health Nuisance.

2. Such modification or removal of the Declaration shall only occur after documentation from a qualified environmental or cleaning firm stating that the health and safety risks, including those to neighbors and potential dwelling occupants, are sufficiently abated or corrected to allow safe occupancy of the dwelling.

Source: Ordinance No. 252, Third Series
Effective Date: 5-01-03

SEC. 10.59 VIOLATIONS.

Subd. 1. Violations.

A. Violations of this Section of the Luverne Municipal Code shall be subject to the enforcement provisions and procedures established in Chapter 13 of the Luverne Municipal Code.

Source: Ordinance No. 271, Third Series
Effective Date: 1-13-05

(Sections 10.60 through 10.98, inclusive, reserved for future expansion.)

SEC. 10.99. 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, 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 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.

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

Subd. 3. 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.

Source: Ordinance No. 130, Third Series
Effective Date: 6-18-92

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CHAPTER 11: LAND USE

SECTION 11.01 PURPOSE AND INTENT. The purpose of this code is to safeguard the health, property and public welfare by controlling the design, location, use or occupancy of all buildings and structures through the regulated and orderly development of land and land uses within the city.

SEC. 11.02. SCOPE, JURISDICTION, AND INTERPRETATION. The provisions of this code shall apply to the construction, addition, alteration, moving, repair and use of any building, structure, parcel of land or sign within a jurisdiction, except work located primarily in a public way, public utility towers and poles, and public utilities unless specifically mentioned in this code.

Where, in any specific case, different sections of this code specify different requirements, the more restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

In fulfilling these purposes, this ordinance is intended to benefit the public as a whole and not a specific person or class of persons. Although, through the implementation, administration and enforcement of this code, benefits and detriments will be enjoyed or suffered by specific individuals, such is merely a byproduct of the overall benefit to the whole community. Therefore, unintentional breaches of the obligations of administration and enforcement imposed on the jurisdiction hereby shall not be enforceable in tort.

If any portion of this code is held invalid for any reason, the remaining herein shall not be effected.

Subd. 1. Existing Buildings and Uses. Lawfully established buildings and uses in existence at the time of the adoption of this code shall be permitted to have their existing use or occupancy continued, provided such continued use is not dangerous to life.

Subd. 2. Additions, Alterations or Repairs. Additions, alterations or repairs shall be permitted to be made to any building or use without requiring the existing building or use to comply with the requirements of this code, provided the addition, alteration or repair conforms to that required for a new building or use.

Subd. 3. Maintenance. All buildings or uses, both existing and new, and all parts thereof, shall be maintained. The owner or designated agent shall be responsible for the maintenance of the buildings and parcels of land. To determine compliance with this section, the code official shall be permitted to cause any structure or use to be inspected.

Subd. 4. Moved or Temporary Buildings, Structures, and Uses. Buildings or structures moved into or within the city shall comply with the provisions of this code for new buildings and structures.

Temporary buildings, structures and uses such as reviewing stands and other miscellaneous structures, sheds, canopies or fences used for protection of the public shall be permitted to be erected, provided a special approval is received from the code official for a limited period of time. Temporary buildings or structures shall be completely removed upon the expiration of the time limit stated in the permit.

Subd. 5. Illegal Uses. Uses that were illegally established prior to adoption of this code shall remain illegal.

Subd. 6. Interpretations. The interpretation and application of the provisions of this code shall be by the code official. An appeal of an interpretation by the code official shall be submitted to the board of adjustments and appeals, which, unless otherwise provided, are authorized to interpret the code and such interpretation, shall be considered final.

Uses are permitted within the various zones as described in this code and as otherwise provided herein.

It is recognized that all possible uses and variations of uses that might arise cannot reasonably be listed or categorized. Mixed uses/sites or any use not specifically mentioned or about which there is any question shall be administratively classified by comparison with other uses identified in the zones described in this code. If the proposed use resembles identified uses in terms of intensity and character, and is consistent with the purpose of this code and the individual zone's classification, it shall be considered as a permitted/non permitted use within a general zone classification, subject to the regulations for the use it most nearly resembles. If a use does not resemble other identified allowable uses within the zone, it may be permitted as determined by the hearing body in a public hearing as an amendment to this code pursuant to Section 11.24

SEC. 11.03. DUTIES AND POWERS OF THE CODE OFFICIAL. This section establishes the duties and responsibilities for the zoning code official and other officials and agencies, with respect to the administration of this code. The zoning code official and/or designee shall be referred to hereafter as "the code official."

Subd. 1. Deputies. The code official may appoint such number of technical officers and other employees as shall be authorized from time to time. The code official shall be permitted to deputize such employees as may be necessary to carry out the function of this code.

Subd. 2. Liability. The code official, or designee, charged with enforcement of this code, acting in good faith and without malice in the discharge of the duties described in this code, shall not be personally liable for any damage that may accrue to persons or property as a result of an act or by reason of an act or omission in the discharge of such duties. A suit brought against the code official or employee because such act or omission performed by the code official or employee in the enforcement of any provision of such codes or other pertinent laws or ordinances implemented through the enforcement agency shall be defended by the city until final termination of such proceedings, and any judgments resulting there from shall be assumed by the City.

This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling any building or parcel of land for any damages to persons or property caused by defects, nor shall the enforcement agency or its jurisdiction be held as assuming any such liability by reason of the reviews or permits issued under this code.

Subd. 3. Cooperation of Other Officials and Officers. The code official shall be authorized to request, and shall receive so far as required in the discharge of the duties described in this code, the assistance and cooperation of other officials of the city.

Subd. 4. Comprehensive Plan. The code official shall assist the planning commission in the development and implementation of the comprehensive plan.

SEC. 11.04. PERMITS. It is unlawful for any person to hereafter erect, alter, wreck, or move any building or structure, or portions thereof, without first securing a building and/or zoning permit as required.

Subd. 1. Penalties. It shall be a misdemeanor for any contractor, property owner, tenant, or other person to commence or constitute any work on any project for which a zoning permit is required and for which no permit has been granted by the City or the permit has been cancelled or a stop work order issued.

Subd. 2. Required Permits. A zoning permit shall be required prior to construction, repair, or alteration of structures regulated by the Minnesota State Building Code, driveways, sidewalks, patio slabs, fences, decks, steps, porches, and storage sheds. A zoning permit shall not be required for construction, repair, or alteration of swing sets, play equipment, or structures used exclusively for providing shelter for pets.

Subd. 3. Fees. A fee for service shall be charged. All fees shall be set by the City Council and a schedule shall be made available at the office of the code official.

SEC. 11.05. REVIEWS AND APPROVALS. The code official shall be authorized to undertake reviews, make recommendations and grant approvals as set forth in this code.

Subd. 1. Administrative Reviews and Permits. All departments, officials and employees who are charged with the duty or authority to issue permits or approvals shall issue no permit or approval for uses or purposes where the same would be in conflict with this code. Any permit or approval, if issued in conflict with this code, shall be null and void.

A. Review of building permits. All applications for building permits and amendments thereto shall be submitted to the code official for review and approval prior to permit issuance. Each application shall include two sets of building plans and all data necessary to show that the requirements of this code are met.

B. Site plan reviews. The code official shall receive all applications for site plan review for completeness and prepare submittals for review by the appropriate body.

C. Conditional-use permits. The code official shall receive all applications for conditional uses and variances as required by this code, review for completeness and prepare submittals for review by the appropriate body.

D. Amendments. All requests for amendments or changes to the comprehensive plan, this code or zoning map shall be submitted to the code official for processing.

Subd. 2. Fees. A fee for service shall be charged. All fees shall be set by the City Council and a schedule shall be made available at the office of the code official.

Subd. 3. Expiration. Each license, permit or approval issued shall expire after 180 days if no work is undertaken or such use or activity is not established, unless a different time of issuance of the license or permit is allowed in this code, or unless an extension is granted by the issuing agency prior to expiration. Any work for which a zoning permit has been issued shall be completed according to the approved plans and specifications within one year following the issuance of the zoning permit, and if not so completed, the zoning permit shall automatically cancel.

Subd. 4. Validity of Licenses, Permits and Approvals. For the issuance of any license, permit or approval for which the commission or board is responsible, the code official shall require that the development or use in question proceed only in accordance with the terms of such license, permit or approval, including any requirements or conditions established as a condition of issuance.

Except as specifically provided for in this code and conditions of approval, the securing of one required review or approval shall not exempt the recipient from the necessity of securing any other required review or approval.

Failure to comply fully with the terms of any permit, license or approval shall be permitted to be grounds for cancellation or revocation. Action to cancel any license, permit or approval shall be permitted to be taken on proper grounds by the code official. Cancellation of a permit or approval by the commission or board shall be permitted to be appealed in the same manner as its original action.

Subd. 5. Violations; Unlawful Acts. It shall be unlawful for any person to erect, construct, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy, or maintain any building or land or cause or permit the same to be done in violation of this code. When any building or parcel of land regulated by this code is being used contrary to this code, the code official shall be permitted to order such use discontinued and the structure, parcel of land, or portion thereof, vacated by notice served on any person causing such use to be continued,. Such person shall discontinue the use within the time prescribed by the code official after receipt of such notice to make the structure, parcel of land, or portion thereof, comply with requirements of this code.

SEC. 11.06. ENFORCEMENT.

A. It shall be the duty of the City Administrator through appropriate staff and subordinates to enforce this Chapter through proper legal channels.

When any work shall have been stopped by the City for any reason whatsoever, it shall not again be resumed until the reason for the work stoppage has been completely removed.

B. It shall be the duty of the City Attorney, when called upon by the City Administrator, to perform such duties as may be necessary to enforce the provisions of this Chapter.

SEC. 11.07. CERTIFICATE OF OCCUPANCY. A certificate of occupancy shall be obtained before occupying or using any building or portion thereof if such building is hereafter erected or structurally altered, or the occupancy/use of any building or portion thereof is altered or changed.

Subd. 1. Sale of Rental Property. A certificate of occupancy shall be obtained when a residential rental property is sold and prior to the transaction closing. A fee, as set by resolution, shall apply to certificate of occupancies issued.

Subd. 2. Fees, Inspections and Reinspections. An inspection of a property will be performed as part of the initial fee, a reinspection fee, as set by resolution, shall apply to a second and subsequent re inspections if required.

Subd. 3. Owner Contractors. An occupancy deposit, as set by resolution, shall be assessed with the building permit for all new residential construction when an owner (own contractor) is not using a State of Minnesota licensed contractor. This deposit will be forfeited if occupancy occurs prior to the Certificate being issued.

Subd. 4. Temporary Use Permits. A temporary use permit may be requested for a period of 30 days with one 30 day extension possible if deemed appropriate by the code official. A deposit and fee will be set by resolution. The deposit will be forfeited if the Certificate of Occupancy is not obtained when the temporary use permit has expired.

Subd. 5. Enforcement. Loss of any deposit does not relieve the permit holder of legal enforcement provisions as set out in this Code.

SEC. 11.08. DEFINITIONS

1. ACCESSORY BUILDING. An incidental subordinate building customarily incidental to and located on the same lot occupied by the main use or building, such as a detached garage.

2. ACCESSORY USE. A use conducted on the same lot as the primary use of the structure to which it is related; a use that is clearly incidental to and customarily found in connection with, such primary use.

3. AGRICULTURE**.** The tilling of the soil, raising crops, farm animals, livestock, horticulture, gardening, beekeeping and aquaculture.

4. ALLEY**.** Any public way or thoroughfare more than 10 feet, but less than 16 feet, in width, which has been dedicated to the public for private use.

5. ALTERATION**.** Any change, addition or modification in construction, occupancy or use.

6. AMUSEMENT CENTER. An establishment offering five or more amusement devices, including, but not limited to, coin-operated electronic games, shooting galleries, table games and similar recreational diversions within an enclosed building.

7. APARTMENT HOUSE. Any building or portion thereof which contains three or more dwelling units and, for the purpose of this code, includes residential condominiums.

8. AUTOMOBILE REPAIR, MAJOR. An establishment primarily engaged in the repair or maintenance of motor vehicles, trailers and similar large mechanical equipment, including paint, body and fender, major engine and engine part overhaul, which is conducted within a completely enclosed building.

9. AUTOMOBILE REPAIR, MINOR. An establishment primarily engaged in the repair or maintenance of motor vehicles, trailers and similar mechanical equipment, including brakes, muffler, upholstery work, tire repair and change, lubrication, tune ups, transmission work, which is conducted within a completely enclosed building.

10. AUTOMOBILE SELF-SERVICE MOTOR FUEL DISPENSING FACILITY. That portion of property where flammable or combustible liquids or gases used as fuel are stored and dispensed from fixed equipment into fuel tanks of motor vehicles by persons other than a service station attendant. Such an establishment shall be permitted to offer for sale at retail other convenience items as clearly secondary activity and shall be permitted also to include a free-standing automatic car wash.

11. AUTOMOBILE WRECKING. See Junk Yards

12. BASEMENT. Any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story as defined herein.

13. BED and BREAKFAST INN. A house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live on the premises or in adjacent premises.

14. BOARD. The board of appeals and adjustments.

15. BOARDING HOUSE. A dwelling containing a single dwelling unit and not more than 10 guestrooms or suites of rooms, where lodging is provided with or without meals, for compensation for more than 1 week.

16. BUILDING. Any structure used or intended for supporting or sheltering any use or occupancy.

17. BUILDING, MAIN. A building in which the principal use of the site is conducted.

18. BUILDING, TEMPORARY. A building used temporarily for the storage of construction materials and equipment incidental and necessary to on-site permitted construction of utilities, or other community facilities, or used temporarily in conjunction with the sale of property within a subdivision under construction.

19. BUILDING CODE. The Minnesota State Building Code and supporting codes as adopted by the city.

20. BUILDING HEIGHT. The vertical distance above the average existing grade measured to the highest point of the building. The height of a stepped or terraced building shall be the maximum height of any segment of the building.

21. BUILDING LINE. The perimeter of that portion of a building or structure nearest a property line, but excluding open steps, terraces, cornices and other ornamental features projecting from the walls of the building or structure.

22. BUSINESS OR FINANCIAL SERVICES. An establishment intended for the conduct or service or administration by a commercial enterprise, or offices for the conduct of professional or business service.

23. COMMERCIAL, HEAVY. An establishment or business that generally uses open sales yards, outside equipment storage or outside activities that generate noise or other impacts considered incompatible with less-intense uses. Typical businesses in this definition are lumber yards, construction specialty services, heavy equipment suppliers or building contractors.

24. COMMERCIAL, LIGHT. An establishment or business that generally has retail or wholesale sales, office uses, or services, which does not generate noise or other impacts considered incompatible with less intense uses. Typical businesses in this definition are retail stores, offices, catering services or restaurants.

25. COMMERCIAL RETAIL SALES AND SERVICES. Establishments that engage in the sale of general retail goods and accessory services. Businesses within this definition include those that conduct sales and storage entirely within an enclosed structure (with the exception of occasional outdoor “sidewalk” promotions); businesses specializing in the sale of either general merchandise or convenience goods.

26. COMMUNITY WATER and SEWER SYSTEM**.** Utilities systems serving a group of building, lots or an area of the city or more than 25 persons, with the design and construction of such utilities systems as approved by the city and the State of Minnesota.

27. COMPREHENSIVE PLAN**.** The declaration of purposes, policies and programs for the development of the city.

28. CONDITIONAL USE. A use that would become harmonious or compatible with neighboring uses through the application and, maintenance of qualifying conditions.

29. CONDOMINIMUM. A single-dwelling unit in a multiunit dwelling or structure, that is separately owned and may be combined with an individual interest in the common areas and facilities of the property.

30. CONFORMING USE**.** A use which is permitted by Ordinance in the district within which located but excluding a legal non-conforming use.

31. CONGREGATE RESIDENCE. Any building or portion thereof which contains facilities for living, sleeping and sanitation, as required by this code, and may include facilities for eating and cooking, for occupancy by other than a family. A congregate residence may be a shelter, convent, monastery, dormitory, and fraternity or sorority house but does not include jails, hospitals, nursing homes, hotels or lodging houses.

32. CORNER LOT. A lot situated at the junction of and fronting on 2 or more streets.

33. COURT. A space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three or more sides by walls of a building.

34. CREMATORY. A furnace or establishment for the cremation of corpses.

35. CURB LEVEL. The level of the established curb in front of the building measured at the center of such front. Where no curb level has been established, the city public works department shall establish such curb level or its equivalent for the purpose of this chapter.

36. DAY CARE, FAMILY. “Family Day Care Home” means a residence or portion of a residence licensed by the Department of Human Services under chapter 9502 for no more than ten children at one time of which no more than six are under school age, and must meet building code requirements.

37. DAY CARE, GROUP. “Group day care home” means any residence or portion of a residence licensed by the Department of Human Services under chapter

9502 for no more than 14 children at any time, and must meet building code requirements.

38. DISTRICT. A section of the city for which the regulations governing height, area, use of buildings and premises are the same

39. DRIVEWAY. A private access road, the use of that is limited to persons residing, employed, or otherwise using or visiting the parcel in which it is located.

40. DWELLING, MULTIPLE UNIT. A building or portion thereof designed for occupancy by three or more families living independently in which they may or may not share common entrances and/or other spaces. Individual dwelling units may be owned as condominiums, or offered for rent.

41. DWELLING, SINGLE FAMILY. A detached dwelling unit with kitchen and sleeping facilities, designed for occupancy by one family.

42. DWELLING, TWO FAMILIES. A building designed or arranged to be occupied by two families living independently, with the structure having only two dwelling units.

43. DWELLING, TOWNHOUSE. A single-family dwelling unit constructed in a group of three or more attached units in which each unit extends from the foundation to roof with open space on at least two sides.

44. EASEMENT. That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above said lot or lots.

45. FAMILY. An individual or two or more persons related by blood or marriage or a group of not more than five persons (excluding servants) who need not be related by blood or marriage living together in a dwelling unit.

46. FARM ANIMALS. Animals other than household pets that shall be permitted to, where permitted, be kept and maintained for commercial production and sale and/or family food production, education or recreation. Farm animals are identified by three categories: large animals, e.g., horses and cattle; medium animals, e.g., sheep and goats; or small animals, e.g., rabbits, chinchillas, chickens, turkeys, pheasants, geese, ducks and pigeons.

47. FLOOR AREA, GROSS. The sum of the horizontal areas of floors of a building measured from the exterior face of exterior walls or, if appropriate, from the center line of dividing walls; this includes courts and decks or porches when covered by a roof.

48. FLOOR AREA, NET. The gross floor area exclusive of vents, shafts, courts, elevators, stairways, exterior walls and similar facilities.

49. FRONTAGE. The width of a lot or parcel abutting a public right-of way measured at the front property line.

50. FUNERAL HOME/MORTUARY. An establishment where the dead are prepared for burial, kept before burial or cremation and where wakes and funerals may be held.

51. GARAGE, PRIVATE. A building or portion of a building not more than 1,200 square feet in area, in which only private or pleasure-type motor vehicles used by tenants of the building or buildings on the premises are stored or kept.

52. GARAGE, PUBLIC. Any premises, except those described as a private garage, used for storage or care of power driven or towed vehicles, or where any such vehicles are equipped for operation, repair or are kept for remuneration, hire or sale.

53. GRADE (adjacent ground elevation). The lowest point of elevation of the existing surface of the ground, within the area between the building and a line 5 feet from the building.

54. HABITABLE SPACE (room). Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.

55. HOME OCCUPATION. Any occupation of a service character which is clearly secondary to the main use of the premises as a dwelling and does not change the character thereof or have any exterior evidence of such secondary use.

56. HOUSEHOLD PETS. Dogs, cats, rabbits, birds, etc., for family use only (noncommercial) with cages, pens, etc.

57. JUNK YARD. Any building, structure, premises, or place within the City at, upon, or within which there is kept, stored, or piled in quantities, whether temporarily, irregularly, or continually, old, used, or second hand material of any kind, including, but not limited to, the following: clothing, paper, bottles, vehicles not currently licensed, parts of motor vehicles, agricultural or construction equipment or parts thereof, building materials, or any other article which from its worn condition renders it practically useless for the purpose for which it was intended and which is commonly classed and referred to as junk.

58. KITCHEN. Any room or portion of a room within a building designed and intended to be used for cooking or preparation of food.

59. LANDSCAPING. The finishing and adornment of unpaved yard areas. Materials and treatment generally include naturally growing elements such as grass, trees, shrubs and flowers, this treatment shall be permitted also to include the use of logs, rocks, fountains, water features and contouring of the earth.

60. LIVESTOCK. Includes, but is not limited to horses, bovine animals, sheep, goats, swine, reindeer, donkeys, mules and any hoofed animals.

61. LODGING HOUSE. Any building or portion thereof containing not more than five guest rooms where rent is paid in money, goods, labor or otherwise.

62. LOT. One unit of a recorded plat 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 code and having frontage on a public right-of-way.

63. LOT AREA. The land area within the lot lines.

64. LOT AREA PER FAMILY. The lot area required by this code to be provided for each family in a dwelling.

65. LOT DEPTH. The mean horizontal distance between the mean front right-of-way and the mean rear lot line. The greater frontage of a corner lot is its depth, and its lesser frontage is its width.

66. LOT, DOUBLE FRONTAGE. An interior lot having frontage on two streets.

67. LOT, INTERIOR. A lot other than a corner lot.

68. LOT LINES. The lines bounding a lot, as defined herein.

69. LOT WIDTH. The width of a lot is its own mean width measured at the building setback line.

70. MANUFACTURED HOME. A structure, transportable in one or more sections, which in the traveling mode is 8 feet or more in body width, or forty feet or more in body length, or when erected on site, 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein.

71. MANUFACTURING, HEAVY. All other types of manufacturing not included in the definitions of light and medium manufacturing.

72. MANUFACTURING, LIGHT. The manufacturing, compounding, processing, assembly, packaging or testing of goods or equipment, including research activities, conducted entirely within an enclosed structure, with no outside storage, serviced by a modest volume of trucks or vans and imposing a negligible impact on the surrounding environment by noise, vibration, smoke, dust or pollutants.

73. MANUFACTURING, MEDIUM. The manufacturing, compounding, processing, assembling, packaging or testing of goods or equipment within an enclosed structure or an open yard that is capable of being screened from neighboring properties, serviced by a modest volume of trucks or other vehicles.

74. MOTEL, HOTEL. Any building containing six or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests.

75. NONCONFORMING LOT. A lot whose width, area or other dimension did not conform to the regulations when this code became effective.

76. NONCONFORMING STRUCTURE. A building or structure or portion thereof lawfully existing at the time this code became effective, which was designed, erected or structurally altered for a use that does not conform to the zoning regulations of the zone in which it is located.

77. NONCONFORMING USE. A use that lawfully occupied a building or land at the time this code became effective, which has been lawfully contained and which does not now conform to the use regulation.

78. OPEN SPACE. Land areas that are not occupied by buildings, structures, parking areas, streets, alleys or required yards. Open space shall be permitted to be devoted to landscaping, preservation of natural features, patios, recreational areas and facilities.

79. PARK. A public or private area of land, with or without buildings, intended for outdoor active or passive recreational uses.

80. PARKING LOT. An open area, other than a street, used for the parking of automobiles.

81. PARKING SPACE, AUTOMOBILE. A space within a building or private or public parking lot, exclusive of driveways, ramps, columns, office and work areas, for the parking of an automobile.

82. PERSON. A natural person, heirs, executors, administrators or assigns, and includes a firm, partnership or corporation, it’s or their successors or assigns, or the agent of any of the aforesaid.

83. PLANNED UNIT DEVELOPMENT (PUD). A residential or commercial development guided by a total design plan in which one or more of the zoning or subdivision regulations, other than use regulations, shall be permitted to be waived or varied to allow flexibility and creativity in site and building design and location, in accordance with general guidelines.

84. PLOT PLAN. A plot of a lot, drawn to scale, showing the actual measurements, the size and location of any existing buildings or buildings to be erected, the location of the lot in relation to abutting streets, and other such information.

85. POOLS (SWIMMIMG), HOT TUBS AND SPAS.

A. Barrier. A fence, a wall, a building wall of an above-ground swimming pool or a combination thereof, which completely surrounds the swimming pool and obstruct access to the swimming pool.

B. Power Safety Cover. A pool cover that is placed over the water area, and is opened and closed with a motorized mechanism activated by a control switch.

C. Private Swimming Pool, Indoor. Any private swimming pool that is totally contained within a private structure and surrounded on all four sided by walls of said structure.

D. Private Swimming Pool, Outside. Any private swimming pool that is not an indoor pool.

E. Private Swimming Pool. Any structure that contains water over 24 inches in depth and which is used, or intended to be used, for swimming or

recreational bathing in connection with a residential occupancy and which is available only to the family and guests of the householder. This includes above-ground/on-ground pool, hot tub, in-ground pool or spas.

86. PRACTICAL DIFFICULTY. As used in connection with granting of a variance, “practical difficulty” means the property owner (or applicant) proposes to use the property in a reasonable manner not permitted by the code; the plight of the owner (or applicant) is due to circumstances unique to the property not created by the owner (or applicant); and the variance, if granted, will not alter the essential character of the neighborhood. Economic considerations alone shall not constitute a “practical difficulty” if reasonable use for the property exists under the terms of this Chapter. “Practical difficulty” also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. Special consideration shall be given for earth sheltered construction as defined in Minnesota Statutes, Section 216C.06, Subd. 14, when such construction is in harmony with the provisions of this Chapter.

87. PUBLIC SWIMMING POOL. Any swimming pool other than a private swimming pool.

88. PUBLIC IMPROVEMENT. Any drainage ditch, storm sewer or drainage facility, sanitary sewer, water main, roadway, parking, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or for which the local government responsibility is established.

89. PUBLIC SERVICES. Uses operated by a unit of government to serve public needs, such as police (with or without jail), fire service, ambulance, judicial court or government offices, but not including public utility stations or maintenance facilities.

90. PUBLIC UTILITY STATION. A structure or facility used by a public or quasi-public utility agency to store, distribute, generate electricity, gas, telecommunications, and related equipment, or to pump or chemically treated water. This does not include storage or treatment of sewage, solid waste or hazardous waste.

91. PUBLIC WAY. Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

92. PREMISES. A lot or plot with the required front, side and rear yards for a dwelling or other use as allowed under this code.

93. RECREATION, INDOOR. An establishment providing completely enclosed recreation activities. Accessory uses shall be permitted to include the preparation and serving of food and/or the sale of equipment related to the enclosed uses. Included in this definition shall be bowling, roller skating or ice skating, billiards, pool, motion picture theatres, and related amusements.

94. RECREATION, OUTDOOR. An area free of buildings except for restrooms, dressing rooms, equipment storage, maintenance buildings, open-air pavilions and similar structures used primarily for recreational activities.

95. RECYCLING FACILTIY. Any location whose primary use is where waste or scrap materials are stored, bought, sold, accumulated, exchanged, packaged, disassembled or handled, including, but not limited to, scrap metals, paper, rags, tires and bottles, and other such materials.

96. REGISTERED DESIGN PROFESSIONAL. An architect or engineer registered or licensed to practice professional architecture or engineering as defined by statutory requirements of the professional registration laws of the state.

97. RELIGIOUS, CULTURAL AND FRATERNAL ACTIVITY. A use or building owned or maintained by organized religious organizations or nonprofit associations for social, civic or philanthropic purposes, or the purpose for which persons regularly assemble for worship.

98. RENOVATION. Interior or exterior remodeling of a structure, other than ordinary repair.

99. RESTAURANT. An establishment that sells prepared food for consumption, Restaurants shall be classified as follows:

A. Restaurant, fast food. An establishment that sells food already prepared for consumption, packaged in paper, Styrofoam or similar materials, and may include drive-in or drive-up facilities for ordering.

B. Restaurant, general. An establishment that sells food for consumption on or off the premises.

C. Restaurant, take-out. An establishment that sells food only for consumption off the premises.

100. SETBACK. The minimum required distance between the property line and the building line.

101. SITE PLAN. A plan that outlines the use and development of any tract of land.

102. STORY. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than 6 feet above grade as defined herein for more than 50% of the total perimeter or is more than 12 feet above grade as defined herein at any point, such usable or unused under-floor space shall be considered as a story.

103. STREET. Any thoroughfare or public way or easement in private ownership, not dedicated or maintained as a public street, which affords the principal means of access to two or more sites.

104. STRUCTURE. That which is built or constructed, and edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

105. SUBDIVISION. The division of a tract, lot or parcel of land into two or more lots, plats, sites or other divisions of land.

106. USE. The activity occurring on a lot or parcel, for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied, including all accessory uses.

107. USE, ACCESSORY. A use clearly incidental or accessory to the principal use of a lot or a building located on the same lot as the primary use.

108. USE, CHANGE OF. The change within a classified use of a structure or premises.

109. USE, CONDITIONAL. A use permitted in a particular zoning district only upon showing that such use in a specified location will comply with all standards of this code for the location or operation of such use.

110. USE, NONCONFORMING. A use that lawfully occupied a building or land at the time this code became effective, which has been lawfully continued and which does not now conform to the use regulations.

111. USE, PRINCIPAL. A use that fulfills a primary function of a household, establishment, institution or other activity.

112. USE, TEMPORARY. A use that is authorized by this code to be conducted for a fixed period of time. Temporary uses are characterized by such activities

as the sale of agricultural products, contractors' offices and equipment sheds, fireworks, carnivals, flea markets, and garage sales.

113. VARIANCE. A modification or variation of the provisions of this code, as applied to a specific piece of property, except that modification in the allowable uses within a district shall not be considered a variance.

114. YARD. Any space in the same lot with a building open and unobstructed from the ground to the sky**.**

115. YARD, FRONT. A yard extending across the front of a lot between the side lot lines and lying between the rear property line and the nearest point of the building.

116. YARD, REAR. A yard extending across the rear of the lot between the side lot lines and lying between the rear property line and the nearest point of the building.

117. YARD, SIDE. A yard extending along the side of a lot between he front and rear lot lines and lying between the side property line and the nearest point of the building.

SEC. 11.09. CLASSIFICATIONS OF DISTRICTS.

Subd. 1. Residential Uses.

R-A: Residential/Agricultural District. This district is to accommodate existing agricultural uses until such time as this land is ready to be used in accordance with the comprehensive plan. Housing development is intended to be restricted to very low density single-family units unless served by public utilities.

R-1: Single family residential. Single family detached dwellings are the primary land use in this district with twin homes and town homes permitted at a rate of no more than 7 units per acre, and up to 4 units per town home. Attached housing shall be arranged horizontally.

R-2: Multiple Family Residential. Allowing the addition of a higher density housing to the R-1 district with 8 to 16 units per acre density and up to 8 units in a building and may be arranged horizontally or vertically.

R-3: High Density Residential. Intended to accommodate multifamily densities exceeding 16 units per acre. Care shall be taken to allow for adequate traffic flow with increased densities and the impact on existing neighborhoods and streets.

Residential uses	R/A	R-1	R-2	R-3

Single family	X	X	X	X
Twin homes		X	X	X
Town homes		X*	X	X
Multi family-limit 8 units			X	X
Multi family over 8units				X
Agriculture limited	X			
Public parks/recreation		X	X	X
Railroad R.O.W.	X	X	X	X
Family day care	X	X	X	X
Group day-care				X

*****limited to 4 units per lot

Accessory use	R-A	R-1	R-2	R-3
Garages-limited	X	X	X	X
Storage buildings-limited	X	X	X	X
Swimming pools/private	X	X	X	X
Living unit for help	X	X	X	X

Conditional use	R-A	R-1	R-2	R-3
Churches		X	X	X
Bed and breakfast		X	X	X
Home occupation	X	X	X	X

Subd. 2. Home Occupations. Home occupations shall be permitted in all residential zones as a conditional use provided the home occupation is clearly and obviously subordinate to the main use of the dwelling unit for residential purposes. Home occupations shall be conducted wholly within the primary structure on the premises

Conditions:

1. The home occupation shall not exceed 15 percent of the floor area of the primary structure.
2. Other than those related by blood, marriage or adoption, no more than one person may be employed in the home occupation.
3. Inventory and supplies shall not occupy more than 50 percent of the area permitted to be used as a home occupation.

4. There shall be no exterior display or storage of goods on said premises.

5. Home occupations involving beauty shops or barber shops shall require all health department and plumbing code approvals.

6. Sales and services to patrons shall be arranged by appointment and scheduled so that not more than one patron vehicle is on the premises at the same time.

7. Two additional parking spaces shall be provided on the premises, except only one need be provided if the home occupation does not have an employee. Said parking shall comply with the parking requirements in this code.

Subd. 3. Residential-Dimensional Requirements, Setbacks.

Dimensional requirements	R/A	R-1	R-2	R-3
Maximum height-stories	2.5	2.5	2.5	4
Maximum height-feet	30’	30’	45’	56’
Accessory-stories	1.5	1.5	1.5	1.5
Accessory-height	18’*	18’*	18’*	18’*

* For every foot or part thereof over 13’ in height the required setbacks shall be increased by 1 foot.
For this table an accessory building is considered a storage shed or detached garage. This does not apply to structures attached to the principal building.

Lot area requirements	R/A	R-1	R-2	R-3
Area single family	22,000	7,000	7,000	7,000
Area twin homes (per unit)	N/A	5,000	5,000	5,000
Area over 2 units (per unit)	N/A	6,000	16,000*	16,000*
Minimum lot frontage	100’	70’	70’	70’
Lot depth	150’	100’	100’	100’
Allowable coverage *[2]	40%	35%	40%	40%

*for 3 unit dwelling plus 2,500 for additional dwellings
*[2]Coverage includes hard surfaced parking areas

Principal buildings

Yard setbacks	R/A	R-1	R-2	R-3
Front arterial street	35’	35’	35’	35’
Other streets *[1]	25’*	25’*	25’*	25’*
Side *[2]	15’	5’	5’	5’*
Rear*[3]	50’	25’*	25’*	25’*

*[1] If 75% or more of the frontage on the same side of the street between two intersecting streets is improved with buildings that have observed greater or lesser setbacks, then no new building or structure shall project beyond a straight line drawn between the closest front corners of the two nearest adjacent buildings. For corner lots, the principal building setback shall not be less than the average setback of 75% of the principal buildings that

have the least amount of setback within the block, provided the average setback does not vary more than 20% from the setback observed for the adjacent structure in the event the setback shall not be less than 80% of said adjacent principal building setback.

*[2] Three or more units on the same lot the side yard requirements shall be 10% lot frontage.

Note: Side setback measured from property line or from any duly recorded easement line.

*[3] In R-1, R-2 and R-3 the rear yard requirement is 20% of lot depth or 25’ whichever is greater.

Source: Ordinance No. 338, Third Series
Effective Date: 03-12-2015

Subd. 4. Residential-Accessory Structures and Uses.

OPT-OUT OF MINNESOTA STATUTES, SECTION 462.3593:
Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City of Luverne opts-out of the requirements of Minn. Stat. §462.3593, which defines and regulates Temporary Family Health Care Dwellings.

Source: Ordinance No. 348, Third Series
Effective Date: 09-01-2016

Attached/Detached Accessory Structures and Uses:

Private garages and storage sheds provided that all garage and storage space, attached and detached, excluding storage space which is a part of the interior of the principle main building or structure including the basement and attic thereof, shall not exceed 1,200 square feet of floor space; provided also that any accessory building more than 120 square feet must have a minimum 3-foot rise over a 12-foot distance pitched roof and a

minimum 6-inch eave and it must rest on a permanent foundation of wood or concrete material and is erected in its entirety in accordance with the State Building Code.

All detached accessory structures shall be a minimum of 10' from the principal building and 3' from all side yards and no closer then the back building line of the principal structure from the street.

Maximum coverage of accessory structures in the rear yard shall be 30%.

If the vehicle door faces an alley in an accessory structure it shall be setback 24' from center of the alley.

All R zones both frontages on a corner lot shall comply with front yard setback.

Private Swimming Pools, when completely enclosed within a chain link or similar fence, having openings so that a 1 ¾ inch sphere cannot pass through. The bottom of the fence shall be no higher than four inches above the ground. The fence must be six feet high and located at least four feet from the edge of the pool. Fence openings or points of entry to the pool area shall be equipped with self-closing and self-latching lockable gates.

Source: Ordinance No. 280, Third Series
Effective Date: 1-12-06

Subd. 5. Commercial Uses.

H-C: Highway Commercial:

Located along main traffic routes to accommodate larger volumes of traffic. Intended for service type uses such as automobile sales and service, drive-up establishments including restaurants and banks, commercial retail/service uses such as insurance and real estate sales, and lodging facilities.

C-C: Community Commercial:

Local service type uses such as insurance and banks, grocery and convenience stores and other uses that merchandise for sale or service. Care shall be taken to allow for traffic and parking required for these types of uses.

N-C: Neighborhood Commercial:

This district would accommodate low volume traffic uses that would have lesser impact on adjacent residential areas. These uses would tend to be non-retail low volume service uses.

C-R: Commercial Reserve:

This area is identified to be used for future commercial development.

B: Business Park:

Business Park Areas are planned land use to a higher standard to protect both the businesses and adjoining zones. Uses intended may be medical and related offices and support services. Wholesale, light manufacturing and processing, warehouses and offices. Limited commercial which supports the business park would require a conditional use permit. All storage is intended to be completely enclosed within a building.

Allowed uses	H-C	C-C	B	N-C
Auto repair, major	X			
Auto repair, minor	X	X		
Auto-fueling	X	X		
Business/financial services-offices	X	X	X	X
Commercial, light *	X	X	CU	CU
Retail sales and service.	X	X		CU
Lodging/Hotel-Motel	X	X		CU
Public service/admin.	X	X	X	X
Recreation, Indoor/Outdoor	X	X		
Restaurant	X	X		CU
Manufacturing, light			X	
R & D Laboratories			X	
Medical/health services	X	X	X	CU
Residential	CU	CU	CU	CU

Source: Ordinance No. 346, Third Series
Effective Date: 5-26-2016

Subd. 6. Commercial-Dimensional Requirements, Setbacks

Dimensional requirements	H-C	C-C	B	N-C
Maximum height-stories	2	2	4	2
Maximum height-feet	30’	30’	48’	24’

Accessory-stories	1	1	1	1
Accessory-height	15’	15’	15’	15’

Lot area requirements	H-C	C-C	B	N-C
Minimum lot area	10,000	10,000	10,000	7,000
Minimum frontage	100’	100’	100’	70’
Minimum lot depth	100’	100’	100’	100’
Allowable lot coverage				
Buildings	50%	50%	40%	60%
Hard surfaced area (building + paving)	70%	70%	60%	80%

Yard setbacks	H-C	C-C	B	N-C
Front arterial street*	60”	60’	60’	35’
Other streets*	25’	25’	25’	25’
Side	15’	15’	15’	10%
Rear	25’	25’	35’	25’

Subd. 7. Downtown.

D: Downtown.

This zone reflects the unique mixture of uses in and around the Downtown. A variety of uses fit including, community-scale retail, professional services, public/civic uses, parks, offices, dining and entertainment, banking, lodging, and housing.

All new buildings or substantially remodeled buildings shall require a conditional use. It must be shown that this use is compatible with the character and scale of the Downtown area.

Dimensional, lot area and setback requirements shall be judged on an individual basis as part of the conditional use application.

Subd. 8. Allowable Projections Into Yards.

A. General. Eaves, cornices or other similar architectural features shall be permitted to project into required yard no more than 12 inches. Chimneys or other cantilevered projections shall be permitted to project no more than 2 feet, provided the width of any side yard is not reduced to less than 3 feet.

B. Front Yards. Open, unenclosed ramps, porches, platforms or landings, not covered by a roof, shall be permitted to extend no more than 6 feet into the required front yard, provided such porch does not extend above the first level and is no more than 6 feet above grade at any point.

C. Rear Yards. Windows shall be permitted to project into a required rear yard no more than 12 inches.

Subd. 9. Landscaping Requirements.

A. General. Landscaping is required for all new buildings and additions over 500 square feet as defined in this section. Said landscaping shall be completed within 1 year from the date of occupancy of the building.

B. Front Yards. Front yards required by this or other applicable codes shall be completely landscaped, except for those areas occupied by access driveways, walls and structures.

C. Street-side Side Yards. All flanking street-side yards shall be completely landscaped, except for those areas occupied by utilities, access driveways, paved walks, walls and structures.

D. Maintenance. All live landscaping required by this or other applicable codes shall be properly maintained. All dead or dying landscaping shall be replaced immediately and all sodded area mowed, fertilized and irrigated on a regular basis.

Source: Ordinance No. 272, Third Series
Effective Date: 3-10-05

Subd. 10. Limited Industrial

I-1: Limited Industrial: The purpose of this district is to designate sufficient land for industrial development, to provide for expansion of the City's tax base and

accommodate needed employment. Only industrial developments which do not adversely affect adjacent business or residential districts are intended to be allowed. Industrial establishments should be either,

1) ones whose operations are relatively free from objectionable influences, or

2) one whose objectionable features will be obviated by design or appropriate devices. In the interest of general health and welfare, residential and certain institutional uses are not intended to be permitted within this District.

A. Permitted Uses. The following uses shall be permitted within the I-1 Limited Industry District:

1. Manufacturing. Any light manufacturing use or process including repairs, assembling, fabricating, altering, converting, finishing, processing, treating, testing, packaging or bottling,; except any use or process hereinafter specifically excluded or which would not be in keeping with the purpose of the district as stated above. Such determination shall be made by the Zoning Administrator upon review of the building permit application.

2. Warehousing, Storage and Wholesaling. The storage, handling, assembly and distribution of goods and materials for retail, wholesale or on-site use.

B. Conditional Uses. The following uses may be allowed in the I-1 Limited Industry District, subject to the provisions of Section 11.22:

1. General. Any permitted use in the I-2 District, provided that any objectionable features normally associated with these uses, such as those deemed to be hazardous, offensive or objectionable by reason of odor, dust, cinders, gas fumes, noise, vibration, radiation, refuse matter or water-carried waste, shall be treated, controlled or eliminated through design, mechanical devices, screen planting or walls or other measures as specified by the Planning Commission, and provided that the use and its day-to-day activity will not be hazardous, noxious or offensive.

2. Other heavy commercial or industrial uses as determined appropriate by the City Planning Commission.

3. Residential. Dwellings for business owners and their families and such sleeping and boarding accommodations as are customarily incidental and necessary to a permitted use. Additions to such existing buildings may be authorized where the number of families or the number of lodging accommodations is not increased.

C. Accessory Uses. The following uses are permitted only when auxiliary to a principal use permitted above; they may not exist as principal uses in their own stead:

1. Any accessory use, building or structure customarily incidental to a principal use permitted above, and located on the same lot therewith.

2. Specialized freight and yard equipment, private utility structures, secondary processing structures and similar specialized structures.

3. Parking and loading facilities as regulated herein.

4. Signs as regulated herein.

D. Special District Provisions.

1. Landscaping. All open areas of any site, lot, tract or parcel shall be graded to provide proper drainage, and except for areas used for parking, drives or storage, shall be landscaped with trees, shrubs or planted ground cover. It shall be the owner's responsibility to see that this landscaping is maintained in an attractive and well-kept condition. All adjacent vacant lots, tracts or parcels under the same ownership shall also be properly maintained.

2 Storage. All raw materials, supplies, finished or semi-finished products and equipment shall be stored in an orderly manner with all materials stored in neat and well organized stacks, piles, or other orderly method appropriate for the material. In no event shall junk, rubbish, debris, weeds or tall grass, by-products, salvage and inoperable equipment or any other material or matter not used in the normal course of business be allowed to accumulate, or become offensive in any manner, to any measurable degree whatsoever. The Council may require all raw materials, supplies, finished or semi-finished products and equipment shall be stored within a completely enclosed building or within the confines of a 100 percent opaque wall or fence not less than five feet high. Provided, however, that motor vehicles necessary to the operation of

the principal use and of not more than three-quarter ton capacity may be stored within the permitted parking lot areas.

3. Screening. All principal, accessory and conditional uses, except business signs, which are situated within 50 feet of a Residential District, shall be screened and buffered from such district by a separation of open space which shall have a minimum depth of 30 feet and shall include a required fence or vegetation screening of not less than 90 percent opacity and not less than five feet nor more than seven feet in height above the level of the Residential District property at the district boundary. Walls or fences of less heights or planting screens may be permitted by the Board of Adjustment, if there is a finding that the nature of extent of the use being screened is such that a lesser degree of screening will as adequately promote and protect the use and enjoyment of the properties within the adjacent Residential District, or there is a finding that a screening of the type required by this Chapter would interfere with provisions of adequate amounts of light and air to same said properties. Loading docks in the I-1 District shall be screened so as not to be visible from any public street right-of-way within a Residential District. All required screening devices shall be designed so that they are architecturally harmonious with the principal structures on the site and they shall be properly maintained so as not to become unsightly, hazardous, or less opaque than when originally constructed.

E. General Regulations. Additional requirements for dimensional, signs, parking, and other regulations in the I-1 Limited Industry District are set forth in this Section.

Subd. 11. Special Industry District

I-2: Special Industrial. The purpose of this district is to designate sufficient land for industrial development and to provide attractive land for the purpose of expanding the City's tax base and providing needed employment. This district shall accommodate a wide variety of industrial establishments which may operate to their maximum advantage without adversely affecting other nearby similar or dissimilar uses and activities.

A. Permitted Uses. The following uses shall be permitted within the I-2 General Industry District:

1. General. Any industrial use which is not specifically prohibited herein or any industrial use not listed as a Conditional Use herein may be permitted.

2. Conditional Uses. The following uses may be permitted in a I-2 General Industry District, subject to the provisions of Section 11.22:

a. Wrecking and Salvage Yards. Junk yard, including automobile wrecking and industrial metal and waste salvage, but not including refuse or garbage disposal, if located at least 200 feet from any Residential District; provided all operations are conducted within an area enclosed with a solid wall or uniform tight board fence, including gates, at least eight feet in height and such enclosure shall be properly maintained.

b. Crematory. If located not less than 200 feet from any Residence District.

c. Railroad Sidings. If located not less than 200 feet from any Residence District.

d. Other Uses. The following uses may only be authorized as a conditional use by the Council if located at least 400 feet from any Residence District, and if the location of such use has been recommended by the Planning Commission after receiving reports from the Chief of the Fire Department, and the State Pollution Control Agency.

1. Acid manufacture.
2. Cement, lime, gypsum, or plaster of paris manufacture.
3. Distillation of bones, coal or wood.
4. Explosive manufacture or storage.
5. Fat rendering.
6. Fertilizer manufacture.
7. Garbage, offal or dead animals, reduction or dumping.
8. Gas manufacture.
9. Glue or gelatin manufacture.
10. Petroleum refining (including bulk storage).
11. Smelting of tin, copper, zinc or iron ores.
12. Manufacture of paint products, paper pulp, pyrexylin, inks, soap, tars, vinegars, salts.
13. Meat packing or processing plant.
14. Elevators or other grain storage facilities.
15. Any other uses which, in the opinion of the Commission, is of similar character to those therein before described.

B. Accessory Uses. The following uses are permitted only when auxiliary to a principal use permitted above; they may not exist as principal uses.

1. Accessory uses as listed in the I-1 District.

C. Special District Provisions.

1. Landscaping. All open areas of any site, lot, tract or parcel shall be graded to provide proper drainage, and except for areas used for parking, drives or storage, shall be landscaped with appropriate dust-free and attractive material. Such landscaping shall conform with the development plan approved at the time the building permit was issued. It shall be the owner's responsibility to see that the lot area is maintained in a well-kept condition. All vacant lots, tracts or parcels abutting and under the same ownership shall be properly maintained.

2. Storage. All raw materials, supplies finished or semi-finished products and equipment shall be stored in an orderly manner with all materials stored in neat and well organized stacks, piles, or other orderly method appropriate for the material. In no event shall junk, rubbish, debris, weeds or tall grass, by-products, salvage and inoperable equipment or any other material or matter not used in the normal course of business be allowed to accumulate, or become offensive in any manner, to any measurable degree whatsoever. The Council may require all raw materials, supplies, finished or semi-finished products and equipment shall be stored within a completely enclosed building, or within the confines of a 100 percent opaque wall or fence not less than five feet high, provided, however, that motor vehicles necessary to the operation of the principal use may be stored within the permitted parking lot areas.

Source: Ordinance No. 280, Third Series
Effective Date: 1-12-06

3. General Regulations. Additional requirements for dimensional, signs, parking, and other regulations in the I-2 General Industry District are set forth in other section of this code. Side yard setback requirements of 20 feet in Industrial Zones may be waived to a minimum of 5 feet (while meeting State Building Code requirements) with approval of the City Administrator and City Building/Zoning Official when a building is proved to require access to a rail spur for regular business operation. A rail spur is defined as a branch of railroad track extending from the main line. Additional requirements for dimensional, signs, parking, and other regulations in the I-2 General Industry District are set forth in other sections of this code.

Source: Ordinance No. 298, Third Series
Effective Date: 8-21-08

Subd. 12 - Public District.

P. Public: This district is intended to provide a procedure for the orderly establishment of public facilities, expansion of their operations or changes in the use of lands and facilities owned by governmental agencies.

A. Permitted Uses. The following uses are permitted within the P - Public District:

1. Cemeteries.
2. Governmental buildings, community center buildings, public libraries, and other municipal service buildings, except those customarily considered industrial in use and provided that no buildings shall be located within 25 feet of any lot line of an abutting lot in any Residence District.
3. Parks and recreational areas owned or operated by governmental agencies.
4. Publicly owned housing.
5. Public schools.
6. Public utilities and Public Uses.

B. Accessory Uses. The following uses shall be permitted accessory uses within the P - Public District.

1. Accessory uses customarily incidental to the uses permitted in Subdivision 2 of this Section.
2. Automobile parking lot or storage or parking garages.

C. General Regulations. Additional requirements for dimensional, signs, parking, and other regulations in the P - Public District are set forth in other sections of this code.

Dimensional requirements	I-1	I-2	P
Maximum height-stories	2	N/A	2

Maximum height-feet	30’	75’	30’
Accessory-stories	1	1	1
Accessory-height	25’	25’	25’

Lot area requirements	I-1	I-2	P
Minimum lot area	N/A	N/A	N/A
Minimum frontage	50’	100’	50’
Minimum lot depth	N/A	N/A	N/A
Allowable lot coverage			
Buildings	50%	50%	40%
Hard surfaced area (building + paving)	70%	70%	60%

Yard setbacks	I-1	I-2	P
Front arterial street*	35’	35’	35’
Other streets*	25’	25’	25’
Side	20’	20’	30’
Rear	25’	25’	25’
From “R” District Line	30’	75’	30’

* If 75% or more of frontage on the same side of the street between two intersecting streets is improved with buildings that have observed greater or lessor setbacks, then no new building or structure shall project beyond a straight line drawn between the closest

front corners of the two nearest adjacent principal buildings. For corner lots, the principal building setback shall not be less than the average setback of 75% of the principal buildings that have the least amount of setback within the block, provided the average setback does not vary more than 20% from setback observed for the adjacent principal structure in which event the setback shall not be less than 80% of said adjacent principal building setback.

Source: Ordinance No. 280, Third Series
Effective Date: 1-12-06

SEC. 11.10. FLOOD PLAIN DISTRICT.

Subd. 1. Purpose and Intent. This Section is enacted to minimize losses in those areas subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services,

extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. This Section is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

Subd. 2. Statutory Authorization. The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the Council of the City of Luverne, Minnesota does ordain as follows:

Subd. 3. General Provisions.

A. This Section shall apply to all lands within the jurisdiction of the City shown on the Official Zoning Maps as being located within the boundaries of the Flood Plain District.

B. The Official Zoning Map together with all explanatory materials thereon, and attached thereto, is hereby adopted by reference and declared to be a part of this Section. The explanatory material shall include the Flood Insurance Study for the City prepared by the Federal Insurance Administration dated November 17, 1981 and the Flood Boundary and Floodway Map and Flood Insurance Rate Map dated May 17, 1982. The Official Zoning Map shall be on file in the office of the City Administrator.

C. The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Board of Appeals and Adjustments shall make the necessary interpretation based on elevations on the regional (100 year) flood profile and other available technical data. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board and to submit technical evidence if he so desires.

D. Warning and Disclaimer of Liability. This Section does not imply that areas outside the Flood Plain District or land uses permitted within this district will be free from flooding or flood damages. This Section shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decision lawfully made there under.

E. Abrogation and Greater Restrictions. It is not intended by this Section to repeal, abrogate, or impair any existing easement, covenants, or deed restriction. However, where this Section imposes greater restrictions, the provisions of the Section shall prevail. All other ordinances of the City or provisions of the City Code inconsistent with this Section are hereby repealed to the extent of the inconsistency only.

Subd. 4. Definition. Unless specifically defined below, words or phrases used in this Section shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Section its most reasonable application.

1. "Accessory Use or Structure" means a use or structure on the same lot, parcel, or premises with, and of a nature customarily and clearly incidental and subordinate to, the principal use or structure.

2. "Basement", for the purposes of this section, means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

3. "Commissioner" means the Minnesota Commissioner of the Department of Natural Resources.

4. "Equal Degree of Encroachment" means a method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

5. "Flood" means a temporary rise in stream flow or stage that results in inundation of the areas adjacent to the channel.

6. "Flood Frequency" means the average frequency, statistically determined, for which it is expected that a specific flood state or discharge may be equaled or exceeded.

7. "Flood Fringe" means that portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study.

8. "Flood Plain" means the areas adjoining a watercourse which have been or hereafter may be covered by the regional flood.

9. "Flood Proofing" means a combination of structural provisions, changes or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damages.

10. "Floodway" means the channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry and discharge the regional flood.

11. "Hardship" means the property in question cannot be put to any reasonable use under the conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to his property, not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under terms of the official controls.

12. "Obstruction" means any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel, modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood hazard area which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.

13. "Manufactured Home" means a manufactured home as defined in Minnesota Statutes, Section 327.31.

14. "Manufactured Home Park" means a manufactured home park as defined in Minnesota Statutes, Section 327.14.

15. "Principal Use or Structure" means all uses or structures that are not accessory uses or structures.

16. "Reach" means a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or manmade obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

17. "Regional Flood" means a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.

18. "Regulatory Flood Protection Elevation" - The Regulatory Flood Protection Elevation within the Flood Plain District shall be established by adding one foot to the Base Flood water surface elevations with Floodway listed in the Floodway Data Table contained in the Flood Insurance study. Regulatory Flood Protection Elevations between cross-sections shall be interpolated. The Regulatory Flood Protection Elevation within the Flood Plain District shall be calculated by a qualified registered professional engineer or by the Minnesota Department of Natural Resources, in accordance with procedures in Subd. 11, Paragraph D, Subparagraph 2.

19. "Structure" means anything constructed or erected on the ground or attached to the ground, including but not limited to, the buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers, travel vehicles, and recreational vehicles not specifically exempted from the provisions of this Section, and other similar items.

20. "Travel Trailer," "Travel Vehicle," or "Recreational Vehicle" means the same as "recreational equipment" defined in Minnesota Statutes, Section 168.011 and "recreational camping vehicles" defined in Minnesota Statutes 327.14.

Subd. 5. Establishment of the Flood Plain District.

A. The flood plain area within the jurisdiction of this Section are hereby established as the Flood Plain District. The district shall include those areas designated as numbered and unnumbered A zones on the Flood Insurance Rate Map (or all areas mapped as 100 year Floodplain on the FIRM and FHBM). Within the Flood Plain District, the flood fringe shall include those areas designated as floodway fringe on the Flood Boundary and Floodway Map.

B. The boundaries of the Flood Plain District shall be shown on the Official Zoning Map. Within the district all uses not allowed as permitted uses or

permissible as conditional uses shall be prohibited. No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this Section and other applicable regulations which apply to uses within the jurisdiction of this Chapter. In addition, a caution is provided here that:

1. New manufactured homes, replacement manufactured homes, and certain travel trailers and travel vehicles are subject to the general provision of this Section and specifically Subd. 10;
2. Modifications, additions, structural alterations or repair after damage to existing non-conforming structures and non-conforming uses of structures or land area regulated by the general provisions of this Section and specifically Subd. 11; and
3. As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of the Section and specifically Subd. 11.

Subd. 6. Flood Plain District (FP)

A. Permitted Uses:

1. Outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
2. Industrial - commercial loading and/or parking areas, and/or airport landing strips adjacent to industrial or commercial property not in the Flood Plain District.
3. Private and public golf courses, tennis courts, driving ranges, picnic grounds, boat launching ramps, parks, wildlife and nature preserves, fishing areas, and single or multiple purpose recreational trails.
4. Residential lawns, gardens, parking areas, and play areas.

B. Standards for FP Permitted Uses:

1. The use shall have a low flood damage potential.
2. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations, or storage of materials or equipment.

C. Conditional Uses:

1. Accessory Structures located within the flood fringe.
2. Extraction and storage of sand, gravel, and other materials.
3. Marinas, boat rentals, docks, piers, wharfs, and water control structures.
4. Railroads, streets, bridges, utility transmission lines, and pipelines.
5. Storage yards for equipment, machinery, or materials.
6. Placement of fill.
7. Travel trailers, travel vehicles, and recreational vehicles on individual lots of record in existing or new subdivisions, subject to the exemptions and provisions of Subd. 10 C.

8. Structural works for flood control including but not limited to levees, dikes, and floodwalls constructed to any height where the intent is to protect individual structures, and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency.

9. General crop farming, pasture, grazing.

10. Archery ranges, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting areas.

11. Swimming areas.

D. Standards for Flood Plain Conditional Uses:

1. All Uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a Conditional Use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.

2. All flood plain Conditional Uses shall be subject to the procedures and standards contained in Subd. 11 D.

3. Fill:

(a) Fill, dredge spoil, and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap, or other acceptable methods.

(b) Dredge spoil sites and sand and gravel operations shall not be allowed in the flood plain unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.

(c) As an alternative, and consistent with item (b) immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the Council has received an appropriate plan which assures the removal of the material from the flood plain based upon the flood warning time available.

4. Accessory Structures:

(a) Accessory structures shall not be designed for human habitation.

(b) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.

(1) Whenever possible, structures shall be constructed with longitudinal axis parallel to the direction of flood flow; and,

(2) as far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

(c) Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards, as appropriate:

(1) The structure must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and

(2) Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood proofed.

5. Storage of Materials and Equipment:

(a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Council.

6. Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provision of Minnesota Statute, Chapter 105. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the flood plain.

7. A levee, dike, or floodwall constructed in the floodplain shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

E. Standards for permitted and conditional uses in the flood fringe:

1. All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the Regulatory Flood Protection Elevation. If a variance to this requirement is granted, the Board of Appeals and Adjustments must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

2. Commercial Uses - accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than two feet or be subject to flood velocities greater than four feet per second upon occurrence of the regional flood.

3. Manufacturing and Industrial Uses - measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Paragraph E, Subparagraph 2 herein. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.

4. Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover, or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot

developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

5. Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.

6. Standards for travel trailers and travel vehicles are contained in Subd. 10 C.

7. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

Subd. 7. Procedures for Flood Plain Evaluations in Areas Where No Detailed Study was Performed.

A. Upon receipt of an application for a Conditional Use Permit for a use within the Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the Regulatory Flood Protection Elevation and whether the proposed use is within the Flood Plain.

1. A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.

2. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.

3. Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.

B. The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the purposed use is in the Flood Plain District and to determine the Regulatory Flood Protection Elevation. Procedures consistent with Minnesota Rules, latest supplement, (currently codified in the 1990 Supplement, Number 1 as Parts 6120.5000 through 6120.6200) shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:

1. Estimate the peak discharge of the regional flood.

2. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.

3. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than 0.5 foot shall be required if, as a result of the additional stage increase,

increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

C. The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the Council. The Council must formally accept the technical evaluation and the recommended Flood Plain boundary or deny the permit application. The Council, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources, or the Planning Commission for review and comment. Once the Flood Plain Boundary has been determined, the Council shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with applicable provisions of Subd. 6 of this Ordinance.

Subd. 8. Land Subdivisions.

A. Review Criteria:

1. No land shall be subdivided for building construction which is held unsuitable by the Planning Commission and Council for reason of flooding, inadequate drainage, or inadequate water supply or sewage treatment facilities. All lots within the Flood Plain District shall contain a building site at or above the Regulatory Flood Protection Elevation. All residential lots contiguous to a stream and served by municipal sewer shall contain at least 15,000 square feet and shall be at least 75 feet wide at the building line. All other residential lots served by municipal sewer shall contain 10,000 square feet and shall be at least 100 feet wide at the building line. All subdivisions shall have water and sewage disposal facilities that comply with the provisions of the Section and have road access no lower than two feet below the Regulatory Flood Protection Elevation. The following setbacks from the Ordinary High Water Mark shall apply to all structures:

(a) 50 feet for lots served by public sewer.

(b) 75 feet for lots not served by public sewer.

For all subdivisions in the Flood Plain District, the Regulatory Flood Protection Elevation, the required elevation of all access roads and required set backs shall be clearly labeled on all required subdivision drawings and platting documents.

B. Flood Plain Determination:

1. When no detailed study has been performed, applicants shall provide the information required in Subd. 7 to determine the 100-year or regional flood elevation, and the Regulatory Flood Protection Elevation for the subdivision site.

C. Removal of Special Flood Hazard Area Designation:

1. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year or regional flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

Subd. 9. Public Utilities, Railroads, Roads, and Bridges.

A. All public utilities and facilities including but not limited to gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood

proofed in accordance with the State Building Code or elevated to above the Regulatory Flood Protection Elevation.

B. Railroad tracks, roads, and bridges to be located within the Flood Plain District shall comply with Subd. 6 of this Ordinance. Elevation to the Regulatory Flood Protection Elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of service would not endanger the public health or safety.

Subd. 10. Manufactured (Mobile) Homes, Manufactured Home Parks, and Recreational Vehicles.

A. New manufactured home parks and expansion to existing mobile home parks shall be subject to the provisions for land subdivisions contained in Subd. 7.

B. Manufactured homes in existing manufactured home parks that are located in the Flood Plain District may be replaced only if in compliance with the following conditions:

1. The manufactured home lies in the Flood Fringe.

2. The manufactured home is constructed, anchored, stabilized, and utilities connected in compliance with requirements of Minnesota Rules, latest supplement, (currently codified in the 1990 Supplement, Number 1, as Parts 1350.0400 through 1350.3800.)

3. The manufactured home owner or renter is notified that the manufactured home site lies in the flood plain and may be subject to flooding.

4. The manufactured home park owner develops a flood emergency plan consistent with the time available after a flood warning.

C. Travel trailers, travel vehicles, and recreational vehicles that do not meet the exemption criteria specified below shall be subject to the provisions of this Section and as specifically detailed below.

1. Exemption - Travel trailers, travel vehicles, and recreational vehicles are exempt from the provisions of this Section if they are placed in any of the areas listed in Subparagraph 2 and further they meet the following criteria:

(a) Have current licenses required for highway use.

(b) Are highway ready, meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and travel trailer parks, and the travel trailer/travel vehicle/recreational vehicle has no permanent structural type additions attached to it.

2. The following areas are exempted from placement of travel trailers, travel vehicles, and recreational vehicles:

(a) Individual lots or parcels of record.

(b) Existing commercial recreational vehicle parks or campgrounds.

(c) Existing condominium type associations.

3. Travel trailers, travel vehicles, and recreational vehicles exempted in Paragraph C, Subparagraph 1 herein, lose this exemption when development occurs on the parcel exceeding $1,000 dollars for a structural addition to the travel trailer, travel vehicle, or recreational vehicle; or an accessory structure including but not limited to a garage or storage building. The travel trailer, travel vehicle,

and recreational vehicle; all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in Subd. 5.

4. New commercial recreational vehicle parks or campgrounds, and new residential type subdivisions and condominium campgrounds, and new residential type subdivisions and condominium associations, and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:

(a) Any new or replacement travel trailer, travel vehicle, or recreational vehicle will be allowed in the Flood Fringe provided said trailer or vehicle and its contents are placed on fill above the Regulatory Flood Protection Elevation and proper elevated road access to the site exists in accordance with Subd. 5 E. No fill placed in the Flood Plain District to meet the requirements of this Section shall increase flood stages of the 100 year or regional flood.

(b) All new or replacement travel trailers, travel vehicles, or recreational vehicles not meeting the criteria in Item (a) above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of Subd. 11 D. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100 year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers, travel vehicles, or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding.

Subd. 11. Administration.

A. The Code Official designated in Section 11.03 shall administer and enforce this Section. If the Zoning Administrator finds a violation of the provisions of this Section, he shall notify the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it, as further specified in Section 11.04, Subd. 5.

B. All uses shall obtain a Use Permit in accordance with the following standards:

1. A Use Permit issued by the Zoning Administrator in conformity with the provisions of this Section shall be secured prior to the erection, addition, or alteration of any building, structure, or portion thereof; prior to the change or extension of a non-conforming use; and prior to the placement of fill or excavation of materials within the flood plain.

2. Application for a Use Permit shall be made to the Zoning Administrator simultaneous to applying for a building permit on forms furnished by him and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation of the channel.

3. Prior to granting a Use Permit or processing an application for a Conditional Use Permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal permits.

4. Use Permits, Conditional Use Permits, or Certificates of Occupancy issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangements, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Chapter, and punishable as provided by Section 11.05. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Section. Flood proofing measures shall be certified by a registered professional engineer or registered architect.

5. Certificate of Zoning Compliance for a New, Altered, or Non-conforming Use. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use of structure until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Section. Where a non-conforming use or structure is extended or substantially altered, the Certificate of Zoning Compliance shall specifically state the manner in which the non-conforming structure or use differs from the provision of this Ordinance.

6. The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alteration or additions to existing structures in the flood plain districts. He shall also maintain a record of the elevations to which structures and alterations or additions to structures are flood proofed.

C. Variances shall be heard and handled by the Board of Appeals and Adjustment as provided in Section 11.24. The following items shall also be provided in all variance requests in the flood plain zoning district:

1. No variance shall have the effect of allowing in any district uses prohibited in that district; permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular areas, or permit standards lower than those required by State law. In granting a variance, the Board may prescribe appropriate conditions and safeguards including but not limited to those specified in Paragraph D, Subparagraph 4, which are in conformity with the purposes of this Section. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Chapter punishable under Section 11.05.

2. The Board of Appeals and Adjustments shall submit to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing. A copy of all decisions granting variances shall be forwarded to the Commissioner of Natural Resources within ten (10) days of such action.

3. Flood Insurance Notice and Record Keeping. The Zoning Administrator shall notify the applicant for a variance that: (1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage, and (2) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their

issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

4. A certified copy of all variances granted shall be recorded in the office of the County Recorder.

D. Applications for Conditional Uses permissible under this Section shall be subject to the general procedures set forth in Section 11.60 and to the following requirements:

1. A copy of the Conditional Use request shall be submitted to the Commissioner of Natural Resources sufficiently in advance so as to allow adequate review which in all cases shall be at least ten (10) days prior to the scheduled hearing. A copy of all decisions granting Conditional Use Permits shall be forwarded to the Commissioner of Natural Resources within ten (10) days of such action.

2. Procedures for Evaluating Proposed Conditional Uses within the Flood Plain (FP) District.

(a) Upon receipt of an application for a Conditional Use Permit for a use within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Council and Planning Commission for the determination of the regulatory flood protection elevation, and whether the proposed use is located in the floodway or the flood fringe:

(1) A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.

(2) Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill, or storage elevations, size, location; and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.

(3) Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.

(4) Plans drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the channel.

(5) Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply, and sanitary facilities.

(b) One copy of the above information shall be transmitted to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the floodway or flood fringe, the Regulatory Flood Protection Elevation, project effects on flood velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters. Procedures consistent with Minnesota Rules, latest supplement, (currently codified in the 1990 Supplement, Number 1, as Parts 6120.5600 and 6120.5700) shall be followed in this expert evaluation. The designated engineer or expert shall:

(1) Estimate the peak discharge of the regional flood.

(2) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and over bank areas.

(3) Compute the floodway necessary to convey the regional flood without increasing flood stages more than 0.5 feet. An equal degree of encroachment on both sides of the stream within the reach shall be assumed.

(c) Based upon the technical evaluation of the designated engineer or expert, the Council and Planning Commission shall determine whether the proposed use is in the floodway or flood fringe and the Regulatory Flood Protection Elevation at the site.

3. In passing upon Conditional Use Permit applications, the Council and Planning Commission shall consider all relevant factors specified in other Sections of this Chapter, and

(a) The danger to life and property due to increased flood heights or velocities caused by encroachments.

(b) The danger that materials may be swept onto other lands or downstream to the injury of others.

(c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

(d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(e) The importance of the services provided by the proposed facility to the community.

(f) The requirements of the facility for a waterfront location.

(g) The availability of alternative locations not subject to flooding for the proposed use.

(h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(i) The relationship of the proposed use to the Comprehensive Plan and flood plain management program for the area.

(j) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(k) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

(l) Such other factors which are relevant to the purposes of this Section.

4. Upon consideration of the factors listed above and the purpose of this Chapter, the Council may attach such conditions to the granting of Conditional Use Permits as it deems necessary to fulfill the purposes of this Chapter. Such conditions may include, but are not limited to, the following:

(a) Modification of waste disposal and water supply facilities.

(b) Limitations on period of use, occupancy, and operation.

(c) Imposition of operational controls, sureties, and deed restrictions.

(d) Requirements for construction of channel modifications, dikes, levees, and other protective measures.

(e) Flood proofing measures, in accordance with the State Building Code. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

5. A certified copy of all Conditional Use Permits shall be recorded in the office of the County Recorder.

E. The flood plain designation on the Official Zoning Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to, at, or above the elevation of the regional flood and is continuous to land outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use. All amendments to this Section including amendments to the Official Zoning Map as it relates to flood plain areas must be submitted to and approved by the Commissioner of Natural Resources and Federal Emergency Management Agency.

F. When violation of the Flood Plain Provisions are either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.

Subd. 12. Non-Conforming Uses.

A. A structure or the use of a structure or premises which was lawful before the initial adoption or amendment to flood plain controls contained in this Section or similar to those contained herein but which now is not in conformity with the provisions of this Section may be continued subject to the provisions of Section 11.02 and the following conditions:

1. No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.

2. Any alteration or addition to a non-conforming structure or non-conforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 through FP-4 flood proofing classifications) allowable in the State Building Code, except as further restricted below.

3. The current cost of all structural alterations or additions to any non-conforming structure over the life of the structure shall not exceed 50 percent of the current market value of the structure on the date it became a non-conforming use unless the conditions of this Section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the City's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction

materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of Subd. 5 of this Ordinance for new structures. It is the intent of this provision that all values be adjusted to present day values for an as equal a comparison as possible.

4. If any non-conforming use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this Section. The real estate tax assessor shall notify the Zoning Administrator in writing of instances of non-conforming uses which have been discontinued for such a period.

5. If any non-conforming use or structure is destroyed by any means, including floods, to an extent of 50 percent or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Section. The applicable provisions for establishing new uses or new structures in Subd. 6 will apply.

6. The Zoning Administrator shall prepare a list of those non-conforming uses which have been flood proofed or otherwise adequately protected in conformity with Subd. 11, Paragraph D, Subparagraph 4. He shall present such list to the Council which may issue a certificate to the owner stating that such uses, as a result of these corrective measures, are in conformity with the provisions of this Section.

SEC. 11.11. PLANNED UNIT DEVELOPMENT ZONING DISTRICT.

Subd. 1. Purpose. It is recognized that this Chapter is structured to regulate land use and development patterns of a conventional or traditional nature; however there are situations where innovative proposals for use of land may be submitted which do not relate to ordinance controls and would have to be rejected even though feasible and beneficial to the community. It is to accommodate such innovative proposals, even those that may "mix" land uses within a development, exceed stipulated residential densities, or depart from traditional lot sizes, that the PUD District is established. The technology of land development is constantly changing, and creative but practical approaches to the use of land should be encouraged. The provisions of this Section are intended to do so in a manner which is in the best interests of both the developer and the community.

The PUD District when finally established under the provision of this Section shall be applied to and superimposed upon the underlying zoning districts established in Section 11.09 as the same now exist or are amended in the future. It being the intent of the Council that no provision or regulation of the underlying zoning district may be varied, modified or set aside unless specifically allowed in the accepted PUD District final development plan.

Subd. 2. Requirements.

A. Ownership**.** The tract shall be a development of land under unified control at the time of application, planned and scheduled to be developed as a whole. However, no authorizations or permits shall be granted for such development unless the applicant has acquired actual ownership of or executed a binding sales contract for all of the property comprising such tract. For purposes of this Section, ownership shall include a lease of not less than fifty (50) years duration. The term "single ownership" shall include a single owner, or a group of land owners, acting through a

corporation, where each owner agrees in advance to be bound by the conditions and regulations which will be effective within the district and to record such covenants, easements, and other provisions with the County Recorder at the appropriate time.

B. Minimum Size. No planned unit development shall consist of less than one-half (1/2) acre of contiguous land. Provided, that a public street, public highway, or easements for drainage or utility purposes shall not prevent such land from being considered "contiguous."

C. Comprehensive Plan. The development shall be planned so that it is consistent with the Comprehensive Plan for the community.

D. Harmony. The planned unit development shall be planned and developed to harmonize with any existing or imminent development in the area surrounding the project site.

E. Financing. The financing for the project shall be proven to be available to the applicant on conditions and in amounts which are sufficient to assure completion of the planned unit development.

F. Permitted Uses.

1. These may include and shall be limited to:

(a) Dwelling units in detached, semi-detached, attached groups of attached, clustered, or multi-storied structures, or any combination thereof;

(b) Any non-residential use, to the extent such non-residential use is designed and intended to serve the residents of the planned unit development, and such other uses as exist or may reasonably be expected to exist in the future;

(c) Public and private education facilities.

2. In a planned unit development designed primarily for other than uses permitted above, the uses shall be limited to those permitted in the zoning district in which the use is located.

G. Recreational Space. A minimum of five (5) percent of the total area of a planned unit development shall be set aside for recreational use. Such use should be effectively separated from automobile traffic and parking and be readily accessible; the term "recreational use" shall not include space devoted to streets and parking.

H. Density. For planned residential developments proposed in existing residential zones, an increase in density may be allowed based on Planning Commission and staff evaluation of design excellence, landscaping, and distinctiveness in site work. The actual amount of density increase shall be a matter of negotiation between the City and landowner, following review of the Preliminary Plan in which an initial density is proposed. In recognizing that the planned unit development process is designed to encourage flexibility and innovative planning and design exercises, it becomes a matter of benefit to both landowner and community to agree upon an appropriate density having economic, aesthetic, and practical value. It is intended that the City be the arbiter in all cases where density increase is proposed.

Subd. 3. Procedure.

A. Preliminary Development Plan; Filing.

1. An applicant for a planned unit development shall submit a preliminary development plan to the Planning Commission, with a written statement and

payment of a fee, for costs incurred by the City in checking and processing such plans. Such application shall be signed by the owner(s) of every property within the boundaries of the proposed planned unit development.

2. The drawings which are part of the preliminary development plan may be in general, schematic form and must contain the following information:

(a) Location and size of the site and nature of the landowner's interest in the land to be developed.

(b) The density of the land use to be allocated to the several parts of the site to be developed.

(c) The location and size of any common open space and the form of organization proposed to own and maintain such space.

(d) The use and approximate height, bulk, and location of buildings and other structures.

(e) Proposals for collection of sanitary wastes, distribution of water, and disposal of surface run-off.

(f) Provisions for parking of vehicles and location and width of proposed streets and public ways.

(g) In the case of plans which call for development over a period of years, a schedule showing the proposed times within which applications for final approval of all sections of the planned unit development are intended to be filed.

(h) A topographic map of the subject property or properties, prepared by a registered civil engineer or a licensed land surveyor, covering the entire tract proposed for development and indicating existing conditions. Development for an additional area must include at least three hundred fifty (350) feet, unless the City requires a lesser amount, from tract boundaries. Such map shall be drawn at a scale no smaller than one hundred (100) feet equal one (1) inch, shall indicate topography at two (2) foot contour intervals and show in accurate detail the topography, all planned and existing buildings, and all planned and existing land features and trees. The Planning Commission may make an exception to this requirement if the subject property is in a well-developed area with existing public utilities and improved streets and storm sewers installed.

3. The written statement which is a part of such application shall include:

(a) A description of the character of the planned unit development and the manner in which it has been planned to comply with the planned unit development regulations.

(b) A statement of proposed financing.

(c) Economic feasibility analysis of any business uses if the property is not zoned for similar business uses at the time of submittal of the preliminary development plans.

(d) A statement of provisions for ultimate ownership and maintenance of all parts of the development, including streets, structures, and open spaces.

(e) Total estimated population to occupy the planned unit development, with breakdowns as to the number of school-age children, adults, and families.

B. The Preliminary Development Plan/Approval**.**

1. Within forty-five (45) days after receipt of the application by the Planning Commission, a public hearing upon said application shall be held by the Planning Commission. The Commission may continue the hearing from time-to-time and refer the matter back to the planning staff of the City for a further report; provided, however, the public hearing or hearings shall be concluded within forty-five (45) days of the date of the first public hearing, unless the landowner shall consent in writing to an extension of time within which the hearings shall be concluded.

2. Within fifteen (15) days after the conclusion of public hearings, the Planning Commission shall forward the plan to the Council with a written report recommending to the Council that the plan be disapproved, approved, or approved with modifications, and giving the reasons for these recommendations.

3. The Council shall within thirty (30) days of receipt thereof reject, tentatively accept, or modify the Planning Commission report. Failure to act shall be deemed a rejection.

4. In the event tentative approval is granted subject to conditions, the landowner shall, within forty-five (45) days after receiving a copy of the conditions of the Council, notify the Council in writing of the acceptance or refusal to accept all said conditions. Refusal by landowners shall constitute denial of the plans by the Council. Failure of the landowner to notify the Council of his acceptance or denial of the conditions to the plan constitutes acceptance of the conditions.

5. The acceptance, rejection, or modification shall be based on findings as set forth below and shall state in full in what respects the plan would or would not be in the public interest, including but not limited to findings of facts and conclusions based on the following:

(a) The plan is consistent with the stated objectives of planned unit developments and the City's comprehensive plan.

(b) The relationship, beneficial or adverse, of the proposed planned unit development to the area in which it is proposed to be developed.

(c) That authorized distribution of buildings, streets, and open space will permit better site planning and thus benefit both the residents of the development and community as a whole.

(d) That such distribution or location will not unduly increase the bulk of buildings, density of population, or intensity of use to the detriment of areas outside the development by restricting access to light and air or by creating traffic congestion.

C. Final Development Plan; Approval.

1. Within six (6) months following the approval of the preliminary development plan, the applicant shall file with the Planning Commission a final development plan containing in its final form the information required in the preliminary plan. In its discretion, and for good cause, the Planning Commission may extend for six (6) months the period for filing of the final development plan. A public hearing on an application for a final approval of the plan or part thereof, shall not be required, providing the plan, or the part thereof submitted for final approval, is in substantial compliance with the plan given tentative approval.

2. In the event the plan as submitted for final approval is not in substantial compliance with the preliminary plan, the Planning Commission shall, within forty-five (45) days of the date the application for final approval is filed, so notify the landowner, setting forth the particular ways in which the plan is not in substantial

compliance. The landowner may 1) treat such notification as denial of the final approval, 2) re-file his plan so that it does substantially comply with the preliminary plan, 3) file a written request with the Planning Commission that it hold a public hearing on its application for final approval. Any such hearing shall be held within thirty (30) days after request for such hearings is made. Within forty-five (45) days of either such hearing or re-filing, the Planning Commission shall recommend and the Council shall by resolution either grant final approval of the plan or deny final approval of the plan.

3. Should approval of a planned unit development necessitate a change in the City Zoning Ordinance, such change shall be facilitated by amendment of the ordinance following notice and public hearing(s) as required by the Luverne City Ordinance. The Zoning Administrator shall then change the zoning classification on the Official Zoning Map if a zoning change was made. The planned unit development area shall be designated on the official Zoning Map as an overlying PUD District whether or not a zoning change was made. The final plan and all supporting documents shall be filed with the preliminary plan and together they will form the terms and conditions establishing and governing the PUD District.

4. Building permits shall not be issued for any of the structures, nor shall land alterations be made until the following conditions are met, waived, or altered upon recommendation of the Planning Commission and approval of the City Council:

(a) Public open space has been dedicated and officially recorded; or,

(b) A cash payment in lieu of land donation has been made to coincide with construction of each building according to the negotiated agreement.

(c) The design and construction specifications for all utilities, street improvements, and mass grading have been approved by the City Engineer.

(d) Any private by-laws, covenants, and deed restrictions have been approved by the City Attorney.

(e) The construction plans for proposed structures have been approved by the Building Inspector.

(f) The final plat (if necessary) has been approved by the City and recorded with appropriate governmental agencies as required by law.

(g) The detailed site development plans have been approved by all appropriate City staff members and the Council and such signatures appear on the plans.

D. Non-Compliance; Inspection.

1. In the event that a plan, or a section thereof, is given final approval and thereafter the landowner shall abandon said plan or the section thereof that has been finally approved, the landowner shall, within 30 days, so notify the Council in writing. In the event the landowner shall fail to commence the planned development within twelve (12) months after final approval has been granted, such final approval shall terminate and be deemed null and void unless such time period is extended by the Council upon written application of the landowner.

2. The Zoning Administrator shall review each planned development at least once each year until completed and shall make a report (through the Planning Commission) to the Council on the status of the development in each PUD

District. If development is not progressing according to schedule, the owner shall be required to submit a written statement to the Zoning Administrator setting forth the reasons for the lack of progress.

3. Within thirty (30) days of such notice, the Council shall either revoke the approval of the PUD provisions, and the land shall thereafter be governed by the regulations applicable in the district in which it is located, or it shall take such steps as it shall deem necessary to compel compliance with the plans as approved, or it shall require the owner to seek an amendment of his plan as provided below.

4. After final approval, no planned unit development plan shall be amended except by the Council after a public hearing before the Planning Commission; provided, however, that the approved development schedule of such plan may be extended for no more than one (1) year by the Council without any hearing or Planning Commission action.

SEC. 11.12. OFF-STREET PARKING. GENERAL PROVISIONS.

Subd. 1. General. There shall be provided at the time of erection of any main building or at the time such buildings are altered, enlarged, converted or increased in capacity minimum off-street parking spaces with adequate provisions for ingress and egress by standard sized vehicles in accordance with the requirements of this code. All parking areas, access drives, and driveways shall be covered with a dust-free, all weather surface, such as concrete or asphalt, with proper surface drainage.

Subd. 2. Parking Space Requirements. Parking spaces shall be in accordance with Sections 11.12.2 through 11.12.4.

A. Required Number. The off-street parking spaces required for each use permitted by this code shall not be less than that found in Table 11.12, 2(a), provided that any fractional parking space is computed as a whole space.

Table 11.12, 2(a)
Off-Street Parking Schedule

USE	NUMBERS OF PARKING SPACES REQUIRED
Assembly/Churches	1 per 300 gross square feet
Dwelling unit	2 per dwelling unit
Club/Restaurant	1 per 100 gross square feet
Hotel/Motel	1 per guestroom plus 1 per 500 square feet of common area
Industrial	1 per 500 square feet
Medical offices/Hospitals	1 per 200 square feet
Office	1 per 300 square feet
Retail	1 per 200 square feet
School	1 per 3.5 seats in assembly rooms plus 1 per faculty member
Warehouse	1 per 500 gross square feet

Note:

Reduction and Use of Parking and Loading Space: On-site parking facilities existing at the effective date of this Chapter shall not subsequently be reduced to an amount less than that required under this Chapter for a similar new building or use. On-site parking facilities provided to comply with the provisions of this Chapter shall not subsequently be reduced below the requirements of this Chapter. Such required parking or loading space shall not be used for storage of goods or for storage of vehicles that are inoperable or for sale or rent.

B. Combination of Uses. Where there is a combination of uses on a lot, the required number of parking spaces shall be the sum of that found for each use.

C. Location of Lot. The parking spaces required by this code shall be provided on the same lot as the use or where the exclusive use of such is provided on another lot not more than 500 feet radially from the subject lot within the same or less restrictive zoning district.

D. Accessible Spaces. Accessible parking spaces and passenger loading zones shall be provided in accordance with the state building and accessibility codes.

Subd. 3. Parking Stall Dimensions. Parking stall dimensions shall be in accordance with this sub-section.

A. Width. A minimum width of 9 feet shall be provided for each parking stall.

Exceptions:

1. Compact parking stalls shall be permitted to be 8 feet.
2. Parallel parking stalls shall be permitted to be 8 feet wide.
3. The width of a parking stall shall be increased 10 inches for obstructions located on either side of the stall within 14 feet of the aisle or front of the stall.
4. Accessible parking spaces shall be designed in accordance with the state building and accessibility codes.

B. Length. A minimum length of 20 feet shall be provided for each parking stall.

Exceptions**:**

1. Compact parking stalls shall be permitted to be 18 feet in length.
2. Parallel parking stalls shall be a minimum 22 feet in length.

Subd. 4. Design of Parking Facilities.

A. Driveway Width. Every parking facility shall be provided with one or more access driveways, the width of which shall be the following:

1. Private driveways at least 9 feet. The maximum width for a residential property shall be 22 feet or 35 % of lot frontage which ever is the greatest.
2. Commercial driveways:
   (a) Twelve feet for a one-way enter/exit.

(b) Twenty-four feet for two-way enter/exit.

(c) Thirty-two feet for state highway entrances with MnDot required approvals and permits.

B. Driveway and Ramp Slopes. The maximum slope of any driveway or ramp shall not exceed 20 percent. Transition slopes in driveways and ramps shall be provided in accordance with the standards set by the code official and street department or other governing body.

C. Stall Access. Each required parking stall shall be individually and easily accessed. No automobile shall be require to back onto any public street on sidewalk to leave any parking stall when such stall serves more than two dwelling units or other than residential uses. All portions of a public lot or garage shall be accessible to other portions thereof without requiring the use of any public street.

D. Compact–to-Standard Stall Ratio. The maximum ratio of compact stalls to standard stalls in any parking area shall not exceed 1 to 3.

E. Screening. Buffer Fences and Planting Screens: Off-street parking, loading, and other allowed vehicle storage areas near or abutting Residence Districts shall be screened by a buffer fence of adequate design or a planting buffer screen; plans of such screen or fence shall be submitted for approval as a part of the required site or plot plan, and such fence or landscaping shall be installed as a part of the initial construction.

F. Striping. All Parking Stalls Shall Be Striped.
Exception**:** A private garage or parking area for the exclusive use of a single family dwelling.

G. Lighting. All lights illuminating a parking area shall be designed and located so as to reflect away from any street and adjacent property.

H. Surfacing. All parking stalls shall be hard surfaced, i.e. concrete/asphalt.

SEC. 11.13. REQUIRED LOADING AREAS.

Subd.1. Loading and Unloading. Loading and unloading areas for goods, supplies, and services shall be sufficient to meet the requirements for each use. In any event, at least 1.0 off-street loading space must be provided for any business with more than 1,000 square feet of gross floor area, unless otherwise determined by the Planning Commission.

Subd. 2. Central Business District Special Requirements: None of the on-site or off-street parking or loading area requirements of this subdivision shall apply within the *old* B-1 Central Business District zone to existing improved tracts or parcels provided there is not more than a 10 percent increase in the improved area or coverage of the tract or parcel existing on the effective date of this ordinance. The provisions of this paragraph shall not apply to unimproved tracts or parcels nor when existing structures are substantially demolished and a major development or redevelopment of the property occurs.

Subd. 3. Payment in Lieu of Private On-site Parking. If, in the sole judgment of the Council, it is physically and economically impractical to comply with the on-site parking requirements for the Central Business District contained in this

subdivision, the Council may in lieu of private on-site parking, require a payment to the City. The payment shall be based on a per stall amount set from time-to-time by resolution of the Council. The per stall amount shall be based upon the rate of 300 square feet per stall and the approximate current value of unimproved land in the Central Business District plus the current estimated cost of improvements for base work, four-inch blacktop mat, and striping. The total amount of the in lieu payment shall equal the number of on-site parking stalls required by the provisions of this subdivision less the number of on-site parking stalls existing after improvement, multiplied by the per stall amount. All payments received by the City for this purpose shall be held in a separate account and used exclusively for the benefit of public parking in the Central Business District.11.14

SEC. 11.14. SIGN REGULATIONS.

Subd. 1. Purpose. The purpose of this chapter is to protect the safety and orderly development of the community through the regulation of signs and sign structures.

Subd. 2. Definitions. The following words and terms shall, for the purpose of this chapter and as used elsewhere in this code, have the meanings shown herein.

1. ABANDONED SIGN. A sign structure that has ceased to be used and the owners intend no longer to have used, for the display of sign copy, or as otherwise defined by state law.

2. ANIMATED SIGN. A sign employing actual motion or the illusion of motion. Animated signs, which are differentiated from changeable signs as defined and regulated by this code, include the following types:

3. ELECTRICALLY ACTIVATED. Animated signs producing the illusion of movement by means of electronic, electrical or electro-mechanical input and/or illumination capable of simulating movement through employment of the characteristics of one or both of the classifications noted below:

a. Flashing. Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of no illumination. For the purposes of this ordinance, flashing will not be defined as occurring if the cyclical period between on-off phases of illumination exceeds 4 seconds.

b. Patterned Illusionary Movement. Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.

c. Environmentally Activated. Animated signs or devices motivated by wind, thermal changes or other natural environmental input. Includes spinners, pinwheels, pennant strings, and/or other devices or displays that respond to naturally occurring external motivation.

d. Mechanically activated. Animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric

motors or other mechanically induced means.

4. ARCHITECTURAL PROJECTION. Any projection that is not intended for occupancy and that extends beyond the face of an exterior wall of a building, but that does not include signs as defined herein. See also “Awning”; “Backlit awning”; and “Canopy, attached and freestanding.”

5. AWNING. An architectural projection or shelter projecting from and supported by the exterior wall of a building and composed of a covering of ridgid or nonridgid materials and/or fabric on a supporting framework that may be either permanent or retractable, including such structures that are internally illuminated by fluorescent or other light sources.

6. AWNING SIGN. A sign displayed on or attached flat against the surface or surfaces of an awning. See also “Wall or fascia sign.”

7. BACKLIT AWNING. An awning with a translucent covering material and a source of illumination contained within its framework.

8. BANNER. A flexible substrate on which copy or graphics may be displayed.

9. BANNER SIGN. A sign utilizing a banner as its display surface.

10. BILLBOARD. See”Off-premise sign” and “Outdoor advertising sign.”

11. BUILDING ELEVATION. The entire side of a building, from ground level to the roofline, as viewed perpendicular to the walls on that side of the building.

12. CANOPY (Attached). A multisided overhead structure or architectural projection supported by attachments to a building on one or more sides and either cantilevered from such building or also supported by columns at additional points. The surface(s) and/or soffits of an attached canopy may be illuminated by means of internal or external sources of light. See also “Marquee.”

13. CANOPY (Free-standing). A multisided overhead structure supported by columns, but not enclosed by walls. The surface(s) and or soffits of a free standing canopy may be illuminated by means of internal or external sources or light.

14. CANOPY SIGN. A sign affixed to the visible surface(s) of an attached or free-standing canopy. For reference, see Section 11.10.3

15. CHANGEABLE SIGN. A sign with the capability of content change by means of manual or remote input, including signs which are:

a. Electrically Activated. A sign with whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetical or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display. See also “Electronic message sign or center.”

b. Manually Activated. Changeable sign whose message copy or content can be changed manually.

16. CITY. The governing authority for the City of Luverne.

17. CODE OFFICIAL. Person designated by the governing authority to enforce the sign ordinance.

18. COMBINATION SIGN. A sign that is supported partly by a pole and partly by a building structure.

19. COPY. Those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, excluding numerals identifying a street address only.

20. DEVELOPMENT COMPLEX SIGN. A free standing sign identifying a multiple-occupancy development, such as a shopping center or planned industrial park, which is controlled by a single owner or landlord, approved in accordance with Section 11.14, 7 of this chapter.

21. DOUBLE-FACED SIGN. A sign with two faces, back to back.

22. ELECTRIC SIGN. Any sign activated or illuminated by means of electrical energy.

23. ELECTRONIC MESSAGE SIGN OR CENTER. An electrically activated changeable sign whose variable message capability can be electronically programmed.

24. EXTERIOR SIGN. Any sign placed outside a building.

25. FASCIA SIGN. See “Wall or fascia sign.”

26. FLASHING SIGN. See “Animated sign, electrically activated.”

27. FREE-STANDING SIGN. A sign principally supported by a structure affixed to the ground, and not supported by a building, including signs supported by one or more columns, poles or braces placed in or upon the ground. For visual reference see, Section 11.10.3.

28. FRONTAGE (Building). The length of an exterior building wall or structure of a single premise orientated to the public way or other properties that it faces.

29. FRONTAGE (Property). The length of the property line(s) of any single premise along either a public way or other properties on which it borders.

30. GROUND SIGN. See “Free-standing sign.”

31. ILLUMINATED SIGN. A sign characterized by the use of artificial light, either projecting through its surface(s) (internally illuminated); or reflecting off its surface(s) (externally illuminated); or reflecting off its surface(s) (externally illuminated).

32. INTERIOR SIGN. Any sign placed within a building, but not including “window signs” as defined by this ordinance. Interior signs, with the exception of window signs as defined, are not regulated by this chapter.

33. MANSARD. An inclined decorative roof-like projection that is attached to an exterior building façade.

34. MARQUEE. See “Canopy (attached).”

35. MARQUEE SIGN. See “Canopy sign.”

36. MENU BOARD. A free-standing sign orientated to the drive-through lane for a restaurant that advertises the menu items available from the drive-through window, and which has no more than 20 percent of the total area for such sign utilized for business identification.

37. MULTIPLE-FACED SIGN. Sign containing three or more faces.

38. OFF-PREMISE DIRECTIONAL SIGN. Any sign that is not located upon the premises of the business to which it refers and directs traffic to that business location.

39. OFF-PREMISE SIGN. See “Outdoor advertising sign.”

40. ON-PREMISE DIRECTIONAL SIGN. Any sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic on the lot where the said business is located. On-premise directional signs shall include signs marking entrances, exits, parking areas, drive thrus, loading areas or other operational features of the premises.

41. ON-PREMISE SIGN. A sign erected, maintained or used in the outdoor environment for the purpose of the display of messages belonging to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

42. OUTDOOR ADVERTISING SIGN. A permanent sign erected, maintained or used in the outdoor environment for the purpose of the display of commercial or noncommercial messages not belonging to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

43. PARAPET. The extension of a building façade above the line of the structural roof.

44. POLE SIGN. See “Free-standing sign.”

45. POLITICAL SIGN. A temporary sign intended to advance a political statement, cause or candidate for office. A legally permitted outdoor advertising sign shall not be considered to be a political sign.

46. PORTABLE SIGN. Any sign not permanently attached to the ground or to a building or building surface.

47. PROJECTING SIGN. A sign other than a wall sign that is attached to or projects more than 18 inches from a building face or wall or from a structure whose primary purpose is other than the support of a sign.

48. REAL ESTATE SIGN. A temporary sign advertising the sale, lease or rental of the property or premises upon which it is located.

49. REVOLVING SIGN. A sign that revolves 360 degrees about an axis. See also “Animated sign, mechanically activated.”

50. ROOF LINE. The top edge of a peaked roof or, in the case of an extended façade or parapet, the uppermost point of said façade or parapet.

51. ROOF SIGN. A sign mounted on, and supported by, the main roof portion of a building, or above the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such a building. Signs mounted on mansard facades, pent eaves and architectural projections such as canopies or marquees shall not be considered to be roof signs

52. SIGN. Any device visible from a public place that displays either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations. Noncommercial flags or any flags displayed from staffs will not be considered to be signs.

53. SIGN AREA. The area of the smallest geometric figure, or the sum of the combination of regular geometric figures, which comprise the sign face. The area of any double-sided or “V” shaped sign shall be the area of the largest single face only. The area of a sphere shall be computed as the area of a circle. The area of all other multiple-sided signs shall be computed as 50 percent of the sum of the area of all faces of the sign.

54. SIGN COPY. Those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, exclusive of numerals identifying a street address only.

55. SIGN FACE. The surface upon, against or through which the sign copy is displayed or illuminated, not including structural supports, architectural features of a building or sign structure, nonstructural or decorative trim, or any areas that are separated from the background surface upon which the sign copy is displayed by a distinct delineation, such as a reveal or border.

A. In the case of panel or cabinet type signs, the sign face shall include the entire area of the sign panel, cabinet or face substrate upon which the sign copy is displayed or illuminated, but not open space between separate panels or cabinets.

B. In the case of sign structures with routed areas of sign copy, the sign face shall include the entire area of the surface that is routed, except where interrupted by a reveal, border, or a contrasting surface or color.

C. In the case of signs painted on a building, or individual letters or graphic elements affixed to a building or structure, the sign face shall comprise the sum of the geometric figures or combinations of regular geometric figures drawn closest to the edge of the letters or separate graphic elements comprising the sign copy, but not the open space between separate groupings of sign copy on the same building or structure.

D. In the case of sign copy enclosed within painted or illuminated border, or displayed on a background contrasting in color with the color of the building or structure, the sign face shall comprise the area within the contrasting background, or within the painted or illuminated border.

56. SIGN STRUCTURE. Any structure supporting a sign.

57. TEMPORARY SIGN. A sign intended to display either commercial or noncommercial messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs.

58. UNDER CANOPY SIGN OR UNDER MARQUEE SIGN. A sign attached to the underside of a canopy or marquee.

59. V SIGN. Signs containing two faces of approximately equal size, erected upon common or separate structures, positioned in a “V” shape with an interior angle between faces of not more than 90 degrees with the distance between the sign faces not exceeding 5 feet at the closest point.

60. WALL OR FASCIA SIGN. A sign that is in any manner affixed to any exterior wall of a building or structure and that projects not more than 18 inches from the building or structure wall, including signs affixed to architectural projections from the building provided the copy area of such signs remains on a parallel plane to the face of the building façade or to the face or faces of the architectural projection to which it is affixed.

61. WINDOW SIGN. A sign affixed to the surface of a window with its message intended to be visible to and readable from the public way or from adjacent property.

Source: Ordinance No. 336, Third Series
Effective Date: 8-7-2014

Subd. 3. General Provisions.

A. Conformance to Codes. Any sign hereafter erected shall conform to the provisions of this ordinance and the provisions of the Minnesota Building Code and any other ordinance or regulation within the City.

B. Signs In The Rights-of-Way. No sign other than an official traffic sign or similar sign shall be erected within 2 feet of the lines of any street, or within any public way, unless specifically authorized by other ordinances or regulations of the City or by specific authorization of the Code Official.

C. Projections Over Public Ways. Signs projecting over public walkways shall be permitted to do so only subject to the projection and clearance limit either defined herein or, if not so defined, at a minimum height of 8 feet from grade level to the bottom of the sign. Signs, architectural projections or sign structures projecting over a vehicular access area must conform to the minimum height clearance limitations imposed by the City for such structures.

D. Traffic Visibility. No sign or sign structure shall be erected at the intersection of any street in such a manner as to obstruct either free or clear vision, nor at any location where by its position, shape or color, may interfere with or obstruct the view of or be confused with any authorized traffic sign, signal or device.

E. Computation of Frontage. If a premise contains walls facing more than one property line or encompasses property frontage bounded by more than one street or other property usages, the sign area(s) for each building wall or property frontage will be computed separately for each building wall or property line facing a different frontage. The sign area(s) thus calculated shall be permitted to then be applied to permitted signs placed on each separate wall or property line frontage.

F. Animation and Changeable Messages. Animated signs except as prohibited in section 11.14, 6 are permitted in all nonresidential zones as a conditional use approved by the City Planning Commission. Changeable signs, manually activated, are permitted in all nonresidential zones. Changeable signs, electrically activated, are permitted in all nonresidential zones. Area(s) shall apply to allowable signage square footage.

G. Maintenance, Repair and Removal. Every sign permitted by this ordinance shall be kept in good condition and repair. When any sign becomes insecure, in danger of falling or is otherwise deemed unsafe by the code official, or if any sign shall be unlawfully installed, erected or maintained in violation of any of the provisions of this ordinance, the owner thereof or the person or firm using same shall, upon written notice by the code official forthwith in the case of immediate danger, and in any case within 10 days, make such sign conform to the provisions of this ordinance, or shall remove it. If within 10 days the order is not complied with, the code official shall be permitted to remove or cause such sign to be removed at the expense of the owner and/or the user of the sign, or an administrative citation may be issued as set forth in another section of this code.

H. Obsolete Sign Copy. Any sign copy that no longer advertises or identifies a use conducted on the property on which said sign is erected must have the sign removed within 30 days after written notification of the code official; and upon failure to comply with such notice, the code official is hereby authorized to cause removal of such sign, and any expense incident thereto shall be paid by the owner of the building, structure or ground on which the sign is located, or an administrative citation may be issued as set forth in another section of this code.

I. Nonconforming Signs. Any sign legally existing at the time of the passage of this ordinance that does not conform in use, location, height or size with the regulations of the zone in which it is located, shall be considered a legal nonconforming use structure and shall be permitted to continue in such status until such time as it is either abandoned or removed by its owner, subject to the following limitations:

1. Suctural alterations, enlargement or re-erection are permissible only where such alterations will not increase the degree of nonconformity of the signs.

2. Any legal nonconforming sign may be removed or rebuilt without increasing the existing height or area if it is damaged, or removed if allowed to deteriorate to the extent that the cost of repair or restoration exceeds 50 percent of the replacement cost of the sign as determined by the code official.

3. Signs that comply with either Item 1 or 2 above require permits.

Subd. 4. Exempt Signs. The following signs shall be exempt from the provisions of this chapter. No sign shall be exempt from section 11.14, 5.

A. Official notices authorized by a court, public body or public safety official.

B. Directional, warning or informational signs authorized by federal, state and/or the city.

C. Memorial plaques, building identification signs and building cornerstones when cut or carved into a masonry surface or when made of noncombustible material and made an integral part of the building or structure.

D. The flag of a government or noncommercial institution, such as a school.

E. Religious symbols decorations within the appropriate public holiday season.

F. Works of fine art displayed in conjunction with a commercial enterprise where the enterprise does not receive direct commercial gain.

G. Street address signs that contain no advertising copy and which do not exceed 2.5 square feet in area.

Subd. 5. Prohibited Signs. The following devices and locations shall be specifically prohibited:

A. Signs located in such a manner as to obstruct or otherwise interfere with an official traffic sign, signal or device, or obstruct or interfere with a driver's view of approaching, merging or intersecting traffic.

B. Except as provided for elsewhere in this code, signs encroaching upon or overhanging public right-of-way. No sign shall be attached to any utility pole, light standard, street tree or any other public facility located within the public right-of-way. The code official may approve the installation of "special event" signs on utility property, such as for holidays or community events.

C. Signs which blink, flash or are animated by lighting in any fashion that would cause such signs to have the appearance of traffic safety signs and lights, or municipal vehicle warnings from a distance.

D. Portable signs except as allowed for temporary signs.

E. Any sign attached to, or placed on, a vehicle or trailer parked on public or private property, except for signs meeting the following conditions:

1. The primary purpose of such a vehicle or trailer is not the display of signs.

2. The signs are magnetic, decals or painted upon an integral part of the vehicle or equipment as originally designed by the manufacturer, and do not break the silhouette of the vehicle.

3. The vehicle or trailer is in operating condition, currently registered and licensed to operate on public streets when applicable, and actively used or available for use in the daily function of the business to which such sign relate.

4. Vehicles and trailers are not used primarily as static displays, advertising a product or service, nor utilized as storage, shelter or distribution points for commercial products or services for the general public.

5. Balloons, streamers or pinwheels except those temporarily displayed as part of a special sale, promotion or community event. For the purpose of this subsection, “temporarily” means no more than 20 days in any calendar year.

SEC. 11.15. PERMITS.

Subd. 1. Permits Required. Unless specifically exempted, a permit must be obtained from the code official for the erection, alteration and maintenance of all signs erected or maintained within the city. Exemptions from the necessity of securing a permit, however, shall not be construed to relieve the owner of the sign involved from the responsibility for its erection and maintenance in a safe manner and in a manner in accordance with all other provisions of the code.

Subd. 2. Construction Documents. Before any permit is granted for the erection of a sign or sign structure requiring such permit, construction documents shall be filed with the code official showing dimensions, materials and required details of construction, including loads, stresses, anchorage and any other pertinent data. The permit application shall be accompanied by the written consent of the owner or lessee of the premises upon which the sign is to be erected and by engineering calculations signed and sealed by a registered design professional where required by the Minnesota building code.

Subd. 3. Changes to Signs. No sign shall be structurally altered, enlarged or relocated except in conformity to the provisions herein, nor until proper permit, if required, has been secured. The changing or maintenance of moveable parts or components of an approved sign that is designed for such changes, or the changing of copy, business names, lettering, sign faces, colors, display and /or graphic matter, or content of any sign shall not be deemed a structural alteration.

Subd. 4. Permit Fees. Permit fees to erect, alter or relocate a sign shall be in accordance with the fee schedule adopted from time to time by the City Council. The code official may double the fee for any sign, which requires a permit, if it is not obtained prior to the start of the work.

SEC. 11.16. SPECIFIC IDENTIFICATION SIGN REQUIREMENTS.

Subd. 1. Wall Signs. In single-family residential no wall signs shall be allowed except under section 11.14, 4. Multiple-family residential complex, commercial or industrial buildings, may display-wall signs per street frontage subject to the limiting standards set forth in Table 11.16, 2 (a). For shopping centers, planned industrial parks or other multiple occupancy nonresidential buildings, the building face or wall shall be calculated separately for each separate occupancy, but in no event will the allowed area for any separate occupancy be less than (12) square feet.

A. Wall signs shall not extend beyond the ends or over the top of the walls to which attached and shall not extend above the level of the second floor of the building.

B. Wall signs shall not extend more than 15 inches from the face of the buildings to which attached.

C. Any part of a sign extending over pedestrian traffic areas shall have a minimum clearance of 8 feet. If under 8 feet they must be considered flush with the wall.

Subd. 2. Free-Standing Signs. In addition to any allowable wall signs, every single-family residential subdivision, multiple-family residential complex, commercial or industrial building, shall be permitted to display free-standing or combination of signs per street frontage subject to the standards set forth in Table 11.16, 3 (a). A free standing sign or bulletin board customarily incident to places of worship, libraries, museums, social clubs, schools or societies may be erected on the premises of such institutions. One such sign or bulletin board, not exceeding 32 square feet, may be erected for each entrance on a different street or highway. The area of this sign shall be deducted from the total area allowed of all allowable signage.

A. No freestanding sign shall be located within the right-of-way, less than 15 feet from a side property line, nor be located less than 50 feet from any other freestanding sign. The total number or permitted signs on any lot in all districts shall not exceed 2, of which only one may be pole sign and only one of which may be a freestanding ground or low profile sign. Any additional advertising signs must be on property owned by the business, company or individual.

B. If for any reason the property line is changed at some future date, any freestanding sign made nonconforming thereby must be relocated within 90 days to conform to minimum setback requirements.

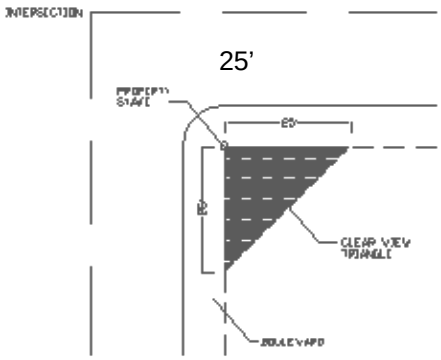
C. No freestanding sign shall be more than 30 feet in height above highway grade. Such height shall be measured vertically from the established average grade directly below the sign or entry level of the building or structure, whichever is lower, to the highest point of the sign, including supporting structures. No sign shall project above the permitted principal building height, except for any businesses abutting Highway 75 located within the C-C Community Commercial Service Business District measured two-tenths (.2) mile either north or south from the intersection of Highway 75 and Interstate 90, would be allowed to install one sign on the property to a height of one hundred (100) feet. The one hundred (100) foot height requirement would be measured from the Interstate 90 road bed. This sign regulation would not supersede any existing height limitations dictated by this Code in any other area.

D. No freestanding sign shall extend over or into public right-of-way, nor shall it overhang the property lines.

E. Freestanding signs under which a pedestrian walkway or driveway passes must have a minimum vertical clearance of 10 feet.

F. Masonry/stone type signs or monuments shall not exceed 6 feet in height and shall not be placed so as to impair visibility for motorists, or be placed in the "clear view" triangle formed by a line 25 feet along each property line from the corner and connected to form the triangle.

Source: Ordinance No. 336, Third Series
Effective Date: 8-7-2014



Subd. 3. On-Premise Directional Signs. No more than two directional signs (one back to back sign) shall be permitted per street entrance to any lot. There shall be no limit to the number of directional signs providing directional information interior to a lot. In residential zones, the maximum area for directional signs shall be 1.5 square feet. For all other zones, the maximum area for any directional sign visible from adjacent property or rights-of-way shall be 6 square feet. Not more than 25 percent of the area of any directional sign shall be permitted to be devoted to business identification or logo, which area shall not be assessed as identification sign area.

Subd. 4. Off-Premise Directional Signs. In addition to any Freestanding sign allowed in Section 11.16, Subd. 2, an off-premise directional sign may be allowed pursuant to the following requirements on any parcel abutting Highway 75, with permission of the owner of the parcel, unless zoned R-1 (1 & 2 Family Residences) where they shall not be allowed.

A. Off-premise directional signs shall be a sign with a maximum area of 32 square feet on a single-faced sign or 64 square feet on a double-faced sign.

B. On a parcel where no permitted freestanding signs exist, one off-premise directional sign (pole or ground sign) shall be allowed subject to the setback and height requirements of Section 11.16, Subd 2.

C. On a parcel with one freestanding sign on a pole and no freestanding ground sign, one off-premise directional sign may be installed under the business sign on the pole or may be installed as a ground sign and the ground sign shall conform to the requirements in Section 11.16, Subd 2, F.

D. On a parcel with one freestanding ground sign and no freestanding sign on a pole, one off-premise directional sign may be installed on a pole or may be installed as a ground sign and the ground sign shall conform to the requirements in Section 11.16, Subd 2, F.

E. On a parcel with one freestanding sign on a pole and one freestanding ground sign, an off-premise directional sign may be installed under the business sign on the pole.

F. Off-premise directional signs shall display only a business name or logo and directional information.

G. No business shall have more than one off-premise directional sign.

H. Not more than one (1) Off-Premise Directional Sign shall be located on any parcel.

Source: Ordinance No. 336, Third Series
Effective Date: 8-7-2014

TABLE 11.16, 2 (a) IDENTIFICATION SIGN STANDARDS-WALL SIGNS

LAND USE	AGGREGATE AREA (SQUARE FEET)
Single-family residential	2.5 square feet
Multiple-family residential	6 square feet
Nonresidential in a residential zone	Conditional use only
Commercial and industrial	2 square feet for each foot of street frontage

TABLE 11.16, 3 (a) Freestanding SIGN AREA

DISTANCE OF THE SIGN FROM THE PROPERTY LINE	AREA OF PERMITTED SIGNAGE
0-8 feet	32 square feet
8- 25 feet	48 square feet
Over 25 feet	96 square feet

SEC. 11.17. TEMPORARY SIGNS.

Subd. 1. Real Estate Signs. Real estate signs shall be permitted in all zoning districts, subject to the following limitations:

A. Real estate signs located on a single residential lot shall be limited to one sign, not greater than 4 feet in height and 6 square feet in area.

B. Real estate signs advertising the sale of lots located within a subdivision shall be limited to one sign per entrance to the subdivision, and each sign shall be no greater than 12 square feet in area nor 8 feet in height. All signs permitted under this section shall be removed within 10 days after the sale of the last original lot.

C. Real estate signs advertising the sale or lease of space within commercial or industrial buildings shall be no greater than 32 square feet, nor 8 feet in height, and shall be limited to one sign per street front.

D. Real estate signs advertising the sale or lease of vacant commercial or industrial land shall be limited to one sign per street front, and each sign shall be no greater than 96 square feet and 12 feet in height.

E. Real estate signs shall be removed not later than 10 days after execution of a lease agreement in the event of the purchase.

Subd. 2. Development and Construction Signs. Signs temporarily erected during construction to inform the public of the developer, contractors, architects, engineers, the nature of the project or anticipated completion dates, shall be permitted in all zoning districts, subject to the following limitations:

A. Such signs on a single residential lot shall be limited to one sign, not greater than 8 feet in height and 12 square feet in area.

B. Such signs for residential subdivision or multiple residential lots shall be limited to one sign, at each entrance to the subdivision or on one of the lots to be built upon, and shall be no greater than 8 feet in height and 16 square feet.

C. Such signs for commercial or industrial projects shall be limited to one sign per 150 feet of frontage or part there of, not to exceed 12 feet in height and 32 square feet in area.

D. Development and construction signs may not be displayed until after the issuance of construction permits by the building official, or approval of the code official and must be removed be removed not later than 48 hours following issuance of a certificate of occupancy for any or all portions of the project.

Subd. 3. Special Promotion, Event and Grand Opening Signs. Promotional signage, including banners, for special events of limited duration, not exceeding 16 square feet in a residential zone and 32 square feet in all other zones and not exceeding 8 feet in height, provided that:

A. Placement shall not exceed 30 days before or 5 days following the event.

B. The names and addresses of the sponsors and the person responsible for removal must be filed with the code official.

Subd. 4. Special Event Signs in Public Ways. Signs advertising a special community event shall not be prohibited in or over public rights-of-way, subject to approval by the code official as to size, location and method of erection. The code official

may not approve any special event signage that would impair the safety and convenience of use of public rights-of-way, or obstruct traffic visibility.

Subd. 5. Portable Signs. Portable signs shall be permitted only in commercial and business districts, subject to the following limitations:

A. No more than one such sign may be displayed on any property, and shall not exceed a height of 6 feet or area of 16 square feet.

B. Such signs shall be displayed not more than 20 days in a calendar year.

C. Any electrical portable signs shall comply with the State electrical code.

D. No portable sign shall be displayed prior to obtaining a sign permit.

E. All portable signs shall comply with setback requirements set out in this code.

Subd. 6. Political Signs. Political signs shall be permitted in all zoning districts, subject to the following limitations:

A. All political signs shall comply with rules and regulations and specified in Minnesota State Statute.

B. Signs shall not be placed in any public right-of-way or obstruct traffic visibility.

SEC. 11.18. REQUIREMENTS FOR SPECIFIC SIGN TYPES.

Subd. 1. Canopy and Marquee Signs.

A. The permanently-affixed copy area of a canopy or marquee sign shall not exceed an area equal to 25 percent of the face area of the canopy, marquee or architectural projection upon which such sign is affixed or applied.

B. Graphic striping, patterns or color bands on the face of a building, canopy, marquee or architectural projection shall not be included in the computation of sign copy area.

Subd. 2. Awning Signs.

A. The copy area of an awning sign shall not exceed an area equal to 25 percent of the background area of the awning surface to which such a sign is affixed or applied, or permitted area for wall or fascia signs, whichever is less.

B. Neither the background color of an awning, nor any graphic treatment or embellishment thereto such as striping, patterns or valances, shall be included in the computation of sign copy area.

Subd. 3. Projecting Signs.

A. Projecting signs shall be permitted in lieu of freestanding signage on any street frontage limited to one sign per occupancy along any street frontage with public entrance to such occupancy, and shall be limited in area to 2 square feet per each lineal foot of building frontage, except that no sign shall exceed an area of 72 square feet. Projecting signs shall be centered on the building as far as is practicable.

a. A building having multiple commercial tenants shall be permitted to have more than one projecting sign, but total number of projecting signs for the building may not exceed more than one sign for each 25 feet of frontage

B. No such sign shall extend vertically above the highest point of the building façade upon which it is mounted.

C. Such signs shall not extend more than 7 feet from a building or 4 feet from the inner curb line of the nearest street, whichever is less.

D. Such signs shall maintain a clear vertical distance above any public sidewalk a minimum of 8 feet.

Source: Ordinance No. 336, Third Series
Effective Date: 8-7-2014

Subd. 4. Under Canopy Signs.

A. Under canopy signs shall be limited to no more than one such sign per public entrance to any occupancy, and shall be limited to an area not to exceed 8 square feet.

B. Such signs shall maintain a clear vertical distance above the sidewalk or pedestrian way a minimum of 8 feet or be flush with the building.

Subd. 5. Roof Signs.

A. Roof signs shall be permitted in commercial and industrial areas only when specifically designed into the structure at construction or additional engineering is submitted with permit application.

B. Such signs shall be limited to a height above the roofline of the elevation parallel to the sign face of no more than 25 percent of the height of the roofline in a commercial district and 33 percent in an industrial district.

C. The sign area for a roof sign shall be assessed against the aggregate permitted area for wall signs on the elevation of the building most closely parallel to the face of the sign.

Subd. 6. Window Signs. Window signs shall not be permitted for any nonresidential use in a residential district, and shall be permitted for all commercial and industrial districts, subject to the following limitations.

A. The aggregate area of all such signs shall not exceed 25 percent of the window area on which such signs are displayed. Window panels separated by muntins or mullions shall be considered as one continuous window area.

B. Window signs shall not be assessed against the sign area permitted for other sign types.

Subd. 7. Menu Boards. Menu board signs shall not be permitted to exceed 50 square feet.

Subd. 8. Home Occupation. No sign other than one unlighted sign not over 2.5 square feet in area, attached flat against the dwelling and displaying only the occupants name and occupation, shall advertise the presence or conduct of the home occupation.

SEC. 11.19. SIGNS FOR DEVELOPMENT COMPLEXES.

Subd. 1. Master Sign Plan Required. All landlords or single owner controlled multiple-occupancy development complexes on parcels exceeding 8 acres in size, such as shopping centers or planned industrial parks, shall submit to the code official a master plan prior to issuance of new sign permits. The master sign plan shall establish standards and criteria for all signs in the complex that require permits, and shall address, at a minimum, the following:

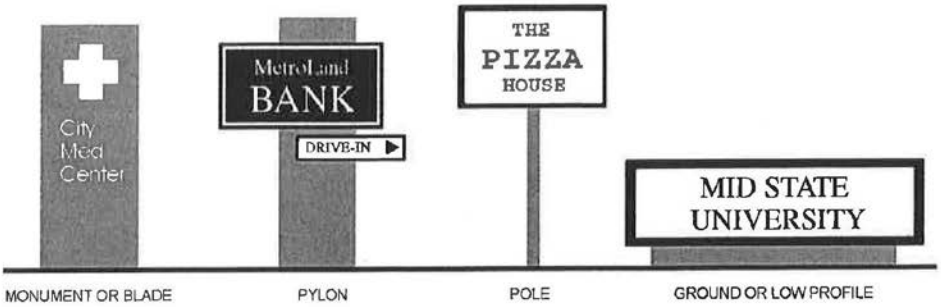
A. Proposed sign locations.
B. Materials.
C. Type of illumination.
D. Design of free-standing sign structures.
E. Size.
F. Quantity.
G. Uniform standards for non business signage, including directional and informational signs.

Subd. 2. Development Complex Sign. In addition to the free-standing business identification signs otherwise allowed by this ordinance, every multiple-occupancy development complex shall be entitled to one free-standing sign per street front, at the maximum size permitted for business identification free-standing signs, to identify the development complex. No business identification shall be permitted on a development complex sign. Any free-standing sign otherwise permitted under this ordinance may identify the name of the development complex.

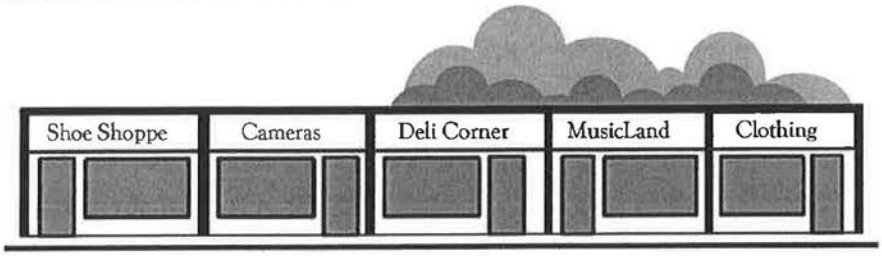
Subd. 3. Compliance With Master Sign Plan. All applications for sign permits for signage within a multiple-occupancy development complex shall comply with the master sign plan.

Subd. 4. Amendment. Any amendments to a master plan must be signed and approved by the owner(s) within the development complex before such amendment will become effective.

(Sign Appendix)



COMMON FREESTANDING SIGN TYPES

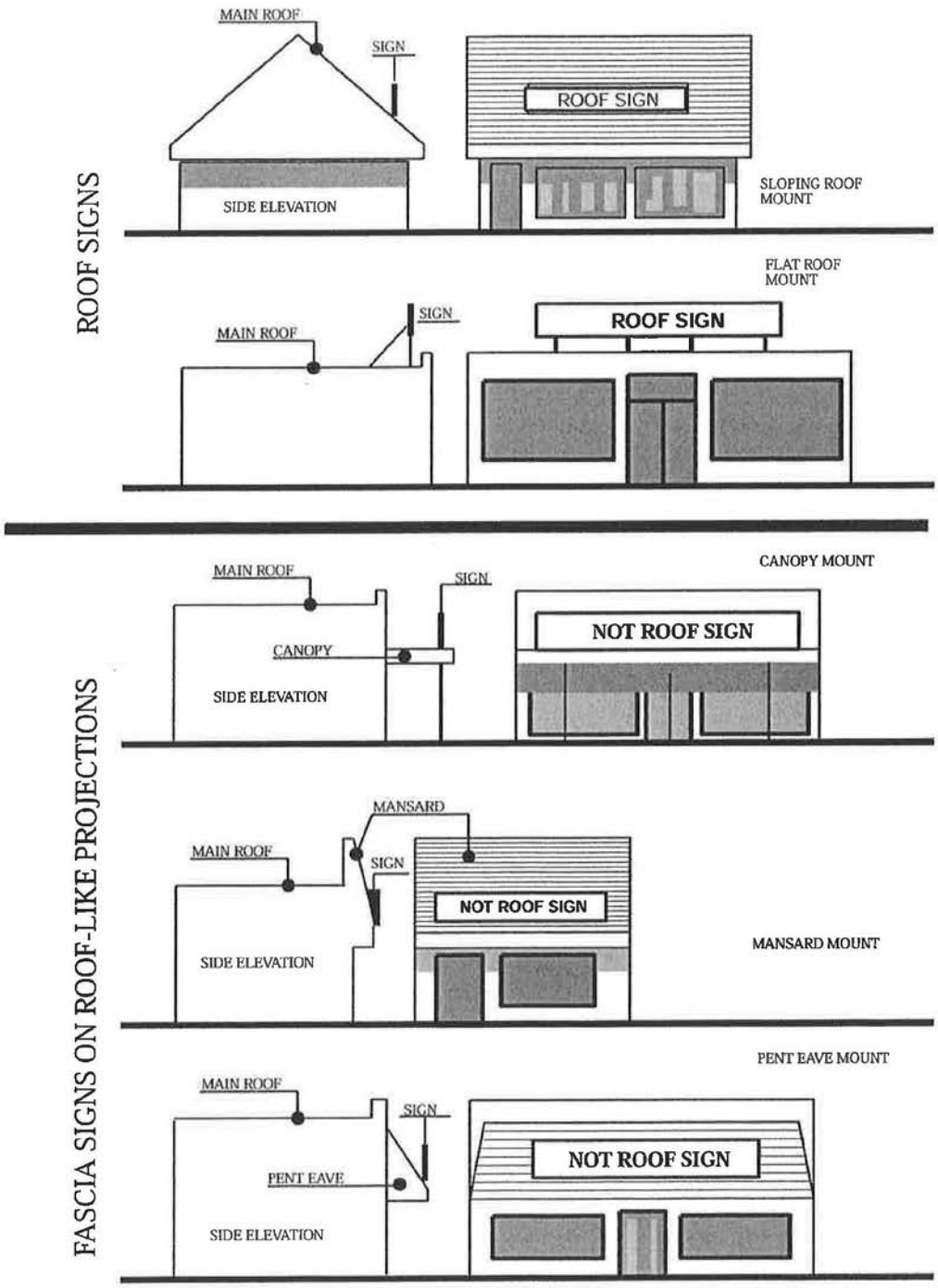


WALL OR FASCIA SIGNS ON STOREFRONTS

ROOF SIGN

CANOPY SIGN
ON FREESTANDING CANOPY

PROJECTING
SIGN


ROOF SIGNS
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FASCIA SIGNS ON ROOF-LIKE PROJECTIONS
CANOPY MOUNT
MAIN ROOF
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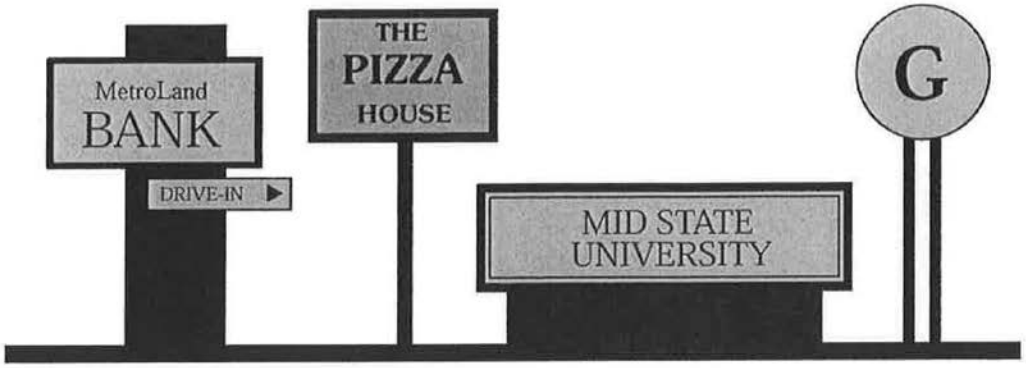
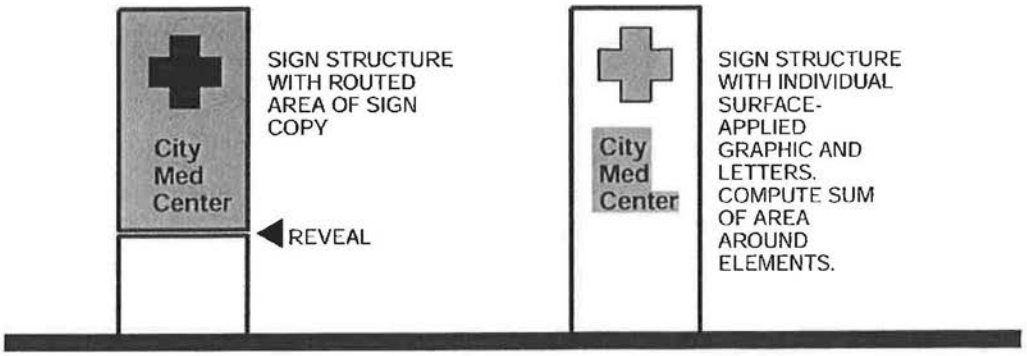


SIGN STRUCTURES



Notes: Sum of shaded areas only represents sign area. Sign constructed with panels or cabinets.

COMPUTE AREA AROUND COPY ELEMENTS ONLY.

COMPUTE AREA INSIDE DEFINED BORDER OR INSIDE CONTRASTING COLOR AREA.

COMPUTE SUM OF AREAS OF INDIVIDUAL ELEMENTS ON WALL OR STRUCTURE.

IN COMPUTING AREA FOR UPPER- AND LOWER-CASE LETTERING, INCLUDE ASCENDERS OR DESCENDERS, BUT NOT BOTH. CALCULATE SUPER ASCENDERS SEPARATELY AS INDICATED.

Notes: Sum of shaded areas only represents sign area for code compliance purposes. Examples of signs consisting of individual letters, elements or logos placed on building walls or structures.

SEC. 11.20. SEWER AND WATER SYSTEMS – EXCAVATIONS.

Subd. 1. Sewer and Water Systems. All sewer and water systems hereafter constructed or maintained shall conform to the provisions of this Subdivision and any other provisions of the City Code or regulations of the City and the State of Minnesota.

A. Sanitary Sewers:

1. Public sanitary sewers shall be installed as required by standards and specifications as established by the Council.

2. Where municipal public sanitary sewer is not available, the Council may by ordinance grant a franchise for such sewers to serve all properties in the area where a complete and adequate community sanitary sewer system and plant are designed, and complete plans for the system and plant are submitted to and approved by the Council and the State Board of Health before construction.

3. Individual sewer systems shall be constructed according to standards and regulations approved by the Council and the State Board of Health.

4. Individual sewer systems shall be located at least 50 feet from any well.

B. Water Systems:

1. Public water facilities, including pipe fittings, hydrants, etc. shall be installed as required by standards and specifications as established by the Council.

2. Where public water facilities are not available, the Council may by ordinance grant a franchise for such water facilities, to serve all properties within the area where a complete and adequate community water distribution system is designed, and complete plans for the system are submitted to and approved by the Council and the State Board of Health.

3. Individual wells shall be constructed according to standards and regulations approved by the Council and the State Board of Health.

4. Individual wells shall be located at least 50 feet from any sewer system.

Subd. 2. Extraction of Materials and Minerals. Open Pits and Impounding of Waters. All excavations, extraction of materials and minerals, open pits and impounding of waters hereafter established or enlarged shall conform to the provisions of the Subdivision and any other provisions of the City Code or regulations of the City.

A. Definition: Excavations, as used in this Subdivision, shall mean any artificial excavation of the earth, within the City, dug, excavated, or made by the removal from the natural surface of the earth of sod, soil, sand, gravel, stone or other matter or made by tunneling or breaking or undermining the surface of the earth. Excavations ancillary to other construction of any installation erected or to be erected, built, or placed thereon contemporaneously with or immediately following such excavation and covering or to cover such excavation when completed are excepted, if a permit has been issued for such construction or installation. Excavations not exceeding 50 square feet of surface area and two feet in depth are accepted.

B. Conditional Use Permit Required. It is unlawful for any person to hereafter dig, excavate, enlarge, make, maintain, or allow to be maintained, upon property owned or used by him, any open pit or excavation of any impounding water,

without first making an application for and obtaining from the Council and the Planning Commission a conditional use permit therefore.

C. Application:

1. Application for such permit shall be made in such form, and the applicant shall furnish such information, as shall be required by the Council and among other things shall state:

(a) Applicant's true name and address.

(b) A full description of the location of the land where the pit or excavation is or is to be or where the impounded waters are or are to be maintained, and also a full description of the location on such land of the pit, excavation or impounded waters.

(c) When required by the State of Minnesota, an approval by the State to impound such waters or to make such excavation as described in the application.

(d) The purpose of the pit or excavation or the quantity of water impounded.

(e) The highways, streets, or other public ways in the City upon and along which any material for removal is to be hauled or carried.

(f) The estimated time when building or removing will begin and be completed.

2. Such application shall be filed with the Zoning Administrator and processed in a manner required of all conditional use permit applications.

D. Filing of Map, Plat. The Council may require a map or plat of the proposed pit or excavation to be made and filed with the application before acting on the same, showing the confines or limits thereof, together with the proposed depth thereof at different parts thereof. A similar map or plat may be required in regard to the proposed container for the impounded water.

E. Conditions of Permit. The Council as a prerequisite to the granting of a permit or after a permit has been granted may require the applicant to whom such permit is issued or the owner or user of the property on which the open pit or excavation or impounded waters are located to:

1. Properly fence any pit or excavation.

2. Slope the banks and otherwise properly guard and keep the pit or excavation in such condition as not to be dangerous from caving or sliding banks.

3. Properly drain, fill or level any pit or excavation, after created, so as to make the same safe and healthful as the Council shall determine.

4. Keep any pit, excavation, or impounded waters within the limits for which the particular permit is granted.

5. Remove excavated material from any pit or excavation, away from the premises, upon and along such highways, streets, or other public ways as the Council shall order and direct.

6. Provide, for the purpose of retaining impounded waters, a container of sufficient strength and durability and maintain such container in safe and proper condition.

F. Bond May Be Required. The Council may require either the applicant or the owner or user of the property on which the open pit or excavation or

impounded waters are located to post a bond, in such form and sum as the Council shall determine, with sufficient surety running to the City, conditioned to pay the City the extraordinary cost and expense of repairing, from time to time, any highways, streets, or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel, in removing materials for any pit, excavation or impounded waters, the amount of such cost and expense to be determined by the City Engineer; and conditioned further to comply with all the requirements of this Subdivision and the particular permit, and to pay any expense the City may incur by reason of doing anything required to be done by any applicant to whom a permit is issued.

Subd. 3. Performance Standards. It is the intent of this Subdivision to provide that conditional uses in all Residence Districts and permitted and conditional uses of land and buildings in all Business and Industry Districts shall be established and maintained with proper appearance from streets and adjoining properties and to provide that each permitted use shall be a good neighbor to adjoining properties by the control of the following:

A. Standards:

1. Landscaping. All required yards shall either be open landscaped and green areas or be left in a natural state. If any yards are to be landscaped, they shall be landscaped attractively with lawn, trees, shrubs, etc. Any areas left in a natural state shall be properly maintained in a sightly and well-kept condition. Yards adjoining any Residence District shall be landscaped with buffer planting screens. Plans of such screens shall be submitted for approval as a part of the site plan and installed prior to issuance of a Certificate of Occupancy for any tract in the District.

2. Noise. Noise shall be measured on any property line of the tract on which the operation is located. Noise shall be muffled so as to not become objectionable due to intermittence, beat frequency, shrillness or intensity.

3. Odors. Odors from any use hereafter begun shall not be discernible at the property line to a greater degree than odors from plants for the manufacture or fabrication of books, textile weaves, electronic equipment, or other plants in which operations do not result in greater degree of odors. Detailed plans for the prevention of odors crossing property lines may be required before the issuance of a building permit.

4. Glare. Glare, whether direct or reflected, such as from floodlight or high temperature processes, and as differentiated from general illumination, shall not be visible beyond any property line.

5. Exterior Lighting. Any lights used for exterior illumination shall direct light away from adjoining properties.

6. Vibration. Vibration shall not be discernible at any property line to the human sense of feeling for three minutes or more duration in any one hour.

7. Smoke. Measurements shall be of the point of emission. The Ringelman Smoke Chart, published by the United State Bureau of Mines, shall be used for the measurement of smoke. Smoke not darker or more opaque than No. 1 on said Chart may be emitted, except that smoke not darker or more opaque than No. 2 on said Chart may be emitted for periods not longer than four minutes in any thirty minutes. These provisions, applicable to visible gray smoke, shall also apply to visible smoke of different color but with an equivalent opacity.

8. Dust. Solid or liquid particles shall not be emitted at any point in concentrations exceeding 0.3 grain per cubic foot of the conveying gas or air. For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of 500 degrees Fahrenheit and 50% excess air.

9. Hazard. Every operation shall be carried on with reasonable precautions against fire and explosion hazards.

B. Compliance: In order to insure compliance with the performance standards set forth above, the Council may require the owner or operator of any Permitted or Conditional Use to have such investigations and tests as may be required to show adherence to the performance standards. Such investigation and tests as are required to be made shall be carried out by an independent testing organization as may be selected by the City.

Subd. 4. Grading and Excavation Regulations. This section is intended to provide the community fair and equitable grading practices and shall not supersede the requirements of any other ordinance or code.

A. Protection of Utilities. Public utilities or services shall be protected from damage caused by grading or excavation operations.

B. Protection of Adjacent Property. Adjacent properties shall be protected from damage by grading operations. No person shall excavate on land sufficiently close to the property line to endanger any adjoining public street, sidewalk, alley or other public or private property, without supporting and protecting such property from damage that might result.

C. Inspection Notice. The code official shall be notified at least 24 hours prior to the start of work.

D. Temporary Erosion Control. Precautionary measures necessary to protect adjacent water courses and public or private property from damage by water erosion, flooding or deposition of mud or debris originating from the site shall be put in effect. Precautionary measures shall include provisions of properly designed sediment control facilities so that other properties are not affected by erosion from run off.

E. Traffic Control and Protection of Streets. Flaggers, signs, barricades and other safety devices to ensure adequate safety when working in or near public streets shall be provided. All work on public ways and streets shall be approved by the city street department prior to commencing work.

F. Hazard from Existing Grading. Whenever any existing excavation, embankment or fill has become a hazard to life or limb, endangers structures, or adversely affects the safety, use stability of a public way or drainage area, such excavation, embankment or fill shall be eliminated.

G. Tracking of Dirt Onto Public Streets. Adequate cleaning of equipment to prevent the tracking of dirt and debris onto public streets shall be provided.

H. Maintenance of Waterways and Drainage Areas. Precautionary measures to protect and maintain the flow of waterways and drainage areas shall be taken.

I. Revegetation. The loss of trees, ground cover, and topsoil shall be minimized on any grading project. In addition to mechanical methods of erosion control, graded areas shall be protected to the extent practical from damage by erosion by planting grass or ground cover plants and/or trees. Such plantings shall provide for

rapid, short-term coverage of the slopes as well as long-term permanent coverage. A plan by a registered design professional shall be provided where required by the code official.

J. Design Standards. The grading design standards required shall be those found in nationally recognized standards.

Subd. 5. Additional Requirements, Exceptions and Modifications.

A. Height Regulations:

1. Where the average slope of a lot is greater than one foot rise or fall in seven feet of horizontal distance from the established street elevation at the property line, one story in addition to the number permitted in the District in which the lot is situated shall be permitted on the down-hill side of any building.

2. Height limitations set forth elsewhere in this Chapter may be increased by 100% when applied to the following:

(a) Monuments.
(b) Flag poles.
(c) Cooling towers.
(d) Grain elevators.

3. Height limitations set forth elsewhere in this Chapter shall have no limitations when applied to the following:

(a) Church spires, belfries or domes which do not contain usable space.
(b) Water towers.
(c) Chimneys or smokestacks.
(d) Radio or television transmitting towers.

B. Yard Regulations: Measurements shall be taken from the nearest point of the wall of a building to the lot line in question, subject to the following qualifications:

1. Cornices, canopies, or eaves may extend into the required front yard a distance not exceeding four feet, six inches.

2. Fire escapes may extend into the required front yard a distance not exceeding four feet, six inches.

3. A landing place or uncovered porch may extend into the required front yard to a distance not exceeding six feet, if the landing place or porch has its floor no higher than the entrance floor of the building. An open railing no higher than three feet, six inches may be placed around such place.

4. The above enumerated architectural features may also extend into any side or rear yard to the same extent, except that no porch, terrace or outside stairway shall project into the required side yard distance.

C. Yard Landscaping. In all Business Districts and in all Industry Districts, all required yards shall be either open landscaped and green areas or be left in a natural state, except as provided by Subdivision 1, Subparagraph D of this Section. If any yards are to be landscaped, they shall be landscaped attractively with lawn, trees, shrubs, etc. Any areas left in a natural state shall be properly maintained in a sightly and well-kept condition. Yards adjoining any of the Residence Districts shall be landscaped with planting buffer screens. Plans for such screens shall be submitted as a part of the application for building permit and installed as a part of the initial construction.

D. Storage of Materials. In all Residential and Business Districts, open storage or display of materials in any required front, side, or rear yard shall be prohibited. Any other storage shall be located or screened so as not to be visible.

E. Area Regulations:

1. No part of a yard, or other open space, or off-street parking or loading space required for or in connection with any building for the purposes of complying with this Chapter shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building, unless specifically allowed under other provisions of this Chapter.

2. No yard, lot, or parcel, or combination thereof which are adjacent to each other so as to form one lot with continuous frontage and in the same or similar ownership exercising common control over the entire parcel as a single unit shall, at any time after the effective date of this ordinance, be reduced in size or area below the minimum requirements set forth in this Chapter. Yards or lots created hereafter must meet at least the minimum size and area requirements required by the City Code.

3. Lots of Record. In any district where residential dwellings are permitted, a one (1) family detached dwelling may be erected on any lot of official record at the effective date of this ordinance irrespective of its area or width, provided that a remaining portion of any adjacent lot of official record is not under the same or similar ownership exercising common control over the entire parcel as a single unit and, further, that all other applicable yard and open space requirements, and setbacks are satisfied or a variance obtained.

F. Accessory Uses: The following accessory uses, in addition to those herein before specified, shall be permitted in any Residential District, if the accessory uses do not alter the character of the premises in respect to their use for the purposes permitted in the District:

1. The operation of necessary facilities and the equipment in connection with schools, colleges, universities, hospitals, and other institutions permitted in the District.

2. Recreation, refreshment, and service buildings in public parks and playgrounds.

3. Fallout shelters.

G. Accessory buildings shall occupy the same lot as the main use or building.

1. Separation from Main Building. All accessory buildings shall be separated from the main building by 10 feet.

2. Private Garages. An accessory building used as a private garage shall be permitted to be located in the rear yard or side yard provided that setbacks are maintained and the structures do not encroach on recorded easements. In all residential zones garages and accessory building shall not exceed the finished square footage of living space with a cumulative square footage maximum of 1200 square feet.

3. Storage Buildings. All detached accessory buildings used for storage or other similar uses shall be permitted to be located in any portion of the rear yard. No storage building shall be located in the side or front yard. All storage buildings shall be located no closer than 3 feet from the property line, 10 feet from any other building or exceed 12 feet in height. Exception: garages shall be allowed to exceed the height requirement when constructed in a similar/consistent style with the house. Any

storage building over 120 square feet shall be considered a garage and must meet all state building code requirements and require and building permit.

4. Attachment to Other Building. In case any accessory building is attached to the principal or main building, it shall be made structurally a part of the principal or main building and shall comply in all respects with the requirements of this Chapter applicable to the principal or main building and the building code.

5. Required Main Structure. In all residential zones no accessory structure shall exist without a primary dwelling unit on the same parcel or lot.

H. Placement and Screening of Microwave Dishes in all Zoning Districts:

1. The purpose of this Section is to regulate microwave receiving dishes within all Zoning Districts so as to minimize their visual impact.

2. The provisions of this section shall not apply to microwave receiving dishes having a diameter of one (1) meter (39.4 inches) or less.

3. Any microwave receiving dish shall be screened by sight-obscuring fences and/or dense landscape buffers.

4. Location on any roof is prohibited.

5. Satellite and/or antenna dishes shall not be located in any front yard setback or side yard setback.

6. The maximum height from grade level to the highest point of the receiving dish shall be fifteen (15) feet.

7. A zoning permit shall be required for the installation of any dish or antenna. Zoning permit applications shall require the submission of a site plan and structural components.

8. Each dish or antenna shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code.

9. Dish and antenna electrical equipment and connections shall be designed and installed in adherence with the National Electrical Code.

I. Screening of Microwave Dishes In Any District.

1. Any ground mounted microwave receiving dish located in any district except for an Industrial District shall be screened by dense landscape buffers.

2. Ground mounted dishes and antennas shall be set back from all adjoining lots a distance equivalent to the height of the dish or antenna. Ground mounted dishes and antennas shall be located ten (10) feet or more from any other building or structure on the same lot and shall not be located within a utility easement. Location shall not adversely obstruct views from an adjacent property.

SEC. 11.21. FENCES.

Subd. 1. All fence installations shall be processed with a fence permit application. No inspection will be required, fees, if any will be set by resolution. The application shall contain:

A. Site plan, including lot dimensions, with structure locations (including setbacks).

B. Location of proposed fence with heights.

C. Description of materials used for fence.

Subd. 2. No fence shall exceed six feet in height, from the front of the house to the back lot lines, and along the back lot line. No fence shall exceed four feet in height from the front of the house to the front lot line, along front lot line. Fences erected or other obstructions on corner lots must maintain a 25 foot (from corner pin location) and along the street side, a clear view triangle. *see 11.16, 3 (a). No fence or other obstructions shall exceed three feet in height in the “clear view area”. It shall be the responsibility of the property owner of a fence to provide access for reading meters by means of an unlocked gate or relocation of the meters or reading devices to an accessible location. (Property owners’ expense).

Subd. 3. The City of Luverne does not dictate which side of the fence must be “finished”. No fences shall be constructed of light-weight materials such as chicken coop wire, barbed wire, or bamboo. Not withstanding the preceding sentence, chicken coop wire may be used for vegetable gardens located within the perimeter of rear or side yards. Products manufactured for other uses such as plywood, corrugated steel, or fiberglass panels are prohibited as allowed fencing materials.

Subd. 4. The property owner is responsible for locating property lines. Property pins may be located at each corner and should be located before a fence is erected. Property dimensions and street right-of-ways may be obtained from the code official. The owner may also hire a surveyor to locate the property lines, and this is recommended if the location is in dispute. The City of Luverne does not survey properties, or represent a guarantee of lot dimensions or corner locations. Fences must not encroach on adjacent properties. Maintenance of both sides of the fence (painting, mowing, etc.) should be considered when determining placement. It is the responsibility of the fence owner to maintain the fence.

Subd. 5. The City of Luverne does not settle property line disputes between neighbors, including, but not limited to disputes over placement of fences, hedges and trees.

Subd. 6. The City does enforce proper setbacks, as required in other sections of this code. Fences may be placed in easement areas only with approval of the City Public Utilities Departments.

SEC. 11.22. CONDITIONAL USE PERMITS.

Subd. 1. Application.

A. Conditional Use Permits may be issued for any and only the uses or purposes for which such permits are required or permitted by provisions of this Chapter.

B. Applications: An application for a Conditional Use Permit shall be filed with the Zoning Administrator on a form prescribed by the Council. The application shall be accompanied by such plans and elevations and site plans as prescribed by the Planning Commission. The Planning and Zoning Commission shall act on any application and substantiating data within 60 days after receipt of same.

Subd. 2. Public Hearing. Upon receipt in proper form of the application and other required material, the Planning Commission shall hold at least one public hearing in a location to be prescribed by the Planning Commission. At least ten (10) days in advance of each hearing, notice of the time and place of such hearing shall be published in the official paper of the City. All property owners within 200 feet of the property for which a Conditional Use application has been filed shall be notified by U.S. mail as to the time and place of the public hearing. The applicant shall provide an abstract of all property owners within 200 feet.

Subd. 3. Report to Council. For each application for a Conditional Use Permit, the Planning Commission shall report (within 30 days) to the Council its findings and recommendations, including the stipulation of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest. Upon receipt of the report of the Planning Commission, the Council shall hold whatever public hearings it deems advisable and shall make a decision upon the proposal to grant or deny a Conditional Use Permit. The applicant shall be notified in writing within 30 days of the Council's decision to either grant or deny the Conditional Use Permit.

Subd. 4. Findings. No Conditional Use shall be recommended by the Planning Commission unless said Commission shall find:

A. That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity;

B. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area;

C. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided;

D. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use;

E. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Subd. 5. Fees. To defray administrative costs of processing requests for Conditional Use Permits, a fee shall be paid by the applicant. Such fee shall be established by the Council**.**

Subd. 6. Compliance. Any use permitted under the terms of any Conditional Use Permit shall be established and conducted in conformity with the terms of such permit and of any conditions designated in connection therewith.

Subd. 7. Conditional Use Expiration. Unless otherwise specified by the Council at the time it is authorized, a Conditional Use Permit shall expire if the applicant fails to utilize such Conditional Use Permit within one year from the date of its authorization.

SEC. 11.23. NON-CONFORMING LOTS, LAND USES AND STRUCTURES.

Subd. 1. Intent.

A. Within the Districts as originally established by this Chapter or amendments thereto or other prior zoning regulations of the City, there exist lots, structures, and uses of land and structures which were lawful before previous zoning regulations or this Chapter were adopted or amended, but which would be prohibited under the terms of these ordinances and amendments thereto.

B. It is the intent of this Chapter to permit these nonconformities to continue as provided hereinafter, but not to encourage their survival. Such uses are declared to be incompatible with permitted uses in the districts involved. It is further the intent of this Chapter that nonconformities shall not be enlarged upon, expanded, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same District.

C. A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of a structure and land shall not be extended or enlarged after adoption of any ordinance finding such use to be non-conforming by attachment of additional signs to a building, or the placement of additional signs or display devices on the land outside the building, or by the addition of other structures or uses, if such additions are of a nature which would be prohibited generally in the District involved.

D. To avoid undue hardship, nothing in this section shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment to this Chapter and upon which actual building construction has been diligently pursued. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastening in a permanent manner, and demolition, elimination and removal of an existing structure in connection with such construction, provided that actual construction work shall be diligently pursued until the completion of the building involved and a building permit is continuously in force and effect for such construction.

Subd. 2. Non-Conforming Lots of Record.

A. In any District in which single family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Chapter, a single family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Chapter which said original provision herein or amendment thereto would have prohibited such dwelling or accessory building construction. Such lot must be in separate ownership and not of continuous frontage with other lots or parcels in the same or similar ownership exercising common control over the entire parcel as a single unit. This provision shall apply even though such lot fails to meet the requirements for total lot area, width, or depth that are generally applicable in the district, provided that yard dimensions, setbacks, and other requirements not involving total lot area, width, or depth of lots shall conform to the regulations for the District in which said lot is located unless a variance is obtained for said requirements.

B. If two (2) or more lots or combination of lots and portions of lots or parcels, or portions thereof, with continuous frontage are in the same or similar

ownership exercising common control of the entire parcel as a single unit at any time after the effective date of this ordinance, and the lots or parcels together do not meet the requirements for lot width, depth, and total lot area as established in this Chapter, the lands involved shall be considered to be a non-divisible parcel for the purposes of this Chapter, and no portion of said parcel shall be used or sold which does not meet lot width, depth, and total lot area requirements established by this Chapter unless all or a portion of said land is sold or combined with adjoining other parcels so as to meet or exceed said requirements. No division of any parcel of land may be made which leaves any remaining portion of the land with a width, depth, or total lot area below the requirements stated in this Chapter unless a variance is obtained.

Subd. 3. Non-Conforming Uses of Land. Where, at the original effective date of this Chapter or amendment thereto, or other prior zoning regulations of the City, wherein the lawful use of land existed prior to the adoption thereof and that under the provisions thereof, such use was no longer permissible under the terms thereof as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

A. No such non-conforming use of land shall be enlarged, increased, or extended to occupy a greater area of land than was occupied on the effective date of the ordinance making such use non-conforming.

B. No such non-conforming use of land shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of the ordinance making such use non-conforming.

C. If any such non-conforming use of land ceases for any reason for a period of more than ninety (90) days, any subsequent use of such land shall conform to the regulations specified in this Chapter for the District in which such land is located.

D. A non-conforming use of land shall not be changed to another non-conforming use of land. When any non-conforming use of land has been changed to a conforming use of land, it shall not thereafter be changed to any non-conforming use.

E. A non-conforming use of land may be changed to lessen the nonconformity of that use of land. Thereafter the use of the land may not be altered so as to increase the nonconformity.

Subd. 4. Non-Conforming Use of Structures.

A. The lawful use of a structure existing at the original effective date of this Chapter, or amendments thereto, or other prior zoning regulations which, under the provisions of such ordinances or regulations do not conform to the provisions therein, shall be discontinued within a reasonable period of amortization of the structure thereafter. A reasonable period of amortization shall begin after the date of the adoption of said ordinance or regulation finding it to be non-conforming and shall be considered to be forty (40) years for buildings of ordinary wood construction, fifty (50) years for buildings of wood and masonry construction, and sixty (60) years for buildings of fireproof type construction. The reasonable period of amortization for other structures shall be ten (10) years.

B. No structure which contains a non-conforming use may be enlarged, extended, converted, reconstructed, or structurally altered unless the use of the structure is changed to one permitted within the district in which such building is located and the non-conforming use thereof shall not thereafter be resumed.

C. No structure containing a non-conforming use destroyed by any peril or means to an extent where the cost to repair such damage to the structure equals or exceeds the most current assessor's market value prior to the time of said damage shall be reconstructed or repaired except in conformity with the provisions of this Chapter.

D. Should such structure containing a non-conforming use be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

E. When a structure containing a non-conforming use, or such use and premises in combination, is discontinued or abandoned for six (6) consecutive months or any eighteen (18) months during any three year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the District in which it is located.

F. Whenever a structure containing a non-conforming use, or such use and premises in combination, loses its right to lawful use under the provisions of this subdivision, the Council may at any time thereafter require the use of such structure to conform to the regulations of the district in which it is located or its removal and destruction. Failure on the part of the Council to make such requirement within any period of time after its use becomes unlawful shall not abrogate its right to do so at any future time.

G. On any structure devoted in whole or in part to any non-conforming use, work may be done in any twelve (12) consecutive month period on ordinary repairs and maintenance to non-bearing non-structural walls, fixtures, wiring, or plumbing, to an extent not exceeding ten (10) percent of the most current assessed market value of the structure, provided that the cubical and habitable space content of the building as it existed at the time it became non-conforming shall not be increased.

H. Nothing in this subdivision shall be construed so as to prevent the restoring of a structure containing a non-conforming use to a safe condition when said structure is declared to be hazardous or unsafe by an authorized government official unless the cost of said restoration equals or exceeds the most current assessor's market value of the structure or a conditional use permit is obtained. Such restoration shall not extend the non-conforming use of a structure in any manner, except as reasonably required to eliminate the hazardous or unsafe condition, nor shall the amortization period for its existence be extended. Non-structural and minor alterations may be made to any residential structure containing non-conforming residential dwelling units when the same will improve the liveability of such units provided that it does not increase the number of dwelling units in the structure. Any non-conforming use of a structure, or non-conforming use of a structure and premises combination, to which its non-conformance relates solely to flood plain regulations may, if permitted by said regulations, alter said structure for purposes of substantially reducing potential flood damages to the entire structure. In no event shall any repair or maintenance or other alteration to a non-conforming use of a structure be allowed which would extend or intensify the non-conforming use of said structure.

Subd. 5. Non-Conforming Structures.

A. Well maintained non-conforming structures which contain conforming uses may be maintained, altered, enlarged and rebuilt provided the altered structure is no less conforming than before the alteration.

SEC. 11.24. VARIANCES AND APPEALS.

Subd. 1. Application. Any person aggrieved by any order or decision of the Building/Zoning Administrator or other City staff enforcing the provisions of this Chapter or desiring a variance from the literal provisions of this Chapter, except those which relate to the use of a property other than the temporary use of a one-family dwelling as a two-family dwelling, may apply therefore and have the matter heard by the Board of Appeals and Adjustments in accordance with the provisions of Minnesota law and the City Code.

Subd. 2. Procedure.

A. Application for any variance or appeal permissible under the provisions of this section shall be made to the Board of Appeals and Adjustments in the form of a written application on such forms as required by the City. Upon receipt of any application, the Board of Appeals and Adjustments shall set a time and place for a public hearing before the Board on such application. At least ten (10) days before the date of the hearing, a notice of the hearing shall be published once in the official newspaper.

B. The Board of Appeals and Adjustments shall thereupon make its decision upon the application within thirty (30) days of the public hearing, unless the Board specifically finds that additional time is needed to make its decision, but in any event the decision must be made within sixty (60) days of the public hearing.

Subd. 3. Conditions for a Variance.

A. A variance shall be permitted only if it is established that it is in keeping with the spirit and intent of the general purpose of this Chapter and that the strict enforcement of the provisions of this Chapter would cause an undue hardship because of the circumstances unique to the individual property under consideration. In its consideration of the standards of practical difficulties or particular hardship and unique situation, the Board of Zoning Appeals and Adjustments shall require the presentation of evidence that:

1. The property in question cannot be put to a reasonable use if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located;

2. The plight of the landowner is due to circumstances unique to the property that are not normally applicable to landholdings within the same District and that were not created by the landowner; and,

3. The variance, if granted, will not alter the essential character of the neighborhood and locality. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of this Chapter. Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. Special consideration shall be given for earth sheltered construction as defined in Minnesota Statutes, Section 116J.06, Subd. 2, when such construction is in harmony with the provisions of this Chapter.

B. A variance shall be granted only if the evidence, in the judgment of the Board of Appeals and Adjustments, sustains the conditions enumerated in subparagraph A above. Variances from the provisions of this Chapter shall be granted

by the Board of Appeals and Adjustments only in accordance with the provisions of this section.

C. Specific conditions and safeguards may be imposed upon the premises benefited by the variance as considered necessary to prevent injurious effects upon other property in the neighborhood or upon public facilities and services. Violations of such conditions and safeguards shall constitute a violation of this Chapter.

D. No variance permitting the erection or alteration of a building shall be valid for a period longer than one year unless a building permit for such erection or alteration is issued and construction is actually begun within that period and is thereafter diligently pursued to completion.

SEC. 11.25. AMENDMENT.

Subd. 1. Application.

A. This Chapter may be amended whenever the public necessity and the general welfare require such amendment by following the procedure specified in this Section.

B. Proceedings for amendment of this Chapter shall be initiated by:

1. A petition of the owner or owners of the actual property;
2. A recommendation of the Planning Commission; or
3. By action of the Council.

C. An application for an amendment shall be filed with the Zoning Administrator. All applications for changes in the boundaries of any zoning district which are initiated by the petition of the owner or owners of property, the zoning of which is proposed to be changed, shall be accompanied by a map or plat showing the lands proposed to be changed and all lands within 350 feet of the boundaries of the property proposed to be rezoned, together with the names and addresses of the owners of the lands in such area as the same appears on the records of the County Treasurer.

Subd. 2. Public Hearing. Upon receipt in proper form of the application and other requested material, if required, the Planning Commission shall in all cases hold at least one public hearing in a location to be prescribed by the Planning Commission. At least ten (10) days in advance of such hearing, notice of the time, place, and purpose of such hearing shall be given in accordance with Minnesota Statutes 462.357, Subd. 3 or other applicable law.

Subd. 3. Authorization.

A. Following the public hearing, the Planning Commission shall make a report of its findings and recommendations on the proposed amendment and shall file a copy with the Council and the Zoning Administrator within sixty (60) days after the hearing. If no report or recommendation is transmitted by the Planning Commission within sixty (60) days after the hearing, the Council may take action without awaiting such recommendation.

B. Upon the filing of such report or recommendation, the Council may hold such public hearings upon the amendment as it deems advisable. After the conclusion of the hearings, if any, the 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 (2/3) of all the members of the Council concur in its passage.

Subd. 4. Fees. To defray the administrative costs of processing of requests for an amendment to this Chapter, a fee shall be paid by the petitioner. Such fee shall be determined by the Council.

SEC. 11.26. ZONING MAP. The location and boundaries of the districts established by this Chapter are hereby set forth on the Zoning Map, and said Map is hereby made a part of this Chapter. Said Map shall be known as the "City of Luverne Zoning Map". Said Map and all notations, references and date shown thereon are hereby incorporated by reference into this Chapter and shall be made a part of it as if all were fully described herein. It shall be the responsibility of the Code Enforcement Official to maintain said Map, and amendments thereto shall be recorded in said Zoning Map within (30) thirty days after official publication of amendments. The official Zoning Map shall be kept on file in the City Hall.

SEC. 11.27. DISTRICT BOUNDRIES. The boundaries between districts are, unless otherwise indicated, the center lines of streets, alleys or railroads rights-of-ways or such lines extended or lines parallel or perpendicular thereto; or plot or lot lines; or fractional section lines of the United States public land surveys, as established by law. 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 center line at a distance there from equivalent to the number of feet so indicated, unless otherwise indicated.

Source: Ordinance No. 272, Third Series
Effective Date: 3-10-05

SEC. 11.28. ANNEXATION. Any land annexed in the future into the City limits shall be placed in the R-A Residential-Agricultural District, until placed in another district by action of the Council after recommendation of the Planning Commission unless otherwise specified in an annexation agreement and/or ordinance.

Source: Ordinance No. 312, Third Series
Effective Date: 12-10-09

SEC. 11.29 MORATORIUM PROHIBITING THE GRANTING OF ZONING (CUP/VARIANCE) APPROVAL, REZONING, PUD APPROVAL, BUILDING PERMITS, OR SIGN PERMITS FOR RETAIL ESTABLISHMENTS SELLING TOBACCO, TOBACCO PRODUCTS, TOBACCO RELATED DEVICES, CONTROLLED SUBSTANCES, DRUGS, OR DRUG PARAPHERNALIA.

SEC. 1. Statement of Policy. The City Council finds that the City is presently faced with the potential of applications for rezoning, zoning (CUP/Variance), PUD approvals, Building Permits or Sign Permits for property within the Moratorium Area as defined in Section 2 as they apply to regulation of Retail Establishments which sell Tobacco, Tobacco Products, Tobacco Related Devices, Controlled Substances, Drugs or Drug Paraphernalia.

It appears to the Council that the consequences of allowing such applications to be approved may be undesirable because the current ordinances may not be consistent with the City's zoning and development goals. The Council, therefore, finds that it is necessary to study the impact of development under current ordinances to determine whether they fulfill the underlying purposes of the City's land use and zoning provisions as they apply to regulation of Retail Establishments which sell Tobacco, Tobacco Products, Tobacco Related Devices, Controlled Substances, Drugs or Drug Paraphernalia, and to protect the health, safety and welfare of Luverne Citizens.

The Council further finds that if, as a result of the study, the land use controls and zoning provisions contained in the City code need to be revised, such revision is a process that cannot be accomplished until a study has been completed and a hearing held. During this period, it is desirable that the Council establish guidelines for the benefit of those who wish to develop property in order to bring about savings of public and private expenditures, to provide the public guides to future City action, and to protect the health, safety and welfare of Luverne Citizens. Since enactment of an amendment to the City Code would undoubtedly modify existing regulations concerning permitted land use and zoning performance standards, zoning (CUP/Variance) applications, rezoning applications, PUD applications, building permits or sign permits for property within the Moratorium Area would be contrary to the purpose of the zoning enabling act, Minnesota Statutes Section 462.351, et seq. The Council further finds that it would be unwise, improper and unjust to allow individual development to occur during this study.

The Council further finds that the Rock County Board of Commissioners is considering changes to the Rock County Tobacco Ordinance, and Rock County has decided not to issue new licenses to sell any tobacco, tobacco products or tobacco-related devices.

The Council further finds that many persons under the age of 18 years purchase or otherwise obtain, possess, and use tobacco, tobacco products, and tobacco related devices, and such sales, possession and use are violations of both State and Federal laws; and because studies, which are hereby accepted and adopted (i.e. CDC, Minnesota Department of Health/ASSIST) have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who have reached the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this ordinance shall be intended to further study the sale, possession, and use of tobacco, tobacco products, and tobacco related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, and tobacco related devices, and to further the official public policy of the State of Minnesota in regard to preventing young people from starting to smoke as stated in Minn. Stat., sections 461.12 to 461.18. In making these findings, the City Council accepts the conclusions and recommendations of the Center for Disease Control in their study "Selected Cigarette Smoking Initiation and Quitting Behaviors Among High School Students, Unties States, 1997," and of the following medical professionals in these medical journals: Khuder Sa, et al., "Age of Smoking Onset and its Effect on Smoking Cessation," *Addictive Behavior* 24(5):673-7, September-October 1999; D'Avanzo B, et al., "Age at Starting Smoking and Number of Cigarettes Smoked," *Annals of Epidemiology* 4(6):455-59, November 1994; Chen, J & Millar, WJ, "Age of Smoking Initiation: Implications for Quitting," *Health Reports* 9(4):39-46, Spring

1998; Everett SA, et al., “Initiation of Cigarette Smoking and Subsequent Smoking Behavior Among U.S. High School Students,” *Preventive Medicine*, 29(5):327-33.

SEC. 2. Definitions and Interpretations. Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural, and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice-versa. The term “shall” means mandatory and the term “may” means permissive. The following terms shall have the definitions given them:

Subd. 1 Compliance Checks. “Compliance Checks” shall mean the system the county uses to investigate and ensure that those authorized to sell tobacco, tobacco products, and tobacco related devices are following and complying with the requirements of the Rock County Tobacco Ordinance. Compliance checks shall involve the use of minors as authorized by the Rock County Tobacco Ordinance. Compliance checks shall also mean the use of minors, who attempt to purchase tobacco, tobacco products, or tobacco related devices for educational, research and training purposes as authorized by State and Federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate Federal, State or local laws and regulations relating to tobacco, tobacco products, and tobacco related devices.

Subd. 2 Controlled Substance. “Controlled substance” shall mean a drug, substance or immediate precursor in Schedules I through V of section 152.02, as it may from time to time be amended. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.

Subd. 3 Drug. The term “drug” shall mean all medicines and preparations recognized in the United States Pharmacopoeia or National Formulary and any substance or mixture of substances intended to be used for the cure, mitigation, or prevention of disease of either humans or other animals.

Subd. 4 Drug Paraphernalia. The term “Drug Paraphernalia” shall have the meaning set forth in Minnesota Statute §152.01, as it may be amended from time to time, to wit: (a) Except as otherwise provided in paragraph (b), “drug paraphernalia” means all equipment, products, and materials of any kind, except those items used in conjunction with permitted uses of controlled substances under this chapter or the Uniform Controlled Substances Act, which are knowingly or intentionally used primarily in (1) manufacturing a controlled substance, (2) injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, (3) testing the strength, effectiveness, or purity of a controlled substance, or (4) enhancing the effect of a controlled substance.
(b) “Drug paraphernalia” does not include the possession, manufacture, delivery, or sale of hypodermic needles or syringes in accordance with section 151.40, subdivision 2.

Subd. 5 Individually packaged. “Individually packaged” shall mean the practice of selling any tobacco or tobacco product wrapped individually for sale.

Individually wrapped tobacco or tobacco products shall include but not be limited to single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco.

Subd. 6 Loosies. "Loosies" shall mean the common term used to refer to a single or individually packaged cigarette.

Subd. 7 Minor. "Minor" shall mean any natural person who has not yet reached the age of eighteen (18) years.

Subd. 8. Moratorium Area. "Moratorium Area" shall mean the following zoning districts in the City of Luverne:

H-C Highway Commercial
C-C Community Commercial
N-C Neighborhood Commercial
C-R Commercial Reserve
Downtown
I-1 Limited Industrial
I-2 Special Industrial
P Public District

Subd. 9. Moveable Place of Business. "Moveable Place of Business" shall refer to any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

Subd. 10. Retail Establishment. "Retail Establishment" shall mean any place of business where tobacco, tobacco products, or tobacco related devices are available for sale to the general public. Retail establishments shall include, but not be limited to, roll-your-own tobacco businesses, smoke shops, grocery stores, convenience stores, and restaurants.

Subd. 11. Sale. A "sale" shall mean any transfer of goods for money, trade, barter, or other consideration.

Subd. 12. Self-service Merchandising. "Self-service Merchandising" shall mean open displays of tobacco, tobacco products, or tobacco related devices in a manner where any person shall have access to the tobacco, tobacco products, or tobacco related devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, or tobacco related device between the customer and the licensee or employee. Self-service merchandising shall not include vending machines.

Subd. 13. Tobacco or Tobacco Products. "Tobacco" or "Tobacco products" shall mean cigarettes and any products containing, made, or derived from tobacco that are intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component,

part, or accessory of a tobacco product, including, but not limited to, cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff, snuff flour, Cavendish; plug and twist tobacco; fine cut and other chewing tobacco; shorts; refuse scraps, clippings, cutting and sweepings of tobacco, and other kinds and forms of tobacco. Tobacco and tobacco products excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

Subd. 14. Tobacco Related Devices. "Tobacco related devices" shall mean any tobacco product as well as a pipe, rolling papers, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, or smoking of tobacco or tobacco products.

Subd. 15. Vending Machine. "Vending Machine" shall mean any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, or tobacco related devices upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product, or tobacco related device.

Subd. 16. Diversion Program. "Diversion Program" shall mean an alternative to court for juveniles involved in illegal use of tobacco products.

Subd. 17. Smoking. "Smoking" shall mean inhaling or exhaling smoke from any lighted cigar, cigarette, pipe, or any other lighted tobacco or plant product. Smoking also includes carrying a lighted cigar, cigarette, pipe, or any other lighted tobacco or plant product intended for inhalation. See Minn. Stat. §114.413, subd. 4.

SEC. 3. Study. The City Council hereby requires its City Administrator and Staff to initiate a study regarding the impact of the sale of Tobacco, Tobacco Products, Tobacco Related Devices, Drugs, Drug Paraphernalia, or Controlled Substances, within the Moratorium Area under current ordinances to determine whether they fulfill the underlying purposes of the City's land use and zoning provisions, and to protect the health, safety and welfare of Luverne Citizens, regarding the implications of the potential need for amendments to the City Code to implement the results of that study.

SEC. 4. Restrictions on the Granting of Zoning (CUP/Variance) Approval, Rezoning, PUD Approvals and Issuance of Building Permits or Sign Permits. No Zoning (CUP/Variance) approval, Rezoning, or PUD approval, and Issuance of Building Permits or Sign Permits , shall be given by the Council and/or staff for any property within the Moratorium Area for any Retail Establishment which will sell Tobacco, Tobacco Products, Tobacco Related Devices, Drugs, Drug Paraphernalia, or Controlled Substances.

SEC. 5. Duration. This Ordinance shall expire twelve (12) months after the passage of this Ordinance by the City Council, without Council action, or it may be repealed earlier if the Council determines that the requisite studies have been completed and adopted and that appropriate evaluation and action, including any necessary

revisions of the zoning code, and/or other provisions of the City Code, have been finalized. The duration of this Ordinance may be extended by the adoption of a subsequent Ordinance for a total time period not to exceed the statutory limits in Minn. Stat. 462.355, subdivision 4.

SEC. 6. Variances. The Council may grant a variance to this Ordinance if the Council finds after careful review of all the facts that a proposal is not contrary to the intent of the Comprehensive Plan, that it is compatible with the zoning and official control amendments being considered by the City, that it does not adversely impact the health, safety or welfare of the citizens and that it otherwise meets the requirements of the Luverne City Code, state law and federal law.

SEC. 7. Separability. Every section, provision, or part of this Ordinance is declared separable from every other section, provision or part; and if any section, provision, or part thereof or action taken hereunder shall be held invalid, it shall not affect any other section, provision, or part.

Source: Ordinance No. 325, Third Series
Effective Date: 4-12-2012

(Sections 11.30 – 11.98, inclusive, reserved for future expansion)

SEC. 11.99. 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, 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 follows:

Subd. 1. Where the specific section, subdivision, paragraph, or provision specifically makes violation a misdemeanor, the violator 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, the violator shall be punished as for a misdemeanor.

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

Subd. 3. 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.

Source: Ordinance No. 272, Third Series
Effective Date: 3-10-05

387 – 399 Reserved

CHAPTER 12: SUBDIVISION REGULATIONS

SECTION. 12.01. GENERAL PROVISIONS.

Subd. 1. Purpose and Intent. This Chapter is enacted for the following purposes: to safeguard the best interests of the City; to assist the subdivider in harmonizing his interests with those of the City at large; to prevent piecemeal planning of subdivisions, undesirable, disconnected patchwork of pattern and the poor circulation of traffic; to correlate land subdivisions with the City Comprehensive Plan, which provides a general plan for future community development; to secure the rights of the public, with respect to public lands and waters; to improve land records by establishing standards for surveys and plats; and to discourage inferior development which might adversely affect property values. It is the purpose and intent of this Chapter to make certain regulations and requirements for the platting of land within the City pursuant to the authority contained in Minnesota Statutes, Chapters 429, 462, and 505, which regulations the Council deems necessary for the health, safety, and general welfare of the community.

Subd. 2. Jurisdiction and Application. This Chapter shall apply to all land now lying within, and hereafter annexed to, the City, and to unincorporated territory located within two (2) miles of its limits in any direction as provided by law. Except as herein otherwise provided, this Chapter shall apply to the subdivision of a lot, tract or parcel of land into two (2) or more lots, tracts, or other division of land for any purpose, whether immediate or future, including the re-subdivision, rearrangement or re-platting of land or lots. This Chapter shall further apply to any parcel of land being subdivided, which includes an existing or future public right-of-way or easement according to the Comprehensive Plan of the City that has not been previously dedicated. This Chapter shall not apply to the subdivision or allocation of land as open space for common use by owners, occupants, or leaseholders.

Subd. 3. Plat Approval Required. No plat for a subdivision or part thereof within the application of this Chapter shall be prepared, presented for approval, or approved, except as prescribed herein. No such plat or any deed or other conveyance attempting to convey land required to be platted shall be recorded in the Rock County Recorder's office nor shall it have any validity until the provisions of this Chapter are complied with.

Subd. 4. Restrictions on Filing and Recording Conveyances.

A. After the effective date of this Subdivision, no conveyance of land to which this Chapter is applicable shall be filed or recorded if the land is described in the conveyance by metes and bounds or by reference to an unapproved registered land survey made after April 21, 1961, or to any unapproved plat.

B. This Subdivision does not apply to a conveyance of land if the land, (1) was a separate parcel of record on the date of adoption of this Subdivision; or (2) was the subject of a written agreement to convey entered into prior to the date of adoption of this Subdivision; or (3) is a single parcel of commercial or industrial zoned land of not less than five (5) acres and having a width of not less than three hundred (300) feet and its conveyance does not result in the division of the parcel into two (2) or more lots or parcels, any one (1) of which is less than five (5) acres in area or three hundred feet

(300) feet in width; or (4) is a single parcel of residential or agricultural zoned land of not less than twenty (20) acres and having a width of not less that five hundred (500) feet and its conveyance does not result in the division of the parcel into two (2) or more lots or parcels, any one (1) of which is less than twenty (20) acres in area or five hundred (500) feet in width.

C. In any case in which compliance with this Subdivision will create an unnecessary hardship and failure to comply would not interfere with the purpose of this Chapter in that the proposed lot or parcel described in the conveyance is located in an area that is well established and developed, and no future planning issues need be addressed or could be effectively dealt with given the nature of existing land configuration and public improvements, the Council may, upon written application of the owner thereof or his agent, waive such compliance by adoption of a resolution to that effect, and the conveyance with the accompanying resolution may then be filed or recorded in the Rock County Recorder's office. Such waiver may be subject to any reasonable requirements the Council deems necessary to protect the public interest.

D. Any owner or agent of the owner of land who conveys a lot or parcel in violation of the provisions of this Subdivision shall forfeit and pay to the City a penalty of not less than $100.00 for each lot or parcel so conveyed, the City may recover such penalty by a civil action in any court of competent jurisdiction. The penalty shall be set by the City and in the sum equal to 150 percent of the approximate estimated cost for surveying and platting the lot, along with any other related lots and parcels in the proportionate share thereof. In addition, the City may enjoin such conveyance.

Subd. 5. Public Street Grants. No grant of a public street to the City by deed or otherwise shall be filed without the specific approval of the Council by resolution or otherwise and such approval accompanying or endorsed on said deed or conveyance.

Subd. 6. Building Permits. No building or zoning permits shall be issued by the City or other governmental authority for the construction of any building, structure, or improvement to the land, or to any lot in a Subdivision, as defined herein, until all requirements of this Chapter have been fully complied with.

Subd. 7. Plat Review and Charges.

A. All subdividers are hereby on notice that the Council will employ qualified persons to check and verify surveys and plats hereafter filed for approval, and to determine the suitability of the plat from the standpoint of community planning. Such persons shall make full reports of their findings to the Planning Commission and Council.

B. The Council may from time to time establish fees and charges for the filing and reviewing of preliminary plats. In addition, the subdivider shall reimburse the City for the cost of legal, profession, and technical services which are reasonably used by the City to examine the plat.

Source: Ordinance No. 102, Third Series
Effective Date: 2-21-91

SEC. 12.02. DEFINITIONS. The following terms, as used in this Chapter, shall have the meanings stated:

1. "Alley" - A public right-of-way which affords a secondary means of access to abutting property.

2. "Block" - An area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river.

3. "Comprehensive Plan" - Refers to the group of maps, charts, and texts that make up the comprehensive, long-range plan of the City.

4. "Design Standards" - The specifications to land owners or subdividers for the preparation of plats, both preliminary and final, indicating among other things the optimum, minimum, or maximum dimensions of such items as rights-of-way, blocks, easements and lots.

5. "Easement" - A grant by a property owner for the use of a strip of land for the purpose of constructing and maintaining utilities, including, but not limited to, sanitary sewers, water mains, electric lines, telephone lines, storm sewer or drainage ways and gas lines.

6. "Final Plat" - A drawing or map of a subdivision, meeting all the requirements of the City and in such form as required by Rock County for the purposes of recording.

7. "Parks and Playgrounds" - Public land and open spaces in the City dedicated or reserved for recreation purposes.

8. "Percentages of Grade" - On street center line, means the distance vertically (up or down) from the horizontal in feet and tenths of a foot for each 100 feet of horizontal distance.

9. "Pedestrian Way" - A public or private right-of-way across a block or within a block to provide access for pedestrians and which may be used for the installation of utility lines.

10. "Preliminary Plat" - A tentative drawing or map of a proposed subdivision meeting requirements herein enumerated.

11. "Protective Covenants" - Contracts made between private parties as to the manner in which land may be used, with the view to protecting and preserving the physical and economic integrity of any given area.

12. "Street" - A public right-of-way affording primary access of pedestrians and vehicles abutting properties, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, place or however otherwise designated.

Source: Ordinance No. 149, New Series
Effective Date: 1-17-75

13. "Street, Thoroughfare" - One used for heavy traffic and designated as a major or minor arterial street in the Comprehensive Plan of the City or by other action of the Council.

14. "Street, Collector" - A street used primarily to carry traffic between the thoroughfare systems and minor residential streets or non-residential or non-residential streets and designated as a major or minor collector in the Comprehensive Plan of the City or by other action of the Council.

15. "Street, Minor" - A street used primarily for access to abutting property and designated as a local street in the Comprehensive Plan of the City or by other action of the Council.

Source: Ordinance No. 102, Third Series
Effective Date: 2-21-91

16. "Street, Cul-de-Sac" - A minor street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

17. "Road Width" - The shortest distance between lines of lots delineating the road right-of-way.

18. "Subdivider" - Any individual, firm, association, syndicate, co-partnership, corporation, trust or other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this Chapter.

Source: Ordinance No. 149, New Series
Effective Date: 1-17-75

19. "Subdivision" - The separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, lots, or long-term leasehold interests of more than 20 years (including options to renew or other provisions giving similar lessee rights) where the creation of the leasehold interest necessitates the creation of streets, roads, alleys, or other easements or rights for access or essential utilities to the leasehold, for residential, commercial, industrial, or other use or combination thereof, except those separations:

A. Where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and 500 feet in width for residential and agricultural uses, and 5 acres or larger in size for commercial and industrial uses;

B. Creating cemetery lots;

C. Resulting from Court orders, or the adjustment of an improperly located lot line by the relocation thereof;

D. Resulting from the leasing of residential apartments or commercial space when the same is part of an existing structure or building.

Source: Ordinance No. 103, Third Series
Effective Date: 3-7-91

20. "Tangent" - A straight line that is perpendicular to the radius of a curve where a tangent meets a curve.

21. "Vertical Curve" - The surface curvature on a road or highway center line located between lines of different percentage of grade.

Source: Ordinance No. 149, New Series
Effective Date: 1-17-75

(Sections 12.03 through 12.09, inclusive, reserved for future expansion.)

SEC. 12.10. DESIGN STANDARDS.

Subd. 1. Blocks.

A. Block Length: In general, intersecting streets and roads, determining block lengths, shall be provided at such intervals as to serve cross-traffic adequately and to meet existing streets and roads. Where no existing plats control, the blocks in residential subdivisions shall normally not exceed 1,320 feet in length, except where topography or other conditions justifies a departure from this maximum. In blocks longer than 800 feet, pedestrian ways and/or easements through the block may be required near the center of the block. Blocks for business or industrial use should normally not exceed 600 feet in length.

B. Block Width: The width of the block shall normally be sufficient to allow two (2) tiers of lots of appropriate depth. Blocks intended for business or industrial use shall be of such width as to be considered most suitable for their respective use, including adequate space for off-street parking and deliveries.

Source: Ordinance No. 149, New Series
Effective Date: 1-17-75

Subd. 2. Lots.

A. The minimum lot area, lot width and lot depths shall conform to the requirements of existing zoning districts in which the plat is situated as required by the Zoning Chapter. Those plats within the two mile jurisdiction of this Chapter but governed by the County Zoning Ordinance shall meet the lot requirements of the Rock County Zoning Ordinance.

Source: Ordinance No. 180, New Series
Effective Date: 1-19-79

B. Corner lots for residential use shall have additional width to permit appropriate building setback from both roads as required by the Zoning Chapter.

C. Side lines of lots shall be approximately at right angles to road or street lines or radial to curved road or street lines.

D. Double frontage lots shall be avoided except where lots back on a highway or other arterial road, or where topographic or other conditions render subdividing otherwise unreasonable. Such double frontage lots shall have an additional depth of at least ten feet in order to allow space for screen planting along the back lot line.

E. Every lot must have the minimum required frontage on a public dedicated road or street other than an alley.

F. Setback or building lines shall be shown on all lots intended for residential use and shall not be less than the setback required by the Zoning Chapter. On those lots which are intended for business or industrial use, the setback shall not be less than the setback required by the Zoning Chapter.

Subd. 3. Roads, Highways, Streets, and Alleys.

A. The arrangement of highways shall conform as nearly as possible to the City Comprehensive Plan. Except for cul-de-sacs, roads and streets normally shall connect with roads and streets already dedicated in adjoining or adjacent subdivisions,

or provide for future connections to adjoining unsubdivided tracts, or shall be a reasonable projection of roads in the nearest subdivided tracts. The arrangement of highways shall be considered in its relation to the reasonable circulation of traffic, to topographic conditions, to run-off or storm water, to public convenience and safety and in its appropriate relation to the proposed use of the area to be served.

B. Local roads and streets should be so planned as to discourage their use by non-local traffic. Dead-end streets and roads shall be prohibited, but cul-de-sacs will be permitted where topography or other conditions justify their use. Cul-de-sacs shall normally not be longer than 500 feet, including a terminal turn-around which shall be provided at the closed end, with an outside curb radius of at least fifty feet and a right-of-way radius of not less than sixty feet.

C. Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street and road system for the unsubdivided portion shall be prepared and submitted by the subdivider.

D. When a tract is subdivided into larger than normal building lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and openings of future roads and appropriate resubdivision, with provision for adequate utility connections for such resubdivision.

E. Under normal conditions, roads shall be laid out as to intersect as nearly as possible at right angles, except where topography or other conditions justify variations. Under normal conditions, the minimum angle of intersection of roads shall be seventy degrees. Road intersection jogs with an offset of less than 125 feet shall be avoided.

F. Wherever the proposed subdivision contains or is adjacent to the right-of-way of a highway, provision shall be made for a marginal access street or road approximately parallel and adjacent to the boundary of such right-of-way, or for a road at a distance suitable for the appropriate use of land between such road and right-of-way. Such distance shall be determined with due consideration for the minimum distance required for approach connections to future grade separations or for lot depths.

G. Alleys shall be provided in commercial and industrial districts, except that this requirement may be waived where other definite and assured provision is made for service access, such as on-site loading, unloading, and parking consistent with and adequate for the uses proposed. Except where justified by special conditions, such as the continuation of an existing alley in the same block, alleys will not be approved in residential districts. Alleys, where provided, shall not be less than twenty feet wide. Dead-end alleys shall be avoided wherever possible, but if unavoidable, such dead-end alleys may be approved if adequate turn-around facilities are provided at the closed end.

H. Dedication of half streets or roads will not be approved, except where it is essential to the reasonable development of the subdivision and in conformity with the other requirements of these regulations, where it is found that it will be practical to require the dedication of the other half when the adjoining property is subdivided, or where it becomes necessary to acquire the remaining half by condemnation so that it may be improved in the public interest.

I. For all public ways hereafter dedicated and accepted, the minimum right-of-way widths for streets and thoroughfares shall be as shown in the City Comprehensive Plan, and where not shown therein, the minimum right-of-way width for

streets, roads, highways, alleys, or pedestrian ways included in any subdivision shall not be less than the minimum dimensions for each classification as follows:

Thoroughfares	80 feet
Collector Streets	60 feet
Minor Streets	60 feet
Marginal Service Access Roads	50 feet
Alleys	20 feet
Pedestrian Ways	10 feet

Where the existing or anticipated traffic on thoroughfares warrants greater widths of right-of-way, these shall be required.

J. Street and Thoroughfare Grades: The grades in all streets, thoroughfares and alleys in any subdivision shall not be greater than the maximum grades for each classification as follows:

Thoroughfares	5 percent
Collector Streets	8 percent
Minor Streets	8 percent
Alleys	8 percent

In addition, there shall be a minimum grade on all streets of not less than five-tenths (5/10) of one (1) percent.

K. Street Alignments: The horizontal and vertical alignment standards on all streets and thoroughfares shall be as follows:

1. Horizontal - radii of center line:

Thoroughfares	500 feet
Collector Streets	300 feet
Minor Streets	100 feet

There shall be a tangent between all reversed curves of a length in relation to the radii of the curves so as to provide for a smooth flow of traffic.

2. Vertical - All changes in street grades shall be connected by vertical parabolic curves in such length as follows:

Thoroughfares	150' minimum
Collector Streets or Minor Streets	50' minimum

L. All proposed streets or roads shall be offered for dedication as public rights-of-way. No private streets or roads shall be permitted.

Subd. 4. Easements.

A. An easement for utilities at least six feet wide shall be provided along the side line of lots and/or the rear line of lots where necessary to form a continuous right-of-way, at least twelve feet in width. If necessary for the extension of main water or sewer lines or similar utilities, easements of greater width may be required along lot lines or across lots.

B. Utility easements shall connect with easements established in adjoining properties. These easements, when approved, shall not thereafter be changed without the approval of the Council, by ordinance, upon the recommendation of the Planning Commission.

C. Additional easements for pole guys should be provided at the outside of turns. Where possible, lot lines shall be arranged to bisect the exterior angle so that pole guys will fall along side lot lines.

D. Where a subdivision contains or is traversed by a water course, drainage way, channel, lake or stream, a storm water easement, drainage right-of-way or park dedication, whichever the Planning Commission may deem the most adequate, conforming substantially with the lines of such water course, shall be provided, together with such further width or construction or both as will be adequate for the storm water drainage of the area. The width of such easements shall be determined by the City Engineer.

Subd. 5. Public Sites and Open Spaces.

A. In subdividing land or resubdividing an existing plat, due consideration shall be given by the subdivider to the dedication or reservation of suitable sites for schools, parks, playgrounds, conservation areas or other public or semi-public recreational areas or open spaces. Areas so dedicated or reserved shall conform as nearly as possible to the City Comprehensive Plan. All areas to be reserved for or dedicated to public use shall be indicated on the preliminary plat in order that it may be determined when and in what manner such areas will be dedicated to or acquired by the appropriate agency. It shall be required that the subdivider of residential areas dedicate to the City the following land for use as the City shall see fit except that the City may not sell such lands for building sites to any private party:

Subdivisions of up to 50 acres - 5% of the platted area
Additional acreage over 50 acres - 2% of the platted area

Such dedicated area may be taken in one or more parcels at the discretion of the City and must be acceptable to the City in respect to dimension, location, and topography.

Source: Ordinance No. 149, New Series
Effective Date: 1-17-75

B. Cash in Lieu of Land: If, in the judgment of the Council the area proposed to be dedicated is not suitable or desirable for park/playground purposes, because of the location, size or other reason, the Council may require, in lieu of land dedication, a payment to the City of a sum equal to the percentage listed above of the average value of the land to be subdivided. The aforementioned value shall be the value of the land upon approval of the preliminary plat, yet prior to the installation of improvements, and shall be determined jointly by the Council or its agent and the subdivider-developer. If the Council and sub-divider-developer cannot agree on the land value, then the land values shall be established on the basis of the average of two independent appraisals by professional appraisers, one chosen by the Council and one by the subdivider-developer.

C. Those areas under the jurisdiction of this Chapter, but not under the direct governing authority of the City, shall be required to allow for adequate open space areas also. All dedications shall be made to Rock County or adequate provisions made to insure maintenance of any park areas. Such dedications shall be in accordance with the above listed percentages.

Source: Ordinance No. 180, New Series
Effective Date: 1-19-79

(Sections 12.11 through 12.14, inclusive, reserved for future expansion.)

SEC. 12.15. PLATS: SUBMISSION PROCEDURE AND DATA.

Subd. 1. Preliminary Plat.

A. Procedure:

Source: Ordinance No. 149, New Series
Effective Date: 1-17-75

1. Approval of the Planning Commission.

(a) The subdivider-developer shall engage a qualified land planner, registered land surveyor, or engineer to prepare a Preliminary Plat of the area to be subdivided.

(b) Subdivider-developer shall review proposed utility easements with utility companies and submit letters thereof from each company.

(c) The subdivider-developer shall submit ten or more copies of the Preliminary Plat to the City Administrator, at least seven (7) days prior to the Planning Commission meeting for initial consideration. The subdivider-developer shall include a written statement along with the Preliminary Plat describing the proposed subdivision. The written statement shall include the anticipated development schedule, a table showing total number of lots and sizes, utilization of existing natural features and vegetation, etc.

(d) The City Administrator shall submit one copy of the Preliminary Plat to the Planning Commission, one copy to the Engineer, one copy to the County Engineer if the plat borders a County road, one copy to the District Engineer of the Minnesota Highway Department if the plat borders a Federal, State or State-aid highway, and one copy to the County Zoning Administrator.

(e) All agencies receiving copies of the Preliminary Plat shall transmit a report of their reaction together with any supporting material to the Planning Commission prior to the meeting at which such plat is to be considered. The subdivider-developer shall be required to pay the cost of such services.

(f) The Planning Commission may require qualified technical and staff review of the Preliminary Plat regarding general planning; conformity with the plans of other private and public organizations and agencies; adequacy of proposed water supply, sewage disposal, drainage and flood control; special assessment procedures and other features. The subdivider-developer shall be required to pay the cost of such services.

(g) The Planning Commission shall hold a public hearing on the Preliminary Plat within forty-five days of its filing date, and the City Administrator will

public notice of the time and place thereof in the official newspaper and send notice to property owners abutting the exterior boundary of the proposed plat. Notices will be made at least ten days prior to the day of such hearing. A Planning Commission meeting may serve as a public hearing provided the legal requirements pertaining to the same are met.

(h) At the public hearing, the subdivider-developer and all interested persons shall have the opportunity to be heard. The Commission shall then prepare a report recommending approval, disapproval, or approval with conditions and submit it to the Council along with a copy being sent to the subdivider-developer within fifteen days of the public hearing. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements will be necessary to meet the approval of the Planning Commission.

Source: Ordinance No. 180, New Series
Effective Date: 1-19-79

2. Approval of the Council. After review and approval of the Preliminary Plat by the Planning Commission, such Preliminary Plat, together with the recommendations of the Planning Commission, shall be submitted to the Council for consideration. Approval or disapproval of the Preliminary Plat will be conveyed to the subdivider in writing within ten days after the meeting of the Council at which such plat was considered. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements will be necessary to meet the approval of the Council. The approval of the Preliminary Plat does not constitute an acceptance of the subdivision, but is deemed to be an authorization to proceed with the Final Plat. This approval of the Preliminary Plat shall be effective for a period of two (2) years, unless an extension is granted by the Council. The subdivider may file a Final Plat limited to such portion of the Preliminary Plat which he proposes to record and develop at the time, provided that such portion must conform to all requirements of this Chapter. If some portion of the Final Plat has not been submitted for approval within this period, a Preliminary Plat must again be submitted to the Planning Commission and the Council for approval.

B. Data Required. The subdivider shall prepare and submit a Preliminary Plat as follows, together with any necessary supplementary information:

Source: Ordinance No. 149, New Series
Effective Date: 1-17-75

1. Filing - Ten copies of a Preliminary Plat of any proposed subdivision shall be filed with the Planning Commission.

Source: Ordinance No. 180, New Series
Effective Date: 1-19-79

2. Contents - The Preliminary Plat shall contain the following information:

(a) Proposed name of subdivision; names shall not duplicate or too closely resemble names of existing subdivisions.

(b) Location of boundary lines in relation to a known section, quarter section or quarter-quarter section lines comprising a legal description of the property.

(c) Names and addresses of the subdivider and the designer making the plat.

(d) Graphic scale of plat, not less than one inch to 100 feet.

(e) Date and north point.

(f) Existing conditions.

(1) Location, width, and name of each existing or platted street or other public way, railroad, utility rights-of-way, parks and other public open spaces, and permanent buildings, within or adjacent to the proposed subdivision.

(2) All existing sewers, water mains, gas mains, culverts, power or communication cables or other underground installations within the proposed subdivision or immediately adjacent thereto.

Source: Ordinance No. 149, New Series
Effective Date: 1-17-75

(3) All drainage ways, flood plain areas and zoning in relation to the plat shall be indicated on the Preliminary Plat or in a narrative statement.

Source: Ordinance No. 180, New Series
Effective Date: 1-19-79

(g) Proposed development.

(1) The location and width of proposed streets, alleys, pedestrian ways and easements.

(2) The location and character of all proposed public utility lines, including sewers (storm and sanitary), water, gas, and power lines.

(3) Layout, numbers and approximate dimensions of lots and blocks.

(4) Location and size of proposed parks, playgrounds, churches, or school sites, or other special uses of land to be considered for dedication to public use or to be reserved by deed of covenant for the use of all property owners in the subdivision and any conditions of such dedication or reservation.

(5) Building setback lines with dimensions.

(6) Indication of any lots on which a use other than residential is proposed by the subdivider.

(7) The zoning districts, if any, on and adjacent to the tract.

(8) Existing topography, with contour intervals of not more than five feet, related to United States Geological Survey datum; also, the location of water courses, ravines, bridges, lakes, marshes, wooded areas, rock outcroppings, approximate acreage, and other such features as may be pertinent to the subdivision.

(9) Vicinity sketch, at a legible scale, to show the relation of the plat to its surroundings.

Source: Ordinance No. 149, New Series
Effective Date: 1-17-75

(10) Two copies of profiles for each proposed street and road, showing existing grades and proposed approximate grades and gradients on the center line. The location of proposed culverts and bridges shall also be shown.

Source: Ordinance No. 180, New Series
Effective Date: 1-19-79

3. Supplementary Requirements. Upon request of the Planning Commission, supplementary information shall be submitted; such supplementary information may include the following:

(a) Two copies of profiles for each proposed street and road, showing existing grades and proposed approximate grades and gradients on the center line. The location of proposed culverts and bridges shall also be known.

(b) Proposed surface drainage diagrams for lots in the form of arrows, proposed contours or other appropriate method.

(c) Soil tests and reports, as specified by the City Engineer, by an approved soils laboratory.

Subd. 2. Final Plat.

A. Procedure. After the Preliminary Plat has been approved, the Final Plat may be submitted for approval as follows:

1. Approval of the Planning Commission. The Final Plat shall be submitted to the Planning Commission at least seven (7) days prior to a Planning Commission meeting at which consideration is requested. Approval or disapproval of the Final Plat will be conveyed to the subdivider in writing within ten (10) days after the meeting of the Planning Commission at which such plat was considered. In case the plat is disapproved, the subdivider shall be notified of the reason for such action and what requirements shall be necessary to meet the approval of the Planning Commission.

2. Approval of the Council. After review and approval of the Final Plat by the Planning Commission, such Final Plat, together with the recommendations of the Planning commission, shall be submitted to the Council for approval. If accepted, the Final Plat shall be approved by resolution, which resolution shall provide for the acceptance of all streets, alleys, easement or other public ways, and parks, or other open spaces dedicated to public purposes. If disapproved, the ground for any refusal to approve a plat shall be set forth in the proceedings of the Council and reported to the subdivider applying for such approval.

B. Data Required. The subdivider shall submit a Final Plat together with any necessary supplementary information.

Source: Ordinance No. 149, New Series
Effective Date: 1-17-75

1. Filing - Ten copies of a Final Plat shall be filed with the Planning Commission.

Source: Ordinance No. 180, New Series
Effective Date: 1-19-79

2. Contents - The Final Plat, prepared for recording purposes, shall be prepared in accordance with provisions of Minnesota Statutes and shall be uniform in size, measuring 20 x 30 inches from outer edge to outer edge and as required below.

(a) Names of the subdivision, which shall not duplicate or too closely approximate the name of any existing subdivision.

(b) Location by section, township, range, county, and state, and including descriptive boundaries of the subdivision, based on an accurate traverse, giving angular and linear dimensions which must mathematically close. The allowable error of closure on any portion of a Final Plat shall be one foot in 7,500.

(c) The location of monuments shall be shown and described on the Final Plat. Locations of such monuments shall be shown in reference to existing official monuments or the nearest established road lines, including true angles and distances to such reference points or monuments. Permanent markers shall be placed at each corner of every block or portion or a block, points of curvature and points of tangency on road lines and at each angle point on the boundary of the subdivision. A permanent marker shall be deemed to be a steel rod or pipe, one-half inch or larger in diameter extending at least three feet below the finished grade. In situations where conditions prohibit the placing of markers in the locations prescribed above, offset markers will be permitted. the exact location of all markers shall be shown on the Final Plat, together with accurate interior angles, bearings, and distances. Permanent monuments shall be placed at all quarter section points within the subdivision or on its perimeter.

(d) Location of lots, streets, public highways, alleys, parks, and other features, with accurate dimensions in feet and decimals of feet, with the length of radii and/or arcs of all curves, and with all other information necessary to reproduce the plat on the ground shall be shown. Dimensions shall be shown from all angle points of curve to lot lines.

(e) Lots shall be numbered clearly. If blocks are to be numbered or lettered, these shall be shown clearly in the center of the block.

(f) The exact locations, widths, and names of all streets to be dedicated.

(g) Location and width of all easements to be dedicated.

(h) Building setback lines on front and side streets with dimensions.

(i) Name and address of subdivider and surveyor making the plat.

(j) Scale of plat (the scale to be shown graphically and in feet per inch), date, and north point.

(k) Statement dedicating all easements as follows: Easements for installation and maintenance of utilities and drainage facilities are reserved over, under, and along the strips marked "utility easements."

(l) Statement dedicating all highways, streets, alleys and other public areas not previously dedicated as follows: Streets, alleys and other public areas shown on this plat and not heretofore dedicated to public use are hereby so dedicated.

(m) Statement establishing building setback lines as follows: Building setback lines are hereby established as shown on the accompanying plat, and no building or portion thereof shall be built between this line and the street line.

3. Filing Fee. The Final Plat shall be accompanied by a fee as established by the Council. Such fees to be used for the expense of the City in connection with the review, inspection, approval, or disapproval of said plat which may thereafter be submitted.

4. Certifications Required.

(a) Notarized certification by owner and by any mortgage holder of record, of the adoption of the plat and the dedication of streets, roads, and other public areas.

(b) Notarized certification by a registered land surveyor to the effect that the plat represents a survey made by him and that monuments and markers shown therein exist as located and that all dimensional and geodetic details are correct.

(c) Certification showing that all taxes and special assessments due on the property have been paid in full, if requested by the Council.

(d) Space for certification of approval to be filled in by the signatures of the Chairman of the Planning Commission and the Mayor. The form of approval by the Planning Commission is as follows:

Approved by the Luverne City
Planning Commission this _____
day of _____, 19_____.

Signed:_____
Chairman

Attest:_____
Secretary

The form of approval of the City is as follows:

Approval by the City of Luverne,
Minnesota, this _____ day of
_____, 19_____.

Signed:_____
Mayor

Attest:_____
City Administrator

5. Supplementary documents and information may be required as follows:

(a) A complete set of street profiles showing grade lines as constructed.

(b) Copies of any private restrictions affecting the subdivision or any part thereof.

Source: Ordinance No. 149, New Series
Effective Date: 1-17-75

6. Recording and filing of Final Plat with Rock County and the City shall be as follows:

(a) Upon completion of the requirements above and notation to the effect upon the Final Plat, it shall be deemed to have final approval and shall be properly signed by the appropriate officials as required by Minnesota Statutes and may be filed by the applicant in the Rock County Recorder's Office. A Final Plat not so filed and recorded within ninety (90) days of the date upon which such plat is approved shall become null and void, unless the particular circumstances of said applicant warrants the Council to grant an extension which all not exceed 180 days.

(b) The subdivider shall furnish the City Administrator with one mylar copy and five prints of the recorded Final Plat showing evidence of the recording.

Source: Ordinance No. 180, New Series
Effective Date: 1-19-79

(Sections 12.16 through 12.19, inclusive, reserved for future expansion.)

SEC. 12.20. VARIANCES.

Subd. 1. General.

A. The Planning Commission may recommend a variance from the provisions of this Chapter when, in its opinion, undue hardship may result from strict compliance. In recommending any variance, the Commission shall prescribe any conditions that it deems necessary to or desirable for the protection of the public interest. In making its findings, as required herein below, the Planning Commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the Planning Commission finds:

1. That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this Chapter would deprive the applicant of the reasonable use of his land.

2. That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

3. That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which property is situated.

Source: Ordinance No. 149, New Series
Effective Date: 1-17-75

B. Plats located outside the City limits may be considered for variance from the Basic Improvements, Section 12.25, when the variance is not in conflict with

the City's Capital Improvement Program or future utility extensions will not be made to the site.

Source: Ordinance No. 180, New Series
Effective Date: 1-19-79

(Sections 12.21 through 12.24, inclusive, reserved for future expansion.)

SEC. 12.25. BASIC IMPROVEMENTS.

Subd. 1. General.

A. Before a Final Plat is approved by the Council, the subdivider of the land covered by the said plat shall execute and submit to the Council an agreement, which shall be binding on his or their heirs, personal representatives and assigns, that he will cause no private construction to be made on said plat or file or cause to be filed any application for building permits for such construction until all improvements required under this Chapter have been made or arranged for in the manner following as respects the highways, roads or streets to which the lots sought to be constructed have access.

B. No Final Plat shall be approved by the Council without first receiving a report from the City Engineer or other Engineer retained by the Council certifying that the improvements described herein, together with the agreements and documents herein, meet the minimum requirements of applicable City Code provisions.

C. Steel monuments shall be placed at all block corners, angle points, points of curves in streets and at intermediate points as shown on the Final Plat. All United States, State, County or other official benchmarks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position.

D. No plat shall be approved for any subdivision which covers an area within the flood plain unless the subdivider:

1. Agrees to meet all flood plain zoning provisions and other flood plain regulations.

2. Makes improvements which will assure that each lot contains a flood-free site for location of a dwelling.

3. Designs roads so that the finished surface is not more than two feet below the regulatory flood protection elevation.

4. Locates or designs public utilities, such as sewer, gas, electrical and water systems to provide protection to the regulatory flood protection elevation.

5. Files restrictive deed covenants to provide that the flood plain areas be left essentially in the state shown on the plat and that no improvements be made in the flood plain areas in violation of the flood plain zoning section of the Zoning Chapter.

E. All the required improvements to be installed under the provisions of this Chapter shall be inspected during the course of their construction by the City Engineer or other Engineer retained by the Council. All the inspection costs pursuant thereto shall be paid by the subdivider or individual lot or tract owners.

Source: Ordinance No. 180, New Series
Effective Date: 1-19-79

Subd. 2. Street Improvements.

A. The full width of the right-of-way shall be graded, including the subgrade of the areas to be paved, in accordance with standards and specifications for road construction as approved by the Council.

B. All streets to be improved with pavement in accordance with the standards and specifications for street construction as approved by the Council.

C. All streets to be paved shall be of an overall width in accordance with the standards and specifications for street construction as approved by the Council.

D. Curb and gutter shall be constructed as required by the standards and specifications for street construction as approved by the Council.

E. Trees shall be planted in conformance with the standards and specifications as approved by the Council.

F. Street signs of the standard design approved by the Council shall be installed at each street intersection.

Source: Ordinance No. 149, New Series
Effective Date: 1-17-75

G. Sidewalks as required by City Code.

Source: Ordinance No. 117, Third Series
Effective Date: 12-12-91

Subd. 3. Sanitary Sewer and Water Distribution Improvements.

A. Sanitary sewers shall be installed as required by standards and specifications as approved by the Council. Where City sanitary sewer is not available for extension into the proposed subdivision, the Council may by ordinance grant a franchise for such sewers to serve all properties in the subdivision where a complete and adequate community sanitary sewer system and plant are designed in conjunction with the subdivision, and complete plans for the system and plant are submitted to and approved by the Council, the Minnesota Pollution Control Agency, and the Minnesota State Board of Health before construction.

B. Public water facilities, including pipe fittings, hydrants, etc., shall be installed as required by standards and specifications as approved by the Council. Where City water facilities are not available for extension into the proposed subdivision, the Council may by ordinance grant a franchise for such water facilities, to serve all properties within a subdivision where a complete and adequate community water distribution system is designed in conjunction with the subdivision, and complete plans for the system are submitted to and approved by the Council and the Minnesota State Board of Health before construction.

Source: Ordinance No. 149, New Series
Effective Date: 1-17-75

C. Storm sewers, culverts, storm water inlets and other drainage facilities will be required where they are necessary to insure adequate storm water drainage for the subdivision. Where required, such drainage facilities shall be constructed in accordance with the standards and specifications for street construction as approved by the Council.

Source: Ordinance No. 180, New Series
Effective Date: 1-19-79

Subd. 4. Financing Improvements. Improvements required in Subd. 2 and Subd. 3 and any other costs as determined by the City that are associated with or required by the development shall be paid for and financed by any one or any combination of the following:

A. Directly and completely by the developer.

B. By petition for special assessment by the City and under such terms and conditions as the City may require to assure payment of the assessment when due. When the Council makes a specific determination and finding that a need exists for development of certain types of lots and further that such development would not likely occur under existing market conditions, the Council may enter into a written contract with a developer under such terms and conditions as the Council deems appropriate to protect the public interest including but not limited to the deferment of assessments and interest thereon but in no event for a period exceeding five (5) years.

C. Furnish a bond to the City for an amount equivalent to 150% of the cost of the improvements as determined by the City Engineer or an Engineer retained by the Council, which bond shall comply with the following:

1. The term of said bond shall be six (6) years. In the event the improvements specified in Subdivisions 2 and 3 are not completed within five (5) years from the date of the bond, then at that time the bond shall be forfeited and the Council shall be authorized to place said improvements in the entire subdivision and to pay for these improvements from the bond proceeds.

2. The bond shall be non-cancelable unless the Council formally accepts all improvements upon installation as required and authorizes bond cancellation.

3. The petition and special assessment procedure detailed above shall not apply to improvements in the subject subdivision, when this bonding provision is utilized.

4. This procedure shall not apply to subdivisions of less than twenty-five (25) lots.

5. Lots may be sold prior to the installation of all improvements throughout the subdivision provided that the approval of the Council is received prior to the sale of each lot. Approval of such sale by the Council may be given only if all improvements required in Subd. 3 above have been made to the lots being sold. A contract secured by a cash deposit, certified check or a bond in an amount and with surety and conditions satisfactory to the Council shall be filed and accepted by the Council to guarantee that the improvements required in Subd. 2 above are made to the lots being sold within one (1) year of the sale of those lots.

Source: Ordinance No. 117, Third Series
Effective: 12-12-91

Subd. 5. Public Utilities.

A. All utility lines for telephone and electric service shall be placed in rear line easements when carried on overhead poles. To serve these lines connections may be made on lot lines, providing an easement covering same is filed.

B. Where telephone, electric and/or gas service lines are to be placed underground entirely, conduits or cables shall be placed within easements or dedicated public ways in such a manner so as not to conflict with other underground services. All drainage and other underground utility installations which traverse privately owned property shall be protected by easements.

Source: Ordinance No. 149, New Series
Effective Date: 1-17-75

(Sections 12.26 through 12.29, inclusive, reserved for future expansion.)

SEC. 12.30. REGISTERED LAND SURVEYS AND CONVEYANCE BY METES AND BOUNDS.

Subd. 1. Registered Land Surveys. It is the intention of this Chapter that all registered land surveys within the jurisdiction of this Chapter shall be presented to the Planning Commission in the form of a Preliminary Plat in accordance with the standards set forth in this Chapter for Preliminary Plats and that the Planning Commission shall first approve the arrangement, sizes and relationship of proposed tracts in such registered land surveys, and that tracts to be used as easements or streets should be so dedicated. Unless such approvals have been obtained from the Planning Commission and Council in accordance with the standards set forth in this Chapter, building permits will be withheld for buildings on tracts which have been so subdivided by registered land surveys, and the City may refuse to take over tracts as streets or roads or to improve, repair or maintain any such tracts unless so approved.

Source: Ordinance No. 149, New Series
Effective Date: 1-17-75

Subd. 2. Conveyance by Metes and Bounds. No conveyance may be made of any parcel or tract in which the land conveyed is described by metes and bounds or to an unapproved survey or unapproved plat, unless the conveyance of said parcel is specifically exempted from the provisions of this Chapter as noted in Section 12.01 or a variance is obtained under Section 12.20. Neither the City nor the County or the affected township, if applicable, shall issue any building permit or zoning permit for construction of buildings or other improvements on such parcels or tracts which have been subdivided and conveyed in violation of this Chapter and Subdivision. Hereafter, no public utility or governmental entity shall construct an improvement upon land affected by this Chapter unless located within clearly noted and designated right-of-way or easement on an approved plat, or filed prior to the effective date of this Subdivision, or has otherwise been approved by the Council. The Rock County Recorder is hereby given notice and instructed to deny the recording of any such conveyance in violation of the provisions of this Chapter and this Subdivision. The prohibitions contained herein are made under the provisions of Minnesota Statutes 462.358 and shall be governed in accordance with the provisions therein.

Source: Ordinance No. 102, Third Series
Effective Date: 2-21-91

(Sections 12.31 through 12.39, inclusive, reserved for future expansion.)

SEC. 12.40. VIOLATIONS.

Subd. 1. Sale of Lots From Unrecorded Plats. It is unlawful to sell, trade or offer to sell or otherwise convey any lot or parcel of land as a part of or in conformity with any plan, plat or replat of any subdivision or area located within the jurisdiction of this Chapter unless said plan, plat or replat shall have first been recorded in the Office of the County Recorder of Rock County.

Subd. 2. Receiving and Recording Unapproved Plats. It is unlawful to receive or record in any public office any plans, plats or replats of land laid out in building lots and highways, streets, roads, alleys or other portions of the same intended to be dedicated to public or private use or for the use of purchasers or owners of lots fronting on or adjacent thereto and located within the jurisdiction of this Chapter, unless the same shall bear thereon, by endorsement or otherwise, the approval of the Council.

Subd. 3. Misrepresentation as to Construction, Supervision or Inspection of Improvements. It is unlawful for any subdivider, person, firm or corporation owning an addition or subdivision of land within the City to represent that any improvement upon any of the highways, streets or alleys of said addition or subdivision or any sewer in said addition or subdivision has been constructed according to the plans and specifications approved by the Council or has been supervised or inspected by the City when such improvements have not been so constructed, supervised or inspected.

Source: Ordinance No. 149, New Series
Effective Date: 1-17-75

(Sections 12.41 through 12.98, inclusive, reserved for future expansion.)

SEC. 12.99. 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, 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 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.

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

Subd. 3. 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.

Source: Ordinance No. 134, Third Series
Effective Date: 6-18-92

CHAPTER 13: ADMINISTRATIVE ENFORCEMENT

SECTION 13.01. ADMINISTRATIVE CITATIONS AND CIVIL PENALTIES. Sections 13.01 through 13.07 govern administrative citations and civil penalties for violations of the City Code.

SEC. 13.02. VIOLATION. City of Luverne 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.

Source: Ordinance No. 262, Third Series
Effective Date: 5-27-04

SEC. 13.03. APPLICABILITY OF ORDINANCE. The Administrative Enforcement Program shall apply only to the following provisions of the Municipal Code of the City of Luverne:

-Chapter 4 – Building Regulations
-Chapter 7 – Streets and Sidewalks
-Chapter 9 – Parking Regulations under Sec. 9.02, Sec. 9.04, Sec 9.09, Sec 9.10, Sec. 9.30, Sec. 9.35, Sec. 9.36 and Sec 9.50
-Section 10.01 – Unlawful Deposit of Garbage, Litter and the Like
-Section 10.12 – Animals and Fowl
-Section 10.40 – Shade Tree Disease and Prevention
-Section 10.44 – Open Burning of Leaves
-Section 10.56 – Nuisances
-Chapter 11 – Land Use (Zoning) Regulations

Source: Ordinance No. 274, Third Series
Effective Date: 5-26-05

SEC. 13.04. GENERAL PROVISIONS.

Subd. 1. Administrative Offense. A violation of any provision of the city code noted in Section 13.03 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.

Subd. 2. Code Compliance Officer. The City Administrator shall designate a City employee to act as the Code Compliance Officer.

Subd. 3. Exemption. Alcohol and tobacco license violations are not subject to administrative citation under this ordinance.

Subd. 4. 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.

Subd. 5. Schedule of Fines and Fees. The standard fine for a violation under this Chapter shall be seventy-five dollars ($75) per offense per day plus fifty dollars ($50) 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.

SEC. 13.05. ADMINISTRATIVE CITATION PROCEDURES.

Subd.1. 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 state the date, time, and nature of the alleged offense, the actions required to correct the alleged offense, the name of the issuing Code Compliance Officer, 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 shall be served by authorized representatives of the Sheriff's office. In the case of an offense under Chapter 9 – Parking Regulations, 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 subsection shall not apply to violations under Chapter 9 – Parking Regulations.

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 his/her 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 subsection shall not apply to violations under Chapter 9 – Parking Regulations.

E. 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, by certified mail or it shall be served by authorized representatives of the Sheriff's office. In the case of a violation under Chapter 9 – Parking Regulations, the notice of fine may be attached directly to the vehicle.

Subd. 2. 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 Section 13.04, Subd.5. 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.

Subd. 3 Abatement. In addition, 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 for the violation does not own property, the City shall file suit seeking judicial relief to collect the fine, associated penalties and costs.

SEC. 13.06. ADMINISTRATIVE HEARING. 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 a hearing, and adequate explanation of the reasons justifying the Administrative Citation.

The person alleged to be responsible for the violation must make a request for the Administrative Hearing within fifteen (15) days after the date on which the City issued the fine associated with the Administrative Citation. All requests for an Administrative Hearing must be made in writing to the attention of the Code Compliance Officer.

Subd. 1. Administrative Hearing Officer. The Luverne 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.

Subd. 2. 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.

Subd. 3. File Transmittal.

A. 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:

(i) copy of the citation issued;
(ii) copy of any notices, which preceded the citation;
(iii) copy of any case history on the property;
(iv) photographs and/or videotape of property where available;
(v) proof of mailing and/or posting of notice on the property if the citation was not personally served on the person alleged to be responsible for the violation.

B. 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 of the file via first class mail.

Subd. 4. 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:

(1) the duration of the violation;
(2) the frequency of reoccurrence of the violation;
(3) the seriousness of the violation;
(4) the history of the violation;
(5) the conduct of the person alleged to be responsible for the violation after issuance of the Administrative Citation;
(6) the conduct of the person alleged to be responsible for the violation after issuance of the notice of hearing;
(7) 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;
(8) the impact of the violation upon the community;
(9) the prior record of city code violations of the person alleged to be responsible for the violation; and
(10) any other factors the Administrative Hearing Officer deems appropriate.

Subd. 5. 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 Administrator.

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 (1) the violation caused or is causing a serious threat of harm to the public health, safety, or welfare; or (2) the violator intentionally and unreasonably refused or refuses to comply with the code requirement.

Subd. 6. 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.

The Administrative Hearing Officer may waive this result upon a showing of good cause for the failure to appear. Examples of "good cause" are: death in the immediate family of the person alleged to be responsible for the violation; documented incapacitating illness of the person alleged to be responsible for the violation violator; a court order requiring the person alleged to be responsible for the violation to appear for another hearing at the same time; and lack of proper service of the citation or notice of the hearing. "Good cause" does not include: forgetfulness, lack of transportation or child care, and intentional delay.

SEC. 13.07. JUDICIAL REVIEW. An aggrieved party may obtain judicial review of the decision of the Administrative Hearing Officer as provided in state law.

Subd. 1. 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.

Subd. 2. Lien. A lien may be assessed against the property and collected in the same manner as taxes.

Subd. 3. Personal Obligation. A personal obligation may be collected by appropriate legal means.

Subd. 4. Late Fees/Charges.

A. 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.

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.

B. If the same person found to be responsible for the violation is charged with a subsequent violation within a 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% and after a fourth infraction in a 12-month period the fine shall increase by 100%.

Subd. 5. 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.

SEC. 13.08. CRIMINAL PENALTIES.

Subd. 1 Misdemeanors. The following are misdemeanors, punishable in accordance with state law:

(1) Failure, without good cause, to pay a fine or request a hearing within fifteen (15) days after issuance of an Administrative Citation;

(2) Failure, without good cause, to appear at an Administrative Hearing that was scheduled under Section 13.06 and for which Administrative Hearing proper notice was provided;

(3) Failure to pay a fine imposed by the Administrative Hearing Officer within 15 calendar days after it was imposed, or such other time as may be established in the administrative order issued by the Administrative Hearing Officer.

(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.

(Sections 13.09 through 13.98 inclusive, reserved for future expansion.)

SEC. 13.99. 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, 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 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.

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

Subd. 3. 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.

Source: Ordinance No. 263, Third Series
Effective Date: 5-27-04

(Sections 13.09 through 13.98, inclusive, reserved for future expansion.)

450 – 469 Reserved

CHAPTER 14: EMERGENCY MANAGEMENT

SECTION 14.01. PURPOSE. The City Council finds that there exists the possibility of the occurrence of disasters of unprecedented size and destruction resulting from fire, flood, tornado, blizzard, destructive winds or other natural causes, or from sabotage, hostile action, or from hazardous material mishaps of catastrophic measure. The City Council further finds that in order to insure that preparations of the City will be adequate to deal with such disasters, and generally, to provide for the common defense and to protect the public peace, health, and safety, and to preserve the lives and property of the people of this City, it is hereby declared to be necessary:

A. To establish a City Emergency Management Organization responsible for City planning and preparation for emergency government operations in time of disasters.

B. To provide for the exercise of necessary powers during emergencies and disasters.

C. To provide for the rendering of mutual aid between the City of Luverne, Rock County, and other local and State agencies with respect to the carrying out of emergency preparedness functions.

D. To comply with the provisions of Minnesota Statutes, Chapter 12, Section 12.25, that requires each political subdivision of Minnesota shall establish a local organization for emergency management and with Presidential Directive HSPD-5 (Implementation and use of NIMS).

SEC. 14.02. DEFINITIONS.

A. "Emergency Management" means the preparation for and the carrying out of all emergency functions, (other than functions for which military forces are primarily responsible), to prevent, minimize and repair injury and damage resulting from disasters caused by fire, flood, tornado and other acts of nature, or from sabotage, hostile action, or from industrial hazardous material mishaps. These functions include, without limitation, fire-fighting services, police services, emergency medical services, engineering, warning services, communications, radiological and chemical, evacuation, congregate care, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to civil protection, together with all other activities necessary or incidental for carrying out of the foregoing functions. Emergency management includes those activities sometimes referred to as "Civil Defense" functions.

B. "Disaster" means a situation which creates an immediate and serious impairment to the health and safety of any person, or situation which has resulted in or likely to result in, catastrophic loss of property, and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss.

C. "Emergency" means an unforeseen combination of circumstances which calls for immediate action.

D. "Emergency Management Forces" means the total personnel resources engaged in city emergency management functions in accordance with the provisions of this resolution or any rule or order there under. This includes personnel from the City of Luverne, Rock County, authorized volunteers, and private organizations and agencies.

E. “Emergency Management Organization” means the staff element responsible for coordinating City planning and preparation for disaster response. This organization provides City liaison and coordination with federal, state, and Rock County Authorities relative to disaster preparedness activities and assures implementation of federal and state program requirements.

SEC. 14.03. EMERGENCY MANAGEMENT ORGANIZATION. There is hereby created by the City of Luverne an Emergency Management Organization which shall be under the supervision and control of the City Emergency Management Director (herein after called the “director”) and working in accord with the Rock County Emergency Management Team. The Director shall be appointed by the Mayor under terms of the City employment policy. The Director shall have direct responsibility for the organization, administration and operation of the emergency preparedness organization, subject to the direction and control of the City Council.

SEC. 14.04. POWERS AND DUTIES.

A. The Director, with consent of the City Council shall represent the City at any regional or state conferences for emergency management. The Director shall develop proposed mutual aid agreements with other political subdivisions of the County and State for reciprocal emergency management aid and assistance in an emergency too great to be dealt with unassisted, and shall present such agreements to the City Council for its action. Such arrangements shall be consistent with the State Emergency Plan.

B. The Director shall make studies and surveys of the manpower, industries, resources and facilities of the City as deemed necessary to determine their adequacy for emergency management and to plan for their most efficient use in time of an emergency or disaster. The Director shall establish the economic stabilization systems and measures, service staffs, boards and sub-boards required, in accordance with state and federal plans and directions subject to approval of the Council.

C. The Director shall prepare a Comprehensive Emergency Plan for the emergency preparedness of the City and shall present such plan to the City Council for its approval. When the Council has approved the plan by resolution, it shall be the duty of all City agencies, departments and emergency preparedness forces of the City to perform the duties and functions assigned by the plan as approved. The plan may be modified in like manner from time to time. The Director shall coordinate the emergency management activities of the City to the end that they shall be consistent and fully integrated with the emergency plan of the Federal Government and the State and coordinated with the emergency plan of Rock County.

D. In accordance with the State and County Emergency Plan, the Director shall institute such training programs, public information programs and conduct practice warning alerts and emergency exercises as may be necessary to assure prompt and effective operation of the City Emergency Management Plan when the disaster occurs.

E. The Director shall utilize the personnel, services, equipment, supplies and facilities of existing departments and agencies of the City to the maximum extent practicable. The officers and personnel of all such departments and agencies shall, to the maximum extent practicable, cooperate with and extend such services and facilities to the City and County Emergency Management organization and to the Governor upon request. The head of each department or agency in cooperation with the Director shall

be responsible for the planning and programming of such emergency activities as will involve the utilization of the facilities of the department or agency.

F. The Director shall, in cooperation with existing City departments and agencies affected, assist in the organizing, recruiting and training of such emergency management personnel that may be required on a volunteer basis to carry out the emergency plans of the City and State. To the extent that such emergency personnel are recruited to augment a regular City department or agency, they shall be under the administration and control of said department or agency.

G. Consistent with the state emergency services law, the Director shall coordinate the activity of City emergency management organizations within the City and assist in establishing and conducting training programs as required to assure emergency operational capability in the several services (Minnesota Statutes, Chapter 12, Sec. 12.25).

H. The Director shall carry out all orders, rules and regulations issued by the Governor with reference to emergency management.

I. The Director shall prepare and submit such reports on emergency preparedness activities as may be requested by the Council.

SEC. 14.05. LOCAL EMERGENCIES.

A. A local emergency may be declared only by the Mayor of the City of Luverne, or the City Council or their legal designee. It shall not be continued for a period in excess of three days except by or with the consent of the Council. Any order, or proclamation declaring, continuing, or terminating a local emergency shall be given prompt and general publicity and shall be filed promptly by the City Clerk.

B. A declaration of a local emergency shall invoke necessary portions of the response and recovery aspects of applicable sections of the City plan, and may authorize aid and assistance thereunder.

C. No agency or official may declare a local emergency unless expressly authorized by the agreement under which it functions.

SEC. 14.06. EMERGENCY REGULATIONS.

A. Whenever necessary to meet a declared emergency or to prepare for such emergency for which adequate regulations have been adopted by the Governor or the City Council, the Council may by resolution promulgate regulations, consistent with applicable federal and state law or regulation, respecting conduct of persons and the use of property during emergencies; the repair, maintenance, and safeguarding of essential public services, emergency health, fire, safety regulation, drills, or practice periods required for preliminary training, and all other matters which are required to protect public safety, health, and welfare in declared emergencies.

B. Every resolution relating to emergency regulations shall be in writing; shall be dated; shall refer to the particular emergency to which it pertains, if so limited, and shall be filed in the Office of the City Administrator, which copy shall be kept posted and available for public inspection during business hours. Notice of the existence of such regulation and its availability for inspection in the Administrator's Office shall be conspicuously posted at the front of City Hall or at such places affected as the Council shall designate in the resolution. By like resolution, the Council may modify or rescind any such regulation.

C. The Council may rescind any such regulation by resolution at any time. If not sooner rescinded every such regulation shall expire at the end of 30 days after its effective date or at the end of the emergency to which it relates, whichever comes first. Any resolution, rule, or regulation inconsistent with an emergency regulation promulgated by the Council shall be suspended during the period of time and to the extent such conflict exists.

During a declared emergency, notwithstanding any statutory or charter provision to the contrary, the City is empowered, through its governing body acting within the corporate city limits, to enter into contracts and incur obligations necessary to combat such disaster by protecting the health and safety of persons and property and providing emergency assistance to the victims of such disaster. The City may exercise such powers in the light of the exigencies of the disaster without compliance with the time consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering rental equipment agreements, purchase of supplies and materials, limitations upon tax levies, and the appropriate and expenditure of public funds including, but not limited to, publication of resolutions, publication of call for bids, provisions of personnel laws and rules, provisions relating to low bids, and requirements for budgets.

SEC. 14.07. EMERGENCY MANAGEMENT A GOVERNMENT FUNCTION.

All functions thereunder and all other activities relating to emergency management are hereby declared to be governmental functions. The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this resolution or under the worker's compensation law, or under any pension law, or the right of any such person to receive any benefits or compensation under any act of Congress.

SEC. 14.08. PARTICIPATION IN LABOR DISPUTE OR POLITICS.

The Emergency Management Organization shall not participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes, nor shall it be employed in a labor dispute.

Source: Ordinance No. 283, Third Series
Effective Date: 2-02-06

(Sections 14.09 through 14.99, inclusive, reserved for future expansion.)

CHAPTER 15: RIGHT OF WAY MANAGEMENT

SECTION. 15.01. Findings, Purpose, and Intent. To provide for the health, safety and welfare of its citizens, and to ensure the integrity of its streets and the appropriate use of the rights-of-way, the city strives to keep its rights-of-way in a state of good repair and free from unnecessary encumbrances.

Subd. 1. Accordingly, the city hereby enacts this new chapter of this code relating to right-of-way permits and administration. This chapter imposes reasonable regulation on the placement and maintenance of facilities and equipment currently within its rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies. Under this chapter, persons excavating and obstructing the rights-of-way will bear financial responsibility for their work. Finally, this chapter provides for recovery of out-of-pocket and projected costs from persons using the public rights-of-way.

Subd. 2. This chapter shall be interpreted consistently with 1997 Session Laws, Chapter 123, substantially codified in Minnesota Statutes Sections 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the "Act") and the other laws governing applicable rights of the city and users of the right-of-way. This chapter shall also be interpreted consistent with Minnesota Rules 7819.0050 – 7819.9950 where possible. To the extent any provision of this chapter cannot be interpreted consistently with the Minnesota Rules, that interpretation most consistent with the Act and other applicable statutory and case law is intended. This chapter shall not be interpreted to limit the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

Sec. 15.02. Election to Manage the Public Rights-of-Way. Pursuant to the authority granted to the city under state and federal statutory, administrative and common law, the city hereby elects, pursuant Minn. Stat. 237.163

Subd. 2(b), to manage rights-of-way within its jurisdiction.

Sec. 15.03. Definitions. The following definitions apply in this chapter of this code. References hereafter to "sections" are, unless otherwise specified, references to sections in this chapter. Defined terms remain defined terms, whether or not capitalized.

A. "Abandoned Facility" means a facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service. A facility is not abandoned unless declared so by the right-of-way user.
B. "Applicant" means any person requesting permission to excavate or obstruct a right-of-way.
C. "City" means the city of Luverne, Minnesota. For purposes of section 15.27, "city" means its elected officials, officers, employees and agents.
D. "Commission" means the State Public Utilities Commission.
E. "Congested Right-of-Way" means a crowded condition in the subsurface of the public right-of-way that occurs when the maximum lateral spacing between existing underground facilities does not allow for construction of new underground

facilities without using hand digging to expose the existing lateral facilities in conformance with Minnesota Statutes, section 216D.04. subdivision 3, over a continuous length in excess of 500 feet.

F. "Construction Performance Bond" means any of the following forms of security provided at permittee's option:

Individual project bond;
Cash deposit;
Security of a form listed or approved under Minn. Stat. Sec. 15.73, subd. 3;
Letter of Credit, in a form acceptable to the city;
Self-insurance, in a form acceptable to the city;
1. A blanket bond for projects within the city, or other form of construction bond, for a time specified and in a form acceptable to the city.

G. "Degradation" means a decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation or disturbance did not occur.

H. "Degradation Cost" subject to Minnesota Rules 7819.1100 means the cost to achieve a level of restoration, as determined by the city at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minnesota Rules parts 7819.9900 to 7819.9950.

I. "Degradation Fee" means the estimated fee established at the time of permitting by the city to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost.

J. "Department" means the department of public works of the city.

K. "Department Inspector" means any person authorized by the city to carry out inspections related to the provisions of this chapter.

L. "Director" means the City Administrator, or her or his designee.

M. "Delay Penalty" is the penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.

N. "Emergency" means a condition that (1) poses a danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement of facilities in order to restore service to a customer.

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

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

Q. "Excavation permit" means the permit which, pursuant to this chapter, must be obtained before a person may excavate in a right-of-way. An Excavation permit allows the holder to excavate that part of the right-of-way described in such permit.

R. "Excavation permit fee" means money paid to the city by an applicant to cover the costs as provided in Section 15.11.

S. "Facility" or "Facilities" means any tangible asset in the right-of-way required to provide Utility Service.

T. "Five-year project plan" shows projects adopted by the city for construction within the next five years.

U. "High Density Corridor" means a designated portion of the public right-of-way within which telecommunications right-of-way users having multiple and competing

facilities may be required to build and install facilities in a common conduit system or other common structure.

V. “Hole” means an excavation in the pavement, with the excavation having a length less than the width of the pavement.

W. “Local Representative” means a local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this chapter.

X. “Management Costs” means the actual costs the city incurs in managing its rights-of-way, including such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, the fees and cost of litigation relating to the interpretation of Minnesota Session Laws 1997, Chapter 123; Minnesota Statutes Sections 237.162 or 237.163; or any ordinance enacted under those sections, or the city fees and costs related to appeals taken pursuant to Section 15.29 of this chapter.

Y. “Obstruct” means to place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.

Z. “Obstruction Permit” means the permit which, pursuant to this chapter, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way, for the duration specified therein.

AA. “Obstruction Permit Fee” means money paid to the city by a permittee to cover the costs as provided in Section 15.11.

BB. “Patch” or “Patching” means a method of pavement replacement that is temporary in nature. A patch consists of (1) the compaction of the subbase and aggregate base, and (2) the replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions. A patch is considered full restoration only when the pavement is included in the city’s five-year project plan.

CC. “Pavement” means any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.

DD. “Permit” has the meaning given “right-of-way permit” in Minnesota Statutes, section 237.162.

EE. “Permittee” means any person to whom a permit to excavate or obstruct a right-of-way has been granted by the city under this chapter.

FF. “Person” means an individual or entity subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.

GG. “Probation” means the status of a person that has not complied with the conditions of this chapter.

HH. “Probationary Period” means one year from the date that a person has been notified in writing that they have been put on probation.

II. “Registrant” means any person who (1) has or seeks to have its equipment or facilities located in any right-of-way, or (2) in any way occupies or uses, or seeks to occupy or use, the right-of-way or place its facilities or equipment in the right-of-way.

JJ. “Restore” or “Restoration” means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition and life expectancy that existed before excavation.

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

LL. “Public Right-of-Way” means the area on, below, or above a public roadway, highway, street, cartway, bicycle lane or public sidewalk in which the city has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the city. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other nonwire telecommunications or broadcast service.

MM. “Right-of-Way Permit” means either the excavation permit or the obstruction permit, or both, depending on the context, required by this chapter.

NN. “Right-of-Way User” means (1) a telecommunications right-of-way user as defined by Minnesota Statutes, section 237.162, subd. 4; or (2) a person owning or controlling a facility in the right-of-way that is used or intended to be used for providing utility service, and who has a right under law, franchise, or ordinance to use the public right-of-way.

OO. “Service” or “Utility Service” includes (1) those services provided by a public utility as defined in Minn. Stat. 216B.02, subds. 4 and 6; (2) services of a telecommunications right-of-way user, including transporting of voice or data information; (3) services of a cable communications systems as defined in Minn. Stat. Chapter. 238; (4) natural gas or electric energy or telecommunications services provided by the city; (5) services provided by a cooperative electric association organized under Minn. Stat., Chapter 308A; and (6) water, and sewer, including service laterals, steam, cooling or heating services.

PP. “Service Lateral” means an underground facility that is used to transmit, distribute, or furnish gas, electricity, communications, or water from a common source to an end-use customer. A service lateral is also an underground facility that is used in the removal of wastewater from a customer’s premises.

QQ. “Supplementary Application” means an application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.

RR. “Temporary Surface” means the compaction of subbase and aggregate base and replacement, in kind, of the existing pavement only to the edges of the excavation. It is temporary in nature except when the replacement is of pavement included in the city’s two-year plan, in which case it is considered full restoration.

SS. “Trench” means an excavation in the pavement, with the excavation having a length equal to or greater than the width of the pavement.

TT. “Telecommunication right-of-way user” means a person owning or controlling a facility in the right-of-way, or seeking to own or control a Facility in the right-of-way that is used or is intended to be used for transporting telecommunication or other voice or data information. For purposes of this

chapter, a cable communication system defined and regulated under Minn. Stat. Chap. 238, and telecommunication activities related to providing natural gas or electric energy services whether provided by a public utility as defined in Minn. Stat. Sec. 216B.02, a municipality, a municipal gas or power agency organized under Minn. Stat. Chaps. 453 and 453A, or a cooperative electric association organized under Minn. Stat. Chap. 308A, are not telecommunications right-of-way users for purposes of this chapter.

UU. "Two Year project Plan" shows projects adopted by the city for construction within the next two years.

Sec. 15.04 Administration. The director is the principal city official responsible for the administration of the rights-of-way, right-of-way permits, and the ordinances related thereto. The director may delegate any or all of the duties hereunder.

Sec. 15.05. Registration and Right-of-Way Occupancy.

Subd. 1. Registration. Each person who occupies or uses, or seeks to occupy or use, the right-of-way or place any equipment or facilities in or on the right-of-way, including persons with installation and maintenance responsibilities by lease, sublease or assignment, must register with the city. Registration will consist of providing application information and paying a registration fee.

Subd. 2. Registration Prior to Work. No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof, in any right-of-way without first being registered with the city.

Subd. 3. Exceptions. Nothing herein shall be construed to repeal or amend the provisions of a city ordinance permitting persons to plant or maintain boulevard plantings or gardens in the area of the right-of-way between their property and the street curb. Persons planting or maintaining boulevard plantings or gardens shall not be deemed to use or occupy the right-of-way, and shall not be required to obtain any permits or satisfy any other requirements for planting or maintaining such boulevard plantings or gardens under this chapter. However, nothing herein relieves a person from complying with the provisions of the Minn. Stat. Chap. 216D, Gopher One Call Law.

Sec. 15.06. Registration Information.

Subd. 1. Information Required. The information provided to the city at the time of registration shall include, but not be limited to:

(a) Each registrant's name, Gopher One-Call registration certificate number, address and e-mail address, if applicable, and telephone and facsimile numbers.

(b) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

(c) A certificate of insurance or self-insurance:

(1) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the State of Minnesota, or a form of self-insurance acceptable to the city;

(2) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the (i) use and occupancy of the right-of-way by the registrant, its officers, agents, employees and permittees, and (ii) placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property;

(3) Naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages;

(4) Requiring that the city be notified thirty (30) days in advance of cancellation of the policy or material modification of a coverage term; and

(5) Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the city in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this chapter.

(d) The city may require a copy of the actual insurance policies.

(e) If the person is a corporation, a copy of the certificate is required to be filed under Minn. Stat. 300.06 as recorded and certified to by the Secretary of State.

(f) A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other applicable state or federal agency, where the person is lawfully required to have such certificate from said commission or other state or federal agency.

Subd. 2. Notice of Changes. The registrant shall keep all of the information listed above current at all times by providing to the city information as to changes within fifteen (15) days following the date on which the registrant has knowledge of any change.

Sec. 15.07. Reporting Obligations.

Subd. 1. Operations. Each registrant shall, at the time of registration and by December 1 of each year, file a construction and major maintenance plan for underground facilities with the city. Such plan shall be submitted using a format designated by the city and shall contain the information determined by the city to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights-of-way.

The plan shall include, but not be limited to, the following information:

(a) The locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (in this section, a “next-year project”); and

(b) To the extent known, the tentative locations and estimated beginning and ending dates for all projects contemplated for the five years following the next calendar year (in this section, a “five-year project”).

The term “project” in this section shall include both next-year projects and five-year projects.

By January 1 of each year, the city will have available for inspection in the city’s office a composite list of all projects of which the city has been informed of the annual plans. All registrants are responsible for keeping themselves informed of the current status of this list.

Thereafter, by February 1, each registrant may change any project in its list of next-year projects, and must notify the city and all other registrants of all such changes in said list. Notwithstanding the foregoing, a registrant may at any time join in a next-year project of another registrant listed by the other registrant.

Subd. 2. Additional Next-Year Projects. Notwithstanding the foregoing, the city will not deny an application for a right-of-way permit for failure to include a project in a plan submitted to the city if the registrant has used commercially reasonable efforts to anticipate and plan for the project.

Sec. 15.08. Permit Requirement.

Subd. 1. Permit Required. Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way without first having obtained the appropriate right-of-way permit from the city to do so.

(a) Excavation Permit. An excavation permit is required by a registrant to excavate that part of the right-of-way described in such permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.

(b) Obstruction Permit. An obstruction permit is required by a registrant to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

Subd. 2. Permit Extensions. No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless (i) such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and (ii) a new permit or permit extension is granted.

Subd. 3. Delay Penalty. In accordance with Minnesota Rule 7819.1000 subp. 3 and notwithstanding subd. 2 of this Section, the city shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by city council resolution.

Subd. 4. Permit Display. Permits issued under this chapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the city.

Sec. 15.09. Permit Applications. Application for a permit is made to the city. Right-of-way permit applications shall contain, and will be considered complete only upon compliance with, the requirements of the following provisions:

(a) Registration with the city pursuant to this chapter;

(b) Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities.

(c) Payment of money due the city for:

(1) permit fees, estimated restoration costs and other management costs;

(2) prior obstructions or excavations;

(3) any undisputed loss, damage, or expense suffered by the city because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city;

(4) franchise fees or other charges, if applicable.

(d) Payment of disputed amounts due the city by posting security or depositing in an escrow account an amount equal to at least 110% of the amount owing.

(e) Posting an additional or larger construction performance bond for additional facilities when applicant requests an excavation permit to install additional facilities and the city deems the existing construction performance bond inadequate under applicable standards.

Sec. 15.10. Issuance of Permit; Conditions.

Subd. 1. Permit Issuance. If the applicant has satisfied the requirements of this chapter, the city shall issue a permit.

Subd. 2. Conditions. The city may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use.

Sec. 15.11. Permit Fees.

Subd. 1. Excavation Permit Fee. The city shall establish an Excavation permit fee in an amount sufficient to recover the following costs:

(a) the city management costs;

(b) degradation costs, if applicable.

Subd. 2. Obstruction Permit Fee. The city shall establish the obstruction permit fee and shall be in an amount sufficient to recover the city management costs.

Subd. 3. Payment of Permit Fees. No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction permit fees. The city may allow applicant to pay such fees within thirty (30) days of billing.

Subd. 4. Non Refundable. Permit fees that were paid for a permit that the city has revoked for a breach as stated in Section 15.21 are not refundable.

Subd. 5. Application to Franchises. Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

Sec. 15.12. Right-of-Way Patching and Restoration.

Subd. 1. Timing. The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under Section 15.15.

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

(a) City Restoration. If the city restores the right-of-way, permittee shall pay the costs thereof within thirty (30) days of billing. If, following such restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the city, within thirty (30) days of billing, all costs associated with correcting the defective work.

(b) Permittee Restoration. If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minnesota Rule 7819.3000.

(c) Degradation Fee in Lieu of Restoration. In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

Subd. 3. Standards. The permittee shall perform excavation, backfilling, patching and restoration according to the standards and with the materials specified by the city and shall comply with Minnesota Rule 7819.1100.

Subd. 4. Duty to Correct Defects. The permittee shall correct defects in patching or restoration performed by permittee or its agents. The permittee upon notification from the city, shall correct all restoration work to the extent necessary, using the method required by the city. Said work shall be completed within five (5) calendar days of the receipt of the notice from the city, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable under Section 15.15.

Subd. 5. Failure to Restore. If the permittee fails to restore the right-of-way in the manner and to the condition required by the city, or fails to satisfactorily and timely complete all restoration required by the city, the city at its option may do such work. In that event the permittee shall pay to the city, within thirty (30) days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the city may exercise its rights under the construction performance bond.

Sec. 15.13. Joint Applications.

Subd. 1. Joint application. Registrants may jointly apply for permits to excavate or obstruct the right-of-way at the same place and time.

Subd. 2. Shared fees. Registrants who apply for permits for the same obstruction or excavation, which the city does not perform, may share in the payment of the obstruction or excavation permit fee. In order to obtain a joint permit, registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

Subd. 3. With city projects. Registrants who join in a scheduled obstruction or excavation performed by the city, whether or not it is a joint application by two or more registrants or a single application, are not required to pay the excavation or obstruction and degradation portions of the permit fee, but a permit would still be required.

Sec. 15.14. Supplementary Applications.

Subd. 1. Limitation on Area. A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area (i) make application for a permit extension and pay any additional fees required thereby, and (ii) be granted a new permit or permit extension.

Subd. 2. Limitation on Dates. A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

Sec. 15.15. Other Obligations.

Subd. 1. Compliance With Other Laws. Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the city or other applicable rule, law or regulation. A permittee shall comply with all requirements of local, state and federal laws, including but

not limited to Minnesota Statutes, Section 216D.01-.09 (Gopher One Call Excavation Notice System) and Minnesota Rules Chapter 7560. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

Subd. 2. Prohibited Work. Except in an emergency, and with the approval of the city, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

Subd. 3. Interference with Right-of-Way. A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with. Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with city parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.

Subd. 4. Trenchless Excavation. As a condition of all applicable permits, permittees employing trenchless excavation methods, including but not limited to Horizontal Directional Drilling, shall follow all requirements set forth in Minnesota Statutes, Chapter 216D and Minnesota Rules Chapter 7560, and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the director.

Sec. 15.16. Denial of Permit. The city may deny a permit for failure to meet the requirements and conditions of this chapter or if the city determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

Sec. 15.17. Installation Requirements. The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minnesota Rules 7819.1100 and 7819.5000 and other applicable local requirements, in so far as they are not inconsistent with the Minnesota Statutes, Sections 237.162 and 237.163. Installation of service laterals shall be performed in accordance with Minnesota Rules Chapter 7560 and these ordinances. Service lateral installation is further subject to those requirements and conditions set forth by the city in the applicable permits and/or agreements referenced in Section 15.22 subd. 2 of this ordinance.

Sec. 15.18. Inspection.

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

Subd. 2. Site Inspection. Permittee shall make the work-site available to the city and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

Subd 3. Authority of Director.

(a) At the time of inspection, the director may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public.

(b) The director may issue an order to the permittee for any work that does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the permittee shall present proof to the director that the violation has been corrected. If such proof has not been presented within the required time, the director may revoke the permit pursuant to Sec. 15.21.

Sec. 15.19. Work Done Without a Permit.

Subd. 1. Emergency Situations. Each registrant shall immediately notify the director of any event regarding its facilities that it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Excavators' notification to Gopher State One Call regarding an emergency situation does not fulfill this requirement. Within two (2) business days after the occurrence of the emergency, the registrant shall apply for the necessary permits, pay the fees associated Therewith, and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency.

If the city becomes aware of an emergency regarding a registrant's facilities, the city will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the city may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

Subd. 2. Non-Emergency Situations. Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit and, as a penalty, pay double the normal fee for said permit, pay double all the other fees required by the city code, deposit with the city the fees necessary to correct any damage to the right-of-way, and comply with all of the requirements of this chapter.

Sec. 15.20. Supplementary Notification. If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee shall notify the city of the accurate information as soon as this information is known.

Sec. 15.21. Revocation of Permits.

Subd. 1. Substantial Breach. The city reserves its right, as provided herein, to revoke any right-of-way permit without a fee refund, if there is a substantial breach of the

terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:

(a) The violation of any material provision of the right-of-way permit;

(b) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;

(c) Any material misrepresentation of fact in the application for a right-of-way permit;

(d) The failure to complete the work in a timely manner, unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee's control; or

(e) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to Sec. 15.18.

Subd. 2. Written Notice of Breach. If the city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit, the city shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the city, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

Subd. 3. Response to Notice of Breach. Within twenty-four (24) hours of receiving notification of the breach, permittee shall provide the city with a plan, acceptable to the city, that will cure the breach. Permittee's failure to so contact the city, or permittee's failure to timely submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit. Further, permittee's failure to so contact the city, or permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall automatically place the permittee on probation for one (1) full year.

Subd. 4. Cause for Probation. From time to time, the city may establish a list of conditions of the permit, which if breached will automatically place the permittee on probation for one full year, such as, but not limited to, working out of the allotted time period or working on right-of-way grossly outside of the permit authorization.

Subd. 5. Automatic Revocation. If a permittee, while on probation, commits a breach as outlined above, permittee's permit will automatically be revoked and permittee will not be allowed further permits for one full year, except for emergency repairs.

Subd. 6. Reimbursement of city costs. If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

Sec. 15.22. Mapping Data.

Subd. 1. Information Required. Each registrant and permittee shall provide mapping information required by the city in accordance with Minnesota Rules 7819.4000 and 7819.4100. Within ninety (90) days following completion of any work pursuant to a permit, the permittee shall provide the director accurate maps and drawings certifying the "as-built" location of all equipment installed, owned and maintained by the permittee. Such maps and drawings shall include the horizontal and vertical location of all facilities and equipment and shall be provided consistent with the city's electronic mapping system, when practical or as a condition imposed by the director. Failure to provide maps and drawings pursuant to this subsection shall be grounds for revoking the permit holder's registration.

Subd. 2. Service Laterals. All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minnesota Rules 7560.0150 subpart 2, shall require the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals, and the service lateral vertical locations in those cases where the director reasonably requires it. Permittees or their subcontractors shall submit to the director evidence satisfactory to the director of the installed service lateral locations. Compliance with this subdivision 2 and with applicable Gopher State One Call law and Minnesota Rules governing service laterals install after December 31, 2005, shall be a condition of any city approval necessary for 1) payments to contractors working on a public improvement project including those under Minnesota Statutes, Chapter 429, and 2) city approval of performance under development agreements, or other subdivision or site plan approval under Minnesota Statutes, Chapter 462. The director shall reasonably determine the appropriate method of providing such information to the city. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or for future permits to the offending permittee or its subcontractors.

Sec. 15.23. Location and Relocation of Facilities.

Subd. 1. Placement, location, and relocation of facilities must comply with the Act, with other applicable law, and with Minnesota Rules 7819.3100, 7819.5000 and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.

Subd. 2 Undergrounding. Unless otherwise agreed in a franchise between the applicable right-of-way user and the City, Facilities in the right-of-way must be located or relocated and maintained underground in accordance with Section 3.23 and 12.25 of the City Code.

Subd. 3. Corridors. The city may assign a specific area within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities that is or, pursuant to current technology, the city expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the city involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.

Any registrant who has facilities in the right-of-way in a position at variance with the corridors established by the city shall, no later than at the time of the next reconstruction

or excavation of the area where the facilities are located, move the facilities to the assigned position within the right-of-way, unless this requirement is waived by the city for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the registrant.

Subd. 4. Nuisance. One year after the passage of this chapter, any facilities found in a right-of-way that have not been registered shall be deemed to be a nuisance. The city may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the facilities and restoring the right-of-way to a useable condition.

Subd. 5. Limitation of Space. To protect health, safety, and welfare, or when necessary to protect the right-of-way and its current use, the city shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making such decisions, the city shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

Sec. 15.24 Pre-excavation Facilities Location. In addition to complying with the requirements of Minn. Stat. 216D.01-.09 (“One Call Excavation Notice System”) before the start date of any right-of-way excavation, each registrant who has facilities or equipment in the area to be excavated shall mark the horizontal and vertical placement of all said facilities. Any registrant whose facilities are less than twenty (20) inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor to establish the exact location of its facilities and the best procedure for excavation.

Sec. 15.25. Damage to Other Facilities. When the city does work in the right-of-way and finds it necessary to maintain, support, or move a registrant's facilities to protect it, the city shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to that registrant and must be paid within thirty (30) days from the date of billing. Each registrant shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damage. Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the city's response to an emergency occasioned by that registrant's facilities.

Sec. 15.26. Right-of-Way Vacation. Reservation of right. If the city vacates a right-of-way that contains the facilities of a registrant, the registrant’s rights in the vacated right-of-way are governed by Minnesota Rules 7819.3200.

Sec. 15.27. Indemnification and Liability. By registering with the city, or by accepting a permit under this chapter, a registrant or permittee agrees to defend and indemnify the city in accordance with the provisions of Minnesota Rule 7819.1250.

Sec. 15.28. Abandoned and Unusable Facilities.

Subd.1. Discontinued Operations. A registrant who has determined to discontinue all or a portion of its operations in the city must provide information satisfactory to the city that the registrant's obligations for its facilities in the right-of-way under this chapter have been lawfully assumed by another registrant.

Subd. 2. Removal. Any registrant who has abandoned facilities in any right-of-way shall remove it from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the city.

Sec. 15.29. Appeal. A right-of-way user that: (1) has been denied registration; (2) has been denied a permit; (3) has had a permit revoked; (4) believes that the fees imposed are not in conformity with Minn. Stat. § 237.163, Subd. 6; or (5) disputes a determination of the director regarding Section 15.22 subd. 2 of this ordinance may have the denial, revocation, fee imposition, or decision reviewed, upon written request, by the city council. The city council shall act on a timely written request at its next regularly scheduled meeting, provided the right-of-way user has submitted its appeal with sufficient time to include the appeal as a regular agenda item. A decision by the city council affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

Sec. 15.30. Severability. If any portion of this chapter is for any reason held invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof. Nothing in this chapter precludes the city from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.

(Sections 15.31 through 15.98, inclusive, reserved for future expansion)

Sec. 15.99. 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.

Source: Ordinance No. 330, Third Series
Effective Date: 5-3-13

CHAPTER 20: LISTING OF UNCODED ORDINANCES IN EFFECT

All ordinances described in this Chapter remain in effect after adopting of the City Code. They are of a permanent and continuing nature as authority for a specific act which has been performed. These ordinances are of two types that generally distinguish them from other provisions of the City Code, either (1) their tests have no continuing reference value, or (2) they are in the nature of a contract and of only occasional reference value. For these reasons it appears justified to list and describe them here only to facilitate finding them in the event this becomes necessary.

CHANGING STREET NAMES

ORDINANCE NO. 43, NEW SERIES, adopted March 2, 1948, changed the names of the following streets: Vary Street to Brown Street, Van Eps Street to Crawford Street, Howard's Way to Cedar Street, and Fletcher Street to Warren Street.

ORDINANCE NO. 3, THIRD SERIES, adopted February 24, 1981, changed the names of the following streets: North Fairway Drive to North Fairview Drive, South Fairway Drive to South Fairview Drive, and West Fairway Drive to West Fairview Drive.

ORDINANCE NO. 67, THIRD SERIES, adopted March 13, 1989, changed the names of the following streets: Cottage Grove Avenue and Harrison Street, located and platted in Industrial Park First Addition, to Gabrielson Road.

ORDINANCE NO. 147, THIRD SERIES, adopted June 14, 1993, changed the name of the following street: Veteran's Drive to West Veteran's Drive in the Veteran's Addition and to East Veteran's Drive in the Veteran's Second Addition.

ORDINANCE NO. 165, THIRD SERIES, adopted January 9, 1995, changed the name of the following street: Walnut Street to Walnut Avenue.

ORDINANCE NO. 226, THIRD SERIES, adopted March 27, 2000, changed the name/named the following streets: Park River Road to Park River Drive; names road from Main Street South to the Wastewater Plant as Red Bird Road.

CODIFICATION OF ORDINANCES

ORDINANCE NO. 79, NEW SERIES, adopted October 22, 1964, provided for the adoption of the Revised Ordinance Code.

ORDINANCE NO. 1, THIRD SERIES, adopted September 30, 1980, and published October 1, 1980, provided for the adoption of the City Code of the City of Luverne, Minnesota.

ORDINANCE NO. 70, THIRD SERIES, adopted April 24, 1989, provided for the re-adoption of the City Code (February 1, 1989, edition) of the City of Luverne, Minnesota.

1957 CHARTER, AMENDMENTS

ORDINANCE NO. 161, NEW SERIES, adopted June 7, 1976, amends Section 4.03 of the City Charter.

ORDINANCE NO. 167, NEW SERIES, adopted March 22, 1977, amends Sections in Chapters 1 through 7, 9, and 12 of the City Charter.

1987 CHARTER, AMENDMENTS

ORDINANCE NO. 53, THIRD SERIES, adopted April 11, 1988, amends Sections 5.01, 5.02, 5.03, and 5.04 of the City Charter.

ORDINANCE NO. 64, THIRD SERIES, adopted January 9, 1989, amends Section 7.13 of the City Charter.

ORDINANCE NO. 89, THIRD SERIES, adopted June 25, 1990, amends Section 2.07 of the City Charter.

ORDINANCE NO. 90, THIRD SERIES, adopted June 25, 1990, amends Section 4.01 of the City Charter.

ORDINANCE NO. 91, THIRD SERIES, adopted June 25, 1990, amends Sections 5.01 and 5.03 of the City Charter.

ORDINANCE NO. 92, THIRD SERIES, adopted June 25, 1990, amends Sections 7.04, 7.06, 7.07, and 7.11 of the City Charter.

ORDINANCE NO. 124, THIRD SERIES, adopted January 27, 1992, amends Section 12.14 of the City Charter.

ORDINANCE NO. 313, THIRD SERIES, adopted March 9, 2010, amends Sections 5.03 and 5.04 of the City Charter.

ORDINANCE NO. 315, THIRD SERIES, adopted June 22, 2010, amends Sections 5.01 and 5.07 of the City Charter.

SALE OF REAL ESTATE

ORDINANCE NUMBER	DATE OF ADOPTION	BRIEF DESCRIPTION
83, NEW SERIES	1-25-66	The SE 1/4 of NE 1/4 and NE 1/4 of SE ¼ in 36-103-45
84, NEW SERIES	7-18-66	(Amends ORDINANCE NO. 83, NEW SERIES)
86, NEW SERIES	11-22-66	Lots 5 and 12 in Auditor's Plat No. 3, Subdivision of Outlot 17 of County Auditor's Plat of Luverne Outlots in 10-102-45
105, NEW SERIES	11-4-69	Block 3, Greenvale Addition; part of Summit Avenue; and North 100 Ft of West 443 Ft of Outlot 23, Auditor's Outlot in 10-102-45
15, THIRD SERIES	1-17-84	Authorized trade of City land in Outlot 19 of County Auditor's Plat in 11-102-45 for Maxwell owned abandoned railroad land in 11-102-45
16, THIRD SERIES	1-17-84	Donated Lots 7, 8, and 9, Block 15 of Original Plat to Rock County Senior Citizens, Inc.
19, THIRD SERIES	4-17-84	Parcel in 11-102-45 adjacent to Blue Mound Ave to Rock County for additional right-of-way
41, THIRD SERIES	12-28-87	Lots 1 through 7, Block 2, Original Plat
61, THIRD SERIES	8-08-88	Tract in NE 1/4-15-102-45 (Hakes)
63, THIRD SERIES	12-12-88	Lot 4, Block 1, Kniss Park Addition (Street Shop)
76, THIRD SERIES	10-09-89	All of Lot 1 and East 100 Feet of Lot 2, Block 1, Gabrielson Industrial Subdivision (Skattum)
82, THIRD SERIES	2-12-90	A portion of Lot 3 in Gabrielson Addition (Taco Johns)
86, THIRD SERIES	4-23-90	Lot 3, Block 5, Gabrielson Industrial Subdivision and a portion of Lot 4, Gabrielson Addition (M & M)

SALE OF REAL ESTATE, CONT.

96, THIRD SERIES	7-24-90	Portion of NW 1/4-2-102N-45W (Conveyance/Donation to State Vets Home)
106, THIRD SERIES	4-08-91	East 100 ft. of Lot 7, Block 1, Gabrielson Industrial Subdivision (Mark Jacobson)
109, THIRD SERIES	4-26-91	Lot 3 & portion of Lot 2, Block 4, Gabrielson Industrial Subdivision (Hills Stainless Steel)
110, THIRD SERIES	5-28-91	Lots 1 through 20 in Block 1 -AND- Lots 1 through 14 in Block 2, Veteran's Addition
122, THIRD SERIES	12-2-91	North 85 ft. of Lots 6 and 7, Block 2, Randall & Holbert's Addition (Hall Donated Property)
148, THIRD SERIES	8-9-93	Lots 19 thru 22, Block 9, Original Plat (Parking Lot to Glen Gust)
153, THIRD SERIES	9-27-93	West 22 ft. of Lot 20, all of Lots 21 and 22, Lot 10 - Original Plat (Connell Building to LEDA)
155, THIRD SERIES	10-12-93	Lots 2 ex. E.100', 3 thru 6, and 7 ex. E.100', Block 1; Lots 1 thru 8, Block 3; Lots 1 and 2 ex. approx. 3.93 acres, Block 4; and undeveloped roads (1.82 acres) and drainage ditches (1.60 acres) Gabrielson Industrial Park Subdivision (Gabrielson Industrial Park to LEDA)
157, THIRD SERIES	11-8-93	Lots 1 thru 10, 13 & 14, 16 thru 20, Block 1; and Lots 1 thru 7, 9 thru 13, Block 2 - Veteran's Addition (Veteran's Addition Lots to LEDA)
169, THIRD SERIES	3-13-95	Portion of Lot 2, Block 1, Tri-State Addition (Tri-State Insurance for Expansion)
187, THIRD SERIES	6-10-96	Lots 4 thru 7, Block 6, Original Plat (Sieps Rx Inc. for Family Drug Expansion)

191, THIRD SERIES	9-09-96	23.10 Acres SW of I-90/TH 75 Interchange (Former Elmen Property to Christensen Corporation for Pamida Store)
198, THIRD SERIES	4-28-97	Lot 1, Block 5, Gabrielson Industrial Subdivision (Charles P. Boson)
199, THIRD SERIES	5-27-97	1 Acre in SE Corner of 3-102N-45W (Transformer Site to ISD #2184 for Elementary School)
201, THIRD SERIES	7-14-97	50.01 Acres in SW 1/4-10-102N-45W (for Ethanol Plant)
220, THIRD SERIES	11-08-99	Lots 8, 9 & W 1/2 of Lot 10, Block 12, Warren & Kniss' Addition (212 W. Main/Baker)
223, THIRD SERIES	12-20-99	Lots 1 & 2 ex. N. 36', Lot 3 ex. N. 36' of W.20', Lots 4 & 5, Block 8, Original Plat (Parking Lot 100 Block S. Cedar St.)
224, THIRD SERIES	02-28-00	Blk 18 ex. Parcel in Van Eps & Vary's Addn; Lots 12, 13, 14 & 15 in Blk 14, Original Plat; Lots 1 & 2 & W 81½' of Lot 7, in Blk 19, Van Eps & Vary's Addn; and Lots 2, 3, 4 & 8 in Blk 23, Van Eps & Vary's Addn. (Hospital Property)
244, THIRD SERIES	11-27-01	N. 68 ft. of Lot 19, Block 16, Original Plat. (Land swap with Holy Trinity Church)
248, THIRD SERIES	6-25-02	Sidewalk Tract in Block 3, Evergreen Addition (Roland & Karen Miller)
255, THIRD SERIES	12-09-03	Lots 2 & 3, Blk 1, Veteran’s Addition (Sioux Valley Regional Health Services)
276, THIRD SERIES	6-14-05	Lots 4 (ex. N.13.2 ft) & 5, Block 5, Auditor’s Subdivision (Gene Rosenberg)

277, THIRD SERIES	6-14-05	W.25 ft. of S.120 ft. of Lot 4, Bock 15, Warren & Kniss Second Addition (Blaine Radtke)
278, THIRD SERIES	7-12-05	Well Site--vicinity of Dodge St. & Blue Md Ave. (Robert Frakes)
284, THIRD SERIES	6-13-06	N.20 ft. of S.68 ft. of W.10 ft. of Lot 19 and N.20 ft. of S.68 ft. of Lots 20, 21, & 22, Block 16, Original Plat (Holy Trinity Church)
286, THIRD SERIES	9-12-06	Lots 15, 16, 17 and E. 3 ft. of Lot 18, Block 6, Original Plat (Dunkle Main Street Property)
288, THIRD SERIES	12-12-06	N.86 ft. of Lots 12, 13, 14 & all of Lot 15, Block 10, Original Plat (Spring & Lincoln Parking Lot) (Jim Johannsen/Glen Gust)
289, THIRD SERIES	12-27-06	Lots 1 & 2, Block 23, Van Eps & Vary's Addition (Parking Lot) and Lot 8, Block 23, Van Eps & Vary's Addition, (Chemical Dependency Office) (The Church of St. Catherine)
290, THIRD SERIES	5-22-07	S. 100 ft. of Lot 1 and S 100 ft. of W 9.9 ft. of Lot 2, Block 9, Original Plat (Former City Hall, 203 E. Main Street)
296, THIRD SERIES	4-22-08	Part of N ½ NE ¼ NW ¼ - 15-102N-45W Land Swap with Agri-Energy (12 A. to Agri-Energy; 8.66 A. to City)
299, THIRD SERIES	8-12-08	Lots 1, 2, 3, 4, 5 & 6 Special Industry First Adn (Special Industry First Addition to LEDA)
300, THIRD SERIES	10-14-08	Sidewalk Tract in Block 3, Evergreen Addition (Jim and Heather Johnson)

302, THIRD SERIES	2-10-09	Lots 7-12 & E. 10 ft. of 13, Block 7, Warren & Kniss (Library-201 W. Main)
341, THIRD SERIES	9-10-15	Lots 1 & 3 Barck Subdivision (Cleveringa Construction)
344, THIRD SERIES	3-24-16	Lot 2 Barck Subdivision (Cleveringa Construction)
345, THIRD SERIES	4-7-16	Lot 1, Block 1 Industrial Park First Addition (Merlin Kracht)

FRANCHISES

ORDINANCE NO. 131, NEW SERIES, adopted November 28, 1972, grants franchise to Central Natural Gas Company to operate and maintain a gas system in the City for a period of twenty-five (25) years.

ORDINANCE NO. 2, THIRD SERIES, adopted December 3, 1980, grants franchise to Zylstra Communications Corporation to operate and maintain a Cable Television System in the City of Luverne for a period of fifteen (15) years accepted by Franchisee on March 5, 1981.

ORDINANCE NO. 192, THIRD SERIES, adopted October 28, 1996, grants franchise to Zylstra Communications Corporation to operate and maintain a Cable Television System in the City of Luverne until November 12, 2016, provided upgrade is completed by November 12, 2001; accepted by Franchisee on November 12, 1996.

ORDINANCE NO. 206, THIRD SERIES, adopted July 13, 1998, grants franchise to Dakota Telecom Inc. (DTI) to operate and maintain a Cable Television System in the City of Luverne for a term of 15 years (2013); accepted by Franchisee on August 7, 1998.

ORDINANCE NO. 236, THIRD SERIES, adopted December 11, 2000, grants franchise to Reliant Energy Minnegasco to operate and maintain a gas system in the City for a period of twenty (20) years; accepted by Franchisee on January 3, 2001.

ANNEXATIONS

ORDINANCE NUMBER	DATE OF ADOPTION	BRIEF DESCRIPTION
71, NEW SERIES	7-03-56	Tract in SE 1/4 of 2-102-45.
85, NEW SERIES	7-18-66	Tract in NE 1/4 of 15-102-45.
103, NEW SERIES	5-13-69	Tract in NW 1/4 of 14-102-45.
135, NEW SERIES	5-22-73	Tract in Westview Addition.
162, NEW SERIES	8-24-76	Portion of NW 1/4 of Section 14 North of Interstate Highway 90, West of East right-of-way line of Chicago, St. Paul, Minneapolis, & Omaha Railway.
55, THIRD SERIES Municipal Board Order	5-23-88 6-09-88	All that part of NE 1/4-15-102-45 North of Interstate 90. (Gabrielson - 69.16 A)
JT RESOLUTION #39-90 Municipal Board Order Municipal Board Order Correcting Range No.	8-13-90 10-01-90 11-02-90	SW 1/4 of NW 1/4-2-102-45 (Orderly Annexation) (Veteran's Addition - 40.00 A)
137, THIRD SERIES Municipal Board Order	10-13-92 11-06-92	Portion of SE 1/4 of NW 1/2-2-102-45 (Veteran’s Second Addition - 3.89 A)
149, THIRD SERIES Municipal Board Order	8-30-93 9-15-93	SE 1/4 of NW 1/4-2-102-45 except Veteran's Second Addition -AND- S.438.57 ft. of NE 1/4 NW 1/4-2-102-45 (Evergreen Addition - 49.22 A)
151, THIRD SERIES Municipal Board Order	9-13-93 10-13-93	.96 Acres of S 1/2 of SE 1/4-3-102-45 (Portion of John Schuur Property)
JT RESOLUTION #62-93 Municipal Board Order	9-13-93 10-13-93	Magnolia Steak House, ELJIM, RIBOB, Viking Inn, I-90 Right-of-Way, E.50' of Olhausen Property, and Schoon, Renken, and Limesand Properties (Orderly Annexation - So. of I-90 - 90 A)

JT RESOLUTION #9-94 Municipal Board Order	2-14-94 3-03-94	East 33' of Walnut Ave. Right of Way (between Hatting & Warren - 2.0 A)
158, THIRD SERIES Municipal Board Order	3-14-94 4-08-94	48.5 Acres in SW 1/4-10-102-45 (Sybesma Property)
159, THIRD SERIES Municipal Board Order	3-14-94 4-08-94	.74 Acres in W 1/2 of SE 1/4-3-102-45 (Forrest Property to Laabs)
184, THIRD SERIES Municipal Board Order	5-13-96 6-06-96	31.51 Acres in SW 1/4-10-102-45 (Sybesma Subdivision)
202, THIRD SERIES Municipal Board Order	8-11-97 9-12-97	9.27 Acres in E¼ corner of 15-102-45 (Hohn Implement)
205, THIRD SERIES Municipal Board Order	2-23-98 3-06-98	2.29 Acres in SW 1/4-10-102-45 (Fagen, Inc.)
208, THIRD SERIES Municipal Board Order	8-24-98 9-11-98	9.27 Acres in E¼ corner of 15-102-45 (Hohn Implement--amends Ordinance No. 202 Third Series-corrects legal description)
217, THIRD SERIES Minnesota Planning Order	8-09-99 9-03-99	161.87 Acres in Sections 9 & 16-102-45 (IBP/Gold'n Plump Area)
218, Third Series Minnesota Planning Order	8-09-99 9-03-99	55 Acres in Section 15-102-45 (Industrial Park Area--Fick Property)
219, Third Series Minnesota Planning Order	11-08-99 12-03-99	123.97 Acres in Section 3-102-45 (School Area)
221, Third Series Minnesota Planning Order	11-08-99 12-03-99	8.3 Acres in Section 14-102-45 (So. of I-90, Drive-In Theatre Area)

242, Third Series Minnesota Planning Order	09-11-01 09-27-01	1.58 Acres in NE¼NW¼-15-102-45 (City-owned Industrial Park Area-Dreckman)
243, Third Series Minnesota Planning Order	10-09-01 11-09-01	.3243 Acre in W½ SE¼-3-102-45 (Laabs Buffer Area)
253, Third Series Minnesota Planning Order	09-16-03 10-13-03	65.45 Acres in NW ¼-2-102N-45W (Christensen Property – new hospital area)
254, Third Series Jt. Res. #39-03 Minnesota Planning Order	09-23-03 11-12-03	2.09 Acres abutting Juhl Addition (Thielbar Addition)
Jt. Resolution #66-06 Minnesota Planning Order	12-27-06 01-16-07	91.11 Acres in NW ¼-15-102N-45W (Marty Mayes)
304, Third Series Minnesota Planning Order	04-14-09 05-14-09	5.076 Acres in SE ¼-15-102N-45W (Rock Veterinary Clinic)
Jt. Resolution #32-15 Minnesota Planning Order	07-14-15 07-22-15	3.89 Acres (06-0096-100 & 06-0096-300) (Crossroads and James Remme)

ZONING MAP AMENDMENTS

ORDINANCE NUMBER	DATE OF ADOPTION
165, NEW SERIES	9-28-76
172, NEW SERIES	1-24-78
7, THIRD SERIES	8-25-81
8, THIRD SERIES	8-25-81
20, THIRD SERIES	5-15-84
27, THIRD SERIES	8-05-85

NEW ZONING MAP

Entirely new zoning districts were established by ORDINANCE NO. 33, THIRD SERIES, adopted 4-17-87.

ZONING MAP AMENDMENTS

56, THIRD SERIES	6-27-88
60, THIRD SERIES	8-08-88
104, THIRD SERIES	3-11-91
115, THIRD SERIES	8-12-91
129, THIRD SERIES	4-27-92
150, THIRD SERIES	9-13-93
154, THIRD SERIES	10-12-93

NEW ZONING MAP

Entirely new zoning districts were established by ORDINANCE NO. 179, THIRD SERIES, adopted 11-22-95.

ZONING MAP AMENDMENTS

ORDINANCE NUMBER	DATE OF ADOPTION
185, THIRD SERIES	5-28-96 (Sybesma Subdivision)
186, THIRD SERIES	6-10-96 (Evergreen Second Addn)
194, THIRD SERIES	1-27-97 (repealed by #196)
196, THIRD SERIES	3-10-97 (Lot 8, Blk 23, Van Eps & Varys)
197, THIRD SERIES	3-24-97 (M&M/Fleming)
222, THIRD SERIES	2-13-99 (Lot 2, Blk5, Gabrielson Industrial Subdivision)
245, THIRD SERIES	3-26-02 (Hospital Area-29 lots)
262, THIRD SERIES	4-13-04 (Outlot 1, Sioux Valley Addition)

NEW ZONING MAP

Entirely new zoning districts were established by ORDINANCE NO. 272, THIRD SERIES, adopted 2-22-05, effective 3-10-05.

309, THIRD SERIES	10-27-09	(Thone Addition)
310, THIRD SERIES	10-27-09	(Rock Veterinary Clinic)
339, THIRD SERIES	08-13-15	(Great Plains Processing)

ZONING REGULATIONS FOR AREAS DESIGNATED FOR ORDERLY ANNEXATION (GOVERNED JOINTLY BY THE CITY AND LUVERNE TOWNSHIP)

ORDINANCE NO. 36, THIRD SERIES - adopted 6-22-87 - established interim zoning regulations.

ORDINANCE NO. 39, THIRD SERIES - adopted 10-26-87 - established "permanent" zoning regulations.

ORDINANCE NO. 213, THIRD SERIES - adopted 01-11-99/effective 01-28-99 provides for Commercial Agricultural Districts; Repeals Ordinance No. 39, Third Series.

MISCELLANEOUS

ORDINANCE NO. 4, THIRD SERIES, adopted April 28, 1981, authorized the emergency purchase of two police vehicles.

ORDINANCE NO. 13, THIRD SERIES, adopted September 13, 1982, authorized emergency repair of water tower auto con transmitter.

ORDINANCE NO. 18, THIRD SERIES, adopted April 10, 1984, authorized purchase of new boiler at Rock County Community Pool.

ORDINANCE NO. 28, THIRD SERIES, adopted August 18, 1986, authorized continued maintenance and operation of turbine, generator, and boiler.

ORDINANCE NO. 138, THIRD SERIES, adopted November 9, 1992, provided for administration of the City during City Administrator vacancy.

ORDINANCE NO. 145, THIRD SERIES, adopted March 8, 1993, authorized utility easement changes (Poppenga/Rozeboom).

ORDINANCE NO. 162, THIRD SERIES, adopted July 11, 1994, authorized utility easement changes (Gabrielson Industrial Subdivision).

ORDINANCE NO. 164, THIRD SERIES, adopted November 28, 1994, authorized utility easement changes (Okarski-North Pleasant View Addition).

ORDINANCE NO. 172, THIRD SERIES, adopted May 8, 1995, changing the Luverne Municipal Airport to Quentin Aanenson Field.

ORDINANCE NO. 180, THIRD SERIES, adopted 12/11/95, extends the term of the Cable TV Franchise Ordinance with Zylstra Communications until 5/10/96.

ORDINANCE NO. 182, THIRD SERIES, adopted 4/08/96, extends the term of the Cable TV Franchise Ordinance with Zylstra Communications until 7/10/96.

ORDINANCE NO. 188, THIRD SERIES, adopted 6/10/96, extends the term of the Cable TV Franchise Ordinance with Zylstra Communications until 9/20/96.

ORDINANCE NO. 190, THIRD SERIES, adopted 8/26/96, extends the term of the Cable TV Franchise Ordinance with Zylstra Communications until 11/15/96.

ORDINANCE NO. 209, THIRD SERIES, adopted 8/24/98, creates and establishes an Absentee Ballot Board.

ORDINANCE NO. 225, THIRD SERIES, adopted 3/27/00, repeals Ordinance No. 28, Third Series, which authorizes the continued maintenance and operation of turbine, generator, and boiler.

ORDINANCE NO. 240, THIRD SERIES, adopted 7/10/01, approves Mediacom's Cable Television System Upgrade Proposal.

ORDINANCE NO. 260, THIRD SERIES, adopted 1/27/04 states any resolution regarding the organization or re-organization of City government shall not be effective unless such resolution has been approved by at least three members of the City Council, excluding the Mayor.

ORDINANCE NO. 264, THIRD SERIES, adopted 5/25/04, authorized utility easement change (Michael Wenninger-Siebenahler Addition).

ORDINANCE NO. 266, THIRD SERIES, adopted 11/09/04, authorized utility easement change (Greg Aubert-Siebenahler Addition).

ORDINANCE NO. 275, THIRD SERIES, adopted 6/07/05, provided for administration of the City during City Administrator vacancy.

ORDINANCE NO. 291, THIRD SERIES, adopted 6/12/07, corrects utility easement error in Gabrielson Industrial Subdivision (repeals Ordinance No. 162, Third Series).

ORDINANCE NO. 297, THIRD SERIES, adopted 7/22/08, lifts the one year sunset of the All-Terrain Vehicles & Golf Cart ordinance (amends Ordinance No. 293, Third Series).

ORDINANCE NO. 308, THIRD SERIES, adopted 8/25/09, authorizing utility easement changes on Lots 1 & 2, Block 5, Evergreen Addition (3 lots into 2).

ORDINANCE NO. 318, THIRD SERIES, adopted 7/19/11, emergency ordinance adopting electrical code.