CHAPTER 1

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CHAPTER 1

GENERAL PROVISIONS AND DEFINITIONS APPLICABLE TO THE ENTIRE CITY CODE INCLUDING PENALTY FOR VIOLATION

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 Mountain Lake, Minnesota, and within such adjacent area as may be stated in specific provisions.

SECTION 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 provision of this City Code, shall have the following meanings and inclusions:

Subdivision 1. "City" means the City of Mountain Lake, Minnesota, acting by or through its duly authorized representative.

Subdivision 2. "City Administrator" means the person duly appointed by the City Council and acting in such capacity. The City Administrator and City Clerk-Treasurer positions have been combined and reference to the City Clerk or City Clerk-Treasurer shall mean the City Administrator.

Subdivision 3. "Conviction" means either of the following accepted and recorded by the Court:

A. A plea of guilty; or,

B. A verdict of guilty by a jury or a finding of guilty by the Court.

Subdivision 4. "Council" and "City Council" mean the City Council of the City of Mountain Lake, Minnesota.

Subdivision 5. The term “County” shall mean the County of Cottonwood, Minnesota.

Subdivision 6. "Crime" means conduct which is prohibited by ordinance and for which the actor may be sentenced.

Subdivision 7. "Ex Officio Member" means a person who is not counted for the purpose of determining a quorum, and has no right to vote.

Subdivision 8. "Intersection" means the area embraced within the prolongation or connection of the lateral curb line or, if no curb, then the lateral boundary lines of the roadways or streets which

join one another at, or approximately at, right angles or the area within which vehicles traveling upon different streets joining at any other angle may come in conflict.

Subdivision 9. Minnesota Statutes. The term “Minnesota Statutes” shall mean and refer to the latest edition or supplement of the Minnesota Statues.

Subdivision 10. "Misdemeanor" means an offense as defined by Minnesota Statute 609.02 Subdivision 3.

Subdivision 12. "Person" includes all firms, partnerships, associations, corporations and natural persons.

Subdivision 13. “Petty Misdemeanor" means an offense as defined by Minnesota Statute 602. 02 Subdivision 4a.

Subdivision 14. "Police Officer" and "Peace Officer" mean every officer, including special police, authorized to direct or regulate traffic, keep the peace, and appointed or employed for the purpose of law enforcement.

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

Subdivision 16. "Private Property" means all property not included within the definition of public property or public place.

Subdivision 17. "Public Property" and "Public Place" mean any place, property or premises dedicated to public use, owned by the City, occupied by the City as a lessee, or occupied by the City as a street by reason of an easement, including, but not limited to, streets, parks or parking lots so owned or occupied.

Subdivision 18. "Roadway" means that portion of a street improved, designed, or ordinarily used for vehicular travel. In the event a street includes two or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

Subdivision 19. "Street" means the entire area dedicated to public use, or contained in an easement or other conveyance or grant to the City, and shall include, but not be limited to, roadways, boulevards, sidewalks, alleys, and other public property between lateral property lines in which a roadway lies.

Subdivision 20. "Violate" includes failure to comply with.

Subdivision 21. "Written" and "In Writing" mean any mode of representing words and letters in the English language.

SECTION 1.03. VIOLATION A MISDEMEANOR OR A PETTY MISDEMEANOR.

Every person violates a chapter, section subdivision, paragraph or provision of this City Code when an act which is 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 provisions. 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.

SECTION 1.04. OTHERWISE UNLAWFUL.

The City Code does not authorize an act or omission otherwise prohibited by law.

SECTION 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.

SECTION 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.

SECTION 1.07. MEANINGS.

As used in this City Code, the following meanings shall apply:

Subdivision 1. Gender. A word importing either the masculine or feminine gender shall extend and be applied to both the masculine and feminine genders, and to firms, partnerships and corporations.

Subdivision 2. "May" is permissive.

Subdivision 3. "Shall" is mandatory.

SECTION 1.08. CITATION.

This codification of the ordinances of the City of Mountain Lake, Minnesota, shall henceforth be known as the City Code and cited thus: "CITY CODE, SECTION _____ .."

SECTION 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.

SECTION 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.

SECTION 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 designee.

SECTIONS 1.12 - 1.99. RESERVED.

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CHAPTER 2

ADMINISTRATION AND GENERAL GOVERNMENT

SECTION 2.01. AUTHORITY AND PURPOSE.

Pursuant to authority granted by Statute, this Chapter of the City Code is enacted so as to set down for enforcement the government and good order of the City by and through the Council.

SECTION 2.02. COUNCIL MEETINGS - TIME AND PLACE.

Regular meetings of the Council shall be held in the Council Chambers on the first Monday and on the third Monday of each month at 6:30 o'clock P.M. Special and adjourned meetings shall also be held in the Council Chambers. In the event that any regular meeting falls on a holiday, then the meeting shall be held on the next business day at the same time or set by the Council.

SECTION 2.03. SPECIAL AND EMERGENCY MEETINGS.

A special meeting of the Council is any meeting other than a regular meeting. It may be called by the Mayor or by any two other members of the Council by writing filed with the City Administrator stating the time, place and purpose of the meeting. The City Administrator will notify all members of the Council by mail one (1) day prior to the meeting, or personal service at least 24 hours prior to the meeting date and time.

Special meetings may be held without prior written notice to the Council when all Council members are present at the meeting or consent thereto in writing. Any such consent shall be filed with the City Administrator prior to the beginning of the meeting.

Emergency meetings are special meetings called by the Council due to circumstances that, in its judgment, require immediate council consideration. The City Administrator will notify all Council members of the meeting by mail at least one (1) day before the meeting.

Meetings of the Council which are adjourned from time-to-time shall not be subject to the foregoing notice requirements. Any special or emergency meeting attended by all Council members shall be a valid meeting for the transaction of any business that may come before the Council. All Council meetings shall comply with MN Data Practice Act & Opening Meeting Law. Notice to the public and to news media shall be given as required by statute.

SECTION 2.04. COUNCIL PROCEDURE AT REGULAR MEETINGS.

The City Administrator shall prepare the following items: (1) an agenda for the forthcoming meeting; (2) a report from the City Administrator on administrative activities of the preceding month; (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(4) a copy of all minutes to be considered; and, (5) copies of such other proposals, communications, or other documents as the City Administrator deems necessary or proper for advance consideration by the Council. The City Administrator shall forthwith cause to be mailed or delivered to each member of the Council copies of all documents. Roberts' Rules of Order (Newly Revised) shall govern all Council meetings as to procedural matters not set forth in the City Code.

SECTION 2.05. CITY SEAL.

All contracts to which the City is a party shall be sealed with the City Seal. Said Seal shall be kept in the custody of and affixed by the City Administrator. The official City Seal shall be a circular disc having engraved thereupon "CITY OF MOUNTAIN LAKE" and such other words, figures or emblems as the Council may, by resolution, designate.

SECTION 2.06. RIGHT TO ADMINISTRATIVE APPEAL.

If any person shall be aggrieved by any administrative decision of the City Administrator or any other City official, or any Board or Commission not having within its structure an appellate procedure such aggrieved person is entitled to a full hearing before the Council upon serving a written request to the Mayor and City Administrator at least five (5) days prior to any regular Council meeting. Such request shall contain a general statement setting forth the administrative decision to be challenged by the appellant. At such hearing the appellant may present any evidence deemed pertinent to the appeal. The City shall 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 make a motion to 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.

SECTION 2.07. 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.

SECTION 2.08. FACSIMILE SIGNATURES.

In the absence of the Mayor, the Acting 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 the Mayor's signature effectively as though it were a manually written signature. Such authority is granted only for the purpose of permitting such officers an economy of time and effort.

SECTION 2.09. CITY CLERK-TREASURER.

Subdivision 1. Combined Office.

Pursuant to the authority granted by Minnesota Statutes 412.591, the offices of the Clerk and Treasurer shall be, and hereby, combined in the office of the Clerk-Treasurer and thereafter the duties of the Treasurer and Clerk shall be performed by the Clerk-Treasurer.

Subdivision 2. Audit.

In conformance with the laws of the State of Minnesota, there shall be an annual audit of the City's financial affairs by the State Auditor or a public accountant in accordance with minimum procedures prescribed by the State Auditor.

SECTION 2.10. CITY ADMINISTRATOR.

Subdivision 1. Position.

This Section shall apply in the event the Council, by resolution, establishes the position of City Administrator.

Subdivision 2. Appointment and Removal.

The City Administrator shall be appointed by the Council for an indefinite term and shall not be removed except by affirmative action taken by the Council twice at two regular meetings held within sixty days. The action taken at the first such meeting shall be an expression of intent to vote at the second such regular meeting not to be held sooner than ten days thereafter. If, at any time after a completion of six months of continuous service, the Council takes such action, the City Administrator may within thirty days after written notice of removal, request a public hearing which the Council must grant and which must be started within thirty days after the request.

Subdivision 3. Qualifications.

The City Administrator shall be selected solely on the basis of executive and administrative qualifications with special reference both to experience, formal education, as well as knowledge of accepted practices pertaining to the duties of the office.

Subdivision 4. Duties.

The City Administrator shall be the chief administrative officer of the City and shall be responsible to the Council for the proper administration of all affairs of the City and to that end shall have the power and shall be required to:

A. Supervise the administration of all Departments, offices and divisions of the City except as otherwise provided by law and carry out any other responsibilities authorized by the jurisdiction of this Chapter or by subsequent Council action. The Administrator shall interview and screen all prospective City employees as permitted by law and shall make recommendations for terminating and suspending employees and may suspend any employee until the next Council meeting when the Council shall affirm, modify or rescind the suspension.

B. Develop and issue all administrative rules, regulations and procedures necessary to insure the proper functioning of all departments and offices as permitted by law and Council approval.

C. Prepare and submit an annual budget to the Council and keep the Council advised of the financial condition of the City and make such financial or budgetary recommendations.

D. Attend and participate in discussions at all meetings of the Council and other official bodies as directed by the Council. The City Administrator shall also represent the City at all official or semi-official functions as may be directed by the Council and not in conflict with the prerogatives of the Mayor or Council. The Administrator shall be entitled to notice of all regular and special meetings of the Council.

E. See that all laws and provisions of the City Code are duly enforced.

F. Make or let purchases and contracts in an amount established by the City Council. Present to the City Council as per MN Statutes 412.691, quotations, sealed bids, purchases or contracts in excess of $5,000 and present them to the Council for official action.

G. Recommend from time to time the adoption of such measures as deemed necessary or expedient for the health, safety and welfare of the community.

H. Perform such other duties as may be required by the Council and consistent with Minnesota Statutes and the City Code.

Subdivision 5. Bond Required.

The City Administrator shall furnish a surety bond to be approved by the Council, said bond to be conditioned on the faithful performance of duties. The premium of the bond shall be paid by the City.

Subdivision 6. Compensation,

The City Administrator shall receive such compensation as the Council shall fix from time to time by ordinance or resolution.

SECTION 2.11. DEPUTY CITY CLERK-TREASURER.

Subdivision 1. Position Created.

The position of Deputy City Clerk-Treasurer is hereby created.

Subdivision 2. Delegation of Duties.

A portion of the bookkeeping duties, as may be determined from time to time, performed by the City Clerk-Treasurer, are hereby delegated to the Deputy City Clerk-Treasurer.

Subdivision 3. Bond.

The Deputy City Clerk-Treasurer shall furnish a fidelity bond conditioned on the faithful exercise of duties. In lieu of such individual bond the Council may provide for a blanket bond, furnished by a surety company authorized to transact business in the State of Minnesota, and covering the position and duties of the Finance Officer. Premiums on either of such bonds shall be paid by the City.

SECTION 2.12. INTERIM EMERGENCY SUCCESSION.

Subdivision 1. Purpose.

Due to the existing possibility of an emergency disaster requiring a declaration of a local 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.

Subdivision 2. Succession to Local Offices.

In the event of an emergency/disaster affecting the vicinity of the City, the Mayor, Council, Civil Defense Director 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 Chair and Secretary to preside and keep minutes respectively.

B. They shall review and record the specific facts relating to the emergency and injuries to persons or the disaster or damage to property already done, or the imminence thereof.

C. They may, based on such facts, declare a state of local emergency, pursuant to the authority granted by Minnesota Statutes 12.29, subdivision 1.

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 to and returns to the position or the state of emergency has passed or a successor is designated and qualifies as required by law, whichever occurs first.

Subdivision 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.

SECTION 2.13. SALARIES OF MAYOR, COUNCIL MEMBERS, AND MEMBERS OF BOARDS AND COMMISSIONS. See #3-12 #10-16, #3-18

Salaries of the Mayor and Council are fixed by the Council by resolution.

Subdivision 1.

The monthly salary of the Mayor shall be $290. The monthly salary of each Council Member shall be $170.

Subdivision 2.

The monthly salary of Mayor and each Council Member shall be established by Ordinance prior to the regular city election. No change in salary shall take effect until January 1 after the next succeeding regular city election.

Subdivision 3.

A. Compensation for attending special city council meetings shall be $25.

B. Compensation for attending city related meetings of less than four (4) hours shall be $40; meetings over four (4) hours shall be $80.

Subdivision 4.

Salaries for members of commission and board members shall be established by resolution of the Council.

Subdivision 5.

No Ad Hoc Committee will be paid.

Subdivision 6.

Type of meeting to be paid:

A. Regular and special meetings of Commissions and Boards, whether or not a quorum is present.

B. Meetings with other groups when approved by the Council.

C. Meetings to give reports to the Council. The Chair of the Commission or Board or other designee.

D Liaison of the Council will be paid for regular and special meetings as if they are commission or board members.

E. Each Council Member, Commission or Member shall keep their own records of meetings, expenses, and submit a bill on a semi-annual basis for each year for approval and payment.

F Actual out-of-pocket expenses for mileage, meals, and lodging shall be submitted for approval and payment.

SECTION 2.14. WORKERS COMPENSATION.

All officers of the City elected or appointed for a regular term of office or to complete the unexpired portion of any such regular term shall be included in the definition of "employee" as defined in Minnesota Statutes relating to coverage for purposes of workers compensation.

SECTION 2.15. CIVIL DEFENSE DIRECTOR.

Subdivision 1. Services.

The Council may appoint a Civil Defense Director.

Subdivision 2. Compensation.

The compensation of a Civil Defense Director for any services rendered to the City may be fixed and determined by the Council.

SECTIONS 2.16 – 2.29. RESERVED.

SECTION 2.30. DEPARTMENTS GENERALLY.

Subdivision 1. Appointment.

All Department heads and employees shall be appointed by the Council. All appointments shall be for an indeterminate period of time.

Subdivision 2. Compensation.

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

Subdivision 3. Table of Organization and Lines of Responsibility.

The Council may by resolution adopt, amend, and from time to time revise, a Table of Organization and define lines of responsibility and authority for the efficient governmental organization of the City.

Subdivision 4. Budgetary Information.

The Heads of all Departments shall, prior to August 1 in each year, file with the City Administrator the projected financial needs of their department for the ensuing year. Such projections shall include information as to maintenance and operation of equipment, new equipment, personnel, and such other information as may be requested by the City.

Subdivision 5. Control.

All Departments and Department Heads, except the Legal Department, shall be directly responsible to the City Administrator and shall act under the control of the Council.

SECTION 2.31. POLICE DEPARTMENT.

A Police Department is hereby established. The Head of this Department shall be the Chief Law Enforcement Officer or Chief of Police who shall be responsible for all law enforcement functions of the Department. The Chief of Police shall be a full-time licensed police officer and shall be responsible to the City Administrator and to the Council as provided by City Code Section 2.10 and 2.30 The number of additional members of the Department, both sworn and non-sworn, shall be determined by the

Council . The Mayor shall have, without the approval of the Council, authority to appoint additional members of the Police Department for temporary duty in the event of a local emergency. All sworn members of the Department shall have the powers and authority of police officers generally, and shall perform such duties as are required of them by the Chief of Police, City Administrator, or the Council. The Chief of Police shall have general superintendence of the Police Department and custody of all property used and maintained for the purposes of said Department. It is the duty of the Chief of Police to file as requested, with the City Administrator, any reports as may be required by the City Administrator, the Police Commission and the Council.

SECTION 2.32. FIRE DEPARTMENT. See also #4-17

A Volunteer Fire Department under the control of the Council is hereby established. The size, composition and enumeration shall all be established by resolution of the Council, which may be changed from time-to-time by resolution. The Council shall also establish written rules and regulations of the Department, a copy of which shall be distributed to each of its members. The members of the Department shall elect their own Chief, Assistant Chief, and other officers subject to confirmation and approval by the Council. The Chief of the Fire Department shall have general superintendence of the Fire Department and the custody of all property used and maintained for the purposes of said Department. The Chief shall see that the same are kept in proper order and that all rules and regulations and all provisions of the laws of the State and ordinances of the City relative to a Fire Department and to the prevention and extinguishment of fires are duly observed. The Chief shall protect and preserve all life and property endangered by fire and shall have control and direction of all persons engaged in preserving such property. In case of the absence or disability of the Chief for any cause, the Assistant Chief shall exercise all the powers, duties and be subject to all the responsibilities of the Chief. It is also the duty of the Chief of the Fire Department, on or before the beginning of each calendar quarter, to file a report with the City Administrator as to all fires occurring during the previous months stating the probable cause thereof and estimated damages; such report shall also state the other activities of the Department. The Chief of the Fire Department shall also make and file such other reports as may be requested by the Council.

SECTION 2.33. LEGAL DEPARTMENT.

A Legal Department is hereby established. The Council may 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 by law or referred by the Council. It shall be the official duty of the City Attorney to act as "Revisor of Ordinances".

SECTION 2.34. PUBLIC WORKS DEPARTMENT.

A Public Works Department is hereby established. The head of such Department shall be the City Administrator. The City water, sewerage systems, streets, electrical generation

and distribution systems shall be under the direct supervision of the City Administrator and shall be responsible for and have custody of all Department property. It is also the duty of the City Administrator, on or before the date of the first regular Council meeting in each month, to report as to any recommendations as to repairs or improvements deemed advisable, together with a report of the activities of Department during the preceding month. The City Administrator shall also make and file such other reports as may be requested by the Council.

SECTIONS 2.35 - 2.49. RESERVED.

SECTION 2.50. BOARDS AND COMMISSIONS GENERALLY.

All Board and Commission appointments authorized by ordinance or resolution shall be made by the Mayor, and such appointment confirmed by the Council at the first regular meeting in December of each year. The term of each appointee shall be established and stated at the time of appointment, and terms of present Board and Commission members may be reestablished and changed so as to give effect to this Section. New appointees shall assume office on January 1, December 31 being the date of expiration of terms. Provided, however, that all appointees to Board and Commissions shall hold office until their successor is appointed and qualified. All vacancies shall be filed in the same manner as for an expired term, but the appointment shall be effective immediately when made and only for the unexpired term. No appointed Board or Commission member shall be an employee of the City except those who are members by virtue of their office. All appointed Board and Commission members shall serve with such enumeration, and out-of-pocket expenses incurred in the performance of their duties as may be authorized by the Council. The Chair, Vice-Chair-and Secretary shall be chosen from and by the Board or Commission membership, provided, however, that no Chair-shall be elected who has not completed at least one year as a member of the Board or Commission. Any Board or Commission member may be removed by the Council for misfeasance, malfeasance or non-feasance in office and the position filled as any other vacancy. Each Board and Commission shall establish meeting dates and times on an annual basis. All members shall be residents of the City, except that some members of each Board or Commission may be residents of Cottonwood County and non-residents of the City if the Council deems such arrangement more representative. All Boards and Commissions shall act in an advisory capacity to the Council. Except as otherwise provided this Section shall apply to all Boards and Commissions.

SECTION 2.51. LIBRARY BOARD.

Subdivision 1. Establishment and Composition.

A Library Board composed of five (5) members, who shall serve staggered three-year terms, is hereby established. All appointments for a full term, or to fill a vacancy for an unexpired term, shall be made by the Mayor with the approval of the Council. No more than one Council member shall be a member of the Board.

Subdivision 2. Duties.

The duties of the Board are as follows:

A. To annually elect from its membership a Chair, Secretary and such other officers as it deems necessary; adopt rules and regulations for the government of the library and conduct of its business; appoint a qualified Library Director and other staff as necessary, establish compensation of employees, and remove them for cause.

B. To pay into the City Treasury all money received for the library, and interest thereon, which shall be credited to the Library Fund and kept separate from the other money of the City, and paid out only upon approval of the Board.

C. To have exclusive control of library grounds and rooms, and the construction of library buildings, and to lease rooms for library use if it finds such to be necessary or desirable.

D. To annually report to the Council receipts and their sources, disbursements and for what purposes, the number of library materials on hand, purchased and loaned, and other information it deems advisable; and, to file such information with the Minnesota Department of Education not later than April 1 of each year.

Subdivision 3. Title to Property.

All property given, granted, conveyed, donated, devised, or bequeathed to, or otherwise acquired by, the City for a library shall vest in, and be held in the name of, the City, and any conveyance, grant, donation, devise, bequest or gift made to, or in the name of, the library or Library Board shall be deemed to have been made directly to the City.

SECTION 2.52. POLICE COMMISSION.

Subdivision 1. Establishment and Composition.

A. A Police Commission is hereby established. The Commission shall be composed of seven (7) members. Five (5) members shall be appointed by the mayor with the approval of the City Council and shall serve in accordance with their position as ex-officio members. The commission shall be advisory only and shall not be construed to establish a Police Commission as provided by state statute.

B. Regular Commission members shall be appointed by the Mayor with the approval of the City Council; they shall serve staggered three-year terms. The Chief of Police and the City Council representative shall serve in accordance with their position.

Subdivision 2. Duties.

The duties of the Commission are as follows:

A. Review existing numbers and duties of present police personnel, including sworn, non-sworn, and volunteer reserves, and recommend any necessary or desirable changes thereto.

B. Review existing rules and regulations of the Police Department including mutual aid agreements, department policy and procedure, and recommend any necessary or desirable changes thereto.

C. Review existing policies concerning shifts, working hours, and compensation for both on and off duty including court, holiday pay, and on-call reimbursement, and recommend any necessary or desirable changes thereto.

D. Review existing facilities and equipment of the Police department and recommend any necessary or desirable changes thereto.

E. Review existing training and educational programs and recommend any necessary or desirable changes thereto.

F. Review, as necessary, grievances and complaints concerning matters relating to the public and police officers. The Commission may offer suggestions to the disagreeing parties concerning their differences.

G. Take under advisement, study, and make recommendations on all other police related matters referred to them.

H. Establish a committee, in conjunction with the City Administration, to screen and interview all prospective police officers. Such committee member shall serve voluntarily and without pay, and shall make recommendations to the Police Commission who will submit the recommendations to the City Council.

Subdivision 3. Meetings.

Meetings of the commission shall be held monthly. At least three (3) days written notice of such meetings shall be given to the commissioners. Meetings may be called at any time by the Chair, or in his/her absence, by the Vice Chair, by the Chief of Police, or by any two Commissioners.

SECTION 2.53. UTILITIES COMMISSION.

Subdivision 1. Establishment and Composition.

A Utilities Commission is hereby established. The Commission shall be composed of five (5) members which shall be appointed by the Council and shall serve staggered three-year terms.

Subdivision 2. Powers. See Ordinance #6-09

A. The Commission shall have charge of the administration, maintenance and control of the water, sewer and electrical utilities. The Commission shall recommend to the Council the hire of an administrator and all necessary employees; to authorize payment to the officers and employees for expenses necessarily paid or incurred in performance of their duties; to require and fix the amount of a bond of any officers or employees and to authorize the payment of premiums thereon; to effect all necessary insurance, to maintain petty-cash funds; to receive and to accept, according to their terms, all gifts and donations for utility purposes; to establish such standing committees as it may see fit; to make rules relating to its own procedure for the administration, maintenance and control of the utilities owned and operated by the City.

B. The Commission shall have the power to purchase and authorize payment for supplies and equipment not to exceed the amount established in state law at which competitive bidding is mandated. In cases of purchase of supplies and equipment in excess of this amount, the Commission shall recommend the desired purchase to the Council for approval.

C. The Commission shall have the power, and it shall be the duty, of the Commission to keep buildings and equipment in good repair.

D. The Chair-and City Administrator shall sign, on behalf of the Commission, all contracts and orders; and shall certify all payments and execute such other documents as are authorized by the Commission. In the absence of the Chair from the City, or in case of his disability for any reason, the Vice-Chair-shall, during such time, exercise all of the powers of the Commission Chair.

Subdivision 3. Duties.

The duties of the Commission are as follows:

A. Rates and Employees.

1. Review and make recommendations to the Council in all matters relating to rates and charges for the municipal utilities.

2. Review and make recommendations to the Council for adopting policies including, but not limited to, policies as to furnishing and terminating utility services.

3. Review and make recommendations as to employment, discharge, and the efficient use of personnel for furnishing municipal utility services.

B. Finances.

1. There is hereby created a fund, which is hereby designated as the "Utility Fund", into which fund shall be placed all moneys received from all sources for the Municipal Utility. Payment of bills incurred in the operation, maintenance and control of the Municipal Utility shall be paid from said fund.

2. No deposits in the utility fund shall be diverted from the Commission; for purposes other than ownership operation, and maintenance of the Municipal Utility unless authorized by the Commission and accepted by the Council.

3. Bills and indebtedness, less than those limits established in Subdivision 2, incurred in the operation, maintenance and control of the utility shall be approved by the Commission and signed by the Mayor and City Administrator. The Council shall act on such purchases which exceed the limitation referred to in Subdivision 2 of this Section.

4. The City Administrator shall certify payrolls and bills as to amounts, date of payment and other pertinent data to the Council; and when such certified payrolls are presented to the Council, the Mayor and City Administrator are hereby authorized to issue, or cause to be issued, payment in accordance with the terms of such specified payroll. All checks, vouchers, and warrants executed in behalf of the Municipal Utility shall be signed by the City Administrator and Mayor.

5. The members of the Commission shall serve on the Commission for such remuneration, as resolved by the Council. Commission members may be paid and reimbursed for actual expenses incurred in attending to business of the Municipal Utility same to be approved by the Commission and Council.

C. Meetings of the Commission. The Commission shall hold regular meetings which will be established at the first meeting date**.** Special meetings are hereby authorized and shall be held when called by the Chair. To transact business at any regular or special meeting, a majority of the Commission must be present. The Chair or Vice-Chair shall file with the Council a copy of the minutes of all Commission meetings held that month.

D. Annual Statement. The Commission shall cause to be filed with the Council on or before the first day of January of each year a complete statement of all transactions of the preceding fiscal year's business, and said annual statement shall contain and include a complete and detailed statement of all receipts and disbursements for the preceding fiscal year.

E. Bonds and Deposits. All Commission members shall be bonded in a bonding company approved by the Commission; and for such amounts as the Commission shall deem necessary and adequate to protect the interests of the Municipal Utility. All moneys received and collected from the operation of the Utility shall be deposited in the official depository of the City.

F. Fiscal Year - Budget. The Commission shall cause to be prepared a budget for the anticipated expenditures for the fiscal year following. Such budget shall be filed with the City Administrator on or before January 1 of each year, and shall be considered by the Council at the regular monthly meeting of the Council in January.

Subdivision 4. Council Authority.

Notwithstanding any other provision of this Section, the Council shall, at any and all times, have the power and the duty to question and inquire into all aspects of authority exerted by the Utilities Commission, including but not limited to salaries of employees, budgetary items, receipts, disbursements and methods of accounting. Before approval of any Utilities Commission budget for an ensuing year, each item thereof shall be fully and completely explained and justified to the satisfaction of the Council.

SECTION 2.54. HOUSING ADVISORY AND APPEALS BOARD.

Subdivision 1. Establishment and Composition.

A Housing Advisory and Appeals Board, composed of five members who are not employees of the City, and who shall serve staggered three year terms, is hereby established. The Building Official shall be an ex-officio member and shall act as Secretary of the Board.

Subdivision 2. Powers and Duties.

The Board shall have all of the powers and duties set forth in the Uniform Housing Code.

SECTION 2.55. ECONOMIC DEVELOPMENT COMMISSION.

Subdivision 1. Establishment and Legal Status.

A. Resolution Number 7-89 established the Mountain Lake Economic Development Authority (EDA), pursuant to the provisions in Minnesota Statutes 469. The Mountain Lake EDA, subject to the provisions of the Enabling Resolution, shall have all the powers, duties and responsibilities of any economic development authority created pursuant to the Act, or other law, a housing or redevelopment authority created pursuant to the Housing Act, or other law and which shall constitute an "Agency" pursuant to the Development Act. It shall be the role and responsibility of such economic development authority to carry out economic, housing and industrial development and redevelopment within the city in accordance with such general policies as may from time to time be established by the Council and Mayor.

B. Legal Status. The Authority shall be a public body politic and corporate and a political subdivision of the State of Minnesota. It shall not be considered a department of the city nor shall the city be liable for its obligations, unless assumed by the city in writing. Its relationship to the Council and Mayor shall be governed by the Enabling Act, this Enabling Resolution and the various statutes under which it operates, including the Enabling Act, the Housing Act, the Development Act, the Industrial Bond Act, the Housing Bond Act and the Tax Increment Act; provided, that in the event there is a conflict between the terms of this Enabling Resolution and any such statute, the Enabling Resolution shall control and in the event there is a conflict between the Enabling Act and any such statutes, the Enabling Act shall control; provided further, that a statute granting authority shall not be deemed to be in conflict with a statute that grants less or no such authority.

Subdivision 2. Definitions.

A. "Authority" means the Mountain Lake Economic Development Authority.

B. "City" means the City of Mountain Lake, Minnesota.

C. "Council" means the duly elected governing body of the city.

D. "Enabling Resolution" means this resolution of the Council establishing the Mountain Lake, Economic Development Authority pursuant to the Enabling Act.

E, "Enabling Resolution" means this resolution of the Council establishing the Mountain Lake, Economic Development Authority pursuant to the Enabling Act.

F. "The Development Act" means the City Development Districts, Minnesota Statutes, Sections 469.124 to 469.134.

F. "The Development Act" means the City Development Districts, Minnesota Statutes, Sections 469.124 to 469.134.

G. "Federal Limitation Act" means certain acts of Congress which limit the aggregate amount of obligations of a specified type which may be issued within

the city, as further defined in Section 474.16, Subdivision 5 of the Industrial Bond Act and as may from time to time be defined in other state laws.

H. "The Housing Act" means Municipal Housing and Redevelopment Authorities, Minnesota Statutes, Sections 469.001 to 469.047.

I. "The Housing Bond Act" means the Municipal Housing Program Act, Minnesota Statutes, Chapter 462.C.

J. "Industrial Bond Act" means the Municipal Industrial Development Act, Minnesota Statutes, Sections 469.152 to 469.165.

K. "Project Area Plan" means an outline for the development or redevelopment of a geographic area of Authority concentration which contains a statement of objectives for improvement of the area as well as a description of public facilities to be constructed, and estimated schedule of the open space to be created, the environmental controls to be applied, the property to be publicly acquired and the condition under which the Authority shall exercise the right of eminent domain, if any, the proposed reuse of private property and the general standards of development. Said plan shall be sufficiently complete to constitute a "development program" pursuant to Section 469.125, Subdivision 3 of the Development Act and a "redevelopment plan" pursuant to Section 469.002. Subdivision 16 of the Housing Act.

L. "Project Budget" means a financial budget containing the sources and uses of public funds to be expended in carrying out the public costs associated with a Project Plan or Project Area Plan. In the event any or all such public costs are to be paid with tax increment, the Project Budget shall constitute a "tax increment financing plan" as described in Section 469.175 of the Tax Increment Act.

M. "Project Plan' means a description of the development or redevelopment of property, including an estimated schedule, the property to be publicly acquired and the condition under which the Authority will exercise its right of eminent domain, if any, description of the public facilities to be constructed, and the proposed reuse of private property.

N. "Tax Increment Act" means Tax Increment Financing, Minnesota Statutes, Sections 469.174 to 469.179.

Subdivision 3. Governing Body.

The powers of the Authority shall be vested in the commissioners thereof in office at any time, a majority of whom shall constitute a quorum for all purposes.

A. Membership of the Authority shall consist of seven commissioners with at least two members on the City Council.

B. The Mayor shall appoint the authority commissioners with the approval of the City council.

C. The Authority shall be composed of seven members who shall serve staggered six year terms. The initial terms of the members shall be one, two, three, four, and five years respectively and two members for six year terms; thereafter all commissioners shall be appointed for six years.

D. If a vacancy is created when a Council member ends council membership or other such vacancy occurs, the commission vacancy shall be filled by Mayoral appointment with approval and consent of the Council, for the balance of the term.

Subdivision 4. Authority Officers.

The commissioners of the Authority shall elect officers as provided in Section 469.096 of the Enabling Act.

Subdivision 5. Authority Staff.

A. The Commission shall be empowered to hire such employees, agents and consultants as deemed proper and as further provided in the Enabling Act. Such employees, agents and consultants shall assist the Commission in performing the following powers and duties:

1. To see that all resolutions, rules regulations, or orders of the Authority are enforced.

2. To appoint and remove upon the basis of merit and fitness, all subordinate officers and regular employees of the Authority.

3. To present to the Authority plans, studies and reports prepared for Authority purposes and recommend to the commissioners for adoption such measures as deemed necessary to enforce or carry out the powers and duties of the Authority or the efficient administration of the affairs of the Authority.

4. To recommend to the commissioners for adoption such rules and regulations as deemed necessary for the efficient operation of the Authority's functions.

5. To perform such other duties as may be prescribed by the commissioners.

Subdivision 6. Reports.

A. At least once annually by March 1, the Authority shall appear at a regularly scheduled Council meeting and report to the members of the public regarding the operational statutes of the Authority. Such report shall comply with Section 469.100, Subdivision 4 of the Enabling Act and shall include a description of current and proposed projects as well as general development goals for the city.

B. The Authority shall be responsible for all filings and reports required by the various statutes under which it operates. Copies of all such reports shall be provided to the Council and Mayor and shall be available to members of the public unless otherwise permitted or required by law.

Subdivision 7. Account, Budget and Fiscal Year.

A. The accounting, maintenance of books and records, establishment and maintenance of funds and accounts, investment of cash surpluses, disbursement of monies and other necessary financial matters of the Authority shall be the responsibility of the Commission Treasurer.

B. On or before September 1 of each year the authority shall submit its annual budget to the City Clerk in a form prescribed by the City Clerk. Such budget shall include a detailed written estimate of the amount of money that the Authority expects to need from the City for Authority business during the next fiscal year and shall otherwise comply with Section 469.100, Subdivision 1 of the enabling Act. The Council may impose such conditions upon the issuance of obligations by the City for the purpose of funding said Authority budget as it may determine. The City Clerk shall review and consider approval of the proposed authority budget as a part of the City Budgetary process. The Commission shall appear before the Council as requested to explain and discuss the content of the proposed Authority budget. Upon approval of such budget, the Authority shall not exceed total budgeted expenditures without approval of corresponding budget amendments by the Council; provided, however, that this provision shall not preclude the Authority from unilaterally making line-item changes as it deems appropriate.

C. The fiscal year of the Authority shall be the same as that of the City.

Subdivision 8. Powers.

A. The Authority may exercise all of the powers contained in the Enabling Act.

B. The Authority may exercise all of the powers contained in the Housing Act.

C. The Authority may exercise all of the powers of an Agency contained in the Development Act.

D. The Authority may exercise all of the powers of a redevelopment agency contained in the Industrial Bond Act.

E. The Authority may exercise all of the powers of a city contained in the Housing Finance Act, provided authorized to do so by ordinance of the Council pursuant to Section 462C.02, Subdivision 6 of the Housing Finance Act.

F. The Authority may exercise such powers as may be contained in other laws applicable to economic development authorities or housing and redevelopment authorities not specifically described herein.

Subdivision 9. Limit of Powers.

A. The sale of all bonds issued by the Authority must be approved by the City Council before issuance.

B. The ability of the Authority to participate as a limited partner in a development project must have prior approval of the City Council.

C. All official actions of the Authority must be consistent with the adopted comprehensive plan of the City, and any official controls implementing the comprehensive plan.

D. The Authority must submit administrative structure and management practices to the City Council for approval.

SECTION 2.56. PLANNING COMMISSION.

(CODIFIER'S NOTE: The Planning Commission is provided for in Chapter 9 of the City Code.)

SECTION 2.57. BOARD OF ADJUSTMENTS.

(CODIFIER'S NOTE: The Board of Adjustments is provided for in Chapter 9 of the City Code.)

Section 2.58. LAKE COMMISSION.

Subdivision 1. Establishment and Composition.

A Lake Commission composed of seven (7) members, who shall serve staggered three-year terms, is established. All appointments for a full term, or to fill a vacancy for an unexpired term, shall be made by the Mayor with the approval of the Council.

Subdivision 2. Duties.

The duties of the board are as follows:

A. To annually elect from its membership a President, Secretary, and any other officers as it deems necessary. Adopt rules and regulations, and undertake such efforts that will lead to the stabilization, improvement, maintenance, preservation of the Lake.

B. Annually report to the Council on their activities.

SECTION 2.59. RESERVED.

SECTION 2.60 TREE COMMSSION.

Subdivision 1. Establishment.

A Tree Commission is hereby established.

Subidivision 2. Purpose.

The purpose of the commission is to aid and advise the City Council in the creation and implementation of a plan for the development, conservation, and care of the urban forest resources of the City.

Subidivison 3. Composition.

The commission shall be composed of five members. One member from the City Council shall serve as an additional non-voting member of the commission. The term of office will be three years. Members will serve without compensation.

Subdivision 4. Procedure.

1. The commission shall adopt rules for the conduct of its affairs, including the frequency and schedule of meetings. These shall be filed with the City Clerk.

2. All meetings of the commission shall be open to the public.

3. The commission shall record minutes of each meeting and shall file such minutes and an annual report of the activities of the commission with the City Clerk. The commission may file such other reports or pertinent information as the commission

deems appropriate. A majority of the members shall be a quorum for the transaction of business.

Subdivision 5. Duties.

In fulfillment of its purpose, the commission's duties and responsibilities shall include, but not be limited to, the following:

1. Coordinate a community inventory of all trees and available planting spaces on public property, and upon completion of the inventory, supervise the updating of the inventory every three years.

2. Recommend the manner in which the City of Mountain Lake prunes and/or removes dead or weakened portions of trees.

3. Develop and implement a program of plant health management, including monitoring of insect control and disease situations; management of hazardous trees; selective treatment; and maintenance of tree vigor.

4. Develop and implement a plan for the selection of trees to be planted on public property to insure the diversity of species, ages, and sizes within the City's urban forest and to lessen damage to the City's urban forest caused by insects, disease, and the environment.

5. Educate and inform residents on matters concerning the betterment of trees and related resources.

6. Advise the City Council on various other matters concerning trees and related resources, including, from time to time, evaluation of and recommendations regarding the City's boulevard tree and shrubs policy and other ordinances affecting trees.

7. Accept such other responsibilities and functions as the City Council may from time to time direct.

SECTIONS 2.61 - 2.70. RESERVED.

SECTION 2.71. PERSONNEL RULES AND REGULATIONS.

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

SECTIONS 2.72 - 2.98. RESERVED.

SECTION 2.99. VIOLATION A MISDEMEANOR.

Any person who violates a section, subdivision, paragraph or provision of this Chapter, in performance of 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 Minnesota Statute allows.

CHAPTER 3

MUNICIPAL UTILITIES - RULES AND REGULATIONS, RATES, CHARGES AND COLLECTIONS

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CHAPTER 3

MUNICIPAL UTILITIES - RULES AND REGULATIONS, RATES, CHARGES AND COLLECTIONS

SECTION 3.01. DEFINITIONS. See Ordinance #7-10

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

1. "Company", "Grantee", and "Franchisee" mean any public utility system to which a franchise has been granted by the City.

2. "Consumer" and "Customer" mean any user of a utility.

3. "Municipal Utility" means any City-owned utility system, including, but not by way of limitation, water, sewerage, and electric service.

4. "Service" means providing a particular utility to a customer or consumer.

5. "Utility" means all utility services, whether the same be public City-owned facilities or furnished by public utility companies.

6. "Access Fee" means the initial fee for a connection to one of the municipal utility systems.

7. "Street Lighting System" shall mean a series of light posts and lights owned, operated and maintained by the city or city utility commission which are installed adjacent to public streets within the city to provide adequate lighting on streets and walkways to promote safety of drivers and pedestrians.

SECTION 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, DEPOSIT, CONNECTION AND METER TESTING FEES, DISCONNECTION FEES, RECONNECTION FEES, ACCESS 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 CLERK-TREASURER AND SHALL BE UNIFORMLY ENFORCED. FOR THE PURPOSE OF FIXING SUCH RATES AND CHARGES, THE COUNCIL MAY CATEGORIZE AND CLASSIFY UNDER THE VARIOUS TYPES OF SERVICE, PROVIDED, THAT SUCH CATEGORIZATION AND CLASSIFICATION SHALL BE INCLUDED IN THE RESOLUTION AUTHORIZED BY THIS SECTION.

SECTION 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. Such ordinances shall be listed and referred to in Chapter 20 of the City Code. Public utility company rates and charges may be fixed and determined by the respective franchisees in compliance with this Section, as follows:

Subdivision 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 increases (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 Clerk-Treasurer in person or by certified mail, return receipt requested.

Subdivision 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.

Subdivision 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.

Subdivision 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.

SECTION 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.

SECTION 3.05. RULES AND REGULATIONS RELATING TO MUNICIPAL UTILITIES. See Ordinance #11-16

Subdivision 1. Billing, Payment and Delinquency.

All municipal utilities shall be billed and become delinquent on the date fixed by the Council. The date of delinquency shall be included on each bill as well as the date after which delinquent utilities shall be disconnected. A penalty shall be added to, and become part of, all delinquent utility bills. If service is suspended due to delinquency it shall not be restored at that location until a reconnection charge has been paid for each utility reconnected in addition to amounts owed for service and penalties.

Subdivision 2. Application, Connection and Sale of Service.

Application for municipal utility services shall be made upon forms supplied by the City, and strictly in accordance therewith. No connection shall be made until consent has been received from the City to make the same. 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.

Subdivision 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, 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 therefore.

Subdivision 4. 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.

Subdivision 5. Right of Entry.

By applying for, or receiving, a municipal utility service, a customer irrevocably consents and agrees that any City employee acting within the course and scope of their employment may enter into and upon the private property of the customer, including dwellings and other buildings, at all reasonable times under the circumstances, in or upon which private property a municipal utility, or connection therewith, is installed, for the purpose of maintaining, protecting, inspecting, repairing, reading meters, connecting or disconnecting the municipal utility service. The city or its agent may enter the property to trim or remove trees or other objects that may interfere with or endanger utility infrastructure or service.

Subdivision 6. Meter Test.

Whenever a consumer shall request the City to test any utility meter in use by the consumer, such a request shall be accompanied by a cash deposit for each meter to be tested. If any such meter is found to vary more than two (2%) percent the same shall be replaced with an accurate meter and the deposit thereon refunded. If the meter shall be found to be accurate within two (2%) percent in its recordings or calculations it shall be reinstalled and the deposit shall be retained by the City to defray the cost of such test. Cash deposits amounts for meter tests shall be set by policy by the Utility Commission.

Subdivision 7. 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 commit any act tending to obstruct or impair the use of any municipal utility.

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 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.

E. Any unlawful act as determined by Mountain Lake Municipal Utility staff will result in the disconnection of service to the utility account affiliated with the property where the unlawful act occurred.
The account will be billed for the cost of determining and repairing any damage caused including labor, the approximate cost of the unmetered usage, and a fine as recommended by the Mountain Lake Utility Commission and adopted by the Mountain Lake City Council.

The bill must be paid in full before service is reconnected.

Subdivision 8. Municipal Utility Services and Charges a Lien. See also #2-17

A. Payment for all municipal utility (as that term is defined in City Code, Section 3.01) service and charges shall be carried in the name of the owner or tenant who personally, or by his or her authorized agent, applied for such service. Such applicant shall complete and return utility application forms and pay deposit and other fees required by the utility before utility service is provided to the customer. The City Council by resolution shall adopt a fee schedule from time to time. The City of Mountain Lake 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. Deposits: The Council shall establish a schedule of deposits for each category of customer to protect the city from delinquent utility accounts.

C. Rental Units: Landlords shall be responsible for utility accounts unless a current limiter can lawfully be installed for each rental unit. Landlords shall also be responsible for utility accounts for time periods during which tenants vacate a given unit or before the tenant pays a deposit, or at the landlord's option, service shall be terminated and will not be reconnected until a customer applies for service and pays the deposit.

D. Contract for Deed: Both vendors (sellers) and vendees (buyers) are responsible for payment of utilities. Vendors are responsible to pay in the event a contract is cancelled for default. In any case, unpaid utilities may be made a lien upon the premises as provided in Paragraph E of this section.

E. As provided by law, each account is hereby made a lien upon the premises served. All such accounts which are more than forty-five days past due may, when authorized by resolution of the Council, be certified by the City Clerk-Treasurer of the City of Mountain Lake, Minnesota, to the County Auditor, and the City Clerk-Treasurer in so certifying 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. Unpaid charges shall not be certified to the County Auditor until notice and an opportunity for a hearing have been provided to the owner of the premises involved. The notice shall be sent by first class mail and shall state that if payment is not made before the date for certification, the entire amount plus penalties will be certified to the county auditor for collection as other taxes are collected. The notice shall also state that the owner may, before such certification date, attend or schedule a hearing on the matter to object to certification of unpaid utility charges.

F. Municipal Utilities shall not be shut-off or a current limiter shall not be installed until notice and an opportunity for a hearing before the Mountain Lake Utilities Commission or an employee designated by the City have been provided to the occupant and the owner of the premises involved.

Subdivision 9 RESERVED.

Subdivision 10. Combined Connections.

A. Definitions.

1. For the purposes of this subdivision the term "combined connection' means a single connection to either the municipal water or municipal sanitary sewer system that services:

   a. Two more residential units or;
   b. Two or more commercial or industrial lots of separate parcels of record.

2. For the purposes of this subdivision the term residential unit means single-family homes, divided and undivided; duplexes, townhouses, apartments; and other multi-family housing.

B. New Combined Connections Not Allowed.

Unless permitted in accordance with Section 4 or Section 5 no combined connection may be made after the effective date of this ordinance.

C. Conditions Under Which Existing Combined Connections Must Be Corrected.

Unless permitted to continue in accordance with Section 4 or 5 combined connections shall be eliminated when the combined connection deteriorates to such condition that it

must be replaced or when the city undertakes a project in which the sewer/water mains and laterals in the street abutting the property are replaced.

D. Exceptions.

The requirements of B and C do not apply to:

1. Multi-family residential rental properties where all units served by combined connection are under the same ownership and receive (1) one bill
2. Multiple industrial or commercial lots or parcels of land that are adjacent under the same ownership and used for a single, unified business enterprise
3. Combined connections where there is not an individual service from the main to the edge of the right of way available for each property using the combined connection.

E. Variances.

1. The Utility Commission may grant variances from the requirements of C upon a finding that there are unique or unusual physical constraints on construction an individual connection that make such connection impractical from an engineering perspective.

2. Appeals to the City Council shall be filed with the City Administrator within thirty (30) days of the date of the Utility Commission action. The Administrator shall, within one week of such appeal being filed, establish a date for a public hearing. The notice of such hearing shall be published in the legal newspaper not more than 30 days or less than 10 days prior to the public hearing. The City Council shall decided the matter appealed within thirty (30) days after the date of the hearing.

F. Penalties.

Any persons found in violation of this ordinance shall be quilty of a misdemeanor. Violation of this ordinance is also grounds for termination of sewer and water service or imposition of penalties or charges as may be imposed by council resolution.

SECTIONS 3.06 - 3.19. RESERVED.

SECTION 3.20. RULES AND REGULATIONS RELATING TO WATER SERVICE.

Subdivision 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.

Subdivision 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 their 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.

Subdivision 3. Abandonment and Re-use of Service Lines

Section 1. All service installations that are no longer connected to a building, 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 hire and pay a contractor to disconnect the service. The property owner must also pay the cost of street repair. Disconnection must be inspected by City sewer/water staff or designee before covering. All pipe and appurtenances removed from the street right-of-way shall become the property of the City.

Section 2. When a new structure is built a new line from main to building will be required. When new buildings are erected on the site of old ones, or it is desired to increase the water service, a new permit shall be applied for and the regular tapping charge shall be made as if this were a new service.

Section 3. 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.

Section 4. The Utility Commission may grant variances from the requirements of Sections 1 and 2 upon a finding that the service is in good condition, is expected to remain in good condition, and meets current health and safety standards. A variance will only be granted to a copper water line. Such a finding will be granted after the service has been televised and the televising or tape reviewed by city water/sewer staff or designee. Such variance shall be issued in writing.

Section 5. Appeals to the City Council shall be filed with the City Administrator within thirty (30) days of the date of the Utility Commission action. The Administrator shall, within one week of such appeal being filed, establish a date for a public hearing. The notice of such hearing shall be published in the legal newspaper not more than 30 days or less than 10 days prior to the public hearing. The City Council shall decide the matter appealed within thirty (30) days after the date of the hearing.

Subdivision 4. Service Pipes.

Every service pipe must be copper 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 flared or compression-fitted, and 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 one (1) inch in diameter.

Subdivision 5. Private Water Supplies.

No water pipe 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. Backflow devices should be installed, inspected yearly with paperwork provided to the city.

Subdivision 6. Prohibited Uses or Restricted Hours.

Whenever the City shall determine that a shortage of water threatens the City, it may entirely prohibit water use or limit the times and hours during which water may be used from the City water system for lawn and garden sprinkling, irrigation, car washing, air conditioning, and other uses, or either or any of them. It is unlawful for any water consumer to cause or permit water to be used in violation of such determination after public announcement thereof has been made through the news media specifically indicating the restrictions thereof.

Subdivision 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.

Subdivision 8. Opening Hydrants.

It is unlawful for any person, other than members of the Fire Department or other person 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 purposes strictly pertaining to their lawful use.

Subdivision 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.

SECTIONS 3.21 - 3.29. RESERVED.

SECTION 3.30. RULES AND REGULATIONS RELATING TO SEWERAGE SERVICE.

See Subd. 12 #4-10, 6-12

Subdivision 1. Definitions.

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

A. "Industrial waste" means any liquid, gaseous or solid waste substance resulting from any process of industry, manufacturing, trade or business, or from development of any natural resources.

B. "Sewage" means water-carried waste products from residences, public buildings, institutions or other buildings or premises, including the excrement or other discharge from the bodies of human beings or animals, together with such ground water infiltration as may be present.

C. "Sewerage service" means the use of and benefit from the sewerage system, including the collection, transportation, pumping, treatment and final disposal of sewage.

D. "Sewerage system" includes all street lateral, main and intersecting sewers and structures by which sewage or industrial wastes are collected, transported, treated and disposed of; provided that this shall not include plumbing inside or a part of a building or premises served, or service sewers from a building to the street lateral.

Subdivision 2. Metered Water Not Discharged.

If a portion of the water furnished to any premises is not directly or indirectly discharged into the sewerage system, the quantity of such water shall be deducted in computing the sewerage service charge or rental, provided a separate meter shall be installed and operated to register the quantity so not discharged into the sewerage system. Provided also, that where it is not practicable to meter the portion of the water not discharged into the sewerage system, such adjustment may be made as shall be fair and equitable in order to determine the amount of such service charge or rental; but until such adjustment shall be effected that water consumption basis hereinbefore prescribed shall remain in full force and effect.

Subdivision 3. Classification of Industrial Wastes.

The City shall have the power to classify the industrial wastes from any lot, parcel of land, building or premises discharged therefrom into the sewerage system of the City, taking into consideration the quantity of sewage produced and its concentration, strength of pollution constituents in general and of any other factors entering into the cost of its disposal, for the purpose of fixing and prescribing a distinct rate of rental or use charge. Should it be found that as to such sewer uses the water basis consumption does not provide a practicable method in the premises, but until so determined and such distinct rate fixed, the water consumption basis hereinbefore prescribed shall remain in full force and effect as to such commercial or industrial users. The City may require and prescribe pretreatment on the consumer's premises.

Subdivision 4. Deleterious Substances.

No sewage including industrial wastes, shall contain any substance which is deemed deleterious by the City to the operation of the sewerage system or to any plant or facilities used in the treatment or disposal of such sewage. If a user of the sewerage system discharges excessive loads or any deleterious substances therein which are likely to retard or injuriously affect sewerage operations, the user shall discontinue such practice and such practice is hereby declared to be a violation of this Section. Each day of such violation continuing after having been notified in writing by the City to discontinue such practice shall be deemed a separate violation.

Subdivision 5. Unlawful Discharge

A. Roof Water ground water, or any other natural precipitation.

1. Definition and Method. No water from any roof, surface, ground, sump pump, footing tile, or natural precipitation from any other source shall be discharged into the sanitary sewer system. Sump pump systems shall have permanently installed discharge lines which shall not at any time discharge water into the sanitary sewer system, except as provided herein. A permanent installation shall be one which provides for year-around discharge lines 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.

2. Disconnection. Before July 1, 1997, any person, firm or corporation having a roof, surface, ground, sump pump, footing tile now connected and/or discharging into the sanitary sewer system shall disconnect and/or remove the same. Any disconnects or opening in the sanitary sewer shall be closed or repaired in an effective, workmanlike manner, as approved by the City Water/Sewer Superintendent.

3. Every person owning improved real estate that discharges into the City's sanitary sewer system shall allow an employee of the City of Mountain Lake or their designated representative to inspect the buildings to confirm that there is no sump pump or other prohibited discharge into the sanitary sewer system. Any person refusing to allow their property to be inspected shall immediately become subject to the surcharge hereinafter provided for. Any property found to violate the Ordinance shall make the necessary changes to comply with the Code, shall furnish proof of the changes to City, and be inspected by the City within 30 days of notification of non-compliance. Notification of non-compliance will be given to the property owner by the Water and Waste Water Superintendent at the time of inspection.

4. Future Violations. At any time the City may periodically conduct inspections of properties within the City to insure compliance with this Code and the City shall conduct such inspections if reason exists to suspect that an illegal connection exists.

5. Variances: The City Council shall have the power and duty of hearing requests for variances from the applicability of the provisions of this Code where strict enforcement of this Code would cause undue hardship because of the circumstances unique to the individual property under consideration or cause safety problem.

a. Application for variances pursuant to this section shall be addressed in writing to the City Council of the City of Mountain Lake and shall, at a minimum, identify the property for which the variance is being sought, the name of the property owner/applicant and describe in detail what characteristics of the subject property create an undue hardship or safety concern.

b. Within 30 days after receipt of the application for variance, the City Council shall enter its decision whether to grant or deny a variance and, if granted, specifying any special terms or conditions of such variance. A copy of the City Council's decision shall be served upon the applicant by mail.

c. Upon receipt of an application for variance, the City shall allow the property owner to temporarily discharge directly into the sanitary sewer system. Upon approval of a variance a property owner shall be allowed to discharge directly into the sanitary sewer system during the time from November 1 through April 1 and only as provided in the terms and conditions of the variance granting approval.

d. Penalty for going beyond the period allowed for a granted variance will be $50.00 per month.

6. Penalty. A surcharge of Fifty ($50.00) Dollars per month will be imposed and added to every sewer billing mailed on and after July 1, 1997 to property owners who are not in compliance with the Code. This surcharge is in addition to any other penalties that may be incurred under this Section of the City Code.

B. Liquids having a temperature higher than 150.

C. Water or waste which contains more than 100 ppm by weight of fat, oil or grease.

D. Gasoline, benzene, naphtha, fuel oil or other inflammable or explosive liquid, solid or gas.

E. Garbage, except such as has been properly shredded.

F. Ashes, cinders, shavings, feathers, tar or other liquid or viscous substance capable of causing obstruction to the flow in sewerage system or other interference with the proper operation of the system.

G. Noxious or malodorous substances capable of creating a public nuisance.

Subdivision 6. Unmetered Water Supply.

If any premises discharge normal sewage or industrial waste into the sanitary sewerage , either directly or indirectly, obtain part or all of the water used thereon from sources other than the City, and the water so obtained is not measured by a meter of equivalent specifications to the meters used by the City, then in such case the City shall permit the discharge of normal sewage or industrial waste into its sanitary sewerage system only when the owner of such premises or some other interested party shall at their own expense install and maintain for the purpose of metering such water supply a water meter of equivalent specifications to those installed by the city in connections with the City Water system. Each water meter shall be installed to measure all water received on such premises and the above charges and rates shall be applied to the quantity of water received as measured by such meter. If, because of the nature of the source of the water supply, the City deems it impracticable to thus meter the water on any premises, the Council may be resolution establish a flat charge per month in accordance with the estimated use of water on such premises.

Subdivision 7. Size, Kind and depth of Pipe.

The city may prescribe the size, kind and depth of sewerage service pipe and connections. The minimum size, when placed underground shall be four inches in diameter.

Subdivision 8. Backwater Trap.

Every new sewerage service line shall be equipped with a backwater trap to prevent sewage from backup

Subdivision 9. Connection to Public Sewerage System

A. All houses, buildings or properties used for human occupancy, employment, recreation or other purposes from which waster water is discharged and which is adjacent to any street, alley or right-of-way in which there is now located or is proposed to be located public sanitary sewer of the city shall be required at the owner(s) expense to install a suitable connection to the public sanitary sewer.

B. In order to provide for the public health and to protect the public safety, the use of maintenance of private sewage disposal facilities shall be discontinued on or before January 1, 2006.

C. All houses, building or properties used for human occupancy, employment, recreation or other purposes from which wastewater is discharged that are annexed into the City of Mountain Lake shall be required at the owner(s) expense to install a suitable connection to the public sanitary sewer within (one) 1 year from the date of annexation.

D. The employees or agents of the City bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling and testing pertinent to determining if a property is connect to the public sanitary sewer or a private individual sewage treatment system.

E. In the event an owner fails to install an adequate service line to connect to a public sewer when given notice of this ordinance the city shall have the following remedies:

1. The city may disconnect and/or shut off the property in question from city water services. This provision shall be subject to the cold weather rule, MN Stat. Sec. 216B.095. If the cold weather rule does not apply, the city shall notify the owner in writing personally or by certified mail. IF the premises are not occupied and the address of the owner of the premises is unknown, service may be made by posting such notice on the premises. Such notice shall provide an explanation of the city's intent to disconnect and/or shut off water service to the property and shall provide an opportunity for a hearing. The hearing shall be held no less than ten days after the notice is given.

2. The city may undertake connection to the public sewer by installation of a private service line by a private contractor and assess the cost against the

property. Such assessment, when levied, shall bear interest at the rate determined by the Council and shall be certified to the Auditor of Cottonwood County, and shall be collected and remitted to the City in the same manner as assessments for local improvements.

3. Any person violating any provisions of Section 3.30 shall be guilty of a petty misdemeanor.

Subdivision 10. Abandonment and Re-use of Service Lines

Section 1. All service installations that are no longer connected to a building, have been abandoned or, for any reason, have become useful for further service shall be disconnected at the main. The owner of the premises, served by this service, shall hire and pay a contactor to disconnect the service. The property owner must also pay the cost of street repair. Disconnection must be inspected by City sewer/water staff or designee before covering. All pipe and appurtenances removed from the street right-of-way shall become the property of the City.

Section 2. When a new structure is built a new line from main to building will be required. When new buildings are erected on the site of old ones, or it is desired to increase the sewer service, a new permit shall be applied for and the regular tapping charge shall be made as if this were a new service.

Section 3. 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 sewage, or to save expense in improperly removing such pipe from the main. 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.

SECTION 4.

THE UTILITY COMMISSION MAY GRANT VARIANCES FROM THE REQUIREMENTS OF SECTION 1 AND 2 UPON A FINDING THAT THE SERVICE IS IN GOOD CONDITION, IS EXPECTED TO REMAIN IN GOOD CONDITION AND MEETS CURRENT HEALTH AND SAFETY STANDARDS. A VARIANCE WILL ONLY BE GRANTED FOR A PVC SEWER LINE. SUCH A FINDING WILL BE GRANTED AFTER THE SERVICE HAS BEEN TELEVISED AND THE TELEVISING OR TAPED REVIEWED BY CITY WATER/SEWER STAFF OR DESIGNEE. SUCH VARIANCE SHALL BE ISSUED IN WRITING.

SECTION 5. APPEALS TO THE CITY COUNCIL SHALL BE FILED WITH THE CITY ADMINISTRATOR WITHIN THIRTY (30) DAYS OF THE DATE OF THE UTILITY COMMISSION ACTION. THE ADMINISTRATOR SHALL, WITHIN ONE WEEK OF SUCH APPEAL BEING FILED, ESTABLISH A DATE FOR A PUBLIC HEARING. THE NOTICE OF SUCH HEARING SHALL BE PUBLISHED IN THE LEGAL NEWSPAPER NOT MORE THAN 30 DAYS OR LESS THAN 10 DAYS

PRIOR TO THE PUBLIC HEARING. THE CITY COUNCIL SHALL DECIDE THE MATTER APPEALED WITHIN THIRTY (30) DAYS AFTER THE DATE OF THE HEARING.

Subdivision 11. Individual Sewage Treatment Systems

A. The improper design, location, installation, use, and maintenance of individual sewage treatment systems adversely affects public health, safety and general welfare by discharge of inadequately treated sewage to surface and ground waters. In accordance with the authority granted in Minnesota Statutes, Chapter 105, the Minnesota Pollution Control Agency, provides the minimum standards and criteria for the design, location, installation, use and maintenance of individual sewage treatment systems, and thus protects the surface and ground waters of the State, and promotes the public health and general welfare. These standards as provided in Minnesota Regulations, Minnesota Rules Chapter 7080 are hereby adopted by reference and made part of this Chapter.

B. Permits

1. It is unlawful for any person to install, alter or extend individual sewage disposal systems in the City without first obtaining a permit therefore from the City Clerk for specific installation, alteration, and extension. The permit shall be valid for a period of twelve months from the date of issue.

2. Each application for a permit shall state the correct legal description of the property on which the proposed installation, alteration, or extension is to take place and each application for a permit shall be accompanied by a plan drawn to scale of the land on the property with respect to the boundary lines of the property and complete plans of the proposed systems with substantiating data, if necessary attesting to the compliance with the minimum standards of this Chapter. A complete plan shall include the location, size and design of all parts of the system to be installed, altered, or extended. The application shall also show the present or proposed name of the person, firm, or corporation who is to install the system and shall provide such additional information as may be required by the Council.

3. Every individual sewage disposal system installed after the effective date of this Chapter and every alteration or extension to any system made after that date shall conform to Minnesota Rules Chapter 7080.

C. Inspections:

1. The City or its agent shall cause such inspection or inspections as are necessary to determine compliance with this Chapter, no part of the system shall be covered until it has been inspected and accept by the City or its agent. It shall be the responsibility of the applicant for the permit to notify the City that the system will be ready for inspection or re-inspection, and it shall be the duty of the

City to cause the indicated inspection within twenty-four (24) hours of said notification. It shall be the duty of the owner or occupant of the property to allow the City or its agent free access to the property at reasonable times for the purpose of making such inspections. Upon satisfactory completion and final inspection of the system, the City shall issue to the applicant a certificate of zoning compliance.

2. If upon inspection, it is discovered that any party of the system is not constructed in accordance with minimum standards provided for in this Chapter, the applicant shall pay an additional inspection fee for each inspection. The applicant shall be responsible for the correction or elimination of defects, and no system shall be placed or replaced in service until all defects have been corrected or eliminated.

3. The City or its agent bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling and testing pertinent to compliance with this Ordinance.

Subdivision 12. Accessible Sewer Clean-Out & Replacement of Private Sanitary Sewer Lines Connected to the Public Sanitary Sewer

Accessible Sewer Clean-Out

A sewer clean-out must be installed and must be accessible from the outside of any new structure or when a private lateral sewer line is replaced. The opening must be a minimum of 4 inches.

Replacement of Sanitary Sewer lines connected to the Public Sanitary Sewer

1. All houses, building or properties used for human occupancy, employment, recreation or other purposes from which waste water is discharged shall not use any sewer line connected with the public sanitary sewer system that is clogged, obstructed, broken, damaged, or not in conformance with the existing Plumbing Code as determined by the WWW Superintendent or designee.

2. Following inspection by the WWW superintendent or designee the owner of the property shall receive written notice of the non-conforming sewer line and requiring the installation of a new sewer line connection to the sanitary sewer within one (1) year from the date of notice. New connections shall be gastight and watertight. Appeals do not stay the time limits for compliance.

3. A request for review by the Utility Commission shall be filed with the City Administrator within thirty (30) days of the date of the written notice. The review will be heard within 30 days of the request being filed. The Utility Commission shall decide the matter within 30 days of the review being heard.

4. Appeals to the City Council shall be filed with the City Administrator within 30 days of the date of the Utility Commission decision. The Administrator shall, within one week of

the appeal being filed, establish a date for a public hearing. The notice of such hearing shall be published in the legal newspaper not more 30 days or less than 10 days prior to the public hearing. The City council shall decide the matter appealed within thirty days after the date of the hearing.

5. In the event the owner fails to install a new service line to connect to the public sewer within one (1) year from the date of notice the city shall have the following remedies:

    a. The city may disconnect and/or shut off the property in question from city water service. This provision shall be made subject to the cold weather rule MN Statutes216B.095. If the cold weather rule does not apply, the city shall notify the owner in writing personally or by certified mail. If the premises are not occupied and the address of the owner of the premises is unknown, service may be made by posting such notice on premises. Such notice shall provide an explanation of the city's intent to disconnect and/or shut off water service to the property and shall provide an opportunity for a hearing. The hearing shall be held no less than ten days after the notice is given.

    b. The city may undertake connection to the public sewer by installation of a private service line by a private contractor and assess the cost against the property. Such assessment, when levied, shall bear interest at the rate determined by the Council and shall be certified to the Auditor of Cottonwood County, and shall be collected and remitted to the city in the same manner as assessments for local improvements.

    c. Any person violating any provisions of Section 3.30 shall be guilty of a petty misdemeanor.

SECTIONS 3.31 - 3.39. RESERVED.

SECTION 3.40. RULES AND REGULATIONS RELATING TO ELECTRIC SERVICE.

Subdivision 1. Code Requirement.

All wiring, connections and appurtenances shall be installed and performed strictly in accordance with the National Electrical 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.

Subdivision 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 persons 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.

Subdivision 3. Electrical Installations.

All electrical installations shall comply with the following, where applicable:

A. Motors of 20 HP or more must have line compensators on same. Provided, however, that the City may, at its option, make an exception if the total connected motor load required is smaller than the consumer connected load, and the motor starting current is less than the current corresponding to the consumer's total connected load.

B. Any establishment having a total motor load of 125 HP or more is required to have 440 volts for its motor load.

C. All motor installations of less than 5 HP shall be supplied with 240 volt single phase energy except: (1) motors of 1/2 HP or smaller may be 120 volt; or (2) three phase motors of 3 HP or more may be served from existing secondary power circuits where only service wires and meters are required.

D. The City shall make an installation charge for extraordinary expenses required by a consumer.

Subdivision 4. 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.

SECTOPM 3.41 WIND TURBINES See Ordinance #9-07

Subdivision 1. General

Wind energy conversion systems (WECS) are allowed as a conditional use in the commercial – general (C-2) and industrial (I) zoning districts and are not permitted in the residential (R) and downtown commercial (C-1) of the City of Mt. Lake.
Proposed WECS shall meet the following minimum conditions:

Subdivision 2 Permit Application Requirements

An application shall be filed with the Zoning Administrator on a form prescribed by the Planning and Zoning Department. The following information is required:

a. Name(s) and address(es) of property owner and project applicant, parcel number and legal description of property
b. A description of the project including number and capacity of turbines, height and diameter of turbine rotors, turbine, tower, and blade color, and rotor direction.
c. A site plan, detailing the size of property, location of turbine, buildings, driveways, transformers, power lines, communication lines, interconnection point with transmission lines and other ancillary facilities or structures.
d. Current zoning of the property.
e. Decommissioning plan.
f. Safety and Signage plan.
g. Engineering and/or manufacturer certification.
h. Documentation that the power will be used on site or evidence of a power purchase contract with the Mt. Lake Electrical Utility. If the power is sold to the Mt. Lake Electrical Utility the meter(s) used must be approved by the Mt. Lake Electrical Utilities Superintendent.
i. Verification from Mt. Lake Utilities Electrical Superintendent that the turbine will be compatible with the electrical system.
j. Verification from other private and public utilities located in the city, including but not limited to telephone, cable, other types of communication and natural gas, that the turbine will not negatively impact these utilities and that the steps have been taken to correct any potential problems.

Subdivision 3 Compliance with Codes and Standards

All WECS shall be in compliance with applicable state and federal regulatory standards including:

a. Uniform Building Code as adopted by the City of Mt. Lake
b. National Electrical Code as adopted by the State of Minnesota
c. FAA requirements
d. MPCA/EPA regulations for hazardous waste and construction
e. MN Pollution Control Agency Chapter 7030, Noise Standards

Subdivision 4 Certification

The commercial system manufacturer or a certified engineer must attest to:

a. Tower and foundation designs are suitability for turbine and soils.
b. Tower and foundation are able to withstand wind and icing loads.
c. The system has an automatic shutdown to render it inoperable in conditions of imbalance or high wind speeds.
d. The tower and turbine were manufactured in compliance with industry standards.

Subdivision 5 Setback Requirements

All turbines must be set back from property lines a total of structure height (tower height and one-half the rotor diameter) plus a 10 to 25 % additional margin. No structures are allowed in this setback. This setback will ensure a near zero probability of harm to the general public.

Subdivision 6 Decommissioning

Provisions shall ensure that turbine and tower are properly decommissioned at the end of the project life or abandonment. Decommissioning shall include:

a. Removal of all structures and footings
b. when and how turbine and tower are to be decommissioned
c. estimated cost of decommissioning
d. financial resources to be used to accomplish decommissioning. The establishment of an escrow account into which the project developer/owner will deposit funds on a regular basis over the life of the project may be required. The City will then have access to the escrow account for the explicit purpose of decommissioning. Financial provisions shall not be so onerous and to make wind power project unfeasible.

Subdivision 7 Safety and Signage

a. Access to the tower and turbine shall be limited either by a fence 6 ft. high with a locked gate or by limiting tower climbing apparatus to no lower than 12 ft. from the ground.
b. Towers with guyed wires are not allowed.
c. High voltage signs shall be placed at the base of the tower.
d. Fences and signs shall comply with Mt. Lake City Code.

Subdivision 8 Aesthetics

a. The tower and turbine shall be of non-reflective, unobtrusive color.
b. Projects shall utilize minimal lighting.
c. All lines shall be buried underground.
d. Screening may be necessary to minimize visual impact.

Subdivision 9 Interference

a. The operation of the WECS shall not cause radio, television, telephone or microwave interference.

SECTION 3.42 SOLAR COLLECTORS AND SOLAR ENERGY SYSTEMS See Ordinance #2-11

Subdivision 1 General

a. Solar collectors and solar energy systems shall be a conditional use in all zoning districts in the City of Mt. Lake.
b. Solar collectors and solar energy systems must not cast shadows, obstruct solar access or cause wind deflection to a contiguous property.
c. Solar collectors and solar energy systems must comply with the height restrictions of the zoning district in which it is located.
d. Free standing solar collectors or solar energy systems must be setback from property lines a minimum of the collector or system height. This setback will ensure a near zero probability of harm to the general public.
e. Solar collectors or solar energy systems must be compatible in appearance to the principal building.
f. Solar collectors or solar energy systems cannot be constructed prior to the time of construction of the principal building or structure.

Subdivision 2 Permit Application Requirements

An application shall be filed with the Zoning Administrator on a form prescribed by the Planning and Zoning Department. In addition to the requirements found in Mt. Lake Code 9.70 Subd. 4 the following information is required:

a. A description of the solar collector or solar energy system including height and coloring of the panels and poles, and number and size of panels.
b. Verification that the solar collector or solar energy system has been designed and constructed in compliance with all applicable building and electric codes.
c. Verification that the solar collector of solar energy system is in compliance with all state and federal regulations regarding co-generation of energy.
d. The Zoning Administrator may require compliance with any other conditions, restrictions or limitations as deemed reasonably necessary.

SECTIONS 3.43 - 3.49. RESERVED.

SECTION 3.50 STREET LIGHT UTILITY

Subdivision 1 Purpose

A. The city may establish a municipal street lighting fee for the purpose of paying electrical charges to maintain the existing street lighting system. The purpose of the street lighting system is to protect the health, safety, and welfare of the city's citizens, visitors, and the general public by casting adequate lighting onto municipal streets so as to promote safe travel for vehicles and pedestrians.

B. The municipal street lighting system is not intended to act as security lighting for private properties.

Subdivision 2 Fees

A. The Council may establish a fee schedule pursuant to Section 3.02.

B. The municipal street lighting fee shall be attached to each utility bill generated.

C. As all classes of property derive the same benefits, all classes of property will pay the same rate.

D. Sections 3.05, Rules and Regulations Relating to Municipal Utilities, Subdivision 1, Billing, Payment and Delinquency, and Subdivision 8, Municipal Utility Services and Charges A Lien, shall apply to delinquent payment of fees.

Subdivision 3 Disclaimer

The city shall not be liable for injury or damage to persons or property caused by any deficiency or failure in supplying electricity for the street light system whether occasioned by shutting off the system for the purpose of making repairs or connections, weather-related incidents or from any other cause whatsoever.

SECTION 3.51 – 3.98. RESERVED.

SECTION 3.99. VIOLATION A MISDEMEANOR.

EVERY PERSON VIOLATES A SECTION, SUBDIVISION, PARAGRAPH OR PROVISION OF THIS CHAPTER WHILE PERFORMING AN ACT THEREBY PROHIBITED OR DECLARED UNLAWFUL, OR FAILS TO AT WHEN SUCH FAILURE IS HEREBY PROHIBITED OR DECLARED UNLAWFUL AND UPON CONVICTION THEREOF SHALL BE PUNISHED AS FOR A MISDEMEANOR EXCEPT AS OTHERWISE STATED IN SPECIFIC PROVISIONS HEREOF.

CHAPTER 4

CONSTRUCTION LICENSING, PERMITS AND REGULATION

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CHAPTER 4

CONSTRUCTION LICENSING, PERMITS AND REGULATION

SECTION 4.01. MINNESOTA BUILDING CODE ADOPTED.

Subd. 1 Application, Administration and Enforcement.

The application, administration, and enforcement of the code shall be in accordance with Minnesota Rule Chapter 1300.

The code enforcement agency of this municipality is called the City of Mt. Lake. This code shall be enforced by the Minnesota Certified Building Official designated by this Municipality to administer the code (Minnesota Statute 16B.65, Subd. 1.)

Subd. 2 Permit and Fees.

The issuance of permits and the collection of fees shall be as authorized in Minnesota Statutes, 16B.62, Subd. 1. Permit fees shall be assessed for work governed by this code in accordance with the fee schedule adopted by the municipality.

Subd. 3 Violations and Penalties.

A violation of the code is a misdemeanor (Minnesota Statute 16B.69) and Minnesota Rules, Chapter 1300.

Subd. 4 Building Code.

The Minnesota State Building Code, established pursuant to Minnesota Statutes 16B.59 to 16.75 is hereby adopted as the building code for this municipality. The code is hereby incorporated in this ordinance as fully set out herein.

A. The Minnesota State Building code includes the following chapters of Minnesota Rules:

1. 1300, Administration of the Minnesota State Building Code;
2. 1301, Building Official Certification;
3. 1302, State Building Code Construction Approvals;
4. 1303, Minnesota Provisions;
5. 1305, Adoption of the 2006 International Building Code;
6. 1307, Elevators and Related Devices;
7. 1309, Adoption of the 2006 International Residential Code;
8. 1311, Adoption of the 2000 Guidelines for the Rehabilitation of Existing Buildings;
9. 1315, Adoption of the 2005 National Electrical Code;
10. 1325, Solar Energy Systems;
11. 1330, Fallout Shelters;

12. 1335, Floodproofing Regulations;
13. 1341, Minnesota Accessibility Code;
14. 1346, Adoption of the Minnesota State Mechanical Code;
15. 1350, Manufactured Homes;
16. 1360, Prefabricated Structures;
17. 1361, Industrialized/Modular Buildings;
18. 1370, Storm Shelters (Manufactured Home Parks);
19. 4715, Minnesota Plumbing Code;
20. 7670, 7672, 7674, 7676, and 7678, Minnesota Energy Code

SECTION 4.02. RESERVED FOR FUTURE EXPANION.

SECTION 4.03 RESERVED FOR FUTURE EXPANSION.

SECTION 4.04. RESERVED FOR FUTURE EXPANSION

SECTION 4.05. BUILDING PERMITS REQUIRED.

It is unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure, or any part or portion thereof, including, but not limited to, the plumbing, electrical, ventilating, heating or air conditioning systems therein, or cause the same to be done, without first obtaining a separate building or mechanical permit for each such building, structure or mechanical components from the City.

SECTION 4.06. PERMITS AND SPECIAL REQUIREMENTS FOR MOVING

BUILDINGS.

Subdivision 1. Definition. "Street" or "Streets" as used in this Section means all streets and highways in the City which are not State trunk highways, County State-aid highways, or County roads.

Subdivision. 2. Moving Permit Required and Application.

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

B. The application for a moving permit shall state the approximate size and weight of the structure or building proposed to be moved, together with the places from and to which it is proposed to move the same, and proposed route to be followed, proposed dates and times of moving and parking, and the name and address of the proposed mover. Such application shall also state any municipal utility, street, and public property repairs or alterations that will be required by reason of such movement.

Subdivision 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, except that a permit may be issued to a person moving his own building, or a person moving a building which does not exceed 12 feet in width, 25 feet in length, or 16 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. The latter shall be paid in advance.

Subdivision 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 the work necessary to bring it into full compliance with the State Building Code.

Subdivision 5. Proof of Tax Payment..

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 and special assessments due thereon, and filing written proof of such payment with the City Clerk-Treasurer.

SECTION 4.07. UNIFORM HOUSING CODE. See Ordinance #3-16

Subdivision 1. The Uniform Housing Code.

A. The Uniform Housing Code, 1997 Edition, published by the International Conference of Building Officials, is hereby adopted by reference as though set forth verbatim herein.

B. The Uniform Housing Code provides for the application, administration, and enforcement of the Housing Code by regulating the minimum standards for building maintenance and occupancy, building use and parking of all dwellings and/ or structure in this Municipality, and provides for penalties for violation.

Subdivision 2. Purpose

The purpose of this Section is to protect the public health, safety, and the general welfare of the people of this city. The general objectives include, among others, the following:

A. To protect the character and stability of all buildings and property within the city.

B. To correct and prevent conditions that adversely affect or are likely to adversely affect the life, safety, general welfare, and health, including the physical, mental and social well-being of persons occupying buildings within Mountain Lake.

C. To provide minimum standards for cooking, heating, and sanitary equipment necessary to the health and safety of occupants of buildings.

D. To provide minimum standards for light and ventilation, necessary to health and safety.

E. To prevent the overcrowding of dwellings by providing space standards per occupant for each dwelling.

F. To provide minimum standards for the maintenance of existing buildings, and to thus prevent slums and blight.

G. To preserve the value of land and buildings throughout the City.

Subdivision 2. Intent

With respect to rental disputes, and except as otherwise specifically provided by the terms of this ordinance, it is not the intention of the City Council to intrude upon the fair and accepted contractual relationship between tenant and landlord. The City Council does not intend to intervene as an advocate of either party, nor to act as an arbiter, nor to be receptive to complaints for tenant or landlord which are not specifically and clearly relevant to the provisions of this ordinance. In the absence of such relevancy with regard to rental disputes, it is intended that the contracting parties exercise such legal sanctions as are available to them without the intervention of City government. Neither in enacting this ordinance is it the intention of the City Council to interfere or permit interference with legal rights to personal privacy.

Subdivision 3. Application.

Every building, as well as its premises, and all occupied premises within Mountain Lake shall conform to the requirements of this ordinance, irrespective of when such building may have been constructed, altered, or repaired.

Subdivision 4. Definitions

The following definitions shall apply in the interpretation and enforcement of this ordinance:

1. Approved- Acceptable to this jurisdiction

2. Accessory Building- A structure subordinate to the main or principal building which is not authorized nor used for living or sleeping by human occupants and which is located on or partially on the premises.

3. Building- Any structure used or intended for supporting or sheltering any use or occupancy.

4. Compliance Official- The Building Official

5. Dwelling- A building or portion thereof, designed or used predominantly for residential occupancy of a continued nature, including one-family dwellings, two family dwellings, and multiple family dwellings, but not including hotels and motels.

6. Dwelling Unit- A single residential accommodation which is arranged, designed, used, or if vacant, intended for use exclusively as a domicile for one family. Where a private garage is structurally attached, it shall be considered as part of the building in which the dwelling unit is located.

7. Family- One or more persons each related to the other by blood, marriage, or adoption, or a group of not more that six persons not all so related, maintaining a common household in a dwelling unit and using common cooking and kitchen facilities.

8. Group or foster care of not more than six (6) wards or clients by an authorized person or persons, related by blood, marriage, or adoption, together with their domestic servants or gratuitous guests, all maintaining a common household in a dwelling unit approved and certified by the appropriate public agency.

9. Flush Water Closet- An approved toilet system with a bowl and trap made in one piece connected to the city water and sewer system.

10. Garbage- Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food.

11. Habitable Building- Any building or part thereof that meets minimum standards for use as a home or place of abode by one or more persons.

12. Habitable Room- A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, furnace rooms, unfinished basements, (those without required ventilation, required electrical outlets and required exit facilities), pantries, utility rooms of less than 50 square feet of floor space, foyers, communicating corridors, stairways, closets, storage spaces and workshops, hobby and recreation areas in parts of the structure below ground level or in attics.

13. Heated water- Water heated to a temperature of not less than 120 degrees Fahrenheit, or such lesser temperature required by government authority, measured at the faucet outlet.

14. Kitchen- A space which contains a sink with counter working space, adequate space for installing cooking and refrigeration equipment, and adequate space for storage of cooking utensils.

15. Multiple Family Dwelling- A dwelling or portion thereof containing three or more dwelling units.

16. Non residential Building- All other buildings or structures other than dwellings or dwelling units.

17. Occupant- Any person (including owner or operator) occupying any structure, building or part thereof, dwelling, dwelling unit, rooming unit or premise.

18. Permissible Occupant Load- The maximum number of persons permitted to occupy a building or space within a building.

19. Person- An individual, firm, partnership, association, corporation or joint venture or organization of any kind.

20. Refuse- All putrescible and non-putrescible waste solids including garbage and rubbish.

21. Repair- To restore to a sound and acceptable state of operation, serviceability or appearance.

22. Rodent Harborage- Any place where rodents can live, nest, or seek shelter.

23. Rooming unit- Any room or group of rooms forming a single habitable unit used for living or sleeping but not for cooking and eating purposes.

24. Safety- The condition of being reasonably free from danger and hazards which may cause accidents and diseases.

25. Structure- That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

26. Substandard Building- Any dwelling which does not conform to the minimum standards established by City Ordinances.

Subdivision 5. Responsibilities of Owners

No owner or person shall occupy or let another person occupy any building, unless it and the premises are clean, sanitary, fit for human occupancy and comply with all applicable legal requirements of the State of Minnesota and the City of Mountain Lake.

Subdivision 6. Maintenance of Shared or Public Areas

Every owner of a building shall maintain in a clean, sanitary, and safe condition, the shared or public areas of the building or premises thereof.

Subdivision 7. Maintenance of Occupied Areas

All occupants of a building shall maintain in a clean, sanitary, and safe condition that part or those parts of the building, and premises there of that they control.

Subdivision 8. Storage and Disposal of Rubbish

All occupants of a building shall store and dispose of all their rubbish in a clean, sanitary, and safe manner as described in chapter 8 of the city code.

Subdivision 9. Storage and Disposal of Garbage

All occupants of a building shall store and dispose of all their garbage in a clean, sanitary, and safe manner as described in chapter 8 of the city code within 7 days.

Subdivision 10. Responsibility For Pest Extermination

Every occupant of a dwelling containing a single dwelling unit or an occupant of a non residential building containing a single unit shall be responsible for the extermination of vermin infestations and/or rodents on the premises. Every occupant of a nonresidential building containing more than one unit shall be responsible for such extermination whenever their unit is the only one infested. Notwithstanding, however, whenever infestation is caused by the failure of the owner to maintain a building in a reasonable rodent proof or reasonable vermin proof condition, extermination shall be the responsibility of the owner. Whenever extermination is the responsibility of the owner, the extermination must be performed by a licensed pest control contractor.

Subdivision 11. Rodent Harborages Prohibited in Occupied Areas

No occupant of a building shall accumulate boxes, lumber, firewood, scrap metal, or any other similar materials in such a manner that may provide a rodent harborage in or about any dwelling unit or building. Stored materials shall be stacked neatly.

Subdivision 12. Sanitary Maintenance of Fixtures and Facilities

Every occupant of a building shall keep all supplied fixtures and facilities therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.

Subdivision 13. Minimum Heating Capability and Maintenance

In every dwelling unit or rooming unit when the control of the supplied heat is the responsibility of a person other than an occupant, a temperature of at least 68 degrees Fahrenheit shall be maintained 3 feet above the floor.

Subdivision 14. Removal of Snow and Ice

Every occupant and/or owner shall be responsible for the removal of snow or ice from the parking lots, sidewalks, and driveways on the premises. Individual snowfalls of three inches or more, or successive snowfalls accumulating to a depth of three inches, shall be removed from parking lots and driveways within 24 hours after the cessation of snow to a depth of one inch, and shall be removed from steps and walkways within the time specified in chapter 8 of the city code.

Subdivision 15. Maintenance of Driving and Parking Areas

A. The owner of a building shall be responsible for providing and maintaining in good condition and delineating parking areas and driveways. No parking shall be permitted in the front setback (front yard) of a residential zone unless it is an approved driveway or parking area.

B. Exemption: During snowfall or snow removal.

Subdivision 16. Maintenance of Yards

The owner shall be responsible for providing and maintaining premises yards consistent with chapter 8 of the city code.

Subdivision 17. Foundations, Exterior Walls and Roofs See Ordinance #3-16

The foundation, exterior walls, and exterior roof shall be substantially water tight and protected against vermin and rodents and shall be kept in sound condition and repair. Every exterior wall shall be free of deterioration, holes, breaks, loose or rotting boards or timbers, and any other which might admit rain or dampness to the interior portion of the walls or the exterior spaces of the building. All exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by paint or other protective covering or treatment. If the exterior surface is unpainted or determined by the code enforcement officer to be paint blistered, the surface shall be painted. Foundation and basement walls shall be free of volunteer trees, shrubbery, and other plants growing wedged between the foundation or basement wall and the surrounding soil. If the exterior

surface of the pointing on any brick, block or stone wall is loose or has fallen out, the surface shall be repaired.

Subdivision 18. Windows, Doors, and Screens

Every window, exterior door, and other exterior openings, shall be substantially tight and shall be kept in sound condition and repair. Every window, other than a fixed window or storm window, shall be capable of being easily opened. Every window, door and frame shall be constructed and maintained in such relation to the adjacent wall construction as to completely exclude rain, wind, vermin, and rodents from entering the building. Every openable window shall be supplied with 16 mesh screens during the insect season and shall be equipped with an approved lock if located less than six feet above grade.

Subdivision 19. Facilities to Function

Every supplied facility, piece of equipment or utility required under city ordinances, and every chimney and flue, shall be installed and maintained and shall function effectively in a safe, sound and working condition.

Subdivision 20. Permissible Occupancy per Dwelling Unit

The maximum permissible occupancy of any dwelling unit shall be determined as follows:

1. For the first occupant, 150 square feet of habitable room floor space and for every additional occupant thereof, at least 100 square feet of habitable room floor space.

2. In no event shall the total number of occupants exceed two times the number of habitable rooms, less kitchen in the dwelling unit.

3. Not more than one family, except for temporary guests shall occupy a dwelling unit.

Subdivision 21. Basements not Permissible for Living

Basements unfinished shall not be occupied for the purpose of living.

Subdivision 22. Commencement of Proceedings

Whenever possible, a building inspection shall be initiated within three (3) business days of receipt of any complaint alleging a particular building to be substandard. Whenever the Building Official has inspected or caused to be inspected any building and has found and determined that such building is a substandard building, he shall commence proceedings to cause the repair, rehabilitation, vacation, or demolition of the building.

Subdivision 23. Notice and Order

The Building Official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

1. The street address and a legal description sufficient for identification of the premises upon which the building is located.

2. A statement that the Building Official has found the building to be substandard with a brief and concise description of the conditions found to render the building dangerous.

3. A statement of the action required to be taken as determined by the Building Official.

   (i) If the Building Official has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefore and the work physically commenced within such time (not to exceed thirty (30) days from the date of the order) and completed within such time as the Building Official shall determine is reasonable under all circumstances.

   (ii) If the Building Official has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a certain time from the date of the order as determined by the Building Official.

4. Statements advising that if any required repair or demolition work (without vacation being required) in not commenced within the time specified, the Building Official:

(i) Will order the building vacated and posted to prevent further occupancy until the work is completed; and

(ii) May proceed to cause the work to be done and charge the cost thereof against the property or its owner.

5. Statements advising: That any person having record title or legal interest in the building may appeal from the notice and order any actions of the Building Official.

Subdivision 24. Appeals

Any person aggrieved by any notice or order of the Building Official issued under this Ordinance may file a petition with the City Clerk within ten (10) days after the notice or order.

A. Upon receipt of the review, the City Administrator, or 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.

B. At the hearing, the petitioner shall be given an opportunity to show cause by the notice or order should be modified or withdrawn. The petitioner may be represented by counsel or petitioners of choosing at his/her expense.

C. The hearing shall be conducted by the City Administrator, provided he/she did not participate in the drafting of the order.

Subdivision 25. Appeal to Council

Any decision rendered pursuant to "Appeals Subdivision" may be appealed to the City Council (Housing Board). A petitioner seeking a decision must file written notice of appeal with the City Clerk within ten (10) days after the decision of the City Administrator. The matter will thereupon be placed on the City Council Agenda as soon as practical. The City Council shall review the findings of fact and conclusions to determine whether they were correct. The City Council may modify, reverse, or affirm the decision of the City Administrator upon the same standard set forth in the previous subdivision (Appeals).

Subdivision 26 Enforcement

Violation of this Ordinance shall be a petty misdemeanor and/or remedied by the guidelines set forth by this ordinance.

SECTION 4.08 RENTAL HOUSING

Subdivision 1. Definitions

The following terms as used in this section shall have the following meanings.

1. The term "dwelling unit" means any building, structure or enclosure, including any mobile home, rented or offered for rent by any person or persons for use for rent by any person or persons for use for residential purposes by such other person or persons.

2. The "long-term hotel dwelling unit" means dwelling unit in any hotel, as defined in Minnesota Statutes, Section 157.01, which dwelling unit is held out or available to the public for use for sleeping or residential purposes for period of one week or more.

3. The term "rooming house dwelling unit" means any dwelling unit in any building or structure, which building or structure is used or held out to be a place where sleeping accommodations are furnished to the public as regular roomers for periods of one week or more.

Subdivision 2. License Required

It is unlawful for any person, as the owner, manager, or other person having control of any dwelling unit, to lease, rent, or permit to be leased or rented, any dwelling unit within the city without first having obtained a dwelling unit license for such dwelling unit from the City.

Subdivision 3. License and Fees

A. The application for a license shall be made and filed on a form furnished by the City Clerk for such purpose and shall set forth the name, residence address and phone number of the owner of the dwelling unit or the agent authorized by the owner to receive and give receipt for notices in cases where the owner of the dwelling unit does not reside within the City.

B. The annual dwelling rental license fee for each long-term hotel or rooming house dwelling unit shall be established by the City Council.

C. The annual dwelling rental license fee for complete dwelling or project, not per unit, other than a long-term hotel or a rooming house dwelling shall be established by the City Coundil.

D. The annual dwelling unit rental license fee for each mobile licensed Park or Project shall be established by the City Council.

E. The Fee for a re-inspection for non-compliance shall be established by the City Council.

Subdivision 4. License Expiration.
Each license issued pursuant to this section shall expire on the 31st day of December of the year in which such license is issued.

Subdivision 5. Inspection.

Upon receipt of an application for any dwelling unit rental license, the City Clerk shall forward a copy of such application to the Building Official/Code Enforcement person, whereupon the Building Official, shall within ten (10) days after receiving such application, inspect the dwelling unit to be licensed to determine whether such unit complies with provisions of applicable codes (Uniform Fire Code most recent edition, & Uniform Housing Code most recent edition.) No dwelling unit rental license shall be issued by the City unless the dwelling complies with the provisions of the City Code which pertain to such dwelling unit.

Subdivision 6. Register of Occupancy.

Each owner of a dwelling unit within the City rented or offered for rent for residential purposes shall maintain a register of occupancy for each such dwelling unit, which register shall be available for examination by City officials, and shall include the following information:

A. The address of the dwelling unit
B. The number of bedrooms per unit

C. The names of the current occupants per unit
D. The maximum number of people permitted per dwelling unit

Subdivision 7. Agent Required.

Each owner of a dwelling unit within the City, rented or offered for rent for residential purposes, which owner does not reside within the city shall, by written document executed and acknowledged by such owner, appoint an agent residing within the City, upon which agent City may serve notices pertaining to the administration of this section or of any provisions effective as if made upon such owner.

Subdivision 8. Exception.
This section shall not apply to any hotel, motel room or related facility licensed by the State of Minnesota.

Subdivision 9. Transfer of License.

Each license issued pursuant to this section may be transferred to another party, provided that any licensee shall give written notice of such transfer to the City at least forty-eight (48) hours prior to the transfer of the licensed premises, which notice shall include the name and address of the transferee.

Subdivision 10. Refuse Removal

A. Duty to provide removal. The occupant of each dwelling unit within the City rented for residential purposes shall provide for such dwelling unit refuse and garbage removal service , whereby refuse and garbage shall be removed from the premises upon which such dwelling unit is located at least once every seven (7) days for a dwelling unit rental license issued pursuant to this section. Failure of the occupant to comply with provisions of this section shall constitute a violation.

Subdivision 11. Conduct on Licensed Premises. Violations, provisions for penalty.

A. The renter/occupant shall be responsible to conduct themselves in such a manner as to not cause the premise to be in noncompliance of the City of Mountain Lake Municipal Codes Chapter eight (8).

B. The Building Official shall be charged with the responsibility of enforcing this section.

C. Upon determination by the Building Official that the licensed premises were out of compliance, the Building Official shall notify the license holder by regular maul of such violations.

D. If another violation occurs within twelve (12) months of an accident for which notice in paragraph C of this Subd. was given, the license holder shall be notified of the instance of violation and shall also be required to meet with the City Administrator and the building

official.

E. If another instance of disorderly use of the premises occurs within twelve (12) months after receipt of notices pursuant to Paragraph C and D, the dwelling unit rental license may be revoked or suspended for such unit by action of the City Council. Such suspension or revocation may be for all units in a given building address. Upon suspension or revocation, a licenses holder shall pay to the City a reinstatement fee equal to one hundred dollars ($100.00). A suspension may be stayed subject to payment of the applicable reinstatement fees and no further violations for a period of time.

F. NO SUSPENSION OR REVOCATION SHALL BE IMPOSED WHERE THE INSTANCE OF VIOLATION OCCURRED DURING THE PENDENCY OF EVICTION PROCEEDINGS (UNLAWFUL DETAINER) OR WITHIN THIRTY (30) DAYS OF NOTICE GIVEN BY THE LICENSE HOLDER TO A TENANT TO VACATE THE PREMISES WHERE THE VIOLATION WAS RELATED TO AND OCCURRING IN THE UNIT FOR WHICH EVICTION PROCEEDINGS WERE UNDERTAKEN OR NOTICE TO VACATE WAS GIVEN. EVICTION PROCEEDINGS SHALL NOT BE A BAR TO SANCTIONS, HOWEVER, UNLESS THEY ARE DILIGENTLY PURSUED BY THE LICENSE HOLDER.

G. All written leases for property subject to provisions of this ordinance after it's effective date shall contain a clause providing that tenants violating provisions of this ordinance shall constitute a material breach of the lease and are grounds for termination of such lease.

SECTIONS 4.09 THRU 4.98, INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 4.99. 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.

CHAPTER 5

ALCOHOLIC BEVERAGES LICENSING AND REGULATION

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CHAPTER 5

ALCOHOLIC BEVERAGES LICENSING AND REGULATION

SECTION 5.01. DEFINITIONS.

As used in this Chapter, unless otherwise stated in specific sections, 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.

2. "Application" means a form with blanks or spaces thereon, to be filled in and completed by the applicant as a 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. "Applicant" means any person making an application for a license under this Chapter.

4. “Beer” means malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight. (This definition includes so-called “malt coolers” with the alcoholic content limits stated herein.)

5. “Brewer” – A person who manufactures beer for sale.

6. “Club” – An incorporated organization organized under the laws of the State for civic, fraternal, social, or business purposes, for intellectual improvements or for the promotion of sports, or a congressionally chartered veterans’ organization which : (1) has more than fifty members; (2) 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; (3) is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for the 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.

7. “Commissioner” – The Minnesota Commissioner of Public Safety.

8. "License" means a document, issued by the City, to an applicant permitting the applicant to carry on and transact the business stated therein.

9. "Licensee" means an applicant who, pursuant to the approved application, holds a valid, current, unexpired license, which has neither been revoked nor suspended, from the City for carrying on the business stated therein.

10. "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.

11. “Licensed Premises” – The premises described in the issued license.

12. “Liquor” – Ethyl alcohol and distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2 percent of alcohol by weight. (This definition includes so-called “wine coolers” and “malt coolers” with the alcoholic content limits stated herein.)

13. “Malt Liquor” – Any beer, ale or other beverage made from malt by fermentation and containing not less than one-half of one percent alcohol by volume.

14. "Manufacturer" means every person who, by any process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending, or by the combination of different materials, prepares or produces alcoholic beverages for sale.

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

16. "Off-sale" means the retail sale of beer in original packages for consumption off or away from the premises where sold.

17. "On-sale" means the retail sale of beer, by the glass or by the drink, for consumption on the premises where sold only.

18. "Package" and "Original package" mean any container or receptacle holding alcoholic beverage, which container or receptacle is corked, capped or sealed by a manufacturer or wholesaler.

19. “Restaurant” – An establishment, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises and served at tables to the general public and having seating capacity of at least twenty-five guests.

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

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

SECTION. 5.02. APPLICATIONS AND LICENSES UNDER THIS CHAPTER - PROCEDURE AND ADMINISTRATION.

Subdivision 1. Application.

All applications shall be made at the office of the 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 Statutes, Section 340A.802.

Subdivision 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.

Subdivision 3. Application and Investigation Fees.

At the time of the initial application, an applicant shall pay to the City an application and investigation fee, not refundable to applicant, to cover the costs of the City in processing the application and the investigation thereof. No such fee shall be required of an applicant for a temporary beer license.

Subdivision 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 of the issuance by the Council, the license fee shall be refunded to the applicant. Failure to pay any portion of a fee when due shall be cause for revocation.

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

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

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

F. Revocation or Suspension.. The Council 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 $2,000.00, for each violation on a finding that the licensee has failed to comply with a state statute, regulation or provision of the City Code relating to alcoholic beverages. The Council may revoke the license upon conviction of any licensee or agent or employee of a licensee for violating any law relating to the sale or possession of beer, wine or liquor upon premises of the licensee, or shall revoke if such revocation is mandatory by Statute. If it shall be made to appear at the hearing thereon that such violation was not willful, the Council may order suspension; provided that revocation shall be ordered upon the third such violation or offense. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing before the Council, a committee of the Council, or a hearing under the Administrative Procedures Act, as may be determined by the Council in action calling the hearing. Such hearing shall be called by the Council upon written notice to the licensee served in person or by certified mail not less than fifteen nor more than thirty days prior to the hearing date, stating the time, place and purpose thereof. As additional restrictions or regulations on licensees under this Chapter, and in addition to grounds for revocation or suspension stated in the City Code or Statute, the following shall also be grounds for such action:

(1) that the licensee suffered or permitted illegal acts upon licensed premises unrelated to the sale of beer, wine or liquor;

(2) that the licensee had knowledge of such illegal acts upon licensed premises, but failed to report the same to police;

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

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

G. 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.

H. 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 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.

Subdivision 5. Duplicate Licenses.

Duplicates of all original licenses under this Chapter may be issued by the Administrator without action by the Council, upon licensee's affidavit that the original has been lost,

and upon payment of a fee issuance of the duplicate. All duplicate licenses shall be clearly marked DUPLICATE.

Subdivision 6. Posting.

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

Subdivision 7. Resident Manager or Agent.

Before a license is issued under this Chapter to an individual who is a non-resident of the City, to more than one individual whether or not they are residents *of* the City, or to a corporation, partnership, or association, the applicant or applicants shall appoint in writing a natural person who is a resident of the City as its manager or agent. Such resident manager or agent shall, by the terms of his written consent, (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 the City or ceases to act in such capacity for the licensee without appointment of a successor, the license issued pursuant to such appointment shall be subject to revocation or suspension.

Subdivision 8. Persons Disqualified.

A. No license under this Chapter may be issued or renewed to:

(1) A person who within five (5) years of the license application has been convicted of any felony or 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;

(2) A person who has had an alcoholic beverage license revoked within five (5) 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 (5) percent of the capital stock of a corporate licensee, as a partner or otherwise in the premises or in the business conducted thereon, or to a corporation, partnership, association, enterprise, business, or firm in which any such person is in any manner interested;

(3) A person under the age of twenty-one (21) years; (4) a person not of good moral character and repute; or (5) a person not a citizen of the United States or a resident alien.

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

SECTION. 5.03. RENEWAL OF LICENSES.

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

SECTION. 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.

SECTION. 5.05. CONDITIONAL LICENSES.

Notwithstanding any provision of law to the contrary, the Council may, upon a finding of the necessity therefore, 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.

SECTION. 5.06. PREMISES LICENSED.

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

SECTION 5.07. UNLAWFUL ACTS.

Subdivision 1. Consumption.

It is unlawful for any person to consume, or any licensee to permit consumption of, beer, wine, or liquor on licensed premises more than twenty (20) minutes after the hour when a sale thereof can legally be made.

Subdivision 2. Removal of Containers.

It is unlawful for any on-sale licensee to permit any glass, bottle or other container, containing beer, wine, or liquor, in any quantity, to remain upon any table, bar, stool or other place where customers are served, more than twenty (20) minutes after the hour when a sale thereof can legally be made.

Subdivision 3. Closing.

It is unlawful for any person, other than an on-sale licensee or his bona fide employee actually engaged in the performance of his duties, to be on premises licensed under this

Chapter more than thirty (30) minutes after the legal time for making licensed sales. Provided, however, that this Subdivision shall not apply to licensees, employees of licensees and patrons on licensed premises for the sole purpose of preparing, serving or consuming food or beverages other than alcoholic beverages.

SECTION. 5.08. 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.

SECTION. 5.09. 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 provided by law for such sale, equally with the person actually making the sale.

SECTION. 5.10. LICENSE CONDITION AND UNLAWFUL ACT.

Subdivision 1.

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

Subdivision 2.

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

SECTION. 5.11. MINORS AS DEFINED IN SECTION 5.01 - UNLAWFUL ACTS.

Subdivision 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.

Subdivision 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.

Subdivision 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.

Subdivision 4. Entering Licensed Premises.

It is unlawful for any minor, as defined in this Chapter, to enter licensed premises for the purpose of purchasing or consuming any alcoholic beverage.

A. 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.

B. It is unlawful for a licensee to permit a person under the age of eighteen years to enter licensed premises unless attending a social event at which alcoholic beverages are not served, or in the company of a parent or guardian.

Subdivision 5. Misrepresentation of Age.

It is unlawful for a minor to misrepresent his or her age for the purpose of purchasing an alcoholic beverage.

Subdivision 6. Proof of Age.

Proof of age for purchasing or consuming alcoholic beverages may be established only by a valid drivers license or identification card issued by Minnesota, another state, or a province of Canada, and including the photograph and date of birth of the licensed person; a valid military identification card issued by the United States Department of Defense; or in the case of a foreign national, from a nation other than Canada, by a valid passport.

SECTION. 5.12. LICENSE FEES – FIXING, INCREASES, NOTICE AND HEARING.

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, 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. Provided however, that before any such liquor license fee shall be increased, a 30-day notice shall be mailed to all affected licensees and a hearing held thereon. 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 fees provided that such categorization and classification shall be included in the resolution authorized by this Section.

SECTION. 5.13. FINANCIAL RESPONSIBILITY OF LICENSEES.

Subdivision 1. Proof. See Ordinance #6-10

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

A. A certificate that there is in effect an insurance policy or pool providing minimum coverages of

(1) $50,000.00 because of bodily injury to any one person in any one occurrence, and, subject to the limit for one person, in the amount of $100,000.00 because of bodily injury to two or more persons in any one occurrence, and in the amount of $10,000.00 because of injury to or destruction of property of others in any one occurrence, and

(2) $50,000.00 for loss of means of support of any one person in any one occurrence, and, subject to the limit for one person, $100,000.00 for loss of means of support of two or more persons in any one occurrence; an annual aggregate of $300,000.00 may be included in the insurance coverage; or,

(3) $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 Subparagraph A of this Subdivision; or,

C. A certificate of the State Treasurer that the licensee has deposited to the State Treasurer $100,000.00 in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of $100,000.00.

Subdivision 2. Exception.

This Section does not apply to on-sale beer licensees with sales of beer of less than $25,000.00 for the preceding year, nor to off-sale beer licensees with sales of beer of less than $50,000.00 for the preceding years, nor does it apply to holders of on-sale wine licenses with sales of wine of less than $25,000.00 for the preceding year, if the licensee complies with the following alternatives:

Subdivision 3. 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.

SECTION. 5.14. INSURANCE CERTIFICATE REQUIREMENTS.

Whenever an insurance certificate is required by this Chapter the applicant shall file with the City Administrator a certificate of insurance showing

(1) that the limits are at least as high as required,

(2) that coverage is effective for at least the license term approved, and

(3) that such insurance will not be canceled or terminated without thirty days' written notice served upon the City Administrator. Cancellation or termination of such coverage shall be grounds for license revocation.

SECTION. 5.15. ALCOHOLIC BEVERAGES - CERTAIN UNLAWFUL ACTS.

It is unlawful for any:

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

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

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

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

Subdivision 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.

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

SECTION. 5.16. CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES ON STREETS, PUBLIC PROPERTY AND PRIVATE PROPERTY TO WHICH THE PUBLIC HAS ACCESS.

It is unlawful for any person to consume, or possess in an unsealed container, any alcoholic beverage as that term is defined in this Chapter, on any:

(1) City park,
(2) street,
(3) other public property, or
(4) private parking lot to which the public has access, except on such property when and where permission has been specifically granted or licensed by the Council.

Provided, that this Section shall not apply to the possession of an unsealed container in a motor vehicle on streets or public property 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.

SECTION 5.17. ALCOHOLIC BEVERAGES IN CERTAIN BUILDINGS AND GROUNDS.

It is unlawful for any person to introduce upon, or have in possession upon, or in, any school ground, or any schoolhouse or school building, any alcoholic beverage, as that term is defined in the this Chapter, except for experiments in laboratories and except for those organizations who have been issued temporary licenses to sell alcoholic beverages, and for any person to possess alcoholic beverages as a result of a purchase from those organizations holding temporary licenses.

SECTION 5.18. SOCIAL HOST.

Subd. 1 Purpose and Findings.

The Mountain Lake City Council intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who hosts events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The Mountain Lake City Council finds that:

a) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of twenty-one are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.

b) Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.

c) Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.

d) Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and, condone the activity, and in some circumstances provide the alcohol.

e) Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.

f) A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.

Subd. 2 Authority.

This ordinance is enacted pursuant to Minn. Stat. Sec. 145A.05, Subd. 1.

Subd. 3. Definitions.

For purposes of this ordinance, the following terms have the following meanings.

a) Alcohol. "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whisky, run brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.

b) Alcoholic beverage. "Alcoholic beverage" means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which if fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

c) Event or gathering. "Event or gathering" means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

d) Host. "Host" means to aid, conduct, allow, entertain, organize, supervise, control, or permit a gathering or event.

e) Parent. "Parent" means any person having legal custody of a juvenile:
   (1) As natural, adoptive parent, or step-parent;
   (2) As a legal guardian; or
   (3) As a person to whom legal custody has been given by order of the Court.

f) Person. "Person" means any individual, partnership, co-partnership, corporation, or any association of one or more individuals.

g) Residence or Premises. "Residence "or "premises" means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.

h) Underage Person. "Underage person" is any individual under twenty-one (21) years of age.

Subd. 4. Prohibited Acts.

a) It is unlawful for any person(s) to:
   (1) host or allow an event or gathering;
   (2) at any residence, premises, or on any other private or public property;
   (3) where alcohol or alcoholic beverages are present;
   (4) when the person knows or reasonably should know that an underage person will or does;
      (i) consume any alcohol or alcoholic beverage; or

(ii) possess any alcohol or alcoholic beverage with the intent to consume it; and

(5) the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

b) A person is criminally responsible for violating Subdivision 4(a) above if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.

c) A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

Subd. 5. Exceptions.

a) This ordinance does not apply to conduct solely between an underage person and his or her parents while present in the parent's household.

b) This ordinance does not apply to legally protected religious observances.

c) This ordinance does not apply to retail intoxicating liquor or 3.2 percent malt liquor licensees, municipal liquor stores, or bottle club permit holders who are regulated by Minn. Stat. Sec. 340A.503, Subd. 1(a) (1).

d) This ordinance does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

Subd. 6. Enforcement.

This ordinance can be enforced by any police officer or sheriff's deputy in the county.

Subd. 7. Severability.

If any section, subsection, sentence, clause, phrase, word, or other portion of this ordinance is, for any reason, held to be unconstitutional or invalid, in whole, or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

Subd. 8. Penalty.

Violation of Subdivision 4 is a misdemeanor.

SECTION 5.19 - 5.29., INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION. 5.30. BEER LICENSE REQUIRED.

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

SECTION. 5.31. TEMPORARY BEER LICENSE. See Ordinance #6-10

Subdivision 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 beer license.

Subdivision 2. Conditions.

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

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

C. The Council may, but at no time shall it be under any obligation whatsoever to, grant a temporary beer license 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 that there is in effect an insurance policy or pool providing minimum coverages of (1) $50,000.00 because of bodily injury to any one person in the amount of $100,000.00 because of bodily injury to two or more persons in any one occurrence and in the amount of $10,000.00 because of injury to or destruction of property of others in any one occurrence and (2) $50,000.00 for loss of means of support of any one person in any one occurrence and subject to the limit for one person $100,000.00 for loss of means of support of two or more persons in any one occurrence and subject to the limit for one person $100,000.00 for loss of means of support of two or more persons in any one occurrence. (3) $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.

SECTION. 5.32. BEER LICENSE RESTRICTIONS AND REGULATIONS.

Subdivision 1. No gambling or gambling device shall be permitted on any licensed premises unless it is licensed by the Charitable Gambling Control Board.

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

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

Subdivision 4. No person who has not attained the age of nineteen (19) years shall be employed to sell or serve beer in any on-sale establishment.

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

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

SECTION. 5.33. HOURS AND DAYS OF BEER SALES.

No sale of beer shall be made between the hours of 1:00 o'clock a.m. and 8:00 o'clock a.m. on any day, Monday through Saturday, inclusive. Neither shall any on-sale beer sale be made on any Sunday. Off-sale beer sales may be made on Sunday between the hours of 11:00 o'clock a.m. and 6:00 o'clock p.m.

SECTIONS 5.34. - 5.39., INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 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 therefore from the City.

This Section shall not apply:

(1) to such potable liquors as are intended for therapeutic purposed and not as a beverage.

(2) to industrial alcohol and its compounds not prepared or used for beverage purposed.

(3) to wine in the possession of person duly licensed under this Chapter as an on-sale wine licensee.

(4) to sales by manufacturers to wholesalers duly licenses 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.

The voters of the city have authorized such issuance at a special election called for that purpose, the City may issue on-sale liquor licenses to (1) hotels, (2) restaurants; (3) bowling centers, and (4) clubs or congressionally chartered veterans organizations, provided that the organization has been in existence for at least three years and liquor sales will be made only to members and bona fide guests.

SECTION 5.41 HOURS AND DAYS OF LIQUOR SALES

No sale of liquor shall be made between the hours of 1:00 o'clock a.m. and 8:00 o'clock a.m. on any day, Monday through Saturday, inclusive. Neither shall any on-sale liquor sale be made on any Sunday. Off-sale liquor sales may be made on Sunday between the hours of 11:00 o'clock a.m. and 6:00 o'clock p.m.

SECTION 5.42 TEMPORARY LIQUOR LICENSE.

Subdivision 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.

Subdivision 2. Applicant:

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

Subdivision 3. Terms and Conditions of License:

A. No License is valid until approved by the Commissioner

B. No License shall be issued for more than four consecutive days

C. No license shall issue until the city is furnished with written proof that the licensee has dram shop coverage in the amount provided for in this Chapter, and that such coverage is in force on the premises where liquor is to be served.

D. All licensees 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.

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

F. No more than three four-day, four three-day or six two-day licenses in any combination not to exceed 12 days per year may be issued to any one organization or registered political committee, or for any one location within a 12-month period.

G. No more than one temporary license may be issued to any one organization or registered political committee or for any one location within any 30-day period.

Subdivision 4. Insurance Required: See Ordinance #6-10

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 that there is in effect an insurance policy or pool providing minimum coverage of (1) $50,000.00 because of bodily injury to any one person in the amount of $100,000.00 because of bodily injury to two or more persons in any one occurrence and in the amount of $10,000.00 because of injury to or destruction of property of others in any one occurrence and subject to the limit for one person $100,000.00 for loss of means of support of two or more persons in any one occurrence. (3) $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.

SECTION. 5.43. SPORTS, CONVENTION OR CULTURAL FACILITIES LICENSE.

The Council may authorize any holder of an on-sale liquor license issued by the City to sell liquor at any convention, banquet, conference, meeting or social affair conducted on the premises of a sports, convention or cultural facility owned by the city. The licensee must be engaged to sell liquor at such an event by the person or organization permitted to use the premises, and may sell liquor only to person attending the event. The licensee shall not sell liquor to any person attending or participating in any amateur athletic event. Such sales may be limited to designated areas of the facility. All such sales shall be subject to all laws relating thereto. The licensee shall provide proof of the extension of financial responsibility coverage to the premises on which such sales are to be made.

SECTIONS 5.44. - 5.49., INCLUSIVE, RESERVED FOR FUTURE EXPANSION.

SECTION 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 therefore from the City.
This Section shall not apply to:

(1) sales by manufacturers to wholesalers duly licensed as such by the Commissioner.

(2) sales by wholesalers to persons holding on sale or off-sale liquor licenses from the city.

(3) sales by wholesalers to persons holding on-sale wine licenses from the city or

(4) sales by on-sale liquor licensees on days and during hours when on sale liquor sales are permitted.

SECTION 5.51. HOURS AND DAYS OF SALES BY ON-SALE WINE LICENSEES.

No sale of wine shall be made between the hours of 1:00 o'clock A.M. and 8:00 o'clock A.M. on any weekday, Monday through Saturday inclusive. Neither shall any wine sale be made on any Sunday nor on the day of any State-wide election.

SECTION 5.60. LIQUOR AND ON-SALE WINE LICENSE RESTRICTIONS AND REGULATIONS:

Subdivision 1. Licenses in Connection with Premises of Another.

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 even if 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.

Subdivision 2. Employment of Minors.

No person under eighteen (18) years of age may be employed in a place where liquor is sold for consumption on the premises, except persons under eighteen (18) years of age may be employed as musicians or in bussing or washing dishes in a restaurant or hotel that is licensed to sell liquor and may be employed as waiters or waitresses at a restaurant or hotel where only wine is sold, provided that the person under the age of eighteen may not serve or sell any wine.

Subdivision 3.

On-sale wine licenses shall be granted only to restaurants as defined in this Chapter. Provided, however, for purposes of this Subdivision, such restaurant shall have appropriate facilities for seating not less than twenty-five guests at one time. Notwithstanding the provisions of this Subdivision an on-sale wine license may be issued, with the approval of the Commissioner, to a license bed and breakfast facility authorizing the licensee to furnish wine only to registered guests of the facility.

Subdivision 4.

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.

SECTIONS 5.61 CLUB LICENSE RESTRICTIONS AND REGULATIONS AND UNLAWFUL ACTS.

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

A. "Member" means any person in good standing according to rules and regulations of the license club where ever located, having evidence of current membership upon his person.

B. "Guest" means a person not a member of the club but present on the club license premises in the company of a host member.

C. "Host member" means a member who is entertaining a guest who is in the member's company at all times such guest is on the licensed premises.

Subdivision 2. Premises Qualified.

No club shall qualify unless it owns or leases a minimum usable floor area of 1200 square feet for club activities. Such premises shall meet all requirements of the State Building and Fire Codes and City Code provisions relating to zoning.

Subdivision 3. Daily Register.

In addition to all other general provisions, restrictions and regulations set forth in this Chapter, relating to beer or liquor licensees, as the case may be all club licensees shall keep a daily register showing the names of guests present and the name of the host member. Such register shall be open to inspection by police officers at all times.

Subdivision 4. Unlawful Acts.

The following are in addition to all other unlawful acts set forth in this Chapter relating to sales and purchases of beer or liquor, as the case may be:

A. It is unlawful for a club licensee to sell liquor or beer to any person not a member or a guest of a member, of the licensed club.

B. It is unlawful for any club licensee to serve beer or liquor to any non-member of the licensed club unless such non-member is a guest.

C. It is unlawful for any person who is not a member, or a guest of a member, of the licensed club to purchase liquor or beer from the club.

D. It is unlawful for any club licensee to hinder or prevent a police officer from determining compliance with this section and chapter and all other laws.

E. It is unlawful for any person to refuse upon request of a licensee or police officer, to provide information as to whether he or she is a member, guest or host member, or to give false, fraudulent or misleading information in response to such request.

SECTIONS 5.62 THROUGH 5.98, INCLUSIVE, reserved for future expansion.

SECTION. 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.

CHAPTER 6

OTHER BUSINESS REGULATION AND LICENSING

SECTION 6.01. DEFINITIONS

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CHAPTER 6

OTHER BUSINESS REGULATION AND LICENSING

SECTION 6.01. DEFINITIONS.

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

1. "Applicant" means any person making an application for a license under this Chapter.

2. "Application" means a form with blanks or spaces thereon, to be filled in and completed by the applicant as his request for a license, furnished by the City and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.

3. "Bond" means a corporate surety document in the form and with the provisions acceptable and specifically approved by the City Attorney.

4. "Business" means any activity, occupation, sale of goods or services, or transaction that is either licensed or regulated, or both licensed and regulated, by the terms and conditions of this Chapter.

5. "License" means a document issued by the City to permit an applicant to carry on and transact a business.

6. "Licensee" means an applicant who, pursuant to their application, holds a valid, current, unexpired and unrevoked license from the City for carrying on a business.

7. "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 a business.

8. "Sale", "Sell" and "Sold" mean all forms of barter and all manner or means of furnishing merchandise to persons.

SECTION 6.02. APPLICATIONS.

All applications shall be made as follows:

Subdivision 1. Application Forms.

All applications shall be made at the office of the City Administrator upon forms that have been furnished by the City for such purposes.

Subdivision 2. Investigation Fee

All initial applications shall be accompanied by a payment of a single fee to cover the cost of investigation as herein provided.

Subdivision 3. Completeness of Application.

1. All such applications must be subscribed, sworn to, and include, such information as the Council shall deem necessary considering the nature of the business for which license application is made.

2. 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.

Subdivision 4. City Administrator Responsibilities.

The City Administrator shall, upon receipt of each application completed in accordance herewith, forthwith investigate the truth of statements made therein and the moral character and business reputation of each applicant for license to such extent as he deems necessary. For such investigation the City Administrator may enlist the aid of the Chief of Police. The Council shall not consider an application before such investigation has been completed.

Subdivision 5. Renewal.

Applications for renewal licenses may be made in such abbreviated form as the Council may by resolution adopt. (Note: Refer to Section 6.09)

SECTION 6.03. ACTION ON APPLICATION, TRANSFER, TERMINATION AND DUPLICATE LICENSE.

Subdivision 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. Failure to pay any portion of a fee when due shall be cause for revocation. No license fee shall be refundable upon revocation or voluntarily ceasing to carry on the licensed activity. All applications, including proposed license periods, must be consistent with this Chapter.

Subdivision 2. Issuing.

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

fee shall be charged. Except as to licenses that are specifically citywide, licenses shall be valid only at one location and on the premises therein described.

Subdivision 3. 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 upon payment of the fee for a duplicate license. It is unlawful to make any transfer in violation of this Subdivision.

Subdivision 4. Termination.

Licenses shall terminate only by expiration or revocation.

Subdivision 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. Grounds for revocation may be, but are not limited to, any of the following:

(1) That the licensee suffered or permitted illegal acts upon licensed premises;
(2) That the licensee had knowledge of such illegal acts but failed to report the same to police;
(3) That the licensee failed or refused to cooperate fully with police in investigating such alleged illegal acts; or,
(4) That the activities of the licensee created a serious danger to public health, safety, or welfare.

Subdivision 6. Duplicate License.

The City Administrator may issue duplicates of all original licenses without action by the Council, upon licensee's affidavit that the original has been lost, and upon payment of a fee of for issuance of the duplicate. All duplicate licenses shall be clearly marked DUPLICATE.

SECTION 6.04. FIXING LICENSE FEES.

Except as otherwise herein provided, all fees for licenses and investigation of applicants under this Chapter shall be fixed and determined by the Council on an annual basis, adopted by resolution, and uniformly enforced. A copy of the resolution setting forth currently effective license fees 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 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.

SECTION 6.05. 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.

SECTION 6.06. PENALTY FOR PROPERTY OWNER.

It is unlawful for any person to knowingly permit any real property owned or controlled by that person to be used, without a license, for any business for which a license is required by this Chapter.

SECTION 6.07. RESPONSIBILITY OF LICENSEE.

The conduct of agents or employees of a licensee, while engaged in performance of their duties for their principal or employer under such license, shall be deemed the conduct of the licensee.

SECTION 6.08. CONDITIONAL LICENSES.

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

SECTION. 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. The Council for good and sufficient cause may waive this time requirement.

SECTION 6.10. INSURANCE REQUIREMENTS.

Whenever insurance is required by a Section of this Chapter, after approval by the Council, but before the license shall issue, the applicant shall file with the City Administrator a policy or certificate of public liability insurance showing (1) that the limits are at least as high as required, (2) that coverage is effective for at least the license term approved, and (3) that such insurance will not be canceled or terminated without thirty days' written notice served upon the City Administrator. Cancellation or termination of such coverage shall be grounds for license revocation.

SECTIONS 6.11 THRU 6.29, INCLUSIVE, reserved for future expansion

SECTION 6.30. DANCES.

Subdivision 1. Definitions. As used in this Section, the following words and terms shall have the meanings stated:

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

2. "Public dancing place" means 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 an admission fee or price for dancing.

Subdivision 2. License Required. It is unlawful for any person to operate a public dancing place, or hold a public dance, without a license therefore from the City.

Subdivision 3. License Fee. The license fee shall include the cost of providing attendance of a police officer, or officers.

Subdivision 4. Application and License.

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

2. All applications shall be accompanied by affidavits of two residents showing that the applicant is of good character and reputation in the community in which he lives, that he 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.

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

4. Applications may be referred by the Council to the Chief of Police for investigation and report prior to being acted upon by the Council.

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

6. At least one officer of the law shall be designated by the Chief of Police and employed by the City to be present at every public dance during the entire time said dance is being

held. For purposes of this Subparagraph the term "officer of the law" means any person who is a full-time or part-time peace officer. In the discretion of the Council or Chief of Police more than one such peace officer may be required.

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

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

Subdivision 5. Dance Regulations.

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

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

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

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

SECTION 6.31. TOBACCO. See Ordinance #4-20

Subdivision 1. Purpose. Because the city recognizes that the sale of commercial tobacco, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products to persons under the age of 21 violates federal law; that the sale of commercial tobacco, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products to persons under the age of 18 violates state law; and because studies, which the city accepts and adopts, have shown that youth use of any commercial tobacco product has increased to 26.4% in Minnesota; and because nearly 90% of people who smoke begin smoking before they have reached the age of 18 years, and only a very small percentage of people starts smoking after age 25; and because marketing analysis, public health research, and commercial tobacco industry documents reveal that tobacco companies have used menthol, mint, fruit, candy, and alcohol flavors as a way to target youth and young adults and that the presence of such flavors can make it more difficult to quit; and because studies show that youth and young adults are especially

susceptible to commercial tobacco product availability, advertising, and price promotions at tobacco retail environments; and because commercial tobacco use has been shown to be the cause of many serious health problems which subsequently place a financial burden on all levels of government, this ordinance is intended to regulate the sale of commercial tobacco, tobacco-related devices, electronic delivery devices, and nicotine or lobelia delivery products for the purpose of enforcing and furthering existing laws, to protect youth and young adults against the serious health effects associated with use and initiation, and to further the official public policy of the state to prevent young people from starting to smoke, as stated in Minn. Stat. § 144.391, as it may be amended from time to time.

Subdivision 2. Definitions and Interpretations. Except as may otherwise be provided or clearly implied by context, all terms are given their commonly accepted definitions. For the purpose of this ordinance, the following definitions apply unless the context clearly indicates or requires a different meaning:

1. "Child-Resistant Packaging" shall mean packaging that meets the definition set forth in Code of Federal Regulations, title 16, section 1700.15(b), as in effect on January 1, 2015, and was tested in accordance with the method described in Code of Federal Regulations, title 16, section 1700.20, as in effect on January 1, 2015.

2. "Cigar" shall mean any roll of tobacco that is wrapped in tobacco leaf or in any other substance containing tobacco, with or without a tip or mouthpiece, which is not a cigarette as defined in Minn. Stat. § 297F.01, subd. 3, as may be amended from time to time.

3. "Compliance Checks" shall mean the system the city uses to investigate and ensure that those authorized to sell licensed products are following and complying with the requirements of this ordinance. Compliance checks shall involve the use of persons under the age of 21 who purchase or attempt to purchase licensed products. Compliance checks may also be conducted by the city or other units of government for educational, research, and training purposes or for investigating or enforcing Federal, State, or local laws and regulations relating to licensed products.

4. "Electronic Delivery Device" shall mean any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption through the inhalation of aerosol or vapor from the product. Electronic delivery device includes, but is not limited to, devices manufactured, marketed, or sold as e-cigarettes, e-cigars, e-pipes, vape pens, mods, tank systems, or under any other product name or descriptor. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device does not include any product that has been approved or certified by the U.S. Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.

5. "Indoor Area" shall mean all space between a floor and a ceiling that is bounded by walls, doorways, or windows, whether open or closed, covering more than 50 percent of the

combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent.

6. “Licensed Products” shall mean the term that collectively refers to any tobacco or tobacco products, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product.

7. "Loosies" shall mean the common term used to refer to single cigarettes, cigars, and any other licensed product that have been removed from their original retail packaging and offered for sale. Loosies does not include premium cigars that are hand-constructed, have a wrapper made entirely from whole tobacco leaf, and have a filler and binder made entirely of tobacco, except for adhesives or other materials used to maintain size, texture, or flavor.

8. "Moveable Place of Business" shall refer to any form of business operated out of a truck, kiosk, 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.

9. “Nicotine or Lobelia Delivery Product” shall mean any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not a tobacco or an electronic delivery device as defined in this section. Nicotine or lobelia delivery product does not include any product that has been approved or otherwise certified for legal sale by the U.S. Food and Drug Administration as a tobacco-cessation product, a tobacco-dependence product, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

10. "Retail Establishment" shall mean any place of business where licensed products are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, tobacco products shops, convenience stores, gasoline service stations, restaurants, bars, and lounges.

11. "Sale" shall mean any transfer of goods for money, trade, barter, or other consideration.

12. "Self-Service Display" shall mean open displays of licensed products in any manner where any person shall have access to the licensed products, 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 licensed product between the customer and the licensee or employee. Self-service display shall not include vending machines.

13. “Smoking” shall mean inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. Smoking also includes carrying or using an activated electronic delivery device.

14. "Tobacco" or "Tobacco Products" shall mean any product containing, made, or derived from tobacco that is 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 cigarettes; cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco. Tobacco or tobacco product does not include any product that has been approved by the U.S. 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.

15. "Tobacco-Related Devices" shall mean any rolling papers, wraps, pipes, or other device intentionally designed or intended to be used with tobacco products. Tobacco-related device includes components of tobacco-related devices or tobacco products, which may be marketed or sold separately. Tobacco-related devices may or may not contain tobacco.

16. "Vending Machine" shall mean any mechanical, electric or electronic, or other type of device which dispenses licensed products upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the licensed product.

Subdivision 3. License. No person shall sell or offer to sell any licensed product without first having obtained a license to do so from the city.

1. Application. An application for a license to sell licensed products shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the City Clerk shall forward the application to the City Council for action at its next regularly scheduled council meeting. If the City Clerk shall determine that an application is incomplete, the application will be returned to the applicant with notice of the information necessary to make the application complete.

2. Action. The City Council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the City Council approves the application, the City Clerk will issue the license to the applicant. If the City Council denies the application, notice of the denial will be given to the applicant along with notice of the applicant’s right to appeal the decision.

3. Term. All licenses issued under this ordinance shall be valid for one calendar year from the date of issue.

4. Revocations or Suspension. Any license issued under this ordinance may be revoked or suspended as provided in the Violations and Penalties section of this ordinance.

5. Transfers. All licenses issued under this ordinance shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer

of any license to another location or person shall be valid without the prior approval of the City Council.

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

7. Display. All licenses shall be posted and displayed at all times in plain view of the general public on the licensed premises.

8. Renewals. The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least thirty days but no more than sixty days before the expiration of the current license.

9. Issuance as privilege and not a right. The issuance of a license under this ordinance shall be considered a privilege and not an absolute right of the applicant and shall not entitle the license holder to an automatic renewal of the license.

10. Minimum clerk age. Individuals employed by a licensed retail establishment under this ordinance must be at least 18 years of age to sell licensed products.

11. Smoking prohibited. Smoking, including smoking for the purpose of the sampling of licensed products, is prohibited within the indoor area of any retail establishment licensed under this ordinance.

Subdivision 4. Fees. No license shall be issued under this ordinance until the appropriate license fee shall be paid in full. The fee for a license under this ordinance shall be as determined by the city council in its fees schedule and as amended.

Subdivision 5. Basis for Denial of License. The following shall be grounds for denying the issuance or renewal of a license under this ordinance:

1. The applicant is under 21 years of age.

2. The applicant has been convicted within the past five years of any violation of a Federal, State, or local law, ordinance provision, or other regulation relating to licensed products.

3. The applicant has had a license to sell licensed products suspended or revoked within the preceding twelve months of the date of application.

4. The applicant fails to provide any information required on the application, or provides false or misleading information.

5. The applicant is prohibited by Federal, State, or other local law, ordinance, or other regulation, from holding such a license.

Except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license

If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this Section.

Subdivision 6. Prohibited Acts

1. In general. It shall be a violation of this ordinance for any person to sell or offer to sell any licensed product:

A. By means of any type of vending machine.

B. By means of loosies as defined in Subdivision 2 of this Section.

C. Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process. It is not the intention of this provision to ban the sale of lawfully manufactured cigarettes or other products subject to this ordinance.

D. By any other means, to any other person, or in any other manner or form prohibited by Federal, State, or other local law, ordinance provision, or other regulation.

2. Legal age. It shall be a violation of this ordinance for any person to sell any licensed product to any person under the age of 21.

A. Age verification. Licensees must verify by means of government-issued photographic identification that the purchaser is at least 21 years of age. Verification is not required for a person over the age of 30. That the person appeared to be 30 years of age or older does not constitute a defense to a violation of this subsection.

B. Signage. Notice of the legal sales age and age verification requirement must be posted prominently and in plain view at all times at each location where licensed products are offered for sale. The required signage, which will be provided to the licensee by the city, must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase.

3. Self-service sales. It shall be unlawful for a licensee under this ordinance to allow the sale of licensed products by means of self-service display. All licensed products shall be stored behind the sales counter, in a locked case, in a storage unit, or in another area not freely accessible to the general public. Any retailer selling licensed products at the time this ordinance is adopted shall comply with this section within ninety (90) days following the effective date of this ordinance.

4. Liquid Packaging. It shall be unlawful for any person to sell or offer to sell any liquid, whether or not such liquid contains nicotine, which is intended for human consumption and use in an electronic delivery device, in packaging that is not child-resistant. Upon request by the city, a licensee must provide a copy of the certificate of compliance or full laboratory testing report for the packaging used.

Subdivision 7. Responsibility. All licensees under this ordinance shall be responsible for the actions of their employees in regard to the sale of licensed products on the licensed premises. The sale, offer to sell, or furnishing of any licensed product by an employee shall be considered an act of the license holder. Nothing in this section shall be construed as prohibiting the city from also subjecting the employee or clerk to any civil penalties that the city deems to be appropriate under this Ordinance, State or Federal law, or other applicable law or regulation.

Subdivision 8. Compliance Checks and Inspections. All licensed premises shall be open to inspection by local law enforcement or other authorized city official during regular business hours. From time to time, but at least twice per year, the city shall conduct compliance checks. In accordance with state law, the city will conduct at least one compliance check that involves the participation of a person between the ages of 15 and 17 and at least one compliance check that involves the participation of a person between the ages of 18 and 20 to enter licensed premises to attempt to purchase licensed products. Prior written consent is required for any person under the age of 18 to participate in a compliance check. Persons used for the purpose of compliance checks will be supervised by law enforcement or other designated personnel. No person used in compliance checks shall attempt to use a false identification misrepresenting their age, and all persons lawfully engaged in a compliance check shall answer all questions about their age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which they are asked. Nothing in this Section shall prohibit compliance checks authorized by State or Federal laws for educational, research, or training purposes, or required for the enforcement of a particular State or Federal law.

Subdivision 9. Other Prohibited Acts. Unless otherwise provided, the following acts shall be a violation of this ordinance.

1. Prohibited Furnishing or Procurement. It shall be a violation of this ordinance for any person 21 years of age or older to purchase or otherwise obtain any licensed product on behalf of a person under the age of 21. It shall further be a violation for any person 21 years of age and older to coerce or attempt to coerce a person under the age of 21 to illegally purchase or attempt to purchase any licensed product.

2. Use of False Identification. It shall be a violation of this ordinance for any person to use any form of false identification, whether the identification is that of another person or has been modified or tampered with to represent an age older than the actual age of the person using that identification.

Subdivision 10. Violations.

1. Notice. Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.

2. Hearings. If a person accused of violating this ordinance so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator. If a hearing is not requested by the accused violator within 15 (fifteen) days, the matter shall be submitted to a hearing officer for review to determine if a violation occurred and to determine the appropriate penalty.

3. Hearing Officer. A standing hearing panel consisting of three members shall be appointed by the City Council. The Mayor as the hearing officer shall appoint one of these panel members.

4. Decision. If the hearing officer determines that a violation of this ordinance did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under Subdivision 12 of this ordinance, shall be recorded in writing, a copy of which shall be provided to the accused violator by in-person delivery or mail as soon as practicable. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the acquitted accused violator by in-person delivery or mail as soon as practicable. The decision of the hearing officer is final, subject to an appeal as described in subdivision 10(5) of this Subdivision.

5. Appeals. Appeals of any decision made by the hearing officer shall be filed in the district court for the jurisdiction of the city in which the alleged violation occurred within 10 business days of the date of the decision.

6. Continued Violation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

Subdivision 11. Administrative Penalties.

1. Licensees. Any licensee found to have violated this ordinance, or whose employee shall have violated this ordinance, shall be charged an administrative fine of $200 for a first violation; $500 for a second offense at the same licensed premises within a twenty-four month period; and $750 for a third or subsequent offense at the same location within a twenty-four month period or as the council determines in its fine schedule as amended from time to time. In addition, after the third offense, the license shall be suspended for not less than 30 consecutive days. Upon a fourth violation, the license shall be revoked.

2. Other Individuals. Individuals, other than persons under the age of 21 regulated by subdivision 11(3) of this Subdivision, found to be in violation of this ordinance shall be charged an administrative fine of $50, or as the council determines in its fine schedule as amended from time to time.

3. Persons under the Age of 21. Persons under the age of 21 who use a false identification to purchase or attempt to purchase licensed products shall only be subject to non-criminal, non-monetary civil penalties such as tobacco-related education classes, diversion programs, community services, or another penalty that the city determines to be appropriate. The City Council will consult with court personnel, educators, parents, children and other interested parties to determine an appropriate penalty for persons under the age of 21 in the city. The penalty may be established by ordinance and amended from time to time.

4. Misdemeanor. Nothing in this Section shall prohibit the city from seeking prosecution as a misdemeanor for any alleged violation of this ordinance by a person 21 years of age or older.

Subdivision 12. Exceptions and Defenses. Nothing in this ordinance shall prevent the providing of tobacco or tobacco-related devices to any person as part of an indigenous practice or a lawfully recognized religious, spiritual, or cultural ceremony or practice. It shall be an affirmative defense to the violation of this ordinance for a person to have reasonably relied on proof of age as described by State law.

Subdivision 13. Severability and Savings Clause. If any section or portion of this ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as an invalidation or affect the validity and enforceability of any other section or provision of this ordinance.

Subdivision 14. Effective Date. This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by Minn. Stat. § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of Minn. Stat. § 331A.01, subd. 10, as it may be amended from time to time.

SECTION. 6.32. PLUMBERS.

Subdivision 1. License Required. It is unlawful for any person to engage in the work or business of plumbing or the installation of water or sewer pipes without a license therefore from the City.

Subdivision 2. Restrictions.

1. No person shall be licensed under this Section unless he shall have a license from the Minnesota State Board of Health. The applicant shall file proof of holding such license. Any revocation or suspension of the State license shall be grounds for revocation or suspension of the license from the City.

2. The applicant shall provide evidence of public and product liability insurance with limits of at least $50,000.00 per person, $100,000.00 per occurrence, and $10,000.00 property damage. Proof of filing such evidence with the State shall relieve the applicant of this requirement.

SECTION. 6.33. SOLICITORS.

Subdivision 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 its activities be lawful or even commendable, use such illegitimate practices in solicitation; and,
(3) Individual natural persons who, though they represent lawful businesses and organizations, use such illegitimate solicitation practices.

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

Subdivision 2. Definitions. The following terms, as used in this Section, shall have the meanings stated:

1. "Business solicitation" means an attempt by a solicitor, engaging in transactions of the same kind, to sell or distribute for a consideration any goods or services primarily for personal, family, or household purposes, when either the solicitor or person acting for him 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.

2. "Contribution solicitation" means an attempt by a solicitor to obtain money from a solicitee for any cause or purpose, when either the solicitor or person acting for him contacts the solicitee by telephone or in person other than at the established place of meeting, business, service, or activity of the organization represented by the solicitor, except: (1) an attempted solicitation in which the solicitee personally knows the identity of the solicitor, the name of the organization he represents, and the identity of the services performed or offered by the organization, or, (2) an attempted solicitation in

which the solicitee has first initiated the contact with the solicitor or the organization represented by him.

3. "Established place" means real estate in the City owned, leased on a month-to-month or term-certain longer than thirty (30) days. The term includes a booth, compartment, or area leased or assigned during and for the length of an event or occasion.

4. "Goods" means any tangible thing of value, but not including money, things in action or intangible personal property other than merchandise certificates or coupons as herein described. The term includes such chattels as are furnished or used at the time of sale or subsequently in the modernization, rehabilitation, repair, alteration, improvement or construction of real property so as to become a part thereof whether or not severable there from. 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.

5. "Services," means work, labor, or services of any kind.

6. "Solicitee" means the person solicited.

7. "Solicitor" means any person making the solicitation, including such common terms as "peddler", "transient merchant" and "canvasser".

Subdivision 3. Prohibited Solicitation Practices.

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

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

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

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

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

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

Subdivision 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. No application shall be complete unless it is accompanied by a valid and current license issued by the County in which the solicitor proposes to engage in solicitation.

Subdivision 5. Investigation, Approval or Disapproval.

1. All applications for licensing or registration shall be immediately referred to the Chief of Police, and by him or other person acting in his stead, investigated as to the truth thereof. The Chief of Police shall have five (5) business days within which to investigate and make a recommendation thereon.

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

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

Subdivision 6. Duration of Contribution Solicitation Registration.
Registration of contribution solicitation shall expire sixty (60) days after registration is approved.

Subdivision 7. Exclusions.
The Council may, by resolution, 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.

SECTION. 6.34. GARAGE AND REFUSE HAULERS.

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

1. "Garbage" means all putrescible wastes, including animal offal and carcasses of dead animals but excluding human excreta, sewage and other water-carried wastes.

2. "Other refuse" means ashes, glass, crockery, cans, paper, boxes, rags and similar non-putrescible wastes but excluding sand, earth, brick, stone, concrete, trees, tree branches and wood.

Subdivision 2. License Required.
It is unlawful for any person to haul garbage or other refuse for hire without a license therefore from the City, or to haul garbage or other refuse from his own residence or business property other than as herein excepted.

Subdivision 3. Exception.
Nothing in this Section shall prevent persons from hauling garbage or other refuse from their own residences or business properties provided the following rules are observed:

(1) That all garbage is hauled in containers that are water-tight on all sides and the bottom and with tight-fitting covers on top,
(2) That all other refuse is hauled in vehicles with leak-proof bodies and completely covered or enclosed by canvas or other means or material so as to completely eliminate the possibility of loss of cargo, and,
(3) That all garbage and other refuse shall be dumped or unloaded only at the designated sanitary landfill.

Subdivision 4. Hauler Licensee Requirements.

1. Hauler licenses shall be granted only upon the condition that the licensee have water-tight, packer-type vehicles in good condition to prevent loss in transit of liquid or solid cargo, that the vehicle be kept clean and as free from offensive odors as possible and not allowed to stand in any street longer than reasonably necessary to collect garbage or refuse, and that the same be dumped or unloaded only at the designated sanitary landfill, and strictly in accordance with regulations relating thereto.

2. Before a garbage and refuse hauler's license shall be issued, the applicant shall file with the City Clerk-Treasurer evidence that he has provided the following minimum insurance coverage: Comprehensive General Liability in the amount of $200,000 per person & $600,000 per occurrence; Personal Liability in the amount of $200,000 per person & $600,000 per occurrence; Comprehensive Automobile in the amount of $200,000 per person & $600,000 per occurrence; and Personal Injury in the amount of $200,000 per person & $600,000 per occurrence.

3. Licensees shall deliver all refuse to the designated waste facility and shall be required to pay non-resident rates for any refuse collected outside the City. Collection outside the City and failure to pay non-resident rates therefore shall be grounds for revocation of the license.

4. The Council, in the interest of maintaining healthful and sanitary conditions in the City, hereby reserves the right to specify and assign certain areas to all licensees, and to limit the number of licenses issued.

5. Each applicant shall file with the City Clerk-Treasurer, before a garbage and refuse hauler's license is issued or renewed, a schedule of proposed rates to be charged by him during the licensed period for which the application is made. The schedule of proposed rates, or a compromise schedule thereof, shall be approved by the Council before granting the license. Nothing herein shall prevent a 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 licensee shall charge rates in excess of the rates approved by the Council.

Subdivision 5. Weight Limitations.
The Council reserves the right to place reasonable weight limitations upon vehicles used by licensees, and to alter and vary such limitations with seasons of the year.

SECTION 6.35 FRANCHISES.

Subdivision 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 t-he City or by the State of Minnesota.

Subdivision 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 place such fixtures in such places.

Subdivision 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.

Subdivision 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 the 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 negotiation 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 and the two of them shall appoint a third person, preferably an expert, and the three of them shall constitute a board of arbitration. The board shall report its findings as soon as possible and the rates and charges it shall agree upon by majority vote shall be legal and binding, subject only to review by a court of competent jurisdiction upon application of one of the parties.

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 there under.

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.

Subdivision 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.

Subdivision 6. Franchises in effect.

A. Cable Television.

1. The City of Mountain Lake grants the renewal of the cable television franchise to Lakes Cable Systems of Spirit Lake, IA, it's successors and assigns, to own, operate, and maintain a cable television system in the City of Mountain Lake.

2. The franchise and all terms and conditions in Ordinance Number 9-16-01 which by this reference are hereby incorporated herein and extended for a period of fifteen (15) years, with such period to end on July 31, 2014.

SECTION 6.36. REGULATION OF SEXUALLY ORIENTATED BUSINESS.

Subdivision 1. Purpose

A. It is the purpose of this ordinance to regulate sexually oriented businesses in order to promote the health, safety, morals and general welfare of the citizens of the City and to establish reasonable and uniform regulation to prevent the deleterious location and concentration of sexually oriented businesses within the City.

B. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First

Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Ordinance to condone or legitimatize the distribution of obscene material.

Subdivision 2 Findings.

A. Based on evidence concerning the adverse secondary effects of adult uses in other communities including, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Los Angeles, California; and Beaumont, Texas; and also on findings found in the Report of Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the Council finds:

1. Sexually oriented businesses in the City will lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.

2. Certain employees of sexually oriented businesses defined in this Ordinance as adult theaters and cabarets engage in higher incident of certain types of sexually oriented behavior at these businesses than employees of other establishments.

3. Sexual acts, including masturbation, oral and anal sex, occur at sexually oriented businesses, especially those that provide private or semi-private booths or cubicles for viewing films, videos or live sex shows, as defined under this Ordinance as adult book stores, adult novelty shops, adult video stores, adult motion picture theaters, or adult arcades.

4. Offering and providing such space encourage such activities, which create unhealthy conditions.

4. Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.

6. At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to syphilis, gonorrhea, human immunodeficiency virus infection (AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections, and shigella infections.

7. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because of the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of those facilities to self-regulate those activities and maintain those facilities.

8. Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view "adult" oriented films.

9. Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

10. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented business. Further, such a licensing procedure will place a heretofore-nonexistent incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as the citizens of the City. It is appropriate to require reasonable assurance that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

11. Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theaters.

12. Requiring licensees of sexually oriented businesses to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.

13. The disclosure of certain information by those persons ultimately responsible for the day to day operation maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.

14. It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct which this Ordinance is designed to prevent or who are likely to be witnesses to such activity.

15. The fact that an applicant for an adult use license has been convicted of a sexually related crime leads to the rational assumption that the applicant is likely to engage in that conduct in contravention of this Ordinance.

16. The barring of such individual from the management of adult uses for a period of five (5) years serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.

17. The general welfare, health and safety of the citizens of the City, will be promoted by the enactment of this Ordinance.

Subdivision 3 Definitions

A. Adult Arcade

Any place to which the public is permitted or invited wherein coin operated, slug operated or for any form of consideration, or electronically, electrically or mechanically controlled still or

motion picture machines, projectors, video or laser disc players or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

B. Adult Bookstore, Adult Novelty Store, or Adult Video Store

A commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

1. Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides or other visual representations that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" or;

2. Instruments, devices or paraphernalia that are designed for use in connection with "specified sexual activities".

A commercial establishment may have other principal business purposes that do not involve the offering the sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as an Adult Bookstore, Adult Novelty Store, or Adult Video Store so long as one of its principal business purposes is the offering the for sale or rental for consideration the specified materials which are characterized by the depiction of description of "specified sexual activities" or "specified anatomical areas".

C. Adult Cabaret

A nightclub, bar, restaurant, or similar commercial establishment that regularly features:

1. Persons who appear in a state of nudity or semi-nude; or

2. Live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

3. Films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".

D. Adult Motel

A hotel, motel or similar commercial establishment which:

1. Offers accommodation to the public for any form of consideration provides patrons with closed-circuit television transmissions, films, motion pictures, video cassette, slides or other pornographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" and has a sign visible from the public right of way that advertises the availability of this type of photographic reproductions; or

2. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or

3. Allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less than ten (10) days.

E. Adult Motion Picture Theater

Commercial establishments where, for any form of consideration, films, motion pictures, videocassettes, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction or description of "specified sexual activities".

F. Adult Theater

A theater, concern, hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nude or live performances that are characterized by the exposure of "specified anatomical areas" or "specified sexual activities".

G. Employee

A person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

H. Escort

A person who, for consideration, agrees or offers to act as a companion, guide or date for another person; or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

I. Escort Agency

A person or business association, who furnishes, offers to furnish or advertise to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

J. Establishment

Includes any of the following:

1. The opening or commencement of any sexually oriented business as a new business.

2. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

3. The additions of any sexually oriented business to any other existing sexually oriented business; or

4. The relocation of any sexually oriented business.

K. Licensee

A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

L. Nude Model Studio

Any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical areas" and is provided to be observed, sketched drawn, painted, sculptured photographed or similarly depicted by other persons who pay money or any form of consideration. Nude Model Studio shall not include a proprietary school licensed by the State of Minnesota or a college, junior college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or in a structure:

1. That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and

2. Where in order to participate in a class, a student must enroll at least three days in advance of the class; and

3. Where no more than one nude or semi-nude model is on the premises at any one time.

M. Nudity or a State of Nudity

The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernible turgid state.

N. Person

An individual, proprietorship, partnership, corporation, association or other legal entity.

O. Semi-Nude or in a Semi-Nude Condition

The showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female rear of the body which lies between two

imaginary lines running parallel to the ground when a person is standing, the first or top of such line drawn at the top of the cleavage of the nates and the second or bottom line drawn at the lowest visible point of the cleavage or the lowest point of the curvature or the fleshy protuberance, whichever is lower, and between two imaginary lines on each side of the body, which lines are perpendicular to the ground and to the horizontal lines described above, and which perpendicular lines are drawn through the point at which each nate meets the outer side of each leg. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suite or other wearing apparel provided the areola is not exposed in whole or in part.

P. Sexual Encounter Center

A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

1. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

2. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

Q. Sexually Oriented Business

Means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center.

R. Specified Anatomical Areas

1. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

2. Less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

S. Specified Criminal Activity means any of the following offenses:

1. Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal and penal code of other states or countries; for which;

i. Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

ii. Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or

iii. Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

T. <u>Specified Sexual Activities</u> means any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or

2. Sex acts, normal or perverted, actual or simulated, including intercourse, or copulation, masturbation or sodomy; or

3. Excretory functions as part of or in connection with any of the activities set forth in (i.) and (ii.) above.

U. <u>Substantial Enlargement of a sexually oriented business</u>

The increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exist on the effective date of this ordinance.

V. <u>Transfer of Ownership or Control of a sexually oriented business</u>

1. The sale, lease, or sublease of the business; or

2. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or

3. The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by request or other operation of law upon the death of the person possessing the ownership control.

<u>Subdivision 4. Classification</u>

A. <u>Sexually oriented businesses</u>

Classified as follows:

1. Adult arcades;
2. Adult bookstores, adult novelty stores or adult video stores;
3. Adult cabarets;
4. Adult motels;
5. Adult motion picture theaters;
6. Adult theaters;
7. Escort agencies;
8. Nude model studios; and
9. Sexual encounter centers.

Subdivision 5. License Required

A. It is unlawful:

1. For any person to operate sexually oriented business without a valid sexually oriented business license issued by the City pursuant to this Ordinance.

2. For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the City pursuant to this Ordinance.

3. For any person to obtain employment with a sexually oriented business without having secured an oriented business employee license pursuant to this Ordinance.

B. An application for a license must be made on a form provided by the City.

C. All applicants must be qualified according to the provisions of this Ordinance. The application may request and the applicant shall provide such information (including fingerprints) as to enable the City to determine whether the applicant meets the qualifications established in this Ordinance.

D. If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has twenty percent (20%) or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under the following Section and each applicant shall be considered a licensee if a license is granted.

E. The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:

1. If the applicant is an indi8vidual, the individual shall state his/her legal name and any aliases and submit proof that he/she is eighteen years of age.

2. If the applicant is a partnership, the partnership shall state its complete name and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any.

3. If the applicant is a corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

4. If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he or she must state:

   (a) The sexually oriented business' fictitious name and
   (b) Submit the required registration documents.

5. Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this Ordinance, and if so, the specified criminal activity involved, the date, place, and jurisdiction of each.

6. Whether the applicant, or a person residing with the applicant, has had a previous license under this Ordinance or other similar sexually oriented business ordinances from another city or county denied suspended or revoked, including the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder or a corporation that is licensed under this Ordinance whose license was previously denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

7. Whether the applicant or a person residing with the applicant holds any other licenses under this Ordinance or other similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other licensed businesses.

8. The single classification of license for which the applicant is filing.

9. The location of the proposed sexually oriented business, including a legal description of the property, street address, and telephone number(s), if any.

10. The applicant's mailing address and residential address.

11. A recent photograph of the applicant(s).

12. The applicant's driver's permit number, Social Security number, and/or/his/her state or federally issued tax identification number.

13. A sketch or diagram need no be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6") inches.

14. A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 500 feet of the property to be certified; the property lines of any established religious institution/synagogue, school, public park or recreation area within 500 feet of the property to be certified. For purposes of the Section, a use shall be considered existing or established if it is in existence at the time an application is submitted.

15. If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, videocassettes, other video reproductions or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in Section 6.48 below.

F. Before any application may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the City the following information:

1. The applicant's name or any other name (including "stage" names) or aliases used by the individual;
2. Age, date, and place of birth;
3. Height, weight, hair and eye color;
4. Present residence address and telephone number;
5. Present business and telephone number;
6. Date, issuing stated and number of driver's permit, other identification card information;
7. Social Security number; and
8. Proof that the individual is at least eighteen (18) years of age.

G. Attached to the application form for a sexually oriented business employee license as provided above, shall be the following:

1. A color photograph of the applicant clearly showing the applicant's face and the applicant's fingerprints on a form provided by the police department. The applicant shall pay any fees for the photographs and fingerprints.

2. A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other county, city, state or country, has ever had a license, permit or authorization to do business denied, revoked or suspended. In the event of any such denial, revocation or suspension, state the name, the name of the issuing or denying jurisdiction and describe in full the reason for the denial, revocation or suspension. A copy of any order of denial revocation or suspension. A copy of any order of denial, revocation or suspension shall be attached to the application.

3. A statement whether the applicant has been convicted of a specified criminal activity as defined I the Ordinance and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

H. Upon the filing of said application for a sexually oriented business employee license, the city shall issue a temporary license to said applicant. The application shall then be referred to the appropriate city departments for an investigation to be made on such information as is contained on the days from the date the completed application is filed. After the investigation, the City shall issue a license, unless it is determined by apreponderance of the evidence that one or more of the following findings is true:

1. The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.

2. The applicant is under eighteen (18) years of age.

3. The applicant has been convicted of a "specified criminal activity" as defined in the Ordinance.

4. The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation or prohibited by particular provisions of this Ordinance.

5. The application has had a sexually oriented business employee license revoked by the City within two (2) years of the date of the current application. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension or revocation of a license is issued pursuant to this subsection shall be subject to appeal as set forth in Section 6.44, Subdivision 4.

I. A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the City that the applicant has not been convicted of any specified criminal activity as defined in this Ordinance or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in Section 6.40 below.

J. Within thirty (30) days after the reciept of a completed sexually oriented business application, the City shall approve or deny the issuance of a license to an applicant. The City shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

1. An applicant is under eighteen (18) years of age.
2. An applicant or a person with whom the applicant is residing is overdue in payment to the City of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business.
3. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
4. An applicant of a person with whom the applicant is residing has been denied a license by the City to operate a sexually oriented business within the preceding twelve (12) months.
5. An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this Ordinance.
6. The premises to be used for the sexually oriented business has not been approved by the health department, fire department and the building official as being in compliance with applicable laws and ordinances.
7. The license fee required by this Ordinance has not been paid.
8. An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this Ordinance.

K. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued as found in Section 6.38 ("classification"). All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.

L. The health department, fire department, and the building official shall complete their certifications that the premises is in compliance or not in compliance within twenty (20) days of reciept of the application by the City.

M. A sexually oriented business license shall be issued for only one classification as found in Section 6.38.

Subdivision 6. Fees

A. Every application for a sexually oriented business license (whether for a new license or for renewal of an existing license) shall be accompanied by a non-refundable application and investigation fee, as set by the Council.

B. All license applications and fees shall be submitted to the Administrator/Clerk of the City.

Subdivision 7. Inspection

A. An applicant of licensee shall permit representatives of the Poice Department, Health Department, Fire Department, Zoning Department, or other City Departments or agencies to inspect the premises of a sexually oriented business for the purposes of insuring compliance with the law, at any time it is occupied or open for business.

B. When the City denies renewal of a license, the applicant shall not be issued a lecense for one year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been corrected or abated, the application may be granted a license if at least ninety (90) days have elapsed since the dated denial became final.

Subdivision 8. Expiration of License

A. Each license shall expire one year from the date of issuance and may be renewed only my making application as provided in Section 6.39. Application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) before the expiration date, the expiration of the license will not be affected.

B. When the City denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been forrected or abated, the applicant may be granted a licese if at lease nin3ty (90) days have elapsed since the date denial became final.

Subdivision 9. Suspension

A. The City shall revoke a license if a cause of suspension in Section 6.43 occurs and the license has been suspended within the preceding twelve (12) months.

B. The City Shall suspend a license for a period not to exceed thirty (30) days if it determines that licensee or an employee of a licensee has:

1. Violated or is not in compliance with any section of this Ordinance;
2. A licensee has knowingly allowed possession, use or sale of controlled substances on the premises;
3. A licensee has knowingly allowed prostitution on the premises

4. A licensee has knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended.
5. Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sex act to occur in or on the licensed premises.
6. A licensee is delinquent in payments to the City, County or State for any taxes or fees past due.

C. When the City revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented license ofr one (1) year from the date the revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.

D. After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may see prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action sahll be promptly reviewed by the court.

Subdivision 10. Transfer of License.

A. A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

Subdivision 11. Location

A. A person commits a misdemeanor if that person operates or causes to be operated a sexually oriented business in any zoning district other than an Industrial District defined and described in the City of Mountain Lake, Minnesota zoning code.

B. A person commits an offense of the person operates or causes to operated a sexually oriented business within 250 feet of:

1. A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.
2. A public or private educational facility including, but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, junior colleges and universities. School includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.
3. A boundary of a residential district as defined in the City of Mountain Lake, Minnesota zoning code; a public park or recreational area which has been designated for park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas or other similar public land within the city that is under the control, operation or management of the city park and recreation authorities.

4. The property line of a lot devoted to residential use as defined in the City of Mountain Lake, Minnesota zoning code.
5. An entertainment business which is oriented primarily toward children or family entertainment.
6. A licensed premises, licensed pursuant to the alcoholic beverage control regulations of the State of Minnesota.

C. A person commits a misdemeanor if that person cause or permits the operation, establishment, substantial enlargement or transfer of ownership or control of a sexually oriented business within 250 feet of another sexually oriented business.

D. A person commits a midemeanor if that person sauses or permits the operation, establishment or maintenance of more than one (1) sexually oriented business in the same building, structure or portion thereof, or the increase of floor area of any sexually oriented business in any building, strtucture or portion thereof containing another sexually oriented business.

E. For the purpose of Subdivision 2 of this Section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in Subdivision 2. Presence of a city, county or other political subdivision boundry shall be irrelevant for purposes of calculating and applying the distance requirements of this section.

F. For purposes of Subdivision 3 of this Section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or opjects or political boundaries, from the closest exterior wall of the structure in which each business is located.

G. Any sexually oriented business lawfully operating on the effective date of this ordinance in violation of Subdivision 2 and Subdivision 3 of this Section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue under the same ownership until January 1, 2010, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 250 feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later established business(es) is/are nonconforming.

H. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a use listed in Subdivision 2 of this Section within 250 feet of the sexually oriented business. This provision applies only to the renewal of a valid

license, and does not apply when an application for a license is submitted after a license has expired or been revoked.

I. Any sexually oriented business lawfully operating on the effective date of this ordinance shall have a period of sixty (60) days ot make application for a license herunder. During such application period and until such licensee is either issued or denied, such business may continue to operate notwithstanding the licensing requirements of this ordinance.

Subdivision 12. Additional Regulations for Adult Motels

A. Evidence that a sleeping room in a hotel, motel, or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this Ordinance.

B. A person commits a misdemeanor if, as the person in control of sleeping room in a hotel, motel or similar commercial establishment that does not have a sexually oriented license, rents or sub rents a sleeping room to a person, and within ten (10) hours from the time the room is rented, rent or sub rents the same sleeping room again.

C. For purposes of Subdivision 1 and Subdivision 2 of this Section, the terms "rent" or "sub rent" means that the act of permitting a room to be occupied for any form of consideration.

Subdivision 13. REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS, VIDEOS OR LIVE ENTERTAINMENT IN VIEWING ROOMS.

A. A person who operates or cause to be operated a sexually oriented business other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, videocassette, live entertainment or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

1. Upon application for a sexually oriented license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or the some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of interior of the premises to an accuracy of plus or minus six inches (6"). The City may waive the foregoing

diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered.

2. The application shall be sworn to be true and correct by the applicant.
3. No alteration in the configuration or location of a manager's station may be made without the prior approval of the City.
4. It is the duty of the license of the premises to ensure that at least one licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required is this subsection must be by direct line of sight from the manager's station.
6. It shall be the duty of the licensees to ensure that the view area specified above remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks, or other material and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area which patrons will not be permitted in the application filed pursuant to this Section.
7. No viewing room may be occupied by more than one person at any time.
8. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one foot-candle as measured at the floor level.
9. It shall be the duty of the licensees to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
10. No licensee shall allow openings of any kind to exist between viewing rooms or booths.
11. No person shall make or attempt to make an opening of any kind between viewing booths or rooms.
12. The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.
13. The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.
14. The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be construction of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board, or other porous material shall be used within forty-eight inches (48") of the floor.

B. A person having a duty under this section commits a misdemeanor if he knowingly fails to fulfill that duty.

Subdivision 14. ADDITIONAL REGULATIONS FOR ESCORT AGENCIES

A. An escort agency shall not employ any person under the age of 18 years.

B. A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.

Subdivision 15. ADDITIONAL REGULATIONS FOR NUDE MODEL STUDIOS

A. A nude model studio shall not employ any person under the age of 18 years.

B. A person under the age of 18 years commits an offense if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under 18 years was in a restroom not open to the public view or visible to any other person.

C. A person commits an offense if the person appears in a state of nudity or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right of way.

D. A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that sofa may be placed in a reception room open to the public.

Subdivision 16. ADDITIONAL REGULATIONS CONCERNING PUBLIC NUDITY

A. It shall be a misdemeanor for a person who knowingly and intentionally, in a sexually oriented business, appears in a state of nudity or depicts specified sexual activities.

B. It shall be a misdemeanor for a person who knowingly or intentional in a sexually oriented business appears in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least ten feet (10') from any patron or customer and on a stage at least two (2) feet from the floor.

C. It shall be a misdemeanor for an employee, while semi-nude in a sexually oriented business; to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude in a sexually oriented business.

Subdivision 17. PROHIBITION AGAINST CHILDREN IN A SEXUALLY ORIENTED BUSINESS

A. A person commits a misdemeanor if the person knowingly allows a person under the age of 18 years on the premises of a sexually oriented business.

Subdivision 18. HOURS OF OPERATION

A. No sexually oriented business, except for an adult motel, may remain open at any time between the hours of one o'clock (1:00) a.m. and six o'clock (6:00) a.m. on weekdays and Saturdays, and one o'clock (1:00) a.m. and ten o'clock (10:00) a.m. on Sundays.

Subdivision 19. EXEMPTIONS

A. It is a defense to prosecution under Section 6.51 that a person appearing in a state of nudity did so in a modeling class operated:

1. By a proprietary school, licensed under the State of Minnesota; a college, junior college or university supported entirely or partly by taxation.
2. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by a taxation; or
3. In a structure:
    a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
    b. Where in order to participate in a class, a student must enroll in at least three (3) days in advance of the class; and
    c. Where no more than one (1) nude model is on the premises at any one time.

Subdivision 20. EFFECTIVE DATE

A. This ordinance shall become effective upon passage and publication.

SECTION 6.37 THROUGH 6.98, RESERVED FOR FUTURE EXPANSION

SECTION 6.99 VIOLATION OF A MISDEMEANOR

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

CHAPTER 7

STREET AND SIDEWALK REGULATIONS

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CHAPTER 7

STREET AND SIDEWALK REGULATIONS

SECTION 7.01. DEFINITIONS.

Except as otherwise defined in the City Code, this Chapter, or where the context clearly indicates a contrary intent, the words and terms defined in Minnesota Statutes, Chapter 169, as it relates to traffic regulations; and Minnesota Statutes 412.221, subdivision 6 as it relates to streets, sewers, sidewalks, and public grounds, shall be applicable to this Chapter.

Subdivision 1. Terms

For the purpose of this chapter, the terms defined in this section shall have the meanings ascribed to them.

1. Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

2. Motor Vehicle. Any self-propelled vehicle designed and originally manufactured to operate primarily on highways, and not operated exclusively upon railroad tracks. It includes any vehicle propelled or drawn by a self-propelled vehicle and includes vehicles known as trackless trolleys that are propelled by electric power obtained from overhead trolley wires but not operated upon rails. It does not include snowmobiles, manufactured homes, or park trailers. Motor vehicles also do not include an electric personal assistive mobility device or a vehicle moved solely by human power.

3. Passenger Vehicle. A passenger automobile means any motor vehicle designed and used for not carrying more than 15 individuals including the driver.

    a) Includes pickup trucks and vans, including those vans designed to carry passengers, with a manufacturer's nominal rated carrying capacity of one ton, but does not include commuter vans.

        1) Van. Any vehicle of box-like design with no barrier or separation between the operator's area and the remainder of the cargo-carrying area, and with a manufacturer's nominal rated carrying capacity of three-fourths ton or less.
        2) Pick-up Truck. Any truck with a manufacturer's nominal rated carrying capacity of three-fourths ton or less and commonly known as a pickup truck.

    b) "Passenger vehicle" does not include a motorcycle, motorized bicycle, bus, school bus, a vehicle designed to operate exclusively on railroad tracks, a farm truck or special mobile equipment as defined in section 168.011.

4. Motorcycle. Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, including motor scooters and bicycles with motor attached.

5. Motorized Bicycle. A bicycle that is propelled by an electric or a liquid fuel motor of a piston displacement capacity of 50 cubic centimeters or less, and a maximum of two brake horsepower, which is capable of a maximum speed of not more than 30 miles per hour on a flat surface.

6. Electric-assisted bicycle. A motor vehicle with two or three wheels that:

    a) Has a saddle and fully operable pedals for human propulsion;
    b) Meets the requirements of federal motor vehicle safety standards in Code of Federal Regulations, title 49, sections 571.01 et seq.; and
    c) Has an electric motor that has a power output of not more than 1,000 watts, is incapable of propelling the vehicle at a speed of more than 20 miles per hour, is incapable of further increasing the speed of the device when human power alone is used to propel the vehicle at a speed of more than 20 miles per hour, and disengages or ceases to function when the vehicle's brakes are applied.

7. Recreation vehicle. A travel trailer including those that telescope or fold down, chassis-mounted campers, motor homes, tent trailers, and converted buses that provide temporary human living quarters.
   "Recreational Vehicle" is a vehicle that:
    a) Is not used as the residence of the owner or occupant;
    b) Is used while engaged in recreational or vacation activities; and

c) Is either self-propelled or towed on the highways incidental to the recreational or vacation activities.

8. Motor Home. A recreational vehicle designed to provide temporary living quarters. The motor home has a living unit built into as an integral part of, or permanently attached to the chassis of, a motor vehicle or van.

A motor home must contain at least four of the following:

a) Cooking facility with liquid propane gas supply,
b) A refrigerator,
c) A self-contained toilet or a toilet connected to a plumbing system,
d) A heating or air conditioning system separate from the mother vehicle engine,
e) A portable water supply system including a sink with a faucet, self-contained or connections for external source; and
f) A separate 110-125 volts electrical power supply.

9. Trailer. Any vehicle designed for carrying property or passengers on its own structure and for being drawn by a motor vehicle but does not include a trailer drawn by a truck-tractor semi trailer combination or an auxiliary axle on a motor vehicle which carries a portion of the weight of the motor vehicle to which it is attached.

SECTION 7.02 INFRASTRUCTURE CONSTRUCTION AND MAINTENANCE

Subdivision 1. Curb and Gutter, Street and Sidewalk Painting or Coloring.

1. 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 Council.

~~1.~~2. Damaging or Moving Markers. It is unlawful for any person to deface, mar, damage, move, remove, or in any way tamper with any structure, work, material, equipment, tools, sign, signal, barricade, fence, painting or appurtenance in any street unless such person has written permission from the City or is an agent, employee or contractor for the City, or other authority having jurisdiction over a particular street, and acting within the authority or scope of a contract with the City or such other authority.

Subdivision 2. Construction and Reconstruction of Roadway Surfacing, Sidewalk, Curb and Gutter

1. Permit Required. It unlawful to construct or reconstruct a sidewalk, curb and gutter, driveway, or roadway surfacing in any street or other public property in the City without

a permit in writing from the City. Application for such permit shall be made on forms approved and provided by the City and shall sufficiently describe the contemplated improvements, the contemplated date of beginning of work, and the length of time required to complete the same, provided, that no permit shall be required for any such improvement ordered installed by the Council. All applications shall be referred to the City Clerk-Treasurer and the Street Superintendent and no permit shall be issued until approval has been received from the City Clerk-Treasurer and the Street Superintendent. 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.

2. Methods of Procedure.

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

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

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 Clerk-Treasurer 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.

4. Inspection. The Building Official shall inspect such improvements as deemed necessary or advisable. 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 Building Official 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.

Subdivision 3. Sewer and Water Main Service Lateral Installation Requirements.

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.

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.

3. Waiver. The Council may waive the requirements of this Section only if it finds the effects thereof are impractical and cause significant financial hardship, and upon such notice and hearing as the Council may deem necessary or proper.

Subdivision 4. Obstructions in Streets and Sidewalks

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

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

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

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

5. Placing Snow, Ice, Leaves or Grass in a Roadway or on a Sidewalk.

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

    B. Where permission is granted by the Council the person to whom such permission is granted shall be initially responsible for payment of all direct or indirect costs of removing the snow, ice, leaves or grass from the street or sidewalk. If not paid,

collection shall be by civil action or assessment against the benefited property as any other special assessment.

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

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

Subdivision 5. Street Openings or Excavations.

It is unlawful for any person, except a City employee acting within the course and scope of employment or a contractor acting within the course and scope of a contract with the City, to make any excavation, opening or tunnel in, over, across or upon a street or other public property without first having obtained a written excavation permit from the City as provided for in City Code, Chapter 7, Section 16.

SECTION 7.03 SIDEWALK REGULATIONS See Ordinance #2-18

Subdivision 1. Snow and Ice on Sidewalks.

1. The owner, lessee or occupant of any property abutting a public sidewalk shall keep, or cause to be kept, such sidewalks free of snow and ice, and safe for pedestrians.

2. It is the duty of the City to make such inspections as are necessary to determine that such public sidewalks are kept free of snow and ice and safe for pedestrians. If it is found that any sidewalk abutting on private property in said Districts is not free of snow and ice, and is unsafe for public travel, the City shall cause a notice to be served by written notice, telephone, personal service or posting the premises upon the owner, lessee or occupant or any person having the care or control of any such lot or land ordering such person to have the sidewalk free of snow and ice, and made safe for public travel within 24 hours and stating that if such person fails to do so, the City will do so, and the expense thereof must be paid by the owner in single installment; and that if unpaid, it will be made a special assessment against the property concerned.

3. If the sidewalk is not so made free of snow and ice within 24 hours after receipt of the notice, the City shall remove any snow or ice therefrom, and make it safe for pedestrians, or order the work done by contract. The City Clerk shall keep record of the total cost of snow and ice removal, attributable to each lot or parcel of property, and report such information to the Council.

Subdivision 2. Bicycles Prohibited.

It is unlawful for any person to ride a bicycle on a sidewalk in a Downtown Commercial zoning district.

Subdivision 3. Motorized Vehicles Prohibited.

It is unlawful for any person to drive or operate a motorized vehicle, except a wheelchair powered by electricity and occupied by a handicapped person, on any public sidewalk or public property designated for use as a pedestrian walkway or bicycle trail, except when crossing the same for ingress and egress through a curb cut to property lying on the other side thereof.

Subdivision 4. Repair of Sidewalks.

A. Owner's Responsibility. The owner of any property within the City abutting a public sidewalk shall keep the sidewalk in repair and safe for pedestrians. Repairs shall be made in accordance with standard specifications approved by the Council and on file in the office of the City Clerk-Treasurer.

B. Inspection and Notice. In addition to the procedure allowing a petition for improvements by abutting owners, it shall be the duty of the Street Superintendent to make such inspections as are necessary to determine that public sidewalks within the City are kept in repair and safe for pedestrians. If the Street Superintendent finds that any sidewalk abutting on private property is unsafe and in need of repairs, he shall cause a notice to be served, by registered mail or by personal service, upon the record owner of the property, or the occupant, if the owner does not reside within the City, or cannot be found therein, ordering such owner to have the sidewalk repaired and made safe within 40 days (during construction season), and stating that if the owner fails to do so, that the Street Superintendent will do so on behalf of the City; that the expense thereof must be paid by the owner in a single installment; and that if unpaid, it will be made a special assessment against the property concerned.

C. Repair. If the sidewalk is not repaired within 40 days after receipt of the notice, the Street Superintendent shall repair the sidewalk and make it safe for pedestrians, or order the work done by contract in accordance with law. The Street Superintendent shall keep a record of the total cost of the repair attributable to each lot or parcel of property, and report such information to the City Clerk-Treasurer.

D. Personal Liability. The owner of property on which sidewalk repair has been performed shall be personally liable for the cost of such repair. As soon as the service has been completed and the cost determined, the City Clerk-Treasurer shall prepare a bill and mail it payable at the office of the City Clerk-Treasurer.

E. Assessment. On or before September 1, of each year, the Clerk-Treasurer shall list the total unpaid charges for sidewalk repair against each separate lot or parcel to which they are attributable under this Section. The Council may then spread the charges against the property as a special assessment under Minnesota Statutes Section

429.101, and other pertinent statutes, for certification to the County Auditor for collection the following year along with current taxes.

SECTION 7.04 CEMETERY REGULATION See Ordinance #3-11

SUBDIVISION 1. DEFINITIONS.

(a.) City. The City of Mt. Lake, Minnesota, owning and controlling the cemetery.

(b.) Cemetery. A tract of land used for burials or above-ground interment.

(c.) Burial Permit. Legal written documents needed for burial to occur.

(d.) Burial Vault. A container that houses a casket for final interment in the cemetery.

(e.) Interment. Disposition of human remains or cremated remains by burial or entombment.

(f.) Lot. A parcel of land nine (9) ft. in length; five (5) ft. in width on which one traditional or two cremation burials are permitted.

(g.) Double Lot. A parcel of land nine (9) ft. in length; ten (10) ft. in width on which two traditional or four cremation burials are permitted.

(h.) Monument. A memorial of granite, marble or bronze that extends above the surface of the lawn.

(i.) Marker. A memorial of granite, marble or bronze that does not extend above the surface of the lawn.

SUBDIVISION 2. ESTABLISHMENT.

A cemetery has been established and is continued upon land owned and designated by the City of Mountain Lake, Minnesota, as Mountain Lake Cemetery. The plats of the cemetery filed with the county recorder in Cottonwood County, Minnesota, are adopted as the official plat of the cemetery. No person shall lay out or establish any cemetery, or use any lot of land within this City for the burial of dead except in the Mountain Lake Cemetery, or some other tract of land duly designated by the City as a cemetery.

SUBDIVISION 3. SALE OF LOTS.

The prices of cemetery lots and services will be set by resolution of the City Council. Any person paying for a lot is entitled to a license agreement conveying the lot. A license agreement conveying a lot gives the purchaser only the right of burial therein and shall be considered as a license that restricts the use to burial purposes.

SUBDIVISION 4. CONDITIONS OF LOT PURCHASE.

All lot agreements are subject to reasonable rules and regulations as the Council may adopt relative to the use of the cemetery. No lot shall be used for any purpose other than the burial of human remains and the placing of memorials as permitted by this ordinance or any additional regulation that the Council may adopt.

SUBDIVISION 5. HANDLING OF FUNDS.

All money received from the sale of lots and other services must be paid to the City treasurer. No lot agreement to any cemetery lot shall be issued, nor any cemetery service performed until payment has been received or a payment plan has been agreed upon.

SUBDIVISION 6. BURIAL PERMITS.

A burial permit from a funeral home or State Registrar of Vital Statistics, or a disposition permit, or death certificate as prescribed by a State Department of Health shall be filed with the City within one week of a burial.

SUBDIVISION 7. INTERMENTS.

All excavations shall be made by the cemetery superintendent or his agents. At least twenty-four (24) hours notice shall be given, and the type of burial and the location shall be specified.

One traditional burial or two cremation burials will be permitted per lot. Two traditional burials or four cremation burials will be permitted per double lot. (See Subdivision 14 Diagrams.) When a couple is buried on a double lot the husband shall be buried on the southern lot; the wife on the northern lot.

SUBDIVISION 8. BURIAL VAULTS. See Ordinance #3-15

All caskets, traditional or cremation must be encased in a permanent type burial case or vault, delivered and installed by a bonded and insured burial vault provider, and must be buried completely underground. Fiberglass vaults are prohibited.

SUBDIVISION 9. DISINTERMENT AND REMOVAL.

Disinterment and re-interment must comply with Minnesota Statute Section 149A.96. Before any grave may be opened, written permission of the lot owner shall be filed with the cemetery superintendent, a permit from the county health officer or licensed mortician shall be secured and presented, and the required fees paid. If the casket is re-interred in another cemetery the lot owner or his/her representative will pay one open/close fee. If the casket is re-interred in the Mountain Lake Cemetery a fee twice the open/close fee will be paid. This provision does not apply when disinterment is ordered by a duly authorized public authority.

(a) Removal of a body by the heirs so that the lot may be sold for profit to themselves, or removal contrary to the expressed or implied wish of the original lot owner is forbidden.

(b) A body may be removed from its original lot to a larger or better lot in the cemetery when there has been an exchange or purchase for that purpose.

(c) The City shall assume no liability for damage to any casket or burial case in making the disinterment and removal.

SUBDIVISION 10. MONUMENTS and MARKERS. See Ordinance #3-15, #8-16

(a.) All monuments and markers shall be placed as shown in Subd. 14. Diagrams or as directed by the superintendent.

~~(b.) No monument or marker shall be placed on either single or double lot before a burial has occurred.~~ (#8-16)

(c.) The masonry foundation base pad of a monument or market shall not exceed 2' by 6' on a double lot or 2'by 3' on a lot. All monuments and markers shall be slightly smaller than the foundation base pad. (See Subdivision 14 Diagrams).

(d.) All monuments and markers shall be at the head end of the grave. (See Subdivision 14. Diagrams.)

(e.) In the old sections of the cemetery and on Sections A and B, all monuments shall be set level. (See Subdivision 14. Diagrams.)

(f.) Markers in Sections C and D cannot be higher than ground level. (See Subdivision 14. Diagrams)

(g.) Monuments and markers must be constructed of granite, marble, or bronze material.

SUBDIVISION 11. FOUNDATIONS.

All monuments and markers shall be placed on foundations of solid masonry. The top of all foundations shall not be higher than two inches below the established grade.

SUBDIVISION 12. INSTALLATION OF MONUMENTS AND MARKERS.

No monument or marker may be placed without the supervision of the cemetery superintendent or his agent. Monuments and markers cannot be placed after November 20. Monuments and markers shall be placed during city work hours 7:00 a.m. to 3:30 p.m. Monday through Friday. Monuments and markers placed after regular city work hours will be subject to a fee equal to the overtime wages and benefits of the supervising employee. Monuments and markers cannot be installed after November 20.

SUBDIVISION 13. DECORATION OF LOTS.

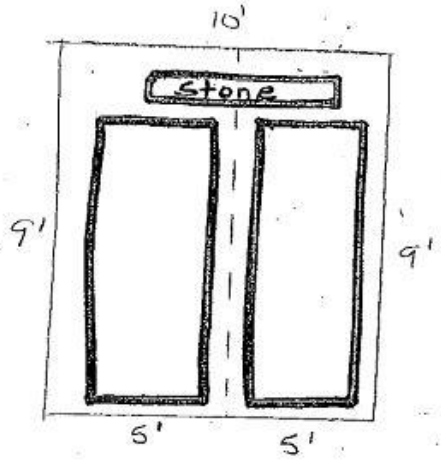
(a) Plants and flowers may be placed permanently on cemetery lots when in an urn that is part of the monument or marker, or in a permanent flower/plant stand. Plants and flowers may be placed in other containers from one week before to two weeks after Memorial Day. No trees, shrubs or vines may be planted, nor may fences be erected. The City reserves the right to remove any tree shrub, vine, plant, or flower that may become unsightly, dangerous, or not in keeping with the landscape design of the cemetery. The City shall not be responsible for damaged, lost, or misplaced flower containers.

(b) The placing of boxes, shells, toys, metal designs, ornaments, chairs, settees, glass, wood or iron cases, and similar articles upon lots shall not be permitted; if such items are placed, the City may remove them.

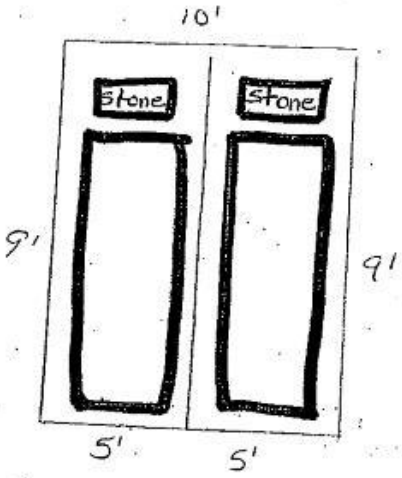
(c) All objects not described above, including balloons, banners, food and beverages, knick knacks, shepherd hooks, solar lights and lanterns, stuffed animals, wind chimes, windmills, windsocks, and statuary not incorporated into a monument, are prohibited and may be subject to immediate removal.

(d) The City reserves the right to remove all monuments, markers, flowers, plants, trees, decorations, or other similar things without liability to the owner whenever any of these objects become unsafe.

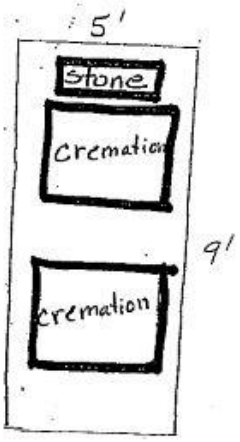
SUBDIVISION 14. DIAGRAMS. See Ordinance #3-15



a. Double lot - 10 feet by 9 feet
- Two traditional burials
- Monument or marker for double lot
- Monument or marker masonry foundation pad slightly smaller than 2 feet by 5 feet



b. Lot - 5 feet by 9 feet (two shown)
- One traditional burial
- Monument or marker for lot
- Monument or marker masonry foundation pad slightly smaller than 2 feet by 3 feet



c. Lot – 5 feet by 9 feet (one shown)
- Two cremation burials
- Monument or marker for lot
- Monument or marker masonry foundation pad slightly smaller than 2 feet by 3 feet

C. Monument or marker masonry foundation pad slightly smaller than 2 feet by 6 feet.

SUBDIVISION 15. PENALTY.

Any person violating any provision of this ordinance is guilty of a misdemeanor and subject to fines as set by the court.

SECTION 7.05-7.14 RESERVED FOR FUTURE EXPANSION

SECTION 7.15 INTERSECTIONS

Subdivision 1. Clear View Triangle.

On property at any corner formed by intersecting streets, it shall be unlawful for the owner or occupant to install, set out, maintain or to permit the installation or maintenance of any sign, fence, hedge, tree, shrubbery, natural growth, building, construction or other obstructions to a clear view to a height greater than three feet above the level of the center of the adjacent intersection within the triangle of land formed on the corner of the lot by measuring a distance of 15 feet along each lot line from the street-property line intersection. It is hereby declared that any such installation or construction within the clear view triangle as herein is a public nuisance and encumbrance and obstruction to the public streets.

Subdivision 2. Exceptions.

The foregoing provision of this Article shall not apply to existing permanent buildings, public utility poles, trees with trunks less that 12 inches in diameter and trimmed to a height at least eight feet above the level of the intersection shall not apply to plant species of open growth habits not planted in the form of a hedge and which are so planted and trimmed as to allow, at all seasons, a clear and unobstructed cross-view; it shall not apply to supporting members of appurtenances to permanent buildings heretofore existing, to official warning signs or signals, or to signs mounted ten feet or more above the ground and whose supporting members do not constitute an obstruction as hereinbefore defined.

Subdivision 3. Notice to Correct.

The owner of any property which does not conform to the foregoing provisions of this Article is required after notice to remove such obstructions or make necessary corrections and improvements as state in such notice. The notice shall describe the property involved, the conditions constitution a violation, the necessary corrective action to be taken an shall state a time limit in which the corrections are to be made. The time limit shall be not less than 30 days from the date of service of the notice. Service may be made personally or by mail addressed to the owner at his last known address as shall appear upon the records of the City of Mountain Lake.

Subdivision 4. Correction by the City.

Upon failure of the owner to make the corrections prescribed, the City Council may direct the performance of the necessary corrections or improvements pursuant to the provisions of law governing local improvement. When undertaken by the City, the actual

benefit of such improvement, which shall not exceed the cost, shall be charged against the owner of the premises and shall become a lien upon the premises.

SECTION 7.16 EXCAVATION

EXCAVATIONS.

It is unlawful for any person, except a City employee acting within the course and scope of his employment or a contractor acting within the course and scope of a contract with the City, to make any excavation, opening or tunnel in, over, across or upon a street or other public property, or private property to which a municipal utility (as defined in City Code, Chapter 3) is connected, without first having obtained a written permit from the Public Works Director as herein provided.

Subdivision 1. Application.

Application for a permit to make an excavation shall describe with reasonable particularity the name and address of the applicant, the place, purpose and size of the excavation or opening, and such other information as may be necessary or desirable to facilitate the investigation hereinafter provided for, and shall be filed with the City Administrator or his assistant at least eight (8) working days before work is commenced. While time is of the essence, such time requirement may be waived by the Public Works Director.

Subdivision 2. Investigation and Payment of Estimated Costs.

Upon receipt of such application, the City Administrator shall cause such investigation to be made as he may deem necessary to determine placement of municipal utilities, or connections therewith, which may be affected by such opening or investigation.

Subdivision 3. Excavations in Streets and on Public Property.

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

2. Insurance. Prior to commencement of work in streets and on property owned or controlled by the City, the applicant shall furnish the City satisfactory evidence in writing that the applicant will keep in effect public liability insurance of not less than $100,000.00 for any person, $300,000 00 for any occurrence and property damage

insurance of not less than $25,000.00, issued by an insurance company authorized to do business in the State of Minnesota on which the City is named as a co-insured.

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

4. Backfilling and Compacting. All street openings, and other excavations where, in the opinion of the City the circumstances require, shall be backfilled and compacted by the Street Department and the cost thereof paid by the permittee.

Subdivision 4. Issuance of Permit.

The City Clerk-Treasurer shall issue such permit only after:

1. Completion of such investigation;
2. Agreement by the applicant to the conditions of time and manner as aforesaid;
3. Agreement in writing by the applicant to be bound by all of the provisions of this Section;
4. Payment of all fees for investigation and permit; and,
5. Advising applicant as to the location of any municipal utility, or connection therewith, that may be affected by such opening or excavation.

Subdivision 5. Fixing Fees and Policies.

The Council shall, by resolution, fix all fees and charges for investigation and permits issued under this Section, including, but not limited to, backfilling and compacting. Such resolution shall be kept on file in the office of the City Clerk-Treasurer and uniformly enforced. The Council may, by resolution, establish policies to supplement the regulations set forth in this Section, which policies may include, but not by way of limitation, bonding and advance payment requirements.

Subdivision 6. Permit Revocation.

The City Administrator may, where terms of the permit or policies duly adopted are not complied with, revoke the permit and stop the work performed by the permittee.

SECTION 7.17 THROUGH 7.98. INCLSUVE, RESERVED FOR FUTURE EXPANSION.

SECTION 7.99. VIOLATION A MISDEMEANOR OR PETTY MISDEMEANOR.

Every person violates a section, subdivision, paragraph or provision of this Chapter when performing 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:

Subdivision 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; where the violator 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, the violator shall be punished as for a misdemeanor.

Subdivision 2.

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

Subdivision 3.

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

CHAPTER 8

PUBLIC PROTECTION, CRIMES AND OFFENSES

SECTION 8.01 STORAGE, DEPOSIT, AND DISPOSAL OF REFUSE; STORAGE OF JUNK VEHICLES, HOUSEHOLD FURNISHINGS, AND APPLIANCES ON PUBLIC OR PRIVATE PROPERTY; ABANDONING OR STORING A VEHICLE; NUISANCE

- **Definitions.**
- **Storage and Deposit of Refuse.**
- **Storage of Motor Vehicles and/or Junk Vehicles.**
- **Household Furnishings and Appliances.**
- **Construction Materials.**
- **Miscellaneous Waste.**
- **Violation.**
- **Duties of City Officers.**
- **Penalty.**

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- **Abandoning a Motor Vehicle.**
- **Custody.**
- **Immediate Sale.**
- **Notice.**
- **Right to Reclaim.**
- **Public Sale.**
- **Disposal of Vehicles Not Sold.**
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- **Disposal of Excess Property.**
- **Person Who May Not Purchase – Exception.**

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CHAPTER 8

PUBLIC PROTECTION, CRIMES AND OFFENSES

SECTION 8.01. STORAGE, DEPOSIT, AND DISPOSAL OF REFUSE; STORAGE OF JUNK VEHICLES, HOUSEHOLD FURNISHINGS, AND APPLIANCES ON PUBLIC OR PRIVATE PROPERTY; ABANDONING OR STORING A VEHICLE; NUISANCE.

See Ordinance #2-20

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

1. "Abandon" –A motor vehicle as defined in Minnesota State Statute 169.01 and has remained illegally on public or private property for more than 48 hours, is in an inoperable condition, lacking vital components.

2. "Commercial Establishment" – Any premises, where a commercial or industrial enterprise of any kind is carried on, and shall include restaurants, clubs, churches, and schools where food is prepared or served.

3. "Inoperable" – Any motor vehicle as defined in Minnesota Statutes, Chapter 169.

4. "Junk Vehicle"

    a. Any unlicensed or unregistered motor vehicle or any inoperable vehicle.
    b. Is extensively damaged, with the damage including but not limited to things as broken or missing wheels, motor, drive train or transmission;

5. "Motor Vehicle" – A vehicle as defined in Minnesota Statutes, Chapter 169. "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires. Motor vehicle does not include an electric personal assistive mobility device or a vehicle moved solely by human power.

6. "Multiple Dwelling" – Any building used for residential purposes consisting of more than four dwelling units with individual kitchen facilities in each.

7. "Lawfully Erected Building", Shall follow the Minnesota State Building Code which 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 the City; 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.

8. "Recycle materials or recyclables" – Materials that are separated from the mixed municipal solid waste for the purpose of recycling.

9. "Recycling" - The process of collecting and preparing recyclable materials and useable materials in the original form or using them in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use.

10. "Recycling Collection" – The collection of recyclable materials from the residence or commercial dwelling in a manner specified by the City.

11. "Refuse" – All waste, garbage, rubbish, trash or debris of all kinds that accumulate, organic and inorganic, including but not limited to, food, food products, bottles, cans, glassware, paper or paper products, rags, discarded clothing and other household waste, tires, scrap metal, ash, trees, lawn clippings, animal waste and waste resulting from building construction or demolition. It does not include industrial waste, hazardous wastes, human waste or other waste managed as waste streams separate from mixed municipal solid waste. However, nothing herein shall prevent a homeowner from having a compost pile in his or her back yard if it is properly maintained so that it does not become a public nuisance, cause objectionable odors, or harbor rodents or vermin.

12. "Residential Dwelling" – Any single building consisting of one to four dwelling units with individual facilities for each unit.

13. "Vehicle" – Any motor vehicle or recreational vehicle or farm implement.

14. "Person" - For purposes of this section, persons responsible for compliance of this section shall include any person or legal entity in charge or control of any property within the city, whether as owner, tenant, occupant, lessee or otherwise and owners of such vehicles regulated by this ordinance.

Subdivision 2. Storage and Deposit of Refuse.

1. It is unlawful for any person to store refuse on residential dwelling premises for more than one week. All such storage shall be in five- to thirty- gallon metal or plastic containers with tight-fitting covers, or in bags or containers authorized by the City's garbage contractor, which shall be maintained in a clean and sanitary condition; provided, however, that tree leaves weeds and grass clippings may be store in plastic bags and tree limbs must be stored in bundles weighing no more than seventy-five pounds and no longer than four feet.

2. It is unlawful for any person to store refuse on multiple dwelling premises for more than one week. Such storage shall be in containers as for residential dwelling premises, except that so-called "dumpsters" with close-fitting covers may be substituted.

3. It is unlawful for any person to store refuse on commercial establishment premises for more than one week or at more frequent intervals if the City orders that it is necessary to

protect the public health. Such storage shall be in containers as for residential dwelling premises, except that so-called "dumpsters" with close-fitting covers may be substituted.

4. Unless the collector agrees to another location on the premises, waste must be deposited for collection adjacent to the street or alley that the collector will use. It must be in one place at ground level and off the traveled roadway. Waste may not remain adjacent to a street or alley for a period longer than twenty-four (24) hours if not collected and must be removed by the tenant, lessee, owner or occupant.

5. It is unlawful for any person to store organic refuse unless it is drained and wrapped.

6. A person must not deposit waste into a waster container owned by another without the other person's prior permission.

7. A person must not permit waste to accumulate on property under that person's control if it constitutes a nuisance by reason of appearance, odor, sanitation, or is a fire hazard.

8. It is unlawful for any person to deposit refuse from any source, rubbish, offal or the body of a dead animal, in any place other than a site approved by the City or other governmental agency with regulatory authority.

9. It is unlawful for any person to store, deposit or dispose of any refuse, which is in flames or heated to the point where it could cause the danger of fire in other refuse.

10. Operation of Sanitary Landfill or other Disposal Sites. The Council may, by resolution, adopt, and from time to time amend, adjust and revise such rules, regulations, rates and charges as it deems necessary or proper for the proper disposal of refuse at a sanitary landfill or other disposal sites. It may give notice of any such action, as it deems necessary.

Subdivision 3. Storage of Motor Vehicles and/or Junk Vehicles.

1. It is unlawful for any person to park or store any unlicensed, unregistered or inoperable motor vehicle, or parts or components thereof on any property, public or private, unless housed within a lawfully erected building.

2. Required off street automobile parking space shall not be utilized for open storage or for the storage of vehicles which are inoperable, for sale or for rent.

3. It is unlawful for any person to park or store any junk vehicle or parts or components thereof on any property, public or private, unless housed within a lawfully erected building. This section shall not apply to premises on which a junk dealer lawfully carries on such business.

Subdivision 4. Household Furnishings and Appliances,

1. It is unlawful for any person to store any household furnishings, appliances or parts or components thereof on any property, public or private, unless housed within a lawfully erected building.

2. It is unlawful for any person being the owner or in possession or control thereof, to store or dispose of an unused refrigerator, ice box, or other container, sufficiently large to retain any child and with doors which fasten automatically when closed, on his property in a manner accessible to children, without removing the doors, lids hinges, or latches.

Subdivision 5. Construction Materials.

It is unlawful for any person to store any lumber and construction materials, shingles, lawn pavers, decking materials or components thereof, on any property, public or private, unless housed within a lawfully erected building. This section shall not apply to lumber and construction materials if the occupant of the premises has a valid building permit.

Subdivision 6. Miscellaneous Waste.

1. Waste Oil. A person may not place used oil in mixed solid waste or place used oil in or on the land unless approved by the MPCA.

2. Household Waste. All household hazardous wastes shall be disposed of through the Cottonwood County Household Hazardous Waste Program, or a facility designated by the Cottonwood County Board.

3. Lead Acid Batteries. A person may not place a lead acid batter in mixed municipal solid waste or dispose of a lead acid battery. Lead acid batteries are to be taken to a lead acid battery recycling facility.

Subdivision 7. Violation.

Any violation of this section is declared to be a nuisance and upon ten (10) days written notice to any person responsible for compliance and the owner of private premises on which such material is found, and after providing an opportunity to request a hearing, the City may remove the same and certify the cost of such removal as any other special assessment pursuant to the procedure set forth in Section 8.03, Subdivision 6.

Subdivision 8. Duties of City Officers.

The police department shall enforce the provisions of the ordinance and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

Subdivision 9. Penalty.

Violation of any provisions of this ordinance is declared to be public nuisance and is a misdemeanor punishable as provided by Minnesota Law.

SECTION 8.02. ABANDONED MOTOR VEHICLES, UINCLAIMED AND EXCESS PROPERTY.

Subdivision 1. Definitions.

1. "Abandoned motor vehicle"

    A. 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

    B. 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

    C. Lacks vital component parts or is 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.

    D. 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.

    E. A vehicle being held for storage by agreement or being held under police authority or pursuant to a writ or court order is not considered abandoned, nor may it be processed as abandoned while the police hold, writ or court order is in effect.

    F. A motor vehicle voluntarily surrendered by its owner to and accepted by the City.

    G. Vehicles on the premises of junk yards or automobile graveyards that are defined, maintained, and licensed in accordance with Minnesota State Statute Chapter 161, or which are licensed and maintained in accordance with the City Code and zoning regulations, are not considered abandoned.

2. "Vital component parts" means those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including, but not limited to, the motor, transmission and wheels.

3. "Impound". To take and hold a vehicle in legal custody. There are two types of impounds: public and nonpublic.

4. "Impound Lot/Operator". A person who engages in impounding or storing, usually temporarily, unauthorized or abandon vehicles. It includes an operator of a public or nonpublic impound lot, regardless of whether tow truck service is provided.

Subdivision 2. 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.

Subdivision 3. Custody.

The City may take into custody and impound any abandoned motor vehicle.

Subdivision 4. Immediate Sale.

When an abandoned motor vehicle is more than seven model years of age, is lacking vital component parts, and does not display a license plate currently valid in Minnesota or any other state or foreign country, it shall immediately be eligible for sale at public auction, and shall not be subject to the notification, reclamation, or title provisions of this Subdivision.

Subdivision 5. Notice.

1. When an abandoned motor vehicle does not fall within the provisions of Subdivision 4 of this Section, 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 Subdivision 6 of this Section, and shall state that failure of the owner or lien holder to exercise their right to reclaim the vehicle and contents shall be deemed a waiver by them of all rights, title and interest in the vehicle and a consent to the sale of the vehicle and contents at a public auction pursuant to Subdivision 7 of this Section.

2. The notice shall be sent by registered 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.

Subdivision 6. Right to Reclaim.

The owner or any lien holder of an abandoned motor vehicle shall have a right to reclaim such vehicle from the City upon payment of all towing and storage charges, resulting from taking the vehicle into custody within fifteen days after the date of the notice required by this Section.

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 Subdivision 6 "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.

Subdivision 7. Public Sale.

An abandoned motor vehicle and contents taken into custody and not reclaimed under Subdivision 6 of this Section shall be sold to the highest bidder at public auction or sale, following one notice published at least seven days prior to such auction or sale. The purchaser shall be given a receipt in a form prescribed by the Registrar of Motor Vehicles, which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. Before such a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

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.

Subdivision 8. 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.

1. Contracts and Disposal.

    A. 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.

    B. 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.

C. 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.

Subdivision 9. Disposal of Unclaimed Property.

1. Definition.

   A. "Abandoned property" means tangible or intangible property that has lawfully come into the possession of the City in the course of municipal operations, remains unclaimed by the owner, and has been in the possession of the City for at least sixty days and has been declared such by a resolution of the Council.

2. Preliminary Notice. If the City Clerk-Treasurer Administrator knows the identity and whereabouts of the owner, he shall serve written notice upon him at least thirty days prior to a declaration of abandonment by the Council. If the City acquired possession from a prior holder, the identity and whereabouts of whom are known by the City Clerk-Treasurer Administrator notice shall also be served upon him. Such notice shall describe the property and state that unless it is claimed and proof of ownership, or entitlement to possession established, the matter of declaring it abandoned property will be brought to the attention of the Council after the expiration of thirty days from the date of such notice.

3. Notice and Sale. Upon adoption of a resolution declaring certain property to be abandoned property, the City Clerk-Treasurer Administrator shall publish a notice thereof describing the same, together with the names (if known) and addresses (if known) of prior owners and holders thereof, and including a brief description of such property. The text of such notice shall also state the time, place and manner of sale of all such property, except cash and negotiables. Such notice shall be published once at least three weeks prior to sale. Sale shall be made to the highest bidder at public auction or sale conducted in the manner directed by the Council in its resolution declaring property abandoned and stated in the notice.

4. 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 within eight months from the date of publication of the notice herein provided, and upon application and satisfactory proof of ownership, may be paid the amount of cash or negotiables or, in the case of property sold, the amount received therefore, 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.

Subdivision 10. Disposal of Excess Property.

1. Declaration of Surplus and Authorizing Sale of Property. The City Clerk-Treasurer Administrator may, from time to time, recommend to the Council that certain personal property (chattels) owned by the City is no longer needed for a municipal purpose and

should be sold. By action of the Council, said property shall be declared surplus, the value estimated and the City Clerk-Treasurer Administrator authorized to dispose of said property in the manner stated herein.

2. Surplus Property With a Total Estimated Value of Less than $100.00. The City Clerk-Treasurer Administrator may sell surplus property with a total value of less than $100.00 through negotiated sale.

3. Surplus Property With a Total Estimated Value Between $100.00 and $500.00. The City Clerk-Treasurer Administrator shall offer for public sale, to the highest bidder, surplus property with a total estimated value of from $100.00 to $500.00. Notice of such public sale shall be given stating time and place of sale and generally describing the property to be sold at least ten days prior to the date of sale either by publication once in the official newspaper, or by posting in a conspicuous place in the City Hall at the City Clerk-Treasurer's Administrator's option. Such sale shall be by auction.

4. Surplus Property With a Total Estimated Value Over $500.00. The City Clerk-Treasurer Administrator shall offer for public sale, to the highest bidder, surplus property with a total estimated value over $500.00. Notice of such public sale shall be given stating time and place of sale and generally describing property to be sold at least ten days prior to the date of sale by publication once in the official newspaper. Such sale shall be to the person submitting the highest bid.

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

Subdivision 11. Persons Who May Not Purchase - Exception.

1. 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.

2. 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.

SECTION 8.03. PUBLIC NUISANCE ORDINANCE. See Ordinance #4-16

Subdivision 1. Purpose.

The purpose of this ordinance is to protect the Health, Welfare, and Safety of the citizens of Mountain Lake. It shall be unlawful to create a nuisance affecting the health, peace, or safety of any person.

Subdivision 2. Definitions.

1. "Nuisance"

    A. Maintains or permits a condition, a thing, act, failure to act, occupation, or use of property which annoys, injures or endangers the safety, health or comfort of the public; or

    B. In any way renders the public insecure in life or in use of property; or

    C. Interferes with, obstructs or renders dangerous for passage any public highway or right-of-way, or waters used by the public.

Subdivision 3. Public Nuisances Affecting Health.

1. Accumulation of Rubbish, Garbage, and Trash or any combination thereof that exceeds that which ordinarily occurs in one week and is not containerized to prevent odor or spillage;

2. Infestations of insects, vermin or rodents;

3. Any violation of Section 8.01 of the Mountain Lake City Code;

4. The presence in the outdoor atmosphere of any offensive dust, fumes, smoke, soot, mist, vapor, gas, fluid or particulate substance, differing in composition from, or exceeding in concentration the natural components of the atmosphere in sufficient quantities to make the occupancy of property uncomfortable to a person of ordinary sensibilities;

5. Exposed accumulation of decayed or unwholesome food or vegetable matter;

6. Accumulation of manure, refuse, or other debris;

7. All noxious weeds and other rank growths of vegetation upon public and private property. Trees, shrubbery, flower beds, and garden areas that are not reasonably maintained shall be considered rank growth.

8. All ponds or pools of stagnant water creating insect infestation;

9. Carcasses of animals not buried or destroyed within 24 hours after death;

10. 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;

11. The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substance;

12. All unnecessary noises and annoying vibrations;

13. Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks, or public grounds except under such conditions as are permitted by this Code or other applicable law;

14. Accumulations in the open of discarded or disused machinery, household appliance, automobile bodies, or other material, in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health, or safety hazards from such accumulation;

15. Any well, hole, or similar excavation which is left uncovered or in such other condition as to constitute a hazard to any child or other person coming on the premises where it is located;

16. Obstruction to the free flow of water in a natural waterway or a public street, drain, gutter, or ditch with trash or other materials;

17. The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substance which may injure any person or animal or damage any pneumatic tire passing over such substance;

18. Effluent from any cesspool, septic tank, drain field or sewage disposal system discharging upon the surface of the ground; and

19. All other conditions or things, which are likely to cause injury to the person or property of anyone.

Subdivision 4. Nuisances Affecting Public Peace and Safety:

The following are declared to be nuisances affecting public peace and safety:

1. All snow and ice not removed from public sidewalks 24 hours after the snow or other precipitation causing the condition has ceased to fall;

2. All trees, hedges, billboards or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;

3. All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;

4. Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks or public grounds except under conditions as are permitted by this code or other applicable law.

5. Radio aerials or television antennae erected or maintained in a dangerous manner.

6. 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 use of the street or sidewalk.

7. All hanging signs, awnings, and other similar structures over streets and sidewalks, so situated as to endanger public safety, or not constructed and maintained as provided by ordinance.

8. The allowing of rainwater, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk.

9. Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way.

10. All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public.

11. Wastewater cast upon or permitted to flow upon streets or other public properties.

12. Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other material in a manner conducive to the harboring of rats, mice, snakes or vermin, or other rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or safety hazards from accumulation.

13. Domestic Power Equipment. No person shall operate a power lawn mower, power edge clipper, chain saw, mulcher, garden tiller, edger, drill, or other similar domestic power maintenance equipment except between the hours of 7:00 A.M. and 10:00 P.M. on any weekday or between the hours of 9:00 A.M. and 9:00 P.M. on any weekend or holiday. Snow removal equipment is exempt from this provision.

14. Construction Activities. No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas-powered machine or other power equipment except between the hours of 7:00 A.M. and 10:00 P.M. on any weekday or between the hours of 9:00 A.M. and 9:00 P.M. on any weekend or holiday.

Subdivision 5. Enforcement.

It shall be the duty of the City Council or its designated agent to enforce the provisions of this Ordinance. Existing law enforcement agencies shall assist the designated officer or officers in the enforcement of provisions relating to nuisances affecting public safety. Such officers shall have the power to inspect private premises and take all reasonable precautions to prevent the commissions and maintenance of public nuisances.

Subdivision 6. Abatement.

1. Notice. Whenever in the judgment of the City Council or its agent, it is determined upon investigation that a nuisance is being maintained or exists within the City, the designated agent:

    A. Shall notify in writing the person committing or maintaining such nuisance and the owner of such property and require the person to terminate and abate said nuisance and to remove such conditions or remedy such defects. Said written notice shall be served upon such persons in person or by certified mail. If the premises are not occupied and the address of the owner is unknown, service on the owner may be had by posting a copy of the notice on the premises. Such notice shall require the owner or occupant of the premises, or both, to take reasonable steps within ten (10) calendar days to abate and remove said nuisance. The maximum time for the removal of said nuisance after service of said notice shall not exceed ten days, unless extended by the City Council in writing. Service of notice may be proved by an affidavit of service.

    B. Law Enforcement may issue a citation for the violation of this ordinance, which violation shall be a misdemeanor punishable in accordance with misdemeanors under Minnesota Statute; however, the City Council has the authority to issue an administrative citation in lieu of a criminal citation.

    C. If after service of notice, the person fails to abate the nuisance or make the necessary repairs, alternations or changes in accordance with the order of the City Council or its agent, the City Council shall provide written notice of an opportunity for a hearing informing the responsible party that the Council may vote to abate such nuisance. Said written notice shall be served upon the person committing or maintaining said nuisance and the owner of such property in person or by certified mail. If the premises are not occupied and the address of the owner is unknown, service on the owner may be had by posting a copy of the hearing notice on the premises; however, thirty days must elapse between the time of posting and the hearing.

    D. Abatement:

        1) The City may order such nuisance to be abated at the expense of the City. The owner of the premises of 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 the cost and the cost determined, the City Administrator shall prepare a bill for the cost and mail it to the owner. Thereupon, the amount shall be immediately due and payable at the office of the City Administrator. The City may recover such expenditure by assessing the cost of the enforcement action against the real property upon which the nuisance existed and to certify the same to the County Auditor for collection in the same manner as taxes and special assessments are certified and collected. In the alternative, the City can seek money against the responsible party.

E. Emergency procedure; Summary enforcement. In cases of emergency, where delay in abatement due to the above notice procedures will permit a continuing nuisance to unreasonably endanger public health, safety or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the Officer charged with enforcement shall determine that a public nuisance exists or is being maintained on the 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 the occupant or owner of the premises in person or by certified mail of the nature of the nuisance and of the City's intention to seek summary enforcement and the time and place of the council meeting to consider the question of summary enforcement. The City Council, at such meeting, may then order that such nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

F. Immediate Abatement: Noting in this Ordinance 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.

SECTION 8.04. OBSTRUCTIONS ON PUBLIC PROPERTY.

Subdivision 1. Obstructions.

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

Subdivision 2. Fires.

It is unlawful for any person to build or maintain a fire upon public property.

Subdivision 3. Dumping on Public Property.

It is unlawful for any person to throw or deposit on public property any nails, dirt, glass or glassware, cans, discarded cloth or clothing, metal scraps, garbage, leaves, grass or tree limbs, paper or paper products, shreds or rubbish, oil, grease or other petroleum products, or to empty any water containing salt or other injurious chemicals thereon. It is a violation of this Section to place or store any building materials or waste resulting from building construction or demolition on public property without first having obtained a written permit from the Council.

Subdivision 4. Signs and Other Structures.

It is unlawful for any person to place or maintain a sign, advertisement, or other structure on public property without first having obtained a written permit from the Council.

Subdivision 5. Snow or Ice on Public Property.

It is unlawful for any person not acting under a contract with the City to dump snow or ice on public property.

Subdivision 6. Continuing Violation.

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

Subdivision 7. Condition.

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

SECTION 8.05. DANGEROUS WEAPONS AND ARTICLES.

Subdivision 1. Acts Prohibited.

It is unlawful for any person to:

1. Recklessly handle or use a gun or other dangerous weapon or explosive so as to endanger the safety of another; or,

2. Intentionally point a gun of any kind, capable of injuring or killing a human being and whether loaded or unloaded, at or toward another; or,

3. Manufacture or sell for any unlawful purpose any weapon known as a slung-shot or sand club; or,

4. Manufacture, transfer or possess metal knuckles or a switch blade knife opening automatically; or,

5. Possess any other dangerous article or substance for the purpose of being used unlawfully as a weapon against another; or,

6. Possess, sell, transfer, or have in possession for sale or transfer, any weapon commonly known as a throwing star or nun chuck. For the purposes of this Subparagraph, (1) a "throwing star" means a circular metallic device with any number of points projecting from the edge, and (2) a "nun chuck" means a pair of wood sticks or metallic rods separated by chain links attached to one end of each such stick or rod.

Subdivision 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.

Subdivision 3. Discharge of Firearms, Explosives, and Dangerous Weapons.

1. It is unlawful for any person to fire or discharge any cannon, gun, pistol or other firearm, air gun, air rifle, or other similar device commonly referred to as a B-B gun, except as follows:

    A. A peace officer in the discharge of duty;
    B. A person in the lawful defense of his person or family;
    C. Discharge of firearms in a range authorized in writing by the Council.

2. Bow and Arrow

It is unlawful for any person to shoot a bow and arrow except in the Physical Education Program in a school supervised by a member of its faculty, a community-wide supervised class or event specifically authorized by the Chief of Police, or a bow and arrow range authorized by the Council.

Subdivision 4. Possession and Discharge of Fireworks.

1. A person may possess or discharge “legal” fireworks as permitted pursuant to Minn. Stat. Sec. 624.20 through 624.25, which are hereby adopted by reference under the following conditions:

    A. A person using, possessing or discharging a “legal” firework must be an adult or a child under direct supervision and in the presence of a parent or legal guardian;

B. The use or discharge of legal fireworks must be on one's own property or with the written permission of the property's owner.

C. It is unlawful to use, fire or discharge any fireworks along the route of and during any parade or at any place of public assembly without a city permit.

D. It is unlawful at any time to throw, toss, or aim fireworks at any person, animal, vehicle, or other thing or object as used in any manner that may threaten or cause possible harm to life or property.

E. The discharge of fireworks shall be prohibited inside a building within fifteen (15) feet of any building.

F. The Fire Chief may ban the use of fireworks if dry or windy conditions occur.

G. Fireworks may not be discharged in such a manner that may create a nuisance or between the hours of 10:00 p.m. and 10:00 a.m.

2. Discharge of fireworks other than those permitted under Minn. Stat. Sec. 624.20 through 624.25 shall be allowed only upon written authorization of the City Council.

Subdivision 5. Sale of Fireworks. See Ordinance #7-09

It is unlawful to sell fire works in the City of Mountain Lake in violation of Minn. Stat. 624.20 through 624.25, inclusive, which are adopted by reference. "Legal fireworks" as defined in this Section may, however, be sold upon issuance of a license issued by the city

1. Definition. For the purpose of this Section "legal fireworks" is defined to mean:

Wire or wood sparklers of not more than 100 grams of mixture per item, other sparkling items which are non-explosive or non-aerial and contain 75 grams or less of chemical mixture per tube or a total of 100 grams or less for multiple tubes, snakes and glow worms, smoke devices, or trick noisemakers which include paper streamers, party poppers, string poppers, snappers, and drop pops, each consisting of not more than twenty-five hundredths grain of explosive mixture.

2. Application

The application for a license shall contain the following information: name, address, and telephone number of applicant; the address of the location where fireworks will be sold; the type of legal fireworks to be sold; the estimated quantity of legal fireworks that will be stored on the licensed premises.

3. Processing Application

The application must be filed with the City Administrator together with the license fee. Following an inspection of the premises proposed to be licensed, the City Building Inspector or

his/her designee shall make a recommendation to the City Council. The Council shall approve or deny the application. If the City Council denies the license application, the applicant may, within ten (10) days, request a hearing before the City Council.

4. Condition of License. The license shall be issued subject to the following conditions:

    A. The license is non-transferable, either to a different person or location;
    B. The licensed premises must be a permanent building equipped with an automatic sprinkler system;
    C. The must be publicly displayed on the licensed premises.
    D. The premises are subject to inspection by City employees, including police officers, during normal business hours.
    E. The sale of legal fireworks is permitted in the following districts: Commercial Downtown (C-1), Commercial General (C-2) and Industrial (I).
    F. The premise must be in compliance with the State Building Code and State Fire Code.
    G. The sale of legal fireworks must be made to persons eighteen (18) years of age or older and such age must be identified by photo identification.
    H. Smoking is not permitted in areas used for retail sale or storage of fireworks.
    I. The applicant must produce a Certificate of Insurance indicating the applicant has liability coverage. The Certificate must demonstrate the insurer has been notified of the type and quantity of consumer fireworks kept on the premises.

5. License Period and License Fee

Licenses shall be issued for a calendar year. The license fee shall be established by the City Council.

6. Revocation of License.

Following written notice and an opportunity for a hearing, the City Council may revoke a license for violation of the Subdivision or state law concerning the sale, use or possession of fireworks. If a license is revoked, neither the applicant nor the licensed premises may obtain a license for twelve (12) months.

SECTION 8.06. DANGEROUS TRESPASSES AND OTHER ACTS.

Subdivision 1. It is unlawful for any person to:

1. Smoke in the presence of explosives, °F 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 a 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 refuse to depart there from on demand of the lawful possessor; or,

10. Occupy or enter 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.

SECTION 8.07 RESERVED FOR FUTURE EXPANSION

SECTION 8.08. DISORDERLY CONDUCT.

Subdivision 1.

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

1. Engage in brawling or fighting; or,

2. Disturb an assembly or meeting, not unlawful in its character; or,

3. Engage in offensive, obscene or abusive language or in boisterous and noisy conduct tending reasonably to arouse alarm, anger or resentment in others; or,

4. Willfully and lewdly expose their person or the private parts thereof, or procure another to so expose himself; and any open or gross lewdness or lascivious behavior, or any act of public indecency; or

5. Whether or not posted with signs so prohibiting, voluntarily enter the waters of any river or public swimming pool at any time when said waters are not properly supervised by trained life-saving personnel in attendance for that purpose, or enter such waters without being garbed in a bathing suit sufficient to cover his person and equal to the standards generally adopted and accepted by the public; or,

6. Urinate or defecate in a place other than

    A. If on public property then in a plumbing fixture provided for that purpose, or
    B. If on the private property of another then in a plumbing fixture provided for that purpose, or
    C. If on private property not owned or controlled by another, then within a building; or,

7. Cause the making or production of an unnecessary noise by shouting or by any other means or mechanism including the blowing of any automobile or other vehicle horn; or,

8. Use a sound amplifier upon streets and public property without prior written permission from the City; or,

9. Use a flash or spotlight in a manner so as to annoy or endanger others; or,

10. Cause defacement, destruction, or otherwise damage to any premises or any property located thereon; or,

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

12. Enter any motor vehicle of another without the consent of the owner or operator; or,

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

SECTION 8.09. DISORDERLY CONDUCT-NOISE

Subdivision 1. General Provisions

It is unlawful to engage in acts or activities, which are defined to be loud, disturbing and unnecessary noises in violation of this Section. The following enumeration of acts deemed and declared to be loud, disturbing and unnecessary noises in violation of this Section is intended to constitute a listing of examples of such loud, disturbing and unnecessary noises, which listing shall not be deemed to be exclusive.

Subdivision 2. Gathering, Party/Noise

1. Prohibition. It is unlawful for any person to, between the hours of 10:00 P.M. and 7:00 A.M., congregate at, or participate in any party or gathering of two or more people from which noise emanates of a sufficient volume so as to disturb the peace, quiet, or repose of another person. It is also unlawful for any person to knowingly remain at such a noisy party or gathering.

2. A person shall not permit or participate in any party or other gathering of people on public or private property which causes unreasonably loud noise that it disturbs the peace, quiet and comfort of others and interferes with the right of another to use peacefully his/her property or public property without disturbance.

3. It is unlawful to yell, shout, hooting, whistle or sing at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel, motel, or other place of residence, or of any person in the vicinity.

4. 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.

5. Evidence. It shall be presumed that a violation of this Section has occurred when any noise from a gathering is plainly audible at a distance of 50 feet or more between the hours of 10:00 p.m. and 8:00 a.m.

6. Duty to Disperse. When a police officer has probable cause that a violation of this Section is occurring, the officer may order all persons present, other than the owner or tenant of the premises, to disperse and leave the premises immediately. It shall be a

violation of this Section for any person to refuse to leave after being so ordered by the police officer.

7. Exceptions. The following are exempt from violation of this Section:

A. Activities which are duly authorized, sponsored or licensed by the City, so long as the activity is conducted pursuant to the conditions of the license, permit or contract authorizing such activity.

B. Church bells or chimes.

C. Persons who have gone to the party for the sole purpose of abating the violation.

Subdivision 3. Sound Equipment

No person shall use or operate any electronic sound system or audio equipment, including but not limited to any compact disc player, cassette tape player, AM-FM radio, citizens band radio, paging system, phonographs or any other device designed to produce or reproduce audio sound, in such a manner that it disturbs the peace, quiet and comfort of others in the neighborhood or interferes with the right of another to use peacefully his/her property or public property without disturbance.

A. It shall be presumed that a violation of the Section has occurred when any electronic sound system or audio equipment is operated in a manner in which it is plainly audible at a distance of 50 feet or more between the hours of 10:00 p.m. and 8:00 a.m. It shall be presumed that a violation of this Section has occurred when any electronic sound system or audio equipment is operated in a manner in which it is plainly audible at a distance of 100 feet or more between the hours of 8:00 a.m. and 10:00 p.m.

B. When sound violating this section is produced by an electronic sound system or audio equipment that is located in or on a vehicle, the vehicle's owner is guilty of the violation, provided that if the vehicle's owner is not present, the person in charge of the vehicle at the time of the violation is guilty of the violation.

C. This section shall not apply to sound produced by the following:

1. Amplifying equipment used in connection with activities for which a permit has been granted or in connection with any organized school, church, or other event or activity open to the public;
2. Anti-theft device;
3. Church bells, chimes or carillons, school bells or emergency civil defense warning signals; and
4. Authorized emergency vehicles or other vehicles required by law to be equipped with sound devices.

Subdivision 4. Excessive Vehicle Noise.

1. Definitions. The following terms shall have the meaning stated:

    A. "Engine Retarding Brake" means a Dynamic Brake, Jake Brake, Jacobs Brake, C-Brake, Paccar Brake, Transmission Brake or other similar engine retarding brake system, which alter the normal compression of the engine and subsequently releases that compression.

    B. "Abnormal or Excessive Noise"
        1) Means distinct and loudly audible noise that unreasonably annoys, disturbs, injures or endangers the comfort and repose of any person or precludes their enjoyment of property or affects their property's value;
        2) Noise in excess of that permitted by Minnesota Statute 169.69, as it may be amended from time to time, which requires every motor vehicle to be equipped with a muffler in good working order; or
        3) Noise in excess of that permitted by Minnesota Statute 169.693 and Minnesota Rules Parts 7030.1000 through 7030.1050, as this statute and these rules may be amended from time to time, which establish motor vehicle noise standards.

2. Mufflers/Exhaust. It is unlawful for any person to discharge the exhaust or permit the discharge of the exhaust of any stationary internal combustion engine, motor boat, motor vehicle, motorcycle, all terrain vehicle, snowmobile or any recreational device except through a muffler that effectively prevents abnormal or excessive noise and complies with all applicable state laws and regulations.

3. Engine Retarding Brake. It is unlawful for any operator of any truck to intentionally use an engine retarding brake on any public highway, street, parking lot or alley within the City, which causes abnormal or excessive noise except in an emergency.

4. Sign Posting. Signs Stating "VEHICLE NOISE LAWS ENFORCED" may be installed at locations deemed appropriate by the Council to advise motorists of the prohibitions contained in these sections and signs prohibiting Jake braking may be installed at locations deemed appropriated by the City Council, except no signs shall be installed on any State Highway without the permission of the Minnesota Department of Transportation. The provisions are in full force and effect even if no such signage is installed.

Subdivision 5. Construction Noise.

The erection (including excavating), demolition, alteration or repair of any building between the hours of 9:00 P.M. and 6:00 A.M. on weekdays and all day Sunday except where single individuals or families work on single family residences for their own occupancy owned by them, except that the Building Inspector may, in cases of

emergency, grant permission to repair at any time when it finds that such repair work will not affect the health and safely of the person in the vicinity.

Subdivision 6. Exemptions.

Upon special request made by contractors, the Council may exempt contractors performing public works operations from time prohibitions set forth in this Section.

Subdivision 7. Filing.

The City Clerk shall file a copy of this ordinance in the office, which copy shall be available for inspection by any person during regular office hours.

Subdivision 8. VIOLATION A MISDEMEANOR

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

SECTION 8.10 TOBACCO

Subdivision 1. Minor Defined.

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

Subdivision 2. Possession by Minor.

It is unlawful for any minor to have in his or her possession any tobacco, tobacco products, or tobacco related devises. This subdivision shall not apply to a minor lawfully involved in a compliance check.

Subdivision 3. Use by Minor.

It is unlawful for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco products, or tobacco related devices.

Subdivision 4. Procurement by or for a Minor.

It is unlawful:

1. For any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco products, or tobacco related devices;

2. For any person to purchase or otherwise obtain such items on behalf of a minor;

3. For any person to sell or otherwise provide any tobacco, tobacco products, or tobacco related devices to any minor;

4. For any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco products, or tobacco related devices;

5. This subdivision shall not apply to minors lawfully involved in a compliance check.

Subdivision 5. Use of False Identification.

It is a violation of this Section for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

Subdivision 6. Exceptions and Defenses.

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

Subdivision 7. Minors.

Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, or tobacco related devices, shall be charged under the appropriate provisions of Minnesota Law.

SECTION 8.11. CURFEW

Subdivision 1. Definition.

As used in this Section "minor" means a person under the age of Eighteen (18) years.

Subdivision 2. Unlawful Acts.

1. It is unlawful for any minor person to be or loiter upon the streets or public places between the hours of 11:00 o'clock P.M. and 5:00 o'clock A.M. of the day following.

2. It is unlawful for any parent, guardian, or other person having the legal care or custody of any minor to allow or permit such minor person to be or loiter upon the streets or public

places in violation of this Section unless such minor is accompanied by a parent or guardian.

3. It is unlawful for any person operating, or in charge of, any place of amusement, entertainment or refreshment, or other place of business, to allow or permit any minor to be or loiter in such place in violation of this Section unless such minor is accompanied by a person of lawful age having such minor in charge. This Subparagraph shall not be construed to permit the presence, at any time, of any person under age in any place where their presence is otherwise prohibited by law.

Subdivision 3. Exceptions.

Such curfew shall not apply to any minor student who is lawfully attending, going to or returning from school, church or community sponsored athletic, musical or social activities or events.

SECTION 8.12 ANIMAL LICENSING AND REGULATION See Ordinance #3-14, #5-19

Subdivision 1. Definitions.

For the purpose of this Section:

A. "Animal" shall mean any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as part of the animal kingdom. Animals shall be classified as follows:

1. "Domestic animals" shall mean those animals commonly accepted as domesticated household pets. Unless otherwise defined, such animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.

2. "Non-Domestic animals" shall mean those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, such animals shall include:

(a) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.
(b) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.
(c) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.

(d) Any member or relative of the rodent family including any skunk (whether or not descented), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets.
(e) Any poisonous, venomous, constructing, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.
(f) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this subpart, including but not limited to bears, deer, monkeys and game fish

3. "Farm animals" shall mean those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, such animals shall include members of the equestrian family (horses, mules), bovine family (cows, bulls), llamas, sheep, poultry, (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese potbellied pigs), goats, and other animals associated with a farm, ranch or stable.

4. "Bees" shall mean any stage of the common honeybee, Apis mellifera, or other Bees kept for the production of honey or wax.

5. "Chickens or Hen Bantams" shall mean a domesticated bird that serves as a meat or egg source.

B. "Dangerous Animal" shall mean an animal which has caused damage to property or injury to a person, or which animal, by its actions, exhibits a propensity for causing imminent danger to persons or other domestic animals.

C. "Running at Large" shall mean off the premises of the owner and not under the custody and control of the owner or his agent, either by leash, cord, chain, kennel or otherwise restrained or confined.

<u>Subdivision 2. Ownership of Animals.</u>

A. Domestic. The keeping of domestic animals is allowed provided the standards required in Subd. 8 are met.

B. Non-Domestic. It shall be illegal for any person to own possess, harbor or offer for sale any non-domestic animal within the city's limits. Any owner of such an animal shall have thirty days once notified in which to remove the animal from the City after which time the City may remove the animal. An exception shall be made to this prohibition for animals brought into the City as part of an operating zoo, scientific research laboratory, or a show or exhibition.

C. Farm. The keeping of farm animals, with the exception of bees *and residential backyard chickens*, will be allowed as a conditional use in the Farm Animal Overlay District when the requirements of Subdivision 6 are met. An exception shall be made for animals brought into the City as part of an operating zoo, scientific research laboratory, veterinarian clinic, or show or exhibition.

D. Bees. The keeping of bees will be allowed as a conditional use in the Residential (R) and General Commercial (C-2) Districts when the requirements as found in Subdivision 7 are met.

E. Residential Backyard Chickens. The keeping of hens and hen bantams in the Residential (R) District consisting of a single-family dwelling unit are allowed when the requirements as found in Subdivision 9 are met.

Subdivision 3. Animals in Transit**.** It is unlawful for any person to transport animals unless they are:

A. Confined within a vehicle, cage or other means of conveyance, or,

B. Restrained by means of bridles, halters, ropes or other means of individual restraint.

Subdivision 4. Treatment. It is unlawful for any person to keep any animal as herein defined, or any other animal, in any structure infested by rodents, vermin, flies or insects or inadequate for protection against the elements.

Subdivision 5. Trespass. 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 from the owner.

Subdivision 6. Keeping of Farm Animals.

A. Definitions.

For the purpose of this Section:

1. Animal Unit. Animal unit is a standard measure for animals used for agricultural purposes. One thousand pounds equals one animal unit. Animal type and unit factor assigned to that animal are as follows:

Dairy Cattle		**Beef Cattle**		**Chicken**	
Cow over 1,000 lbs.	1.4	Slaughter steer of stock cow	1	Laying hen or broiler (liquid	.033

				manure system)	
Cow under 1,000 lbs.	1	Feeder cattle or heifer	0.7	Chicken over 5 lbs. (dry manure system	.005
Heifer	0.7	Cow & Calf Pair	1.2	Chicken under 5 lbs. (dry manure system)	.003
Swine		**Horse**	1	**Turkeys**	
Over 300 lbs.	0.4	**Sheep & Lambs**	0.1	Over 5 lbs.	0.018
Between 55 and 300 lbs.	0.3	**Llamas**	0.4	Under 5 lbs.	0.005
Under 55 lbs.	0.05			**Ducks**	0.01

2. Grazing Area. A supervised fenced area that provides space for exercise and foraging.

B. Ownership of Farm Animals.

1. The keeping of farm animals will be allowed as a conditional use in the Farm Animal Overlay District when the requirements found in this Subdivision are met. An application for a Conditional Use Permit shall be made to the City upon forms furnished by the City prior to the acquisition of any farm animal.

2. Farm animals are prohibited on property of less than one acre.

3. The minimum number of acres needed per animal unit for all animals with the exception of poultry and fowl is as follows:

Number of Animal Units	Minimum Number of Acres Required
1	1 – 2.5
2	2.5 – 5
3	5 - 7.5
4	7.5 – 10
5	10 – 14
6	14+

4. Fowl and poultry shall be limited to 10 per acre, up to a maximum of 120 animals.

5. The unit factor of thirty (30) or less fowl/ poultry will not be included when determining total number of animal units allowed on a property. The unit factor will be included when there are thirty-one (31) or more fowl/ poultry.

C. Permit Application Requirements

An application shall be filed with the Zoning Administrator on a form prescribed by the City. The following information is required:

1. Names and address of property owner, parcel number and legal description of the property.

2. Types and number of animal units for the intended farm animals.

3. A site plan or survey showing size of property, location of house(s), other buildings, fences and grazing areas.

4. If the fence is electrically charged, the location(s), dimensions and text of signage that notifies the public.

5. A detailed description of the manner in which feed will be stored, hay, straw and other bedding materials will be stored, manure and dead animals will be removed and odor and noise controlled.

D. Setbacks

1. Existing structures in place on the date of ordinance enactment shall be exempt provided the structure meets structure standards as found in Section E of this subdivision.

2. All structures and grazing areas shall be located on the rear lot.

3. Structures shall be no more than two and one half (2 ½) stories or thirty (30) feet maximum height.

4. Side and Rear Yard Setbacks required for all farm animals including fowl and poultry:

No. of Animal Units	Structure Setback	Grazing Area Setback
1	20’	10’
2	20’	15’
3	20’	15’
4	20’	20’
5	20’	20’
6	20’	30’

E. Structures

1. Any new structure or existing structure proposed for conversion to house farm animals shall be located in the rear yard of the lot.

2. The structure shall be designed and constructed to provide safe and healthy living conditions for farm animals while minimizing adverse impacts to neighboring lot owners.

3. The structure shall be well maintained. The use of scrap, waste board, sheet metal or similar materials as construction material is prohibited.

F. Fencing of Roaming and Grazing Areas.

1. Roaming and grazing areas shall be securely enclosed with suitable fencing materials that meet the requirements of Section 9.51, Permits and Requirements for Fences, Walls or Hedges.

2. Fences used to enclose grazing and roaming areas may be barbed wire or charged with electric current.

3. Fences charged with electric current shall have a warning sign of suitable size on each side of any roaming and grazing area.

G. Storage of Feed. Farm animal feed with the exception of hay or similar feed must be stored in leak-proof containers with a tight-fitting cover to prevent the attraction of vermin.

H. Hay, Straw and Other Bedding Materials

1. Hay, straw and other bedding materials must be stored in a structure or screened in a manner so they are not visible off the property.

2. Hay, straw and other bedding materials must be stored in a manner that does not attract rodents or other vermin.

I. Waste Storage and Removal

1. The property on which farm animals are kept shall be clean from filth, garbage, and any substance that attracts rodents or other vermin. The property must be cleaned frequently enough to control odor.

2. Manure shall not be allowed to accumulate in a way that causes an unsanitary condition or causes odors detectible on neighboring properties.

3. Dead animals shall not be composted.

4. Dead animals must be removed from the property within 72 hours of death.

J. Odor and Noise

1. Excessive odor shall not be perceptible at the property boundaries
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2. Excessive noise shall not be perceptible at the property boundaries.

K. Impounding

1. Any farm animal found in the City running at large, or otherwise in violation of this Section, shall be placed in an Animal Pound, and an accurate record of the time of such placement shall be kept on each animal.

    a. Every animal so placed in an Animal Pound shall be held for redemption by the owner for a period of at least five regular business days.

    b. Impoundment records shall be preserved for at least six months and shall show:

        i. The description of the animal by specie, breed, sex, approximate age, and other distinguishing traits;

        ii. The location at which the animal was seized;

        iii. The date of seizure;

        iv. The name and address of the person from whom any animal was received; and,

        v. The name and address of the person to whom any animal three months of age or over was transferred. If unclaimed, such animal shall be humanely destroyed and the carcass disposed of, unless it is requested by a licensed educational or scientific institution under authority of Minnesota Statutes, Section 35.71

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2. Notice of Impounding. Upon the impounding of any animal, the owner shall be notified by the most expedient means, or if the owner is unknown, written notice shall be posted for five days at the City Hall describing the animal and the place and time of taking.

3. Release From Animal Pound. Animals shall be released to their owners, as follows:

    a. If such animal is owned by a resident of the City, after determination that the owner has a conditional use permit to own farm animals within city limits, and the impounding fee and maintenance cost have been paid.

    b. If such animal is owned by a person not a resident of the City, after payment of the impounding fee and maintenance.

4. Seizure by a Citizen.

    a. It is lawful for any person to seize and impound a farm animal so found running at large and shall within six hours thereafter notify the Police Department of said seizure.

    b. It shall be the duty of the Police Department to place said farm animal in the City Pound. If the name of the owner of such animal so seized is known to the person who first takes such animal into custody, he or she shall inform the Police Department of the name of the owner, and the address if known.

5. Immobilization of Animals**.**

    For the purpose of enforcement of this Section any peace officer, or person whose duty is animal control, may use a so-called tranquilizer gun or other instrument for the purpose of immobilizing and catching a farm animal.

6. Summary Destruction.

    If a farm animal is diseased, vicious, dangerous, rabid or exposed to rabies and such animal cannot be impounded after a reasonable effort or cannot be impounded without serious risk to the person attempting to impound, such animal may be destroyed in a humane manner.

L. General Provisions

1. Outdoor slaughtering and processing is prohibited.

2. No person shall keep roosters, or adult male chickens.

3. Cockfighting is prohibited.

4. Breeding farm animals with the intent of establishing a business that regularly sells farm animals is expressly prohibited. The incidental sale of farm animals or sales to maintain animal unit limits or limits established by this ordinance is permitted.

Subdivision 7 Keeping of Bees

A. Definitions.

For the purpose of this Subdivision:

1. Apiary - Any place or location where one or more Colonies or Nuclei of Bees are kept

2. Beekeeper - A person who owns or has charge of one or more Colonies of Bees.

3. Beekeeping Equipment - Anything used in the operation of an Apiary, such as Hive bodies, supers, frames, top and bottom boards and extractors.

4. Bees - Means any stage of the common Honeybee, Apis mellifera, or other Bees kept for the production of honey or wax.

5. Colony - Means an aggregate of Bees consisting principally of workers, but having, when and at times drones, brood, combs, and honey.

7. Hive - The receptacle inhabited by a Colony that is manufactured for that purpose. One Hive houses one swarm consisting of one queen and worker Bees

8. Honey Bee - All life stages of the common domestic Honey Bee, Apis mellifera species, or other Bees kept for the production of honey or wax.

9. Nucleus Colony - A small quantity of Bees with a queen housed in a smaller than usual Hive box designed for a particular purpose.

B. Ownership of Bees.

The keeping of bees will be allowed as a conditional use in the Residential (R) and General Commercial District (C-2), when the requirements as found in this Subdivision are met. An Application for a Conditional Use Permit shall be made to the City upon forms furnished by the City prior to installing, altering or establishing a Colony of Bees within a Hive.

C. Permit Application Requirements:

An application shall be filed with the Zoning Administrator on a form prescribed by the City. The following information is required:

1. Names and address of beekeeper and property owner, parcel number and legal

description of property.

2. Number of hive(s) to be placed on property.

3. Current zoning of the property.

4. A site plan or survey, showing size of property, location of house(s) and other buildings on the property, location of structures on abutting properties, location of sidewalk(s), location of required water source, and location, dimensions, and text of sign notifying the public that bees and hive(s) are present.

5. Location of any schools or licensed child day care center within 200 feet.

D. Requirements for Hives:

1. Honey Bee Colonies may be kept only upon a Lot containing not more than a single dwelling unit, and within the Residential (R) and General Commercial (C-2) Districts, with the exception of Block 2, 3, 4, 5, Original Townsite.

2. Each Beekeeper shall ensure that a convenient source of water is available within twenty-five (25) feet of the Hive, stand boxes or apiaries.

3. No Bees shall be kept upon any land not owned or possessed by the keeper of such Bees.

4. A conspicuous sign(s) of suitable size and text identifying the site as housing Bees and warning of danger shall be posted in suitable location(s).

5. No person shall establish or maintain any Hive or keep any Bees on any premises within 50 feet of any occupied dwelling, except the dwelling of the owner of such Bees, or within 25 feet of any property line, sidewalk, alley or other public way as measured from the nearest point on the Hive to the property line, sidewalk, alley or other public right of way.

6. No Hive shall be kept or maintained within 200 feet of a school or licensed child day care center.

7. No Colony or Hive shall be kept or maintained within any front yard.

8. Colony Density.

    a. The number of colonies on any residential or general commercial tract shall be determined by the Planning and Zoning Commission during the Conditional Use Public Hearing in consultation with the beekeeper. The following tract size and number of colonies guidelines shall be considered:

i. One quarter-acre or less tract size: 2 colonies

ii. More than one-quarter acre but less than one-half acre tract size: 4 colonies

iii. More than one-half acre but less than one acre tract size: 6 colonies

iv. One acre or larger tract size: 8 colonies

b. Regardless of tract size, where all hives are situated at least 200 feet in any direction from all property lines of the tract on which the apiary is situated, there shall be no limit to the number of colonies.

c. Regardless of tract size, so long as all property other than the tract upon which the hives are situated, that is within a radius of at least 200 feet from any hive, remains undeveloped property, there shall be no limit to the number of colonies.

E. Standards of Practice.

1. Each Beekeeper shall maintain Beekeeping Equipment in good condition, including keeping the Hives painted if they have been painted but are peeling or flaking, and securing unused equipment from weather, potential theft or vandalism and occupancy by swarms. It shall not be a defense to this ordinance that a Beekeeper's unused equipment attracted a swarm and that the Beekeeper is not intentionally keeping Bees.

2. Nothing in this article shall be deemed or construed to prohibit the keeping of Bees within a school for the purpose of observation, or within a physician's office or laboratory for the purpose of medical research, treatment, or other scientific purposes.

3. If the Beekeeper serves the community by removing a swarm or swarms of Honey Bees from locations where they are not desired, the Beekeeper shall not be considered in violation of the portion of this ordinance limiting the number of Colonies if they temporarily house the swarm on the Apiary Lot in compliance with the standards of practice set out in this ordinance for no more than 30 days from the date acquired.

4. Honey Bee Colonies shall be kept in Hives with removable frames, which shall be kept in sound and usable condition.

5. Each Beekeeper shall ensure that no wax comb or other material that might encourage robbing by other Bees is left upon the grounds of the Apiary Lot. Such materials once removed from the site shall be handled and stored in sealed containers, or placed within a building or other insect-proof container.

6. For each Colony permitted to be maintained under this ordinance, there may also be

maintained upon the same Apiary Lot, one Nucleus Colony in a Hive structure not to exceed one standard 9-5/8 inch depth 10-frame Hive body with no supers.

Subdivision 8. Domestic Animals

A. Licensing of Dogs and Cats

1. License Required. It is unlawful for the owner of any dog or cat, six months of age or more, to fail to obtain a license therefore from the City.

2. Exceptions, Police Dogs and Service Animals. The provisions of this subchapter shall not apply to the ownership or use of seeing-eye dogs by blind persons, or dogs used in police activities of the city, such as canine corps or tracking dogs used by or with the permission of the Police Department. If the animal owned is a service animal which is capable of being properly identified as from a recognized school for seeing-eye, hearing ear, service or guide animals, and the owner is a blind or deaf person, or a person with physical or sensory disabilities, then no license shall be required.

3. License Issuance, Term and Renewal. All dog and cat licenses shall be issued only upon presentation of a certificate issued by a veterinarian, licensed to practice veterinary medicine in the State of Minnesota, showing rabies immunization of the animal for at least the term of the license. All dog and cat licenses shall expire on July 31 every second year, licenses being issued biennially. Application for license renewal, accompanied by a veterinarian's certificate, shall be made at least thirty (30) days prior to expiration of the license. Licensing shall not apply to the ownership or use of Seeing Eye dogs by blind persons, dogs used in police activities of the City, dogs whose owners are non-residents temporarily within the city, or dogs brought into the city for the purpose of participating in any dog show.

4. Tag Required. All licensed dogs and cats shall wear a collar and have a tag firmly affixed thereto evidencing a current license. A duplicate for a lost tag may be issued by the City upon presentation of the receipt showing the payment of the duplicate license fee. Tags shall not be transferable, and no refund shall be made on any license fee because of leaving the City or death of the animal before the expiration of the license. This provision shall not apply to animals that never leave the home.

5. Number Domestic Animals Permitted. It is unlawful for an owner of domestic animals to own more than a combination of three (3) animals, except that a fresh litter of animals may be kept for a period of six (6) months.

B. Running at Large Prohibited**.**

It is unlawful for any person who owns, harbors, or keeps a dog, cat or any other domestic animal to permit that animal to run at large. Dogs or cats on a leash and

accompanied by a responsible person or accompanied by and under the control and direction of a responsible person, so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the city has posted an area with signs reading “Dogs or Cats Prohibited.”

C. Impounding.

1. Any dog, cat or other domestic animal found in the City without a license tag, running at large, or otherwise in violation of this Section, shall be placed in the Animal Pound, and an accurate record of the time of such placement shall be kept on each animal.

2. Every dog, cat or other domestic animal so placed in the Animal Pound shall be held for redemption by the owner for a period of at least five regular business days. A "regular business day" is one during which the Pound is open for business to the public for at least four hours between 8:00 o'clock A.M. and 7:00 o'clock P.M.

3. Impoundment records shall be preserved for at least six months and shall show:

    a. The description of the animal by specie, breed, sex, approximate age, and other distinguishing traits;

    b. The location at which the animal was seized;

    c. The date of seizure;

    d. The name and address of the person from whom any animal three months of age or over was received; and,

    e. The name and address of the person to whom any animal three months of age or over was transferred. If unclaimed, such animal shall be humanely destroyed and the carcass disposed of, unless it is requested by a licensed educational or scientific institution under authority of Minnesota Statutes, Section 35.71. Provided, however, that if a tag affixed to the animal, or a statement by the animal's owner after seizure specifies that the animal should not be used for research, such animal shall not be made available to any such institution but may be destroyed after the expiration of the five-day period.

4. Notice of Impounding.

    Upon the impounding of any dog, cat or domestic animal, the owner shall be notified by the most expedient means, or if the owner is unknown, written notice shall be posted for five days at the City Hall describing the animal and the place and time of taking.

5. Release From Animal Pound.

Dogs, cats and other domestic animals shall be released to their owners, as follows:

a. If such domestic animal is owned by a resident of the City, after purchase of a license, if unlicensed, and payment of the impounding fee and maintenance.

b. If such domestic animal is owned by a person not a resident of the City, after immunization of any such animal for rabies, and payment of the impounding fee and maintenance.

6. Seizure by a Citizen.

a. It is lawful for any person to seize and impound a dog, cat or other domestic animal so found running at large and shall within six hours thereafter notify the Police Department of said seizure.

b. It shall be the duty of the Police Department to place said dog, cat or other domestic animal in the City Pound. If the name of the owner of such animal so seized is known to the person who first takes such animal into custody, he or she shall inform the Police Department of the name of the owner, and the address if known.

7. Immobilization of Animals**.**

For the purpose of enforcement of this Section any peace officer, or person whose duty is animal control, may use a so-called tranquilizer gun or other instrument for the purpose of immobilizing and catching a dog, cat or other domestic animal.

8. Summary Destruction.

If a dog, cat or other domestic animal is diseased, vicious, dangerous, rabid or exposed to rabies and such animal cannot be impounded after a reasonable effort or cannot be impounded without serious risk to the person attempting to impound, such animal may be destroyed in a humane manner.

D. Rabies Control - Generally.

1 Every dog or cat which bites a person shall be promptly reported to the Police Department and shall thereupon be securely quarantined at the direction of the duty officer for a period of fourteen (14) days, and shall not be released from such quarantine except by written permission of the City. In the discretion of the duty officer, such quarantine may be on the premises of the owner or at the veterinary hospital of duty officer's choice. If the animal is quarantined on the premises of the owner, the City shall have access to the animal at any reasonable time for study and observation of rabies symptoms. In the case of a stray animal or in the case of an

animal whose ownership is not known, such quarantine shall be at the animal pound, or at the discretion and designation of the Chief of Police the animal may be confined in a veterinary hospital

2. The owners, upon demand made by the Police Department or its designee, shall forthwith surrender any dog or cat which has bitten a human, or which is suspected as having been exposed to rabies, for the purpose of supervised quarantine. The expenses of the quarantine shall be borne by the owner and the animal may be reclaimed by the owner if adjudged free of rabies upon payment of fees set forth in this Section and upon compliance with licensing provisions set forth in this Section.

3. When a dog or cat under quarantine and diagnosed as being rabid or suspected by a licensed veterinarian as being rabid dies or is killed, the City shall immediately send the head of such animal and rabies data report to the State Health Department for pathological examination and shall notify all persons concerned of the results of such examination.

4. The City shall issue such proclamation and take such action when rabies is suspected or exists as is required by Minnesota Statutes.

5. Reports of Bite Cases.

   It is the duty of every physician, or other practitioner, to report to the Police Department the names and addresses of persons treated for bites inflicted by dogs or cats, together with such other information as will be helpful in rabies control.

6. Responsibility of Veterinarians.

   It is the duty of every licensed veterinarian to report to the Police Department the diagnosis of a dog or cat observed by the licensed veterinarian as a rabies suspect.

E. Animals in Heat.

Except for controlled breeding purposes, every female dog or cat in heat shall be kept confined in a building or secure enclosure, or in a veterinary hospital or boarding kennel, in such manner that such female animal cannot come in contact with other animals.

F. Animal Waste.

1. It is unlawful for any owner to:

   a. Permit a dog, cat or other domestic animal to defecate upon public property, or the private property of another, without immediately removing the excrement and disposing of it in a sanitary manner;
   b. Permit a dog, cat or other domestic animal to be upon public property, or the private property of another, unless such animal is in the custody of a person of

suitable age and discretion having in his possession equipment and supplies for excrement removal;

c. Permit excrement to accumulate for a period in excess of seven (7) days on premises occupied by the owner without removal and sanitary disposal.

G. Habitual Barking.

It shall be unlawful for any person to keep or harbor a dog, which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least three (3) minutes with less than one (1) minute of interruption. Such barking must also be audible off of the owner or caretaker's premises.

H. Damage to Property.

It shall be unlawful for any person's dog or cat to damage any lawn, garden, or other property, whether or not the owner has knowledge of the damage. Any animal covered by this subdivision may be impounded as provided in this Section or a complaint may be issued by anyone aggrieved by an animal under this Section, against the owner of the animal for prosecution under this Section.

I. Staking of Dogs.

1. Any owner who chooses to restrain or control a dog by affixing a leash to a stake, picket, or other immobile object must do so in a manner that restrains the animal as follows:

10 feet from any property line;

10 feet from any sidewalk.

J. Regulations of Kennels.

1. Any owner who chooses to restrain a dog in a fenced or caged area, also known as a kennel, must do so in a manner as follows:

a. Locate such kennel 10 feet from any property line;

b. Such kennel may not be located in the front yard;

c. The minimum floor size of such kennel must be 32 square feet;

d. The side walls of the kennel shall have a minimum height of 5 feet and be constructed of 11 gauge or heavier wire;

e. The kennel area shall provide for some coverage to protect the animal from the elements;

f. The entrance or gate shall be equipped with a device capable of being secured in a fashion suitable to prevent the animal from escaping.

Subdivision 9. Residential Backyard Chickens

The keeping of hens and hen bantams in the residential zoned areas of the city on property consisting of a single-family dwelling is allowed, subject to the following:

A. License Required.

Any person who keeps hens or hen bantams in the City shall obtain a license from the City prior to acquiring the hens or hen bantams. Application shall be made to City Hall, and the fee for the license shall be set by ordinance or resolution.

B. License Period.

Licenses are valid for the calendar year and shall expire and become invalid on December 31st at the end of the calendar year after the date of issuance; prorating the fee is not allowed. A person who wishes to continue keeping hens or hen bantams shall have obtained a new license on or before January 1st. Application for a new license shall be pursuant to the administrative procedures and requirements that are applicable at the time the person applies for a new license.

C. Ownership of Backyard Chickens.

A person who keeps or houses hens or bantams on his or her property shall comply with all of the following requirements:

1. *No more than (6) hens and/or hen bantams may be kept on any one zoning lot. Hereinafter "hens" and "hen bantams" will be referenced collectively as "chickens."*

2. *The principal use of the property shall be a single-family dwelling, and the license applicant must be the owner of the property.*

3. *No person shall keep any rooster.*

4. *No person shall slaughter any chickens.*

5. *Chicken fighting shall not be allowed within city limits.*

6. *All persons keeping chickens must have a chicken coop to house the chickens and a chicken run. The coop and chicken run must meet the following minimum requirements:*
    a. *The coop must be fully enclosed, windproof, and meet accessory structure standards as found in Section 9.11 Subdivision 4.5.*

b. *The coop shall comply with current zoning and building codes.*
c. *The coop shall contain at least four (4) square feet of floor area per chicken.*
d. *The chicken run shall comply with current zoning codes.*
e. *The chicken run shall require fence and be securely constructed with mesh type material and be attached to the coop.*
f. *The chicken run shall be fully enclosed with mesh type material or other enclosing material to prevent escapes or interferences with outside animals.*
g. *The chicken run shall provide at least ten (10) square feet of open area per chicken.*

7. *A person shall not keep chickens in any location on the property other than in the chicken coop and chicken run in the rear yard. For purposes of this section "rear yard" means that portion of a lot enclosed by the property's rear lot line and the side lot lines to the points where the side lot lines intersect with an imaginary line established by the rear of the dwelling and extending to the side lot lines.*

8. *No chicken coop or chicken run shall be located closer than ten (10) feet to any property line of an adjacent property.*

9. *No chicken coop or chicken run shall be located closer than thirty (30) feet to any primary residential dwelling on another person's property.*

10. *Chickens shall not be housed in a dwelling or an attached or detached garage.*

11. *The chicken coop and chicken run shall be constructed or repaired to prevent rats, mice, or other rodents from being harbored underneath, within, or within the walls of the enclosure.*

12. *All feed and other items associated with the keeping of chickens that are likely to attract or to become infested with or infected by rats, mice, or other rodents shall be protected so as to prevent rats, mice, or other rodents from gaining access to or coming into contact with the food and other associated items.*

13. *All premises on which chickens are kept or maintained shall be kept in a clean, sanitary, and healthy manner from filth, garbage, and any substances and all droppings and body excretions collected weekly. All waste must be property disposed of or composted.*

14. *Dead chickens shall be disposed of according to the Minnesota Board of Animal Health rules, which require chicken carcasses to be disposed of as soon as possible after death, usually within 48 to 72 hours. Legal forms of*

chicken carcass disposal include offsite burial, offsite incineration or rendering, or offside composting.

15. *Coop and run must be removed or refurbished for other allowed accessory structure uses if keeping of chickens is discontinued for more than 12 months.*

16. *A person who has been issued a license freely and voluntarily consents to a search and examination of the chicken enclosure in his/her rear yard upon demand by any Police Officer or Code Enforcement Officer.*

D. Penalty.

If any of the above requirements are not complied with, the City may revoke any license granted under this section and/or initiate prosecution of the license holder and/or any other person violating the code.

Subdivision 10. Adoption of Fees.

All fees for conditional use permitting, licensing, impounding and maintenance of animals, including penalties for late application, may be fixed and determined by the Council, adopted by resolution, and uniformly enforced. Such fees may from time to time be amended by the Council by resolution. A copy of the resolution setting forth currently effective fees shall be kept on file in the office of the City Administrator and open to inspection during regular business hours.

Subdivision 11. Penalty**.**

Any violation of this section is punishable as a petty misdemeanor.

Section 8.13 Regulation of Potentially Dangerous and Dangerous Dogs See Ordinance #3-14

Subdivision 1. Terms.

A. Dangerous Dog. "Dangerous dog" means any dog that has:
   1. Without provocation, inflicted substantial bodily harm on a human being on public or private property;
   2. Killed a domestic animal without provocation while off the owner's property; or
   3. Been found to be potentially dangerous, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

B. Potentially Dangerous Dog. "Potentially dangerous dog" means any dog that:
   1. When unprovoked, inflicts bites on a human or domestic animal on public or private property;

2. When unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the dog owner's property, in an apparent attitude of attack; or
3. Has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

C. Proper Enclosure. "Proper enclosure" means securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the animal from escaping and providing protection from the elements for the dog. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only obstacles that prevent the dog from exiting.

D. Owner. "Owner" means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody, or control of a dog.

E. Substantial Bodily Harm. "Substantial bodily harm" has the meaning given it under Minn. Stat. Section 609.02, Subdivision 7a.

F. Great Bodily Harm. "Great bodily harm" has the meaning given it under Minn. Stat. Section 609.02, Subdivision 8.

G. Provocation. "Provocation" means an act that an adult could reasonably expect may cause a dog to attack or bite.

H. Animal Control Authority. "Animal Control Authority" shall mean the Mountain Lake Police Department or its designated agent appointed to implement the provisions of this section.

Subdivision 2. Requirement. No person may own a dangerous dog.

Subdivision 3. No person may own a potentially dangerous dog unless the dog is registered as provided in this section.

A. The police dept. or its agent acting as the animal control authority shall issue a certificate of registration to the owner of a potentially dangerous dog if the owner presents sufficient evidence that:

1. An owner of a potentially dangerous dog shall keep the dog, while on the owner's property, in a proper enclosure. If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash and under the physical restraint of a responsible person. The muzzle must be made in a manner

that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration. The owner must have a posting on the premises with a clearly visible warning sign that there is a potentially dangerous dog on the property, including a warning symbol to inform children;

2. A surety bond issued by a surety company authorized to conduct business in this state in a form acceptable to the police department in the sum of at least $300,000, payable to any person injured by the potentially dangerous dog, or a policy of liability insurance issued by an insurance company authorized to conduct business in this state in the amount of at least $300,000, insuring the owner for any personal injuries inflicted by the potentially dangerous dog.

B. Warning Symbol. If the police department issues a certificate of registration to the owner of a potentially dangerous dog pursuant to subdivision 3.A., the police department must provide, for posting on the owner's property, a copy of a warning symbol to inform children that there is a potentially dangerous dog on the property. The warning symbol must be the uniform symbol provided by the Minnesota Commissioner of Public Safety. The police department may charge the registrant a reasonable fee to cover its administrative costs and the cost of the warning symbol.

C. Tag. A potentially dangerous dog registered under this section must have a standardized, easily identifiable tag identifying the dog as dangerous and containing the uniform dangerous dog symbol, affixed to the dog's collar at all times.

D. Fee and Registration. The registration must be renewed annually. The police department may charge the owner an annual fee, in addition to any regular dog licensing fees, to obtain a certificate of registration for a potentially dangerous dog under this section.

E. Potentially dangerous dog designation review. Beginning six months after a dog is declared a potentially dangerous dog, an owner may request annually that the police department review the designation. The owner must provide evidence that the dog's behavior has changed due to the dog's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. If the police department finds sufficient evidence that the dog's behavior has changed, the authority may rescind the potentially dangerous dog designation.

F. An owner of a potentially dangerous dog must notify the animal control authority in writing of the death of the dog or its transfer to a new location where the dog will reside within 30 days of the death or transfer, and must, if requested by the animal

control authority, execute an affidavit under oath setting forth either the circumstances of the dog's death and disposition or the complete name, address, and telephone number of the person to whom the dog has been transferred or the address where the dog has been relocated.

G. A person who owns a potentially dangerous dog and who rents property from another where the potentially danger dog will reside must disclose to the property owner prior to entering the lease agreement and at the time of any lease renewal that the person owns a potentially dangerous dog that will reside at the property.

H. A person who transfers ownership of a potentially dangerous dog must notify the new owner that the animal control authority has identified the dog as potentially dangerous. The current owner must also notify the police department in writing of the transfer of ownership and provide the police department with the new owner's name, address, and telephone number.

Subdivision 4. Exemption. Dogs may not be declared dangerous or potentially dangerous if they threat, injury, or damage was sustained by a person:

1. Who was committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the dog;

2. Who was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog; or

3. Who was committing or attempting to commit a crime.

Subdivision 5. Hearing. The owner of any dog declared dangerous or potentially dangerous has the right to a hearing by an impartial hearing officer.
Subdivision 6. Notice. The authority declaring the dog dangerous or potentially dangerous shall give notice of this section by delivering or mailing it to the owner of the dog, or by posting a copy of it at the place where the dog is kept, or by delivering it to a person residing on the property, and telephoning if the address of the owner is unknown. The notice must include:

1. A description of the seized dog; the authority for and purpose of the dog declaration and seizure; the time, place, and circumstances under which the dog was declared dangerous or potentially dangerous; and the telephone number and contact person where the dog is kept;

2. A statement that the owner of the dog may request a hearing concerning the dog declaration and, if applicable, prior potentially dog declarations for the dog, and that

failure to do so within 14 days of the date of the notice will terminate the owner's right to a hearing under this section;

3. A statement that if an appeal request is made within 14 days of the notice, the owner must immediately comply with the requirements of section 8.13, until such time as the hearing officer issues an opinion;

4. A statement that if the hearing officer affirms the dog declaration, the owner will have 14 days from receipt of the decision to comply with all other requirements of Section 8.13.;

5. A form to request a hearing under this subdivision; and

6. A statement that all actual costs of the care, keeping, and disposition of the dog are the responsibility of the person claiming an interest in the dog, except to the extent that a court or hearing officer finds the seizure or impoundment was not substantially justified by law.

Subdivision 7. Right to Hearing. Any hearing must be held within 14 days of the request to determine the validity of the dog declaration. The hearing officer must be an impartial employee of the local government or an impartial person retained by the local government to conduct the hearing. In the event that the dog declaration is upheld by the hearing officer, actual expenses of the hearing up to a maximum of $1,000 will be the responsibility of the dog's owner. The hearing officer shall issue a decision on the matter within ten days after the hearing. The hearing officer may grant a variance on one or more of the conditions if warranted by the specific facts of the case and if, in the judgment of the hearing officer, ample precautions are taken to protect the public. The decision must be delivered to the dog's owner by hand delivery or registered mail as soon as practical and a copy must be provided to the police department.

Subdivision 8. Failure to comply with requirements.

A. A person who violates a provision of Section 8.13 is guilty of a misdemeanor.

B. Any person who shall keep a dangerous dog or potentially dangerous dog without complying with the requirements of this section shall pay a fine of $5 per day for every day the person keeps, harbors or permits such dog to remain on the person's premises thereafter.

C. If a dog has been declared dangerous and not removed from the City of Mountain Lake after an opportunity for a hearing, the dog may be seized by the animal control authority and may be destroyed in a humane manner.

D. If a dog has been declared a potentially dangerous dog, after an opportunity for a hearing, and the owner is not complying with the requirements of this section, the potentially dangerous dog may be seized by the animal control authority. The dog

may be reclaimed by the owner upon payment of impounding and boarding fees and presenting proof to the animal control authority that each of the requirements have been met. An animal not claimed within 14 days after notice may be disposed of and the owner liable for costs incurred for confining the dog, including euthanasia and disposal.

Subdivision 9. Extreme Circumstances. Notwithstanding, a dog may be destroyed in a proper and humane manner by the animal control authority if the dog:

1. Inflicted substantial or great bodily harm on a human on public or private property without provocation;

2. Inflicted multiple bites on a human on public or private property without provocation;

3. Bit multiple human victims on public or private property in the same attack without provocation or

4. Bit a human on public or private property without provocation in an attack where more than one dog participated in the attack.

Subdivision 10. Hearing. The animal control authority may not destroy the dog until the dog owner has had the opportunity for a hearing before an impartial decision maker.

SECTION 8.14. MINNESOTA UNIFORM FIRE CODE.

Subdivision 1. Adoption.

The 1982 Edition of the Minnesota Uniform Fire Code is hereby adopted as though set forth verbatim herein. One copy of said Code shall be marked CITY OF MOUNTAIN LAKE - OFFICIAL COPY and kept on file in the office of the City Clerk-Treasurer and open to inspection and use by the public.

Subdivision 2. Storage of Flammable and Explosives Material.

No bulk plants for storage of flammable or combustible liquids, or bulk storage of liquefied petroleum gas, not established on the effective date of this Section, shall be permitted. No storage of explosives or blasting agents shall be permitted.

SECTION 8.15. OPEN BURNING AND REGULATIONS OF FIRES

Subdivision 1. Open Burning of Leaves.

1. Subject to the provisions of Minnesota Statutes, Sections 88.16, 88.17 and 88.22, the open burning of dried leaves during the months of April and May; and between September 15 and December 1 is hereby permitted.

2. Such burning shall be limited to the areas of the City zoned for residential purposes only.

3. Burning will only be allowed between the hours of 8:00 o'clock A.M. and 8:00 o'clock P.M. All fires are to be extinguished by 8:00 o'clock P.M.

4. Such fires shall not be less than 25 feet from any structure, wood fence, hedge or bush and no less than 5 feet from any property line.

5. The burning of leaves is prohibited on City streets, boulevards, lakeshores or any public property by private citizens.

6. All such fires shall be attended, at all times, by a person of suitable age and discretion.

7. No burning shall take place during air pollution alert, warning or emergency declared by the Pollution Control Agency.

Subdivision 2. Open Burning Restrictions

1. Definitions. The following words and terms, when used in this Article, shall have the following meanings unless the context clearly indicates otherwise:

   A. "Bonfire", a large, controlled fire built in an open area for specific events.

   B. "Open fire/Open Burning", a fire burning in matter, whether concentrated or dispersed, which is not contained within a fully enclosed fire box, structure, or vehicle, and from which the products of combustion are emitted directly to the open atmosphere without passing through a stack, duct, or chimney.

   C. "Recreational Fire", a fire set for cooking, warming, or ceremonial purposes, which is not more than three (3) feet in diameter by three (3) feet high.

   D. "Starter Fuels", dry, untreated, unpainted wood, or charcoal fire starter.

   E. "Wood", dry clean fuel only such as twigs, branches, limbs, "Presto Logs" charcoal, cordwood, or untreated dimensional lumber. The word "wood" does not include wood that is green, with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or other preservatives.

2. Open burning Prohibited. No person shall cause, allow, or permit open burning within the City of Mountain Lake.

3. Exceptions to Open Burning.

Open burning of the types and subject to the conditions, as hereinafter stated, shall be exempt from the prohibition in Chapter 8 Section15, subdivision 2.2:

A. Bonfire, if a city permit is obtained.

B. Fires under managed supervision for which a burning permit has been obtained from the City Council and Where required by state law, from the Department of Natural Resources, but limited to the following:

1) Fires purposely set for the instruction and training of public and industrial fire fighting personnel.
2) Fires set for the elimination of a fire hazard, which cannot be abated by any other practicable means.
3) Fires purposely set for forest, prairie, and game management purposes.

C. Exceptions to conduct fires under this Section does not excuse a person from the consequences, damage, or injuries which may result there from nor does it exempt any person from regulations promulgated by the Minnesota Pollution Control Agency or any other governmental unit exercising jurisdiction in matters of pollution or fire hazard regulation.

D. Minnesota Statutes Adopted by Reference. Minnesota Statutes, Sections 88.02-88.22, 88.75 and 88.76 are hereby adopted by reference and made a part of this ordinance as is set forth fully herein.

Subdivision 3. Firewood Storage.

1. Findings. The City Council finds that the use of wood for home heating is increasing and that to protect the public health and safety, woodpiles on residential properties must be erected, located, and maintained in a safe and orderly fashion.

2. Definitions. The following words and terms when used in this Section shall have the following meanings unless the context clearly indicates otherwise.

A. Approved accessory structure- a structure accessory to a residence which is imperative to the elements and is inaccessible to rodents and other pests, and which has obtained all permits, variances and other approvals required by the City Code for its construction.
B. Fireplace Cord- A stack of wood 16 inches wide by eight (8) feet long by four (4) feet high.
C. Firewood- Any wood or wood product usually used or intended for use as heating fuel in a residence.
D. Neat secure Stack- a stack of firewood that is piled in a regular, orderly arrangement that is stable and reasonably resistant to collapse.

3. Storage.

A. Except for firewood and construction materials necessary for on-site work, no wood or wood product shall be kept or stored on a residential premises.
B. Firewood may be stored on a residential premises solely for use on the premises and not for resale.
C. Except as provided below, all firewood located upon a residential premises shall be stored as follows:
    1) The firewood shall be stored in neat, secure stacks;
    2) The height of a woodpile over three feet shall be no more than twice its width, but in no event shall the height exceed six (6) feet;
    3) No firewood shall be stored within 10 feet of any side or rear property line; except that if the wood is stored in an accessory structure which meets all zoning setback requirements;
    4) No firewood shall be stored in the front yard.

4. Exceptions. None of the above storage specifications shall apply to firewood stored within a home, garage, or other approved accessory structure.

Subdivision 4. Careless Fires.

Every person who shall negligently or carelessly set on fire, or cause to be set on fire, any combustible material, whether on his own land or not, by means whereof the property of another shall be endangered, or who shall negligently suffer any fire upon his own lands to extend beyond the limits thereof, shall be guilty of a misdemeanor.

Subdivision 5-Solid Fuel-fired Heating Devices and Solid Fuel

A. Outdoor container requirements:

1. Storage container must be painted and designed to blend with the structure it serves.
2. Screening may be required if the characteristics of the container, property and neighborhood of the lot and surrounding houses.
3. The height of the container must be at least 1 foot less than the sidewall of the structure it serves.
4. The container must be permanently attached to the ground.
5. The container must be of sturdy leak-proof construction, and constructed with adequate wall thickness, weld, hinge, and seam strength and sufficient strength to withstand damage to container when filled.
6. All lids, caps, hinges or other closure devices must be of sufficient strength and construction to remain closed between uses, shall not leak and shall be installed in a manner that does not damage the container.
7. All piping must be tightly closed when not in use.

B. Other requirements:

1. All solid fuel-fired heating devices shall meet emission standards currently required by the Environmental Protection Agency (EPA) and Underwriters Laboratories (UL) listing.
2. A mechanical permit/building permit shall be required to install any solid fuel-fired heating device within the city.
3. Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities is not allowed.
4. The following materials shall not be used or burned in solid fuel-fired heating devices: grass, leaves, oils, rubber, The following materials shall not be used or burned in solid fuel-fired heating devices: grass, leaves, oils, rubber, plastics, tires, railroad ties, construction debris and painted or chemically treated materials such as treated lumber, composite shingles, tar paper, insulation, composition board, sheetrock, wiring, paint, and hazardous and industrial solid waste. No garbage.
5. Fuel must not be left on ground in a manner that attracts vermin.

C. Enforcement:

Violations of this section shall be punishable as a public nuisance as provided in Section 8.03 Public Nuisance.

Subdivision 6.

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.

SECTION 8.16 REGULATION OF TREES

Purpose: The City of Mountain Lake (herein called the "City") believes that it is in the best interest of the general public for the City to regulate boulevard landscaping and treatments as well as the planting, pruning and removal of trees located upon City boulevards, rights-of-way and easements. The City encourages the proper planting and care of trees within the City. The City Tree Inspector or designee shall have the authority to enforce the City Code and implement related policy.

Subd. 1. Definitions

A. Right-of-way – City, County or State owned or controlled property designated to be used for streets, sidewalks, alleys, and boulevards.

B. Boulevard – The portion of a right-of-way that is located between the concrete curb and property line of adjacent private property (approximately fifteen feet), including the sidewalk or area reserved for sidewalk.

C. Easement – Permission granted by a property owner authorizing the City to enter a strip of land for the purpose of constructing and maintaining streets, public utilities, storm drainage ways, or ponding areas.

D. Tree Inspector - A person retained by the City responsible for inspecting trees within city limits and implementing this ordinance. The tree inspector may appoint a designee and retain a tree care service to carry out the provisions of this ordinance. Any tree care service retained by the City must show proof of insurance in an amount as deemed appropriate by the City.

Subd. 2. Boulevards

A. General standards: Boulevard sections of public rights-of-way throughout the City can be planted with grass, or a combination of grass and deciduous trees. Any trees planted within or near boulevards shall be of a species acceptable to the City and planted and pruned in such a manner to insure that foliage does not obstruct pedestrians, vehicles, utility lines or regulatory signage. It is the responsibility of the adjoining property owners to properly maintain boulevard grass and trees, to keep the area free of weeds and debris, and to remove any substance or material that may be hazardous to pedestrians.

Subd. 3. Tree Planting

A. Varieties of trees: Only those trees identified on the attached list may be planted on the City's rights-of-way, boulevards and/or easements.

B. Suitable planting conditions: Generally, trees planted on boulevards shall adhere to the specifications as described in the attached "Mountain Lake Acceptable Shade and Boulevard Trees." This information refers to the space from the tree to the back of concrete curb and to the sidewalk (or area reserved for sidewalk if none exists). It also specifies which trees are acceptable for planting under power lines.

C. Spacing: No trees shall be planted closer than the following: large trees-thirty (30) feet and small trees-fifteen(15) feet of another tree and/or stop sign and fifteen (15) feet of a light standard, power pole, or hydrant without approval of the Tree Inspector or designee. Also, no tree shall be planted where it may interfere with sight lines to traffic signs, the clear view at intersections, the overhead power lines, street lighting or any other City infrastructure. **No street trees, other than those species accepted as small trees on the "Mountain Lake Acceptable Shade and Boulevard Trees" list may be planted under any overhead utility wire or within fifteen (15) feet of any other utility.**

1. Exceptions – If the green space does not meet the size requirements for planting or there are any other special circumstances, the Tree Inspector or designee shall review each proposed planting on an individual basis.

D. Wrong Choice of Planted Tree: The Tree Inspector or designee may require the replanting of a boulevard tree at least three (3) feet (minimum) behind the sidewalk or space reserved for sidewalk on either public or private property, if it is interfering with sight lines to traffic signs,

the clear view at intersections, the overhead power lines, street lighting or any other City infrastructure.

Subd. 4. Tree Removal on Public and Private Property See Ordinance #7-19

A. Reasons for Tree Removal (Exceptions considered on an individual basis.)

1. Disease
2. Dead or declining health
3. Structurally hazardous/obstructs views
4. Undesirable species
5. Insufficient growing space
6. Threat to the health and well being of the public and/or urban forest.

B. **1. City Action/Non-Utility:** The Tree Inspector, as appointed by the City Council, may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature lacks the minimum clearance over streets, alleys and sidewalks, is dead or is affected with any injurious fungus, insect, or other pest which constitutes a potential threat to the trees within the city. The Tree Inspector will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 60 days after the date of service of notice. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal on the owner's property tax assessment.

2. **City Action/Utility**: Any tree or part thereof which is unsafe or injurious to sewers, electric power lines, water lines, and other public improvements shall be removed or trimmed as set forth in Ordinance 3.05 Subd. 5.

C. **Removal of Stumps:** All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. The waste material shall be cleaned up and the hole filled with soil.

D. **Removal of Fallen or Broken Trees, Branches, or Other Vegetation:** All fallen or broken trees, branches, or other vegetation that falls and lays on the public right-of-way, boulevard, alleyway, or street is the responsibility of the homeowner from whose property the tree has fallen. Fallen or broken trees, branches, or other vegetation on the public right-of-way, alleyway, or street must be removed by the property owner within 72 hours to ensure proper access to the public right-of-way, alleyway, or street. If not removed within 72 hours, the city has the right to remove the fallen or broken debris with its own equipment or hire a service to do so. Total costs will be billed to the property owner and if not paid, will be assessed to the property’s taxes.

SECTION 8.17. GRASS, WEEDS, BRUSH AND OTHER VEGETATION ON PRIVATE PROPERTY. See Ordinance #5-11, #5-16

Subdivision 1. Cutting and Removal of Grass, Weeds and Other Rank, Poisonous or Harmful Vegetation.

1. It is unlawful for any person having control of any occupied or unoccupied lot or land or any part thereof in the City to permit or maintain on any such lot or land, or on or along the sidewalk, street or alley adjacent to the same between the property line and the curb or middle of the alley or for ten feet outside the property line if there be no curb, any growth of weeds, grass, brush, unmaintained garden areas and flower beds, or other rank vegetation to a greater height than eight (8) inches on the average, or any accumulation of dead weeds, grass or brush.

2. It is also unlawful to any such person to cause, suffer or allow poison ivy, ragweed or other poisonous plants, or plants detrimental to health to grow on any such lot or land in such manner that any part of such ivy, ragweed, or other poisonous or harmful weed shall extend upon, overhang or border any public place or allow to seed, pollen or other poisonous particles or emanations there from to be carried through the air into any such public place.

Subdivision 2. Duty of Owner, Lessee or Occupant.

It is the duty of any owner, lessee or occupant of any lot or land to cut and remove or cause to be cut and removed all such weeds, grass, brush or other rank, poisonous or harmful vegetation as often as may be necessary to comply with the provisions of Subdivision 1; provided that cutting and removing such weeds, grass and vegetation at least once every three weeks, between May 15 and September 15 shall be deemed to be a compliance with this Section.

Subdivision 3. When City to do Work.

If the provisions of the foregoing Subdivisions are not complied with:

1. The City Clerk-Treasurer shall serve written notice upon the owner, lessee or occupant or any person having the care or control of any such lot or land to comply with the provisions of this Section.

2. If the person upon whom the notice is served fails, neglects or refuses to cut and remove or to cause to be cut and removed such weeds, grass, brush or other vegetation within five (5) days after receipt of such notice, or

3. If no person can be found in the City who either is or claims to be the owner of such lot or land, or who either represents or claims to represent such owner, the City shall cause such weeds, grass, brush and other vegetation on such lot or land to be cut and removed and the actual cost of such cutting and removal, plus five per cent for inspection and other additional costs in connection therewith, shall

thereupon become and be a lien upon the property on which such weeds, grass, brush, and other vegetation were located and shall be added to and become and form part of the taxes next to be assessed and levied upon such lot or land and shall bear interest at the same rate as taxes and shall be collected and enforced by the same officer and in the same manner as taxes.

Subdivision 4. Disposal

No person shall intentionally dispose of grass, leaves, dirt, or other landscape debris into a street, road, alley, catch basin, culvert, curb, gutter, storm drain.

SECTION 8.18 PARKS AND PLAYGROUNDS

Subdivision 1. Definitions.

The following word or term when used in this Section, shall have the following meanings, unless the context clearly indicates otherwise:

1. "Parks" – A park, conservation area, playground, beach, recreation center or other area in the City owned, leased or used, wholly or in part, by the City for such purposes or which is designated by the City Council as a park.

Subdivision 2. Regulations.

The following regulations shall apply to all City parks:

1. No person shall drive or operate a motor vehicle in any park except on roads or designated parking areas.

2. Parking. During the hours when parking is permitted, said vehicles must be parked only in designated parking areas. Any unoccupied vehicle found in violation of park regulations may be removed and impounded by any police officer or duly authorized person.

3. No fire shall be lighted in any park except in places provided for such purposes, or by city permit and except for fire lighted by City employees engaged in cleaning the area.

4. No person shall discharge any fireworks or firearms in any park without a permit.

5. No person shall litter the grounds with any form of waste material. No person shall carry upon park property any glass bottles or glass containers.

6. No person shall committee any nuisance or any offence against decency or public morals in a public park.

7. No person shall past or affix or inscribe any handbill or poster on any structure or property in any of such parks or any place or square or highway surrounding the same.

8. No person shall possess, display, consume or use alcohol or alcoholic beverages in any park without a permit.

9. No person shall disturb or interfere with any birds or animals kept or found in any park.

10. No person shall sell any article whatever in any park unless he shall have a permit, lease or concession granted by the City.

11. No dogs shall be allowed in any park except on a leash.

12. No person shall write upon or mark or deface in any manner or use in any improper way any public property or thing pertaining to or in said parks.

13. No person shall break, cut, mutilate, injure, remove or carry away any tree, plant, flower, shrub, rock, soil, sand, fence, bench or any other property in the park.

Subdivision 3. Penalty

Any person violating any provision of this Chapter shall be guilty of a petty misdemeanor.

SECTION 8.19 ADDRESS DISPLAY, REQUIRING PROPERTY OWNERS TO DISPLAY ADDRESS NUMBERS ON BUILDINGS See Ordinance #5-10

Subdivision 1. Purpose and Intent

The purpose and intent of this ordinance is to protect the health and safety of the public by requiring street and road addresses to be prominently displayed in a uniform manner, making it easier for emergency vehicles to find their destination.

Subdivision 2. Display of Road Address Numbers

Every property owner of improved property shall purchase and display official address numbers. The following criteria must be used to properly display the number:

1. Address numbers on all buildings must be a minimum of four (4) inches in height so as to be seen easily from the road.

2. Address numbers shall be placed on the front of the building facing the road named in the address or on the end of the building nearest such road.

3. Address numbers shall not be placed on a portion of the house or building that is set back so that it is blocked by any other building, or portion of the same building, or any other object.

4. Address numbers must be set on a background of a contrasting color.

5. If a building is more than fifty (50) feet from the improved portion of the road, or is not clearly visible from the road, the address number shall be displayed on a sign attached to a fence, gate, lawn stake, or mailbox or equivalent as approved by the City, in front of the building and at the end of the driveway. This number must be

visible from the roadway and placed at such a height that assures the number will not be obscured by snow accumulation or snowplowing.

6. Address numbers should be easily legible.

7. All trees, shrubs or other vegetation shall be trimmed so that the numbers are visible from any point on the street in front of the building.

8. Numbers cannot be painted directly on a structure.

Subdivision 3. Enforcement

Owners or occupants of buildings which do not comply with this ordinance will be notified and requested to meet these requirements within sixty (60) days from the date of notification. Owners or occupants of buildings which are not brought into compliance within the sixty (60) days shall be guilty of a misdemeanor.

SECTION 8.20 CONDUCT OF PERSONS IN THE MOUNTAIN LAKE CEMETERY See Ordinance #4-11

Subdivision 1. Regulations.

a. No person may discharge any firearm within the cemetery grounds without written permission of the superintendent.

b. No person may remove any object from any place in the cemetery or make any excavation without the written permission of the superintendent.

c. No person may obstruct any drive or path in the cemetery or in any way injure, deface, or destroy any structure, grave, flower, tree or other thing in the cemetery.

d. No person may drive any vehicle at a speed exceeding ten (10) miles per hours. All automobiles must be kept off the grass.

e. No person may disturb the quiet of the cemetery by noise or improper conduct of any kind.

f. No person may enter or leave the cemetery except at the entrances provided.

g. No person may use the cemetery grounds or any road therein as a public thoroughfare, nor drive any vehicles through the cemetery grounds except for purposes relating to the cemetery.

h. Children shall not be permitted to play within the cemetery grounds, and children under ten (10) years of age shall not be admitted to the grounds unless accompanied by an adult, who shall be responsible for their conduct while therein.

i. Animals must be on a leash and under control at all times.

Subdivision 2. Penalty.

Any person violating any provision of this Section shall be guilty of a petty misdemeanor.

SECTION 8.21 THROUGH 8.96 RESERVED FOR FUTURE EXPANSION

SECTION 8.97. THEFT BY CHECK AND ISSUANCE OF DISHONORED CHECK

The City shall enforce violations of the Theft by Check and Dishonored Check state laws pursuant to Minnesota State Sections 609.52 Subdivision. 2(3) and 609.535. Checks in the amount of less than $100.00 shall be treated as a civil administrative offense as provided in section 8.98. In addition to a civil fine payable to the city, each offender shall be assessed a surcharge for dishonored checks to be paid to the business where the bad check was passed. The city shall also collect the amount of the original check as restitution and pay that amount to the business.

SECTION 8.98. ADMINISTRATIVE CITATION AND CIVIL PENALITIES

Subdivision 1. Purpose.

The City Council finds that there is a need for alternative methods of enforcing city code. While criminal fines penalties have been the most frequent enforcement mechanism, there are certain negative consequences for the City and the defendant. The delay inherent in such system does not ensure prompt resolution. Citizens resent being labeled a criminal for these relatively minor infractions. The higher burden of proof and the higher fines do not appear appropriate for most administrative citations and the imposition of civil penalties is a legitimate and necessary alternative method of enforcement. The method of enforcement shall be used in addition to any other legal remedy currently available.

Subdivision 2. General Provisions.

1. The city council may designate that certain violations of the city code as administrative offenses, which may be subject to an administrative citation and civil penalties. Each day a violation exists constitutes a separate offense.

2. An administrative offense may be subject to a civil penalty not exceeding $1,000

3. The City Council must adopt by resolution a schedule of fines for offenses, which may be initiated by administrative citation.

4. Any person authorized to enforce provisions of the city code may issue an administrative citation upon belief that that a code violation has occurred. The citation must be issued in person or by mail to the person responsible for the violation or attached to the motor vehicle in case of a vehicular offense.

5. The citation must state the date, time, and nature of the offense, the citation of the code provision violated, the name of the issuing officer, the amount of the scheduled fine and the manner for paying the fine.

6. The citation shall explain: (1) that it is a civil violation of law; (2) if the accused wishes to contest the citation, he must notify the police department and a criminal citation shall be issued instead; (3) such criminal citations shall be addressed District Court.

7. The person responsible for the violation must either pay the fine withing10 business days after issuance, or notify the police department that he will contest the matter as a criminal matter in District Court. The police department shall then issue a criminal citation.

8. If such fine is not paid within 10 business days after issuance, and the police department has not been notified that the accused is contesting the matter, the police department shall issue a criminal citation.

SECTION 8.99. 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.

CHAPTER 9

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CHAPTER 9

LAND USE REGULATION (ZONING)

SECTION 9.01. INTENT AND PURPOSE.

Subdivision 1. Purpose.

The purpose of this Chapter is to promote the public health, safety, comfort, and general welfare of the people of the City. To accomplish this end, this Chapter shall regulate the location of structures proposed for specific uses, the height and bulk of buildings hereafter erected, provide for minimum sanitation standards, and regulate and determine the area of lots, dependent on the provision of central water and/or sewage disposal facilities.

Subdivision 2. Legal Authority.

This Chapter is enacted pursuant to the Municipal Planning Act, M.S. 462.357, et seq.

Subdivision 3. Compliance.

No structure located in the City shall be erected or altered which does not comply with the regulations of this Chapter for the zoning use district wherein located, nor shall any structure or premises be used for any purpose other than a use permitted by this Chapter in the district wherein located.

SECTION 9.02. DEFINITIONS. See Ordinance #10-09

The following terms, as used in this Chapter, shall have the meanings stated:

1. "Abandoned Motor Vehicle" - A motor vehicle, as defined in Minnesota Statutes, Chapter 160.01, that:
   (1) has remained for a period of more than 48 hours on public property illegally;
   (2) has remained for a period of more than 48 hours on public property and is lacking vital component parts such that it is in inoperable condition;
   (3) has remained for a period of more than 48 hours on private property and is without the consent of the person in control of such property;
   (4) has remained for a period of more than 48 hours on private property with or without the consent of the person in control of such property, which is in an inoperable condition such that it has no substantial potential further use consistent with its usual functions, unless it is kept in an enclosed garage or storage building; or,
   (5) has been voluntarily surrendered by its owner to a unit of government or person duly licensed pursuant to Minnesota Statutes, 168B.10 and these regulations,

except that a classic car or pioneer car, as defined by statute, shall not be considered an abandoned motor vehicle within the meaning of these regulations.

2. "Accessory Structure or Facility" - Any building or improvement subordinate to a principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

3. "Accessory Use" - The use on the same lot with, and of a nature customarily incidental and subordinate to the principal use or structures.

4. "Agriculture" - The art or science of cultivating the soil and activities incidental thereto the growing of soil crops in the customary manner on open tracts of land.

5. "Automobile Service Station" - Any building or premises used for the dispensing or sale of automobile fuels (including diesel), lubricating oil or grease, tires, batteries, or minor automobile accessories. Automobile service stations shall not include the sale or storage of junkers, premises offering major automobile repairs, automobile wrecking, or automobile sales.

6. "Basement" - That portion of a building located partly underground, but having less than half of its floor-to-ceiling height below the average grade of the adjoining ground. This portion is not a completed structure and serves as a substructure or foundation for a building.

7. "Boathouse" - A structure designed and used solely for the storage of boats or boating equipment.

8. "Building" - Any structure built for the shelter, enclosure of persons, animals or equipment.

9. "Building Line" - A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

10. "Carport" - An automobile shelter having one or more open sides meeting the standards of Section 9.11, Subdivision 4.5.

11. "Cellar" - That portion of a building having more than half of its floor-to-ceiling height below the average grade of the adjoining ground. This portion is not a completed structure and serves as a substructure or foundation for a building.

12. "Commercial Planned Unit Developments" - Typically uses that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.

13. "Commercial Use" - The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

14. "Conditional Use" - A land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood. Such a use can be permitted only upon meeting prescribed performance standards or requirements.

15. "Conditional Use Permit" - A permit issued by the Planning and Zoning Commission when ordered by the City Council. When such a permit is issued, it shall have stated thereon any special requirements related to: design, facilities, measures, need, compliance, time limitation, etc; as shall be imposed as a condition for issuance of that permit. When at any time such special requirements stated on the permit are not adhered to, subsequent use of the property covered by such a permit shall be changed to a non-conforming use, and the premises would be in violation of this Ordinance.

16. "Day Care Facility" - Any facility licensed by the Commissioner of Public Welfare, public or private, which for gain or otherwise, regularly provides one or more individuals with care, training, supervision, habilitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the individual's own home. Day care facilities include, but are not limited to: family day care homes (5 children or less), group family day care homes (6 to 10 children), day care centers (11 or more children), day nurseries (11 or more children - instructional), daytime activity centers (D.A.C. - mentally retarded adults), day treatment programs (mentally retarded adults) and day services (adult activity programs).

17. "Deck" - A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.

18. "DNR Commissioner" - The Commissioner of the Department of Natural Resources.

19. "Dwelling" - A building or portion thereof used exclusively for residence occupancy, including one-family, two-family and multiple-family dwellings; but not including hotels, motels, boarding or rooming houses.

20. "Dwelling, Duplex, Triplex, and Quad" - A dwelling structure on a single lot, having two, three, and four units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

21. "Dwelling Site" - A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

22. "Dwelling Unit" - Any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.

23. "Earth-Sheltered Building" - A building constructed so that 50% or more of the completed structure is covered with earth. An earth-sheltered building is a completed structure that does not serve just as a foundation or substructure for above-ground construction. A partially completed building shall not be considered as an earth-sheltered structure.

24. "Feedlot" - A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure.

25. "Forest Land Conversion" - The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

26. "Guest Cottage" - A structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

27. "Hardship" - The property in question cannot be put to a 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.

28. "Height of Building" - The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

29. **"**Home Occupation" - Any occupation which is clearly secondary to the main use of the premises as a dwelling and meets the standards established in section 9.20 Subd. 3, paragraph 16.

30. "Industrial Use" - The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

31. "Intensive Vegetation Clearing" - The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

32. "Junkyard" - The area where used waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, parked, disassembled or handled, including, but not limited to scrap iron, and other metals, paper rags, rubber products, bottles, and used building materials. Storage of material in conjunction with construction or a manufacturing process shall not be included. Such use shall not include garbage. Three or more automobiles without current licenses constitute a junkyard.

33. "Land Use Plan" - A compilation of policy statements, goals, standardizations and maps for guiding the development of land, both private and public within the City.

34. "Lot" - A lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area and to provide such yards and other open spaces which or so described for the purpose of sale, lease, or separation as are herein required.

35. "Lot of Record" - A lot which is a part of a subdivision recorded in the office of the Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

36. "Lot Width in all areas, excluding the Shoreland Overlay District" The horizontal distance between the side lot lines measured at the street line. In the case of a lot of irregular shape, the mean width shall be the lot width.

37. "Lot Width in the Shoreland Overlay District" - The shortest distance between lot lines measured at the midpoint of the building line.

38. "Manufactured Home" – A Manufactured Home has the meaning specified in Minnesota Statutes Section 327.31, Subd. 6 and shall include a mobile home.

39. "Manufactured Home Park" – Manufactured Home Park has the meaning specified in Minnesota Statutes Section 327.14, Subd. 3.

40. "Modular Home" - A non-mobile housing unit that is basically fabricated at a central factory and transported to a building site where final installations are made, permanently affixing the module to the site. A modular home shall be congruous to a one-family dwelling.

41. "Non-Conforming Individual Sewage Treatment" - A system that is functioning in an unsanitary manner.

42. "Nonconformity" - Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized.

43. "Non-Conforming Use" - Use of land, buildings, or structures legally existing at the time of adoption of this Ordinance which does not comply with all the regulations of this Ordinance or any amendments to it, governing the zoning district in which such use is located.

44. "Ordinary High Water Level" - The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

45. "Parking Space" - A suitably surfaced and maintained area for the storage of one standard automobile (10' x 20').

46. "Permitted Use" - A public or private use which of itself conforms with the purposes, objectives, requirements, regulations, and performance standards of a particular district.

46b. "Places of Worship" A tax exempt institution that people regularly attend to participate in or hold religious services, meetings and other activities related to religious ceremonies.

47. "Planned Unit Development" - An urban development having two or more principal uses or structures on a single lot and developed according to an approved plan. Where appropriate, this development control advocates:

(1) a mixture of land uses, one or more of the non-residential uses being regional in nature,
(2) the clustering of residential land uses providing common and public open space, the former to be maintained either by the residents of the development or the local community, and
(3) increase administrative discretion to a local professional planning staff and the setting aside of present land use regulations and rigid plat approval processes.

48. "Principal Uses" - The primary or main use of land or building as distinguished from subordinate or accessory uses.

49. "Public Waters" - Any waters as defined in Minnesota Statutes 103G.005, subdivisions 14 and 15. A body of water capable of substantial beneficial public use. This shall be construed to mean, for the purposes of this ordinance, a body of water which has the potential to support any type of recreational pursuit or water supply purpose. However, no lake, pond or flowage of less than twenty-five (25) acres in size and no river or stream having a total drainage area of less than two (2) square miles need be regulated by the City.

50. "Recreational Development Lake" - Recreational Development Lakes are generally medium-sized lakes of varying depths and shapes with a variety of landform, soil, and groundwater situations on the lands around them. They are often characterized by moderate levels of recreational use and existing development. Development consists mainly of seasonal and year-round residences and recreationally-oriented commercial uses. Many of these lakes have capacities for accommodating additional development.

51. "Residential Facility" - Any facility licensed by the Commissioner of Public Welfare, public or private, which for gain or otherwise, regularly provides one or more individuals with a 24 hour per day substitute for care, food, lodging, training, education, supervision, habilitation, rehabilitation, and treatment they need, but which for any reason cannot be furnished in the individual's own home. Residential facilities include, but are not limited to: state institutions under the Control of the Commissioner of Public Welfare, foster homes, residential treatment centers, maternity shelters, group homes, residential programs or schools for handicapped children.

52. "Semipublic Use" - The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

53. "Sensitive Resource Management" - The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

54. "Setback" - The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, road, highway, property line, or other facility.

55. "Sewage Treatment System" - A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Section 9.35 Subdivision 8H2 of this ordinance.

56. "Sewer System" - Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

57. "Shore Impact Zone" - Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.

58. "Shoreland" - Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the

waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the DNR Commissioner.

59. "Significant Historic Site" - Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

60. "Signs" - A name, identification, description, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure, or land in view of the general public and which directs attention to a product, place, activity, person, institution, or business.

61. "Solar Collector" - Any device relying upon direct solar energy that is employed in the collection of solar energy for hearing and/or cooling of a structure, building, or water.

62. "Solar Energy System" - Any solar collector or other solar device or any structural design or a building whose primary purpose is to collect, convert, and store solar energy for useful purposes including heating and cooling of buildings, domestic water heating, electric power generation, and other energy using processes.

63. "Steep Slope" - Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this ordinance. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more.

64. "Street" - The entire width between property lines of a way or place dedicated, acquired, or intended for the purpose of public use for vehicular traffic or access other than an alley.

65. "Structure" - Anything constructed or erected, including decks, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground including but not limited to walls, fences, signboards and billboards.

66. "Subdivision" - Land that is divided for the purpose of sale, rent, or lease, including planned unit developments.

67. "Substandard Individual Sewage Treatment System" - A system that is functioning in a sanitary manner, but may not be constructed to acceptable design standards.

68. "Surface Water-Oriented Commercial Use" - "Surface water-oriented commercial use" means the use of land for commercial purposes, where accessto and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with docking facilities for patrons are examples of such use.

69. "Trailer" – The word trailer shall mean a vehicle equipped with wheels or rollers and constructed with the capacity to be moved from place to place with or without its own motor power. The word includes vehicles, recreational vehicle, motor home or recreational camper.

70. "Transportation Plan" - A compilation of policy statements, goals, standards, maps and action programs for guiding the future development of the various modes of transportation for the City.

71. "Tributary River" - Tributary river segments consist of watercourses mapped in the Protected Waters Inventory that have not been assigned another river class. These river segments have a wide variety of existing land and recreational use characteristics. The segments have considerable potential for additional development and recreational use, particularly those located near roads and cities.

72. "Variance" - Any modification or variation of the zoning ordinance where it is determined that, by reason of exceptional circumstances, the strict enforcement of the zoning ordinance would cause unnecessary hardship.

73. "Water-Oriented Accessory Structure or Facility" - A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

74. "Wetland" - A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition).

75. "Yard" - A required open space unoccupied and unobstructed by a structure or portion of a structure from thirty-six (36) inches above the ground level of the graded lot upwards, provided, however, that fences, signs, utility poles, lawn lights, antenna and related minor equipment may be permitted in any yard provided that they do not create a traffic safety hazard.

76. "Yard, Front" - A yard extending across the full width of the lot and measured between the front lot line and the building or any projection thereof.

77. "Yard, Rear" - A yard extending across the full width of the lot and measured between the rear lot line and the building or any projection thereof.

78. "Yard, Side" - A yard extending from the front yard to the rear yard and measured between the side lot lines and the nearest building, or any projection thereof.

79. "Zoning Map, Official" - The map or maps incorporated into this chapter as part thereof, designating the zoning districts.

SECTION 9.03 – 9.08 RESERVED FOR FUTURE EXPANSION

SECTION 9.08 RURAL SERVICE TAXING DISTRICT (See Ordinance #7-12, #5-17, #2-19)

TAXING DISTRICTS

1. **ESTABLISHMENT OF TAXING DISTRICTS.** The city is hereby divided into an Urban Service District and Rural Service District, pursuant to M.S. § 272.67, as it may be amended from time to time, for the purpose of all municipal property taxes, except those levied for the payment of bonds and judgments and interest thereon.

2. **URBAN SERVICE DISTRICT.** The Urban Service District shall include all property within the limits of the city, except those set forth by ordinance as the Rural Service District.

3. **RURAL SERVICE DISTRICT.** The Rural Service District is comprised as follows:
   (A) The Rural Service District shall include unplatted lands which need not be contiguous to one another and platted lands which are not developed, as in the judgment of the Council are rural in character, and are not developed for commercial, industrial or urban residential purposes and for these reasons are not benefitted to the same degree as other lands by municipal services financed by general taxation.

   (B) The rural service district as of the date of adoption of this Ordinance shall be comprised of the following parcels of land within the city:

Parcel ID No. 22.034.0502	2.75 acres
Parcel ID No. 22.034.0700	2.71 acres
Parcel ID No. 22.137.0010	10.73 acres
Parcel ID No. 22.137.0020	9.19 acres
Parcel ID No. 22.033.0100	44.00 acres
Parcel ID No. 22.004.1000	4.5 acres
Parcel ID No. 22.004.1030	13.5 acres
Parcel ID No. 22.004.1040	2.5 acres
Parcel ID No. 22.004.1060	3.8 acres
Parcel ID No. 22.004.0900	.34 acres
Parcel ID No. 22.004.0800	.33 acres
Parcel ID No. 22.032.0600	8.74 acres

4. **BENEFITS TAX RATIO.** The city hereby determines that the ratio between the benefits resulting from tax supported municipal services to parcels of land of like market value, situated in the Rural Service District and in the Urban Service District, respectively is .15 to 1.

5. **MODIFICATION OF DISTRICTS AND BENEFITS RATIO.** By amendment of this ordinance, land may be added to or removed from the Rural Service Taxing District and the benefit ratio may be changed. Whenever any parcel of land included in the Rural Service

District is platted in whole or in part and developed; or whenever application is made for a permit for construction of a commercial, industrial, residential or agricultural building or improvement; or whenever the improvement or building is commenced without a permit; the governing body shall transfer the parcel or part thereof from the Rural Service District to the Urban Service District.

6. **SERVICES PROVIDED.** Except for fire, police and planning services, the City of Mountain Lake will provide no other services to the lands in the rural service district beyond those customarily provided by the township in which the lands are located.

SECTION 9.09 RESERVED FOR FUTURE EXSPANSION

SECTION 9.10. ZONING USE DISTRICTS

1. Residential, (R)
2. Commercial, Downtown (C-1)
3. Commercial, Genera1 (C-2).
4. Industrial (I).
5. Shoreland Overlay (S).
6. Fringe Commercial (C-3)
7. Animal Overlay

Subdivision 1. District Boundaries. See Ordinance #4-14

1. Boundaries indicated as approximately following the center lines of streets or highways shall be considered to follow such center lines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following the township boundary shall be construed as such township boundaries.
4. Where a district boundary line divides a lot which was in single ownership at the effective date of this Chapter, the extension of the regulations for either portion of the lot may be interpreted by the Planning Commission upon request of the owner.

Subdivision 2. District Regulations.

1. The regulations of this Chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly except as hereinafter provided.

2. No building, structure or land shall hereafter be used or occupied, and no building, structure, or part thereof shall hereafter be erected, constructed, moved or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

3. No yard or lot existing at the effective date of this Chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Chapter shall meet at least the minimum requirements established by this Chapter.

Subdivision 3. Establishment of District and (District) Map.

Certain districts are hereby created which shall be shown upon the zoning map which is incorporated herein and made a part hereof. Said map and all notation, references, and other information shown thereon shall be as much a part of this Chapter as if the matters and information set forth by said map were all duly described herein.

Subdivision 4. Uses Not Provided For Within Zoning Districts See Ordinance #6-19

1. Whenever in any zoning district a use is neither specifically permitted nor denied, the use shall be considered unlawful. In such case, the Council or the Planning Commission, on their own initiative or upon request, may conduct a study to determine if the use is acceptable based upon criteria outlined below and, if so, 1) what zoning district(s) would be most appropriate and 2) what conditions and standards relating to development of the use. The Council or Planning Commission upon receipt of the staff study, shall, if appropriate, initiate an amendment to this chapter to provide for the particular use under consideration or shall find the use is not compatible for development within the city.

2. The Council or Planning Commission shall consider possible adverse effects to the proposed amendment or conditional use. Its judgment shall be based upon (but not limited to) the following factors:

    1. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official comprehensive land use plan;

    2. The proposed site is or will be compatible with present and future land uses of the area;

    3. The proposed use conforms with all performance standards contained herein;

4. The proposed use will not tend to or depreciate the area where it is proposed; and

5. The proposed use can be accommodated with existing public services and will not overburden the city's service capacity.

SECTION 9.11. (R) RESIDENTIAL DISTRICT.

Subdivision 1. Purpose. See also Ordinance #4-14

The Residential District is intended to promote moderate to intensive residential use in areas that are provided with community water and sewer facilities.

Subdivision 2. Permitted Uses.

1. Single-family and two-family (duplex) dwellings.

2. Existing agriculture.

3. Recreational or community buildings which are publicly owned and operated.

4. Parks and playgrounds.

Subdivision 3. Conditional Uses. See Ordinance #5-15, #10-19

1. Multi-family dwellings and twin homes.

2. Places of Worship – See Ordinance 10-09

3. Libraries.

4. Public, parochial, or other private elementary, middle, junior high, or senior high school offering a curriculum equivalent to the public school system; and not operated for profit.

5. Hospitals and clinics (excluding non-human) and medical offices.

6. Boarding and lodging houses.

7. Residential facilities or day care facilities.

8. Essential public utility structures.

9. Planned unit developments.

10. Manufactured Home Parks.

11. Offices of persons and home occupations when such use does not exceed one-third (1/3) of the main floor space of a dwelling or when located in an existing accessory building and when only persons residing on the premises are employed. A conditional use permit for a home office is not required if such office is supplementary to a business located elsewhere in the City and if the amount of traffic entering such office does not exceed that which is normal and customary for a residence.

12. Mortuaries or funeral homes.

13. Convalescent, nursing, and rest homes.

14. Businesses in a "transitional residential area". Transitional residential area is an area with lots located on one of the following major thoroughfares: Third Avenue, Tenth Street, or County Road 1 and Highway 60; and adjacent to or within 200 feet of a commercially zoned district. Proposed businesses should meeth the following criteria:

    a. Hours of operation shall be limited to between 6:30 a.m. and 9 p.m.

    b. No outdoor displays or sales of merchandise or services shall be permitted.

    c. Signs shall conform to Mountain Lake City Code, Section 9.50, Subdivsion 3.

    d. No business shall be permitted to discharge offensive odors, fumes, smoke, glare, or noises which are audible beyond the property limits.

    e. Deliveries to the premises shall be made only during the hours of operation.

    f. Traffic assoicated with the use shall not be detrimental to the neighborhood or create congestion on the street where business is located. Parking must meet standards set forth in Mountain Lake City Code, Section 9.50, Subdivision 4.

15. Home occupations that meet the following requirements: See Ordinance #13-09

    1. Only family members residing on the premises shall be engaged in the home occupation.

    2. Hours: Except for licensed child day care facilities, customers may visit the site only during the hours of 7 a.m. to 9 p.m.

3. The home occupation shall be clearly incidental to the primary use of the premises as a residence. Except for licensed child day care facilities, the home occupation shall not exceed 33% of the main floor space of the home. Exterior modifications to any structure to accommodate the home occupation shall be prohibited.

4. The use of an accessory building for the home occupation may be allowed provided the building meets the other requirements as found in this subdivision.

5. No display of goods, products or services shall be visible from off-site.

6. Traffic and parking associated with the use shall not be detrimental to the neighborhood or create congestion on the street where the home occupation is located. Truck deliveries or pick-ups are permitted to occur between the hours of 8 a.m. to 6 p.m. The amount of traffic shall not exceed that which is normal and customary for a residence.

7. The sale of goods, products or commodities on the premises shall be clearly incidental to the primary use of the premises as a residence. No more than 150 sq. ft. of any structure may be used for sales, either retail or wholesale.

8. No equipment or process shall be used in connection with the home occupation which creates a public nuisance such as noise, vibration, glare, fumes, odors or electrical interference which is detectable off-site.

9. Only one commercially licensed vehicle shall be allowed in connection with the home occupation.

10. A conditional use permit for a home office is not required if is supplementary to the business located elsewhere in the City and if the amount of traffic entering such office does not exceed that which is normal and customary for a residence.

16. Farm Animals when in the Animal (A) Overlay District

17. Beekeeping

Subdivision 4. Accessory Uses.

1. Private garage.

2. Private swimming pool when completely enclosed within a chain link or similar fence, five (5) feet high.

3. Keeping of not more than two (2) boarders and/or roomers by a resident family; provided that the Council may grant a special permit to keep more than two boarders and/or roomers for one year at a time upon proof of compliance by the applicant for such special permit with the provisions of Section 9.50, Subdivision 4, prescribing the required number of on-site parking spaces.

4. Living quarters of persons employed on the premises.

5. Storage garages where the lot is occupied by a multiple-family dwelling, hospital, or institutional building.

6. Accessory uses incidental to the principal uses allowed.

Subdivision 4.5. Accessory Structure Standards.

1. The total square footage of all accessory structures, attached and detached, shall be limited in size to ten percent (10%) of lot square footage or to no more than the square footage of the principal dwelling unit, whichever is less.

2. No accessory structure, attached and detached, in a residential district shall have sidewalls greater than ten (10) feet and height in excess of eighteen (18) feet. Height shall be measured from grade to the upper most peak of building or structure.

3. All accessory structures, attached and detached, shall be constructed of dimensional lumber or material that has been approved by the Building Official. No pole buildings, carports or galvanized coverings are allowed. All accessory structures over one hundred twenty (120) square feet shall be on footings or a foundation. Accessory structures shall be compatible in design, color, materials, and construction type to the principal structure on the lot.

    a. Compatible means that the exterior appearance of the accessory structure is not at variance with the principal building from the aesthetic and architectural standpoint as to cause:

        1. A difference to a degree to cause incongruity.

        2. A depreciation of neighborhood values or adjacent property values.

        3. A nuisance. Types of nuisance characteristics include, but are not limited to noise, dust, odors, glare, and unsightly building exterior.

4. No accessory structure may be constructed prior to the time of construction of the principal building or structure.

5. Owners of two abutting lots of record will be required to create a single lot of record before a building permit for an accessory structure be issued.

Subdivision 5. Single-Family Residence; Lot Area, Lot Width, and Yard Requirements.

Lot Area: 7,500 square feet.

Lot Width: 75 feet.

Front Yard: 25 feet from the public right of way or lot line; except, where twenty-five percent (25%) or more of the lots in a block are built upon, in which no building shall be erected that is set back from the front lot line, less than a distance which shall be the average of the setbacks observed by the adjoining houses to either side.

Side Yard: Ten percent (10%) of the lot width not to exceed ten (10) feet.

Rear Yard: Ten (10) feet from the public right-of-way or lot line.

Subdivision 6. Two-Family and Multiple-Family Residences; Lot Area, Lot Width, and Yard Requirements.

Lot Area: 12,500 square feet for a two-family dwelling plus 1,500 square feet for each additional dwelling unit.

Lot Width: 125 feet.

Front Yard: 25 feet; except where twenty-five percent (25%) or more of the lots in a block are built upon, in which no building shall be erected that is set back from the front lot line, less than a distance which shall be the average of the setbacks observed by adjoining houses to either side.

Side Yard: Ten percent (10%) of the lot width not to exceed ten (10) feet.

Rear Yard: Ten (10) feet from the public right-of-way or lot line.

Subdivision 7. Maximum Ground Coverage.

The total area of all impervious surfaces shall not exceed thirty-five percent (35%) of the lot area.

Subdivision 8. Height Requirements.

Two and one-half (2-1/2) stories or thirty (30) feet, maximum height.

Subdivision 9. Encroachments – See Ordinance #2-16

An unenclosed landing, patio, deck, porch, open steps or similar structure is allowed in the front yard setback of the residential district provided: the floor of the structure is no higher than the entrance floor of the building; any open railing is no higher than 3 feet, 6 inches; any overhang cannot extend more than 3 feet from the building and cannot be supported by any means other than bracing; is 64 square feet or less in size; and projects no more than 8 feet into the required front yard setback.

SECTION 9.12. TWIN HOME ORDINANCE

Subdivision 1. Lot Area, Lot Width, and Yard Requirements

Lot Area: Minimum Lot area 5,200 square feet.

Lot Width: Minimum Lot width 65'.

Front Yard: 25 feet.

Side Yard: Ten percent (10) of the lot width, but not less than 10 feet.

Rear Yard: Ten (10) feet from the public right-of-way or lot line.

Suddivision 2. Conditional Uses

Two family dwellings and twin homes may be divided into single parcels of record with the party wall acting as the dividing lot line by issuance of a conditional use permit and subject to the following conditions.

A. Each of the lots created in subdividing lands on which a two family structure is located shall be equal as is reasonably possible.

B. Each lot so created shall contain no less than ½ the minimum land area requirement for a twin home dwelling, and shall be shown on a registered survey.

C. Except for setbacks along the common property line, all other setback and yard requirements shall be met.

D. Separate services shall be provided to each residential unit for saitary sewer, water, electricity, natural gas, telephone, and other utilities.

E. The two family units, either existing or proposed, must be constructed in a side-by-side matter.

F. To protect the saftey and property of the owner and occupants of each individual unit, no existing two family structure may be split into two separate ownerships unless and until the common party wall fire rating is brought up to new construction standards contained in the Uniform Building Code (UBC). Party walls must provide sound transmission control ratings as per the UBC.

A. Uniformity in outside appearance. Siding, roofing need to be made of the same product and same color.

B. Party Walls –

a. Definition – each wall, which is built as a part of the original construction of the living units upon the properties and placed on the dividing line between the lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful act or omissions shall apply thereto.

b. Repairs and Maintenance – The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use of wall.

c. Destruction by Fire and Other Casualty – If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owner thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willfull acts or omissions.

Subdivision 3. Effective Date

This ordinance is effective from and after its passage and publication.

SECTION 9.13. REGULATION OF MANUFACTURED HOMES AND MANUFACTURED HOME PARKS

Subdivision 1. Requirements of Manufactured Homes.

Manufactured Homes as defined in this Ordinance, are permitted uses in the residential district and are subject to the following requirements:

A. All manufactured homes constructed after June 15, 1976, shall comply with the manufactured home building code, pursuant to Minnesota Statutes Section 327.31, and shall bear a seal by the United States Department of Housing and Urban Development to evidence compliance with the Manufactured Home Building Code.

B. The minimum width of the structure at its narrowest point shall not be less than 22 feet.

C. All dwellings shall be placed on a continuous permanent foundation in compliance with the Minnesota State Building Code.

D. Hitches and or other visible transport equipment shall be removed.

Subdivision 2. Regulation of Manufactured Home Parks.

A. Manufactured Home Parks shall be a conditional use in residential and commercial general zoning districts.

B. No person, firm or corporation shall establish, maintain, conduct or operate a manufactured home park within the City of Mountain Lake, without first obtaining a license therefor from the State Department of Health and complying with Minnesota Statutes Section 327.14 through 327.67.

C. Off-street Parking and Street Requirements. Each manufactured home lot shall have a hard-surfaced, off-street parking space for two (2) automobiles. All parking shall be completely within the confines of the lot. All streets shall be hard-surfaced and have a minimum of twenty (20) feet. In addition to on-site parking, guest parking shall be provided as part of the development, at a ration of one parking space per each six home spaces.

D. Service facilities such as laundries, storage and garages shall be for on-site residents only.

E. If a manufactured home park is converted to another use requiring a variance or zoning change, the City must give notice of hearing of the levy to each occupant pursuant to Minnesota Statutes, Section 327C.095.

Subdivision 3. Minimum Requirements for Manufactured Home Parks.

The following minimum requirements shall apply to all new manufactured home parks and the expansion of existing parks.

A. General

a. The minimum area for a new manufactured home park is five (5) acres.

b. The minimum number of spaces completed and ready for occupancy before the first occupancy is permitted in a new park shall be ten (10) units.

c. Each manufactured home site withing the park shall have a minimum area of 3,500 square feet.

d. No manufactured home site shall be closer than 35 feet to any adjacent property.

e. Accessory structures including a porch or deck and one detached structure may be contructed or erected on a home space, subject to the approval of the manufactured home park management. No such accessory structure shall be located closer than five feet to a home space boundary.

f. A landscape buffer shall be provided where natural vegetation exists and provided a more or less opaque screen, or where no natural vegetative screen exists, a landscape strip with tress that will grow to a height of at least six feet within three years shall be installed and maintained between the park adjacent resident property.

g. No less than ten (10) percent of the manufactured home park shall be improved for recreational activities for residents of the park.

B. Site Plan: At time of application for a conditional use permit, the applicant must submit a site plan to the City. The site plan shall include:

a. The name and address of all owners and developers of the proposed manufactured home park.

b. The legal description and lot size in acres of the proposed park.

c. The location and size of all manufactured home lots, convenience establishments, storage areas, recreation areas and facilities, landscaping, existing tree growth, water areas, roadways, sidewalks, and parking sites.

d. Detailed landscaping and grading plans and specifications.

e. Plans for sanitary sewage disposal, surface drainage, fire hydrants, water systems, electrical service, gas service, cable television, street lighting, and topography diagrams.

f. Location and size of all public roadways abutting the manufactured home park and all street and sidewalk access from such street and sidewalk to the manufactured home park.

g. Preliminary road construction plans and specifictions including cross section and curb details.

h. Preliminary floor plans and elevations for all permanent structures.

i. Description and method of disposing of garbage and refuse.

j. Staging and timing of construction program regardless of whether the the entire area will be developed at one time or in stages.

k. Such other reasonable information as shall be required by the City.

l. The scale for all drawings shall be one (1) inch to One Hundred (100) feet.

SECTION 9.14. REGULATION OF TRAILERS.

Subdivision 1. Permit Required.

A person must not occupy or use a trailer for habitation or living quarters for longer than ten (10) days in a calender year, without first obtaining a permit from the zoning administrator.

Subdivision 2. Application.

Application for a permit must be made to the zoning administrator, must be accompanied by the required fee and must contain the following information:

A. The names of the owners and persons who are to occupy the trailer;

B. Name of the owner and address and description of premises on which the trailer is to be placed and used;

C. Description of the trailer, the serial number, if any;

D. Date of placing on the private premises describe in the application;

E. Duration of the proposed occupancy;

F. Signature of applicant and verification.

Subdivision 3. Issuance.

A permit will not be issued unless adequate water supply and sanitary services are provided.

Subdivision 4. Duration.

The term of a permit is no greater than three (3) months. The applicant is the new owner and the land is occupied by no other habitable dwelling than the applcant's trailer, the zoning administrator may grant a permit for longer than three (3) months while a permanent dwelling is constructed. Only one permit may be issued for a particular piece of property in a 24 month period, except that additional permits may be granted when necessitated by unforeseen acts of nature.

SECTION 9.15 OPTING-OUT OF THE REQUIREMENTS OF MN STATUTES, SECTION 462.3593

Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City of Mountain Lake opts-out of the requirements of Minn. Stat. §462.3593, which defines and regulates Temporary Family Health Care Dwellings.

SECTION 9.16 TEMPORARY FAMILY HEALTH CARE DWELLING

Subdivision. 1 Definitions

For the purposes of this section the following terms have the meanings given.

A. "Caregiver" means an individual 18 years of age or older who:
    1. Provides care for a mentally or physically impaired person; and
    2. 2 is a relative, legal guardian, or health care agent of the mentally or physically impaired person for whom the individual is caring.
B. "Instrumental activities of daily living' has the meaning given in MN Statutes 256B.0659, Subd. 1, paragraph (i).
C. "Mentally or physically impaired person' means a person who is a resident of this state and who requires assistance with two or more instrumental activities of daily living as certified in writing by a physician, a physician assistant, or an advanced practice registered nurse licensed to practice in this state.
D. "Relative" means a spouse, parent, grandparent, child, grandchild, sibling, uncle, aunt, nephew, or niece of a mentally or physically impaired person. Relative includes half, step, and in-law relationships.
E. "temporary family health care dwelling" means a mobile residential dwelling providing an environment.

Subdivision. 2 Permit Required

A person may not use a temporary family health care dwelling to house a relative as defined in Subd. 1e without first obtaining a permit.

Subdivision. 3 Requirements

A temporary family health care dwelling must meet the following requirements:

A. Be limited to one (1) occupant
B. Be occupied no more than six months
C. Provide a site map that shows size and location of health care dwelling and all other construction on the lot
D. Be in compliance with residential setback requirements
E. Be Located on property owned or rented by the care giver
F. Provide written certification that the mentally or physically impaired person requires assistance with two or more instrumental activities of daily living as certified in writing by a physician, a physician assistant, or an advanced practice registered nurse licensed to practice in this state.
G. Provide documentation that abutting property owners have been notified of the applicant's intent
H. Be primarily assembled at the location other than its site of installation:
I. Be no more than 300 gross square feet:
J. Not be attached to a permanent foundation;
K. Be universally designed and meet state-recognized accessibility standards;
L. Have exterior materials that are compatible in composition, appearance, and durability to the exterior materials used in standard residential construction;
M. Have a minimum insulation rating of R-15
N. Be able to be installed, removed, and transported by a one-ton pickup truck as defined in MN Statutes section 168.002, subdivision 21b, a truck as defined in MN Statutes section 168.002, subdivision 37 or a truck tractor as defined in MN Statutes section 168.002, subdivision 38
O. Be built to either MN Rules, chapter 1360 or 1361, and contain an Industrialized Buildings Commission seal and data place or to American National Standards Institute Code 119.2; and
P. Provide access to water and electric utilities by connecting in some manner approved by the Electric Superintendent and Water/Wastewater Superintendent to Mountain Lake Municipal Utilities.
Q. Be equipped with a backflow check value
R. Provide proof of adequate method of sewage disposal

Subdivision. 4. Application and Issuance

A. Application for a permit must be made to the zoning administrator and must demonstrate that the requirements of Subd. 3 have been met.
B. Upon receipt of a complete application the zoning administrator shall refer it to other departments to determine if requirements have been met.
C. If it is determined all requirements have been met the matter will be placed on the agenda of the next city council for approval.

Subdivision. 5. Duration

The term of the permit is no more than six months. Permits cannot be renewed or in any way extended. The dwelling shall be removed no more than 60 days after it is vacated by the occupant so identified in the permit application.

SECTIONS 9.17 THROUGH 9.19 RESERVED FOR FUTURE EXPANSION

SECTION 9.20. (C-1) DOWNTOWN COMMERCIAL DISTRICT.

Subdivision 1. Purpose.

The Downtown Commercial District is intended to preserve and enhance the downtown district as the primary center for office and government employment and retail activities.

Subdivision 2. Permitted Uses.

1. Recreational or community facilities which are publicly owned or operated.
2. Parks and playgrounds which are publicly owned and operated.
3. Libraries, museums, or art galleries.
4. Hotels.
5. Business, medical, and professional offices.
6. Clubs, fraternities, and lodges.
7. Retail commercial merchandising establishments.
8. Licensed places of amusement including theaters and dance halls.
9. Bowling alleys, and billiard or pool halls.
10. Restaurants, cafes, delicatessens, and taverns.
11. Banks and savings and other financial institutions.
12. Telephone and utility offices.
13. Job printing, newspaper, lithographing, or publishing shops.
14. Municipal or government administration buildings, post office, police and fire stations.
15. Cabinet or carpenter shops.
16. Furniture repair and upholstery shops

17. Electrical, metal-working, plumbing, heating and air conditioning; water, gas, or steam-fitting shops.

18. Barber and beauty shops.

19. Photography studios.

20. Radio or television broadcasting studios.

21. Music studios.

22. Laundromats and dry cleaning or laundry pickup stores.

23. Automobile parking lots and garages, excluding the parking of trucks, buses, equipment, and goods.

24. Meat shops and cold storage lockers (excluding slaughtering).

25. Bus stations.

26. Newstands.

27. Television or radio repair shops.

28. Repair and rental shops of domestic or household type equipment and items.

29. Athletic Clubs

Subdivision 3. Conditional Uses.

1. Dwellings and boarding or lodging houses.

2. Automobile service stations, for sale of gasoline, oil, and accessories.

3. Tire, battery, and automobile accessories shops.

4. Automobile, truck, tractor, or implement sales offices and used car lots.

5. Automobile laundries or car wash.

6. Billboards.

7. Animal pet shops.

8. Meat shops and cold storage lockers that include slaughtering.

9. Lawn and garden supply stores and farm, feed, and seed stores.

10. Lumber yards and building supply centers.

11. Water supply buildings, wells, elevated tanks, power plants, and similar essential public utility or public works facilities.

12. Planned unit developments.

13. Convalescent, nursing, and rest homes.

14. Mortuaries or funeral homes.

15. Hospitals and clinics (excluding non-human).

16. Places of Worship

Subdivision 4. Accessory Uses.

1. Private garage.

2. Private swimming pool when completely enclosed within a chain link or similar fence, five (5) feet high.

3. Keeping of not more than two (2) boarders and/or roomers by a resident family; provided that the Council may grant a special permit to keep more than two boarders and/or roomers for one year at a time upon proof of compliance by the applicant for such special permit with the provisions of Section 9.50, Subdivision 4, prescribing the required number of on-site parking spaces.

4. Living quarters of persons employed on the premises.

5. Storage garages where the lot is occupied by a multiple-family dwelling, hospital, or institutional building.

6. On-site parking and loading as regulated.

7. Accessory uses incidental to the uses permitted in Subdivisions 2 and 3 of this Section.

Subdivision 5. Lot Area, Lot Width, and Yard Requirements.

Lot Area: 3,500 square feet.

Lot Width: 24 feet.

Front Yard: 10 feet from the curb.

Side Yard: No restrictions; 15 feet if abutting a residential district.

Subdivision 6. Off-Street Parking and Unloading.

Off-street parking and unloading requirements as established in Section 9.50.

Subdivision 7. Height Requirements.

Five (5) stories or sixty (60) feet, maximum height.

SECTION 9.21. (C-2) GENERAL COMMERCIAL DISTRICT.

Subdivision 1. Purpose.

The General Commercial District provides a location for uses that are appropriate to thoroughfare locations, are largely dependent upon thoroughfare traffic, and are not altogether suitable within the Downtown Commercial District.

Subdivision 2. Permitted Uses.

1. Motels or motor inns.

2. Automobile, truck, tractor, or implement sales offices and sales lots.

3. Automobile service stations, for sale of gasoline, oil, and accessories.

4. Automobile, truck, tractor, and implement garages and repair shops, with no outside storage of vehicles or equipment.

5. Tire, battery, and automobile accessories shops.

6. Automobile laundries or car wash.

7. Bicycle or motorcycle sales and repair shops.

8. Marine or boat sales shops.

9. Sales and service centers of travel and camping trailers, and motor homes which do not require a special permit to be transported on a public highway.

10. Mobile home sales and storage centers.

11. Lumber yards and building supply centers.

12. Lawn and garden supply stores.

13. Farm, feed, and seed stores.

14. Commercial nurseries and greenhouses.

15. Drive-up offices (banks, etc.).

16. Drive-up retail or service shops.

17. Grocery stores or supermarkets.

18. Meat shops and cold storage lockers.

19. Restaurants, cafes, or delicatessens.

20. Taverns and cocktail lounges.

21. Licensed places of amusement including theaters and dance halls.

22. Bowling alleys and billiard or pool halls.

23. Miniature golf courses, archery and golf driving ranges, tennis clubs, skating rinks, and swimming pools serving more than one family.

24. Rental and repair shops.

25. Carpenter, plumbing, heating, and air conditioning shops.

26. Electrical, metal-working, water, gas, or steam-fitting shops.

27. Janitorial service shops.

28. Monument sales centers.

29. Mortuaries or funeral homes.

30. Furniture stores.

31. Carpet, rug, and flooring stores.

32. Paint, wallpaper, and other furnishing stores.

33. Appliance sales and service stores.

34. Retail ice delivery stations.

35. Laundromats and dry cleaning or laundry pickup stores.

36. Billboards.

37. Medical, dental, and optical laboratories.

38. Antique, gift, or florist shops.

39. Retail establishments.

40. Radio or television broadcasting studios.

41. Bus stations.

Subdivision 3. Conditional Uses.

1. Water supply buildings, wells, elevated tanks, and similar essential public utility structures.

2. Automobile parking lots and garages.

3. Terminals, including motor freight.

4. Wholesale establishments.

5. Hospitals and medical clinics or offices.

6. Municipal or government buildings, police or fire stations.

7. Convalescent, nursing, and rest homes.

8. Places of Worship See Ordinance #10-09

9. Animal pet shops, animal hospitals, veterinarian clinics, and pounds and extermination centers.

10. Recreational or community buildings, parks, or playgrounds which are publicly owned and operated.

11. Dwellings or boarding and lodging houses.

12. Railroad rights-of-way.

13. Beekeeping With the Exception of Blocks 2, 3, 4, 5 Original Townsite, to Subdivision 3, Conditional Use, Section 9.21 General Commercial District (C-2);

14. Wind energy conversion systems which comply with the requirements as set forth in Section 9.41.

15. Farm Animals when in the Animal (A) Overlay District

Subdivision 4. Accessory Uses.

1. Private garage.

2. Private swimming pool when completely enclosed within a chain link or similar fence, five (5) feet high.

3. Keeping of not more than two (2) boarders and/or roomers by a resident family; provided that the Council may grant a special permit to keep more than two boarders and/or roomers for one year at a time upon proof of compliance by the applicant for such special permit with the provisions of Section 9.50, Subdivision 4, prescribing the required number of on-site parking spaces.

4. Living quarters of persons employed on the premises.

5. Storage garages where the lot is occupied by a multiple-family dwelling, hospital, or institutional building.

6. On-site parking and loading as regulated.

7. Accessory uses customarily incidental to the uses permitted in Subdivisions 2 and 3 of this Section.

Subdivision 5. Lot Area, Lot Width, and Yard Requirements.

Lot Area: 10,000 square feet.

Lot Width: 80 feet.

Front Yard: 50 feet.

Side Yard: 10 feet.

Rear Yard: 25 feet.

Subdivision 6. Off-Street Parking and Unloading.

Off-street parking and unloading requirements as established in Section 9.50.

Subdivision 7. Height Requirements.

Two and one-half (2-1/2) stories or thirty-five (35) feet, maximum height, excluding material-handling equipment and its containing structure.

SECTION 9.22 (C-3) FRINGE COMMERCIAL See Ordinance: #3-13

Subdivision 1. Purpose.

This district provides a location for businesses that are service in anture, with the service performed outdside the district, require sizable storage buildings and/or significant outdoor storage space for material and equipment, are not dependent on business traffic, and produce limited noise, odors, smoke and vibtration as given in Section 9.56.

Subdivision 2. Permitted Uses

1. Warehouses
2. Storage buildings
3. Building materials yards and contractor's yards
4. Essential service utility structures and facilities
5. Railroad lines and spurs
6. Outdoor storage of equipment and materials
7. Business owner's offices and maintenance facilities

Subdivision 3. Conditional Uses.

1. Automobile, truck, tractor, and implement garages and repair shops, with limited outside storage of vehicles for repair.
2. Essential public utility structures
3. Municipal or government buidlings, police or fire stations
4. Gas and oil bulk stations
5. Carpenter, plumbing, heating, air conditioning and electrician shops

Subdivision 4. Accessory Uses

1. Any use that is clearly incidental to the primary use and conforms to applicable performance standards listed in Section 9.56
2. Living quarters provided the provision of Section 9.50, Section 4 are met.

Subdivision 5. Lot Coverage, Lot Width, and Yard Requirements.

Lot Coverage: No more than sixty percent (60%) of the total lot area shall be covered by buildings.

Lot Area: 10,000 sq. ft

Lot Width: 80 ft.

Front Yard: 0 ft.

Side Yard: 10 ft.

Rear Yard: 10 ft.

Subdivision 6. Off-Street Parking and Unloading
Off-street parking an unloading requirements as established in Section 9.50.

Subdivision 7. Height Requirements.
No building shall hereafter be erected or structurally altered to exceed four (4) stories or forty-five (45) feet in height.

SECTION 9.23-9.24. RESERVED FOR FUTURE EXPANSION.

SECTION 9.25 Transitional Business See Ordinance #6-17 Transitional Business

Subdivision 1. Purpose.

This District provides a location for commercial and retail uses that are largely dependent upon thoroughfare traffic, and wholesaling, manufacturing and relate uses whose operations are entirely enclosed within buildings and whose operation will not cause noise, odors, smoke or vibrations beyond their buildings or grounds and conform to the requirements of Sections 9.56, Performance Standards, and Section 9.50 Subd. 4, Parking and Loading Requirements

Subdivision 2. Permitted Uses.

1. Motels or motor inns.

2. Automobile, truck, tractor, or implement sales offices and sales lots.

3. Automobile service stations, for sale of gasoline, oil, and accessories.

4. Automobile, truck, tractor, and implement repair shops, with no outside storage of vehicles or equipment.

5. Tire, battery, and automobile accessories shops.

6. Automobile laundries or car wash.

7. Bicycle or motorcycle sales and repair shops.

8. Marine or boat sales shops.

9. Sales and service centers of travel and camping trailers, and motor homes

10. Mobile home sales and storage centers.

11. Lumber yards and building supply centers.

12. Lawn and garden supply stores.

13. Farm, feed, and seed stores.

14. Commercial nurseries and greenhouses.

15. Drive-up offices (banks, etc.).

16. Drive-up retail or service shops.

17. Grocery stores or supermarkets.

18. Meat shops and cold storage lockers.

19. Restaurants, cafes, or delicatessens.

20. Taverns and cocktail lounges.

21. Licensed places of amusement including theaters and dance halls.

22. Bowling alleys and billiard or pool halls.

23. Rental and repair shops.

24. Carpenter, plumbing, heating, and air conditioning shops.

25. Electrical, metal-working, water, gas, or steam-fitting shops.

26. Janitorial service shops.

27. Monument sales centers.

28. Mortuaries or funeral homes.

29. Furniture stores.

30. Carpet, rug, and flooring stores.

31. Paint, wallpaper, and other furnishing stores.

32. Appliance sales and service stores.

33. Laundromats and dry cleaning or laundry pickup stores.

34. Billboards.

35. Medical, dental, and optical laboratories.

36. Antique, gift, or florist shops.

37. Retail establishments.

38. Radio or television broadcasting studios.

39. Bus stations.

Subdivision 3. Conditional Uses. See Ordinance #6-19

1. Light Manufacturing

2. Public Utility Structures.

3. Warehouses

4. Contractor's offices, shops, storage sheds and yards excluding automobile wrecking, or junkyards

5. Express, hauling,, and cartage offices of stations, transportation or freight.

6. Automobile parking lots and garages.

7. Terminals, including motor freight.

8. Wholesale establishments.

9. Hospitals and medical clinics or offices.

10. Municipal or government buildings, police or fire stations.

11. Places of Worship.

12. Animal pet shops, animal hospitals, veterinarian clinics, and pounds and extermination centers.

13. Recreational or community buildings, which are publicly owned and operated.

14. Railroad rights-of-way.

15. Wind energy conversion systems which comply with the requirements as set forth in Section 9.41.

16. Other uses similar in nature to those uses listed in this section and which in the opinion of the City Planning & Zoning Commission, will not be detrimental to the integrity of the district.

Subdivision 4. Accessory Uses.

1. Storage garages

2. On-site parking and loading as regulated in Section 9.50, Subdivision 4.

3. Accessory uses customarily incidental to the uses permitted in Subdivisions 2 and 3 of this Section.

Subdivision 5. Lot Area, Lot Width, and Yard Requirements.

Lot Area: 20,000 square feet.

Lot Width: 100 feet.

Front Yard: 25 feet.

Side Yard: 10 feet.

Rear Yard: 25 feet.

Lot Coverage: 50%

Subdivision 6. Landscaping

Site plans must contain information on the location and apprpriate detail of required screening including fencing and plantings, in relationship to the adjacent property; and details of sodding and seeding including location and square footage of area.

Subdivision 7. Off-Street Parking and Unloading.

Off-street parking and unloading requirements as established in Section 9.50.

Subdivision 8. Height Requirements.

Forty-five (45) feet, maximum height, excludingmaterial-handling equipment and its containing structure.

(Sections 9.26 through 9.29, reserved)

SECTION 9.30. (I) INDUSTRIAL DISTRICT.

Subdivision 1. Purpose.

The Industrial District is intended to provide a location for compact, convenient, and transportation-oriented industry to occur within Mountain Lake. The regulations for this district are intended to encourage industrial development that is compatible with surrounding or abutting districts.

Subdivision 2. Permitted Uses.

1. Creameries, milk and cream distribution stations, produce stations and plants.
2. Express, hauling, and cartage offices or stations, transportation or freight terminals.
3. Warehouses.
4. Wholesale establishments.
5. Ice plants.
6. Carpenter, plumbing, heating, and air conditioning shops.
7. Electrical, metal-working, water, gas, or steam-fitting shops.
8. Railroad rights-of-way.

9. Contractor's offices, shops, and yards excluding automobile wrecking or junk yards and machine sheds.

10. Public utility or service buildings and stations.

11. Highway maintenance shops and yards.

12. Auto, truck, tractor, or implement repair shops and garages.

13. Lumber yards and building materials centers.

14. Manufacturing, processing, servicing, and testing, excluding: chemicals, livestock, fuels, fertilizer, feed, or grain.

15. Adult Entertainment

Subdivision 3. Conditional Uses. See Ordinance #10-09, #6-19

1. Storage, manufacturing, processing, or testing of chemicals, fuels, fertilizer, feed or grain.

2. Livestock slaughter houses, packing, or processing plants.

3. Gasoline and oil bulk stations and distributing plants.

4. Refineries and distilleries.

5. Extraction of minerals or other materials.

6. Places of Worship

7. Farm Animals when in the Animal (A) Overlay District

8. Wind energy conversion systems which comply with the requirements as set forth in Section 9.41.

9. Retail Businesses

10. Other uses similar in nature to those uses listed in this section and which in the opinion of the City Planning & Zoning Commission, will not be detrimental to the integrity of the district.

Subdivision 4. Lot Coverage, Lot Width, and Yard Requirements.

Lot Coverage:	No more than fifty percent (50%) of the total lot area shall be covered by buildings.
Lot Width:	Every lot shall have a width of not less than one hundred (100) feet abutting a public right-of-way.
Front Yard:	There shall be a front yard set-back of fifty (50) feet from all public rights-of-way.
Side Yard:	No side yard shall be required; except, that no building shall be located within one hundred (100) feet of any residential district.
Rear Yard:	No rear yard shall be required; except that no building shall be located within seventy-five (75) feet of any rear lot line abutting a lot in any district other than an industrial district.

Subdivision 5. Height Requirements.

No building other than grain elevators shall hereafter be erected or structurally altered to exceed four (4) stories or forty-five (45) feet in height, excluding material-handling equipment and its containing structure.

SECTION 9.31 ANIMAL OVERLAY DISTRICT (A) See Ordinance #2-14

Subdivision 1. Purpose. The intent of the district is to provide an overlay district adjacent to the boundaries of the city in which farm animals are allowed as a conditional use in a manner that controls noise, offensive odor, dust and fumes, and prevents nuisances that may disturb neighboring properties..

Subdivision 2 District Boundaries. The district is the area described outward from the city street or boundaries given below; see also Map 9.31.

Beginning at the intersection of County Rd. 1 and Mt. Lake Rd.;
North on Co. Rd. 1 to Prince St.;
Then west on Prince St. to 11th St.;
Then north on 11th St. to Midway Rd.;
Then west on Midway Rd to 10th St.:
Then north on 10th St. to the city boundary.

There is no farm animal overlay district in the northwest portion of the city.

Beginning at the west end of the line extending west from the southwest corner of Lakeview Estates Subdivision to Golf Course Rd.;
Then south on Golf Course Road to Co. Rd. 27;
Then south on Co. Rd. 7 to 380th St./Mt. Lake Rd.;

Then east on 380th St./Mt. Lake Rd. to intersection of Mt. Lake Rd. and Co. Rd. #1.

(Sections 9.32 through 9.33, reserved.)

SECTION 9.33 RESTRICTIVE FLOODPLAIN MANAGEMENT ORDINANCE See Ordinance #7-17

SUBDIVISION 1.0 STATUTORY AUTHORIZATION AND PURPOSE:

1.1 **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.

1.2 **Purpose:**

1.21 This ordinance regulates development in the flood hazard areas of the City of Mountain Lake. These flood hazard areas are subject to periodic inundation, which may result in loss of life and 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. It is the purpose of this ordinance to promote the public health, safety, and general welfare by minimizing these losses and disruptions.

1.22 National Flood Insurance Program Compliance. This ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

1.23 This ordinance is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

SUBDIVISION 2.0 GENERAL PROVISIONS:

2.1 **Lands to Which Ordinance Applies:** This ordinance applies to all lands within the jurisdiction of the City of Mountain Lake shown on the Flood Insurance Rate Maps adopted in Subdivision 2.2 as being located within the boundaries of the Floodplain District. The Floodplain District is an overlay district that is superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this ordinance. In case of a conflict, the more restrictive standards will apply.

2.2 **Adoption of Flood Insurance Study and Maps:** The Flood Insurance Study for Cottonwood County, Minnesota, and Incorporated Areas, dated July 1980, and Flood Insurance Rate Map panel 2706220150B, dated January 2, 1981; prepared by the Federal

Emergency Management Agency, are hereby adopted by reference and declared to be a part of this ordinance and the Official Zoning Map. These materials are on file at Mountain Lake City Hall.

2.3 **Interpretation:** The boundaries of the Floodplain District are determined by scaling distances on the Flood Insurance Rate Map.

2.31 Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions, the flood elevations must be the governing factor. The Zoning Administrator must interpret the boundary location based on the ground elevations that existed on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, and other available technical data.

2.32 Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the *City Council* and to submit technical evidence.

2.4 **Abrogation and Greater Restrictions:** It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

2.5 **Warning and Disclaimer of Liability:** This ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This ordinance does not create liability on the part of the City of Mountain Lake or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

2.6 **Severability:** If any subdivision, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.

2.7 **Definitions:** Unless specifically defined below, words or phrases used in this ordinance must be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application.

2.711 Base Flood – the flood having a one percent chance of being equaled or exceeded in any given year.

2.712 Base Flood Elevation – The elevation of the “regional flood,” as defined. The term “base flood elevation” is used in the flood insurance survey.

2.713 Development – any man-made change to improved or unimproved real estate including, but not limited to, buildings, manufactured homes, and other

structures, recreational vehicles, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of materials or equipment.

2.714 Farm Fence – A fence as defined by Minn. Statute §344.02 Subd. 1(a)-(d). An open type fence of posts and wire is not considered to be a structure under this ordinance. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid walls, are not permitted in the Floodplain District.

2.715 Flood Fringe – the portion of the floodplain located outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study, Crow Wing County, Minnesota and Incorporated Areas.

2.716 Flood Insurance Rate Map - An official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

2.717 Floodplain – the areas adjoining a watercourse which have been or hereafter may be covered by the regional flood.

2.718 Floodway – the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

2.719 Manufactured Home – a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include the term “recreational vehicle.”

2.720 Obstruction – any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence (with the exception of farm fences), stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

2.721 Recreational Vehicle – a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this ordinance, the term recreational vehicle is synonymous with the term “travel trailer/travel vehicle.”

2.722 Regional Flood – a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 1%

chance / 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.

2.723 Regulatory Flood Protection Elevation – an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

2.724 Structure – anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, and other similar items.

2.725 Substantial Damage - damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

2.726 Substantial Improvement - within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

(b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure." For the purpose of this ordinance, "historic structure" is as defined in 44 Code of Federal Regulations, Part 59.1.

2.8. **Annexations:** The Flood Insurance Rate Map panels adopted by reference into Subdivision 2.2 above may include floodplain areas that lie outside of the corporate boundaries of the City of Mountain Lake at the time of adoption of this ordinance. If any of these floodplain areas are annexed into the City after the date of adoption of this ordinance, the newly annexed floodplain lands will be subject to the provisions of this ordinance immediately upon the date of annexation.

SUBDIVISION 3.0 ESTABLISHMENT OF FLOODPLAIN DISTRICT

3.1 **Areas Included:** The Floodplain District for the City of Mountain Lake includes those areas designated as Zone A on the Flood Insurance Rate Maps adopted in Subdivision 2.2, as well as other locations where the best available data identifies special flood hazard areas. The Floodplain District is an overlay district to all existing land use districts. The

requirements of this ordinance apply in addition to other legally established regulations of the community. Where this ordinance imposes greater restrictions, the provisions of this ordinance apply.

3.2 **Compliance:** No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations. Within the Floodplain District, all uses not listed as permitted uses in Subdivision 4.0 are prohibited.

SUBDIVISION 4.0 PERMITTED USES AND STANDARDS IN THE FLOODPLAIN DISTRICT:

4.1 **Permitted Uses:** The following uses are permitted within the Floodplain District without a permit provided that they are allowed in any underlying zoning district and not prohibited by any other ordinance; and provided that they do not require structures, fill, obstructions, excavations, drilling operations**,** storage of materials or equipment or any other form of development as defined in Subdivision 2.712 of this ordinance. If the use does require fill, obstruction, excavation, storage of materials or any other form of development as defined in Subdivision 2.712 of this ordinance, a permit and compliance with Subdivision 4.2 of this ordinance is required. The permit requirement may be waived if there is an application for a public waters work permit from the Department of Natural Resources.

4.11 Agricultural uses such as general farming, pasture, grazing, forestry, sod farming, and wild crop harvesting. Farm fences that do not obstruct flood flows are permitted.

4.12 Outdoor plant nurseries and horticulture.

4.13 Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, shooting preserves, target ranges, hunting and fishing areas, and single or multiple purpose recreational trails.

4.14 Lawns, gardens, parking areas, and play areas.

4.15 Railroads, roads, bridges, utility transmission lines, pipelines and other public utilities, provided that the Department of Natural Resources is notified at least ten (10) days prior to issuance of any permit.

4.2 **Standards for Permitted Uses:**

4.21 The use must have low flood damage potential.

4.22 The use must not cause any increase in the stage of the 1% chance or regional flood or cause an increase in flood damages in the reach or reaches affected. This provision applies to structures (temporary or permanent), fill (including fill for

roads and levees), deposits, obstructions, storage of materials or equipment, and all other uses.

4.23 Floodplain developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

4.24 Public utilities, roads, railroad tracks and bridges to be located within the floodplain must be designed in accordance with Subdivisions 4.22 and 4.23 above, or must obtain a Conditional Letter of Map Revision meeting the requirements of 44 CFR 603(d).

(a) When failure or interruption of these public facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area, such facilities must be elevated to the regulatory flood protection elevation.

(b) Where failure or interruption of service would not endanger public health or safety, minor or auxiliary roads, railroads or utilities may be constructed at a lower elevation.

4.25 New or replacement water supply systems and sanitary sewage systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

SUBDIVISION 5.0 ADMINISTRATION

5.1 **Zoning Administrator:** A Zoning Administrator or other official designated by the City Council must administer and enforce this ordinance.

5.2 **Development Approvals:** Any construction, enlargement, alteration, repair, improvement, moving or demolition of any building or structure must comply with the requirements of this ordinance. No mining, dredging, filling, grading, paving, excavation, obstruction**,** drilling operation or other form of development as defined in Subdivision 2.0 of this ordinance are allowed, other than the uses permitted in Subdivision 4.1 and the activities allowed under Subdivision 6.

5.3 **Permit Required.** A permit must be obtained from the Zoning Administrator prior to conducting the following activities:

(a) Expansion, change, enlargement, or alteration of a nonconforming use as specified in Subdivision 6 of this ordinance. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in Subdivision 2.7 of this ordinance.

(b) Any use that requires fill, obstruction, excavation, storage of materials, or any other form of development as defined in Subdivision 2.7 of this ordinance.

5.31 Permit applications must be submitted to the Zoning Administrator on forms provided for that purpose and shall include the following where applicable: plans drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

5.32 Prior to granting a permit, the Zoning Administrator must verify that the applicant has obtained all necessary state and federal permits.

5.4 **Variances:**

5.41 An application for a variance to the provisions of this ordinance will be processed and reviewed in accordance with applicable state statutes and Subdivision 2 Section 9.70 of Chapter 9, Mt. Lake City Code.

5.42 A variance must not allow a use that is not allowed in that district; permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.

5.43 The following additional variance criteria of the Federal Emergency Management Agency must be met:

(a) Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

(b) Variances may only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

5.44 The City Council must submit hearing notices for proposed variances to the Department of Natural Resources sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

5.45 A copy of all decisions granting variances must be forwarded to the Commissioner of the Department of Natural Resources within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

5.46 The Zoning Administrator must 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 base or regional flood level increases risks to life and property

5.47 The Zoning Administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

5.5 **Notifications for Watercourse Alterations:** Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to Minnesota Statute, Chapter 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

5.6 **Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations:** As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

SUBDIVISION 6.0 NONCONFORMITIES

6.1 **Continuance of Nonconformities:** A use, structure, or occupancy of land which was lawful before the passage or amendment of this ordinance but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions. Historic structures, as defined in Subdivision 2.733(b) of this ordinance, are subject to the provisions of Subdivisions 6.11 – 6.14 of this ordinance.

6.11 A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its nonconformity. There shall be no expansion to the outside dimensions of any portion of a nonconforming structure located within the Floodplain District.

6.12 The cost of all structural alterations or additions to any nonconforming structure over the life of the structure may not exceed 50 percent of the market value of the structure unless the conditions of this Subdivision are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of the structure, then the structure must meet the standards of Subdivision 6.2 of this ordinance.

6.13 If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this ordinance. The Assessor must notify the Zoning Administrator in writing of

instances of nonconformities that have been discontinued for a period of more than one year.

6.14 If any nonconformity is substantially damaged, as defined in Subdivision 2.7 of this ordinance, it may not be reconstructed unless it is located in the flood fringe portion of the floodplain and it is reconstructed in accordance with the standards of Subdivision 6.2 of this ordinance

6.15 Any substantial improvement, as defined in Subdivision 2.7 of this ordinance, to a nonconforming structure, then the existing nonconforming structure must be located in the flood fringe portion of the floodplain and meet the requirements of Subdivision 6.2 of this ordinance.

6.2 **Standards for Reconstruction of Nonconforming Structures.** The following standards and procedures apply to nonconforming structures in the flood fringe portion of the floodplain, as allowed under Subdivision 6.1.

6.21 All structures, including manufactured homes, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least 15 feet beyond the outside limits of the structure.

6.22 Fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.

6.23 Floodplain developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

6.24 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 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.

6.25 On-site Sewage Treatment and Water Supply Systems: Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Subdivision.

6.28 Certification. The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the

provisions of this ordinance. Floodproofing measures must be certified by a registered professional engineer or registered architect.

6.29 Record of First Floor Elevation. The Zoning Administrator must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations to existing structures in the floodplain. The Zoning Administrator must also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.

SUBDIVISION 7.0 PENALTIES AND ENFORCEMENT

7.1 **Violation Constitutes a Misdemeanor:** Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances) constitutes a misdemeanor and is punishable as defined by law.

7.2 **Other Lawful Action:** Nothing in this ordinance restricts the City of Mountain Lake from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this ordinance and will be prosecuted accordingly.

7.3 **Enforcement**: In responding to a suspected ordinance violation, the Zoning Administrator and City Council may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

SUBDIVISION 8.0 AMENDMENTS

8.1 **Floodplain Designation – Restrictions on Removal:** The floodplain designation on the Official Zoning Map shall not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of the Department of Natural Resources if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.

8.2 **Amendments Require DNR and FEMA Approval:** All amendments to this ordinance must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner of the DNR must approve the amendment prior to community approval.

8.3 **Map Amendments Require Ordinance Amendments.** The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in Subdivision 2.2 of this ordinance.

SECTION 9.34. TELECOMMUNICATION TOWERS AND ANTENNAE (See Ordinance #5-09)

Subdivision 1. Definitions

1. Antenna: Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.

2. Co-locate: To be located in the same place; to place together or to arrange; to place on same tower.

3. Commercial Wireless Telecommunication Services**:** Licensed commercial wireless telecommunication services, including television, cable, radio, cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

4. Engineer: A structural engineer licensed by the State of Minnesota.

5. Telecommunication Tower: Any ground or roof mounted pole, spire, self-supporting lattice, guyed or monopole structure, or combination thereof taller than 15', including support lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus above grade. The term tower shall not include amateur radio operators' equipment, as licensed by the FCC.

Subdivision 2 Required Permits

Prior to any construction activities, the following permits must be secured from the City:

A. a building permit; and

B. a conditional use permit, as required by Section 9.70, Subd. 4

Subdivision 3 Zoning District Use

Telecommunication towers and antennae will be allowed in any zoning district in the City upon approval of the two permits required above.

Subdivision 4 Area, Setback, and Height Restrictions

A. Lot Area. The minimum lot area requirements are determined by the zoning district in which the tower site is located and as determined by any additional area needed to meet all setback requirements of this ordinance.

B. Tower Setbacks. The minimum setback from all property lines and public rights of way for telecommunication towers shall be equal to its height, except for towers that are designed to collapse in upon themselves. For these later type of towers, the minimum setbacks are one half the tower height for all yard setbacks.

C. Height Restrictions. This ordinance shall apply to any telecommunications tower in excess of 15 feet. The maximum height for telecommunications towers, including antennae is two hundred (200) feet.

Subdivision 5 Co-Location Requirements

A. A proposal for a new commercial wireless telecommunication service tower shall not be approved unless it can be documented by the applicant, and by a qualified and licensed engineer, that the telecommunication equipment planned for the proposed tower cannot be accommodated on an existing or approved tower, commercial building or public structure within a one (1) mile radius of the proposed tower site due to one or more of the following reasons:

1. The planned equipment would exceed the structural capacity of the existing or approved tower or commercial building, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

2. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building and interference cannot be prevented at a reasonable cost.

3. Existing or approved towers and buildings within the search radius (1 mile) cannot accommodate the planned equipment at a height necessary to reasonably function.

4. The applicant must demonstrate that a good faith effort to co-locate equipment on existing towers or structures within the one (1) mile radius was made, but an agreement could not be reached.

B. Documentation must be provided that any proposed commercial wireless telecommunication service tower shall be designed to accommodate both the applicant's antennae and comparable antennae for at least two (2) additional users, to allow for future

rearrangement of antennae upon the tower, and to accept antennae mounted at varying heights.

Subdivision 6 Tower Design Requirements

Proposed or modified towers and antennae shall meet the following design requirements:

A. Towers and antennae shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities.

B. Commercial wireless telecommunication service towers shall be of a monopole design unless the City determines that an alternative design would better blend with the surrounding environment. Towers must be self-supporting without the use of wires, cables, beams, or other means.

Subdivision 7. Construction Requirements

A. All antenna, towers, and accessory structures shall comply with all applicable provisions of this ordinance.

B. Towers shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the Uniform Building Code and the Electronics Industry Association.

C. No part of any antenna or tower nor any lines, cable, equipment, wires, or braces in connection with either shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk or property line.

D. Towers and associated antennae shall be designed to conform with the accepted electrical engineering methods and practices, and comply with the provisions of the National Electrical Code.

E. All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antennae and a structure, or between towers, shall be at least eight (8') feet above the ground at all points, unless buried underground.

F. Every tower affixed to the ground shall be protected by a security fence that meets the requirements of Section 9.51, to discourage climbing of the tower, unless waived by the City.

G. Tower locations should provide the maximum amount of screening

possible for off-site views of the facility. Existing on-site vegetation shall be preserved to the maximum extent practicable. The area around the base of the tower and any accessory structures shall be landscaped and/or screened.

H. All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the zoning district in which the tower site is located.

Subdivision 8 Lights and Other Attachments

A. No antenna or tower shall have affixed or attached to it in any way, except during time of repair or installation, any lights, reflectors, flashers, or other illuminating device, except as required by the Federal Aviation Agency (FAA) or the Federal Communications Commission (FCC), nor shall any tower have constructed on, or attached to, in any way, any platform, catwalk, crow's next, or like structure, except during periods of construction or repair.

B. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

C. Proof shall be given that the proposed tower complies with regulations administered by the FAA.

Subdivision 11 Abandoned or Unused Towers or Portions of Towers

A. All abandoned or unused towers and associated facilities shall be removed within six (6) months of the cessation of operations at the site unless a time extension is approved by the City. In the event that a tower is not removed within six (6) months of cessation of operations at a site, the tower and associated facilities may be removed by the City and the cost of removal assessed against the property.

Subdivision 12 Antennae Mounted on Roofs, Walls, and Existing Towers

The placement of wireless telecommunication antennae on roofs, walls, and existing towers may be approved the City, provided the antennae meet the requirements of this ordinance

SECTION 9.35. (S) SHORELAND OVERLAY DISTRICT.

Subdivision 1. Purpose.

To guide the development and utilization of shorelands of public waters for the preservation of water quality, natural characteristics, economic values and the general welfare of all public waters in the incorporated areas of the City.

Subdivision 2. District Boundaries.

The boundaries of the Shoreland Overlay District defined in this Chapter are hereby established at l,000 feet from the normal high water mark of Mountain Lake, which is a Recreational Development Lake, as classified by the Minnesota Department of Natural Resources; and includes all land within 300 feet of the streambank or to the extent of the floodplain, whichever is greater. The Standards and Criteria for the Management of Municipal Shoreland Areas of Minnesota (NR 82-84) are hereby adopted.

Subdivision 3. Compliance.

The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this Subdivision and other applicable regulations.

Subdivision 4. Interpretation.

In their interpretation and application, the provisions of Section 9.35 shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

Subdivision 5. Abrogation and Greater Restrictions.

It is not intended by Section 9.35 to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where Section 9.35 imposes greater restrictions, the provisions of this Subdivisions shall prevail. All other Subdivisions inconsistent with Section 9.35 are hereby repealed to the extent of the inconsistency only.

Subdivision 6. Administration of the Shoreland Overlay District

A. Permits Required

1. A permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by this ordinance. Application for a permit shall be made to the Planning and Zoning Commission on the forms provided. The application shall include the necessary information so

that the Planning and Zoning Commission can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

2. A permit authorizing an addition to an existing structure shall stipulate that an identified non-conforming sewage treatment system, as defined by Subdivision 8H shall be reconstructed or replaced in accordance with the provisions of this Section.

B. Certificate of Zoning Compliance. The Planning and Zoning Commission shall issue a certificate of zoning compliance for each activity requiring a permit as specified in Subdivision 6A of this Section. This certificate will specify that the use of land conforms to the requirements of this ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this ordinance and shall be punishable as provided in Sections 9.75 and 9.99 of this ordinance.

C. Variances

1. Variances may only be granted in accordance with Minnesota Statutes, Chapter 462, as applicable. A variance may not circumvent the general purposes and intent of this ordinance. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the board of adjustment must also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

2. The board of adjustment shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in Subdivision 6D shall also include the board of adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

3. For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a non-conforming sewage treatment system.

D. Notifications to the Department of Natural Resources

1. Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the DNR Commissioner or the DNR Commissioner's designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

2. A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the DNR Commissioner or the DNR Commissioner's designated representative and postmarked within ten days of final action.

Subdivision 7. Shoreland Classification System and Land Use Districts

A. Shoreland Classification System. The public waters of the City of Mountain Lake have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Cottonwood County, Minnesota.

1. The shoreland area for the waterbodies listed in Subdivision 7.1a and b shall be as defined in Section 9.02, and as shown on the Official Zoning Map.

Protected Waters

a. Recreational Development Lakes	Inventory I.D.#
Mountain Lake	17-0002

b. Tributary Streams	Point of Beginning	End Point
Unnamed Tributary to Watonwan River	Sec. 28, T106N, R34W	Sec. 28, T106N, R34W

(All protected watercourses in the City of Mountain Lake shown on the Protected Waters Inventory Map for Cottonwood County, a copy of which is hereby adopted by reference, not given a classification above shall be considered "Tributary").

B. Land Use District Descriptions

1. Criteria For Designation. The land use districts in Section 9.35, Subdivision 7C, and the delineation of a land use district's boundaries on

the Official Zoning Map, must be consistent with the goals, policies, and objectives of the comprehensive land use plan and the following criteria, considerations, and objectives:

(1) General Considerations and Criteria for All Land Uses: preservation of natural areas; present ownership and development of shoreland areas; shoreland soil types and their engineering capabilities; topographic characteristics; vegetative cover; in-water physical characteristics, values, and constraints; recreational use of the surface water; road and service center accessibility; socioeconomic development needs and plans as they involve water and related land resources; the land requirements of industry which, by its nature, requires location in shoreland areas; and the necessity to preserve and restore certain areas having significant historical or ecological value.

(2) Factors and Criteria for Planned Unit Developments: existing recreational use of the surface waters and likely increases in use associated with planned unit developments; physical and aesthetic impacts of increased density; suitability of lands for the planned unit development approach; level of current development in the area; and amounts and types of ownership of undeveloped lands.

C. Land Use District Descriptions. The land use districts provided on the following page, and the allowable land uses therein for the given classifications of waterbodies, shall be properly delineated on the official Zoning Map for the shorelands of the City of Mountain lake. These land use districts are in conformance with the criteria specified in Minnesota Regulation, Part 6120.3200, Subp. 3:

Land Use Districts For Lakes, Rivers, and Streams. For District Uses in this Subdivision, P - Permitted Uses, and C - Conditional Uses.

	Lakes Recreational Development	Streams/Rivers Tributary
Special Protection District - Uses		
-Forest management	P	P
-Sensitive resource mgmt.	P	P
-Agricultural: cropland and pasture	P	P
-Parks & historic sites	C	C
-Extractive use	C	C
-Single residential	C	C
Residential District - Uses		

-Single residential	P	P
-Semipublic	C	P
-Parks and historic sites	C	P
-Extractive use	C	C
-Duplex, triplex, quad residential	P	C
-Forest management	P	P
-Residential Planned Unit Dev.	C	C
General Use District - Uses		
-Commercial	C	C
-Industrial	C	C
-Public, semipublic	P	C.
-Extractive use	C	C
-Parks and historic sites	C	C
-Forest management	P	P

D. Use and Upgrading of Inconsistent Land Use Districts.

1. The land use district regulations adopted prior to the May 1991 Shoreland Overlay District Update that apply to shoreland areas, their delineated boundaries on the Official Zoning Map, and are not consistent with the land use district designation criteria specified in Section 9.35 Subdivision 7C herein must conform as follows: These inconsistent land use district designations may continue until revisions are proposed to change either the land use district designation within an existing land use district boundary shown on the Official Zoning Map or to modify the boundary of an existing land use district shown on the Official Zoning Map.

2. When a revision is proposed to an inconsistent land use district provision, the following additional criteria and procedures shall apply:

   (1) For Lakes. When a revision to a land use district designation on a lake is considered, the land use district boundaries and use provisions therein for all the shoreland areas within the jurisdiction of this ordinance on said lake must be revised to make them substantially compatible with the framework in Section 9.35, Subdivisions 7B and 7C.

   (2) For Rivers and Streams. When a revision to a land use district designation on a river or stream is proposed, the land use district boundaries and the use provisions therein for all shoreland on both sides of the river or stream within the same classification within the jurisdiction of this ordinance must be revised to make them substantially compatible with the framework in Section 9.35, Subdivisions 7B and 7C. If the same river classification is

contiguous for more than a five-mile segment, only the shoreland for a distance of 2.5 miles upstream and downstream, or to the class boundary if closer, need be evaluated and revised.

3. When an interpretation question arises about whether a specific land use fits within a given "use" category, the interpretation shall be made by the Board of Adjustment. When a question arises as to whether a land use district's boundaries are properly delineated on the Official Zoning Map, this decision shall be made by the City Council of Mountain Lake according to State Statutes.

4. When a revision is proposed to an inconsistent land use district provision by an individual party or landowner, this individual party or landowner will only be responsible to provide the supporting and/or substantiating information for the specific parcel in question. The City Council will direct the Zoning Administrator to provide such additional information for this waterbody as is necessary to satisfy Section 9.35, Subdivisions 7A and 7B.

5. The City Council of Mountain Lake must make a detailed finding of fact and conclusion when taking final action that this revision, and the upgrading of any inconsistent land use district designations on said waterbody, are consistent with the enumerated criteria and use provisions of Section 9.35, Subdivision 7B.

Subdivision 8. Zoning and Water Supply/Sanitary Provisions

A. Lot Area and Width Standards. The lot area (in square feet) and lot width standards (in feet) for single, duplex, triplex and quad residential lots created after the date of enactment of this ordinance for the lake and river/stream classifications are the following:

1. Unsewered Recreational Development Lake

	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Single	40,000	150	40,000	150
Duplex	80,000	225	80,000	265
Triplex	120,000	300	120,000	375
Quad	160,000	375	160,000	490

2. Sewered Recreational Development Lake

	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width

Single	20,000	75	15,000	75
Duplex	35,000	135	26,000	135
Triplex	50,000	195	38,000	190
Quad	65,000	255	49,000	245

3. River/Stream Lot Width Standards. There is no minimum lot size requirements for rivers and streams. The lot width standards for single, duplex, triplex and quad residential developments for the six river/stream classifications are:

	Urban & Tributary	
	No sewer	Sewer
Single	100	75
Duplex	150	115
Triplex	200	150
Quad	250	190

4. Additional Special Provisions.

   (1) Residential subdivisions with dwelling unit densities exceeding those in the tables in Section 9.35, Subdivision 8A 2 and 3 can only be allowed if designed and approved as residential planned unit developments under Section 9.35, Subdivision 11. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line. The sewer lot area dimensions in Section 9.35, Subdivision 8A2 can only be used if publicly owned sewer system service is available to the property.

   (2) One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in Section 9.35, Subdivisions 8A 1,2, and 3, provided the following standards are met: for lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within the smallest duplex-sized lot that could be created including the principal dwelling unit; a guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height; and a guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.

   (3) Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within

subdivisions are permissible and must meet or exceed the following standards: they must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots. If docking, mooring, or over-water storage of more than six watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

Controlled Access
Lot Frontage Requirements

Ratio of lake size to shore length (acres/mile)	Required increase in frontage (percent)
Less than 100	25
100-200	20
201-300	15
301-400	10
Greater than 400	5

They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot; and covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the non-significant conflict activities include swimming, sunbathing, or picnicking.

The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

B. Placement, Design, and Height of Structures.

1. Placement of Structures on Lots. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building

site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone. Structures shall be located as follows:

(1) Structure and On-site Sewage System Setbacks (in feet) from Ordinary High Water Level*.

Classes of Public Waters	Setbacks* Structures Unsewered	Sewered	Sewage Treatment System
Lakes			
Recreational Development	100	75	75
Rivers			
Tributary	100	50	75

* One water-oriented accessory structure designed in accordance with Section 9.35, Subdivision 8B2 may be set back a minimum distance of ten (10) feet from the ordinary high water level .

(2) Additional Structure Setbacks. The following additional structure setbacks apply, regardless of the classification of the waterbody:

Setback From:		Setback (in feet)
(1)	unplatted cemetery;	50
(2)	right-of-way line of federal, state, or county highway; and	50
(3)	right-of-way line of town road, public street, or other roads or streets not classified	20

(3) Uses Without Water-oriented Needs. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

2. Design Criteria For Structures.

(1) High Water Elevations. Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

(a) for lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher; and

(b) for rivers and streams, by placing the lowest floor at least three feet above the flood of record, if data are available.

If data are not available, by placing the lowest floor at least three feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with parts 6120.5000 to 6120.6200 governing the management of floodplain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

(2) Water-oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Section 9.35, Subdivision 8B1 of this ordinance if this water-oriented accessory structure complies with the following provisions:

(a) the structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet;

(b) Detached decks must not exceed eight feet above grade at any point;

(c) The setback of the structure or facility from the ordinary high water level must be at least ten feet;

(d) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation,

topography, increased setbacks or color, assuming summer, leaf-on conditions;

(e) The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;

(f) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and

(g) As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.

(3) Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

(a) Stairways and lifts must not exceed four feet in width on residential lots.

(b) Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments;

(c) Landings for stairways and lifts on residential lots must not exceed 32 square feet in area.

(d) Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties, and planned unit developments;

(e) Canopies or roofs are not allowed on stairways, lifts, or landings;

(f) Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;

(g) Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the

public water assuming summer, leaf-on conditions, whenever practical; and

(h) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards above are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.

(4) Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

(5) Steep Slopes. The Zoning Administrator must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

3. Height of Structures. All structures in residential districts, except churches and nonresidential agricultural structures, must not exceed 25 feet in height.

C. Shoreland Alterations. Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

1. Vegetation Alterations.

(1) Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Section 9.35, Subdivision 8D are exempt from the vegetation alteration standards that follow.

(2) Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Section 9.35, Subdivision 8F 2 and 3, is allowed subject to the following standards:

(a) Intensive vegetation clearing within the shore impact zones and on steep slopes is not allowed.

(b) Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.

(c) In shore impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that: the screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced; along rivers, existing shading of water surfaces is preserved; and the above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

2. Topographic Alterations/Grading and Filling.

(1) Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this Subdivision must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.

(2) Public roads and parking areas are regulated by Section 9.35, Subdivision 8D.

(3) Notwithstanding Items (1) and (2) above, a grading and filling permit will be required for: the movement of more than ten (10) cubic yards of material on steep slopes or within shore impact zones; and the movement of more than 50 cubic yards of material outside of steep slopes and shore impact zones.

(4) The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling

permits, conditional use permits, variances and subdivision approvals:

(a) Grading or filling in any type 2, 3, 4, or 5 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland*: sediment and pollutant trapping and retention; storage of surface runoff to prevent or reduce flood damage; fish and wildlife habitat; recreational use; shoreline or bank stabilization; & noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

(b) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;

(c) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;

(d) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;

(e) Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;

(f) Fill or excavated material must not be placed in a manner that creates an unstable slope;

(g) Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;

(h) Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, section 103G.245;

(i) Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and

(j) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water does not exceed three feet.

(5) Connections to public waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, and lagoons must be controlled by local shoreland controls. Permission for excavations may be given only after the DNR Commissioner has approved the proposed connection to public waters.

* This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant will be so advised.

D. Placement and Design of Roads, Driveways, and Parking Areas.

1. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

2. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

3. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of Section 9.35, subdivision 8C2 must be met.

E. Stormwater Management. The following general and specific standards shall apply:

1. General Standards:

(1) When possible, existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.

(2) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

(3) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

2. Specific Standards:

(1) Impervious surface coverage of lots must not exceed 25 percent of the lot area.

(2) When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.

(3) New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

F. Special Provisions for Commercial, Industrial, Public/Semipublic, Agricultural, Forestry and Extractive Uses.

1. Standards for Commercial, Industrial, Public, and Semipublic Uses.

(1) Surface water-oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:

(a) In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;

(b) Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and

(c) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:

(1) No advertising signs or supporting facilities for signs may be placed in or upon public waters;

(2) Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff:

(3) Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information.

(4) Signs must only convey the location and name of the establishment and the general types of goods or services available.

(5) Signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size.

(6) If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

(7) Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially

screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

2. Agriculture Use Standards.

(1) General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

(2) Animal feedlots shall not be located in shoreland areas.

3. Forest Management Standards. The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management "Best Management Practices in Minnesota."

4. Extractive Use Standards.

(1) Site Development and Restoration Plan. An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.

(2) Setbacks for Processing Machinery. Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters.

G. Conditional Uses. Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established community-wide. The following additional evaluation criteria and conditions apply within shoreland areas:

1. Evaluation criteria. A thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site must be made to ensure:

   (1) the prevention of soil erosion or other possible pollution of public waters, both during and after construction;

   (2) the visibility of structures and other facilities as viewed from public waters is limited;

   (3) the site is adequate for water supply and on-site sewage treatment; and

   (4) the types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

2. Conditions attached to conditional use permits. The City Council of Mountain Lake, upon consideration of the criteria listed above and the purposes of this ordinance, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this Subdivision. Such conditions may include, but are not limited to, the following:

   (1) increased setbacks from the ordinary high water level;

   (2) limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and

   (3) Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

H. Water Supply and Sewage Treatment.

1. Water Supply. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency. Private wells must be located, constructed, maintained, and sealed in accordance with or in a more thorough manner than the Water Well Construction Code of the Minnesota Department of Health.

2. Sewage treatment. Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:

(1) Publicly-owned sewer systems must be used where available.

(2) All private sewage treatment systems must meet or exceed applicable rules of the Minnesota Department of Health, and the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment Systems Standards, Chapter 7080". A copy of which is hereby adopted by reference and declared to be a part of this ordinance.

(3) On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Section 9.35, Subdivision 8B1.

(4) All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in the Evaluation criteria below. If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations. Evaluation criteria:

(a) Depth to the highest known or calculated ground water table or bedrock;

(b) Soil conditions, properties, and permeability;

(c) Slope;

(d) The existence of lowlands, local surface depressions, and rock outcrops.

(5) Non-conforming sewage treatment systems shall be regulated and upgraded in accordance with Section 9.35, Subdivision 9C.

Subdivision 9. Non-conformities.

All legally established non-conformities as of the date of this ordinance may continue, but they will be managed according to applicable state statutes and other regulations of this community for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply in shoreland areas:

A. Construction on non-conforming lots of record.

1. Lots of record in the office of the county recorder on the date of enactment of local shoreland controls that do not meet the requirements of Section 9.35, Subdivision 8A may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this ordinance are met.

2. A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the board of adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

3. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section 9.35, Subdivision 8A, the lot must not be considered as a separate parcel of land for the purposes of sale or development. , The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, and must meet the requirements of Section 9.35, Subdivision 8A as much as possible.

B. Additions / expansions to non-conforming structures.

1. All additions or expansions to the outside dimensions of an existing non-conforming structure must meet the setback, height, and other requirements of Section 9.35, Subdivision 8. Any deviation from these requirements must be authorized by a variance pursuant to Section 9.35, Subdivision 6C.

2. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:

(1) the structure existed on the date the shoreland structure setbacks were established by Ordinance;

(2) a thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;

(3) the deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from

the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and

(4) the deck is constructed primarily of wood, and is not roofed or screened.

C. Non-conforming sewage treatment systems.

1. A sewage treatment system not meeting the requirements of Section 9.35, Subdivision 8H of this Ordinance must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered non-conforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

2. The governing body of Mountain Lake has by formal resolution notified the DNR Commissioner of its program to identify non-conforming sewage treatment systems. Mountain Lake will require upgrading or replacement of any non-conforming system identified by this program within a reasonable period of time which will not exceed 2 years. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, section 103F.201, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080 for design of on-site sewage treatment systems, shall be considered non-conforming.

3. The city shall develop and implement the following program(s) to identify and upgrade sewage treatment systems that are inconsistent with the sewage treatment system design criteria identified in Section 9,35, Subdivision 8H2, exclusive of the appropriate setback from the ordinary high water level in Section 9.35, Subd 8B1.

(1) A notification or education program that is oriented toward convincing substantial numbers of property owners to evaluate their sewage systems and voluntarily upgrade the sewage treatment systems, if non-conforming; or

(2) other programs found to be acceptable to the DNR Commissioner.

Subdivision 10. Subdivision/Platting Provisions

A. Land suitability. Each lot created through subdivision, including planned unit developments authorized under Section 9.35, Subdivision 11, must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

B. Consistency with other controls. Subdivisions must conform to all official controls of this community. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with Sections 9.35, Subdivisions 8B and 8H can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Section 9.35, Subdivision 8, including at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction of two standard soil treatment systems. Lots that would require use of holding tanks must not be approved.

C. Information requirements. Sufficient information must be submitted by the applicant for the community to make a determination of land suitability. The information shall include at least the following:

1. topographic contours at ten foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics:

2. the surface water features required in Minnesota Statutes, section 505.02, subdivision l, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;

3. adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;

4. information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic

vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;

5. location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and

6. a line or contour representing the ordinary high water level, and the minimum building setback distances from the lake or stream.

D. Dedications. When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

E. Platting. All subdivisions that create five or more lots or parcels that are 2-1/2 acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapter 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.

F. Controlled Access or Recreational Lots. Lots intended as controlled accesses to public waters or for recreational use areas for use by non-riparian lots within a subdivision must meet or exceed the sizing criteria in Section g.35, Subdivision 8A4.

Subdivision 11. Planned Unit Developments (PUD's)

A. Types of PUD's Permissible. Planned unit developments (PUD's) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. The land use districts in which they are an allowable use are identified in the land use district descriptions in Section 9.35, Subdivision 7B of this ordinance and the official zoning map.

B. Processing of PUD's. Planned unit developments must be processed as a conditional use. Approval cannot occur until the environmental review process (EAW/EIS) is complete.

C. Application for a PUD. The applicant for a PUD must submit the following documents prior to final action being taken on the application request:

1. A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (where public systems will not be provided), and topographic contours at ten foot intervals or less.

2. A property owners association agreement (for residential PUD's) with mandatory membership, and all in accordance with the requirements of Section 9.35, Subdivision 11F.

3. Deed restrictions, covenants, permanent easements or other instruments that: (1) properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUD's; and (2) ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section 9.35, Subdivision 11F.

4. When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied.

5. Those additional documents as requested by the Planning and Zoning Commission, that are necessary to explain how the PUD will be designed and will function.

D. Site "Suitable Area" Evaluation. Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in Section 9.35, Subdivision 11E.

1. The project parcel must be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:

Shoreland Tier Dimensions

	Unsewered (feet)	Sewered (feet)
Recreational development lakes	267	267
All river classes	300	300

2. The suitable area within each tier is next calculated by excluding from the tier area all wetlands, or land below the ordinary high water level of public waters. This suitable area and the proposed project are then subjected to the residential planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

E. Residential PUD Density Evaluation. The procedures for determining the "base" density of a PUD and density increase multipliers are as follows. Allowable densities may be transferred from any tier to any other tier further from the waterbody, but must not be transferred to any other tier closer.

1. Residential PUD "Base" Density Evaluation: The suitable area within each tier is divided by the single residential lot size standard for lakes or, for rivers, the single residential lot width standard times the tier depth, unless the local unit of government has specified an alternative minimum lot size for rivers which shall then be used to yield a base density of dwelling units or sites for each tier. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, and suitability analyses herein and the design criteria in Section 9.35, Subdivision 11F.

2. Density Increase Multipliers:

(1) Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in Section 9.3s, Subdivision 8 are met or exceeded and the design criteria in Section 9.35, Subdivision 11F are satisfied.

(2) The allowable density increases in Item 3 below will only be allowed if structure setbacks from the ordinary high water level are increased to at least 50 percent greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the local unit of government and the setback is at least 25 percent greater than the minimum setback.

(3) Allowable Dwelling Unit or Dwelling Site Density Increases for Residential Planned Unit Developments:

Density evaluation tiers	Maximum density increase within each tier (percent)
First	50
Second	100
Third	200
Fourth	200
Fifth	200

F. Maintenance and Design Criteria

1. Maintenance and Administration Requirements.

(1) Before final approval of a planned unit development, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.

(2) Open space preservation. Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections: commercial uses prohibited: vegetation and topographic alterations other than routine maintenance prohibited; construction of additional buildings or storage of vehicles and other materials prohibited; and uncontrolled beaching of watercraft prohibited.

(3) Development organization and functioning. Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owners association with the following features: membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers; each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites; assessments must be adjustable to accommodate changing conditions; and the association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

2. Open Space Requirements. Planned unit developments must contain open space meeting all of the following criteria:

(1) At least 50 percent of the total project area must be preserved as open space;

(2) Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space;

(3) Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;

(4) Open space may include outdoor recreational facilities for use by owners of dwelling units or sites;

(5) Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems;

(6) Open space may contain water-oriented accessory structures or facilities;

(7) The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means;

(8) The shore impact zone, based on normal structure setbacks, must be included as open space; and.

(9) At least 50 percent of the shore impact zone area of existing developments or at least 70 percent of the shore impact zone area of new developments must be preserved in its natural or existing state.

3. Erosion Control and Stormwater Management. Erosion control and stormwater management plans must be developed and the PUD must: be designed and the construction managed to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant; and be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must not exceed 25 percent of the tier area.

4. Centralization and Design of Facilities. Centralization and design of facilities and structures must be done according to the following standards:

(1) Planned unit developments must be connected to publicly owned water supply and sewer systems, if available.

(2) On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and Sections 9.35, Subdivision 8B and 8H.

(3) On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system.

(4) Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level must be increased in accordance with Section 9.35, Subdivision 11E3 of this ordinance for developments with density increases

(5) Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them.

(6) Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors.

(7) The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier.

(8) Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers; structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions.

(9) Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.

(10) Accessory structures and facilities, except water oriented accessory structures, must meet the required principal structure setback and must be centralized; and

(11) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 9.35, Subdivision 8 and are centralized. '

SECTION 9.36-9.39. RESERVED FOR FUTURE EXPANSION.

SECTION 9.40. PLANNED UNIT DEVELOPMENT.

Subdivision 1. Purpose.

The Planned Unit Development (PUD) provisions are intended to encourage: (a) more efficient use of land and public services, and (b) greater amenity by allowing, under certain circumstances, a more flexible means of land development and redevelopment than is otherwise permissible under the lot-by-lot restrictions of each use district. The uniqueness of a PUD may necessitate Council action modifying or waiving certain provisions of this Chapter and the Subdivision Regulations Chapter.

Subdivision 2. Application.

A. Ownership. A tract of land to be developed as a PUD shall be under the control of:

1. A single owner; or,

2. A group of land owners, acting through a partnership or 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.

B. Type. Each Planned Unit Development shall be designated as one of three types as follows according to the principal type of use by area permitted in the existing zoning district or districts in which the land proposed for such unit is located: Residential (PUD-R), Commercial (PUD-C), Industrial (PUD-I).

C. Designation. All PUD Districts shall be so designated and numbered in sequence on the zoning map.

D. Minimum Project Size.

1. Within residential districts a PUD shall not be permitted on a parcel of land containing less than one (1) acre.

2. Within a commercial or industrial district a PUD shall not be permitted on a parcel of land containing less than two (2) acres.

E. Permitted Uses. A PUD may include a mixture of residential, commercial and industrial uses or any combination thereof, the extent of each use being determined by the type of PUD district proposed and as hereinafter provided. Uses other than the principal type of use by area permitted in the existing zone district or districts in which the land proposed for such unit is located shall not occupy more than thirty-three percent (33%) of the land area in the proposed PUD

district, shall not result in undue adverse effect on surrounding areas, and shall be consistent with the intent of this Section and the concept of the proposed PUD district.

Subdivision 3. Procedures. See Ordinance #11-09

A. *Prior to Submission. The applicant is encouraged to meet with the Zoning Administrator to explain the project and learn the procedures prior to the submission of a PUD application. The applicant should identify the boundaries and proposed type of PUD district, proposed land uses, population densities and building intensity, proposed circulation patterns (pedestrian and vehicular), parks, and other open space; uses of land surrounding the PUD district and the tentative development schedule. Review of the proposed project shall not obligate the City to approve the plan or any part thereof.*

B. *Application and Fee. The applicant shall submit to the Zoning Administrator an application for the proposed PUD. The application shall be accompanied by a planshowing: the locations and dimensions of the area; the exact sizes and location of existing and proposed buildings; the existing and proposed uses of structures and open areas; exterior lighting plan; landscaping plan; grading plan; utility plan; construction schedule or time table; off-street parking, including parking for the handicapped when required (roadways not designed for parking for the handicapped when required or roadways not designed for parking shall be designated "no parking"); exterior view of buildings; floor plans of buildings; table summarizing the area of land devoted to various uses including floor area, open space, living space, recreation space; type of construction for driveways, walkways, etc.; location and design of outdoor advertising devices, playground equipment, mailboxes, air conditioning, trash receptacles, etc.; statement as to whether units will be rented or sold and how land will be transferred; statement as to when a plat will be submitted for approval; protective covenants and homeowners association by-laws; information relating to topography access, other information as requested by the Zoning Administrator. In the case of projects to be executed in increments, a schedule showing the time within which application for approval of the various parts intended to be filed shall also be attached. The application shall be accompanied by a fee as listed in Fee Schedule.*

C. *Zoning Administrator. Upon receipt of a complete application and plan the Zoning Administrator shall refer it to other departments and agencies for review as to comply with pertinent City standards and regulations. The Zoning Administrator shall prepare a report determining if the application meets the standards set forth below and recommending those conditions and modifications to bring the plan into compliance with this Chapter.*

D. *Planning and Zoning Commission. A public hearing shall be held on the application at the next Commission meetings provided that the notice requirements as set forth in Section 9.70, Subd. 4 are met. The Commission shall review the plan and report as set forth by the Zoning Administrator and consider conditions and requirements to bring the plan into compliance with this Chapter. The recommendation or denial of the application shall*

include findings of fact and set forth the reasons for the recommendation or denial including in what respects the plan would or would not be in the public interest, including but not limited to the following:

1. *The extent to which the plan departs from the zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to density, bulk and use, and the reasons why such departures are or are not deemed to be in the public interest;*

2. *The manner in which the plan does or does not make adequate provisions for public services, provide adequate control over vehicular traffic, and further the amenities of light and air, recreation and visual enjoyment;*

3. *The nature and extent of open space, the reliability of the proposals for maintenance and conservation of the common open space, and the adequacy or inadequacy of the amount and function of the open space in terms of the densities proposed in the plan;*

4. *The relationship, beneficial or adverse, of the planned development project upon the neighborhood in which it is proposed to be established;*

5. *In the case of a plan which proposes development over a period of years, the sufficiency of the terms and conditions proposed to protect and maintain the integrity of the plan which finding shall be made only after consultation with the City Attorney;*

6. *In built-in areas, the suitability of the proposed structures in relation to existing structures to remain and anticipated future development of the area;*

7. *Conformity with all applicable provisions of this Chapter and the Mountain Lake Land Use Plan.*

E. *Council Approval. The recommendation or denial of the PUD shall be directed to the Council for final action. The Council shall have the option of holding a public hearing. The Council shall consider the application and the recommendation of the Planning and Zoning Commission. If approved by the Council, the PUD shall be adopted by resolution subject to such conditions or restrictions as may be approved by the Council.*

F. *Effect of Approval. The final plan as approved by resolution together with the conditions and restrictions imposed, if any, shall govern and control the use and development of the land involved; provided that general zoning regulations which were applicable to the land prior to approval of the plan and which are not inconsistent with the plan shall continue to be applicable. No building permit shall be issued for any structure within the district*

unless and until the Zoning Administrator certifies that it conforms to the provisions of the plan and other applicable zoning requirements.

G. Criteria and Standards

1. Preparation of Plans. The applicant is encouraged to have the required documents and supporting evidence, prepared and endorsed by a qualified professional team, and if the PUD requires the subdivision of land and the installation of public site improvements, a registered land surveyor and registered civil engineer should also be utilized.

2. Maximum Ground Coverage. Not more than fifty percent (50%) of the PUD shall be covered by the principal use buildings, all accessory buildings and impervious surfaces.

3. Plats. Any PUD of two acres or more shall be platted or replatted.

H. Administration.

1. Administrative Standards and Procedures. The Commission may adopt specific rules and regulations from time to time and place them on public record in the office of the City Clerk.

2. Annual Review. The Zoning Administrator shall review each PUD at least once each year and shall make a report through the Commission to the Council on the status of the development in each PUD district. If development is not progressing reasonably well, according to schedule, the owner shall be required to submit a statement to the Zoning Administrator setting forth the reasons for the lack of progress. If the Council finds that the development has not occurred according to the established development schedule or is not otherwise reasonable in the view of the Council, the Council may initiate rezoning to remove the PUD district. In any event, it shall not be necessary for the Council to find the rezoning to a PUD district was in error.

I. Changes. Changes in the final plan involving the location and alignment of structures not to exceed ten (10) feet in any direction may be authorized by the Zoning Administrator for good cause shown. All other changes shall be made only after public hearings by the Commission and the Council upon notice as provided in Section 9.70 and any changes approved by the Council shall be by resolution as an amendment to the final plan.

SECTION 9.41 WIND ENERGY CONVERSION SYSTEMS

Subd. 1 General.

Wind energy conversion systems (WECS) are allowed as a conditional use in the commercial – general (C-2) and industrial (I) zoning districts and are not permitted in the residential (R) and downtown commercial (C-1) of the City of Mt. Lake.
Proposed WECS shall meet the following minimum conditions:

Subd. 2 Permit Application Requirements:

An application shall be filed with the Zoning Administrator on a form prescribed by the Planning and Zoning Department. The following information is required:

k. Name(s) and address(es) of property owner and project applicant, parcel number and legal description of property

l. A description of the project including number and capacity of turbines, height and diameter of turbine rotors, turbine, tower, and blade color, and rotor direction.

m. A site plan, detailing the size of property, location of turbine, buildings, driveways, transformers, power lines, communication lines, interconnection point with transmission lines and other ancillary facilities or structures.

n. Current zoning of the property.

o. Decommissioning plan.

p. Safety and Signage plan.

q. Engineering and/or manufacturer certification.

h. Documentation that the power will be used on site or evidence of a power purchase contract with the Mt. Lake Electrical Utility. If the power is sold to the Mt. Lake Electrical Utility the meter(s) used must be approved by the Mt. Lake Electrical Utilities Superintendent.

i. Verification from Mt. Lake Utilities Electrical Superintendent that the turbine will be compatible with the electrical system.

j. Verification from other private and public utilities located in the city, including but not limited to telephone, cable, other types of communication and natural gas, that the turbine will not negatively impact these utilities and that the steps have been taken to correct any potential problems.

Subd. 3 Compliance with Codes and Standards

All WECS shall be in compliance with applicable state and federal regulatory standards including:

f. Uniform Building Code as adopted by the City of Mt. Lake

g. National Electrical Code as adopted by the State of Minnesota

h. FAA requirements

i. MPCA/EPA regulations for hazardous waste and construction

j. MN Pollution Control Agency Chapter 7030, Noise Standards

Subd. 4 Certification

The commercial system manufacturer or a certified engineer must attest to:

a. Tower and foundation designs are suitability for turbine and soils.

b. Tower and foundation are able to withstand wind and icing loads.

c. The system has an automatic shutdown to render it inoperable in conditions of imbalance or high wind speeds.

d. The tower and turbine were manufactured in compliance with industry standards.

Subd. 5 Setback requirements

All turbines must be set back from property lines a total of structure height (tower height and one-half the rotor diameter) plus a 10 to 25 % additional margin. No structures are allowed in this setback. This setback will ensure a near zero probability of harm to the general public.

Subd. 6 Decommissioning

Provisions shall ensure that turbine and tower are properly decommissioned at the end of the project life or abandonment. Decommissioning shall include:

e. Removal of all structures and footings

f. when and how turbine and tower are to be decommissioned

g. estimated cost of decommissioning

h. financial resources to be used to accomplish decommissioning. The establishment of an escrow account into which the project developer/owner will deposit funds on a regular basis over the life of the project may be required. The City will then have access to the escrow account for the explicit purpose of decommissioning. Financial provisions shall not be so onerous and to make wind power project unfeasible.

Subd. 7 Safety and Signage

e. Access to the tower and turbine shall be limited either by a fence 6 ft. high with a locked gate or by limiting tower climbing apparatus to no lower than 12 ft. from the ground.

f. Towers with guyed wires are not allowed.

g. High voltage signs shall be placed at the base of the tower.

h. Fences and signs shall comply with Mt. Lake City Code.

Subd. 8 Aesthetics

a. The tower and turbine shall be of non-reflective, unobtrusive color.

b. Projects shall utilize minimal lighting.

c. All lines shall be buried underground.

d. Screening may be necessary to minimize visual impact.

Subd. 9 Interference

b. The operation of the WECS shall not cause radio, television, telephone or microwave interference.

SECTION 9.42 SWIMMING POOLS

Subdivision 1. Definitions.

1. Permanent Pool

Any pool or tub, in-ground or above ground, that occupies a yard on a year round basis, is designed to be used for recreational purposes such as swimming or bathing, is not located within a completely enclosed building and contains or is normally capable of containing water to a depth at any point of 24 inches or greater. No such swimming pool shall be allowed in any district, except as an accessory use and unless it complies with the conditions and requirements set out in this section. A permanent pool shall require a building permit.

2. Temporary Pool

Any pool or tub, that occupies a yard less than six months per year, is designed to be used for recreational purposes such as swimming or bathing, is not located within a completely enclosed building and contains or is normally capable of containing water to a depth at any point of 24 inches or greater. No such swimming pool shall be allowed in any district, except as an accessory use and unless it complies with the conditions and requirements set out in this section. A temporary pool shall not require a building permit.

3. Wading pool

Any pool or tub, either temporary or permanent, designed to be used for recreational purposes such as wading that is not located within a completely enclosed building and contains or is normally capable of containing water to a depth at any point of 24 inches or less.

Subdivision 2. Temporary and Permanent Pool Requirements.

1. Setbacks: Permanent and temporary pools and their adjoining/attached decks and fences shall not be located closer than 10 feet to any property line. Pumps and filters shall not be located within 20 feet of any property line. No permanent or temporary pool shall be located in any easement.

2. Release of water**:** Back-flush water or water from pools shall be directed onto the owner's property or onto approved public drainage ways and shall not be drained onto adjacent private land. Drainage onto public streets or other public drainage ways shall require written approval of the public works director.

3. Lighting: All swimming pool lighting shall be directed toward the pool and not toward the adjacent property.
4. Distance from Utilities**:** All swimming pools, temporary and permanent, shall not be located within ten feet of underground or above-ground utility lines.

5. Fencing:
    a. Permanent pools. All permanent pools shall require a fence that is a minimum of four feet high and includes lockable gates. The fence shall be installed prior to any water being placed in the pool. Fencing shall be chain link, vertical pickets or solid. Spaces between the bottom of the fence and the ground or between the pickets shall not exceed 4 inches. Gates shall have self-closing and self-latching devices at a height and location so as to be inaccessible to children.

    b. Temporary pools. Temporary pools are exempt from the fencing requirements provided that:

        1. any ladder or other means of entry into the temporary pool are detached and placed so that no child can gain entry into the pool without the owner's consent

or the ladder or steps of a pool which sides cannot be climbed are surrounded by a barrier that prevents a child from gaining entrance to the pool. Temporary pools may also be covered with a child resistant cover when it is not in use.

SECTION 9.43-9.49. RESERVED FOR FUTURE EXPANSION.

SECTION 9.50. GENERAL REQUIREMENTS.

Subdivision 1. Intent.

Pursuant to the purposes of this Chapter, there are certain general requirements that are not provided for in other Sections of this Chapter. It is the purpose of this Section to set forth these requirements.

Subdivision 1.5. Non-conforming Lots of Record.

In any district in which single family dwellings are permitted, notwithstanding limitations imposed by other provisions of this ordinance, a single-family dwelling and customary accessory buildings, which are non-conforming as Feb. 1, 1986, may be erected on any single lot of record on the effective date of this ordinance provided that it fronts on a public right-of-way and provided, that further that width and area measurements are at least 65 percent of the minimum requirements of this ordinance.

Subdivision 2. Non-Conforming Uses and Structures. See Ordinance #12-09

1. Definition – For the purposes of this subdivision the term 'expansion' shall be defined as any activity that extends the amount of land or floor space used or in any manner intensifies the lawful non-forming use.

2. Any structure or use existing upon the effective date of this Chapter and which does not conform to the provisions of this Chapter may be continued subject to the following:

A. No lawful non-conforming use shall be expanded.

B. If a lawful non-conforming use is discontinued for a period of one year, further use of the structures or property shall conform to this Chapter.

C. If a lawful non-conforming structure is destroyed by any cause, to an extent exceeding fifty percent of its fair market value as indicated by the records of the County Assessor, and no building permit has been applied for within 180 days of when the property is damaged, a future structure on the site shall conform to this Chapter.

D. The repair, replacement, restoration, maintenance, or improvement to a lawful non-conforming use, which does not extend or intensify the non-conforming use, is permitted.

Subdivision 3. General Sign Provisions.

Notwithstanding directional or parking signs, no sign shall be located on the zoning lot or on the exterior of any structure, except those signs which identify the name and/or type of business conducted within such structure or identify the building. All flashing, revolving and intermittently lighted signs are expressly prohibited.

A. Residential Districts. No billboards or signs shall be erected in the residential districts except as follows:

1. Signs displaying the name only of the property or the premises upon which displayed or the owner or lessee thereof.

2. Signs not exceeding eight (8) square feet in area, pertaining only to the sale, rental, or base of the premises upon which displayed.

3. Property entrance signs are acceptable.

B. Commercial and Industrial District. The total of the area of all signs measured in square feet shall not be greater than two times the number of lineal feet of each street frontage of each zoning lot. No sign shall be located more than 15 feet above the street level with the exception of a building identification sign. The gross surface of all illuminated signs shall not exceed the lineal feet of frontage of such zoning lot. The total allowable sign area shall be reduced by 10 percent for each sign in excess of four (4) signs per street frontage.

C. Political Posters. Political posters in accordance with applicable State laws are allowed, provided they are removed within ten (10) days following the election for which they are intended.

D. Sign Design, Construction, and Maintenance.

1. Required Marking on Signs.

(1) Every sign, for which a permit is required, shall have painted in a conspicuous place thereon, in letters not less than one (1) inch in height, the date of erection, the permit number and voltage of any electrical apparatus used in connection therewith.

(2) Every outdoor advertising sign erected under the provisions of this Chapter shall be plainly marked with the name of the person, or firm erecting such sign.

2. Ground Signs.

(1) No ground sign shall be erected, constructed, altered, rebuilt, or relocated to a height exceeding thirty-five (35) feet above the ground.

(2) No ground sign for which a permit is required shall be erected to a height of more than twelve (12) feet above the ground unless the face is constructed of sheet metal or other noncombustible facing materials.

(3) The bottom of the facing of every ground sign shall be at least three (3) feet above the ground, which space may be filled with platform or decorative trim of light wood or metal' construction.

(4) No private sign shall be erected, constructed, or maintained within the boundary of any street, avenue, highway, alley or public ground of the City, County, or State in which it is to be located, except by special permit.

(5) The soil used for the dug-in type of anchor or post support shall be carefully placed and thoroughly compacted. The anchors and supports shall penetrate to a depth below ground greater than that of the frost line.

E. Obsolete Signs. Any sign which no longer advertises a bona fide business conducted or a product sold shall be taken down and removed by the owner, agent, or person having the beneficial use of the building or land upon which the sign may be found within ten (10) days after written notice from the Council.

F. Unsafe or Dangerous Signs. Any sign which becomes structurally unsafe or endangers the safety of a building or premises or endangers the public safety, shall be taken down and removed by the owner, agent, or person having the beneficial use of the building, structure, or land upon which the sign is located within ten (10) days after written notification from the Council.

G. Off Site Signs. Off site directional signs shall require a permit. Off site signs shall not be spaced closer than three hundred (300) feet to any other advertising sign on the same side by the road except back to back.

H. Non-Conforming Signs. Signs existing on the effective date of this Chapter which do not conform to the regulations set forth in this Chapter shall become a non-conforming use and shall be discontinued within the following period of amortization: Advertising and business signs one (1) year from the effective date of this Chapter.

Subdivision 4. Parking and Loading Requirements.

Off-street automobile parking shall be provided on any commercial, industrial, and residential lot on which any new structures are hereafter established in conformance with said district's requirements. The parking area shall be provided with vehicular access to a street, alley, or roadway and shall be required with such use and shaIl not be reduced or encroached upon in any manner. Required off-street automobile parking space shall not be utilized for open storage or for the storage of vehicles which are inoperable, for sale, or for rent. If, in the application of these provisions, a fractional number is obtained, one parking space shall be provided for that fraction. Each space required constitutes a gross area of 200 square feet.

A. Surfacing and Drainage. On-site parking areas may be required to be improved with a durable and dustless surface, and shall be so graded and drained as to dispose of all surface water accumulation within the area. These requirements shall also apply to open sales lots for cars, trucks and other equipment. This Section shall not apply to one and two family dwellings.

B. On-Site Parking Spaces. Required on-site parking spaces or area so devoted shall be as set forth in Table 1.

TABLE 1

ON-SITE PARKING REQUIREMENTS

Use	Parking Spaces
Single-family dwelling	2/ dwelling unit.
Mobile Home	2/ dwelling unit.
Two-family dwelling	2/ dwelling unit.
Home Occupation	1 parking space per employed person.
Commercial building	Not less than three (3) parking spaces per commercial enterprise.

Industrial building	One space for each two employees on maximum shift or one for each 500 sq. ft. of gross floor area, whichever is larger.
Uses not specifically noted	Determined by the Planning Commission following review by the Planning Commission.

C. Screening of Parking Areas. Where any commercial or industrial use (i.e. structure, parking or storage) is adjacent to property zoned for residential use or where it is adjacent to a public or private institution or park and recreation area, that commercial enterprise or industry shall provide appropriate screening, such as a solid wall of shrubs or by a solid fence. A solid fence shall include a louvered fence which blocks direct vision along the boundary of the residential property. Screening shall also be provided where a commercial enterprise or industry is created across the street from a residential zone, but not on that side of a commercial enterprise or industry considered to be the front or as determined by the Planning Commission.

D. Loading Requirements.

1. All required loading berths shall be off-street and shall be located on the same lot as the building to be served. Loading berths shall not occupy the required front yard space.

2. Any space allocated as a loading berth or maneuvering area shall not be used for the storage of goods, inoperable vehicles or be included as a part of the space requirements necessary to meet the off-street parking area.

3. All loading berths and access ways shall be improved with a durable material to control the dust and drainage.

4. Unless otherwise specified, a required loading berth shall be not less than 15 feet wide, 50 feet in length and 14 feet in height, exclusive of risk and maneuvering space.

E. Required Loading Spaces. Retail sales, service stores, and offices: one loading berth for each 6,000 square feet of floor area. A loading berth shall not be less than 15 feet wide and 50 feet in length. Manufacturing, fabrication, processing and warehousing: one loading berth for each building having 3,000 square feet of floor area, plus one loading berth for each additional 25,000 square feet of floor area up to 100,000 square feet plus one loading berth for each 50,000 square feet

of floor area over the first 100,000 square feet of floor area, unless not specifically noted or as not needed as determined by the Planning Commission.

SECTION 9.51. PERMITS AND REQUIREMENTS FOR FENCES, WALLS, OR HEDGES.

Subdivision 1. Application.

The requirements of this section shall apply to all new or replacement fences, walls, or shrubbery erected or installed from and after the effective date of this ordinance, but shall not apply to the mere repair of existing fences.

Subdivision 2. General Requirements. See Ordinance #4-14

A. No fence or wall shall be constructed of any electrically charged element or barbed wire except those used to enclose grazing and roaming areas in the Animal Overlay District.

B. No fence shall contain barbed wire except those used to enclose grazing and roaming areas in the Animal Overlay District, or those areas used for open storage, or requiring public protection, which may be enclosed with industrial chain link fence of at least seven (7) feet topped with three (3) strands of barbed wire, provided it projects over the property on the private side of the fence.

C. No fence shall be charged with electric current, except those used to enclose grazing and roaming areas in the Animal Overlay District.

D. No fence, wall, shrubbery or other obstruction to vision above a height of thirty (30) inches from the established street grades shall be permitted, within the triangular area formed at the intersection of any street right-a-way lines by a straight line drawn between said right-of-way lines at a distance along each line of twenty-five (25) feet from their point of intersection.

E. Fences must be maintained so as not to endanger life or property and any fence which through lack of repair, type of construction or otherwise that imperils health, life or property, or the well-being of a neighborhood shall be deemed a nuisance.

F. All fences must be located on the private property of the person, firm, or corporation constructing the fence.

G. All fences shall comply with all other requirements of law as it applies to fence installation and materials.

Subdivision 3. Residential Regulations.

A. Prohibited Material. No fence or wall shall be constructed of any electrically charged element or barbed wire.

B. Approved Material. All fences in residential districts shall be constructed of stone, brick, finished wood, chained link, and vinyl. The finished side of the fence, or that side of the fence without exposed support or posts, shall face the neighboring properties or streets.

C. Side and Rear Yard Requirements. No fence or wall located in a side or rear yard shall be of height exceeding (6) feet, measured from its top edge to the ground at any point.

D. Front Yards. No fence or wall located in a front yard shall be of a height exceeding four (4) feet, measured from its top edge to the ground at any point and (10) feet from the curb line.

E. Maintenance. Every fence or wall shall be maintained in a good and safe condition at all times. Every damaged or missing element of any fence or wall shall be repaired or replaced immediately.

F. Setbacks. A fence may be located adjacent to, but not on, a property line. No fence, wall hedge, or other screening device shall be permitted to encroach on any public right-of-way.

Subdivision 4. Commercial and Industrial Regulations.

A. Electrically Charged Elements and Barbed Wire. No fence or wall shall be constructed of any electrically charged element or barbed wire. In the Industrial Districts barbed wire may be used in accordance with Subd2 (b).

B. Front, Side and Rear Yard Requirements. No fence or wall located in a side or rear yard shall be of height exceeding (8) feet, measured from its top edge to the ground at any point.

C. Setbacks. A fence may be located adjacent to, but not on, a property line. No fence, wall, hedge, or other screening device shall be permitted to encroach on any public right-of-way.

Subdivision 4.5 Animal Overlay District Regulations See Ordinance #4-14

A. Farm animal roaming and grazing areas in the Animal Overlay (A) District shall be securely enclosed with suitable fencing materials that meet the requirements of Section 8.12 Animal Regulation, Subd. 6. Fencing of Roaming and Grazing Areas.

B. Fences in the Animal (A) Overlay District used to enclose grazing and roaming areas may be barbed wire or charged with electric current.

C. Fences in the Animal Overlay (A) District charged with electric current shall have a warning sign of suitable size on each side of any roaming and grazing area.

Subdivision 5. Duties of Building Official.

Violation of this Ordinance shall be deemed a public nuisance. The building official shall enforce the provisions of this ordinance and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

Subdivision 6. Duties of Building Official.

Whenever the building official charged with enforcement determines that a public nuisance is being maintained or exists on premises in the city, the building official shall notify in writing the owner and occupant of the premises of such fact and order that such nuisance be terminated and abated. The owner and occupant of the premises shall be served such notice in person or by U. S. 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 thirty (30) days shall elapse between the day of posting and the hearing.

Subdivision 7. Recovery of Cost.

A. 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 the cost determine, the city clerk or other official designated by the Council shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the city clerk.

B. Assessment. If the nuisance is on private property, the clerk shall on or before September 1, following abatement of the nuisance list the total unpaid charges along with all other such charges as well as other charges for current services assessed under Minnesota Statues, Section 429.101 against each separate lot or parcel to which the charges are attributable. The council may then spread the charges against such property under that statute and other pertinent statutes for certification to the county

auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the council may determine in each cage.

Subdivision 8. Variance.

Any deviation from the provisions of this Section shall require a variance. If a variance is requested, the variance shall be considered in accordance with the zoning variance procedures and fees for this variance will be in accordance with the zoning variance fee.

Subdivision 9. Penalty.

Violation of any provisions of this ordinance shall be a misdemeanor and shall be punishable as provided by Minnesota Law.

SECTIONS 9.52. - 9.55. RESERVED FOR FUTURE EXPANSION.

SECTION 9.56. PERFORMANCE STANDARDS.

Subdivision 1. Intent.

It is the intent of this Section to provide that industrial and commercial related activities shall be established and maintained with the proper front streets and adjoining properties and to provide that each such permitted use shall be a good neighbor to adjoining properties by the control of the following:

Subdivision 2. Noise.

Any use established shall be so operated that no undue noise resulting from said use is perceptible beyond the boundaries of the property on which such use is located. This standard shall not apply to incidental traffic, loading, parking, construction, farming or maintenance operators.

Subdivision 3. Vibration.

Any use creating periodic, earthshaking vibrations shall be prohibited if undue vibrations are perceptible beyond the boundaries of the property on which the use is located. This standard shall not apply to vibration created during the process of construction.

Subdivision 4. Glare.

Glare, whether direct or reflected, such as from flood lights, spotlights or high temperature processes, and as differentiated from general illumination, shall not be visible beyond the site or origin at any property line.

Subdivision 5. Smoke, Dust, Fumes or Gases.

Any use established, enlarged, or remodeled after the effective date of this Chapter shall be so operated as to meet the minimum requirements of the Minnesota Pollution Control Agency for the emission of smoke, dust, fumes or gases.

Subdivision 6. Toxic or Noxious Matter.

Any use shall not discharge into the atmosphere, water or subsoil, any toxic or noxious matter. All sewage and industrial wastes shall be treated and disposed of in such manner as to comply with the Minnesota State Department of Health Standards and Requirements.

Subdivision 7. Storage Standards.

All materials and equipment shall be stored within a building or fully screened so as to not be visible from adjoining properties except for the following:

A. Agricultural equipment.

B. Construction.

C. Automobile sales.

D. Recreation equipment.

Subdivision 8. Hazardous Materials.

Any use requiring the storage, utilization, or manufacturing of hazardous products shall not be located less than 500 feet from any residence or public meeting place.

Subdivision 9. Visual Standards.

Where any commercial or industrial use is adjacent to proposed zoned or developed residential use, that activity shall provide screening along the boundary of the residential property. Screening shall also be provided where a commercial or industrial activity is across the street from a residential zone, but not on that side of a commercial or industrial site considered to be the front as determined by the Planning Commission.

Subdivision 11. Right of Inspection.

An applicant for any permit under this Chapter, by making such application, does thereby give the Zoning Administrator reasonable right of access to premises concerned for inspection from time to time, so he may carry out his duties as specified in this Chapter.

Subdivision 12. Right of Inspection for Investigation.

The Zoning Administrator is hereby authorized to enter upon lands within the City for the purpose of carrying out his duties and functions imposed upon him under this Chapter, or to make investigations of any possible violation of this Chapter, and to cause proceedings to be instituted if proofs at hand warrant such action.

Subdivision 13. Environmental Documents.

A. Intent. It is the intent of this Subdivision to implement the environmental review procedures to follow the provisions of Minnesota Statutes, Chapter 116, relating to the Environmental Review Program and any rules adopted thereunder by the Minnesota Environmental Quality Board. All terms used in this Section shall have the same meaning as the terms used in Chapter 115. The provisions of the rules for the Environmental Review Program, are hereby adopted and are on file in the City Clerk's Office.

B. Cost of Preparation and Review.

1. The applicant for a permit for any action for which environmental documents are required either by State law or rules or by the Council shall supply in the manner prescribed by Section 9.70 of this Chapter all unprivileged data or information reasonably requested by the City that the applicant has in his possession or to which he has reasonable access.

2. The applicant for a permit for any action for which an Environmental Assessment Workshop (EAW) is required either by State law or rules or by the Council shall pay all costs of preparation and review of the EAW, and upon the request of and in the manner prescribed by the City shall prepare a draft EAW and supply all information necessary to complete that document.

3. Both the City and the applicant shall comply with the provisions of the Rules Governing Assessment of Costs for Environmental Impact Statements. One copy of these rules is on file in the office of the City Clerk.

4. No permit for an action for which an EAW and an Environmental Impact Statement (EIS) is required shall be issued until all costs of preparation and review are paid, and the environmental review process has been completed.

5. The Council and applicant may, in writing, agree as to a different division of the costs of preparation and review of any EAW or EIS as provided in 6 MCAR 3.042.

Subdivision 14. Administration.

A. The Zoning Administrator shall be the person responsible for the administration of the Environmental Review Program.

B. The Zoning Administrator shall be responsible for investigating whether an action for which a permit is required is an action for which an EAW is mandatory under 6 MCAR 3.024. The Zoning Administrator shall also investigate those proposed actions for which an optional EAW may be required under the provisions of this Chapter and shall notify the Planning Commission and the Council of these proposed actions for final determination.

C. All EAW's and EIS's shall be prepared under the supervision of the Zoning Administrator, reviewed by the Planning Commission and reviewed and approved by the Council, to form and completeness.

D. When reviewing an EAW or EIS, the Zoning Administrator and the Planning Commission may suggest design alteration which would lessen the environmental impact of the action. The Council may require these design alterations to be made as a condition for issuing the permit when it finds that the design alterations are necessary to lessen the environmental impact of the action.

E. After an EAW is prepared, the Planning Commission shall review the EAW and recommend to the Council whether or not it should require the preparation of an EIS. The Council shall require an EIS when it finds under 6 MCAR 3.025 that an action is major and has potential for significant environmental effects.

Subdivision 15. Optional EAW.

The Council may, upon recommendation by the Zoning Administrator and Planning Commission require that an optional EAW be prepared on any proposed action which may be a major action and appears to have the potential for significant environmental effects. The following guidelines shall also be considered in determining whether an optional EAW shall be required: (a) Is the action to be in or near an area that is considered to be environmentally sensitive or aesthetically pleasing? (b) Is the action likely to have disruptive effects such as generating unusual traffic and noise? (c) Are there unanswered public questions or controversy concerning the environmental effects of the proposed actions?

Subdivision 16. Enforcement.

A. No permit shall be issued for a project for which environmental documents are required until the entire environmental review procedures established by this Chapter are completed.

B. No work shall commence and any work in progress on any project for which environmental documents are required shall cease until the environmental review procedures established by this Chapter are fully complied with.

SECTION 9.57-9.69. RESERVED FOR FUTURE EXPANSION.

SECTION 9.70. ADMINISTRATION.

Subdivision 1. Planning Commission.

A. Creation. A Planning Commission, consisting of seven (7) members, shall be appointed by the Mayor with the approval by the majority of the Council Members. The City Clerk and Mayor shall serve as ex-officio members. Each member of the Planning Commission shall be appointed for a term of three (3) calendar years or until his successor shall take office. During a December Council meeting in each year hereafter, or as soon thereafter as the Council shall meet, the Council shall make appointments for three (3) year terms of office to reappoint or replace members whose terms have expired. At any time, the Mayor or the Council may appoint members to serve for the unexpired term of office. Unexcused absence from three (3) consecutive regular meetings of the Planning Commission shall constitute grounds for dismissal of such member by order of the Chairman of the Planning Commission.

B. Organization. The officers of the Planning Commission shall be elected by the members of the Planning Commission at the first regular Commission meeting of each year. Notice of a meeting for the election of officers shall be given the members of the Planning Commission at least seven (7) days prior to such meeting and election. The officers shall consist of a Chairman, a Vice-Chairman, and a Secretary-Treasurer. The Chairman shall preside at all meetings and hearings of the Planning Commission and shall have the duties normally offered by parliamentary usage; on such officers as well as any other duties specified within this Chapter. The Vice-Chairman shall act for the Chairman in his absence. Members of the Planning Commission in attendance may choose a chairman for the meeting or hearing if the Chairman and Vice-Chairman are both absent. The City Clerk shall preside for the election and takes up his office as Chairman. Nominations for officers shall be made from the floor. The election for, each office who receives a majority of votes cast shall be declared elected and shall serve until the following January election or until his successor shall take office. Vacancies in office of the officers of the Planning Commission shall be filled immediately by the same procedure.

C. Quorum. A quorum for any meeting or hearing of the Planning Commission shall be a majority of the members of the Planning Commission.

D. Meetings. The Planning Commission shall schedule not less than one (1) regular meeting in each calendar month on a regular schedule. Meetings shall be held as deemed necessary by the Chairman of the Planning Commission and/or Zoning Administrator. Special meetings may be held as provided for herein. The Planning Commission shall set the meeting times for all regular meetings. Special meetings

may be called by the Chairman on five (5) days written notice mailed to each member. Special meetings shall be called by the Chairman of the Planning Commission at the written request of three (3) members of the Planning Commission within five (5) days notice if at least four (4) members of the Planning Commission agree to waive of notice. All meetings of the Planning Commission shall be held in the City Hall and shall be open to the public.

E. Meeting Procedure. The Planning Commission may set such rules and procedures as are necessary for the orderly conduct of its business. Rules and procedures not otherwise adopted or not covered by applicable law shall be governed by Roberts Rules of Order, Revised, as may be necessary for the proper conduct of the business of the Planning Commission.

F. Compensation. The members of the Planning Commission may receive such compensation for per diem and expenses as may be allowed by the Council.

G. Powers and Duties. The Planning Commission shall be the planning agency and shall have the powers and duties as allowed by statute or regulation of the State of Minnesota, 1977, Sections 462.351 to 462.364 and as allowed by City Code provisions including the specific duties as stated in this Chapter.

H. Recording Secretary. All testimony at any hearing held by the Planning Commission shall be recorded or transcribed by the Recording Secretary. The duties as Recording Secretary shall be as prescribed by the Planning Commission.

Section 9.70 Subd. 2 Board of Adjustment. See Ordinance #11-09

A. Creation. The functions of the Board of Adjustment are very specific. Variances and appeals from decisions made by administrative officers are the two areas in which the Board has authority. The Board has no role in conditional use permits or amendments to the Zoning Chapter. The Council shall serve as the Board of Adjustment.

B. Variances See Ordinance #5-12

1. A variance is a modification of variation of the provisions of this zoning code as applied to a specific piece of property.

2. Variances shall only be permitted (i.) when they are in general harmony with the general purposes and intent of the ordinance and (ii.) when the variances are consistent with the comprehensive plan.

3. Variances may be granted when the applicant for the variance established that there are practical difficulties in complying with the zoning ordinance.

C. 'Practical difficulties' as used in the connection with the granting of a variance, means that

1. the property owner proposed to use the property in a reasonable manner not permitted by the zoning ordinance;

2. the plight of the landowner is due to circumstances unique to the property not created by the landowner; and

3. the variance, if granted, will not alter the essential character of the locality.

4. Economic considerations along do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

D. Variance Filed. Variance petitions to the Board of Adjustment shall be filed with the Zoning Administrator, who shall determine completeness. The application shall be accompanied by a fee as listed on the Fee Schedule. The Zoning Administrator shall refer said petition along with all related information to the Planning Commission for consideration and a report and recommendation to the Board of Adjustment at their next regular meeting. The Zoning Administrator shall schedule a public hearing before the Board of Adjustment to hear such petition. The Administrator shall cause notice of such hearing to be published in the legal newspaper for the City, not more than twenty (20) days or less than ten (10) days before the time of such hearing. The Zoning Administrator shall send similar notices to the Board of Adjustment and by mail to individual properties within five hundred (500) of the property to which the permit application relates. The Board shall decide the matter and file such decision with the Zoning Administrator. At any such hearing, any party may appear in person, or by agent, or by attorney. The Zoning Administrator shall notify the originator of the variance petition of the Board of Adjustment's decision in writing.

E. Minutes and Recording of the Voting. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact and shall keep the records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Clerk.

F. Basis of Actions. The Board of Adjustment shall always act with due considerations to promoting the public health, safety, convenience, and welfare, assure that the proposal is consistent with the intent and purpose of this Chapter, will insure a density of land use no higher than otherwise required in this Chapter for the zoning district the premises lie within, will not impede the normal and orderly development and improvement of surrounding property for uses predominant in the area, and that the location and character of the proposed development is consistent with the

desirable pattern of development for the locality in general and the zoning district more particularly.

G. Appeal. The decision of the Board of Adjustment and decisions made by administrative officers shall not be final. Any person having an interest affected by this Chapter or any decision made relating to it shall have the right to appeal to the Council within ninety (90) days of when the decision of the Board of Adjustment is filed with the Zoning Administrator. The decision of the Council shall not be final. Any person having an interest affected by this Chapter or any decision relating to it shall have the right of appeal to the District Court on questions of law and fact within ninety (90) days of the date of such Council action.

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Subdivision 3. Zoning Administrator.

This Chapter shall be administered and enforced by the Zoning Administrator, who shall be appointed by the Council. The Zoning Administrator shall: (1) determine that all permit applications comply with the terms of this Chapter; (2) conduct inspections of buildings and use of land to determine compliance with this Chapter; (3) maintain permanent and current records of this Chapter, including all maps, amendments, conditional uses, variances, appeals, and applications thereof; (4) receive, file, and forward all applications for variances, conditional uses, appeals, and amendments to the designated official bodies; (5) notify, in writing, any person responsible for violating a provision of this Chapter, indicating the nature of the violation and ordering the action necessary to correct it.

Subdivision 4. Conditional Use Permits.

A. Application. Applications for conditional use permits shall be made to the Zoning Administrator together with required fees. The application shall be accompanied by a site plan showing such information as is necessary to show compliance with this Chapter, including but not limited to:

1. Description of site (legal description).

2. Site plan drawn to scale showing parcel and building dimensions.

3. Location of all buildings and their square footage.

4. Curb cuts, driveways, access roads, parking spaces, off-street loading areas and sidewalks.

5. Landscaping and screening plans.

6. Drainage plan.

7. Sanitary sewer and water plan with estimated use per day.

8. Soil type.

9. Any additional written or graphic data reasonably required by the Zoning Administrator or the Planning Commission.

B. Procedure.

1. The Zoning Administrator shall forward said application to the Planning Commission for consideration at its next regular meeting.

2. The Planning Commission shall set a date for the official public hearing. Notice of such hearing shall be published in accordance with State law and notice shall be published at least once in the official paper of the City and mailed to individual properties within three hundred fifty (350) feet of the parcel included in the request not less than ten (10) days nor more than thirty (30) days prior to the date of said hearing. Failure of a property owner to receive said notice shall not invalidate any such proceedings.

3. The Planning Commission shall consider possible adverse effects of the proposed conditional use and what additional requirements may be necessary to reduce any adverse effects, and shall make a recommendation to the Council within sixty (60) days after the first regular meeting at which the request was initially considered.

4. Upon receiving the report and recommendation from the Planning Commission, the Council shall have the option of holding a public hearing if necessary and may impose any conditions deemed necessary. Approval of a conditional use shall require passage by a majority vote of the full Council.

C. Standards. No conditional use shall be recommended by the Planning Commission unless said Commission shall find:

1. 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.

2. That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.

3. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

4. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

5. 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.

6. That proper facilities are provided which would eliminate any traffic congestion or traffic hazard which may result from the proposed use.

7. The demonstrated need for the proposed use.

8. The proposed use is in compliance with the City Land Use Plan.

D. Recording. A certified copy of any conditional use permit shall be filed with the Cottonwood County Recorder. The conditional use permit shall include the legal description of the property involved.

E. Compliance. Any use permitted under the terms of any conditional use permit shall be established and conducted in conformity to the terms of such permits and of any conditions designated in connection therewith.

F. Lapse of Conditional Use Permit by Non-Use.. Whenever within one (1) year after granting the conditional use the work permitted has not been started, then such permit shall become null and void unless a petition for an extension has been approved by the Council.

Subdivision 5. Amendments; Rezoning. See Ordinance #11-09

A. Initiation. The Council or Planning Commission may, upon their own motion, initiate a request to amend the regulation of land use or the district boundaries of a zone. Any person, persons, firm or corporation or his expressed agent owning real estate within the City may initiate a request to amend the district boundaries and/or so as to affect the land use regulation in this Chapter.

B. Procedure.

1. A request plus copies of detailed written and graphic materials fully explaining the proposal for an amendment to this Chapter shall be filed with the Zoning Administrator along with a fee as listed in the Fee Schedule should notification to surrounding property owners be required.

2. *The Zoning Administrator shall refer said amendment request along with all related information to the Planning Commission for consideration and a report and recommendation to the Council.*

3. *The Zoning Administrator shall set a date for the official public hearing before the Planning and Zoning Commission. The Notice of such hearing shall be published in conformity with the State law. Individual notices, if it is a district boundary amendment request, shall be mailed not less than ten (10) nor more than twenty (20) days prior to the hearing to all owners of property, according to the County Treasurer records, within five hundred (500) feet of the parcel included in the request, such notice shall also be published at least once in the official paper within the above time periods. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Chapter.*

4. *The Planning Commission shall reach a decision and make its report to the Council.*

5. *The Council shall, upon receiving a report and recommendations from the Planning Commission, place such request on the agenda of its next regular meeting and decide the issue. Said reports and recommendations shall be entered in and made part of the permanent written record of the Council meeting.*

6. *The Council shall have the option to set and hold a public hearing if deemed necessary for reaching a decision; and may extend the period to consider the amendment request an additional 60 days.*

7. *Amendment of this Chapter shall be by a four-fifths (4/5) vote of the full Council.*

8. *The Zoning Administrator shall notify the originator of the amendment request of the Council's decision in writing.*

SECTION 9.71-9.74. RESERVED FOR FUTURE EXPANSION.

SECTION 9.75. ENFORCEMENT; APPEALS.

Subdivision 1. Enforcement. This Chapter shall be administered and enforced by the Council, or its authorized representative. The Zoning Administrator may institute appropriate action for any violations of this Chapter at the direction of the Council and through the City Attorney as deemed necessary.

Subdivision 2. Expense of Proceedings and Schedule of Fees.

To defray the administrative costs of processing an amendment to this Chapter or for a variance adjustment or for a conditional use permit, the applicant shall pay a fee of $10.00 and in addition shall pay the actual cost of publication, if any, and all other direct out-of-pocket expense arising therefrom, including but not limited to special meetings of the Planning Commission. The fee and collection procedure for all other permits, certificates, and petitions shall be determined by the Council. No permit, certificate, or petition shall be recognized or issued unless such fee or fees have been paid in full.

Subdivision 3. Building Permits.

No building or structure shall hereafter be erected or moved or construction on an existing structure shall be started until a lawful building permit has been issued by the Zoning Administrator. Fees for all building permits shall be established by the Council in accordance with the Minnesota State Building Code. Building permits shall be valid for one (1) year from date of issue, and be issued by the building officials.

Subdivision 4. Appeals from the Council

The decision of the Council may not be final. Any person or persons jointly aggrieved by any decision of the Council may appeal to the District Court of Cottonwood County by filing a petition setting forth that such decision is illegal in whole or in part, specifying the grounds for such illegality.

SECTION 9.76-9.98. RESERVED FOR FUTURE EXPANSION.

SECTION 9.99. 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.

CHAPTER 10

SUBDIVISION REGULATIONS PLATTING

SECTION 10.01. PURPOSE AND JURISDICTION.
- **Purpose.**
- **Jurisdiction.**
- **Application of Chapter.**
- **Approvals Necessary for Acceptance of Subdivision Plots.**

SECTION 10.02. DEFINITIONS.

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SECTION 10.20. VARIANCES.
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- **Sale of Plat Without Recording.**
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SECTION 10.99. VIOLATION A MISDEMEANOR

CHAPTER 10
SUBDIVISION REGULATIONS PLATTING

SECTION 10.01. PURPOSE AND JURISDICTION.

Subdivision 1. Purpose.

In order to safeguard the best interests of the City and to assist in harmonizing the subdivider's interests with those of the City at large, this Chapter is adopted in order that adherence to same will bring results beneficial to both parties. Each new subdivision becomes a permanent unit in the basic physical structure of the community, a unit to which the community will be forced to adhere. In order that new subdivisions will contribute toward an attractive, orderly, stable, and wholesome community environment, adequate public services, and safe streets, all subdivisions hereafter submitted for approval to the Planning Commission, shall in all respects, fully comply with the regulations hereinafter set forth in this Chapter.

Subdivision 2. Jurisdiction.

The regulations herein governing plots and subdivision of lands shall apply within the corporate limits of the City and the unincorporated area within two miles of its limits; provided that where a municipality lies less than four miles from the limits of Mountain Lake these regulations shall apply only to a line equidistant from Mountain Lake and said municipality; and provided further, that the governing body or bodies of unincorporated areas adjacent to the City have not adopted ordinances for the regulation of subdivision of land or platting.

Subdivision 3. Application of Chapter..

Any plat hereafter made for each subdivision or each part thereof lying within the jurisdiction of this Chapter, shall be prepared, presented for approval, and recorded as herein prescribed. The regulations contained herein shall apply to the subdivision of a lot, tract or parcel of land into two or more lots, tracts or other division of land for the purpose of sale or of building development, whether immediate or future, including the resubdivision or replatting of land or lots. Division of land: into parcels, tracts, lots, or other divisions of land 20 acres or larger in size and 500 feet or more in width for residential uses, and 5 acres or larger in size for commercial and industrial uses, into cemetery lots, and resulting from court order or the adjustment of a lot line by the relocation of a common boundary shall be exempt from the requirements of this Chapter.

Subdivision 4. Approvals Necessary for Acceptance of Subdivision Plats.

Before any plat shall be recorded or be of any validity, it shall have been reviewed by the Planning Commission and approved by the Council, as having fulfilled the requirements of this Chapter.

SECTION 10.02. 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 or lake.

3. "Cluster Development" - A subdivision development planned and constructed so as to group housing units into relatively tight patterns while providing a unified network of open space and wooded areas.

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 right-of-way, blocks, easements and lots.

5. "Easement" - A grant by a property owner of 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, storm sewer or storm 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 the County for purposes of recording.

7. "Group Housing" - A housing project consisting of a group of five or more buildings constructed on a parcel of land three (3) acres or more in size.

8. "Land Use Plan" - The plan for the orderly growth of the City, as adopted and amended from time to time by the Planning Commission and the Council.

9. "Lot" - A portion of a subdivision marked as a numbered or lettered parcel of land and available for title transfer by use of such number or letter for identification; or any tract where the title has been transferred by metes and bounds description and duly recorded in the office of the County Recorder or in the office of the Registrar of Titles for the County.

10. "Lot, Front" - That part of a lot lying along the abutting street. For corner lots abutting two streets, the front yard shall be that portion fronting onto the highest class

street, except the sub-divider may select an alternative by providing that such corner lot be given a width of not less than 115% of what is otherwise required by this Chapter.

11. "Parks and Playgrounds" - Public lands and open spaces in the City dedicated or reserved for and usable for recreation purposes.

12. "Pedestrian Way" - A public or private right-of-way across a block or within a block to provide access, to be used by pedestrians and which may be used for the installation of utility lines.

13. "Percentage 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 one hundred feet of horizontal distance.

14. "Preliminary Plat" - A tentative drawing or map of a proposed subdivision, meeting requirements herein enumerated.

15. "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.

16. "Street" - A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place or however otherwise designated.

17. "Street - Half" - Street divided longitudinally in which right-of-way widths are below minimum standards as prescribed in this Chapter.

18. "Street - Thoroughfare/Arterial" - Those used primarily for heavy traffic, and serving as an arterial traffic-way between the various districts of the community, as shown in the City Land Use Plan.

19. "Street - Collector" - Those that carry traffic from minor streets to the major system or arterial streets and highways, including the principal entrance streets of residential neighborhoods.

20. "Street – Minor" - Those which are used primarily for access to abutting properties.

21. "Street - Marginal Access" - Minor streets which are parallel and adjacent to arterial streets and highways; and which provide access to abutting properties and protection from through traffic.

22. 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.

23. "Street Width" - The shortest distance between lines of lots delineating the street right-of-way.

24. "Sub-divider" - The owner, agent, or person having control of such land as the term is used in this Chapter.

25. "Subdivision" - A described tract of land under single ownership which is divided into two or more lots, parcels, tracts, or long-term leasehold interests where the creation of the leasehold interest necessitates the creation of streets, roads, or alleys, for residential, commercial, industrial, or other use of any combination thereof; for the purpose of transfer of ownership or development, except those separations:

A. Where all resulting lots, parcels, tracts, or interests will be 20 acres or larger in size and 500 feet in width for residential uses and 5 acres or larger in size for commercial and industrial uses;

B. Creating cemetery lots;

C. Resulting from Court order, or the adjustment of a lot line by the relocation of a common boundary.

The term includes re-subdivision and, where it is appropriate to the context, relates either to the process of subdividing or to the land subdivided.

26. "Tangent" - A straight line projected from the ends of two curves, which is perpendicular to a line in each curve drawn from the radii point to the end of the curve.

27. "Tract of Land" - For the purposes of this Chapter, a tract of land is a parcel of ground which a subdivider desires to subdivide, constituting one of the following:

A. A 40 acre tract which is a quarter of a quarter section of land;

B. A platted lot per a duly recorded plat which is on record in the office of the County Recorder or in the office of the Registrar of Titles for the County; or,

C. A metes and bounds description which has been of record prior to the enactment of this Chapter.

28. "Vertical Curve" - The surface curvature on a street center line located between lines of different percentage of grade.

SECTIONS 10.03-10.09. RESERVED FOR FUTURE EXPANSION.

SECTION 10.10. REGULATIONS AND STANDARDS.

Subdivision 1. Application of Regulations.

Any plat hereafter made for each subdivision or each part thereof lying within the jurisdiction of this Chapter shall be prepared, presented for approval and recorded as herein prescribed. The regulations contained herein 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 the purpose of sale or of development, whether immediate or future, including the resubdivision or replatting of land or lots. Division of land into lots, parcels, tracts, or other division of land for: residential uses 20 acres or larger in size and 500 feet or more in width; commercial or industrial uses 5 acres or larger in size; cemetery lots, or resulting from a Court order or the adjustment of a lot line by the relocation of a common boundary, shall be exempt from the requirements of this Chapter.

Subdivision 2. Approvals Necessary for Acceptance of Subdivision Plats.

Before any plat shall be recorded or be of any validity, it shall have been approved by the Planning Commission and by the Council having fulfilled the requirements of this Chapter.

Subdivision 3. Preliminary Plat.

A. Procedure. Before preparing a preliminary plat and submitting it to the Planning Commission for approval, the subdivider or a duly authorized representative shall meet informally with the Planning Commission to discuss the requirements which pertain to the proposed subdivision. The Planning Commission will review, discuss, and advise the subdivider of the extent to which the proposed subdivision conforms to this and other City Code provisions as well as how it conforms to the City Land Use Plan. The Planning Commission shall make specific recommendations and comments to be incorporated by the subdivider in the preliminary plat. This informal review would prevent unnecessary and costly revisions in the layout and development of the subdivision. Formal application or filing of a plat within the City is not required for this informal advisory meeting.

1. After preparation of the preliminary plat, the subdivider shall submit to the Zoning Administrator, four (4) copies of the preliminary plat. The Zoning Administrator shall distribute copies of the preliminary plat to the Chair of the Planning Commission, the Building Inspector, the City Engineer and the County Engineer if adjacent to a County road for their examination. These parties shall, within thirty (30) days, submit reports to the Commission, expressing whether or not all concerned provisions of this Chapter or applicable regulations have been met. If no report is received within that time, it will be assumed by the Commission that there are no objections to the preliminary plat as submitted.

2. At the first meeting following receipt of the above reports, the Commission shall determine whether or not to forward the preliminary plat for review.

3. Upon review by City department heads, the copy of the preliminary plat together with all comments and suggested revisions shall be referred to the Planning Commission for a public hearing. The City shall notify the subdivider by certified mail of the time and place of the public hearing not less than five (5) days before the date fixed for the hearing. Similar notices shall be mailed to the owners of the land immediately adjoining the area to be subdivided as shown on the preliminary plat. Time and place shall be published at least once in the official newspaper at least ten (10) days prior to the hearing. The publication shall include a description of the location of the proposed subdivision. Failure of the Planning Commission to act on the preliminary plat within sixty (60) days shall be deemed a recommendation of approval of the plat. If a plat is recommended for disapproval, reasons for such disapproval must be stated in writing. If approval, subject to modifications is recommended, the nature of the required modifications shall be indicated in writing. The Planning Commission shall then forward the preliminary plat together with its recommendations to the Council for final action.

4. After review and approval of the preliminary plat by the Planning Commission, such preliminary plat, together with the recommendations of the Commission, shall be submitted to the Council for approval. Approval or disapproval of the preliminary plat will be conveyed to the subdivider in writing within ten (10) days after the meeting of the Council at which said plat was considered. In case the plat is disapproved, the subdivider shall be notified in writing of the reason for such action and what requirements will be necessary for approval.

B. Data Required. The preliminary plat shall contain the following information:

1. Proposed Name of Subdivision. Names shall not duplicate or too closely resemble names of existing subdivisions.

2. Location of boundary lines in relation to adjacent streets, subdivision, section, quarter section or quarter-quarter section lines and any adjacent corporate boundaries, comprising a legal description of the property.

3. Names and addresses of the developer and the designer making the plat.

4. Scale of plat, not less than one (1) inch to one hundred (100) feet.

5. Date and north point.

6. Existing conditions.

(a) The location and width of proposed streets, roadways, alleys and easements.

(b) The location and character of all proposed public utility lines, including sewers (storm and sanitary), water, gas and power lines.

(c) Layout, numbers and approximate dimensions of lots and the number or letter of each block.

(d) 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 condition of such dedication or reservation.

(e) Building setback lines with dimensions in accordance with the applicable zoning provisions.

(f) Indications of any lots on which a use other than residential is proposed by the subdivider.

(g) The zoning district, if any, on and adjacent to the tract.

C. Supplementary Requirements. Upon request of the Planning Commission, supplementary information shall be submitted; such supplementary information may include the following:

1. Topography with contour intervals of not more than five (5) feet related to United States Geological Survey datum; also the location of water courses, ravines, bridges, lakes, wooded areas, approximate acreage and other such features as may be pertinent to the subdivision.

2. A copy of the profile for each proposed street, showing existing grades and proposed approximate grades and gradients on the center line. The location of proposed culverts and bridges shall also be shown.

3. Vicinity sketch, at a legible scale, to show the relation of the plat to its surroundings.

Subdivision 4. Final Plat.

A. Procedure. After the preliminary plat has been approved, the final plat may be submitted for approval as follows:

1. The final plat shall be submitted to the Planning Commission at least ten (10) 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 will be necessary to meet the approval of the Commission.

2. 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 consideration. If accepted, the final plat shall provide for the acceptance of all streets, roads, easements, or other public ways and open spaces dedicated to public purposes. If disapproved, the grounds for any refusal to approve a plat shall be set forth in the proceedings of the Council and reported to the person applying for such approval.

B. Data Required. The final plat prepared for recording purposes shall be prepared in accordance with the provisions of Minnesota Statutes and shall contain the following information:

1. Name of subdivision (not to duplicate or too closely approximate the name of any existing subdivision).

2. Location by quarter section, section, township, range, County and State, and including descriptive boundaries of the subdivision based on accurate traverse, giving angular and linear dimensions which must be mathematically close. The allowable error of closure on any portion of a final plat shall be one (1) foot in five thousand (5,000). Two reference control points shall be established on each plat.

3. 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 street 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 of a block, points of curvature and points of tangency on street lines, and at each angle point on the boundary of the subdivision. A permanent marker shall be a one-half (1/2) inch steel rod extending at least three (3) feet below the finished or acceptable grade for lot corners and a concrete monument in accordance with Minnesota Department of Transportation

standards for block corners. 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 and every platted lot shall be marked with at least two (2) permanent monuments.

4. 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. Dimensions shall be shown from all angle points and points of curve to lot lines.

5. Lots shall be numbered clearly. If blocks are to be numbered or lettered, these should be shown clearly in the center of the block.

6. The exact location, widths and names of all streets to be dedicated.

7. Location and width of all easements to be dedicated.

8. Boundary lines and description of boundary lines of any areas other than streets and alleys which are to be dedicated or reserved for public use.

9. Name and address of developer and surveyor making the plat.

10. Scale of plat (the scale to be shown graphically and in feet per inch), date and north point.

11. 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".

12. Statement dedicating all streets, roads, 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.

C. Certifications Required on Final Plats.

1. Notarized certification by owner and by any mortgage holder of record of the adoption of the plat and the dedication of streets and other public areas.

2. The plat must be completed according to State law.

3. Space for certificates of approval to be filled in by the signatures of the Chairman of the Planning Commission and the appropriate official.

Subdivision 5. Design Standards.

A. Blocks. Block lengths shall normally not exceed thirteen hundred twenty (1,320) feet.

B. Public Sites and Open Spaces. 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, or other public or semi-public recreational areas or open spaces. The subdivider will be expected to dedicate or otherwise provide one acre for every ten acres of residential land subdivided. The areas so dedicated or reserved shall conform as nearly as possible to the Comprehensive Plan. All areas to be reserved 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 received by the City or other public body.

C. Streets and Roads.

1. Streets normally shall connect with streets already dedicated or provide for future connections to adjoining unsubdivided tracts.

2. Cul-de-sacs may be permitted when conditions justify their use. Cul-de-sacs shall normally not be longer than five hundred (500) feet in length, including the terminal turn-around. The required terminal shall be nearly circular in shape and have a minimum diameter of one hundred (100) feet.

3. The minimum angle of intersection of streets shall be eighty (80) degrees.

4. Wherever the proposed subdivision contains or is adjacent to the right-of-way of a County, County State Aid, State or Federal highway, a marginal access service street approximately parallel and adjacent to the boundary of such right-of-way may be required.

5. Dedication of half streets will not be approved, except where it is essential to the reasonable development of the subdivision.

6. 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 system for the unsubdivided portion may be required.

7. For all public streets and roads hereafter dedicated and accepted, the right-of-way widths shall not be less than the minimum dimensions for each classification as follows:

Highway	100 feet
Thoroughfare/Arterial	80 feet
Minor/Collector	70 feet
Marginal Access Service Road	50 feet
Alley	20 feet
Pedestrian Way	10 feet

8. Minor street access to State and Federal highways shall not be permitted at intervals of less than six hundred (600) feet.

9. Street grades, wherever feasible, shall not exceed seven (7) percent and in no case shall be less than 0.5 percent.

10. Different connecting street gradients shall be connected with vertical parabolic curves. The minimum length of these curves, in feet shall be 15 times the algebraic difference in the percent of grades of the two adjacent slopes for collector streets. For minor streets the minimum length shall be 7-1/2 times the algebraic difference in the percent of grade of the two adjacent slopes.

D. Lots.

1. Corner lots shall have additional width to permit appropriate building setback from both streets.

2. Side lines of lots shall be approximately at right angles to street lines or radial to curved street lines.

3. All single family residential lots shall have a minimum of 10,000 square feet and shall have a minimum width of 75 feet at the required setback line.

E. Basic Improvements Required.

1. Except as provided elsewhere in this Chapter, all improvements required shall be paid for by the developer or owner.

2. The following minimum standards for improvements are established:

(a) The full width of the right-of-way shall be graded, including the sub-grade of the areas to be paved.

(b) All streets shall be improved with a surface in accordance with the standards and specifications for construction as approved by the Council.

(c) All streets to be surfaced shall be of an overall width in accordance with standards and specifications for construction as approved by the Council.

(d) Curb and gutter will be required before streets will be paved. Alleys do not require curbing except for drainage purposes.

(e) Storm sewers, culverts, storm water inlets, and other drainage facilities will be required where, in the opinion of the City Engineer, they are necessary to insure adequate storm water drainage for the subdivision.

3. Sanitary sewers shall be installed to serve all developable properties in the subdivision.

4. Storm sewers shall be constructed to serve all properties in the subdivision where a natural outlet is available or where a connection to the City storm sewer system is available at or near the boundary of the subdivision.

5. If approved by the Council, both storm and sanitary sewers may be installed under contract by the City after petition for the same by the owner. The cost shall be assessed against all lots in the subdivision over a period of not to exceed ten (10) years.

6. All sewer construction must conform to standards and specifications as may be established by the Director of Public Works.

7. Water distribution mains, including fire hydrants, shall be installed to serve all properties in the subdivision where a connection is available at or reasonably near the boundary of the subdivision.

8. All utility lines for telephone and electric service shall be placed in rear line easements when carried on overhead poles.

9. 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 underground services. All drainage and other underground utility installations which traverse publicly owned property shall be protected by easements.

F. Easements. Where appropriate, easements for utilities or drainage may be required. Easements shall be of a width suitable for the intended uses.

Subd. 6. Minor Subdivision/Waiver of Platting Requirement

A. Application. Minor subdivisions shall apply to the following applications:
   1. In the case of a request to permit the adding of a parcel of land to an abutting lot.
   2. In the case of a request to divide a larger tract of land thereby creating no more than two lots. To qualify, the parcels of land shall not have been part of a Minor Subdivision within the last five (5) years.
   3. In the case of a request to divide a base lot upon which a two family dwelling or townhouse, which is part of a recorded plat where the division is to permit individual private ownership of a single dwelling unit within such a structure and the newly created property lines will not cause any of the unit lots or the structure to be in violation of this ordinance.

B. Contents and Data Required:

   1. Certificate of Survey. The requested Minor Subdivision shall be prepared by a licensed land surveyor in the form of a Certificate of Survey. The Survey shall include:

a. Date and north arrow.
b. Scale of plat.
c. Name and addresses of those making application.
d. Lot sizes in square feet, prior to and after the proposed split.
e. Existing buildings and setbacks from proposed lot lines.
f. Legal descriptions for the parcels to be created.
g. Streets and easements.
h. Zoning of all affected parcels.

C. Procedure for Minor Subdivision:

1. Filing. Four 11" by 17" copies of the certificate of survey, prepared by a licensed land surveyor shall be filed with the Zoning Administrator at least fourteen days prior to the regular Planning commission meeting, at which time the Minor Subdivision is to be considered, along with the required application and information.

2. Notification. The Minor Subdivision application shall be referred to the Planning Commission for a public hearing. The City shall notify the applicant of the date and time of the Commission meeting at which the proposed minor subdivision will be considered . Notices shall be mailed to the owners of the land immediately adjoining the area to be subdivided as shown on the plat at least ten (10) days prior to the public hearing.

3. Action by the Planning Commission. The Planning Commission shall consider the Minor Subdivision together with the reports from City staff and others, and compliance with City Code. The Planning Commission shall formulate a recommendation concerning the Minor Subdivision and forward it to the City Council together with a copy of the survey, application and staff report. Failure of the Planning Commission to act within sixty (60) days shall be deemed a recommendation of approval. If a plat is recommended for disapproval, reasons for such disapproval must be stated in writing. If approval, subject to modifications, is recommended, the nature of the required modifications shall be indicated in writing. The Planning Commission shall then forward the plat together with its recommendations to the Council for final action. The Planning Commission may forward the application without a recommendation.

4. Action by City Council. The City Council shall approve, conditionally approve or deny the Minor Subdivision. If the City Council disapproved the Minor Subdivision, the grounds for such refusal shall be set forth in the proceedings of the City Council and reported to the applicant.

D. Design Standards.

The Minor Subdivision shall conform to all design standards as specified in Sections 9.11 and 9.12 of Chapter 9, and 10.10 Subdivision 5 of this Chapter. Any proposed deviation from said standards shall require an application for a variance as governed by Section 9.70 Subd. 2 of Chapter 9 and10.20 of this Chapter.

E. Filing.

Upon execution of the Council's resolution approving the petition for a minor subdivision, the Zoning Administrator shall be authorized to sign the deed or registered land survey as meeting the requirements of the City. The Certificate of Survey or Registered Land Survey shall be filed by the applicant and recorded at the Office of the County Recorder.

F. Building Permits.

No building permits shall be issued 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 ordinance have been fully met.

SECTIONS 10.11-10.19. RESERVED FOR FUTURE EXPANSION.

SECTION 10.20. VARIANCES.

Subdivision 1. General.

A. The Council may grant a variance from these regulations following a finding that all of the following conditions exist:

1. There are special circumstances or conditions affecting said property such that the strict application of the provisions of this Chapter would deprive reasonable use of the applicant's land.

2. The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

3. The granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which said property is situated.

B. In making this finding the Council shall consider 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. In granting a variance as herein provided the Council shall prescribe only conditions that it deems desirable or necessary to the public interest.

Subdivision 2. Special Application Requirements.

Application for any such variance shall be made in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the Planning Commission and Council, stating fully and clearly all facts relied upon by the petitioner, and shall be supplemented with maps, plans or other additional data which may aid the Planning Commission and Council in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions or other legal provisions necessary to guarantee the full achievement of the plan. In all cases where applications for variance are submitted for conditional approval along with the preliminary plat, the action on such conditional approval shall issue from the Council. Where a petition for variance is not involved, the Planning Commission may grant conditional approval subject to procedural requirements stated in this Chapter.

SECTION 10.21. LAND SURVEYS AND CONVEYANCE BY METES AND BOUNDS.

Subdivision 1. Land Surveys.

It is the intention of this Chapter that all registered land surveys in the jurisdictional limits 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 plat 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 roads shall be so dedicated. Unless such Planning Commission approval and Council approval in accordance with the standards set forth in this Chapter have been obtained, building permits will be withheld for buildings on tracts which have been so subdivided according to law 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.

Subdivision 2. Conveyance by Metes and Bounds..

No conveyance of two or more parcels in which the land conveyed is described by metes and bounds shall be made or recorded if the parcels described in the conveyance are less than twenty (20) acres in area and five hundred (500) feet in width for residential uses or five (5) acres for commercial or industrial uses, unless such parcel was a separate parcel of record at the effective date of this Chapter. Building permits will be withheld for buildings on tracts which have been subdivided and conveyed by this method and the City may refuse to take over tracts as streets or roads or to improve, repair or maintain any such tracts.

SECTION 10.22. COMPLIANCE.

Subdivision 1. Conditions for Recording.

No plat of any subdivision shall be entitled to record in the County Recorder's office or have any validity until the plat thereof has been prepared, approved, and acknowledged in the manner prescribed by this Chapter.

Subdivision 2. Building Permits.

No building permits will be issued by the City 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.

SECTION 10.23. UNLAWFUL ACTS.

Subdivision 1.

It is unlawful for any person to sell, trade, or otherwise convey or offer to sell, trade, 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 portion of the City unless said plan, plat or replat shall have first been recorded in the office of the County Recorder.

Subdivision 2.

It is unlawful for any person to receive or record in any public office any plans, plats or replats of land laid out in building lots and streets, 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 Planning Commission and the Council.

SECTIONS 10.24-10.98. RESERVED FOR FUTURE EXPANSION.

SECTION 10.99. VIOLATION A MISDEMEANOR.

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

CHAPTER 11

TRAFFIC, PARKING AND RECREATIONAL VEHICLES

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CHAPTER 11

TRAFFIC, PARKING, SIDEWALKS, RECREATIONAL VEHICLES

SECTION 11.01 DEFINITIONS

Subdivision 1.

For the purpose of this chapter, the terms defined in this section shall have the meanings ascribed to them.

10. Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

11. Motor Vehicle. Any self-propelled vehicle designed and originally manufactured to operate primarily on highways, and not operated exclusively upon railroad tracks. It includes any vehicle propelled or drawn by a self-propelled vehicle and includes vehicles known as trackless trolleys that are propelled by electric power obtained from overhead trolley wires but not operated upon rails. It does not include snowmobiles, manufactured homes, or park trailers. Motor vehicles also do not include an electric personal assistive mobility device or a vehicle moved solely by human power.

12. Motorcycle. Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, including motor scooters and bicycles with motor attached.

13. Motorized Bicycle. A bicycle that is propelled by an electric or a liquid fuel motor of a piston displacement capacity of 50 cubic centimeters or less, and a maximum of two brake horsepower, which is capable of a maximum speed of not more than 30 miles per hour on a flat surface.

14. Electric-assisted bicycle. A motor vehicle with two or three wheels that:

    a) Has a saddle and fully operable pedals for human propulsion;
    b) Meets the requirements of federal motor vehicle safety standards in Code of Federal Regulations, title 49, sections 571.01 et seq.; and
    c) Has an electric motor that has a power output of not more than 1,000 watts, is incapable of propelling the vehicle at a speed of more than 20 miles per hour, is incapable of further increasing the speed of the device when human power alone is used to propel the vehicle at a speed of more than 20 miles per hour, and disengages or ceases to function when the vehicle's brakes are applied.

15. Recreation vehicle. A travel trailer including those that telescope or fold down, chassis-mounted campers, motor homes, tent trailers, and converted buses that provide temporary human living quarters.
"Recreational Vehicle" is a vehicle that:
    a) Is not used as the residence of the owner or occupant;
    b) Is used while engaged in recreational or vacation activities; and
    c) Is either self-propelled or towed on the highways incidental to the recreational or vacation activities.

16. Trailer. Any vehicle designed for carrying property or passengers on its own structure and for being drawn by a motor vehicle but does not include a trailer drawn by a truck-tractor semi trailer combination or an auxiliary axle on a motor vehicle which carries a portion of the weight of the motor vehicle to which it is attached.

SECTION 11.02. TRAFFIC AND ROADWAY REGULATIONS

Subdivision 1. Scope

The provisions of this Section relate to the streets and alleys in the City, and the operation and parking of vehicles refer to the operation and parking of vehicles upon such streets and alleys.

Subdivision 2. Orders of an Officer.

It is unlawful for any person to willfully fail or refuse to comply with any lawful order or direction of any police or peace officer invested by law with authority to direct, control or regulate traffic.

Subdivision 3. Traffic Control

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

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

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

Subdivision 4. Load Limits.

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

Subdivision 5. Truck Route.

It is unlawful for any person to drive a tractor, agricultural implement, truck over 9,000 pounds gross vehicle weight, truck-trailer, tractor-trailer or truck tractor 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.

Subdivision 6. U-Turns.

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

Subdivision 7. Exhibition Driving.

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.

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

Subdivision 8. One-Way Streets.

1. The Council may, by resolution, designate streets as one-way streets.

2. It is unlawful for any person to travel upon any one-way street in a direction opposite that designated when the same has been duly sign-posted.

SECTION 11.03. PARKING REGULATIONS

Subdivision 1. Presumption.

As to any vehicle parking in violation of this Chapter 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.

Subdivision 2. General Parking Prohibitions.

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

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

Subdivision 3. Parallel Parking.

Except where angle parking is specifically allowed and indicated by curb marking or sign-posting, or both, each vehicle stopped or parked upon a two-way road where there is an adjacent curb shall be stopped or parked with the right-hand wheels of the vehicle parallel with, and within twelve inches of, the right-hand curb, and, where painted

markings appear on the curb or the street, such vehicle shall be within such markings, front and rear; provided that upon a one-way roadway all vehicles shall be so parked, except that the left-hand wheels of the vehicle may be parallel with and within twelve inches from the left-hand curb, but the front of the vehicle in any event and with respect to the remainder of the vehicle, shall be in the direction of the flow of traffic upon such one-way street;.

Subdivision 4. 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.

Subdivision 5. Streets without Curb.

Upon streets not having a curb each vehicle shall be stopped or parked parallel and to the right of the paving, improved or main traveled part of the street.

Subdivision 6. 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.

Subdivision 7. Direction to Proceed.

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

Subdivision 8. Parking Hours. See Ordinance #3-09

Parking on streets shall be limited as follows:

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)~~ forty-eight (48) hours.

2. The City may, when authorized by resolution of the Council, designate certain streets, blocks or portions of streets or blocks as prohibited parking zones, or five-minute, ten-minute, fifteen-minute, thirty-minute, one-hour, two-hour, four-hour, six-hour, eight-hour, morning or afternoon rush hour limited parking zones and shall mark by appropriate signs any zones so established. Such zones shall be established whenever necessary for the convenience of

the public or to minimize traffic hazards and preserve a free flow of traffic. It is unlawful for any person to stop, park or leave standing any vehicle in a prohibited parking zone, for a period of time in excess of the sign-posted limitation, or during sign-posted hours of prohibited parking.

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

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

Subdivision 9. Truck Parking. It is unlawful to:

1. Park semi-trailer upon any street, City-owned parking lot, or other public property except such as are specifically designated by the Council by resolution and sign-posted.

2. Park a commercial vehicle of more than 12,000 pounds gross vehicle weight upon any street in the business district except streets as specifically designated by the Council by resolution and sign-posted, 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 while actively loading or unloading when such access cannot reasonably be secured from an alley or from an adjacent street where truck parking is not so restricted.

Subdivision 10. Impounding and Removing Vehicles.

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

Subdivision 11. Vehicle Repair on Street.

It is unlawful for any person to service, repair, assemble or dismantle any vehicle parked upon a street, or attempt to do so, except to service such vehicle with gasoline or oil or to provide emergency repairs thereon, but in no event for more than four (4) hours. It is also unlawful to drain oil from a vehicle on any street.

Subdivision 12. Parking on Private Property Without Consent.

It is unlawful to park or abandon a motor vehicle on the property of another, or upon an area developed as an off-street parking facility, without the consent of the owner, lessee or person in charge of any such property or facility.

SECTION 11.04 RESIDENTIAL OFF-STREET PARKING.

Subdivision 1. Definitions. See Ordinance #3-10 See Ordinance #3-20

1. Vehicle- any device in, upon, or by which any person or property is or may be transported or drawn upon a street, except devices used exclusively upon stationary rails or tracks.

2. Parking Space- A suitably surfaced and permanently maintained area on private property, either within a building or outside that consists of crushed rock, rock, gravel, cement or blacktop or other material as pre-approved by the City Council on a case by case basis.

3. Setback Line- The minimum horizontal distance between a structure and a lot line.

4. Front Yard- The yard extending the width of the lot from the front lot line to the building setback line.

5. Rear Yard Line- the yard extending the width of the lot extending from the rear lot line to the rear setback line.

6. Lot Line- a line bounding a lot, except that where any portion of a lot extends into a street, the line of such street shall be the lot line.

7. Front Lot Line- The boundary of a lot which abuts a street. For any lot other than a corner lot, which abuts more than one street, all boundaries abutting and parallel to the streets shall be front line lots.

8. Rear Lot Line- the boundary of a lot, which is opposite or most distant from the front lot line.

9. Side Yard- the yard extending along the side lot between the front and rear yards, extending perpendicularly from the side lot line to the side yard setback.

10. Recreational Devices – includes but is not limited to, boats, boat trailers, flat-bed trailers, any other water craft, snowmobiles, golf carts, mini-trucks, dune buggies, go-carts, ice-houses, and all-terrain vehicles as defined by MN Statute 84.92, Subd. 8

Subdivision 2. Off-Street Parking Regulations

1. Any vehicle parked at a residence, the off-street parking space must be within a building or outside on a space, which is maintained with crushed rock, rock, gravel, cement or blacktop and kept neatly.

2. Required off-street parking automobile parking space shall not be utilized for open storage or for the storage of vehicles, which are inoperable, for sale or for rent.

3. The parking area shall have vehicular access to a street, alley, or roadway with such use and shall not be encroached upon in any manner.

4. Required off-street vehicle parking space shall not be utilized for open storage or for the storage of vehicles, which are inoperable, wrecked, partially dismantled or junked condition.

5. Off-street parking in a residential zone shall not be located in the front yard setback or in a street side yard setback.

6. The vehicle must have affixed to it valid, current motor vehicle registration/license, unless housed in a lawfully erected building defined by Minnesota State Building Standards/Code.

7. Off-street parking in a residential zone shall have five (5) feet setback between the parking space and the property line.

8. Vehicles, recreational devices, and other articles stored on the outside on residential property for periods of time longer than occasional visits of guests must be owned by a person who resides on that property. Students who are away at school for periods of time but still claim the property as their legal residence will be considered residents on the property.

Subdivision 3. Declaration of Nuisance: The outside parking and storage of residentially-zoned property of vehicles, recreational devices, materials, supplies, or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance and subject to the provisions of Section 8.03 because:

1. *Obstructs views on streets and private property.*

2. *Creates cluttered and otherwise unsightly areas.*

3. *Prevents the full use of residential streets for residential parking.*

4. *Introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited.*

5. *Decreases adjoining landowners and occupants' enjoyment of their property and neighborhood.*

6. *Otherwise adversely affects property values and neighborhood patterns.*

Subdivision 4. Penalty In addition to other penalties provided for the violation of an ordinance, if the owner or occupant of the real property parks, stores, or keeps a vehicle in violation of the provisions of this section, it may be removed and stored by the City at the title owner's expense.

SECTION 11.05. PARKING PRIVILEGE FOR PHYSICALLY DISABLED

Subdivision 1. Scope of Privilege.

A motor vehicle that prominently displays the certificate or bears disability plates may be parked by or solely for the benefit of a physically disabled person:

1. In a designated parking space for disabled persons,

2. In a metered parking space without obligation to pay the meter fee and without time restrictions unless time restrictions are separately posted on official signs;

3. Without time restrictions in a non-metered space where parking is otherwise allowed for passenger vehicles but restricted to a maximum period of time and that does not specifically prohibit the exercise of disabled parking privileges in that space.

4. A person may park a motor vehicle for physically disabled person in a parking space described in clause (1) or (2) only when actually transporting the physically disabled person for the sole benefit of that person and when the parking space is within a reasonable distance from the drop-off point.

5. A certificate is prominently displayed if it is displayed so that it may be viewed from the front and rear of the motor vehicle by hanging it from the rearview mirror attached to the front windshield of the motor vehicle.

    a) If no rear view mirror the certificate must be displayed on the dashboard on the driver's side of the vehicle.
    b) No part of the certificate may be obscured.

Subdivision 2. Enforcement.

Statutory parking privileges for physically handicapped shall be strictly observed and enforced. Police officers are authorized to tag vehicles on either private or public property in violation of such statutory privileges.

Subdivision 3. Fire Lanes.

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.

SECTION 11.06 AUTOMATIC PARKING BAN AFTER SNOWFALL. See Ordinance #2-10

Subdivision. 1 Definitions

Snow Emergency – For the purposes of this section the term snow 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, police, emergency or other vehicular traffic. A snow emergency shall be duly called by the Street Dept. Superintendent or his designee.

Subdivision. 2

No person shall park or leave standing any vehicle upon any street, alley or public roadway in the City of Mountain Lake between the hours of 12:01 a.m. and 3 p.m. following a duly called snow emergency.

Any motor vehicle parked in violation of this section is deemed to be a nuisance that interferes with snow removal from the full width of city streets, alleys and other public roadways. Any Police Officer may remove any such vehicle by means of towing or other means in order to facilitate proper snow removal. (See Chapter 11, Section 3, Subdivision 10, Impounding and Removing Vehicles).

The owner of any vehicle for the purposes of this ordinance shall be the registered owner according to the records of the Minnesota Department of Public Safety. The owner shall be presumed to have given consent to the parking of any vehicle, and shall be the individual responsible for the removal.

SECTION 11.07 RECREATIONAL CAMPING VEHICLE PARKING

Subdivision 1. Definitions. The term "recreational camping vehicle means any of the following:

1. "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.

2. "Pick-up Coach" A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.

3. "Motor Home" a portable, temporary building to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.

4. "Camping Trailer" a folding structure, mounted on wheels and designed for travel, recreation and vacation uses.

Subdivision 2. Recreational Camping Vehicles Off-Street Parking.

1. Required off-street recreational camping vehicles parking space shall not be utilized for open storage, or for the storage of vehicles which are inoperable, for sale, or for rent.

2. Recreational Camping Vehicles off street parking shall be on crushed rock, rock, gravel, cement or blacktop;

3. The parking spot for the camping vehicle of crushed rock or gravel shall be neatly kept.

4. The vehicle must not be in a rusted, wrecked, partially dismantled or junked condition.

5. The recreational camping vehicle must have affixed to it a valid current motor vehicle license.

Subdivision 3. Recreational Camping Vehicles On-Street Parking.

1. Recreational vehicles may be parked on the roadway for not more than twenty-four (24) hours for the purposes of loading and unloading.

2. Recreational Camping Vehicles, which are tow able vehicles and parked on the street, must stay connected to the tow vehicle;

3. The Camping Vehicles must have affixed to it a valid current motor vehicle license;

4. The vehicle must not lack essential parts that would render it inoperable;

5. The vehicle must not be in a rusted, wrecked, partially dismantled or junked condition.

SECTION 11.08. ATV-"ALL-TERRAIN VEHICLES" See Ordinance #14-09

Subdivision 1. Definitions. For the purposes of this Section, the terms defined shall have the meanings given them.

1. ATV – "All Terrain Vehicle" - a motorized flotation-tired vehicle of not less than three low-pressure tires, but not more than six tires, that is limited in engine displacement of less than 800 cubic centimeters and includes Class 1 All Terrain Vehicles (less than 900 lbs., dry weight) and Class 2 All Terrain Vehicles (900 – 1,500 lbs., dry weight).

2. "Electric-assisted bicycle" shall have the meaning set forth in Minn. Stat. Sec. 169.011, subdivision 27.

3. "Motorized bicycle" shall have the meaning set forth in Minn. Stat. Sec. 168.002, subdivision 20.

4. "Motorized foot scooter" shall have the meaning set forth in Minn. Stat. Sec. 169.011, subdivision 46.

5. "Owner" – A person, other than a lien holder, having a property interest in, or title to, a regulated vehicle, who is entitled to the use or possession thereof.

6. "Operate" – To ride in or on and have control of a regulated vehicle.

7. "Operator" – The person who operates or is in actual physical control of a regulated vehicle.

8. "Regulated vehicle" a vehicle defined in this section.

Subdivision 2. Vehicle Restrictions.

It is unlawful for any person to operate a regulated vehicle defined in this section as follows:

1. Required off-street vehicle parking space shall not be utilized for open storage, or for the storage of vehicles which are inoperable, for sale, or for rent.

2. On a public sidewalk or walkway provided or used for pedestrian travel, unless using ATV to remove sidewalk snow.

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

4. On any lands owned or occupied by a public body, including, but not limited to, school grounds, cemeteries, park property, playgrounds, recreational areas, private roads, platted but unimproved roads, utility easements, public trails and golf courses. Provided, however, that the Council may, by resolution, specifically permit use on City property, in which event the shortest route to and from areas so permitted shall be used.

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

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

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

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

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

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

11. Chasing, running over, or killing any animal, wild or domestic.

12. During the hours between 11:00 o'clock P.M. of one day and 7:00 o'clock A.M. of the day next following, except that during such hours a motorized bicycle or electric-assisted bicycle, if otherwise lawfully operated, may be operated on a public street.

Subdivision. 3. Owner Responsibility.

1. Operation of regulated vehicles is 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.

2. It is unlawful for the owner of any regulated vehicle to permit its operation on private property without permission of the owner or occupant, on City property where prohibited, or on other public property without permission of the body in charge thereof. For purposes of this Section, the owner shall be conclusively presumed to

have given such permission unless the regulated vehicle operated shall have been reported stolen to a law enforcement agency.

3. Every person leaving a regulated vehicle in a public place shall lock the ignition, remove the key and take the same with him.

SECTION 11.09 MOTORIZED GOLF CARTS. See Ordinance #8-09

Subdivision 1. Definition

Motorized Golf Cart A small battery or gas powered three or four-wheeled vehicle primarily used for transporting one or two golfers and their equipment.

Subdivision 2. Requirements.

It is unlawful for any person to operate a motorized golf cart on the roadway of a street unless:

1. The operator has in possession a valid, current and unrevoked permit from the city;

2. The operation is on a roadway which has not been designated as prohibited for this type of operation, except crossing at an intersection;

3. The operation is from one-half hour after sunrise to one-half hour before sunset;

4. The operation is not during inclement weather, nor when visibility is impaired by weather, smoke, fog, or other conditions, nor when there is insufficient light to clearly see persons or vehicles thereon at a distance of 500 feet;

New 4. The operation occurs when visibility is not impaired by weather, smoke, fog or other conditions such that there is sufficient light to see persons or vehicles thereon at a minimum distance of 500 ft.

5. The motorized golf cart displays a slow moving vehicle emblem on the rear thereof;

6. The motorized golf cart is equipped with rear view mirrors;

7. The operator has insurance coverage as provided by statute;

8. The operator observes all traffic laws, except those, which cannot reasonably be applied to motorized golf carts;

9. The operator has a valid Driver’s License;

10. The motorized golf cart has a valid permit affixed to and prominently displayed on it.

Subdivision 3.

1. Operation Authorized. Operation of motorized golf carts is 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.

2. Permits. Application for a permit to operate a motorized golf cart on the roadways of all streets, except those streets prohibited by resolution of the Council, shall include the name and address of the applicant and such other information as may from time-to-time be required by the Council. Only valid license drivers may apply for a permit. All permits shall expire on December 31, unless renewed. The fee for a permit shall be fixed by resolution of the Council.

Subdivision 4. Revocation.

City Council may at any time suspend or revoke a permit upon a finding that the holder thereof has violated any provisions of this section or M.S. Chapters 171 or 169A, as they may be amended from time to time, or if there is evidence that the permittee cannot safely operate the motorized golf cart on designated roadways.

SECTION 11.10 SNOWMOBILE OPERATING REGULATIONS.

Subdivision 1. Definitions.

1. Snowmobile. A self-propelled vehicle designed for travel on snow or ice steered by skis or runners.

2. "Owner" - A person, other than a lien holder, having a property interest in, or title to, a snowmobile, who is entitled to the use or possession thereof.

3. "Operate" - To ride in or on and have control of a snowmobile.

4. "Operator" - The person who operates or is in actual physical control of a snowmobile.

Subdivision 2. Use of Public Right of Way.

It is unlawful for any person to operate a snowmobile within the right of way of any street or highway, except as follows:

1. Operation in the ditch or on the outside bank within the right-of-way of any street or highway except interstate highways or freeways is permitted in

conformance with State law and the City Code, unless the roadway directly abuts a public sidewalk or walkway or property used for private purposes;

2. Operation within the City shall be allowed along the shortest direct route to a gas station, to the city limits, or to the operator or owner's residence, except that absolutely no snowmobiles shall be allowed on or along 3rd Avenue and I0th Street, except for direct crossings.

Subdivision 3. Crossing Public Streets.

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

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

2. The snowmobile is brought to a complete stop before crossing the shoulder or main traveled way of the highway.

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

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

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.

Subdivision 4. Uncontrol Intersections.

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

Subdivision 5. Emergencies.

Notwithstanding any prohibition in this Section, a snowmobile may be operated on a public thoroughfare in an emergency during the period of time when, and at locations where, snow upon the roadway renders travel by automobile impractical. The Chief of Police shall have the authority to determine when the restrictions are suspended and when the restrictions are reactivated.

Subdivision 6. Age of Operator.

No person under fourteen (14) years of age shall operate on streets or highways or make a direct crossing of a street or highway as the operator of a snowmobile. A person fourteen (14) years of age or older, but less than eighteen (18) years of age, may operate a snowmobile on streets or highways as permitted under this Section and make a direct crossing thereof only if the operator has in immediate possession a valid snowmobile safety certificate issued by the Commissioner of Conservation as provided by Minnesota Statutes 1969, Section 84.86. It is unlawful for the owner of a snowmobile to permit the snowmobile to be operated contrary to the provisions of this Subparagraph.

Subdivision 7. Subject to Other Traffic Laws.

A snowmobile shall obey all other traffic laws and regulations, including but not limited to, speed laws, right-of-way, traffic control signs and signals and all other lawful traffic regulations. In addition, any operation of snowmobiles between the hours of one-half hour after sunset to one-half hour before sunrise must be on the right-hand side of such street or highway and in the same direction as the highway traffic on the nearest lane of the roadway adjacent thereto.

Subdivision 8. Prohibited on Public Property.

It shall be unlawful for any snowmobile to be on any lands owned or occupied by a public body or on frozen waters, including, but not limited to, lakes, school grounds, cemeteries, park property, playgrounds, recreational areas, private roads, platted but unimproved roads, utility easements, public trails and golf courses. Provided, however, that the Council may, by resolution, specifically permit use on City property, in which event the shortest route to and from areas so permitted shall be used.

Subdivision. 9. Snowmobile Equipment.

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

1. Standard mufflers which are properly attached and in constant operation, and which reduce the noise of operation of the motor to the minimum necessary for operation. Mufflers shall comply with Regulation CONS. 55 which is hereby adopted by reference as it existed on September 1, 1970. No person shall use a muffler cutout, by-pass, straight pipe or similar device on a snowmobile motor, and the exhaust system shall not emit or produce a sharp popping or crackling sound.

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

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

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

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

SECTIONS 11.11 – 11.98 RESERVED FOR FUTURE EXPANSION.

SECTION 11.99. VIOLATION A MISDEMEANOR OR PETTY MISDEMEANOR.

Every person violates a section, subdivision, paragraph or provision of this Chapter when performing 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:

Subdivision 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; where the violator 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, the violator shall be punished as for a misdemeanor.

Subdivision 2.

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

Subdivision 3.

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

Chapter 12 See Ordinance #4-18, #3-19

Right-of-Way Management

Sec. 1.01. Election to Manage the Public Rights of Way.
In accordance with the authority granted to the city under state and federal statutory, administrative, and common law, the city hereby elects, pursuant to this chapter to manage rights of way within its jurisdiction.

Sec. 1.02. Definitions.
The definitions included in Minnesota Statute Section 237.162, Minnesota Rules 7810.0100, subps. 1 through 23, and Minnesota Rules 7560.0100 subps. 1 through 12 are hereby adopted by reference and are incorporated into this chapter as if set out in full.

Sec. 1.03. Permit Requirement.

Subd. 1. *Permit Required.* Except as otherwise provided in this code, no person may obstruct or excavate any right of way or install or place facilities in the right of way without first having obtained the appropriate permit from the city.

(a) *Excavation Permit.* An excavation permit is required 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 to hinder free and open passage over the specified portion of right of way by placing equipment described therein on or over 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.

(c) *Small Wireless Facility Permit.* A small wireless facility permit is required to place a new wireless support structure (collocate) in the right-of-way managed, with the exception that a permit is not required for the installation, placement, maintenance, operation, or replacement of micro wireless facilities suspended on cables strung between existing utility poles in compliance with national safety codes.

(d) *Small Wireless Special or Conditional Land Use Permit***.** A special or conditional land use permit is required to install a new wireless support structure in a right-of-way where the underlying district or area is zoned for single-family residential use or is in a historic district established by federal or state law or city ordinance.

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. 1.04. Permit Applications.
Application for a permit shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

(a) 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, and the following information:

(1) Each permittee's name, Gopher One-Call registration certificate number, address and email address, if applicable, and telephone and facsimile numbers.

(2) The name, address and email 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 Application.

(3) A certificate of insurance or self-insurance:

i. Verifying that an insurance policy has been issued to the permittee by an insurance company licensed to do business in the state of Minnesota, or a form of self-insurance acceptable to the city.

ii. Verifying that the permittee is insured against claims for personal injury, including death, as well as claims for property damage arising out of the:
   a) Use and occupancy of the right of way by the permittee, its officers, agents, employees, and permittees, and
   b) Placement and use of facilities and equipment in the right of way by the permittee, 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;

iii. 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;

iv. Requiring that the city be notified thirty (30) days in advance of cancelation of the policy or material modification of a coverage term;

v. 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.

	Public Liability, including premises, products and complete operations
GENERAL LIABILITY	Bodily Injury Liability $1,000,000 each person, $2,000,000 each occurrence
	Property Damage Liability $2,000,000 each occurrence

	In lieu of (1) and (2) Bodily Injury and Property Damage Combined $2,000,000 single limit
	Automobile Liability Insurance, including owned, non-owned and hired vehicles
COMPREHENSIVE:	Bodily Injury Liability $1,000,000 each person, $2,000,000 each occurrence
	Property Damage Liability $2,000,000 each occurrence
	In lieu of (1) and (2) Bodily Injury and Property Damage Combined $2,000,000 single limit

(4) A copy of the actual insurance policies.

(5) If the person is a corporation, a copy of the certificate required to be filed under Minn. Stat. 300.06 as recorded and certified to by the Secretary of State.

(6) 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.

(b) A Small Wireless Facility Permit applicant may file a consolidated Small Wireless Permit Application to collocate up to 15 small wireless facilities provided that all the small wireless facilities in the application:

(1) are located within a two-mile radius;
(2) consist of substantially similar equipment; and
are to be placed on similar types of wireless support structures.
(3) The City may approve a permit for some small wireless facilities and deny a permit for others, but the City may not use denial of one or more permits as a basis to deny all the small wireless facilities in the application.

(c) Payment of money due the city for

(1) permit fees, estimated restoration costs and other management costs,
(2) 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;
(3) franchise fees, or other charges, if applicable.
(4) inspection fees, if applicable and if not included in the permit fee.

Sec. 1.05. 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. ***Permit Conditions Generally.*** 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. In addition, 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. All permits issued and all registrations made under this Section shall be subject to the following requirements:

A. All permits issued under this Section or a copy of the permit shall be conspicuously displayed or otherwise available at all times at the indicated project work site and shall be available for inspection immediately upon request by the city administrator or his/her designee.

B. If the obstruction or excavation of the public right-of-way begins later or ends sooner than the dates specified in the permit, the permittee shall promptly notify the city administrator.

C. Installation, placement, location, and relocation of equipment and facilities shall comply with all federal, state and local laws.

D. Public right-of-way restoration shall be in accordance with the restoration regulations set forth in this Section.

E. Installation of all underground utilities shall be in accordance with the underground utilities regulations set forth in this Section and all other applicable federal, state and local laws.

F. Precautions shall be taken as are necessary to avoid creating unsafe or unsanitary conditions and a permittee shall not obstruct a public right-of-way, except as expressly authorized by the permit, so as to hinder the natural free and clear passage of water through the gutters or other waterways. Personal vehicles of those doing work in the public 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.

G. Project operations and work shall be conducted in a manner so as to insure the least obstruction to and interference with present and continued use of the public right-of-way.

H. Precautions shall be taken to assure the safety of the general public, employees, invitees and those who require access to abutting property, including appropriate signage.

I. The permittee shall notify abutting property owners with a 48-hour written notice prior to commencement of any project work that may disrupt the use of and access to the abutting property.

J. The permittee involved in underground projects shall register with Gopher State One Call and comply with the requirements thereof.

K. The permittee shall comply with the Uniform Traffic Manual for Traffic Control at all times during any project work and shall protect and identify excavations and work operations with barricade flags in the daylight hours and by warning lights at dusk and night.

L. The permittee shall comply with all conditions of the permit.

M. When any trail or drive has been cut, the appropriate signage must be kept in place and maintained until restoration is complete.

N. The permittee shall provide proper trench protection as required by O.S.H.A. to prevent any cave-in; injury to property or persons; or enlargement of the excavation.

O. Excavations, trenches and jacking pits off the roadway surface area or adjacent to the roadway or curbing shall be sheathed and braced. When unattended, all excavations, trenches and jacking pits shall be protected to prevent surface drainage.

P. The permittee shall protect the root growth of significant trees and shrubbery located within the public right-of-way and adjacent thereto.

Q. The permittee shall coordinate project work and installation of facilities in co-locations involving other public right-of-way users.

R. The permittee shall maintain access to all properties and cross streets during project work, including emergency vehicle access.

S. The permittee shall physically locate property lines abutting the project work. The permittee shall replace, with the services of a Minnesota-licensed surveyor, any property corners or monuments disturbed as a result of the project.

T. The permittee shall complete restoration of the public right-of-way in conformance with this Section.

U. No permittee, or any agent, subcontractor or employee thereof, shall use lugs (steel tracks) on any roadway surfaces.

V. The permittee shall remove daily all dirt or debris from sidewalks, trails, public and private roadway surfaces and curbs and gutters during project work.

W. The permittee shall obtain all other necessary permits, licenses and approvals, pay all required fees therefore and comply with all requirements of local, state and federal laws.

X. The permittee shall not do any work outside the project area as specified in the permit.

Y. The permittee shall screen all aboveground facilities and make reasonable accommodations for decorative enclosures, support structures or signs, as required by the director of public works, to be aesthetically compatible with existing streetscape and the ornamental design or theme of the immediate area. Screening methods shall include the use of shrubs, trees and/or with landscape rock or installation using stealth or camouflaged forms of the facility. The director may also impose reasonable restocking, replacement, or relocation requirements when a new support structure is placed in a public right-of-way. No equipment or facilities shall visibly or physically block or in any manner interfere with any existing streetscape, ornamental structures or displays, or other amenities located within the city's right of way.

Z. Any facility collocated on a city-owned support structure shall be of a color and design so to match the color, design and pattern of the existing support structure(s) and any replacement structures after the issuance of the permit. Any new support structure, and any facility located thereon, erected within a city-owned right of way shall be of a color and design so to match the color, design and pattern of existing structures (e.g. light/lampposts) and any replacement structures after the issuance of the permit.

AA. Small wireless facilities shall be subject to the regulations set forth in Minnesota Statutes, Ch. 237, if not otherwise set forth herein.

BB. The city may impose other reasonable conditions to protect the public health, safety and welfare or, when necessary, to protect the right of way and its current and future use.

Subd. 3. ***Additional Small Wireless Facility Conditions.*** In addition to subdivision 2, the erection or installation of a wireless support structure, or the collocation of a small wireless facility, shall be subject to the following conditions:

(a) A small wireless facility shall only be collocated on the particular wireless support structure, under those attachment specifications, and at the height indicated in the applicable permit application.
(b) No new wireless support structure installed within the right-of-way shall exceed 50 feet in height without the city's written authorization, and further provided that an applicant may replace an existing wireless support structure exceeding 50 feet in height with a structure of the same height subject to such conditions or requirements as may be imposed in the applicable permit.
(c) No wireless facility may extend more than 10 feet above its wireless support structure.
(d) Where an applicant proposes to install a new wireless support structure in the right-of-way, the city may impose separation requirements between such support structures and any existing wireless support structure or other facilities in and around the right-of-way. Notwithstanding, there shall be no less than 600 linear feet between each support structure on which a small wireless facility(s) is located.
(e) Where an applicant proposes collocation on a decorative wireless support structure, sign or other structure not intended to support small wireless facilities, the city may impose reasonable requirements to accommodate the particular design, appearance or intended purpose of such structure.
(f) Where an applicant proposes to replace a wireless support structure, the city may impose reasonable restocking, replacement, or relocation requirements on the replacement of such structure.
(g) The execution of a Small Wireless Facility Collocation Agreement that incorporates any additional terms and conditions mutually agreed upon by the city and the applicant. A small wireless facility collocation agreement is considered public data not on individuals and is accessible to the public under section 13.03. Issuance of a small wireless facility permit does not supersede, alter or affect any then-existing agreement between the city and applicant.
(h) No more than three (3) small wireless facilities shall be collocated on a single support structure.

Subd. 4. ***Payment of Rent.***

(a) For collocations of small wireless facilities, the city can, either in its permit or in a standard collocation agreement, require annual rental payments for the small wireless collocations of up to:
    a. $270 per year for rent to collocate on the city structure.
    b. $25 per year for maintenance associated with the collocation.
    c. A monthly fee for electrical service as follows:

i. $73 per radio node less than or equal to 100 maximum watts;
ii. $182 per radio node over 100 maximum watts; or
iii. The actual cost of electricity if the actual cost exceeds the foregoing

d. The application fee for collocation or new support structures within City property shall be established by City Council ordinance.

(b) For collocations or placements, other than of small wireless facilities, the city can charge a mutually agreed upon rent reached between the city and the applicant.

Subd. 5. ***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 city.

Sec. 1.06. Timeline for Action on Permit Applications.

Subd. 1. ***Denial in General.*** 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.

Subd. 2. ***Procedure for Denial on Permits other than Small Wireless Facilities Permits.*** The denial of a permit must be made in writing and must document the basis for the denial. The city must notify the applicant or right-of-way user in writing within three business days of the decision to deny a permit. If an application is denied, the right-of-way user may address the reasons for denial identified by the city and resubmit its application. If the application is resubmitted within 30 days of receipt of the notice of denial, no additional application fee shall be imposed. The city must approve or deny the resubmitted application within 30 days after submission.

Subd. 3. ***Procedure for Denial on Small Wireless Facilities Permits*****.** The city shall approve or deny a small wireless facility permit application within 90 days after filing of such application, unless the collocation is on a support structure that already qualifies as an existing wireless tower or base station under Section 6409(a), codified at 47 U.S.C. 1455(a), which, in those instances, the city shall approve or deny the small wireless facility permit within 60 days. The small wireless facility permit, and any associated building permit application, shall be deemed approved if the city fails to approve or deny the application within the review periods established in this section.

Subd. 4. ***Tolling of Deadline on Small Wireless Facility Permit*****.** The deadline for action on a small wireless facility permit application may be tolled if:

a) The city receives applications from one or more applicants seeking approval of permits for more than 30 small wireless facilities within a seven-day period. In such case, the city may extend the deadline for all such applications by 30 days and shall inform the affected applicant in writing of such extension.
b) The applicant fails to submit all required documents or information and the city provides written notice of incompleteness to the applicant within 30 days of receipt the

application. Upon submission of additional documents or information, the city shall have ten days to notify the applicant in writing of any still-missing information.

c) The city and a small wireless facility applicant agree in writing to toll the review period.

Sec. 1.07. 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 an obstruction permit fee in an amount sufficient to recover the city management costs.

Subd 3. ***Small Wireless Facility Permit Fee***. The city shall impose a one-time small wireless facility permit fee at the time of approval of the collocation application in an amount sufficient to recover:

(a) management costs;
(b) restoration costs or degradation fee, if applicable,
(c) inspection fees, if applicable,
(d) city engineering, make-ready, and construction costs associated with collocation of small wireless facilities.

The city will not impose a small wireless facility permit fee for any of the following activities:

(1) routine maintenance of a small wireless facility;

(2) replacement of a small wireless facility with a new facility that is substantially similar or smaller in size, weight, height, and wind or structural loading than the small wireless facility being replaced; or

(3) installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with national safety codes

Subd. 4. ***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. 5. ***Non-Refundable.*** Permit fees that were paid for a permit that the city has revoked for a breach as stated in Section 1.14 are not refundable.

Subd. ***6. Application to Franchises.*** For right-of-way users subject to 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, unless otherwise agreed to in the franchise.

Subd. 7. ***Rules.*** All permit fees shall be established consistent with the provisions of Minnesota Rule 7819.1000, when applicable.

Sec. 1.08. 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 unseasonable or unreasonable.

Subd. 3. ***Standards*****.** The permittee shall perform 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. 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.

Subd. 5. ***Failure to Restore***. If the permittee fails to restore the right-of-way in the manner and to the condition required by the city, or fails to satisfactorily and timely complete all restoration required by the city, the city at its option may do such work. In that event the permittee shall pay to the city, within thirty (30) days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the city may exercise its rights under the construction performance bond.

Section 1.09. Permit Limitations.
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

a) make application for a permit extension and pay any additional fees required thereby, and
b) be granted a new permit or permit extension.

Subd. 2. ***Obstruction from Small Wireless Facility Work.*** City will not require an additional small wireless facility permit fee or require a new collocation agreement for routine maintenance of a small wireless facility, for replacement of a small wireless facility with a new facility that is substantially similar or smaller in size, weight, height, and wind or structural loading than the small wireless facility being replaced; or for installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with national safety codes. The city may require advance notification, however, of these activities if the work will obstruct the public right-of-way.

Subd. 3. ***Limitation on Dates***. A right-of-way permit is valid only for the dates specified in the permit. For a Small Wireless Facility Permit, the term of the permit is equal to the length of time that the small wireless facility is in use, unless the permit is revoked under this section. No permittee may begin its work before the permit start date or, except as provided herein, continue

working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

Section 1.10. 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, when applicable, and other local requirements, when applicable, and in so far as they are not inconsistent with the Minnesota Statutes Sections 237.162 and 237.163.

Section 1.11. 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 Rules 7819.1300.

Subd. 2. ***Site Inspection*****.** Permittee shall make the work-site available to city personnel 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 City***.

a) At the time of inspection, the city 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 city 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 city that the violation has been corrected. If such proof has not been presented within the required time, the city may revoke the permit pursuant to Sec. 1.215

Sec. 1.12. Work Done Without a permit.
Subd. 1. ***Emergency Situations***. Each person with facilities in the right-of-way shall immediately notify the city of any event regarding its facilities that it considers being an emergency. The owner of the facilities may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency the owner 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 facilities, the city will attempt to contact the local representative of each facility owner 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 person 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 this code, deposit with the city the fees necessary to correct any damage to the right-of-way and comply with all the requirements of this chapter.

Sec. 1.13. 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. 1.14. Revocation of Permit

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 permittees control; or

e) The failure to correct, in a timely manner, work that does not conform to a condition of the permit

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 might be cause for revocation of the permit.

Subd. 3. ***Procedural Requirements***. If the city decides to revoke the permit, the revocation must be made in writing and must document the basis for the revocation. The city must notify the right-of-way user in writing within three business days of the decision to revoke a permit.

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

Subd. 5. ***Limitation of Space***. Subject to Minnesota Statutes Section 237.163, 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 deny permits and 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. 1.15. Damage to Other Facilities.

When the city does work in the right-of-way and finds it necessary to maintain, support, or move facilities to protect it, the city shall notify the local representative as early as is reasonably possible and placed as required. The costs associated therewith will be billed to that facility owner and must be paid within thirty (30) days from the date of billing. Each facility owner shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages. Each facility owner shall be responsible for the cost of repairing any damage to the facilities of another caused during the city's response to an emergency occasioned by that owner's facilities.

Sec. 1.16. Right-of-Way Vacation.

Reservation of Right. If the city vacates a right-of-way that contains facilities, the facility owner's rights in the vacated right-of-way are governed by Minnesota Rules 7819.3200.

Sec. 1.17. Indemnification and Liability.

By applying for and accepting a permit under this chapter, a permittee agrees to defend and indemnify the city in accordance with the provisions of Minnesota Rule 7819.1250.

Sec. 1.18. Abandoned Facilities.

a. *Notification.* The permittee shall notify the City when facilities are, abandoned. The permittee shall submit to the city administrator a plan for the removal of the abandoned equipment or facility. The city administrator may require the permittee to post a bond in an amount sufficient to reimburse the City for reasonably anticipated costs to be incurred in removing the equipment and facilities if the permittee user fails to do so.

b. *Removal of abandoned facilities*. The permittee shall notify the City when facilities are to be abandoned. The permittee that has abandoned facilities in the right-of-way shall remove them from that right-of-way if required in conjunction with other right-of-way repair, excavation or construction, at right-of-way user's expense, unless the City waives this requirement. The permittee that has abandoned facilities in the right-of-way shall continue to comply with and complete a "locate" and map/mark the location of the abandoned facility upon all locate requests/orders as required by Minnesota law. When the permittee fails to complete a locate of an abandoned facility when requested or upon issuance of a locate order and such failure results in a city project to be delayed, the permittee shall pay for the City's costs, claims and damages, including the loss of revenue of its project contractors, for forced delay on project due to failure to locate and map abandoned facilities as required herein.

Sec. 1.19. Appeal.
A right-of-way user that: (1) has been denied a permit; (2) has had permit revoked; or (3) believes that the fees imposed are invalid may have the denial, revocation, or fee imposition reviewed, upon written request, by the City council. The city council shall act on a timely written request at its next regularly scheduled meeting. A decision by the city council affirming the denial, revocation, or fee imposition will be writing and supported by written findings establishing the reasonableness of the decision.

Sec. 1.20. Reservation of Regulatory and Police Powers.
A permittee's rights are subject to 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.

CITY OF MOUNTAIN LAKE MN

ORDINANCE NO. 4-17

AN ORDINANCE ESTABLISHING FEES FOR EMERGENCY PROTECTION FIRE SERVICES

THE CITY COUNCIL OF THE CITY OF MOUNTAIN LAKE, MINNESOTA DOES ORDAIN:

SECTION ONE: PURPOSES AND INTENT

This ordinance is adopted for the purpose of authorizing the City of Mt. Lake to charge for fire service as authorized by Minn. Stat. §§ 366.011, 366.012, and 415.01.

SECTION TWO: DEFINITIONS

(A) “Fire service” means any deployment of fir fighting 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.

(B) “Fire service charge” means the charge imposed by the City for receiving fire service.

(C) “Motor vehicle” means any self-propelled vehicle designed and originally manufactured to operate primarily upon public roads and highways, and not operated exclusively upon railroad tracks. It includes semi-trailers. It does not include snowmobiles, manufactured homes, all-terrain vehicles, or park trailers.

(D) “Fire protection contract” means a contract between the City and a township or other city for the City to provide fire service.

(E) “Mutual aid agreement” means an agreement between the City and a township or other city for the City’s fire department to provide assistance to the fire department of a township or other city.

SECTION THREE: PARTIES AFFECTED

(A) Owners of property within the City who receive fire service.

(B) Anyone who receives fire service as a result of a motor vehicle accident or fire within the City.

(C) Owners of property in townships or cities to which the City provides fire service pursuant to a fire protection contract.

SECTION FOUR: BILLING AND COLLECTION

(A)Parties requesting and receiving fire services will be directly billed by the City of Mountain Lake within 14 days of the fire service. Additionally, if the party receiving fire services did not request 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 45 days to pay. If the fire service charge is not paid by that time, it will be considered delinquent and the City 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 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 cost incurred by the City 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 Council may also before the end of each year certify the unpaid fire service charge to the county auditor in which the recipient of the services owns real property for collection with taxes. The county auditor is responsible for remitting to the city all charges collected on behalf of the city. The City must give the property owner notice of

its intent to certify the unpaid fire service charge prior to certifying the unpaid charge to the county auditor.

(E) False alarms will be billed the same as a fire call. Fire service charges will be determined by the City Council. .

SECTION FIVE: 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.

SECTION SIX: APPLICATION OF COLLECTIONS TO BUDGET

All collected fire charges will be city funds and used to offset the expenses of the City fire department in providing fire services.

SECTION EIGHT: EFFECTIVE DATE

The ordinance shall become effective upon publication in the Mt. Lake/Butterfield Observer/Advocate.

CITY OF MOUNTAIN LAKE
Ordinance 1-21
Establishing Rates, Fees and Administrative Fines

The Mountain Lake City Council hereby establishes the following rates, fees, and administrative fines:

(Changes from 2020 have been bolded.)

WATER, SEWER AND ELECTRIC UTILITIES

Water Service: **(effective January 1, 2021)**

Residential

Base	**$32.27**
1,000 to 6,999 gals.	**$7.47 per 1,000**
7,000 to 12,999 gals.	**$8.36 per 1,000**
13,000 to 25,999 gals.	**$9.56 per 1,000**
26,000 gals. and up	**$10.76 per 1,000**

Rural

Base	**$33.46**
1,000 to 6,999 gals.	**$8.36 per 1,000**
7,000 to 12,999 gals.	**$9.56 per 1,000**
13,000 to 25,999 gals.	**$10.76 per 1,000**
26,000 gals. and up	**$11.95 per 1,000**

Industrial/Commercial

Base	**$32.27**
1,000 to 50,999 gals.	**$8.07 per 1,000**
51,000 gals. and up	**$8.26 per 1,000**

Sewer: **(effective January 1, 2021)**

Residential:	**$43.93 per month**
Rural:	**$46.86 per month**
Commercial:	**$46.86 minimum first 3,000 gallons of water used**
	$8.78 excess water usage per 1,000 gallons

Electric: (effective January 1, 2021)

** All rates shown are subject to a fuel and/or purchased cost adjustment and states sales tax.
** Energy charge is in addition to the minimum charge.
Residential:

Customer Base Charge	$14.00

All Energy	11.30 cents per KWH
Rural Residential:	
Customer Base Charge	$17.00
All Energy	11.30 cents per KWH
Commercial under 20kW	
Customer Base Charge	$24.00
All Energy	10.90 cents per KWH
Large Commercial & Large Rural Commercial Over 20kW	
Customer Base Charge	$55.00
Demand Charge	$14.00 per kW
Energy Charge	5.80 cents per KWH
City Facilities and Street Lighting:	
Customer Base Charge	$24.00
Energy Charge	8.60 cents per KWH
Conservation Improvement Plan Surcharge (effective Jan. 1, 2015)	1.5% of electric bill

Deposits:

Landlord	$100 per unit, up to $500 maximum
Homeowner	$150
Tenant	$250
Tenant with electric heat	$300
Contract for Deed Vendor	$0
Contract for Deed Vendee	$250

Other Charges:

Late payments charge for payment not received or postmarked after the due date	10% of the bill
Processing delinquent notices fee	$25
Shut-off fee	$25
Re-connect fee	$25
Water line tapping fee	$205 per connection
Sewer line tapping fee	$205 per connection

Small Cell

Rent to Collocate on the City Structure	$270 per year
Maintenance Associated with the Collocation	$25 per year

Monthly fee for electrical service as follows:

i. $73 per radio node less than or equal to 100 maximum watts;
ii. $182 per radio node over 100 maximum watts; or
iii. The actual cost of electricity if the actual cost exceeds the foregoing.

FIRE DEPARTMENT

Fire Call	$1,000

AMBULANCE DEPARTMENT

Ambulance Call	$650 Base Rate $15.00 per loaded mile
	$750 Non-Contract Area
	$150 – Lift Assist

PUBLIC WORKS (all prices includes employee):

Sweeper rental:	$250 per hour
Blade rental:	$250 per hour
Roller rental:	$100 per hour
Sidewalk Grinding:	$40 for first crack
	$20 for each following
Salt/Sand Spreading:	
Small Lot	$200
Large Lot	$300
Snow Removal Hauling:	$300 per hour
Mowing	**$100 per lawn under 1 hour, $100 per additional hour**
Sewer Camera	$.50 per foot, minimum $250 per hour
Jet Rodder/Vactor	$200 per hour
Bucket Truck	$250 per hour
Boom Truck	$250 per hour
Patching Streets	$10.50 per square foot

CEMETERY

Grave Lot	$500 each
Grave Open/Close Rates	$600 weekdays (traditional and cremation)
	$800 weekends (traditional and cremation)

ALCOHOL AND TOBACCO LICENSES AND PERMITS

On-sale liquor license, annual fee	$400
Off-sale liquor license, annual fee	$100
Cigarette sales, annual fee	$25.00

ADMINISTRATIVE FEES AND MISCELLANEOUS CHARGES

Copies	$.25 per page
Public Data Requests and City Business Copies	1-19 pgs. – no cost 20 or more pgs. – $.25/pg.
Faxes (incoming and outgoing)	$3.00 per page
Laminate (8” by 10”)	$3.00
Laminate (11” by 14”)	$3.50
Room Rent (City Hall and Community Center)	$150.00 + $150.00 Damage Deposit

POLICE SERVICES

Accident Reports	1-19 pgs. – no cost 20 or more pgs. - $.25/pg.
Animal Transport	$50.00
Local Background Check	$5.00
(no charge for federal, state and local agencies)	$5.00
Driving Record	$10.00
False Alarm	$50.00
Funeral Escort	No Charge
Home Checks	No Charge
ICR/Investigations Reports	$5.00 + 25 cents per page over 3 pages
Digital Photos	$2.00 each, printed on standard copy paper

LICENSE AND PERMIT FEES

Alcohol Related Items:

Investigation for initial application	$50.00
Event permit (with alcohol)	$250.00 + police coverage costs
Event permit (w/o liquor)	$150.00 + police coverage costs as determined by the Chief of Police

Other:

Cat/dog Licenses	$15 biennially
Solicitor Registration	$25.00
Golf Cart Permit	$10.00 annually
Sale of Legal Fireworks License (8.05)	$5.00

POLICE DEPARTMENT ADMINISTRATIVE FINES - See attached

	1st Offense	2nd Offense	3rd Offence
Social Host (City Code 5.18)	$100.00		
Address Numbers	$60.00		
Public Nuisance	$100.00		

TRAVEL BY ELECTED OFFICIALS OR EMPLOYEES

IRS Mileage Reimbursement Rate	**$0.56 per mile**
IRS Meal Reimbursement Rate	
Breakfast	$13.00
Lunch	$14.00
Dinner	$23.00
Incidentals	$5.00

PLANNING AND ZONING

Rezoning of property	$100.00
Conditional Use Permit	$100.00
Subdivision of Property	$100.00
Variance	$100.00
Special meeting by request	$125.00
Appeals	$100.00
Excavation Permit	no fee
Building Permit Extension (6 mos.)	no fee
Demolition Permit	No fee
Preliminary Plat	$150 + $1 per lot
Final Plat	$100.00
Minor Subdivision Plat	$100.00
Street/alley Vacation	$200.00
Annexation	$250.00 + costs
Failure to obtain building permit	Two (2) times the building fee applicable to the project
Rental License	$20.00 per building
Fence under 7 Feet	$25.00
Siding or Shingles	$45.00 (includes state surcharge)
Temporary Family	
Health Care Dwelling	$50.00
Sheds less than 120 sq. ft.	$0
Building Permit Fees	See attachment, excludes state surcharge
Moving Permit	Actual Costs
Planned Unit Development Application Fee	$250.00
Utility Water Line Tapping Fee	$205.00
Utility Sewer Line Tapping Fee	$205.00
Backyard Chickens License	$10.00
Small Cell Application	$100.00

Island View Campground – All fees must be paid at the beginning of stay.

Per Night	$20
Monthly	$450
Seasonal (May 1 – October 1)	$1,700
Winter Storage	$100

Adopted by the City Council this 4th day of January 2021.

ATTEST:

_____	_____
Mike Nelson, Mayor	Michael Schulte, City Administrator/Clerk