SARTELL PLANNING COMMISSION AGENDA

Monday, March 4, 2024 | **Sartell City Hall** | **6:00 PM**

1. **Agenda Review and Adoption**

2. **Approval of Minutes of Previous Meeting**
   a. Regular Meeting Minutes February 5, 2024
   b. Special Meeting Minutes February 21, 2024

3. **New Business**
   a. Ordinance Revisions
   b. Vacation – Whippoorwill Way & D/U Easement

4. **Old Business**

5. **Other Business**
   a. Project Updates
   b. Planning Commission Updates
   c. Open Discussion

6. **Adjourn**

SARTELL PLANNING COMMISSION MINUTES

Monday, February 5, 2024 **Sartell City Hall** **6:00 PM**

Pursuant to due call and notice thereof, a Planning Commission meeting was held on February 5, 2024, at 6:00 p.m. at Sartell City Hall.

MEMBERS PRESENT: David Wall, Colin Anderson, Kelly Thompson

MEMBERS ABSENT: Kelly Mager, Christine Huston

OTHERS PRESENT*:* Kari Theisen, Project Manager, Jill Hollenkamp, Development Specialist,

Wall called the meeting to order at 6:00 p.m.

1. AGENDA REVIEW AND ADOPTION

A motion was made by Anderson and seconded by Thompson to approve the agenda as presented. Motion carried with unanimously.

2. APPROVAL OF MINUTES

A motion was made by Anderson and seconded by Thompson to approve the minutes January 2, 2024. Motion carried unanimously.

3. NEW BUSINESS

a. Vacation-Leander Avenue. Thiesen discussed the vacation application for the o2b Childcare. This property has been annexed into the city and the road will no longer be built as originally proposed. Stearns County would not allow access to County Road 120 and so the vacation is needed. Easement access to the north will be under a separate easement and will be recorded with the plat. A motion was made by Anderson and seconded by Wall. Motion was carried unanimously.

4. OLD BUSINESS

a. Mill Site Redevelopment Study – Thiesen is looking for any comments or concerns regarding the presentation provided previously. There were a few slight changes which includes a grade separated crossing.

5. OTHER BUSINESS-

a. Project updates
    a. Ordinance Revisions in March a redline copy will be provided for review.
b. Planning Commission Updates
    a. Reminder of the APO Beltline meeting is Thursday, Feb 7, 2024, at 5:15 pm
c. Open Discussion

6. ADJOUN

Motion made by Anderson and seconded by Thompson to adjourn the meeting. Motion carried unanimously. Adjourned at 6:27 pm.

Minutes by Jill Hollenkamp – Development Specialist

SARTELL PLANNING COMMISSION MINUTES

Wednesday, February 21, 2024 **Sartell City Hall** **6:30 PM**

Pursuant to due call and notice thereof, a Planning Commission meeting was held on February 21, 2024, at 6:30 p.m. at Sartell City Hall and held via interactive technology.

MEMBERS PRESENT:	Kelly Mager – Chair, Kelly Thompson
MEMBERS ABSENT:	Colin Anderson, Christine Huston, David Wall
OTHERS PRESENT*:*	Anita Archambeau – AME Consultant Services (remote), Kari Theisen – Project Supervisor

The meeting commenced at 6:36 p.m.

1. MILL SITE REDEVELOPMENT PLAN

Theisen began the meeting and introduced Anita Archambeau followed by introductions of the present Planning Commission members at the meeting. Archambeau completed an overview of the Mill Site Redevelopment Plan. Once the overview was completed, questions and clarifications were welcomed by the present members.

2. ADJOUN

The meeting was adjourned at 7:30 p.m.

Minutes by Kari Theisen – Project Supervisor

STAFF MEMO

Lead Department and Contact: Community Development – Kari Theisen	**Meeting Date:** March 4, 2024	**Agenda Item No.** **03a**
Agenda Section: New Business	**Goal Area:** Livable City	**Item:** Ordinance Amendments

PREVIOUS COUNCIL REVIEW OR ACTION:

- City Council reviewed proposed Ordinance Amendments during a Special Workshop and gave direction to have staff revise ordinances.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION:

- The Planning Commission will review the ordinance amendments at the March 4, 2024 regular meeting.

DEPARTMENTAL REVIEW AND IMPACTS:

Administration: Assisted with ordinance revisions and recommends approval.
Finance: Assisted with ordinance revisions and recommends approval.
Community Development: Revised all ordinances. Assist with the Implementation and enforcement of Ordinance Amendments, recommends approval.
Public Works: Assisted with ordinance revisions and recommends approval.
Public Safety: Assisted with ordinance revisions and recommends approval.

RECURRING REQUEST: Ordinances are amended from time to time to address changes in regulations and upon direction from City Staff, Planning Commission and Council.

PROPOSED BUDGET/FISCAL IMPACT: None.

OPPORTUNITY COST IF APPROVED: N/A

BACKGROUND:
The City determined a full City Code update to be a 2023-2024 Strategic Initiative and goal. The ordinance revisions took place throughout 2023 with each department weighing in on desired and proposed code revisions. There were overall formatting changes for each Title to ensure consistency throughout. Multiple changes were required to meet state and federal requirements.

ACTIONS REQUESTED: Motion and 2nd to recommend approval of the revised Title 1 through Title 12 Ordinances.

ATTACHMENTS: Ordinance Draft and supporting documents.

ORDINANCE AMENDMENT AND SUMMARY ORDINANCE
ORDINANCE NO. ___

CITY OF SARTELL
STEARNS COUNTY, MINNESOTA

AN ORDINANCE AMENDING TITLES:
1 THROUGH 12

THE CITY COUNCIL OF THE CITY OF SARTELL HEREBY ORDAINS THAT THE FOLLOWING SUMMARY ORDINANCE SHALL BE PUBLISHED IN LIEW OF THE FULL AMENDMENT, WHICH SHALL BE ON FILE AND AVAILABLE FOR VIEWING IN THE OFFICE OF THE CITY CLERK AND ELECTRONICALLY VIA THE CITY WEBSITE:

Section 1: Changes made to the following titles:

1. Title 1– Administration
2. Title 2 – Boards and Commissions
3. Title 3 – Business and License Regulation
4. Title 4 – Public Health and Safety
5. Title 5 – Police Regulations
6. Title 6 – Motor Vehicles and Traffic
7. Title 7 – Public Ways and Properties
8. Title 8 – Water and Sewer
9. Title 9 – Building Regulations
10. Title 10 – Zoning Regulations
11. Title 11 – Subdivision Regulations
12. Title 12 – Flood Control

Section 2: This ordinance shall be effective immediately upon its passage and publication in Summary Form.

ORDINANCE AMENDMENT AND SUMMARY ORDINANCE
ORDINANCE NO. ___

ADOPTED BY THE SARTELL CITY COUNCIL THIS 11th DAY OF MARCH 2024.

_____
Mayor

ATTEST:

_____
City Administrator

AYES:_____
NAYS:_____

CITY SEAL:

THIS INSTRUMENT DRAFTED BY:
City of Sartell
125 Pinecone Road North
Sartell, MN 56377
(320) 253-2171


CITY OF SARTELL
MINNESOTA

Title 1 -12 Ordinance Updates

City Code Updates - Overall

- The City determined a full City Code update to be a 2023-2024 Strategic Initiative and goal, which has been taking place over 2023
- Overall formatting changes were necessary for consistency in the Code
- Removed multiple “RESERVED” sections, which were previous Code chapters that were removed under previous Councils/Administrations and left as blank “reserved” sections for future Code insertions. We removed any that we thought were not necessary.
- We will go through each Title of the Code and any applicable changes
- Council will hold a Public Hearing on March 11, 2024 to approve the City Code as a whole.

Title 1 – General Provisions

- Primarily formatting changes and language modifications throughout
- Minor changes to match current processes
- Added Chapter 5 Code of Ethics; most City Codes have a similar section, but the previous City Code did not.

Title 2 – Boards & Commissions

- Primarily formatting changes made throughout
- Minor changes to match current processes
- Modified Planning Commission terms, would allow additional terms but must apply according to the vacancy posting.
  - Would be still up to Council to appoint
  - Staff believe that there is a benefit if see fit to have more terms due to the complexity of the ordinances and policies/procedures, zoning, etc.
- Adjusted CVB/Everything Sartell to seven (7) members instead of five (5) as this was a combined Commission between the CVB and Everything Sartell
  - Term limit and process to seek additional terms is the same as the Planning Commission
- Park Commission
  - Term limit and process to seek additional terms is the same as the Planning Commission

Title 3 – Business & License Regulations

- Primarily formatting and language changes made throughout
- Minor changes to match current processes
- Remove “Reserved” Chapters (Chapters 3 and 7, which were Amusements and Food Vending Machines, respectively, and no longer applicable items for City Code)
- Adjusted Clerk-Treasurer to Deputy Clerk throughout
- Adjusted applicable licensing chapters to match our online application process

Title 4 – Public Health & Safety

- Primarily formatting changes made throughout
- Minor changes to match current processes
- Remove “Reserved” Chapter 1 (has been reserved for years, unsure of what it was originally saved for)
- Added language to address buried propane tanks; ordinance proposed would not allow private propane tanks to be buried
- Revised wording to Community Development Director where applicable from Clerk/Treasurer
- Revised wording to Fire Chief instead of City Administrator for fire related permits
- Included and changed verbiage surrounding permitting process, changed it to be all online instead of referencing paper permits
- Included native grass language to match new 2023 state legislation

Title 5 – Police Regulations

- Primarily formatting changes made throughout
- Minor changes to match current processes, as well as State Statutes
- Remove “Reserved” Chapters 3 and 8 (have been reserved for years, unsure of what it was originally saved for) and Chapter 7 related to Ice Fishing Below Dams (not longer applicable)
- Added Chickens to the Domestic Animal Definition
- Included social media, text messages, emails, and any other online messaging to forms of communication where threats can be investigated
- Did not revise Curfew language, after thorough discussions

Title 6 – Motor Vehicles & Traffic

- Primarily formatting changes made throughout
- Minor changes to match current processes, as well as State Statutes
- Remove “Reserved” Chapters 3 regarding Bicycles as it is covered in State Statute and no longer applicable in City Code
- Edited the Restricted Parking language, no longer allow parking in front of mailboxes
- Modified language for posted no parking areas
- Modified residential truck parking restrictions, clarification on where it is allowed or not allowed – matches St. Cloud Ordinance
  - May need follow up with PD to ensure they know the allowed areas (Commercial & Industrial)
- Did not change 72-hour parking after long discussions

Title 7 – Public Ways & Properties

- Primarily formatting changes made throughout
- Remove Chapter 4 regarding Baseball Fields, as it is not recommended in Ordinance format and Chapter 6 regarding Private Docks on Public Property, as these were all removed with the County Road 1 project and are no longer applicable in City Code
- Updated the right-of-way application process to match what we do internally, updated permit requirements, removed the joint applications option
- Updated Parks chapter to match Master Park Plan and Park Shelter Rental Policy
- Updated Cemetery chapter to Deputy Clerk from Clerk/Treasurer and to match the current process

Title 8 – Water & Sewer

- Primarily formatting and language changes made throughout
- Updated the process to include appropriate terminology and to match our current design standards per policy

Title 9 – Building Regulations

- Primarily formatting changes made throughout
- Removed repetitive language around multi-family rental dwellings, which is already detailed in Title 4 of the City Code

Title 10 – Zoning

- Primarily formatting and language changes made throughout
- We do not desire to remove any "RESERVED" chapters from this Title, as they do typically end up getting filled with future zoning code (ie: The Mill District or other business districts).
- Added Sacred Community definition and language throughout, per State legislature which was approved in 2023, we still require a CUP as part of that process in allowable districts
- Updated terminology of zoning districts to match our actual districts
- Added language addressing civil action and legal fees to be paid by the property owner.
- Added verbiage around the Public Works Director being able to install snow fencing, generally to assist with PW snowplow routes. Not an allowable use otherwise as it does not meet the material requirement for fencing.
- Updated the Solar Chapter to include 125% financial assurance requirement for decommissioning and allow the City properties to be exempt from the megawatt cap requirement.
  - Final amount set by council, can be more than 125% but not less.
  - Removed City owned properties being exempt from the 10 MW limit, was discussed at a workshop to remove
- Added language regarding screening an excessive amount of perimeter utilities in R-1 districts
- SEH updated the wetland chapter to reflect current requirements and/or definitions

Title 11 – Subdivision Regulations

- Primarily formatting and language changes made throughout
- Updated process and standards to match our current process and policies, otherwise this Title was recently updated in 2022 and is up to date.
- Changed the requirement for a tree in each front yard for new single and townhome builds
  - We have issues with open permits with the only item remaining is a tree in the yard & the homeowner doesn't want to put it in and either does the contractor.
  - Changed the requirement now to be included within the Development Agreement if a tree is required to be planted in the front yard or not.

Title 12 – Flood Control

- Primarily formatting and language changes made throughout
- Updated based upon SEH recommendations if needed
- Most of this Title (if not all) is a State Requirement, so limited room for edits or revisions.

Questions

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TITLE 1

GENERAL PROVISIONS

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CHAPTER 1

GENERAL PROVISIONS

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1-1-19: Penalty Provisions

1-1-1: TITLE OF CODE:

A. All ordinances of a permanent and general nature of the city, as revised, codified, rearranged, renumbered, and consolidated into component codes, titles, chapters, and sections, shall be known, and designated as the "city code," for which designation "code of ordinances," "codified ordinances" or "code" may be substituted. Code title, chapter, and section headings do not constitute any part of the law as contained in the code.
B. All references to codes, titles, chapters, and sections are to the components of the code unless otherwise specified. Any component code may be referred to and cited by its name, such as the "Traffic Code." Sections may be referred to and cited by the designated number, such as "1-1-1."

1-1-2: RULES OF INTERPRETATION:

A. Generally. Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.
B. Specific Rules of Interpretation. The construction of all ordinances of this city shall be by the following rules, unless that construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance:

    1. AND or OR: Either conjunction shall include the other as if written "and/or," whenever the context requires.
    2. Acts by Assistants: When a statute, code provision or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, that requisition shall be satisfied by the performance of the act by an authorized agent or deputy.
    3. Gender; Singular and Plural; Tenses: Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

4. General Term: A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

1-1-3: **APPLICATION TO FUTURE ORDINANCES:** All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted which amend or supplement this code unless otherwise specifically provided.

1-1-4: **CAPTIONS:** Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

1-1-5: **DEFINITIONS:**

A. General Rule. Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.
B. Definitions. For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

CITY:	The area within the corporate boundaries of the City of Sartell as presently established or as amended by ordinance, annexation, or other legal actions at a future time. The term CITY when used in this code may also be used to refer to the City Council and its authorized representatives.
CODE, CODE OF ORDINANCES:	This City Code as modified by amendment, revision, and adoption of new titles, chapters, or sections.
COUNTY:	Benton and/or Stearns County, Minnesota.
MAY:	The act referred to is permissive.
PERSON:	Extends to and includes an individual, person, persons, firm, corporation, partnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms PERSON or WHOEVER as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers, or agents thereof.
PRECEDING OR FOLLOWING:	Next before or next after, respectively.
SECTION:	A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart subsections related by the subject matter of the heading. Not all chapters have subsections.
SHALL:	The referred to is mandatory.
STATE:	The State of Minnesota.

1-1-6: **SEVERABILITY:** If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

1-1-7: **REFERENCE TO OTHER SECTIONS:** Whenever in one section reference is made to another section hereof, that reference shall extend and apply to the section referred to as subsequently amended, revised, re-codified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

1-1-8: **REFERENCE TO OFFICES:** Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this city exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

1-1-9: **ERRORS AND OMISSIONS:** In integrating ordinances into the Code, the City Administrator, in cooperation with the City Attorney, may correct obvious grammatical, punctuation and spelling errors; change reference numbers to conform with sections, substitute dates for the words "the effective date of this ordinance", and perform like actions to ensure a uniform code of ordinances without altering the meaning of the ordinances enacted.

1-1-10: **OFFICIAL TIME:** The official time, as established by applicable state and federal laws, shall be the official time within this city for the transaction of all city business.

1-1-11: **ORDINANCES REPEALED:** This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

1-1-12: **ORDINANCES UNAFFECTED:** All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

1-1-13: **EFFECTIVE DATE OF ORDINANCES:** All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided.

1-1-14: **REPEAL OR MODIFICATION OF ORDINANCE:**

A. Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the publication of the ordinance repealing or modifying it when publication is required to give effect to it, unless otherwise expressly provided.
B. No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.
C. When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

1-1-15: **ORDINANCES WHICH AMEND OR SUPPLEMENT CODE**

A. If the City Council shall desire to amend any existing title, chapter or section of this code, the title, chapter or section shall be specifically repealed and a new title, chapter or section, containing the desired amendment, substituted in its place.
B. Any ordinance which is proposed to add to the existing code a new title, chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the title, chapter or section. In addition to this indication as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

1-1-16: **PRESERVATION OF PENALTIES, OFFENSES, RIGHTS AND LIABILITIES:** All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this code. The liabilities, proceedings and rights are continued; punishments, penalties, or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway right-of-ways, contracts entered into, or franchises granted, the acceptance, establishment or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

1-1-17: **COPIES OF CODE:** The official copy of this code shall be kept in the office of the City Clerk and on the official website for public inspection. The Deputy Clerk shall provide a copy for sale for a reasonable charge.

1-1-18: **ADOPTION OF STATUTES AND RULES BY REFERENCE:** It is the intention of the City Council that, when adopting this City Code, all future amendments to any state or federal rules and statutes adopted by reference in this code or referenced in this code are hereby adopted by reference or referenced as if they had been in existence at the time this code was adopted, unless there is clear intention expressed in the code to the contrary.

1-1-19: **PENALTY PROVISIONS:**

A. Criminal Penalties:

1. Any person who violates any provision of this code for which another penalty is not specifically provided, shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than $1,000, or both.
2. Any person who violates any provision of this code, including Minnesota Statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction, be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a sentence of a fine of not more than $300.
3. The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for a violation.

B. Administrative Penalties:

1. Purpose: The City Council seeks to offer an alternative method of enforcement for City Code violations rather than relying on the criminal court system. The formal criminal prosecution process does not provide an environment to adequately address the unique and sensitive issues that are involved in City Code violations, including, but not limited to neighborhood concerns, livability issues, and economic impact, physical limitations of the offenders and the stigma and unintended consequences of being charged with or convicted of a misdemeanor offense. In addition, the court system is a slow, overburdened, and methodical process that is not conducive to dealing with the violations in a prompt and timely manner. Finally, the penalties afforded by the criminal court system are restricted to fines or physical confinement, which are not effective solutions to address City Code violations.
   In order to provide more flexibility in addressing City Code violations on an individualized basis that will be more efficient and effective, the City Council finds that an alternative enforcement process is necessary. Therefore, to protect the health, safety, and welfare of the citizens of Sartell, it is the City Council's intent to create a process for the use and imposition of administrative civil penalties that will provide the public and the City of Sartell with a more effective method for addressing City Code violations.
2. Alternative Methods of Enforcement: A violation of the City Code is a misdemeanor pursuant to City Code; however, this subsection seeks to gain compliance with the City Code prior to the commencement of any formal civil or criminal court action. The administrative civil penalties

proceedings are in addition to any other legal or equitable remedy available to the City for City Code violations. The City may, in its discretion, choose not to issue an administrative citation and may initiate criminal charges instead.

3. City Code Violations: A violation of the following provisions of the City Code, or successor ordinances, shall be an administrative offense that may be subject to the administrative hearing process below. Ordinance violations are categorized as property violations, non-property violations or parking violations.
4. Property Violations:

   Title 3: Business and License Regulations
   Title 4: Public Health and Safety & Nuisances
   Title 4: Rental Dwelling License
   Title 5: Police Regulations
   Title 7: Public Ways and Property
   Title 8: Water and Sewer
   Title 9: Fire Code
   Title 9: Building Code
   Title 10: Zoning Code
   Title 11: Subdivision Code

5. Parking violations include any violations of Title 6 of the Code of Ordinances and Minnesota Statute Section 169.999.
6. Non-Property Violations: Non-Property Violations include all other code violations not specifically designated as Property or Parking Violations.
7. Authority to Issue Notice of Violation and Administrative Citations:

   a. Property Violations: Upon the reasonable belief that a property related administrative offense detailed in subsection 2 (Alternative Methods of Enforcement) above has occurred, the City employee designated in this section shall serve on the violator a Notice of Violation in person or by mail. The Notice of Violation shall state the date and location of the violation and nature of the offense; the corrective action required; the compliance date; the name of the official issuing the Notice of Violation; the date it was issued and a statement that if not corrected, an administrative citation may be issued. If compliance is not achieved by virtue of the Notice of Violation, the official is authorized to issue an administrative citation. An administrative citation shall be presented in person or by mail to the person responsible for the violation. The citation shall state the date and location of the violation and nature of the offense; the name of the official issuing the citation; the amount of the scheduled civil fine and the payment due date; and the manner for paying the fine or appealing the citation by requesting a hearing.

      The following City employees and agents are authorized to issue Notices of Violation and administrative citations for property violations of the City Code:

      1. All licensed peace officers, police reserves, or community service officers of the Sartell Police Department.
      2. Community Development Department employees, including but not limited to, the Community Development Director, City Planner, Development Specialist, Building Official, Building Inspector, and Fire Marshal.
      3. Public Works Director or Public Works Supervisors.
      4. Any designee of the above listed employees and agents.

   b. Parking Violations: Upon reasonable belief that a parking violation has occurred, a parking ticket will be issued immediately without requiring a Notice of Violation.

      1. It will be the duty of the police officers, community service officers, reserve officers and/or Fire Marshal of the City to report the following information to the Sartell Police Department:

Deleted: Planning and

(1) The location of the vehicle occupying the parking space which is in violation of a provision of this ordinance.
(2) The license number of the vehicle.
(3) The date and hour at which the violation was found to exist.
(4) The nature of the violation.
(5) Any other necessary facts relating to the violation.

2. Ticket: The issuing authority will attach to a vehicle referred to in this subsection a notice to the owner or operator that the vehicle has been parked in violation of the provisions of the City Code and directing the owner or operator to make payment as required by this subsection.
3. A violator may request a parking hearing. The parking hearing will be conducted by the City Attorney's Office. Notice of the date, time and location of the parking hearing will be provided to the violator. The City Attorney's Office shall have the authority to:

(1) Mediate and enforce a settlement of the dispute.
(2) Determine whether a violation occurred.
(3) Reduce, stay, or waive a scheduled fine either unconditionally or upon compliance with appropriate conditions.

If the dispute is not resolved through the parking hearing, then the matter may be scheduled for an administrative hearing.

c. Non-Property Offenses: Upon the reasonable belief that a non-property related administrative offense detailed in Section 2 (Alternative Methods of Enforcement) above has occurred, the City employee designated in this section shall serve on the violator a Notice of Violation in person or by mail. The Notice of Violation shall state the date and location of the violation and nature of the offense; the corrective action required; the compliance date; the name of the official issuing the Notice of Violation; the date it was issued and a statement that if not corrected an administrative citation may be issued. If compliance is not achieved by virtue of the Notice of Violation, the official is authorized to issue an administrative citation. An administrative citation shall be presented in person or by mail to the violator. The citation shall state the date and location of the violation and nature of the offense; the name of the official issuing the citation; the amount of the scheduled civil fine and the payment due date; and the manner for paying the fine or appealing the citation by requesting an administrative hearing.
d. Exceptions to Issuance of Notice of Violation: For violations of any of the following sections, the City shall not be required to issue a Notice of Violation and may proceed directly to issuance of an administrative citation.

1. License Violation. For any license violations, including not having a license.
2. Traffic or Parking Violations. For traffic, load limit or parking violations issued under Title 6 and Title 4.
3. Animal Violations. For any violation of Title 5, Running at Large or Dangerous Dogs.
4. Noise Violations. For any noise violation of Title 5 or Title 4.
5. Fire Pit Violations. For violation of Code section 4-2-2.
6. Offenses committed on public owned property.

8. Civil Fines: The administrative offenses detailed in Section 2 (Alternative Methods of Enforcement) above may be subject to a civil fine. The amount of a civil fine may not exceed the amount of the maximum fine allowed if the ordinance violation had been prosecuted as a misdemeanor. Civil Fines may not be imposed for ordinance violations that prohibit the same conduct that is classified as a crime of petty misdemeanor in Minnesota statutes, Chapters 168, 168A, 169, 169A, 170, 171, and 609.

a. Schedule of Civil Fines: The City shall by Resolution adopt a schedule of civil fines for administrative offenses for which a citation may be issued. City employees authorized to issue administrative citations shall adhere to this schedule of fines.
b. Payment of Civil Fine; Request for Administrative Hearing: The violator shall either pay the scheduled civil fine within 30 days or request a hearing within 10 days after issuance of the administrative citation. During that period, only the City Attorney or an Assistant City Attorney has authority to dismiss the citation and/or waive the scheduled civil fine. Upon payment of the fine, the right to appeal is waived. Any request for an administrative hearing shall be in writing submitted on the form provided by the City along with the citation or upon request and shall state the basis for the appeal request.
c. Fee for Late Payment of Civil Fine:

    1. A late payment fee shall be imposed for property and non-property related violations if the violator fails to pay the civil fine within 30 days after issuance of the administrative citation (and fails to timely request a hearing pursuant to this Section). Such late payment fee will be in an amount equal to the original fee, but not less than the original fine plus late payment fee combined totaling $100. Example: If the original fine is $100, then late payment fee will be $100; if original fine is $25, late payment fee will be $75.
    2. If a civil fine is not paid within the time specified and no request for a hearing is timely received, the nonpayment of the civil fine shall constitute a personal obligation of the violator. A personal obligation may be collected by the City by any appropriate legal means. Unpaid fines that are referred to collections will be assessed as a collection fee in addition to the late fee as designated by the City Council. If the fine was imposed for a property-related violation, the City may assess the applicable property pursuant to Assessment Section below.

9. Administrative Hearing Procedures:

    a. Scheduling the Hearing: After the receipt of the written request to appeal the administrative citation, the City shall schedule a hearing, which will be held within 60 days, unless otherwise agreed to in writing by the parties. The City Attorney's Office shall notify the violator of the date, time, and location of the hearing at least ten days in advance of the scheduled hearing, unless a shorter time is accepted by all parties. Notice of the hearing shall be served in person or by mail.
    b. Prepayment of Cost of Hearing: An administrative hearing fee (as established within the current fee schedule) shall be paid to the City at the time of the request for a hearing. However, in no event will the amount of the administrative fee exceed the total amount of the civil fine. A request for a hearing is not valid until the administrative hearing fee is paid. The City Attorney has authority to reduce the requesting person's share of the costs where the person can demonstrate the person is indigent by clear and convincing evidence. Proof of being indigent can be demonstrated by the person's receipt of means tested governmental benefits or a demonstrated lack of assets or current income. Such proof shall be presented to the City Attorney's Office for determination of the amount of the prepayment in advance of the hearing. In all cases where the person requesting an administrative hearing is unable to attend and fails to request a continuance of the hearing at least 48 hours in advance of the hearing, all costs incurred by the City attributable to the requested hearing shall be charged to the requesting party and deducted from any prepayment made. The administrative hearing fee shall be refunded if the administrative hearing officer determines that no violation occurred. In the event that the hearing officer determines that a violation occurred then the administrative hearing fee will be applied toward any civil fine imposed.
    c. Pre-Hearing Conference for Property and Non-property Violations: After a violator has made a request for an administrative hearing, the City Attorney's office may conduct a pre-hearing conference with the violator. The pre-hearing conference will be conducted by the City Attorney's office and may be conducted in person, by phone, by electronic communication or by U.S. Mail. If the violator chooses not to participate in the pre-hearing

conference, such action will not constitute a waiver of the requested administrative hearing. If the dispute is not resolved through the pre-hearing conference, then the matter will proceed to an administrative hearing.

1. Authority: The City Attorney's Office shall have the authority to do any of the following, or a combination thereof:

   (1) Mediate and enforce a settlement of the dispute.

   (2) Determine whether a violation occurred.

   (3) Reduce, stay, or waive a scheduled fine either unconditionally or upon compliance with appropriate conditions.

   (4) Waive all or part of the administrative hearing application fee.

   (5) Dismiss the administrative citation.

d. Independent Hearing Officer: The City Attorney shall periodically approve a list of lawyers, from which the City Attorney shall randomly select a hearing officer to hear a matter for which a hearing is requested. The person requesting a hearing shall have the right to request, no later than five days before the date of the hearing, that the assigned hearing officer be removed from the case. One such request for each case will be granted automatically by the City Attorney. The hearing officer is not a judicial officer, but is a public officer as defined by Minnesota Statutes, Section 609.415. The hearing officer shall not be a current or former City employee.

e. Conduct of the Administrative Citation Hearing: At the hearing, both parties may be represented by Counsel, shall have the opportunity to present testimony, shall be able to call and question witnesses and introduce any exhibits; however, strict rules of evidence shall not apply. The hearing officer shall receive and give weight to the evidence, including hearsay evidence which possesses probative value commonly accepted by reasonable and prudent people. The hearing shall be recorded, and a full record of the proceedings shall be maintained by the City according to its data retention schedule.

f. Authority of the Hearing Officer: The independent hearing officer has the authority to do any of the following, or a combination thereof:

   1. Make a finding that a violation has occurred.
   2. Reduce, stay, or waive a scheduled administrative civil penalty either unconditionally or upon compliance with reasonable conditions.
   3. Require compliance with the City Code within a specified timeframe.
   4. Make a finding that no violation has occurred and dismiss the administrative citation.

g. Imposition of Civil Fine by Hearing Officer: When imposing a fine for a violation, the hearing officer may consider any or all of the following factors but in no case shall the fine exceed $1,000.00

   1. The duration of the violation.
   2. The frequency or reoccurrence of the violation.
   3. The seriousness of the violation.
   4. The history of the violation.
   5. The violator's conduct after issuance of the notice of hearing.
   6. The good faith effort by the violator to comply.
   7. The economic impact of the fine on the violator.
   8. The impact of the violation upon the community.
   9. Prior record of City Code violations.
   10. Any other factors appropriate to a just result.

h. Fines for Continuing Violations: The hearing officer may exercise discretion to impose a fine for more than one day of a continuing violation but only upon a finding that:

1. the violation caused a serious threat of harm to the public health, safety, or welfare; or
2. the accused intentionally and unreasonably refused to comply with the code requirement. The hearing officer's decision and supporting reasons for continuing violations must be in writing.

i. Decision and Order: The decision of the hearing officer shall be in writing and contain findings of fact and conclusions of law. The written report shall be served on the parties by mail within 20 days of the last date of the hearing unless otherwise agreed to by the parties. Any administrative civil penalty that the independent hearing officer imposes must be paid to the City within the timeframe established in the order. If no date is specified, it must be paid within 30 calendar days of the hearing officer's order. If the administrative civil penalty is not paid, the City may pursue all legal collection means available.
The decision of the hearing officer shall be final without any further right of administrative appeal.

j. Failure to Appear: Failure to appear at the hearing shall result in a default judgment against the party who fails to appear. IF the owner fails to appear, the administrative citation shall be sustained. If the City fails to appear, the administrative citation shall be dismissed.

k. Judicial Review: An aggrieved party may obtain judicial review of the decision of the hearing officer by petitioning the Minnesota Court of Appeals for a writ of certiorari pursuant to Minnesota Statute Section 606.01.

10. Assessment of Civil Fines for Property-Related Violations:

a. Civil Fines Subject to Assessment: Unpaid civil fines imposed for property-related violations may be assessed against:

1. The property which was the subject matter or related to the subject matter of the civil fine; or
2. The property which was the location of an activity, proposed use, delivery of city services or other circumstances which resulted in the civil fine.

b. Prior Voluntary Payment: Prior to any assessment for unpaid fines, the City Administrator or the City Administrator's designee shall seek voluntary payment of the fines by notifying the owner of the property in writing of the fine imposed.

c. Assessment Procedure: The unpaid civil fine and late fees, including the administrative charge due under subdivision (d) of this Section, together with interest thereon at the maximum lawful rate permitted under Minnesota Statutes, Chapter 429, against said lot or parcel of land, together with a description of the premises and the name of the supposed owner, shall be certified to the County Auditor and shall be collected in the same manner as taxes and/or special assessments against the premises. The charge shall be a perpetual lien on the premises until paid. Prior to the certification to the County Auditor, the owner shall be given written notice of the proposed assessment and be provided an opportunity to be heard before the City Council.

d. Certification Fee: A certification charge, according to the current fee schedule, will be added to all accounts certified to the County Auditor's office for collection. This fee is to be considered separate and distinct from any penalty or interest that may be charged by the County as a result of the certification.

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CHAPTER 2

MAYOR AND COUNCIL

SECTION:

1-2-1: Composition and Terms
1-2-2: Council Meetings
1-2-3: Presiding Officer
1-2-4: Voting
1-2-5: Ordinances and Resolutions
1-2-6: Suspension or Amendment of Rules
1-2-7: Compensation of Mayor and Council Members
1-2-8: Compensation of Officers and Employees
1-2-9: Quorum for Conducting Business
1-2-10: Workers' Compensation

1-2-1: **COMPOSITION AND TERMS:** There are four (4) Council members and one (1) Mayor who shall be called the Council. The terms for the Council shall be four (4) year overlapping terms. The elections shall be held on general election day every other year.

1-2-2: **COUNCIL MEETINGS:**

A. Regular Meetings: Regular meetings of the Council shall be held at least once each month, at a date and time as established by the Council. Any regular meeting falling upon a holiday shall be held on the next following business day at the same time, unless otherwise specified. All meetings, including special and adjourned meetings, shall be held in the city hall unless otherwise specified.
B. Special Meetings: The Mayor or any two members of the Council may call a special meeting of the Council upon notice as required by Minnesota Statutes Section 412.191, as it may be amended from time to time.
C. Emergency Meetings: Notice of emergency meetings shall be given as required by M.S. Section 471.705, Subd. 1c(c), as it may be amended from time to time.
D. Initial Meeting: At the first regular Council meeting in January of each year, the Council shall:

1. Designate the depositories of city funds.
2. Designate the official newspaper.
3. Appoint an Acting Mayor, who shall perform the duties of the Mayor during the disability or absence of the Mayor from the city or, in case of a vacancy in the office of Mayor, until a successor has been appointed and qualifies.
4. Appoint members of departments, boards, commissions, and committees as the Council deems necessary.

1-2-3: **PRESIDING OFFICER:**

A. Who Presides: The May shall preside at all meetings of the Council. In the absence of the Mayor, the Acting Mayor shall preside. In the absence of both, the City Administrator shall call the meeting to order and shall preside until the Council members present at the meeting choose one of their members to act temporarily as the presiding officer.
B. Procedure: the presiding officer shall preserve order, enforce any rules of procedure adopted by the Council, and determine without debate, subject to the final decision of the Council on appeal, all questions of procedure and order.
C. Appeal Procedure: Any member may appeal to the Council a ruling of the presiding officer. If the appeal is seconded, the member may speak once solely on the question involved and the presiding officer may explain the ruling, but no other Council member shall participate in the discussion. The

appeal shall be sustained if it is approved by a majority of the members present, including the presiding officer

1-2-4: **VOTING:** The votes of the Council members on any question may be taken in any manner which signifies the intention of the individual members, and the votes of the Council members on any action taken shall be recorded in the minutes.

1-2-5: **ORDINANCES AND RESOLUTIONS**

A. Signing and Publication Proof: Every ordinance and resolution passed by the Council shall be signed by the Mayor and attested by the City Administrator. Signed ordinances and resolutions shall be filed by the City Administrator in the ordinance and resolution file. Proof of publication of every ordinance shall be filed with the ordinance.
B. Repeals and Amendments: Every ordinance or resolution repealing a previous ordinance or resolution, or a section or subdivision thereof shall give the number, if any, and the title of the ordinance or code number of the ordinance or resolution to be repealed in whole or in part. Each ordinance or resolution amending an existing ordinance or resolution, or par thereof shall set forth in full each amended section or subdivision as it will read with the amendment.

1-2-6: **SUSPENSION OR AMENDMENT OF RULES:** These rules may be suspended only by a two-thirds vote of the members present and voting.

1-2-7: **COMPENSATION OF MAYOR AND COUNCIL MEMBERS:** The compensation of the Mayor and the compensation of each Council member shall be established from time to time by Council ordinance pursuant to M.S. Section 415.11, as it may be amended from time to time. The compensation established by the ordinance shall not take effect until after the next city election after the ordinance was adopted and published. Effective as of January 1, 2011, the salary of the Mayor is $625 per month and the salary of each Council member is $433.33 per month. Effective January 1, 2023, Council and Mayor compensation will increase by the annual budgeted cost of living increase that all City employees receive, pursuant to the City's Personnel Policy.

1-2-8: **COMPENSATION OF OFFICERS AND EMPLOYEES:** Officers and employees of the city shall be compensated at a rate as established from time to time by the Council and Personnel Policy.

1-2-9: **QUORUM FOR CONDUCTING BUSINESS A QUORUM SHALL CONSIST OF A MAJORITY OF THE ENTIRE COUNCIL, INCLUDING THE MAYOR. A QUORUM SHALL BE NECESSARY TO TRANSACT THE BUSINESS OF THE COUNCIL. MEETINGS MAY BE CONDUCTED BY INTERACTIVE TELEVISION IN ACCORDANCE WITH THE REQUIREMENTS FOR SUCH MEETINGS IN MINNESOTA STATUTES.** If no quorum is present, the Council shall not thereby stand adjourned, but the members present shall adjourn or recess the Council by a majority vote.

1-2-10: **WORKERS COMPENSATION** Pursuant to Minnesota Statutes Section 176.01. Subdivision 9, Clause 6, elected officials and members of the following boards, commissions and committees are included in the coverage of the Workers' Compensation Act: City Council, Economic Development Authority, Housing and Redevelopment Authority, Economic Development Commission, Convention & Visitor's Bureau Advisory Board, and Planning Commission.

CHAPTER 3

FINES, FEES AND CHARGES

SECTION:

1-3-1: Schedule of Civil Fines
1-3-2: Other Fees and Charges

1-3-1: **SCHEDULE OF CIVIL FINES:** The City is authorized to issue administrative civil citations for violations of the City Code. The City Council has adopted a schedule for administrative civil citations establishing penalties for such violations and the same may be amended from time to time, in the Council's discretion, by Resolution.

Repeat Violations within 24 Months: The fine for a second and/or subsequent violation of the same type by the same violator is subject to a fine that is double the amount of the scheduled fine for the previous violation up to a maximum of $1000.00.

1-3-2: **OTHER FEES AND CHARGES:** The City is authorized to impose fees, rates and charges and the same may be amended from time to time, in the Council's discretion, by Resolution.

CHAPTER 4

EXCESSIVE USE OF PUBLIC SERVICES

SECTION:

1-4-1: Purpose
1-4-2: Scope and Applicability
1-4-3: Definitions
1-4-4: Applicability and Exceptions
1-4-5: Waiver
1-4-6: Legal Remedy Non-Exclusive

1-4-1**:** **PURPOSE**: The City Council recognizes that the City has limited staff and resources and finds that repeated nuisance service responses present a burden to the community as they limit the availability of law enforcement and public safety protection services to other residents of the City. The purpose of this chapter is to protect the public safety, health, and welfare, and to prevent and abate repeated service responses, which prevent police or public safety services to other residents of the City. It is the City's intent to impose and collect from the Owner, Occupant, Responsible Party, or any combination thereof, of property to which City officials must repeatedly respond from any repeated nuisance event or activity that generates extraordinary costs to the City. The repeated nuisance service response fee is intended to cover that cost over and above the cost of providing normal law or code enforcement services and police protection City-wide.

1-4-2: **SCOPE AND APPLICABILITY**: This chapter applies to all owners, occupants and responsible parties of private property which is the subject or location of the repeat Nuisance service responses by the City. This chapter shall apply to any repeat Nuisance service responses as set forth herein made by City Personnel as hereinafter defined.

1-4-3. **DEFINITIONS:**

A. Excessive Use of Public Services.: "Excessive Use of Public Services" means each response after three or more responses from a Public Officer in response to a claim of Nuisance where the responses occurred within a 24 month time period to the same Private Property. Public Services also include inspections conducted by Inspections personnel related to nuisance conditions maintained on the property.
B. Excessive Use of Public Services Fee: "Excessive Use of Public Services Fee" shall mean the fee imposed upon the Responsible Party as result of Excessive Use of Public Services.

    1. The Excessive Use of Public Services Fee shall be $300 per occurrence.
    2. An excessive Use of Public Services Fee imposed under this section will be subject to a 10% late penalty if delinquent.

C. Nuisance: "Nuisance" shall mean one or more of the following behavioral incidents occurring or committed at a specific property address:

    1. Any activity, conduct, or condition deemed a violation under any provision of the following City Codes:

        a. Public Nuisances Affecting Health and Safety under Title 4, Chapter 6
        b. Animal Control provisions under Title 5, Chapter 2
        c. Noise Related Nuisances under Title 4, Chapter 6 or Title 4, Chapter 9, Section 12.

    2. Any activity, conduct, or condition constituting disorderly conduct under Minnesota Statute 609.72;

3. Any activity, conduct, or condition constituting disorderly house under Minnesota Statute 609.33;
4. Any activity, conduct, or condition constitution a violation of any Minnesota state law prohibiting or regulating prostitution, gambling, controlled substances, use of firearms;
5. Any activity, conduct, or condition constituting assault under Minnesota Statutes 609.221-.224.

D. Public Officer: Shall mean a peace officer, Fire Marshal or Building Inspector or other city personnel responding to a claim of Nuisance.
E. Public Service Responses: Shall mean the Public Officer responding to a claim of Nuisance upon Private Property.
F. Responsible Party: Shall mean the Owner or Occupant of private property where the Nuisance occurred, or the person responsible for or involved in the Nuisance regardless of where the Nuisance occurred.
G. Owner: Shall mean any person who, alone or jointly and severally with others, has legal title to any Private Property, with or without accompanying actual possession thereof; which shall include any known agent of owner, or any known person holding a contract for deed, being a mortgagee, vendee or vendor; or any other person who maintains or permits a Nuisance and is known to the city.
H. Occupant: Shall mean any known lessee or tenant of private property, any known agent of the lessee or tenant, or any other person having actual possession of the property.
I. Private Property: Shall mean any location, including a house, apartment unit, condominium, sleeping room, or other dwelling unit, whether occupied on a temporary or permanent basis, and whether owned, leased, rented, or used with or without permission or compensation.

1-4-4: **APPLICABILITY AND EXCEPTIONS:**

A. Applicability. An Excessive Use of Public Services Fee shall be imposed for Excessive Use of Public Services upon an Owner, Occupant, and Responsible Party for Nuisance behavior on Private Property.
B. Exceptions. The following shall not be considered Excessive Use of Public Services:

1. A medically related emergency response other than medical-related emergencies that are in violation of Minn. Statute 609.78.subd. 1(4).
2. A call by a victim in response to circumstances involving domestic assault incident or order for protection violations.
3. A call by a victim of Nuisance, except when continual calls are unfounded.

1-4-5: **WAIVER:** At the discretion of the Police Chief or his/her designee, the Excessive Use of Public Services Fees may be waived against an owner or vendor of rental property, or property held contract for deed, who has commenced eviction proceedings against the tenant(s) or vendee(s) responsible for the Nuisance.

1-4-6**:** **LEGAL REMEDY NON-EXCLUSIVE:**

A. Nothing in this ordinance shall be construed to limit the City's other available legal remedies for any violation of the law, which may constitute an Excessive Service Response hereunder, including criminal, civil, administrative, injunctive, or other remedy.
B. Nothing in this Ordinance shall be construed to require that formal charges be brought in order for conduct, activity, or conditions to qualify as a Nuisance.

CHAPTER 5

CODE OF ETHICS

SECTION:

1-5-1: Purpose
1-5-2: Definitions
1-5-3: Responsibilities of Public Officials
1-5-4: Prohibition of Special Treatment
1-5-5: Conflict of Interest
1-5-6: Prohibited Political Activities
1-5-7: Applicability of Code
1-5-8: Penalties and Forfeit of Position

1-5-1: **PURPOSE:** Proper and efficient operation of Municipal government in the City, requires that its public officials be independent, impartial, and responsible to the citizens; that Municipal governmental decisions and policy be made in accord with the proper procedures established by the City; that Municipal public office not be used for personal gain; and that the citizens of the City have confidence in the integrity of its Municipal government. In recognition of this, there is hereby established this Code of Ethics for all elected public officials of the City. The purpose of this Code is to establish ethical standards of conduct for all elected public officials by delineating those actions that are incompatible with the best interests of the City and by directing disclosure by elected public officials of private financial or other interests in matters affecting the City.

1-5-2: **DEFINITIONS**: For the purpose of this Title, terms defined herein shall have the following meaning ascribed to them:

BUSINESS ENTITY: Any business, proprietorship, firm, partnership, person in representative or fiduciary capacity, association, venture, trust or corporation.

CITY: The City of Sartell, Minnesota.

INTEREST: Direct or indirect financial or material benefit realized by an elected public official as a result of a contract or transaction which is or may be the subject of an official act or action by or with the City except for such contracts or transactions which confer a similar benefit on a significant number of persons who are not elected public officials.

PUBLIC OFFICIAL: Any person, officer, or employee holding a position by election in the service of the City, whether paid or unpaid.

For the purpose of this Code, an elected public official shall be deemed to have an interest in the affairs of:

A. Any person related to him/her by blood or marriage to a degree closer than the fourth degree of consanguinity of affinity (determined by civil law).
B. Any person or business entity with whom a contractual relationship exists with the elected public official.
C. Any business entity in which the elected public official is an employee, officer, director, or member having a financial interest.
D. Any business entity in which more than five (5) percent of the total stock or total legal and beneficial ownership is controlled or owned directly or indirectly by the elected public official.

Deleted: Standards of Conduct

Deleted: Disclosures

Deleted: Violation

Deleted: Purpose.

Deleted: The City Council confirms its determination that ethical standards among its members as well as the members of the various commissions and professional staff of the city are essential to the public affairs of the city. The standards of conduct herein set forth are intended to serve as a guideline for the members of the City Council, the commissioners, anyone acting on behalf of the city, and the professional staff in carrying out their duties. By eliminating conflicts of interest and providing a guide for conduct in city matters, the City Council hopes to promote the faith and confidence of the citizens of the city in their government and to encourage its citizens to serve on its council and commissions.

Deleted: Limitations. No council member, member of any board or commission or professional staff member:

1-5-3: **RESPONSIBILITIES OF PUBLIC OFFICIALS:** Public officials are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the constitution of the United States, the constitution of the State of Minnesota and to carry out impartially, all laws of the United States, State of Minnesota, and the City of Sartell. Public officials must undertake their official duties with the highest standards of morality and discharge the specific duties of their respective offices, regardless of personal considerations, recognizing that the public interest must be their primary concern. Their conduct in carrying out their official responsibilities must be above reproach.

1-5-4: **PROHIBITION OF SPECIAL TREATMENT:**

A. Use of Public Property: No public official shall request or permit the use of City-owned vehicles, equipment, materials or property for personal convenience or profit, except when such items are available to the public generally or are provided pursuant to Municipal policy for the use of such public official in the conduct of Sartell Municipal business.
B. Equal Treatment of Citizens: No public official shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.

1-5-5: CONFLICT OF INTEREST: No public official shall engage in any business or transaction or shall have an interest which is incompatible with the discharge in the public interest of their official duties, or which would tend to impair their independence of judgment or action in the performance of their official duties. Public officials must have loyalty to the ownership, unconflicted by any personal interest or loyalties to other organizations or individuals, including staff or other public officials. Public officials must avoid conflict of interest with respect to their fiduciary responsibility. Conflicts of interest include, but are not limited to the following:

A. Incompatible Employment: No public official shall engage in or accept private employment or render services for private interest when such employment or service is incompatible with the proper discharge of their official duties or would tend to impair their independence of judgment or action in the performance of those official duties.
B. Use of Information: No public official shall use any information gained exclusively from their public position or endeavors to in any way further their interests.
C. Disclosure of Confidential Information: No public official shall, without proper legal authorization, disclose confidential information concerning the property, governmental or other affairs of the City.
D. Gifts and Favors: No public official shall accept any gift of more than token value, whether in the form of a service, loan, thing, or promise, from any person, firm, or corporation which to the public official's knowledge is interested directly or indirectly in any manner whatsoever, in business dealings with the City. Additionally, the public official shall not accept any gift, favor, or thing of more than token value that may tend to influence them in the discharge of official duties or grant in the discharge of said duties, any improper favor, service, or thing of more than negligible value. For purposes of this Section, "token value" shall mean a gift, favor, or thing worth no more than twenty-five dollars ($25.00).
E. Municipal Employment: Public officials will not use their position to obtain employment in the organization for themselves, family members, or close associates. Should a public official apply for employment, he or she must first resign from the elected position.
F. Disclosure: There will be no self-dealing or business by a public official with the organization. Public officials will annually disclose their involvements with other organizations, with vendors, or any associations that might be or might reasonably be seen as being a conflict of interest per the definition in 1-5-2.

1-5-6: **APPLICABILITY OF CODE:**

A. Solicitations: No public official shall in any way solicit funds for any political party or for any political purpose from another public official.

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Real estate holdings. No later than 30 days after the effective date hereof, or 30 days after taking the oath of office, whether elected or appointive, or 30 days after the acquisition or sale of any property or change in the statement as originally filed, each council member, member of a board or commission or professional staff member shall file as a public record with the city administrator/clerk, a list of all real property in the city owned by the person, his or her spouse or minor child, or in which he or she has a beneficial interest, disclosing each individual item held, and by whom, having an assessed valuation in excess of $10,000. Homestead shall be excluded from the above disclosure.¶
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¶
BUSINESS POSITIONS.¶
¶
Each council member, member of a board or commission and professional staff member shall disclose all positions as officer, director, partner, proprietor or employee of any company, business enterprise or corporation, partnership, labor union or association doing business with the city and indicate with respect to each relationship whether services are gratuitous or for compensation.¶
¶
The disclosure information required herein shall be set forth on a form which shall consist of the following information: ¶
¶
Affiliations in agencies doing business with the city - name of organization, positions held, and compensation involved; ¶
¶
Real property owned in the city - property item, location, assets; and any additional information as required. The disclosure form shall be made available by the office of the city administrator and upon completion thereof by a council member, member of a board or commission or professional staff member, shall be filed with the city administrator.¶

B. Promises and Appointments: No public official shall promise an appointment to any City position or any other benefit or reward emanating from the official powers of the public official to a person in exchange for political activity.

1-5-7: APPLICABILITY OF CODE:

A. Broad Construction: it is intended that this Code of Ethics be construed broadly to encompass all questionable situations of actions.
B. Advisory Opinions:

1. How Requested: Where any public official has a doubt as to the applicability of any provision to this Code to a particular situation, or as to the definition of terms used herein, they may apply to the City Attorney for an advisory opinion. The public official shall have the opportunity to present their interpretation of the facts at issue and the applicability of the provisions of this Code before such advisory opinion is rendered.
2. Status of Advisory Opinion: The opinion rendered by the City Attorney, until amended or revoked, shall be binding on the City, the City Council and the City Attorney in any subsequent actions concerning the public official who sought the opinion and acted on it in good faith, unless material facts were omitted or misstated in the public official's request for the advisory opinion. The opinion shall not be binding in any action initiated by any citizen.
3. Availability of Information: Any advisory opinion of the City Attorney shall be made public upon request. However, the names of all persons or business entities mentioned in the opinion, except that of the public official requesting the opinion, shall be deemed private information and shall not be disclosed by the City Attorney, unless the persons or business entities mentioned in the opinion waive such confidentiality.

1-5-8: PENALTIES AND FORFEIT OF POSITION:

A. City Council Members: Any member of the City Council who violates this Title should consider whether voluntary resignation or other disciplinary action is indicated to promote the best interest of the City. The remainder of the City Council may censure any member of the Council who violates this Title.
B. Public Review: When the City Council is to decide upon an issue about which a public official has an unavoidable conflict of interest, that member shall be absent without comment from not only the vote, but also the deliberation.

TITLE 2

BOARDS & COMMISSIONS

Subject	Chapter
Planning Commission ……	1
Convention & Visitor's Bureau Advisory Board ……	2
Park Commission ……	3

CHAPTER 1

PLANNING COMMISSION

SECTION:

2-1-1: Established
2-1-2: Membership
2-1-3: Terms; Vacancies
2-1-4: Officers
2-1-5: Meetings
2-1-6: Powers and Duties

2-1-1: **ESTABLISHED:** The Commission shall be the City planning agency authorized by Minnesota Statutes section 462.354, subdivision 1.

2-1-2: **MEMBERSHIP:** The Planning Commission shall consist of five (5) members appointed by the City Council. The members of the commission must be residents of the City of Sartell.

2-1-3: **TERMS; VACANCIES:**

A. Terms: Terms shall be three (3) year overlapping terms. Appointees shall hold their offices until their successors are appointed and qualified. As each member's term expires, his/her successor shall be appointed for a term of three (3) years. Upon completion of three (3) consecutive terms, the vacancy will be posted. Upon completion of three (3) consecutive terms, if the member seeks additional terms, an application shall be submitted according to the posting of the vacancy.
B. Vacancies: Vacancies during the term shall be filled by the Council for the unexpired portion of the term.

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2-1-4: **OFFICERS:**

A. Chairman: The Commission shall elect a chairperson from among its appointed members for a term of one year.
B. Vice Chair: The Commission shall elect a vice chairperson from its own membership.
C. Additional Officers: The Commission may create and fill such other offices as it may determine.

2-1-5: **MEETINGS:**

A. Frequency of Meetings: The Commission shall hold meetings as necessitated.
B. Rules of Order and Procedure: The Commission shall adopt rules of order and procedure for the transaction of business, and its findings, which record shall be public record.

2-1-6: **POWERS AND DUTIES:**

A. General Powers: The Planning Commission shall have the powers and duties given to planning agencies generally by law. The Commission shall also exercise the duties conferred upon it by this Code and by the Council. The Planning Commission has the responsibility to convene and the duty to provide a recommendation to the City Council on city matters in a diligent and efficient manner.
B. Comprehensive Plan:

1. Preparation; Adoption: After the Commission has prepared and the Council has adopted a Comprehensive Plan, the Commission shall periodically review in whole or part the

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Comprehensive Plan, and any ordinances and other policies the Council has adopted to implement the Plan.

2. Revision; Amendment: After such review, it shall, to the extent it deems necessary, prepare proposed revisions to the Comprehensive Plan, or draft a proposed new Comprehensive Plan, and recommend it to the Council in accordance with law.

CHAPTER 2

CONVENTION & VISITOR'S BUREAU ADVISORY BOARD

SECTION:

2-2-1: Established
2-2-2: Membership
2-2-3: Terms; Vacancies
2-2-4: Officers
2-2-5: Meetings
2-2-6: Purpose

2-2-1: **ESTABLISHED:** The Convention & Visitor's Bureau Advisory Board presently in existence is hereby continued for the City. To avoid using an operating name similar to other area CVB's, the Board may refer to the Sartell Convention & Visitor's Bureau in all marketing and promotions as Sartell Hospitality and Visitor Bureau or Everything Sartell.

2-2-2: **MEMBERSHIP:** The Convention & Visitor's Bureau Advisory Board shall consist of up to seven (7) members representing the Sartell Chamber of Commerce, Sartell hospitality businesses, Sartell medical businesses, Sartell recreational associations, and/or other entities with a direct interest in promoting the City as a tourist and convention center.

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2-2-3: **TERMS; VACANCIES:**

A. Terms: Terms shall be three (3) year overlapping terms. Appointees shall hold their offices until their successors are appointed and qualified. As each member's term expires, his/her successor shall be appointed for a term of three (3) years. Each member shall serve not more than three (3) consecutive full terms. Upon completion of three (3) consecutive terms, if the member seeks additional terms, an application shall be submitted according to the posting of the vacancy.
B. Vacancies: Vacancies during the term shall be filled by the Council for the unexpired portion of the term.

2-2-4: **OFFICERS:**

A. Chairman: The Board shall elect a chairperson from among its appointed members for a term of one year.
B. Vice Chair: The Board shall elect a vice chairperson from its own membership.
C. Additional Officers: The Board may create and fill such other offices as it may determine.

2-2-5: **MEETINGS:**

A. Frequency of Meetings: The Commission shall hold meetings as necessitated.
B. Rules of Order and Procedure: The Commission shall adopt rules of order and procedure for the transaction of business, and its findings, which record shall be public record.

2-2-6: **PURPOSE:** The Board was established for the purposes of making recommendations to the City Council on the expenditure of lodging tax funds received in accordance with Minnesota Statutes. The Board will offer recommendations to the Council on the expenditure of lodging tax funds for the purpose of marketing and promoting the City as a tourist and convention center in accordance with Minnesota Statutes. The Board will oversee the budget for the CVB/HVB/Everything Sartell and report said budget to the City Council annually. The Board will also coordinate economic development functions for the City and will make recommendations to the City Council for economic development related items.

CHAPTER 3

PARK COMMISSION

SECTION:

3-2-1: Established
3-2-2: Membership
3-2-3: Terms; Vacancies
3-2-4: Officers
3-2-5: Meetings
3-2-6: Purpose

3-2-1: **ESTABLISHED:** A Parks Commission is herbey Established.

3-2-2: **MEMBERSHIP:** The Parks Commission shall consist of five (5) members, appointed by the majority vote of the City Council. Persons eligible for appointment shall include any and all adult resident of the City; except that the City Council may appoint up to one person that is an official board member of an athletic association recognized by the City and not a resident or property owner, but a resident of the Sartell St. Stephen ISD 748 School District.

3-2-3: **TERMS; VACANCIES:**

A. Terms: Terms shall be three (3) year overlapping terms. Appointees shall hold their offices until their successors are appointed and qualified. As each member's term expires, his/her successor shall be appointed for a term of three (3) years. Each member shall serve not more than three (3) consecutive full terms. Upon completion of three (3) consecutive terms, if the members seeks additional terms, an application shall be submitted according to the posting of the vacancy.
B. Vacancies: Vacancies during the term shall be filled by the Council for the unexpired portion of the term.

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Deleted: Each member shall serve not more than consecutive full terms.

3-2-4: **OFFICERS:**

A. Chairman: The Board shall elect a chairperson from among its appointed members for a term of one year.
B. Vice Chair: The Board shall elect a vice chairperson from its own membership.
C. Additional Officers: The Board may create and fill such other offices as it may determine.

3-2-5: **MEETINGS:**

A. Frequency of Meetings: The Commission shall hold meetings as necessitated.
B. Rules of Order and Procedure: The Commission shall adopt rules of order and procedure for the transaction of business, and its findings, which record shall be public record.

3-2-6: **PURPOSE:** The Commission duties and functions are to provide recommendations and act in an advisory capacity to the City Council and City staff regarding parks, trails, said facilities, park maintenance, and the implementation of the Master Parks and Trails Plan, Capital Improvement Plan, and Comprehensive Plan, as desired by citizens for such services.

This is not a Parks and Recreation Commission as enabled by Minnesota Statutes Section 412.501.

TITLE 3

BUSINESS AND LICENSE REGULATIONS

Subject	Chapter
General Licensing and Permit Provisions	1
Liquor Control	2
Bingo	3
Gambling	4
Tobacco and Electronic Delivery Devices	5
Portable Confectionery Stores and Mobile Food Vendors	6
Peddlers, Solicitors, and Itinerant Merchants	7
Junk Dealers	8
Plumbers	9
Gas Installers	10
Alarms	11
Therapeutic Message Establishments and Massage Therapists	12
Lodging Tax	13
Cannabinoid Products	14

CHAPTER 1

GENERAL LICENSING AND PERMIT PROVISIONS

SECTION:

3-1-1: Licenses And Permits
3-1-2: Application For License Or Permit
3-1-3: License And Permit Fees
3-1-4: Duration Of License
3-1-5: Transfer Of License
3-1-6: Inspection
3-1-7: Duties Of Licensee
3-1-8: Suspension Or Revocation Of License

3-1-1: **LICENSES AND PERMITS:**

A. General Rule: Except as otherwise provided in this Code, all licenses and permits granted by the City shall be governed by the provisions of this Chapter.
B. License, Permit Required: No person shall conduct any activity or use any property for which a license or permit is required by law or this Code without a currently valid license or permit for such activity or use. Violation of this Section is a misdemeanor and punishable by law. (1981 Code § 501.01)

3-1-2: **APPLICATION FOR LICENSE OR PERMIT:** Every application for a license or permit shall be made to the Deputy Clerk on a form provided by the Deputy Clerk. It shall be accompanied by payment to the Deputy Clerk of the prescribed fee. If, after investigation, the Deputy Clerk is satisfied that all requirements of law and this Code have been met, the Deputy Clerk shall present the application to the Council for action or, if the license or permit does not require Council approval, the Deputy Clerk shall issue the license or permit. (1981 Code § 501.01)

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3-1-3: **LICENSE AND PERMIT FEES:**

A. Fee Established: License fees are in the amounts established in the governing chapters of this Title or as otherwise provided in this Code. The license and permit fees as set forth in the various chapters of this Title are the official controlling provisions.
B. Prorated Fees: License fees shall not be prorated unless otherwise specified by this Code or by law.
C. Refunds: License fees shall not be refunded in whole or in part unless otherwise specified by this Code or by law. (1981 Code§ 501.02)

3-1-4: **DURATION OF LICENSE:** Unless otherwise specified, a license shall be valid for a calendar year or the part of the year for which it is issued and shall expire on December 31. (1981 Code § 501.03)

3-1-5: **TRANSFER OF LICENSE:** No license issued under this Code may be transferred to any other person. Where a license relates to specific premises, the license shall not be changed to another location without approval of the Council or other licensing authority. (1981 Code § 501.04)

3-1-6: **INSPECTION:**

A. Authorized Personnel: Any City official or employee having a duty to perform with reference to a license under this Code and any police officer may inspect and examine any licensee, licensee's business or premises to enforce compliance with applicable provisions of this Code. Subject to the provisions of subsection B of this Section, such City official or employee may, at any reasonable

time, enter any licensed premises or premises for which a license is required in order to enforce compliance with this Code.

B. Search Warrants: If the licensee objects to the inspection of his/her premises, the City official or employee charged with the duty of enforcing the provisions of this Code shall procure a valid search warrant before conducting the inspection. (1981 Code § 501.05)

3-1-7: **DUTIES OF LICENSEE:** Every licensee and permittee shall have the duties set forth in this Section.

A. Inspection: Licensee shall permit, at reasonable times, inspections of licensee's business and examination of licensee's books and records by authorized officers or employees. Failure to comply with this Section shall be grounds for suspension under Section 3-1-8 of this Chapter.

B. Compliance With Law: Licensee shall comply with laws, ordinances, and regulations applicable to the licensed business, activity or property.

C. Display Of License: Licensee shall display the license or other insignia given licensee as evidence of the license in a conspicuous place on the premises, vehicle, or device to which the license relates. If the license is not so related, the license shall be carried on the licensee's person whenever licensee is carrying on the licensed activity.

D. Unlawful Disposition: The licensee shall not lend or give to any other person his/her license or license insignia. (1981 Code § 501.06)

3-1-8: **SUSPENSION OR REVOCATION OF LICENSE:** The Council may suspend for a period not exceeding sixty (60) days or revoke any license or permit for violation of any provision of law, ordinance or regulation applicable to the licensed or permitted activity or property. Except where mandatory revocation is provided by law without a hearing the holder of the license or permit shall be granted a hearing upon at least ten (10) days' notice before revocation or suspension is ordered. The notice shall state the time and place of the hearing and the nature of the charges against the licensee. (1981 Code § 501.07)

CHAPTER 2

LIQUOR CONTROL

SECTION:

3-2-1: Adoption of State Law by Reference
3-2-2: City May Be More Restrictive Than State Law
3-2-3: Definitions
3-2-4: Nudity on The Premises Of Licensed Establishments Prohibited
3-2-5: Number of Licenses Which May Be Issued
3-2-6: Term and Expiration of Licenses
3-2-7: Kinds of Liquor Licenses
3-2-8: License Fees: Pro Rata
3-2-9: Council Discretion To Grant Or Deny A License
3-2-10: Application For License
3-2-11: Description Of Premises
3-2-12: Applications For Renewal
3-2-13: Transfer Of License
3-2-14: Investigation
3-2-15: Hearing And Issuance
3-2-16: Seasonal Outdoor Sales
3-2-17: Conditions Of License
3-2-18: Hours And Days Of Sale
3-2-19: Minors On Premises
3-2-20: Restrictions On Purchase And Consumption
3-2-21: Suspension And Revocation
3-2-22: Penalties

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3-2-35: Summary Approved¶

3-2-1: **ADOPTION OF STATE LAW BY REFERENCE:** The provisions of M.S. Ch. § 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2 percent malt liquor are hereby adopted by reference and are made a part of this Chapter as if set out in fall.

3-2-2: **CITY MAY BE MORE RESTRICTIVE THAN STATE LAW:** The Council is authorized by the provisions of M.S. § 340A.509, as it may be amended from time to time, to impose, and has imposed in this chapter, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in M.S. Ch. § 340A, as it may be amended from time to time.

3-2-3: **DEFINITIONS** In addition to the definitions contained in M.S. § 340A.101, as it may be amended from time to time, the following terms are defined for purposes of this chapter:

LIQUOR: As used in this chapter, without modification by the words intoxicating or 3.2 percent malt, includes both intoxicating liquor and 3.2 percent malt liquor.

RESTAURANT: An eating facility, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, where full waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served and consumed while seated at a single location. To be a restaurant as defined by this section, an establishment shall have a license from the state as required by M,S. § 157.16, as it may be amended from time to time, and meet the definition of either a "small establishment," "medium establishment" or "large establishment" as

defined in M.S. § 157.16, subd. 3d, as it may be amended from time to time. An establishment which serves prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served, shall not be considered to be a restaurant for purposes of this chapter unless it meets the definitions of a "small establishment", "medium establishment" or "large establishment".

3-2-4: **NUDITY ON PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED:**

A. The City Council finds that it is in the best interests of the public health, safety, and general welfare of the people of the city that nudity is prohibited as provided in this section on the premises of any establishment licensed under this chapter. This is to protect and assist the owners, operators, and employees of the establishment, as well as patrons and the public in general, from harm stemming from the physical immediacy and combination of alcohol, nudity, and sex. The Council especially intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, including prostitution, sexual assault, and disorderly conduct. The Council also finds that the prohibition of nudity on the premises of any establishment licensed under this chapter, as set forth in this section, reflects the prevailing community standards of the city.
B. It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material.
C. A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or 3.2 percent malt liquor license or any other license issued under this ordinance or the imposition of a civil penalty under the provisions of Section 29(B).

3-2-5: **NUMBER OF LICENSES, WHICH MAY BE ISSUED:** State law establishes the number of liquor licenses that a city may issue. The Council in its sound discretion may approve up to the number of licenses authorized by M.S. Ch. § 340A, as it may be amended from time to time, including licenses in a particular category authorized by a referendum held under the provisions of M.S. § 340.A.413, subd. 3, as it may be amended from time to time. The Council is not required to issue the full number of licenses that it has available.

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3-2-6: **TERM AND EXPIRATION OF LICENSES**: Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on December 31 of each year unless another date is provided by ordinance. All licenses shall expire on the same date. Temporary licenses expire according to their terms. Consumption and display permits issued by the Commissioner of Public Safety, and the accompanying city consent to the permit, shall expire on March 31 of each year.

3-2-7: **KINDS OF LIQUOR LICENSES:** The city council may issue the following licenses and permits, up to the number specified in Section 6.

A. 3.2 percent malt liquor on-sale licenses, which may be issued only to golf courses, restaurants, hotels, clubs, bowling centers, and establishments used exclusively for the sale of 3.2 percent malt liquor with the incidental sale of tobacco and soft drinks.
B. 3.2 percent malt liquor off-sale license.
C. Temporary 3.2 percent malt liquor licenses which may be issued only to a club, charitable, religious, or nonprofit organization.
D. Off-sale intoxicating liquor licenses, which may be issued only to exclusive liquor stores or drug stores that have an off-sale license which was first issued on or before May 1, 1994.
E. On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by M.S. § 340A.101, as it may be amended from time to time, and this chapter hotels, restaurants, bowling centers, theaters, clubs or congressionally chartered veterans organizations, theaters and exclusive liquor stores. Club licenses may be issued only with the

approval of the Commissioner of Public Safety. The fee for club licenses established by the Council under Section 9 of this ordinance shall not exceed the amounts provided for in M.S. § 340A.408, subd. 2b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of M.S. § 340A.404, subd. 4b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of M.S. § 340A.404, subd. 4a, as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises.

F. Sunday on-sale intoxicating liquor licenses, only after authorization to do so by voter approval at a general or special election as provided by M.S. § 340A.504, Subd. 3, as it may be amended from time to time. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant as defined in Section 3 of this ordinance, club, bowling center, or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The maximum fee for this license, which shall be established by the Council under the provisions of Section 9 of this ordinance, shall not exceed the maximum amount provided by M.S. § 340A.504, subd. 3c, as it may be amended from time to time.
G. Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three years. No license shall be for longer than four consecutive days, and the city shall issue no more than 12 days' worth of temporary licenses to any one organization in one calendar year.
H. On-sale wine licenses, with the approval of the Commissioner of Public Safety to: theaters, restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of M.S. § 340A.404, subd. 5, as it may be amended from time to time; to licensed bed and breakfast facilities which meet the criteria in M. S. § 340.401, subd. 1, as it may be amended from time to time and to theaters that meet the criteria of M.S. § 340A.404(b), as it may be amended from time to time. The fee for an on-sale wine license established by the Council under the provisions of Section 9 of this ordinance, shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who also holds an on-sale 3.2 percent malt liquor license is authorized to sell malt liquor with a content over 3.2 percent (strong beer) without an additional license.
I. One day consumption and display permits with the approval of the Commissioner of Public Safety to a nonprofit organization in conjunction with a social activity in the city sponsored by the organization.
J. Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person who has been issued a consumption and display permit under the provisions of Section 9 of this ordinance shall not exceed the maximum amount permitted by M.S. § 340A.14, subd. 6, as it may be amended from time to time. Consumption and display permits shall expire on March 31 of each year.
K. Culinary class limited on-sale licenses may be issued to a business establishment not otherwise eligible for an on-sale intoxicating liquor license that, as part of its business, conducts culinary or cooking classes for which payment is made by each participant or advance reservation required. The license authorizes the licensee to furnish to each participant in each class, at no additional cost to the participant, up to a maximum of six ounces of wine or 12 ounces of intoxicating malt liquor, during and as part of the class, for consumption on the licensed premises only.
L. Temporary off-sale wine licenses, with the approval of the Commission of Public Safety, may be issued for the off-sale of wine at an auction. A license issued under this subdivision authorizes the sale of only vintage wine of a brand and vintage that is not commonly being offered for sale by any wholesaler in Minnesota. The license may authorize the off-sale of wine for not more than three consecutive days provided not more than 600 cases of wine are sold at any auction. The licenses are subject to the terms, including license fee, imposed by Section 9.
M. Brew pub on-sale intoxicating liquor or on-sale 3.2 percent malt liquor licenses, with the approval

of the Commissioner of Public Safety, may be issued to brewers who operate a restaurant in their place of manufacture and who meet the criteria established at M.S. §340A.301 subd. 6(d) and 7(b), as it may be amended from time to time. Sales under this license at on-sale may not exceed 3,500 barrels per year. If a brew pub licensed under this section possesses a license for off-sale under Section 8 (O) below, the brew pub's total combined retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.

N. Brewer off-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to a brewer that is a licensee under Section 8 (N) above or that produces fewer than 3,500 barrels of malt liquor in a year and otherwise meets the criteria established at M.S. § 340A.301 subd. 6(d) and 7(b), as it may be amended from time to time, Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the city. Malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. All malt liquor sold under this license shall be packaged in the Manner required by M.S. § 340A.301 subd, 7, as it may be amended from time to time. Sales under this license may not exceed 500 barrels per year. If a brewer licensed under this section possesses a license under Section 8 (N) above, the brewer's total retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.

O. Brewer temporary on-sale intoxicating liquor licenses may be issued, with the approval of the Commissioner of Public Safety, to brewers who manufacture fewer than 3,500 barrels of malt liquor in a year for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the brewer.

3-2-8: **LICENSE FEES; PRO RATA:**

A. No license or other fee established by the city shall exceed any limit established by M.S. Ch. 340A, as it may be amended from time to time, for a liquor license.
B. The Council may establish from time to time in the Ordinance Establishing Fees and charges the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this chapter. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing.
C. The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a quarterly basis, with any portion of an effective quarter charged as a full quarter to the applicant.
D. All license fees shall be paid in full at the time the application is filed with the city. If the application is denied, the license fee shall be returned to the applicant.
E. No refunds will be granted on liquor license fees.

3-2-9: **COUNCIL DISCRETION TO GRANT OR DENY A LICENSE:** The Council in its sound discretion may either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has a right to a license under this chapter. No retail license shall be issued to:

A. A person who is not a resident of the State. If the applicant is a corporation, all of the shareholders must be residents of the state. The provisions of this subparagraph A shall not apply to any license existing on the effective date of this chapter or to the renewal of an existing license.
B. A person under 21 years of age.
C. A person who has had an intoxicating or 3.2% malt liquor license revoked within 5 years of the license application.
D. A person who at the time of a liquor license violation:

    1. Owns any interest in the premises.
    2. Holds more than 5 percent of the capital stock of a corporation licensee.
    3. Was a partner in the business for firm where the violation occurred.

E. A person not of good moral character and repute.
F. A person with a direct or indirect interest in a liquor manufacturer, brewer, or wholesaler.

G. In addition, no new retail license may be issued to, and the governing body of the municipality may refuse to renew the license of a person who, within 5 years of the license application has been convicted of a felony or a willful violation of a Federal or State law or local ordinance governing the manufacture, sale, distribution or possession of alcoholic beverage.

In addition, the following restrictions apply to licenses:

1. Each license shall be issued only to the applicant for the premises described in the application.
2. Not more than one license shall be directly or indirectly issued within the city to any one person.
3. No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the city are delinquent and unpaid.
4. No license shall be issued for any place or any business ineligible for a license under state law.
5. No license shall be granted within 500 feet of any school or church. The distance is to be measured from the closest side of the school/church to the closest side of the structure on the premises within which liquor is to be sold.

3-2-10: **APPLICATION FOR LICENSE:**

A. Form: Every application for a license issued under this chapter shall be on a form provided by the city. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with references as the Council may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, and other information as the Council may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Commissioner of Public Safety and shall also contain the information required in this section. The form shall be verified and filed with the city. No person shall make a false statement in an application.

B. Financial responsibility: Prior to the issuance of any license under this chapter, the applicant shall demonstrate proof of financial responsibility as defined in M.S. § 340A.409, as it may be amended from time to time, with regard to liability under M.S. § 340A.801, as it may be amended from time to time. This proof will be filed with the city and the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to M.S. § 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this chapter without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license.

3-2-11: **DESCRIPTION OF THE PREMISES:** The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk unless the applicant is specifically applying for seasonal outdoor sales.

3-2-12: **APPLICATIONS FOR RENEWAL**: At least 90 days before a license issued under this chapter is to be renewed, an application for renewal shall be filed with the city. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee has a right to have the license renewed.

3-2-13: **TRANSFER OF LICENSE**: No license issued under this chapter may be transferred without the approval of the Council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this code applying to applications for a license shall apply.

3-2-14: **INVESTIGATION:**

A. Preliminary background and financial investigation: On an initial application for a license, on an application for transfer of a license and on an application for renewal of a license, the city shall conduct a preliminary background and financial investigation of the applicant, or it may contract with the Commissioner of Public Safety for the investigation. The applicant shall pay with the application an investigation fee not to exceed $500 which shall be in addition to any license fee, and which shall be set by the Council from time to time not to exceed the cost of such investigation. The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

B. Comprehensive background and financial investigation: If the results of a preliminary investigation warrant, in the sound discretion of the Council, a comprehensive background and financial investigation, the Council may either conduct the investigation itself or contract with the Commissioner of Public Safety for the investigation. The investigation fee for this comprehensive background and financial investigation to be paid by the applicant shall be $500, less any amount paid for the initial investigation if the investigation is to be conducted within the state, and $10,000, less any amount paid for the initial investigation if the investigation is required outside the state. The unused balance of the fee shall be returned to the applicant whether or not the application is denied. The fee shall be paid in advance of any investigation and the amount actually spent on the investigation shall not be refundable in the event the application is denied. The results of the comprehensive investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

3-2-15: **HEARING AND ISSUANCE**: The Council shall investigate all facts set out in the application and not investigated in the preliminary or comprehensive background and financial investigations. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Council shall in its sound discretion grant or deny the application. No license shall become effective until the proof of financial security has been approved by the Commissioner of Public Safety.

3-2-16: **SEASONAL OUTDOOR SALES:** The sale of liquors pursuant to any of the licenses issued with this chapter shall be limited to sale and consumption inside of a structure on the licensed premises unless the licensee applies for and receives permission from the City for sale and consumption outside of the structure on the licensed premises as indicated by receipt of a license to conduct "Seasonal Outdoor Sales". An on-sale license holder which is a restaurant as defined in this chapter may include in the application or re-application the additional request to have an area that is contiguous to the completely enclosed licensed premises included in the area licensed to permit the sale and/or consumption of liquor in such contiguous area that is not wholly within a completely enclosed building. The contiguous area shall not be part of public grounds and such area must be specified as included on the liquor liability insurance certificate.

Each application pursuant to this section shall contain a description of the outdoor area that is proposed to be licensed and shall be accompanied by a drawing of the proposed area to be licensed. Such application shall also include a detailed description of the barriers that will be used, method of seating, ingress and egress arrangements, security provisions, sanitary and fire arrangements, and lighting. The drawing required hereunder must include the dimensions of the area, barriers, tables, aisles, and equipment, and must be drawn proportionately to scale. The drawing shall also include adjacent properties and uses (e.g. residential, commercial). Live entertainment or the use of sound producing equipment in the licensed area is prohibited except upon receipt of a special permit issued separately by the City.

City staff will review such request for seasonal outdoor sales of liquors for suitability of the proposed location in light of applicable fire, building and life safety codes, zoning ordinances, past performance of the licensee in maintaining order and obeying applicable laws in the licensed outdoor area and in the principal licensed premises, the adequacy of the proposal to provide for the safety of persons on the proposed premises, impact on the surrounding land, adequacy of lighting, appropriateness of noise level, suitability of ingress and egress arrangements including control of persons entering and leaving for purposes of preventing consumption by minors and safety arrangements. An application may be denied based on the following non-exclusive list of factors:

A. Inability to comply with fire, building and life safety codes or inability to comply with zoning ordinances.
B. Occurrences of disorderly conduct.
C. Demonstrated history or inability to provide safety on the premises.
D. Adverse impact on surrounding land, inadequate lighting, in appropriate noise levels.
E. Unsuitable ingress and egress arrangements.
F. Such other grounds if the City finds that issuing the permit is not in the best interest of the general health, welfare and safety of the citizenly.

Sales of liquor in approved outdoor locations is limited to the hours commencing at 10:00 a.m. and ending at 10:00 p.m. from April 15th through October 15th of any year. Any licensing of premises must be deemed experimental and as such, no expectation must be made by the licensee that the licensing of outdoor areas will be renewed, even though no misconduct occurred in the outdoor area, in the event the City Council determines to repeal the general authorization for seasonal outdoor sales.

3-2-17: **CONDITIONS OF LICENSE**: The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

A. Within 90 days after employment, every person selling or serving liquor in an establishment which has an on-sale license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the Council. Proof of training shall be provided by the licensee.
B. Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this chapter and the law equally with the employee.
C. Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.
D. No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
E. Compliance with financial responsibility requirements of state law and of this chapter is a continuing condition of any license.

3-2-18: **HOURS AND DAYS OF SALE:**

A. The hours of operation and days of sale shall be those set by M.S. § 340A.504, as it may be amended from time to time, except that the City Council may, by resolution or ordinance, provide for more restrictive hours than state law allows.
B. No person shall consume, nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2 percent malt liquor in an on-sale licensed premises more than 20 minutes after the time when a sale can legally occur.
C. No on-sale licensee shall permit any glass, bottle, or other container containing intoxicating liquor or 3.2 percent malt liquor to remain upon any table, bar, stool, or other place where customers are served, more than 20 minutes after the time when a sale can legally occur.
D. Employees: All employees of the licensed premise whose primary duties include the sale or service of intoxicating liquor or 3.2 percent malt liquor must vacate the premises of an on-sale intoxicating liquor establishment or a 3.2 percent malt liquor establishment within 1 hour of the legal termination of the sales and may not return to the establishment until 2 hours before the legal sales may again be tendered.
E. Every room, place or premises wherein intoxicating liquor and 3.2 percent malt liquor is permitted to be sold under on-sale license, including any cafe, restaurant, dining room or any other enterprise operated in connection therewith, shall be closed to the public during the time the sale of liquor is prohibited by State law, unless all liquor serving facilities, liquor displays and liquor storage areas

are secured by lock and key.

F. Any violation of any condition of this section may be grounds for revocation or suspension of the license.

3-2-19: **MINORS ON PREMISES:**

A. No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person or dishwashing services in places defined as a restaurant, hotel, motel or other multipurpose building serving food in rooms in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale.

B. No person under the age of 21 years may enter a licensed establishment except to work, consume meals on premises that qualify as a restaurant, or attend social functions that are held in a portion of the premises where liquor is not sold.

3-2-20: **RESTRICTIONS ON PURCHASE AND CONSUMPTION:**

A. No person shall mix or prepare liquor for consumption in any public place of business unless it has a license to sell on-sale, or a permit from the Commissioner of Public Safety under the provisions of M.S. § 340A.414, as it may be amended from time to time, which has been approved by the Council, and no person shall consume liquor in any such place.

B. Age misrepresentation: No minor shall misrepresent his or her age for the purposes of obtaining intoxicating liquor and/or 3.2 percent malt liquor.

C. No person shall induce a person under the age of 21 years of age to purchase or procure and intoxicating liquor and/or 3.2 percent malt liquor.

D. Procurement: No person, other than the parent or legal guardian, shall procure intoxicating liquor and 3.2 percent malt liquor for any person under the age of 21 years of age.

E. Possession: No person under the age of 21 years of age shall have intoxicating liquor and/or 3.2 percent malt liquor in his/her possession at a place other than at the household of, and with the permission of his/her parent or guardian.

F. Consumption: No person under the age of 21 years of age shall consume intoxicating liquor and/or 3.2 percent malt liquor unless in the company of a parent or guardian at the household of such parent or guardian.

G. Consumption in public places: No person shall consume intoxicating liquor and/or 3.2 percent malt liquor on a public highway, public street, public alley or other public place. Consumption is permitted in public parks when the park is open if the person is of legal age.

H. Liquor on license premises: No person shall consume or display any intoxicating liquor on the premises of a licensee who is not also licensed to sell intoxicating liquor or does not hold a consumption and display permit.

3-2-21: **SUSPENSION AND REVOCATION:**

A. The Council shall either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this chapter relating to liquor. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, M.S. §§ 14.57 to 14.70, as it may be amended from time to time. The Council may act as the hearing body under that act, or it may contract with the Office of Hearing Examiners for a hearing officer.

B. The following are the minimum periods of suspension or revocation which shall be imposed by the Council for violations of the provisions of this chapter or M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time:

1. For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2

percent malt liquor, or violation of M.S. § 112.04, the license shall be revoked.

2. The license shall be suspended by the Council after a finding under division (A) that the licensee has failed to comply with any applicable statute, rule, or provision of this chapter for at least the minimum periods as follows:

    a. For the first, second, or third violation within any three-year period, up to a one day suspension, in addition to any criminal or civil penalties which may be imposed.
    b. For a fourth violation within any 3-year period, at least a three day suspension, in addition to any criminal or civil penalties which may be imposed.
    c. For a fifth violation within any 3-year period, at least a ten day suspension; in addition to any criminal or civil penalties which may be imposed.
    d. For a sixth violation within any 3-year period, a license shall be revoked.

3. The Council shall select the day or days during which the license will be suspended.

C. Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this chapter or state law without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the Clerk, a hearing before the Council shall be granted within ten days. Any suspension under this division (B) shall continue until the Council determines that the financial responsibility requirements of state law and this chapter have again been met.

D. The provisions of Section 29 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this chapter.

3-2-22: **PENALTIES:**

A. Any person violating the provisions of this chapter or M.S. Ch. 340A as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time is guilty of a misdemeanor and upon conviction shall be punished as provided by law.

B. The Council shall impose a civil penalty of up to $2,000 for each violation of M.S. Ch. 340A, as it may be amended from time to time, and of this chapter. Conviction of a violation in a court of law is not required in order for the Council to impose the civil penalty. A hearing under the Administrative Procedures Act, M.S. §§ 14.57 to 14.70, as it may be amended from time to time, is not required before the penalty is imposed, but the Council shall hold a hearing on the proposed violation and the proposed penalty and hear any person who wishes to speak. Nonpayment of the penalty within 30 days of invoicing is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties which must be imposed in addition to any suspension unless the license is revoked:

    1. For the first violation within any three-year period, $250.
    2. For the second violation within any three-year period, $500. For the third and subsequent violations within any three-year period, $1,000 for each violation.

    C. The term "violation" as used in Section 22 includes any and all violations of the provisions in this section, or of M.S. Ch. 340A, as it may be amended from time to time, or any rules promulgated under that chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding three-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.

CHAPTER 3

BINGO

SECTION:

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3-3-1: **PURPOSE:** The purpose of this Chapter is to closely regulate and control the conduct of the game of bingo and to prohibit commercialization of bingo.

3-3-2: **DEFINITIONS:** Whenever the following terms appear in this Chapter, they shall have the meanings assigned to them in this Section:

ACTIVE MEMBER: A member of the organization requesting a license whose dues are paid for the current membership period and who has been a member for at least six (6) months.

BINGO: A game where each player has a card or board for which a consideration has been paid, containing five (5) horizontal rows or spaces, with each row except the central one containing five(5) figures. The central row has four (4) figures with the word "free" marked in the center space thereof. A player wins a game of bingo by completing any preannounced combination of spaces or, in the absence of a preannouncement of a combination of spaces, any combination of five (5) spaces in a row, either vertical, horizontal or diagonal.

BINGO OCCASION: A single gathering or session at which a series of one or more successive bingo games is played.

ELIGIBLE ORGANIZATION: Any fraternal, religious, veterans or other nonprofit organization which has been in existence for at least three (3) years and has at least thirty (30) active members.

PROFIT: The gross receipts collected from one or more bingo occasions less reasonable sums necessarily and actually expended on bingo supplies and equipment, prizes, rent and utilities used during the bingo occasions, bingo license fees and compensation to persons lawfully hired

to conduct or assist in conducting a bingo occasion. (1981 Code § 510.02; 1997 Code)

3-3-3: **LICENSE REQUIRED**: No bingo occasion shall be conducted except by an eligible organization which has secured a license for that purpose, as provided in this Chapter. (1981 Code § 510.03)

3-3-4: **APPLICATION FOR LICENSE:**

A. Form: Every application for a bingo license shall be made to the Deputy Clerk on a form supplied by the City and containing such information as the Deputy Clerk or the Council may require. No person shall make a false statement in an application. (1981 Code§ 510.04)
B. Refer To Police Chief: Copies of each application shall be referred to the City Police Chief for his/her recommendation. (1981 Code § 510.04; 1997 Code)
C. Council Action: A license application shall be acted upon by the Council no sooner than thirty (30) days and no later than one hundred eighty (180) days after the date of application. Failure of the Council to act on said application shall be deemed a denial of such license. (1981 Code § 510.03)

3-3-5: **LICENSE FEE**: The annual license fee shall be established by Council resolution.

3-3-6: **TERM OF LICENSE:** A license shall be valid for twelve (12) calendar months from the date of issuance. (1981 Code§ 510.03)

3-3-7: **TRANSFER OF LICENSE**: No bingo license issued may be transferred to any other person or organization. No bingo license shall be transferred to any location other than the location specified in the license without prior approval by the Council. (1981 Code § 510.03)

3-3-8: **CONDUCT OF BINGO:**

A. Bingo Manager:

1. Appointment: Each licensed organization shall appoint a bingo manager to supervise bingo occasions conducted by it.
2. Qualifications: The bingo manager must be a member of the licensed organization, with dues paid for the current membership period and must have been a member of the organization for at least two (2) years.
3. Fidelity Bond:

    a. Amount: The bingo manager shall give a fidelity bond in the sum of ten thousand dollars ($10,000.00) in favor of the organization conditioned on the faithful performance of his or her duties, except that the City Council may waive the bond requirement upon a showing by the proposed bingo manager and the licensed organization that bond is not required to protect the organization and upon a unanimous vote of the City Council.
    b. Notice Of Cancellation: Terms of the bond shall provide that notice shall be given in writing to the City Council not less than thirty (30) days prior to its cancellation.

4. Responsibilities: Each bingo manager shall be responsible for the conduct of the bingo occasion in compliance with all applicable laws and ordinances.
5. Limitation: No person shall act as bingo manager for more than one organization.

B. Checkers:

1. Number Required: One or more checkers shall be engaged for each bingo occasion.
2. Qualifications: The checkers shall be active members of the licensed organization or spouses of active members of the licensed organization.
3. Duties: The checker or checkers shall record the number of cards purchased and played in

each game prior to the completion of each game and record the prizes awarded to the recorded cards.

4. Certification Of Figures: Each checker shall certify all figures which he or she has recorded as accurate and correct to the best of his or her knowledge, on forms prescribed by the Deputy Clerk.

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C. Additional Personnel: Additional persons may be engaged for other duties in connection with bingo occasions as needed, but no person shall assist in the conduct of a bingo occasion who is not an active member of the licensed organization.

D. Compensation: No person shall receive more than twelve dollars ($12.00) as compensation for any duties in connection with any one bingo occasion.

E. Number Of Bingo Occasions: No more than one hundred four (104) bingo occasions each year or two (2) bingo occasions each week shall be conducted by any licensed organization.

F. Limitation Of Hours: A bingo occasion shall not continue for more than four (4) consecutive hours. (1981 Code § 510.06)

3-3-9: **BINGO ON LEASED PREMISES:**

A. Bingo Occasions Restricted: Any person, corporation or eligible organization, which leases any premises that it owns to two (2) or more eligible organizations for purposes including the conduct of bingo occasions, shall not allow more than four (4) bingo occasions to be conducted on the premises in any week.

B. Rental:

1. Use Of Rental Income: Any eligible organization which leases any premises to one or more other eligible organizations for purposes including the conduct of bingo occasions shall use the proceeds of the rental, less reasonable sums for maintenance, furnishings and other necessary expenses, only for the uses for which bingo profits may be used, as set out in Section 3-3-15 of this Chapter.
2. Report To Council: Not less than once each year the lessor organization shall report to the City Council the disposition of all receipts which it has received during the reporting period from the rental of its facilities to other organizations for purposes including the conduct of bingo occasions.

C. Written Lease:

1. Written Lease Required: No eligible organization shall conduct bingo on any leased premises without a written lease for a term at least equal to the remainder of the term of the bingo license of the lessee organization.
2. Lease Payments: Lease payments shall be at a fixed monthly rate, or rate per bingo occasion, not subject to change during the term of the lease. No such lease shall provide that rental payments be based on a percentage of receipts or profits from bingo occasions. (1981 Code § 510.07)

3-3-10: **PRIZES:**

A. Value Of Prizes:

1. Single Game: Prizes for a single bingo game shall not exceed one hundred dollars ($100.00) except prizes for a game of the type commonly known as a "cover-all game",
2. Cover-All: Cover-all prizes may exceed one hundred dollars ($100.00); provided, that the aggregate value of such prizes for a bingo occasion shall not exceed five hundred dollars ($500.00).
3. Aggregate Value Per Bingo Occasion: The aggregate value of prizes for a bingo occasion shall not exceed two thousand five hundred dollars ($2,500.00) except that in the case of a bingo occasion during which a cover-all game is played for a maximum prize of more than one

hundred dollars ($100.00) but less than five hundred dollars ($500.00). The aggregate value of prizes for the bingo prizes shall be valued at fair market retail value.

B. Bingo Winner: Each bingo winner shall be determined and every prize shall be awarded and delivered the same day on which the bingo occasion is conducted. (1981 Code § 510.08)

3-3-11: **RECORDS:**

A. Receipts And Profits:

1. Gross Receipts And Profits: Each licensed organization shall keep records of its gross receipts and profits for each bingo occasion.
2. Deductions: All deductions from gross receipts from a bingo occasion shall be documented with receipts or other records.
3. Distribution Of Profits: The distribution of profits shall be itemized as to payee, amount, and date of payment.
4. Preservation Of Records: Records required by this Chapter shall be preserved for three (3) years.

B. Gross Receipts/Checkers' Records:

1. Comparison: Gross receipts shall be compared to the checkers' records for the bingo occasion by a person who did not sell cards for the bingo occasion. (1981 Code § 510.09)
2. Discrepancies: If a discrepancy exceeding twenty dollars ($20.00) is found between the amount of gross receipts for a bingo occasion as determined by the checkers' records, and the amount of gross receipts as determined by totaling the cash receipts, the discrepancy shall be reported to and investigated by the Council.

C. Separate Records: Bingo gross receipts shall be segregated from other revenues of an organization and placed in a separate account. Each organization shall maintain separate records of its bingo operations. The person who accounts for bingo gross receipts and profits shall not be the same person who accounts for other revenues of the licensed organization. (1981 Code § 510.09; 1997Code)

3-3-12: **REPORTS:**

A. Monthly Reports: Each licensed organization shall report monthly to its membership its gross receipts from bingo, its profits from bingo and the distribution of those profits itemized as required by subsection 3-3-11-A of this Chapter.

B. Filed With Council: At the time of making its first license application under this Chapter, and on an annual basis thereafter, each licensed organization shall file with the Council copies of the following:

1. Return Of Organization Exempt From Income Tax: The most recently filed Department of the Treasury, Internal Revenue Service, Return of Organization Exempt from Income Tax, form 990, or a comparable form if the organization is required to file the form with the of the Department Treasury.
2. Exempt Organization Business Income Tax: The most recently filed Department of the Treasury, Internal Revenue Service, Exempt Organization Business Income Tax, form 990-T, or a comparable form if the organization is required to file the form with the Department of the Treasury.
3. Charitable Organization Annual Report: The most recently filed annual report required of charitable organizations by Minnesota Statutes section 309.53; provided, that an organization that is licensed to conduct bingo but is exempt from submitting this report to the Department of Commerce under Minnesota Statutes section 309.53, subdivision 1A, shall nevertheless submit such a report under this subsection.

4. Statement Of Bingo Operations: The most recently filed Minnesota Department of Commerce Statement of Bingo Operations. All information contained in the statement shall be true, correct and complete to the best of the knowledge of the person or persons signing the statement.
5. Lease Agreements: Any lease agreements required by this Chapter, executed by the organization in regard to premises leased for the conduct of bingo.

C. False Statement: No person shall knowingly make a false statement in any report required by this Section. (1981 Code § 510.10)

3-3-13: **INSPECTION, INVESTIGATION**: Any City official or employee having a duty to perform with reference to a bingo license and any police officer may inspect and examine the bingo records of any licensed organization upon twenty four (24) hours' notice. (1981 Code § 510,11; 1997 Code)

3-3-14: **USE OF RECEIPTS**: No expense shall be incurred or amounts paid in connection with the conduct of bingo, except those reasonably expended for bingo supplies and equipment, prizes, rent or utilities used during the bingo occasion, bingo license fees and compensation to persons lawfully hired to conduct or assist in conducting a bingo occasion. (1981 Code § 510.12)

3-3-15: **USE OF PROFITS**:

A. Organization Approval Required: Profits from any bingo occasion shall be expended only as authorized by a resolution recorded in the official minutes at a regular meeting of the licensed organization and only for one or more of the following purposes:

1. Religious Or Educational Advancement: Benefiting persons by enhancing their opportunity for religious or education advancement, by relieving or protecting them from disease, suffering or distress, by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens or by increasing their comprehension of and devotion to the principles upon which this nation was founded.
2. Public Works: initiating, performing or fostering worthy public works or enabling or furthering the erection or maintenance of public structures.
3. Supplementation of Governmental Services: Lessening the burdens borne by government or voluntarily supporting, augmenting, or supplementing services which government would normally render to the people.
4. Real Property: The improving, expanding, maintaining, or repairing of real property owned or leased by the licensed organization.

B. Council Approval Required: Profits from bingo occasions shall not be expended for the erection or acquisition of any real property, unless the City Council specifically authorized the expenditures after finding that the property will be used exclusively for one or more of the purposes specified in this Section. (1981 Code § 510.13)

3-3-16: **EXEMPTIONS**: Bingo may be conducted without complying with the requirements of subsections 3-3-8E and F and Section 3-3-9 of this Chapter if conducted:

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A. County Fair/Civic Celebration: In connection with the County fair conducted by the County Agricultural Society or in connection with a civic celebration recognized by resolution of the City Council; provided, that bingo shall not be conducted for more than twelve (12) days during any one County fair or recognized civic celebration; or
B. Less Than Five Bingo Occasions: By an organization that conducts fewer than five (5) bingo occasions in any calendar year. (1981 Code § 510.14)

3-3-17: **SUSPENSION OR REVOCATION OF LICENSE:**

A. Violation: The Council may suspend for a period not exceeding sixty (60) days, or revoke, any bingo license for violation of any provision of Minnesota Statutes chapter 349, or this Chapter.

B. Notice; Hearing: The holder of the license shall be granted a hearing upon at least ten (10) days' notice before revocation or suspension is ordered. The notice shall state the time and place of the hearing and the nature of the charges against the licensee. (1981 Code § 510.0S)

3-3-18: **PENALTY**: Violation of any provision of this Chapter shall be a misdemeanor. A person convicted of violating any provision of this Chapter shall be subject to penalty as provided in Title 1 of this Code.

CHAPTER 4

GAMBLING

SECTIONS:

3-4-1: Adoption of State Law by Reference
3-4-2: City May Be More Restrictive Than State Law
3-4-3: Purpose
3-4-4: Definitions
3-4-5: Applicability
3-4-6: Lawful Gambling Permitted
3-4-7: Council Approval
3-4-8: Application and Local Approval of Premises Permits
3-4-9: Revocation and Suspension of Local Permit
3-4-10: License and Permit Display
3-4-11: Notification of Material Changes to Application
3-4-12: Designated Trade Area
3-4-13: Records and Reporting
3-4-14: Hours of Operation
3-4-15: Penalty

3-4-1: **ADOPTION OF STATE LAW BY REFERENCE:** The provisions of Minnesota Statutes, Chapter 349, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, provisions relating to sales, and all other matters pertaining to lawful gambling are hereby adopted by reference and are made a part of this ordinance as if set out in full. It is the intention of the Council that all future amendments of Minnesota Statutes, Chapter 349, are hereby adopted by reference or referenced as if they had been in existence at the time this ordinance was adopted.

3-4-2: **CITY MAY BE MORE RESTRICTIVE THAN STATE LAW:** The Council is authorized by the provisions of Minnesota Statutes, Section 349.213, as it may be amended from time to time, to impose, and has imposed in this ordinance, additional restrictions on gambling within its limits beyond those contained in Minnesota Statutes, Chapter 349, as it may be amended from time to time.

3-4-3: **PURPOSE**: The purpose of this ordinance is to regulate lawful gambling within the City of Sartell, to prevent its commercialization, to insure the integrity of operations, and to provide for the use of net profits only for lawful purposes.

3-4-4: **DEFINITIONS:** In addition to the definitions contained in Minnesota Statutes, Section 349.12, as it may be amended from time to time, the following terms are defined for purposes of this ordinance:

BOARD:	As used in this ordinance, means the State of Minnesota Gambling Control Board.
CITY:	As used in this ordinance, means the City of Sartell.
COUNCIL:	As used in this ordinance, means the City Council of the City of Sartell.
LICENSED ORGANIZATION:	In this ordinance, means an organization licensed by the Board.
LOCAL PERMITS:	As used in this ordinance, means a permit issued by the City.
TRADE AREA:	As used in this ordinance, means the City of Sartell, Sauk Rapids, St. Cloud, Townships of LeSauk, St. Wendel and Sauk Rapids.

3-4-5: **APPLICABILITY:** This ordinance shall be construed to regulate all forms of lawful gambling within the city except:

A. Bingo conducted within a nursing home or a senior citizen housing project or by a senior citizen organization if the prizes for a single bingo game do not exceed $10, total prizes awarded at a single bingo occasion do not exceed $200, no more than two bingo occasions are held by the organization or at the facility each week, only members of the organization or residents of the nursing home or housing project are allowed to play in a bingo game, no compensation is paid for any persons who conduct the bingo, and a manager is appointed to supervise the bingo.
B. Raffles if the value of all prizes awarded by the organization in a calendar year does not exceed $1,500.

3-4-6: **LAWFUL GAMBLING PERMITTED:** Lawful gambling is permitted within the city provided it is conducted in accordance with Minnesota Statutes, Sections 609.75-609.763, inclusive, as they may be amended from time to time; Minnesota Statutes, Sections 349.11-349.23, inclusive, as they may be amended from time to time; and this ordinance.

3-4-7: **COUNCIL APPROVAL:** Lawful gambling authorized by Minnesota Statutes, Sections 349.11-349.23, inclusive, as they may be amended from time to time, shall not be conducted unless approved by the Council, subject to the provisions of this ordinance and state law.

3-4-8: **APPLICATION AND LOCAL APPROVAL OF PREMISES PERMITS:**

A. Any organization seeking to obtain a premises permit or renewal of a premises permit from the Board shall file with the Deputy Clerk an executed, complete duplicate application, together with all exhibits and documents accompanying the application as will be filed with the Board.
B. The Council shall consider the application within 45 days of the date the application was submitted to the Deputy Clerk.
C. The Council shall, by resolution, approve or disapprove the application within 60 days of receipt of the application.
D. The Council shall deny an application for issuance or renewal of a premises permit for any of the following reasons:

    1. Violation by the gambling organization of any state statute, state rule, or city ordinance relating to gambling within the last three (3) years.
    2. Violation by the on-sale establishment, or organization leasing its premises for gambling, of any state statute, state rule, or city ordinance relating to the operation of the establishment, including, but not limited to, laws relating to alcoholic beverages, gambling, controlled substances, suppression of vice and protection of public safety within the last three (3) years.

E. Term of Permit: No premise permit shall be issued for more than one year and all permits shall expire on December 31 of the year in which it was issued.

3-4-9: **REVOCATION AND SUSPENSION OF LOCAL PERMIT:**

A. A local permit may be revoked, or temporarily suspended for a violation by the gambling organization of any state statute, state rule, or city ordinance relating to gambling.
B. A license shall not be revoked or suspended until notice and an opportunity for a hearing have first been given to the permitted person. The notice shall be personally served and shall state the provision reasonably believed to be violated. The notice shall also state that the permitted person may demand a hearing on the matter, in which case the permit will not be suspended until after the hearing is held. If the permitted person requests a hearing, the Council shall hold a hearing on the matter at least one week after the date on which the request is made. If, as a result of the hearing, the Council finds that an ordinance violation exists, then the Council may suspend or revoke the permit.

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3-4-10: **LICENSE AND PERMIT DISPLAY:** All permits issued under state law or this ordinance shall be prominently displayed during the permit year at the premises where gambling is conducted.

3-4-11: **NOTIFICATION OF MATERIAL CHANGES TO APPLICATION:** An organization holding a state issued premises permit or a local permit shall notify the city within ten (10) days in writing whenever any material change is made in the information submitted on the application.

3-4-12: **DESIGNATED TRADE AREA:**

A. Each organization licensed to conduct gambling within the city shall expend 100 percent of its lawful purpose expenditures on lawful purposes conducted within the city's trade area.
B. This section applies only to lawful purpose expenditures of gross profits derived from gambling conducted at a premise within the city's jurisdiction.

3-4-13: **RECORDS AND REPORTING:**

A. Organizations conducting lawful gambling shall file with the Deputy Clerk one copy of all records and reports required to be filed with the Board, pursuant to Minnesota Statutes, Chapter 349, as it may be amended from time to time, and rules adopted pursuant thereto, as they may be amended from time to time. The records and reports shall be filed on or before the day they are required to be filed with the Board.
B. Organizations licensed by the Board shall file a report with the city proving compliance with the trade area spending requirements imposed by Section 16. Such report shall be made on a form prescribed by the city and shall be submitted annually and in advance of application for renewal.

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3-4-14: **HOURS OF OPERATION:** Lawful gambling shall not be conducted between 1 a.m. and 8 a.m. on any day of the week.

3-4-15: **PENALTY:**

A. Any provision of this ordinance.
B. Minnesota Statutes, Sections 609.75-609.763, inclusive, as they may be amended from time to time.
C. Minnesota Statutes, Sections 349.11-349.21, as they may be amended from time to time or any rules promulgated under those sections, as they may be amended from time to time.

Any person who violates the above shall be guilty of a misdemeanor and shall be subject to a fine of not more than $1,000 or imprisonment for a term not to exceed 90 days, or both, plus in either case the costs of prosecution. In addition, violations shall be reported to the Board and recommendation shall be made for suspension, revocation, or cancellation of an organization's license.

CHAPTER 5

TOBACCO AND ELECTRONIC DELIVERY DEVICES

3-5-1: Purpose
3-5-2: Definitions and Interpretations
3-5-3: License
3-5-4: Fees
3-5-5: Basis for Denial of License
3-5-6: Prohibited Sales
3-5-7: Self-Service Sales
3-5-8: Responsibility
3-5-9: Compliance Checks and Inspections
3-5-10: Other Illegal Acts
3-5-11: Violations
3-5-12: Administrative Penalties
3-5-13: Exceptions and Defenses
3-5-14: Severability and Savings Clause

3-5-1: **PURPOSE:** Because the City of Sartell recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess, and use tobacco, tobacco products, tobacco related devices, electronic delivery devices and nicotine or lobelia delivery devices, and the sales, possession, and use are violations of both state and federal laws; and because studies have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reached the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this ordinance is intended to regulate the sale, possession, and use of tobacco, tobacco products, tobacco related devices, electronic delivery devices and nicotine or lobelia delivery devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, tobacco related devices, electronic delivery devices and nicotine or lobelia delivery devices, and to further the official public policy of the State of Minnesota in regard to preventing young people from starting to smoke as stated in Minn. Stat. SS 144.391.

3-5-2: **DEFINITIONS AND INTERPRETATIONS:** Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

TOBACCO OR TOBACCO PRODUCTS: Shall mean any substance or item that can be chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any means or any component, part or accessory of a tobacco product, containing tobacco leaf, including but not limited to, cigarettes; cigars; pipe tobacco; snuff; fine cut or other chewing tobacco, cheroots, stogies; perigue; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff flour; cavendish; shorts plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds of tobacco. Tobacco excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product or for other medical purposes and is being marketed and sold solely for such an approved purpose.

TOBACCO RELATED DEVICES: Shall mean any tobacco product as well as a pipe, rolling papers, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, or smoking of tobacco or tobacco products.

ELECTRONIC DELIVERY DEVICE: Products containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to stimulate smoking in the

delivery of nicotine or any other substance through inhalation of vapor from the product. Electronic delivery device includes any component part of such a product whether or not sold separately. Electronic delivery device does not include any product that has been approved or otherwise certified by the United Stated Food and Drug Administration for legal sales for use in tobacco cessation treatment for other medical purposes and is being marketed and sold solely for that approved purpose.

NICOTINE OR LOBELIA DELIVERY DEVICES: Any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco as defined in this section, but including any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for tobacco cessation, harm reduction, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

SMOKING: The word smoking shall mean the inhaling or exhaling smoke or vapor from any lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco or plant product, or from any electronic delivery device. Smoking also includes carrying a lighted or heated cigar, cigarette, pipe or any other lighted or heated tobacco or plant product or electronic delivery device intended for inhaling or exhaling smoke or vapor.

SELF-SERVICE MERCHANDISING: Shall mean open displays of tobacco, tobacco products, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery devices in any manner where any person shall have access to the tobacco, tobacco products, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, tobacco related device, electronic delivery devices or nicotine or lobelia delivery device between the customer and the licensee or employee. Self- service merchandising shall not include vending machines.

VENDING MACHINE: Shall any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, tobacco related devices, electronic delivery devices nicotine or lobelia delivery devices upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product, tobacco related device, electronic delivery devices or nicotine or lobelia delivery device.

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

LOOSIES: Shall mean the common term used to refer to a single or individually packaged cigarette or any other tobacco product that has been removed from its packaging and sold individually. The term “loosies” does not include individual cigars with a retail price, before any sales taxes, or more than $2.00 per cigar.

MINOR: Shall mean any natural person who has not yet reached the age of eighteen (18) years.

RETAIL ESTABLISHEMENT: Shall mean any place of business where tobacco, tobacco products, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery devices are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, drug stores and restaurants.

MOVEABLE PLACE OF BUSINESS: Shall refer to any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

SALE: Shall mean any transfer of goods for money, trade, barter, or other consideration.

COMPLIANCE CHECKS: Shall mean a file system the City of Sartell uses to investigate and ensure that those authorized to sell tobacco, tobacco products, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery devices are following and complying with the requirements of this ordinance. Compliance checks shall involve the use of minors as authorized by this ordinance. Compliance Checks shall also mean the use of minors who attempt to purchase tobacco, tobacco products, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery devices for educational, research and training purposes as authorized by state and federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate federal, state, or local laws and regulations relating to tobacco, tobacco products, tobacco related devices, electronic delivery devices and nicotine or lobelia delivery devices.

CITY: Shall mean the City of Sartell, Minnesota.

INDOOR AREA: The words "indoor area" shall mean all space between a floor and a ceiling that is bound by walls, doorways, or windows, whether open or closed, covering more that 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.

TOBACCO SHOP: Shall mean a self-contained, independent retail facility, as opposed to a department within a larger retail establishment, that is not more than 1,500 gross square feet in area, in which tobacco is offered for sale, with or without non-tobacco products, which includes open air display of individual products for inspection and selection by patrons, and which is continuously staffed by an employee from which persons under 18 years of age are prohibited from entering, and which otherwise complies with the requirements of Minnesota State Statute Section 461.18, Subd. 1 Excluding a wall mounted sign for the store name and address, the display of products or signage of any form that is related to a product offered at the tobacco shop shall not be displayed on the exterior nor visible from the exterior of the building or property. Any door used for customer entrance to a tobacco shop must be free of signs, markings or advertisements, except:

A. A prescribed notice to minors that they are not allowed to enter a tobacco shop. The notice to minors shall be an octagonal red sign, that state "STOP NO PERSON UNDER THE AGE OF 21 SHALL BE ALLOWED ON TOBACCO SHOP PREMISES" and Sartell Ordinance 3-6-2. The sign shall be centered on the door, between 4-6 feet from the bottom of the door.
B. No more than 1.5 square feet of advisory details, limited to identifying a numerical address, hours of operation and notices of caution.

3-5-3: **LICENSE:** No person shall sell or offer to sell any tobacco, tobacco products, tobacco related device, electronic delivery devices or nicotine or lobelia delivery device without first having obtained a license to do so from the City.

A. Application: An application for a license to sell tobacco, tobacco products, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery devices 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 Deputy Clerk shall forward the application to the City Council for action at its next regularly scheduled meeting. If the Deputy Clerk shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.
B. Action: The City Council may either approve or deny the license, or it may delay action for such reasonable period of time as is necessary to complete any investigation of the application or the applicant it deems necessary. The City shall request a background check on the applicant before the application is forwarded for action. The application shall be forwarded to the City Police Department within a reasonable period of time, and the background check should be completed within ten days. The application and investigation results shall than be forwarded to the City for action. If the City Council approves the license, the City Administrator shall issue the license to the

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applicant. If the City Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the decision.

C. Term: All licenses issued under this ordinance shall be valid for one calendar year from the date of issue.
D. Revocation or Suspension. Any license issued under this ordinance may be revoked or suspended as provided in the Violations and Penalties section of this ordinance.
E. Transfers: All licenses issued reader 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.
F. Moveable Place of Business: No license shall be issued to a movable place of business. Only fixed location businesses shall be eligible to be licensed under this ordinance.
G. Display: All licenses shall be posted and displayed in plain view of the general public on the licensed premise.
H. 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. The issuance of a license issued under this ordinance shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to make automatic renewal of the license.
I. Proximity to youth-orientated facilities: No license shall be granted pursuant to this ordinance to any person for any retail sales of tobacco, tobacco products, tobacco-related devices, electronic delivery devices or nicotine or lobelia delivery devices within 1,000 feet of any school, playground, house of worship, or youth-orientated facility, as measured by the shortest line between the space to be occupied by the proposed licensee and the occupied space of the school, playground, house of worship, or youth-orientated facility, unless that person has been in the business of selling such products in that location before the date this ordinance was enacted into law for at least one year. For the purpose of this ordinance, a youth-orientated facility is defined to include any facility with residents, customers, visitors or inhabitants of which 25 percent or more are regularly under the age of 21 or which primarily sells, rents, or offers services or products that are consumed or used primarily by persons under the age of 21.
J. Proximity to other tobacco retailers: No license shall be granted pursuant to this ordinance to any person for any retail sales of tobacco, tobacco products, tobacco-related devices, electronic delivery devices or nicotine or lobelia delivery devices within two thousand feet of any establishment holding such a license, as measured by the shortest line between that space to be occupied by the proposed licensee and the occupied space of the nearest existing license, unless that person has been in business of selling such products in that location before the date this ordinance was enacted into law for at least one year.
K. Smoking: Smoking shall not be permitted, and no person shall smoke within the indoor area of any establishment with a retail license. Smoking for the purpose of sampling tobacco and tobacco related products is prohibited.

3-5-4: **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 such amount as is set forth in a fee schedule to be adopted by the City Council and modified from time to time.

3-5-5: **BASIS FOR DENIAL OF LICENSE:** The following shall be grounds for denying the issuance or renewal of a license under this ordinance; however, 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:

A. The applicant is under the age of 18 years.
B. The applicant has been convicted within the past five years of any violation of a Federal, State, or local law, ordinance provision, or other regulation relating to tobacco or tobacco products, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery devices.

C. The applicant has had a license to sell tobacco, tobacco products, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery devices revoked within the preceding twelve months of the date of application.
D. The applicant fails to provide any information required on the application, or provides false or misleading information.
E. The applicant is prohibited by Federal, State, or other local law, ordinance, or other regulation, from holding such a license.

3-5-6: **PROHIBITED SALES:** It shall be a violation of this ordinance for any person to sell or offer to sell any tobacco, tobacco product, tobacco related device, electronic delivery devices or nicotine or lobelia delivery device:

A. To any person under the age of twenty-one (21) years.
B. By means of any type of vending machine.
C. By means of any type of kiosk.
D. By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive the tobacco, tobacco product, tobacco related device, electronic delivery devices or nicotine or lobelia delivery device and whereby there is not a physical exchange of the tobacco, tobacco product, tobacco related device, electronic delivery devices or nicotine or lobelia delivery device between the licensee or the licensee's employee, and the customer. This section shall not apply to a tobacco shop.
E. Any E-cigarette liquid that is not in a child resistant package, to prevent poisonings.
F. By means of loosies as defined in Section 3-6-2 of this ordinance. This section shall not apply to a tobacco shop.
G. 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 tobacco products.
H. By any other means, to any other person, on in any other manner or form prohibited by Federal, State, or other local law, ordinance provision, or other regulation.

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3-5-7: **SELF-SERVICE SALES:** It shall be unlawful for a licensee under this ordinance to allow the sale of tobacco, tobacco products, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery devices by any means where by the customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product, tobacco related device, electronic delivery devices or nicotine or lobelia delivery device between the licensee or his or her clerk and the customer. All tobacco, tobacco products, tobacco related devices, electronic delivery devices and nicotine or lobelia delivery devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco, tobacco products, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery devices at the time this ordinance is adopted shall comply with this section within 90 days following the effective date of this ordinance.

3-5-8: **RESPONSIBILITY:** All licensees under this ordinance shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery devices on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the City from also subjecting the clerk to whatever penalties are appropriate under this Ordinance, State or Federal law, or other applicable law or regulation.

3-5-9: **COMPLIANCE CHECKS AND INSPECTIONS:** All licensed premises shall be open to inspection by the City Police Department or other authorized City official during regular business hours. From time to time, but at least once per year, the City shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of fifteen (15) years but less than

eighteen (18) years, to enter the licensed premise to attempt to purchase tobacco, tobacco products, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery devices. Minors used for the purpose of compliance checks shall be supervised by designated law enforcement officers or other designated City personnel. Minors used for compliance checks shall not be guilty of the unlawful purchase or attempted purchase, nor the unlawful possession of tobacco, tobacco products, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery devices when such items are obtained or attempted to be obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is 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.

3-5-10: **OTHER ILLEGAL ACTS:** Unless otherwise provided, the following acts shall be a violation of this ordinance:

A. Illegal Sales. It shall be a violation of this ordinance for any person to sell or otherwise provide any tobacco, tobacco product, tobacco related device, electronic delivery devices or nicotine or lobelia delivery device to any minor.
B. Illegal Possession. It shall be a violation of this ordinance for any minor to have in his or her possession any tobacco, tobacco product, tobacco related device, electronic delivery devices or nicotine or lobelia delivery device. This subdivision shall not apply to minors lawfully involved in a compliance check.
C. Illegal Use. It shall be a violation of this ordinance for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, tobacco related device, electronic delivery devices or nicotine or lobelia delivery device.
D. It shall be a violation of this ordinance for E-cigarette use in the following entities:

    1. Hospitals, health care clinics and doctor's offices.
    2. "Licensed residential facilities for children, or other health-care related facility".
    3. "Buildings owned or operated by the state, home rule charter or statutory city, county, township, school district or other political subdivisions (including correctional facilities)".
    4. Any facility owned by Minnesota State Colleges and Universities and the University of Minnesota.
    5. Any Facility licensed by the commissioner of Human Services.
    6. Any Facility licensed by the commissioner of Human Services (but only if the facility is also subject to federal licensing requirements).
    7. Licensed daycare facilities, including home daycares during hours of operation.

E. Illegal Procurement. It shall be a violation of this ordinance for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, tobacco related device, electronic delivery devices or nicotine or lobelia delivery device and it shall be a violation of this ordinance for any person to purchase or otherwise obtain such items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, tobacco related device, electronic delivery devices or nicotine or lobelia delivery device. This subdivision shall not apply to minors lawfully involved in a compliance check.
F. Use of False Identification: It shall be a violation of this ordinance for any minor to attempt to disguise his or her the age by the use of a false form of identification, whether the identification is that of another person or one in which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

3-5-11: **VIOLATIONS:**

A. 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. The citation shall provide notice that a hearing must be requested within ten (10) business days of receipt and that hearing rights shall be terminated if a hearing is not promptly requested. The citation shall provide information how and where a hearing may be requested, including the contact name, address and phone number.

B. Hearings: Upon issuance of a citation, a person accused of violating this ordinance may request in writing a hearing on the matter. Hearing requests must be made within ten (10) business days of the issuance of the citation and delivered to the Deputy Clerk or other designated city officer. Failure to request a hearing within ten (10) business days of the issuance of the citation will terminate the person's right to a hearing. The Deputy Clerk or other designated city officer shall set the time and place for the hearing. Written notice of the hearing time and place shall be mailed or delivered to the accused violator at least ten (10) business days prior to the hearing.

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C. Hearing Officer. The city attorney's office shall a hearing officer. The hearing officer must be an impartial employee of the city or an impartial person retained by the city to conduct the hearing.

D. Decision. A decision shall be issued by the hearing officer within ten (10) business days. If the hearing officer determines that a violation of this ordinance did occur, that decision, along with the hearing officers reasons for finding a violation and the penalty to be imposed under Section 3-6-9 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.

E. Costs: If the citation is upheld by the hearing officer, the city's actual expenses in holding the hearing up to a maximum of $1,000.00 shall be paid by the person requesting the hearing.

F. The decision of the hearing officer is final.

G. 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.

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

3-5-12: **ADMINISTRATIVE PENALTIES:**

A. Licensees: Any licensee found to have violated this ordinance, or whose employee shall have violated this ordinance, shall be charged an administrative fine in accordance with the city's annual fee schedule. In addition, after the third offense, the license shall be suspended for not less than seven consecutive days.

B. Other Individuals: Other individuals, other than minors regulated by subdivision 3 of this Subsection, found to be in violation of this ordinance shall be charged an administrative fee in accordance with the city's annual fee schedule.

C. Minors: Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, tobacco related devices, electronic delivery devices or nicotine or lobelia delivery devices shall be subject to an administrative fine, or may be subject to a tobacco-related education classes, diversion programs, community services or any other penalty that the city believes will be appropriate and effective. The administrative fine or other penalty shall be established by the city's annual fee schedule.

1. Misdemeanor. Nothing in this Section shall prohibit the City from seeking prosecution as a misdemeanor for any violation of this ordinance.
2. Statutory penalties. If the administrative penalties authorized to be imposed by Minn. Stat. SS 461.12, as it may be amended from time to time, differ from those established in this ordinance, then the statutory penalties shall prevail.

3-5-13: **EXCEPTIONS AND DEFENSES:** Nothing in this ordinance shall prevent the providing of tobacco, tobacco products, tobacco-related devices, electronic delivery devices or nicotine or lobelia delivery 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 ordinance for a person to have reasonably relied on proof of age as described by state law.

3-5-14: **SEVERABILITY AND SAVINGS CLAUSE:** If any section or provision of this ordinance is held invalid, such invalidity shall not affect other sections or provisions which can be given force and effect without the invalidated section or provision.

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CHAPTER 7¶
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FOOD VENDING MACHINES¶

CHAPTER 6

PORTABLE CONFECTIONERY STORES AND MOBILE FOOD VENDORS

SECTION:

3-6-1: Definitions
3-6-2: Permit Required
3-6-3: Application For Permit
3-6-4: Permit Fees; Transferability
3-6-5: Term Of Permit
3-6-6: Insurance
3-6-7: Sound Devices
3-6-8: Sales While In Motion

3-6-1: **DEFINITIONS**: As used in this Chapter, the following words and terms shall have the meanings ascribed to them in this Section:

CONFECTIONERY FOOD PRODUCT:	A "confectionery food product" is defined as but not limited to, ice milk, ice cream, candy and popcorn.
PORTABLE CONFECTIONERY STORE:	A vehicle, regardless of the manner in which it is propelled, for transporting prepackaged confectionery food products, in the vehicle, for the purpose of selling such food products from such vehicle. (Ord. 82-9, 8-23-1982)
FOOD TRUCK OR MOBILE FOOD VENDOR	A vehicle who prepares and sells food from a properly licensed vehicle eligible to operate on private property for a specified period of time.

3-6-2: **PERMIT AND LICENSES REQUIRED**:

A. Permit Required: No person shall use, conduct or operate in the City a portable confectionery store or mobile food vendor or food truck without having obtained a permit from the City.

B. Exemption: This Chapter shall not apply to those motor vehicles used exclusively for the regular delivery of fluid milk and related dairy products to homes. (Ord. 82-9, 8-23-1982) This chapter shall also not apply to temporary food truck or portable confectionery stores for specific community events.

3-6-3: **APPLICATION FOR PERMIT:**

A. Form: An application for a permit shall be submitted to the Deputy Clerk on forms prepared by the Deputy Clerk.

B. Required Information: The applicant shall file with the application such information as will clearly establish the times and the places where the applicant desires to operate such portable stores or mobile food vendors/food truck; shall describe the physical characteristics of such portable stores or mobile food vendors/food truck; shall describe the wares to be sold and any other information the Deputy Clerk may require.

C. Submission: Each application for a permit required hereunder shall be submitted to the Deputy Clerk.

D. Each mobile food vendors/food truck shall not receive a permit under this section who has not first received a license from the State and/or County Health Department authorizing such food preparation and sales. Any conditions of the State Health Department shall be incorporated into the license issued under this Section, in addition to any other conditions imposed by the City of Sartell.

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E. Issuance: Permits shall not be issued if the administration finds that the health, welfare or safety of the public will be endangered by the operation of a portable confectionery store or mobile food vendors/food truck. (Ord. 82-9, 8-23-1982)
F. Each vehicle shall have current license plates, pass any required DOT inspections, and contain a current certified fire extinguisher as required.

3-6-4: **PERMIT FEES; TRANSFERABILITY**:

A. Fee: The fee for each permit shall be as established by Council resolution.
B. Proration; Refund; Transferability: There shall be no prorating or refunding of permit fees, nor shall a permit be transferable.
C. Separate Permit Required: A separate permit shall be required of each portable confectionery store or mobile food vendors/food truck regardless of ownership.

3-6-5: **TERM OF PERMIT**: All permits issued hereunder shall expire January 1 of each year.

3-6-6: **INSURANCE:**

A. Liability insurance Required: The applicant shall carry a general policy of liability insurance in which the City is named coinsured which shall provide a limit of coverage of not less than three hundred thousand dollars/one hundred thousand dollars ($300,000.00/ $100,000.00) for bodily injury and twenty five thousand dollars ($25,000.00) for property damage.
B. Notice Of Cancellation: The insurance policy required by this Section shall further provide that no cancellation of said insurance policy, for any cause, may be made by the insured or the insurance company without first giving thirty (30) days' notice to the City, in writing, of the intention to cancel. Such notice shall be addressed to the Deputy Clerk by registered mail or shall be delivered to the Deputy Clerk personally.

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3-6-7: **SOUND DEVICES**: No person operating a portable confectionery store shall shout, make any cry out, blow a horn, ring a bell or use any sound device, including any loud speaking radio or sound amplifying system upon any of the streets, alleys, parks or other public places of the City or upon any private premises in the City where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or public places, for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell, unless prior approval with conditions are received from the City Administrator.

3-6-8: **SALES WHILE IN MOTION**: At no time shall any sales be made from a portable confectionery store or food truck while it is in motion.

3-6-9**:** **FOOD TRUCK OR MOBILE FOOD VENDOR OPERATIONS:**

A. No external signage, other than such signage directly attached to the vehicle, may be utilized.
B. No external seating may be utilized.
C. No other equipment may be utilized that is not fully contained within the vehicle.
D. Any generator in use must be self-contained and fully screened from view.
E. Operations shall be limited to the number of days indicated on the applicant's State License
F. Applicant shall provide waste disposal for litter and garbage generated by the operation of the Food Truck or Vehicle, and shall clean all such litter and garbage before moving from the location.
G. The Food Truck or Vehicle shall obey the orders of any traffic control officer, peace officer, or inspector, and shall be open to inspection during all open hours.
H. Vehicle size shall not exceed ten (10) feet in height, nor twenty five (25) feet in length.
I. Hours of operation shall occur from 7:00 AM and 11:00 PM.
J. There shall be no overnight parking of food trucks on public right of way.

3-6-10**:** **FOOD TRUCK OR MOBILE FOOD VENDOR LOCATION:**

A. A properly licensed Food Truck or Mobile Food Vendor may operate on eligible public streets when occupying no more than two parallel parking spaces.
B. In no cases, may a Food Truck or Vehicle operate in a traffic lane, on a sidewalk, or in any location, which causes an obstruction to traffic.
C. No Food Truck or Vehicle may operate on a public street within fifty (50) feet of the intersection of two streets or within thirty (30) feet of the intersection of a public street and private driveway opening.
D. A Food Truck or Vehicle may operate within a parking lot with written permission of the property owner or owner's authorized representative.
E. No food truck shall operate within 50 feet of an existing restaurant located within the city.
F. The City Council, may approve other locations on a temporary basis

CHAPTER 7

PEDDLERS, SOLICITORS AND ITINERANT MERCHANTS

SECTION:

3-7-1: Solicitors and Peddlers
3-7-2: Definitions and Interpretation
3-7-3: Exception
3-7-4: License
3-7-5: Application
3-7-6: Fees
3-7-7: Procedure
3-7-8: Bond
3-7-9 Exemption
3-7-10 Ineligibility
3-7-11 Suspension
3-7-12 Transferability
3-7-13 Registration
3-7-14 Prohibited Activities
3-7-15 Exclusions
3-7-16 Violations and Penalties
3-7-17 Separability

3-7-1: **SOLICITORS AND PEDDLERS:** An ordinance relating to peddlers, solicitors, and transient merchants and exercising the City's authority to regulate the nuisance created by such business practices under the City's general police powers and as specifically authorized by Minnesota Statutes Sections 329.06,329.15, and 347.02.

3-7-2: **DEFINITIONS AND INTERPRETATION:** Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and the neuter, and vice-versa. The term "shall" means mandatory, and the term "may" is permissive. The following terms shall have the definitions given to them:

PEDDLER — The term "peddler" shall mean a person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of offering for sale, displaying to exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, or other personal property, that the person is carrying or otherwise transporting. The term peddler shall mean the same as the term hawker.

SOLICITOR — The term "solicitor" shall mean a person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property, or services, of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. The

term solicitor shall mean the same as the term canvasser.

TRANSIENT MERCHANT	The term "transient merchant" shall mean a person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering goods, wares, products, merchandise, or other personal property, and who does not remain or intend to remain in any one location for more than seven (7) consecutive days.

3-7-3: **EXCEPTIONS TO DEFINITIONS:** For the purpose of the requirements of this ordinance, the terms "peddler," "solicitor," and "transient merchant" shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property, to a retailer of the item(s) being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, nor shall they apply to may person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route. In addition, persons conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, as well as those personal participating in an organized multi-person bazaar or flea market, shall be exempt from the definitions of peddlers, solicitors, and transient merchants, as shall be anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court ordered sale. Exemption from the definitions for the scope of this ordinance shall not excuse any person from complying with any other applicable statutory provision or local ordinance. (Minnesota Courts have held that the above exceptions are not nuisances intended to be regulated by this type of ordinance. *See e.g.,* Excelsior Baking Co. v. City of Northfield, 77N.W.2d 188 (Minn. 1956) (delivery routes); City of Briggs, 88 N.W.2d 984 (relating to wholesalers).

3-7-4: **CITY LICENSE REQUIRED:** Except as otherwise provided for by this ordinance, no person shall conduct business within the City limits of this municipality, as either a peddler or a transient merchant without first having obtained a license therefore in compliance with the provisions of this Ordinance. (Minnesota case law does not allow solicitors to be licensed. *See e.g.* City of Waseca V. Braun, 288 N.W. 229 (Minn. 19.9). Solicitors are still required to be licensed pursuant to section XII of this Ordinance).

3-7-5: **APPLICATION:** Application for a city license to conduct business as a peddler or transient merchant shall be made at least fourteen (14) regular business days before the applicant desires to begin conducting business. Application for a license shall be made on a form approved by the City Council and available from the Office of the Deputy Clerk. All applications shall be signed by the applicant. All applications shall include the following information:

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A. Applicant's full legal name.
B. All other names under which the applicant conducts business or to which Applicant officially answers.
C. Names and descriptions of all the persons proposed to be used in this City during the period for which application is made.
D. Full address of applicant's permanent residence.
E. Telephone number of applicant's permanent residence.
F. Full legal name of any and all business operation(s) owned, managed, or Operated by the applicant, or for which the applicant is an employee or agent.
G. Full address of applicant's regular place of business (if any);
H. Any and all business related telephone numbers (s) of the applicant.
I. A brief description of the name of the business and the goods to be sold.
J. License number or numbers of vehicles transporting applicants.
K. The dates during which the applicant intends to conduct business.
L. Any and all address(es) and telephone number(s) where the applicant can be reached while conducting business within the City, including the location where a transient merchant intends to set up business.

M. A statement as to whether or not the applicant has been convicted within the last five years of a felony, gross Misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses.
N. A list of the three (3) most recent locations where the applicant has conducted business as a peddler or transient merchant.
O. Proof of any required county license.
P. Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant.
Q. All additional information deemed necessary by the City Council.

3-7-6: **FEE:**

A. All applications for a license under this ordinance shall be accompanied by the fee established by the City's fee schedule as adopted from time to time by the ordinance passed by the Council.
B. All annual licenses shall be issued so as to expire December 31st of each year.
C. Where the license application is for the primary benefit of bonafide charities or non-profit ventures, the Council may, at its option, waive the requirements of this Ordinance as to fees.

3-7-7: **PROCEDURE:** Upon receipt of the completed application and payment of the license fee, the Deputy Clerk shall forward the application to the Chief of Police within two (2) regular business days of receipt. An application shall be determined to be complete only if all required information is provided. The Deputy Clerk, within two regular business days of receipt, shall determine if the application is complete. If the clerk determines that the application is incomplete, the clerk shall inform the applicant of the required necessary information which is missing. The Chief of Police shall review the application and order any investigation, including background checks, necessary to verify the information provided with the application and for the protection of the public good. The review shall not exceed five (5) regular business days of receipt from the Deputy Clerk.

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A. If after result of such investigation, the character and business responsibility of the applicant are found satisfactory, the Chief of Police shall endorse on the application his/her approval, and return said application to the Office of the Deputy Clerk, who shall, upon payment of the license fee, deliver to the applicant the license. Such license shall contain the signature and seal of the issuing officer, show the amount paid, the date of issuance and the length of time the same shall be operative. The Deputy Clerk shall keep a permanent record of all licenses issued.

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B. If after result of such investigation, the character and business responsibility of the applicant is found to be unsatisfactory, the Chief of Police shall endorse on such application his/her disapproval and reasons for the same. The applicant shall be notified in writing of the reason for denial, and his or her fight to appeal the denial by requesting, within ten (10) days of receiving the denial a public hearing before the City Council within twenty (20) days of the date of request.
C. Any applicant who is issued a denial under paragraph B of section VII, may be issued a temporary permit by furnishing a bond as provided in Section VIII.

3-7-8: **BONDS:** Where an applicant for license has been denied under the provisions of Section VII of this ordinance, the applicant may file with the Deputy Clerk a surety bond, running to the City in the amount of $ 10,000.00 with corporate surety acceptable to and approved by the City Attorney, conditioned that the applicant shall comply fully with all the provisions of the ordinances of the City of Sartell and the statutes of Minnesota regulating the business of solicitors and peddlers and guaranteeing to any citizen of this municipality that all money paid as a down payment will be accounted for and applied according to the representations of the solicitor and further guaranteeing to any citizen of Sartell doing business with said solicitor, that the property purchased will be delivered according to the representations of said solicitor, upon the filing of which bund and payment of the fees provided, a license may be issued. Action on said bond may be brought in the name of the City to use or benefit of the aggrieved person.

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3-7-9: **LICENSE EXEMPTION:** No license shall be required for any person to sell or attempt to

sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm. No license shall be required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when such activity is for the purpose of exercising that person's State or Federal Constitution rights (i.e., freedom of speech, press, religion, etc.) except that this exemption may be lost if the person's exercise of Constitutional rights is merely incidental to a commercial activity.

3-7-10: **INELIGIBILITY FOR LICENSE:** The following shall be grounds for denying a license under this ordinance.

A. The failure of the applicant to obtain and show proof of having obtained any required County license.
B. The failure of the applicant to truthfully provide any of the information requested by the City as part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of application.
C. The conviction of the applicant within the past five years from the date of application, for any violation of any Federal or State statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner or that will not adversely affect the health, safety, and welfare of the residents of the city. Such violations shall include, but not be limited to: burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.
D. The revocation within the past five years of any license issued to fire applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant.
E. The applicant is determined to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than two (2) complaint(s) against the applicant with the Better Business Bureau, the Attorney General's Office, and other similar business or consumer rights office or agency, or the City of Sartell, within the preceding twelve (12) months, or five (5) such complaints filed against the applicant within the preceding five (5) years.

3-7-11: **SUSPENSION AND REVOCATION:** Any license issued under this section may be suspended or revoked at the discretion of the Chief of Police for violation of any of the following:

A. Fraud, misrepresentation, or incorrect statements on the application form.
B. Fraud, misrepresentation, or false statements made during the course of the licensed activity.
C. Conviction of any offense for which granting of a license could have been denied under Section 3-7-10 of this Ordinance.
D. Violation of any provision of this Ordinance. The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee, shall serve as a suspension or revocation of each such authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

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3-7-12: **TRANSFERABILITY:** No license issued under this ordinance shall be transferred to any person other than the person to whom the license was issued.

3-7-13: **REGISTRATION:** All solicitors, and any person exempt from the licensing requirement of this ordinance under Section VIII shall be required to register with the City. Registration shall be made on the same form required of a license application, but no fee shall be required. Immediately upon completion of the registration form, the Deputy Clerk shall issue to the registrant a Certificate of Registration as proof of the registration. Certificates of Registration shall be non-transferable.

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3-7-14: **PROHIBITED ACTIVITIES:** No peddler, solicitor, or transient merchant shall conduct business in any of the following manners:

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

structure.

B. Obstruction the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk, or other public right-of-way.
C. Conducting business in such a way as to create a threat to the health, safety, and welfare of any individual or the general public.
D. Conducting business before eight o'clock in the morning (8:00 a.m.), or after eight o'clock at night (8:00 p.m.
E. Failing to provide proof of license registration, and identification, when requested; or using the license or registration of another person.
F. Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the City solely based on the City having issued a license or certificate of registration to that person.
G. Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating, or abusive.

3-7-15**:** **EXCLUSION BY PLACARD**. No peddler, solicitor, or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor, or transient merchant when the property is marked with a sign or placard at least three and three-quarter (3-3/4) inches long and three and three-quarter (3-3/4) inches wide with print of at least 48 point in size stating "No Peddlers, solicitors, or transient merchant, or Peddlers, Solicitors, and Transient Merchants Prohibited," or other comparable statement. No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this section.

3-7-16**:** **VIOLATIONS AND PENALTIES:** Any person who violates any provision of this ordinance shall be guilty of a misdemeanor and upon conviction of any violation shall be subject to a free not to exceed seven hundred dollars ($700) or a jail sentence not to exceed ninety (90) days, or both, plus the cost of prosecution. Each day a violation exists shall constitute a separate violation for the purposes of this section.

3-7-17: **SEPARABILITY:** Should any section, clause, or portion of this ordinance be found invalid, unenforceable, or unconstitutional by a Court of competent jurisdiction, such finding shall not apply to any other section, clause, or portion of this ordinance, unless the court's findings specifically provides otherwise.

CHAPTER 8

JUNK DEALERS

SECTION:

3-8-1: License Required
3-8-2: Application for License
3-8-3: License Fee
3-8-4: Bond Required
3-8-5: Term of License; Renewal
3-8-6: Action By Council
3-8-7: Conditions of Operation
3-8-8: Revocation of License

3-8-1: **LICENSE REQUIRED**: No person shall establish, maintain and/or operate a junk business, junk yard, general wrecking yard or automobile wrecking yard or business within the limits of the City without first obtaining a license to do so from the City Council.

3-8-2: **APPLICATION FOR LICENSE**: Written application shall set forth the name, address and present business of the applicant, the legal description of the premises upon which it is proposed to conduct said business and the general nature of such business.

38-3: **LICENSE FEE:** Such application shall be accompanied by a license fee as established by Council resolution.

3-8-4: **BOND REQUIRED:** Such application shall also be accompanied by a bond running to the City in the amount as established by Council resolution, which shall guarantee that said applicant, upon being issued the license applied for, will abide by the general law regulating said businesses and all special ordinances, resolutions, rules and regulations laid down by the Council affecting the operation of said business, and upon failure to do so, the bond shall further provide for the forfeiture thereof.

3-8-5: **TERM OF LICENSE; RENEWAL**: All permits and licenses shall expire on December 31 next following their issuance and must be renewed prior to January 1 from year to year upon new application to the Council as hereinbefore provided.

3-8-6: **ACTION BY COUNCIL**: The Council may at its option, grant or reject any such application. Failure to act on such application by the Council within thirty (30) days will be deemed rejection of that application or denial of license.

3-8-7: **CONDITIONS OF OPERATION**: Any person operating such junk yard or automobile wrecking business shall keep the premises in a neat and orderly condition. All such premises shall be enclosed by a tight board fence at least ten feet (10') high which shall be kept in neatly painted condition. No junk or auto part shall be allowed to remain outside such fence.

3-8-8: **REVOCATION OF LICENSE**: The Council shall have the right to revoke such license at any time for cause but only after a hearing, notice of which shall be served upon the owner of such business at least ten (10) days before said hearing.

CHAPTER 9

PLUMBERS

SECTION:

3-9-1: Licensing And Permit Requirements
3-9-2: Application For License Verification Certificate; Bond
3-9-3: License Verification Fee
3-9-4: Term Of License Verification Certificate
3-9-5: Bond Required
3-9-6: Issuance Of Certificate; Master Plumber
3-9-7: Responsibility Of Licensee
3-9-8: Permits Requirements; Fee
3-9-9: Penalty

3-9-1: **LICENSING AND PERMIT REQUIREMENTS:**

A. Master/Journeyman Plumbers: Except as specifically provided herein, no person shall engage in or work at the business of a master plumber or journeyman plumber within the City unless the work is performed by or under the supervision of a person licensed by the State Board of Health.
B. Plumbing Materials and Supplies; Dealing, Selling: No person shall engage in the business of installing plumbing in connection with the dealing and selling of plumbing material and supplies unless at all times a licensed plumber who shall be responsible for proper installation is in charge of the plumbing work of such person.
C. Single-Family Residence Owner Exempt From Licensing; Permit Required: The owner of a single-family residential dwelling unit doing plumbing work on the dwelling unit is exempt from the licensing requirements of this Chapter; provided, however, the owner shall be required to obtain a permit as herein provided prior to the commencement of the work and shall specify on the application that the person doing the plumbing work is the owner of the dwelling unit and exempt from the license requirements of this Chapter.

3-9-2: **APPLICATION FOR LICENSE VERIFICATION CERTIFICATE; BOND:**

A. Application: The application for a license verification certificate shall be provided to the City.
B. Required Information: The application shall set forth the name and place of business of the applicant. The applicant may be required to furnish evidence satisfactory to the City Council that applicant or the licensed personnel of the applicant is of good moral character and competent to do plumbing of all kinds in a skillful and workmanlike manner.
C. State License And Bond: The applicant shall provide to the City a copy of their State license including the required State bond, as provided for in Section 3-9-6 of this Chapter.

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3-9-3: **LICENSE VERIFICATION FEE:** No license verification certificate shall be issued to any person to carry on business as a licensed plumber except upon the payment of the license verification fee which shall be established by resolution of the City Council.

3-9-4: **TERM OF LICENSE VERIFICATION CERTIFICATE**: Such license, when issued, shall be in force until December 31 following the date of issuance.

3-9-5: **BOND REQUIRED**:

A. Amount; Indemnification: A bond signed by the applicant and a corporate surety in the sum of five thousand dollars ($5,000.00) payable to the City, conditioned upon the applicant's compliance with the laws, ordinances and rules regulating plumbing, and indemnifying the City against loss or damage occasioned by any accident, neglect or unskillfulness on the part of the applicant or the

applicant's employees in the performance of any work or in the selection or use of any improper materials for such work is required

B. Approval: Such bond shall be approved by the City Council before a license verification certificate is granted.

3-9-6: **ISSUANCE OF CERTIFICATE; MASTER PLUMBER**: License verification certificates will be issued only to persons licensed by the Minnesota State Board of Health as master plumbers or to persons having at all times and continuing to have in their employ one or more master plumbers.

3-9-7: **RESPONSIBILITY OF LICENSEE**: A licensed plumber who connects with the public sewer, heating or water systems shall be responsible for any injury caused to such system or the public street and pavements and, in case of injury or damage thereto, shall restore the same to the satisfaction of the City.

3-9-8: **PERMIT REQUIREMENTS; FEE:**

A. Permits Required: It shall be unlawful to construct, install, alter, or repair any plumbing, drain, vent, sump, water closet, sink, lavatory or any other plumbing fixture within the City, without first obtaining a permit from the City to do such work.

B. Application For Permit: Application for such permit shall be submitted to the City and accompanied by the established fee.

C. Permit Fee: The fee for such permit shall be established by resolution of the City Council.

D. Exception: No permit shall be required in case of repairs not affecting sanitation such as mending of leaks in faucets, valves, or water supply pipes, mending of broken fixtures, tanks, releasing frozen pipes or rodding and flushing of any house sewer or drain.

3-9-9: **PENALTY:**

A. Violation: A violation of any provision of this Chapter or a license issued pursuant to this Chapter is a misdemeanor and, upon conviction thereof, shall be punished by a fine and costs of prosecution, or by imprisonment or both, up to the maximum allowed under State law.

B. Enforcement: Any violation of this Chapter or a license issued pursuant to this Chapter may, in addition to criminal prosecution, also be enforced by civil action, injunction, action to compel performance, restoration, abatement or other appropriate action as determined and authorized by the City Council.

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CHAPTER 10

GAS INSTALLERS

SECTION:

3-10-1: License Required; Fee
3-10-2: Examination of Applicant
3-10-3: Bond Requirement
3-10-4: Insurance Requirements
3-10-5: Permit Requirements; Fee
3-10-6: Emergency Service
3-10-7: Penalty

3-10-1: **LICENSE REQUIRED; FEE:** No person shall repair, alter or install any gas piping or gas burning device which is to be connected to the general gas distributing system of a utility company operating in the City, without first having obtained a license from the Deputy Clerk, paying the license fee established by City Council resolution, furnishing a bond as hereinafter provided and furnishing evidence of insurance as hereinafter provided.

3-10-2: **EXAMINATION OF APPLICANT:**

A. Examination: Each applicant must pass a written examination to determine his or her qualifications before receiving a license.
B. Fee: Such examination shall be conducted by the Building Official after payment in the amount established by the current fee schedule.
C. Exception: In lieu of testing by the City, proof of current licensing from the City of St. Cloud will be sufficient to meet the requirements.

3-10-3: **BOND REQUIREMENT:**

A. Amount: Before a license is granted to an applicant, the applicant shall furnish a bond, approved by the City Council in the penal sum of five thousand dollars ($5,000.00), duly executed by the applicant, as principal, and by a corporation authorized to issue such bond in the State, as surety.
B. Bond Provisions: Such bond shall provide that:

1. Said principal in all materials, equipment and appliances furnished by said principal, and in all work done or performed by said principal, in installing, altering, repairing, servicing gas burners, gas burning equipment and appliances, within the boundaries of the City, shall fully conform to and comply with the requirements of this Chapter; and
2. Said bond shall be payable to the City, as oblige, for the use and benefit of the City, and of all persons to whom the principal has furnished any such materials, equipment, or appliances or for whom the principal shall have done or performed any such work.

3-10-4: **INSURANCE REQUIREMENTS**: The applicant shall also furnish, before the license is granted, a policy of liability and property damage insurance, together with a policy of products liability insurance and completed operations insurance, each of which shall provide for the payment of not less than two hundred thousand dollars ($200,000.00) for injuries to or death of one person, and not less than six hundred thousand dollars ($600,000.00) on account of one accident, and not less than two hundred thousand dollars ($200,000.00) for property damage. Evidence of workers' compensation insurance coverage shall also be provided if the applicant has one or more employees.

3-10-5: **PERMIT REQUIREMENTS; FEE:**

A. Permit Required: A permit for the installation or connection of any gas fired burner, apparatus, equipment or appliance, with the general gas distribution system of the utility company holding the

franchise therefor, must be obtained from the City prior to any work.

D. Permit Fee: The permit fee shall be determined from time to time by City Council resolution.
E. Materials And Methods: The installation or connection must be done using approved materials and recognized installation methods complying with the State Mechanical Code.
D. Performance Test: The City Building Inspector shall conduct a furnace or appliance performance test, prepare a report containing the results and be present for a leakage test of the system in addition to verifying materials and methods. Such testing shall be done pursuant to the State Mechanical Code.

3-10-6: **EMERGENCY SERVICE:** Nothing in this Chapter shall be construed to limit the right of the gas utility operating in the City and its authorized employees to render necessary service in the event of an emergency or to make necessary adjustments to installed gas equipment.

3-10-7: **PENALTY:**

A. Violation: Any person who commits any of the following shall be guilty of a misdemeanor:

1. Commence the installation, alteration, repair or connection of any gas burning apparatus or appliance without having a City installer's license in effect.
2. Install or connect any gas burner or gas burning apparatus or appliance which does not meet the requirements of this Chapter.
3. Install or connect any gas burner or gas burning apparatus or appliance in violation of the provisions of this Chapter.
4. Violate any other provision of this Chapter.

B. Penalty: A violation of any provision of this Chapter or a license issued pursuant to this Chapter is a misdemeanor and upon conviction thereof shall be punished by a fine and costs of prosecution, or by imprisonment, or both, up to the maximum allowed by State law.
C. Enforcement: Any violation of this Chapter or a license issued pursuant to this Chapter may, in addition to criminal prosecution, also be enforced by civil action, injunction, action to compel performance, restoration, abatement or other appropriate action as determined and authorized by the City Council.

Deleted: Clerk-Treasurer

CHAPTER 11

ALARMS

SECTION:

3-11-1: Purpose
3-11-2: Definitions
3-11-3: Fees, Corrective Action, No Response List
3-11-4: Payment of Fees
3-11-5: Duties of Security Alarm Users
3-11-6: Deliberate False Alarms
3-11-7: Confidentiality
3-11-8: Police Dispatch Center
3-11-9: Exceptions
3-11-10: Enforcement and Penalties

3-11-1: **PURPOSE:** The City's Police Department has no obligation to respond to private alarms, they do so only as a public service. The alarms can serve a beneficial function to those who chose to install them in their business or residences. This benefit must be balanced against the costs incurred by the City as a result of false alarms. The intent of this ordinance is to reduce the number of false alarms occurring within the City and the resultant waste of City resources by providing for corrective administrative action, including fees, listing for no emergency response to alarms and criminal penalties for violations.

3-11-2: **DEFINITIONS:** For purposes of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section:

ALARM SYSTEM: Any device or system which transmits a signal visibly, audibly, electronically, mechanically or by a combination of these methods which indicates a hazard or occurrence requiring urgent attention and to which police are expected to respond. The alarm system shall not include personal, direct telephone call requesting emergency services from a person at the premises in question. Automobile alarm devices shall not be considered an alarm system under the terms of this ordinance.

ALARM USER: The person, firm, partnership, association, corporation, company, or organization of any kind in control of any building, structure, or facility wherein an alarm system is maintained.

POLICE DISPATCH CENTER: The facility used to receive emergency requests for service and general information from the public to be dispatched to Police patrol units.

INDIRECT ALARM TRANSMITTAL: Any security alarm system which does not directly terminate in the Police dispatch center, but which causes a third party, answering services or central station to notify the Police dispatch center of the alarm activation.

FALSE ALARM: An alarm signal eliciting a response by Police personnel when a situation requiring a response does not, in fact, exist and which is caused by the activation of the alarm system through mechanical failure, alarm malfunction, improper installation or the inadvertence of the owner or lessee of an alarm system or of his/her employees or agents. False alarms do not include alarms caused by climatic conditions or as tornadoes, thunderstorms,

utility line mishaps, violent conditions of nature of any other conditions which are clearly beyond the control of the alarm manufacturer, installer, or owner.

AUTOMATIC DIALING DEVICE: A device, which is interconnected to a telephone line and is programmed to select a predetermined telephone number and transmit by voice message or code signal an emergency message indicating a need for emergency response.

3-11-3: **FEES, CORRECTIVE ACTION, NO RESPONSE LIST:** For police response to any false alarm, the City shall charge and collect from the alarm user such fees according to the City fee schedule. During a one-year period of time, commencing with the first response, the following police response and penalty structure will apply:

A. For response to premises, at which no other false alarm has occurred within the preceding one-year period, hereinafter referred to as a "first response," no civil penalty shall be charged. Upon first response, notice of conditions and requirements of this chapter shall be given to the alarm user or occupant of the premises on which the false alarm occurred and upon which the alarm system is located.
B. For additional responses to the premises a civil penalty according to the City fee schedule shall be charged. The alarm user shall, within thirty (30) days after notice to do so, make a written report to the Chief of Police, or his/her designee, setting forth:

1. The cause for such false alarm.
2. The corrective action taken.
3. Whether and when such alarm has been inspected by authorized service personnel.
4. Such other information as the Chief of Police, or his/her designee, may reasonably require to determine the cause of such false alarm, and any mitigating circumstances and corrective action necessary.

Any alarm user which is required by the Police Department to pay a user fee as the result of a false alarm or alarms may make a written appeal of the false alarm charge to the Chief of Police, or his/her designee, within thirty (30) days of the notice by the Police Department of the false alarm charge. Following review and determination by the Chief of Police, or his/her designee, such decision may be appealed to the City Administrator who will have the authority to make a final determination as to whether the appellant is to be charged with a false alarm or alarms.

3-11-4: **PAYMENT OF FEES:** Payment of penalties provided for under Section 3-11-3 must be paid to the Chief of Police or his/her designee within 30 days from the date of the notice by the City to alarm user. Failure to pay the penalty within 30 days' notice will cause the alarm user to be considered delinquent and subject to a late penalty equal to the original user fee.

If the alarm user fails to provide the information required in Section 3-11-3, Subsection B within the prescribed time or fails to pay the penalty together with any late fee within 60 days from the date of notice by the City to alarm user, the Police Department will inform the alarm user that THE POLICE DEPARTMENT WILL NO LONGER RESPOND TO THEIR ALARM SYSTEM. The "restricted response" status will last until all information has been provided and penalties and late fees have been paid.

3-11-5: **DUTIES OF SECURITY ALARM USERS:** It shall be the responsibility of the security alarm users to instruct employees or others who may have occasion to activate an alarm that alarms systems are to be used in emergency situations to summon an immediate police response. Alarm users shall also instruct appropriate employees as to the operation of the alarm system, including setting, activation and resetting of the alarm. All instructions pertaining to alarm systems and procedures shall be in written form, suitable for distribution to employees. The user shall be responsible for maintaining the alarm system in proper working order.

3-11-6: **DELIBERATE FALSE ALARMS:** It shall be unlawful for any person to deliberately and without just cause activate an alarm system to summon the police in a non-emergency situation. Nothing herein contained shall apply to the periodic testing of direct transmittal alarms when sufficient notice is given to the Police Dispatch Center.

3-11-7: **CONFIDENTIALITY**: All information submitted in compliance with this ordinance shall be held in confidence and shall be deemed a confidential record exempt from discovery to the extent permitted by law. Subject to requirements of confidentiality, the Chief of Police, or his/her designee, may develop and maintain statistics for the purpose of ongoing alarm system evaluation.

3-11-8: **POLICE DISPATCH CENTER:** No alarm user shall install, maintain or operate automatic dialing devices which are set or programmed to directly dial, activate, call or in any other manner make direct contact with any emergency telephone line or radio circuit of the Police Dispatch Center.

3-11-9: **EXCEPTIONS:** The penalties of this ordinance shall not be applied to any alarm system used, operated or installed in any premises or place owned, leased, occupied or under the control of the United States Government, the State or any of its political subdivisions, including the counties and school districts in which the City is located together with any officer, agent or employee of the aforesaid governmental agencies while acting or employed in their official capacity.

3-11-10: **ENFORCEMENT AND PENALTIES:** Failure or omission to comply with section 3-11-6 or 3-11-8 of this ordinance shall be deemed a misdemeanor.

CHAPTER 12

THERAPEUTIC MASSAGE ESTABLISHMENTS AND MASSSAGE THERAPISTS

3-12-1: Purpose
3-12-2: Findings of the City Council
3-12-3: Definitions
3-12-4: License Required
3-12-5: Exceptions
3-12-6: License Application
3-12-7: Issuance of Licenses for New Construction and Alterations of Existing Structures
3-12-8: Persons Ineligible for Initial License
3-12-9: General License Restrictions
3-12-10: Inspection by City Officers and Identification of Employees
3-12-11: Advertising
3-12-12: Responsible for Conduct
3-12-13: Non-Renewal, Suspension or Revocation of License
3-12-14: Appeal and Hearing Procedure
3-12-15: Immediate Suspension of License
3-12-16: Ability to Reapply After Revocation

3-12-1 **PURPOSE:** The purpose of this ordinance is to prohibit unlicensed massage businesses and services to the public except those licensed as therapeutic massage establishments and massage therapists pursuant to this section. The licensing regulations prescribed herein are necessary to protect businesses that are operating legitimate establishments, and to protect the health, safety, and general welfare of the community.

3-12-2 **FINDINGS OF THE CITY COUNCIL:** The City Council makes the following findings regarding the need to license therapeutic massage establishments and therapists and to prohibit non-licensed massage businesses and services to the public:

A. Persons who have recognized and standardized training in therapeutic massage and bodywork can provide a legitimate and necessary service to the public.
B. Health and sanitation regulations governing therapeutic massage establishments and therapists can minimize the risk of the spread of communicable diseases and can promote overall health and sanitation.
C. Restrictions on unlicensed therapeutic massage establishments and therapists can minimize the risk that such businesses and persons will facilitate prostitution and other criminal activity in the community.
D. Massage services provided by persons with no specialized and standardized training in massage can endanger citizens.
E. Unlicensed massage businesses which employ persons or utilize independent contractors with no specialized and standardized training can tax city law enforcement services because such businesses are more likely to be operated as fronts for prostitution and other criminal activity than operations established by persons with standardized training.
F. The training of professional massage therapists at accredited institutions is an important means of ensuring the fullest measure of protecting the public health, safety, and welfare.

3-12-3 **DEFINITIONS:**

ACREDITED INSTITUTION: An educational institution holding accredited status approved by the United States Department of Education or Minnesota Office of Higher Education. Accreditation outside of these institutions will be reviewed and approved or denied on a case by case basis by the City.

ACCREDITED PROGRAM: A professional massage program or educational institution accredited by the Commission on Massage Therapy Accreditation (COMTA)or by an accrediting body recognized by the United States Department of Education. Accreditation outside of these institutions will be reviewed and approved or denied on a case by case basis by the City.

ISSUING AUTHORITY: The City Council grants the authority to issue and renew licenses pursuant to this Section to the Health Director or designee.

MASSAGE, MASSAGE THERAPY, BODYWORK: A healthcare service involving the external manipulation or pressure of soft tissue for therapeutic purposes. Massage therapy includes techniques such as tapping, compressions, friction, gliding, kneading, shaking, and fascial or connective tissue stretching, with or without the aids of superficial heat, cold, water, lubricants, or salts. Massage therapy does not include diagnosis or attempts to adjust or manipulate any articulations of the body or spine or mobilization of these articulations using thrusting force. This includes, but is not limited to many manual therapies, such as massage therapy, Asian bodywork therapies or movement therapies. While these are recognized as separate disciplines, all are subject to the massage and bodywork establishment license ordinance.

MASSAGE THERAPIST: An individual who practices or administers massage to the public who can demonstrate to the issuing authority that he or she:

1. Has current insurance coverage of $1,000,000.00 for professional liability in the practice of massage.
2. Is affiliated with, employed by, or owns a therapeutic massage establishment licensed by the City.
3. Has completed certified therapeutic massage training with content that includes subjects of anatomy, physiology, healthcare universal precautions, ethics, massage theory and research, and massage practice from an Accredited Institutions or Accredited Program approved by the Issuing Authority.

OPERATE: To own, manage, conduct, or to have control, charge, or custody over.

PERSONS: Any individual, firm, association, partnership, corporation, joint venture, or combination of individuals.

THERAPEUTIC MASSAGE ESTABLISHMENT: Any individual, firm, association, partnership, corporation, joint venture, or combination of individuals that operates a business that employs or hires or independently contracts with licensed therapeutic massage therapists to provide therapeutic massage within the City for a fee or other consideration. For the purposes of this ordinance, this includes Out-Call Massage Establishments or Mobile Massage establishments that engage in or performs massage for any form of consideration or gratuity at a location other than a commercial or home-occupation Massage Establishment.

WITHIN THE CITY: A physical presence as well as mobile massage operations in which the establishment premises, although not physically located within the City, serves as a point of assignment of employees or independent

contractors who respond to requests for services from within the City.

3-12-4: **LICENSE REQUIRED:**

A. Therapeutic Massage Establishment License: It shall be unlawful for any therapeutic massage establishment to operate, engage in, or carry on, within the City, massage services to the public for consideration without first having obtained a license from the City pursuant to this Section. The owner/operator of a therapeutic massage establishment need not be licensed as a therapeutic massage therapist if he or she does not at any time practice or administer massage to the public.
B. Massage Therapist License: It shall be unlawful for any massage therapist to practice, administer, or provide massage services to the public for consideration within the City without first having obtained a license from the City pursuant to this Section.

3-12-5: **EXCEPTIONS:** A therapeutic massage establishment or therapist license is not required under this section for the following persons and places where massage services are provided by or under the direction of any of the following:

A. Persons duly licensed or registered in this state to practice medicine, surgery, osteopath, chiropractic, physical therapy, podiatry, acupuncture, acupressure, Reiki, Reflexology, or registered nurses.
B. Persons duly licenses by this state as beauty culturists or barbers who do not give or hold themselves out to give massages or other services other than those customarily given in such shops and places of business for beautification only. Massages customarily given by beauty culturists or barbers will be limited to the areas of head, neck and shoulder; hand and lower arms to the elbow; foot and ankle.
C. Places duly licensed or operating as a hospital, clinic, nursing home, hospice, or group home established for the hospitalization or care of human beings provided the massage is administered only to the residents or patients of the facility as part of their care and not provided as part of a separate service.
D. Athletic coaches, directors, and trainers employed by public or private schools.
E. Accredited institutions and students of accredited institutions which provide an accredited program of study or course work in massage therapy, provided that the massage is provided during and as a part of the course or clinical component of the institution's program or course work and students are supervised by an instructor while performing the massage.

3-12-6: **LICENSE APPLICATION:** An application for a therapeutic massage establishment license shall be made on a form supplied by the City and shall contain the following information:

A. Applicant and Owner Information:

1. Whether the applicant is an individual, corporation, partnership, or other form of organization.
2. Full name, address, date of place of birth, and telephone number of the applicant, all owners, and operators, including the designated on-site manager or agent of the applicant.
3. Whether the applicant, owners and/or operators have ever used or been known by a name other than the applicant's name, and if so, the name or names and information concerning dates and places where used. This includes commonly nicknames.
4. Whether the applicant is a citizen of the United States or a resident alien or has the legal authority to work in the United States.
5. The type, name, location, and dates of every business or occupation the applicant has been engaged in during the preceding 10 years.
6. Whether the applicant is currently licensed in other communities to perform massage therapy, and if so, where.
7. Street addresses and dates at which the applicant has lived during the preceding 10 years.
8. Whether the applicant has ever been arrested, charged, or convicted of any crime, or violation of any ordinance other than a minor traffic offense and, if so, the time, place, date(s) and offense for which arrests, charges or convictions were had.

9. If so, the applicant shall furnish information as to the date, time, place and offense for which arrests, charges or convictions were had.
10. Whether the applicant has ever been engaged in the operation of massage services. If so, the applicant shall furnish information as to the name, place, dates and length of time of the involvement of all such establishments.
11. Whether the applicant or other owner has had an interest in, as an individual or as part of a corporation, partnership, association, establishment, business or firm, a massage license that was revoked, suspended, or denied within the last 10 years of the date the license application is submitted to the issuing authority.
12. Proof of Workers' Compensation Insurance as required by Minnesota Law.
13. Such other information as the City shall require.

B. Commercial Establishment information:

1. The legal description of the premises to be licensed together with a plan of the area showing dimensions, location of buildings, street access, and parking facilities.
2. Plans and specifications showing the interior and exterior design of the establishment. Including specifications of all massage equipment.
3. The current status of the premises and establishment, including whether they are existing, planned, or under construction/renovation.
4. The floor number, street number, suite number(s) and rooms where the massage services are to be conducted.
5. Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid.
6. Compatibility with Sartell Zoning Ordinances and the Comprehensive Plan and proximity to residences, other establishments licensed as therapeutic massage establishments, churches, schools, and public buildings.
7. Such other information as the City shall require.

C. Home Occupation Establishment Information:

1. The legal description of the premises to be licensed together with a floor plan of the home showing dimensions, location of rooms being utilized for massage therapy, public access, and parking facilities.
2. Plans and specifications showing the interior and exterior design of the establishment. Including specifications of all massage equipment.
3. The status of the premises and establishment, including whether they are existing, planned, or under construction/renovation.
4. Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid.
5. Compatibility with Sartell Zoning Ordinances and the Comprehensive Plan in regard to home occupations, as well as proximity to residences, other establishments licensed as therapeutic massage establishments, churches, schools, and public buildings.
6. Such other information as the City shall require.

D. Massage Therapist License Application: An application for a massage therapist license shall be made on a form supplied by the City and shall contain the following information:

1. The applicant's name and current address.
2. The applicant's current employer.
3. The applicant's employers for the previous five years, including the employer's name, address and dates of employment.
4. The applicant's addresses and dates for the previous five years.
5. The applicant's date of birth, home telephone number. A color photocopy of the applicant's MN driver's license or MN I.D. front and back, or any other government-issued I.D. If the photocopy is not acceptable to the Police Chief, the police department may take photographs for the file.

6. Whether the applicant has ever been arrested, charged, or convicted of any crime, or violation of any ordinance other than a minor traffic offense and, if so, the time, place, date(s) and offense for which arrests, charges or convictions were had.
7. Whether the applicant has had an interest in, as an individual or as part of a corporation, partnership, association, establishment, business or firm, a massage license that was denied, revoked, or suspended within the last 10 years of the date the license application is submitted to the issuing authority.
8. Whether the applicant is a U.S. citizen or resident alien or has the legal authority to work in the United States.
9. Whether the applicant has ever used or been known by a name other than the applicant's name, and if so, the name or names and information concerning dates and places where used.
10. Whether the applicant has met the definition of a massage therapist in this Section.
11. Whether the applicant has ever been the subject of an investigation, public or private, criminal, or non-criminal, regarding massage therapy.
12. Such other information as the City shall require.

E. Background Investigation: The applicant will submit with the completed application form an executed release of information authorizing the Chief of Police to obtain any information pertaining to the applicant's character or criminal history which may be deemed confidential, private, or privileged by the laws of the United States or of any state. The applicant will also submit additional information that may be required by the Planning Office, Health and Inspections Department, Police Chief and City Attorney. No person will make a false statement in an application.

F. Insurance Required: Each applicant for a therapeutic massage establishment license shall file with the issuing authority a public liability insurance policy or certificate of insurance from a company authorized to do business in the State of Minnesota, insuring the applicant against any and all loss arising out of the use, operation or maintenance of the therapeutic massage establishment. The policy of insurance shall be in limits of not less than $1,000,000.00. Each applicant for a massage therapist license shall file with the issuing authority a current certificate of insurance providing coverage of $1,000,000.00 for personal liability in the practice of massage. No cancellation of any insurance policy will be valid except upon 30 days prior written notice to the City. Failure to keep in full force and effect the insurance is grounds for suspension or revocation of the license.

G. Review and Investigation Fee: At the time of each initial application, the applicant will pay in full a review and investigation fee. Review and investigation fees will be determined by the City Council. Where a new application is filed as a result of incorporation by an existing licensee and the ownership control and interest in the license are unchanged, no additional license fee will be required. The review and investigation fee will not be refunded.

H. License Fee and License Year: The annual license fee for the therapeutic massage establishment and massage therapist license will be in the amount set by City Council. A separate license will be obtained for each place of business. Licenses are valid from January 1 to December 31 in the year the license is issued, unless revoked. Renewal application for the license must be made on or before December 1 prior to the next license term.

I. Administrative Review: Upon the filing of an application for a license, together with the documents required to accompany the license, the Health Director will forward a copy of the application and accompanying documents to the Planning Office, Health and Inspections Department, Police Chief and City Attorney.

1. Office Review: The City will review the application and any other pertinent information relative to zoning, land use compatibility, and comprehensive planning.
2. Police Department Review: The Police Chief may review the application to determine the potential impact of law enforcement. The Police Chief may also investigate the applicant's character and criminal history.
3. Health and Inspections Department: The Health and Inspections Department will review the license application and inspect the premises for which the license is to be issued to confirm compliance with all requirements of the City and State relating to health and sanitation.
4. City Attorney Review: The City Attorney will review the application for compliance with all applicable statutes and ordinances.

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5. Findings and Approval: Within 45 days of receipt of the initial license application, the Planning Office, Police Chief, Health and Inspections Department and City Attorney will submit in writing to the Issuing Authority their respective findings and recommendations. The Issuing Authority will review the application, findings and recommendations and will approve or deny the application. Upon the filing of a renewal application, the City will respond within a reasonable period of time.

3-12-7: **ISSUANCE OF LICENSES FOR NEW CONSTRUCTION AND ALTERATIONS OF EXISTING STRUCTURES:**

A. Final Plans Reviewed: Where a license to operate a therapeutic massage establishment is granted for premises on which new construction or alteration of existing structures is to occur, the applicant will submit a set of detailed final plans showing interior and exterior design, including site and space. These plans will be certified by a registered architect or engineer and submitted to the Building Inspections Division. The Issuing Authority will review the plans for compliance with the preliminary plans included in the application.
B. Certificate of Occupancy Required: For premises on which new construction or alteration of existing structures is to occur, no license to operate a therapeutic massage establishment will be issued until a certificate of occupancy is issued by the City for premises constructed in accordance with the application and plans reviewed by the Issuing Authority. Prior to issuance of the certificate of occupancy, the Chief Building Official will certify to the Health Director that construction was or was not in compliance with the final plans reviewed by the Health Director. Where the construction is found not to be in accordance with the final plans, the Chief Building Official will state all significant deviations.
C. Review of Deviations: Where the certification to the Health Director indicates that construction was not in accordance with the final plans, the Health Director will not issue the license but will return the application, together with the final plans and a statement of deviations.

3-12-8: **PERSONS INELIGIBLE FOR INITIAL LICENSE:**

A. Therapeutic Massage Establishment License: The City may deny issuance of an initial therapeutic massage establishment license in any of the following circumstances, and this list is not intended to state the exclusive reasons for denial:

1. Is not 18 years of age or older at the time the application is submitted to the issuing authority.
2. Has been convicted of any crime directly related to the occupation licensed as prescribed by Minn. Stat. § 364.03, subd. 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of a licensee as prescribed by Minn. Stat. § 364.03, subd. 3.
3. Has had an interest in, as an individual or as part of a corporation, partnership, association, establishment, business or firm, a massage license that was denied, revoked or suspended within the last 10 years of the date the license application is submitted to the issuing authority.
4. Is not a citizen of the United States or a resident alien or is legally prohibited from working in the United States.
5. Is not the real party of interest of the establishment.
6. Has knowingly misrepresented or falsified information on a license application within the preceding 10 years.
7. Cannot meet the definition of therapeutic massage establishment in this Section.
8. The applicant does not have insurance coverage in effect as required by this Section.
9. The applicant has been denied a license under this Section within the preceding 12 months.
10. The proposed use is in conflict with the Sartell Zoning Code or the Comprehensive Plan.
11. The proposed use is in conflict with any health regulations or building code regulations of the City or the State of Minnesota.
12. Owes taxes or assessments to the state, county, school district, or city that are due and delinquent.

13. Is the spouse of a person whose massage-related license has been denied, suspended or revoked in the past 10 years.
14. Allowed a license to expire or surrendered a license, unless, at the sole discretion of the city, a license application is submitted for consideration. The application shall be treated the same as an application for a new license, subject to all ordinance regulations and review.

B. Massage Therapist Licenses: The City may deny issuance of an initial massage therapist license in any of the following circumstances, this is not intended to state the exclusive reasons for denial:

1. Is not 18 years of age or older at the time the application is submitted to the issuing authority.
2. Has been convicted of any crime directly related to the occupation licensed as prescribed by Minn. Stat. § 364.03, subd. 2, and who has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties and responsibilities of a licensee as prescribed by Minn. Stat. § 364.03, subd. 3.
3. Whether the applicant has had an interest in, individually or as part of a corporation, partnership, association, establishment, business or firm, a massage license that was denied, revoked or suspended within the last 10 years of the date the license application is submitted to the issuing authority.
4. Is not a citizen of the United States or a resident alien or is legally prohibited from working in the United States.
5. Has knowingly misrepresented or falsified information on a license application within the preceding 10 years.
6. Is not affiliated with, employed by, or does not own a therapeutic massage establishment licensed by the city.
7. The applicant does not have insurance coverage in effect as required by this Section.
8. The applicant has been denied a license under this Section within the preceding 12 months.
9. Cannot meet the definition of massage therapist in this Section.
10. Allowed a license to expire or surrendered a license, unless, at the sole discretion of the city, a license application is submitted for consideration. The application shall be treated the same as an application for a new license, subject to all ordinance regulations and review.

3-12-9: **GENERAL LICENSE RESTRICTIONS:**

A. Prohibited Massages: A massage therapist must not intentionally or sexually massage or offer to massage the penis, scrotum, mons veneris, vulva, or vaginal area of a person. The license will be revoked if the massage therapist is engaging in conduct with a client that is sexual or may reasonably be interpreted by the client as sexual, or engaging in any verbal behavior that is seductive or sexually demeaning to a client, or engaging in sexual exploitation of a client, without regard to who initiates the behavior.
B. License Restrictions: Each license will be issued to the applicant only. Each license will be issued only for the premises described in the application. No license may be transferred to another person or place.
C. Business Hours: No customers or patrons will be allowed to enter the licensed premises after 10:00 p.m. and before 6:00 a.m. daily. Customers or patrons will not be allowed to remain upon the licensed premises after 10:30 p.m. and before 6:00 a.m. daily.

3-12-10: **INSPECTION BY CITY OFFICERS AND IDENTIFICATION OF EMPLOYEES**: Licensed premises and licensed applicants will be open to unannounced inspection by City Health, Building and License Inspectors and Police Officers during business hours. For home occupations, only the licensed premise will be inspected. Inspected facilities will comply with following requirements:

A. Any person engaged in providing services in any licensed premises will identify themselves giving their true legal name and correct address upon demand by any police officer.
B. The current massage license issued by the City of Sartell must be displayed in the front entry or corridor of the licensed facility. For home occupations, the massage license issued by the City of Sartell must be displayed within the designated space(s) for massage therapy on the license

application.

C. Credentials of all massage therapists are current and available on-site.
D. Business hours must be posted on all public entryways into the massage facility. For home occupations, the business hours must be displayed within the designated space(s) for massage therapy on the license application or on their business website.
E. Toilet rooms for employees and patrons are adequate and conveniently located.
F. Provide single-service disposable paper or clean linens to cover the table, chair, furniture, or area on which the patron receives the massage.
G. The massage therapist must wash their hands and arms with water and soap, anti-bacterial scrubs, alcohol, or other disinfectants prior to and following each massage service performed.
H. Massage tables, chairs, and other furniture on which massages are performed must have surfaces that can be readily disinfected after each massage. These surfaces must be disinfected following each massage performed.
I. Rooms must be adequately illuminated, to allow for adequate cleaning purposes.
J. The facility must be maintained in good repair and in a sanitary condition and must take reasonable steps to prevent the spread of infections and communicable diseases on the premises.
K. Evidence of sexual acts is prohibited, such as semen found in the facility, massage tables, chairs, and other surfaces.
L. Massage therapists must be in good health, without skin infections, and wear clean clothing when performing massage services. Facilities must have a health and wellness policy that follows CDC guidelines.
M. Massage establishments shall not contain nor allow the use by any person of sleeping quarters or living spaces of any kind intended for habitation, including but not limited to beds, cots, or mattresses. Sleeping or living quarters must be physically separated by a door from the licensed massage therapy area designated on the application.

3-12-11: **ADVERTISING:** Any advertising by a licensee or representative of the licensee of any potential unlawful, misleading, sexually explicit, obscene or erotic conduct at the licensed establishment shall be prohibited.

3-12-12: **RESPONSIBLE FOR CONDUCT:** A licensee under this Section shall be strictly responsible for the conduct of the business being operated in compliance with all applicable laws and ordinances, including the actions of any employee or agent of the licensee on the licensed premises.

3-12-13: **NON-RENEWAL, SUSPENSION, OR REVOCATION OF LICENSE:** The license may be suspended, revoked, or not renewed for any of the following reasons, and this list is not intended to state the exclusive reasons for suspension, revocation, or non-renewal:

A. A violation related to fraud, misrepresentation, or false statement contained in a license application or a renewal application.
B. A violation related to fraud, misrepresentation, or false statement made in the course of carrying on the licensed occupation or business.
C. Any violation of this ordinance or state law. The charging of a violation or conviction is not required for non-renewal, suspension, or revocation of a license.
D. A violation by any licensee or individual that is directly related to the occupation or business licensed as defined by Minn. Stat. § 364.03, subd. 2.
E. Conducting the licensed business or occupation in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the community.
F. If the owner, manager, lessee or any of the employees or independent contractors are found to be in control or possession of a narcotic drug or controlled substance on the premises, other than drugs which may be purchased over the counter without a prescription or those for which the individual has a prescription. For home occupations on the premises refers to the designated space used for massage therapy as recognized on the license application.
G. If the holder of an establishment license fails to maintain with the issuing authority a current list of all employees or independent contractors of such licensed premises. The list shall include all

massage therapists licensed under this section.

H. A material variance in the actual plan and design of the premises from the plans submitted.

I. In the event of multiple massage establishment locations, any license suspension/revocation shall apply to all massage establishment locations within the City of Sartell.

3-12-14: **APPEAL AND HEARING PROCEDURE:** Before the City may revoke, suspend, deny or not renew a license, written notice must be sent to the applicant or owner/licensee setting forth the alleged grounds for the potential action. To appeal the revocation, suspension, denial or non-renewal, the applicant or owner/licensee must submit a request for appeal in writing within 10 days of receiving the notice. The appeal will be before an independent hearing officer selected from the list of independent hearing officers maintained by the City of St. Cloud. At the hearing, the applicant/licensee may speak on his or her behalf and may present witnesses and other evidence he or she deems necessary. Upon the conclusion of the hearing, the hearing officer, on behalf of the City Council, shall issue a written decision that includes the findings of fact. The applicant/licensee may appeal the hearing officer's decision to the Minnesota Court of Appeals by writ of certiorari.

3-12-15: **IMMEDIATE SUSPENSION OF LICENSE:** The Health Director or designee may immediately suspend a license, if the licensee, or any person working on behalf of the licensee, is determined to be conducting business in an unlawful manner, any manner that constitutes a substantial hazard to the health, safety, or general welfare of the public, or after repeated complaints received regarding unlawful conduct of the business practices or method of solicitation. The licensee will be given notice of the immediate suspension on site. The suspension will take place immediately. The licensee can request a hearing within 10 days of notice of the suspension and the hearing procedure will be the same as set forth in in this Ordinance.

3-12-16: **ABILITY TO REAPPLY AFTER REVOCATION:** The holder of a therapeutic massage establishment license or massage therapist license may not reapply for a new license for a period of 10 years if their license is revoked under this ordinance.

CHAPTER 13

LODGING TAX

SECTION:

3-13-1: Definitions
3-13-2: Local Lodging Tax Imposed and Continued
3-13-3: Report and Payment of Tax
3-13-4: Records Preserved for inspections
3-13-5: Collection Authorized
3-13-6: Disposition of Proceeds

3-13-1: **DEFINITIONS**: For the purpose of this Title, certain words and terms are herein defined:

LODGER: The person obtaining lodging from an operator.

LODING: The furnishing of accommodation for a fee by a hotel, motel, or similarly licensed facility, except where the accommodation shall be for a continuous period of thirty (30) days or more to the same lodger.

OPERATOR: A person who provides lodging to others or any officer, agent, or employee of such person.

3-13-2: **LOCAL LODING TAX IMPOSED AND CONTINUED**: The Council hereby imposes and continues a lodging tax of 3% on the gross receipts of the charges by an Operator for providing Loding to any person.

3-13-3: **REPORT AND PAYMENT OF TAX**:

A Each Operator shall collect the tax imposed by this Chapter at the time the Lodging rent or charge is paid. The tax collections shall be deemed to be held in trust by the Operator for the City. The amount of tax shall be separately stated from the rent charged for the lodging.

B. Any Operator subject to the lodging tax imposed hereby shall report the gross receipts hereinbefore referred to the City within 15 days of the end of the month when collected and said report shall be accompanied by payment in full.

C. If the report and payment of the tax is not made within 15 days as herein provided, an automatic fine of $100 is hereby imposed in addition to the tax and which is to be paid when the tax is paid.

3-13-4: **RECORDS PRESERVED FOR INSPECTION**: Complete records of all such gross receipts, collections, and remittances shall be preserved for a period of 1 year and shall during said year be open to inspection and audit by the City.

3-13-5: **COLLECTION AUTHORIZED**: In addition to any other penalty, the City may collect by legal action any delinquent tax, plus 6% interest thereon and the cost of collection, including reasonable attorney's fees.

3-13-6: **DISPOSTION OF PROCEEDS**: At least ninety-five percent of the gross proceeds from the tax imposed hereby shall be used by the City for the purpose of the advancement of the City of Sartell as a tourist destination or convention center and up to 5% may be used for the administration of this section.

CHAPTER 14

CANNABINOID PRODUCTS

SECTION:

3-14-1: Purpose, Findings, and Intent
3-14-2: Definitions
3-14-3: Retail Establishment Requirements
3-14-4: Sales if Cannabinoids Derived from Hemp
3-14-5: Testing Requirements
3-14-6: Labeling Requirements
3-14-7: Additional Requirements for Cannabinoid Products
3-14-8: Prohibited Sales
3-14-9: Illegal Acts
3-14-10: Adulterated or Misbranded Products
3-14-11: Signage
3-14-12: Age Verification
3-14-13: Responsibility
3-14-14: Hours of Sale
3-14-15: Compliance Checks and Inspection
3-14-16: Violations
3-14-17: Penalties for Violations
3-14-18: Medical Cannabis Manufacture, Dispensing and Use
3-14-19: Severability and Savings Clause

3-14-1: **PURPOSE, FINDINGS, AND INTENT**: The purpose of this ordinance is to establish licensing regulations for the sale of cannabinoid products derived from hemp as provided in Minn. Stat. § 151.72. The City of Sartell makes the following findings regarding the need to regulate and inspect retail establishments that sell certain cannabinoid products:

A. By enacting 2022 Session Law Chapter 98, Article 13, the Minnesota Legislature amended Minn. Stat. § 151.72 to allow for the sale of certain cannabinoid products.
B. The law requires retailers that sell the cannabinoid products described in Minn. Stat. § 151.72 to (1) check the identification of purchasers of cannabinoid products to verify that the purchasers are at least 21 years of age, (2) comply with certain packaging and labeling requirements, and (3) meet certain potency and serving size requirements.
C. State law authorizes the Minnesota Board of Pharmacy to adopt product and testing standards in an effort to curb the illegal sale and distribution of cannabinoid products and ensure the safety and compliance of the sale of cannabinoid products in Minnesota. The law does not prohibit municipalities from regulating the sale of cannabinoid products derived from hemp locally.
D. The National Academies of Science, Engineering, and Medicine notes that the growing acceptance, accessibility, and use of cannabis and its derivatives have raised important public health concerns, while the lack of aggregated knowledge of cannabis-related health effects has led to uncertainly about the impact of its use, particularly to youth.
E. The City has the opportunity to be proactive and develop a regulatory scheme that will mitigate threats, reduce exposure of cannabis-related products to youth and improve compliance among cannabis-related product retailers with particular regulations and laws.

    1. Due to the passage of this new law by the Minnesota Legislature, the City Council believes the following rules, regulations, and standards for the sale of cannabinoid products are necessary to ensure that retailers comply with the laws and business standards to promote and protect the public health, safety, and general welfare of the residents of the City and will not unduly burden legitimate business interests within the City.

F. In making these findings and enacting this ordinance, it is the intent of the City to ensure responsible cannabinoid product retailing, allowing legal sale without promoting increases in use, and to discourage violation of cannabinoid product related laws, especially those which prohibit or discourage the marketing, sale or distribution of cannabinoid products to individuals under 21 years of age.

3-14-2: **DEFINITIONS**: For the purpose of this Title, certain words and terms are herein defined:

CANNABINOID PRODUCT:	Means any product containing Nonintoxicating Cannabinoids extracted from Hemp, including an Edible Cannabinoid Product, that is sold for human or animal consumption.
CANNABINOID BEVERAGE:	Means any beverage containing Nonintoxicating Cannabinoids extracted from Hemp, including an Edible Cannabinoid Product, that is sold for human consumption
CERTIFIED HEMP:	Means the definition for the same provided in Minn. Stat. § 151.72, Subd. 1(b), as may be amended.
COMPLIANCE CHECKS:	Means the system the City uses to investigate and ensure that those authorized to sell Cannabinoid Products are following and complying with the requirements of state laws and this ordinance. Compliance Checks may involve the use of persons under the age of 21 who purchase or attempt to purchase Cannabinoid 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 Cannabinoid Products .
DELIVERY SALE:	Means the Sale of any Cannabinoid Products to any person for personal consumption and not for resale when the Sale is conducted by any means other than an in-person, over-the-counter Sales transaction in a Retail Establishment. Delivery Sale includes, but is not limited to, the Sale of any Cannabinoid Products when the Sale is conducted by telephone, other voice transmission, mail, the internet, or app-based service. Delivery Sale includes delivery by employees of the Retail Establishment or third parties by any means, including curbside pick-up.
EDIBLE CANNABINOID PRODUCT:	Means any product that is intended to be eaten or consumed by humans, contains a cannabinoid in connection with food ingredients, and is not a drug. This term does not include Cannabinoid Beverages.
HEMP/INDUSTRIAL HEMP:	Means the definition for the same provided in Minn. Stat. § 18K.02, Subd. 3, as may be amended.
LABEL:	Means the definition for the same provided in Minn. Stat. § 151.01, Subd. 18, as may be amended.
LABELING:	Means the definition for the same provided in Minn. Stat. § 151.72, Subd. 1(f), as may be amended.
LICENSED LIQUOUR	

ESTABLISHMENT:	Means any business that holds an on-Sale intoxicating liquor license or off-Sale intoxicating liquor license, issued by the City of Sartell pursuant to Title 3 of the Sartell City Code.
MATRIX BARCODE:	Means the definition for the same provided in Minn. Stat. 151.72., Subd. 1(g), as may be amended.
MOVABLE PLACE OF BUSINESS:	Means any form of business that is operated out of a kiosk, truck, van, automobile or other type of vehicle or transportable shelter or structure and that is not a fixed address or other permanent type of structure licensed for over-the-counter Sales transactions.
NONINTOXICATING CANNABINOID:	Means substances extracted from Certified Hemp plants that do not produce intoxicating effects when consumed by any route of administration.
OPERATOR:	Means the person in legal possession and control of a location by reason of ownership, lease, contract or agreement, for the Sale of Cannabinoid Products at retail.
RETAIL ESTABLISHMENT:	Means any fixed place of business where Cannabinoid Products are permitted to be made available for Sale to the general public. Retail Establishment for purposes of this ordinance does not include, residential homes, convenience stores, gasoline service stations, bars and restaurants.
SALE:	Means any transfer of goods for money, trade, barter, or other consideration.
SELF-SERVICE VENDING:	Means the display for Sale of Cannabinoid Products that are accessible to the public without the need of assistance of an employee.
VENDING MACHINE:	Means any mechanical, electrical, or electronic, or other type of device that dispenses Cannabinoid Products upon the insertion of money, tokens, or other form of payment into or onto the device by the person seeking to purchase the Cannabinoid Products.
YOUTH ORIENTED FACILITY:	Means any facility with residents, customers, visitors, or inhabitants of which 25 percent or more are regularly under the age of 21 or that primarily sells, rents, or offers services of products that are consumed or used primarily by persons under the age of 21. Youth-orientated Facility includes, but is not limited to, schools, colleges, libraries, playgrounds, recreation centers and parks.
TOBACCO SHOP:	Means a self-contained, independent retail facility, as opposed to a department within a larger retail establishment, that is not more than 1,500 gross square feet in area, in which tobacco is offered for Sale, with or without non-tobacco products, which includes open air display of individual products for inspection and selection by patrons, and which is continuously staffed by an employee from which persons under 21 years of age are prohibited from entering, and which otherwise complies with the requirements of Minnesota State Statute Section 461.18, Subd. 1.

3-14-3: **RETAIL ESTABLISHMENT REQUIREMENTS**:

A. State License Required. It shall be unlawful for any person, corporation, partnership, limited liability company, or business of any type, to sell, donate, give-away or transfer at retail any Cannabinoid Products derived from Hemp within the City unless the person holds a valid retail Cannabinoid Products license, in full force and effect, issued by the State of Minnesota.
B. Where Cannabinoid Products May be Sold. The only permissible Retail Establishment are Tobacco Shops and Licensed Liquor Establishments subject to the following restrictions:

    1. Licensed Liquor Establishments may sell Cannabinoid Beverages. Licensed Liquor Establishments may sell Edible Cannabinoid Products.
    2. Only fixed-location Retail Establishments that are not excluded under the definition for Retail Establishments in this ordinance are eligible to be licensed.
    3. No Retail Establishment may be located within 1,000 feet of a Youth-orientated Facility, as measured by the shortest line from the property line of the space to be occupied by the Retail Establishment to the nearest property line of a Youth-orientated Facility. This restriction does not apply to an existing Retail Establishment that has been selling Cannabinoid Products for at least one year before this section was enacted.
    4. No Retail Establishment may be located within 2,000 feet of any other existing Retail Establishment under this ordinance, as measured by the shortest line from the property line of the space to be occupied by either Retail Establishment. This restriction does not apply to an existing Retail Establishment that has been selling Cannabinoid Products for at least one year before this section was enacted.

3-14-4: **SALES OF CANNABINOIDS DERIVED FROM HEMP**: In accordance with Minn. Stat. § 151.72, Subd.3, as may be amended:

A. A product containing Nonintoxicating Cannabinoids, including an Edible Cannabinoid Product does not contain more than five milligrams of any tetrahydrocannabinol in a single serving, or more than a total of 50 milligrams of any tetrahydrocannabinol per package.
B. No other substance extracted or otherwise derived from Hemp may be sold for human consumption if the substance is intended:

    1. For external or internal use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals; or
    2. To affect the structure or any function of the bodies of humans or other animals.

C. No product containing any cannabinoid or tetrahydrocannabinol extracted or otherwise derived from Hemp may be sold to any individual who is under the age of 21.
D. Products that meet the requirements of this section are not controlled substances under Minn. Stat.§ 152.02.

3-14-5: **TESTING REQUIREMENTS**: All testing must comply with the requirements set forth in Minn. Stat. § 151.72, Subd. 4, as may be amended.

3-14-6: **LABELING REQUIREMENTS**: All Labeling must comply with the requirements set forth in Minn. Stat. § 151.72, Subd. 5, as may be amended.

3-14-7: **ADDITIONAL REQUIREMENTS FOR EDIBLE CANNABINOID PRODUCTS**: In accordance with Minn. Stat. § 151.72, Subd. 5a, as may be amended:

A. An Edible Cannabinoid Product must not:

    1. Bear the likeness or contain cartoon-like characteristics of a real or fictional person, animal, or fruit that appeals to children.

2. Be modeled after a brand of products primarily consumed by or marketed to children.
3. Be made by applying an extracted or concentrated Hemp-derived cannabinoid, that is not approved by the United States Food and Drug Administration for use in food.
4. Be packaged in a way that resembles the trademarked, characteristic, or product-specialized packaging of any commercially available food product.
5. Be packed in a container that includes a statement, artwork, or design that could reasonably be mislead any person to believe that the package contains anything other than an Edible Cannabinoid Product.

B. An Edible Cannabinoid Product must be prepackaged in packaging or a container that is child-resistant, tamper-evident, and opaque or placed in packaging or a container that is child-resistant, tamper-evident, and opaque at the final point of Sale to a customer. The requirement that packaging be child-resistant does not apply to an Edible Cannabinoid Product that is intended to be consumed as a beverage and which contains no more than a trace amount of any tetrahydrocannabinol.
C. If an Edible Cannabinoid Product is intended for more than a single use or contains multiple servings, each serving must be indicated by scoring, wrapping, or other indicators designating the individual serving size.
D. A label containing at least the following information must be affixed to the packaging or container of all Edible Cannabinoid Products sold to consumers:

1. The serving size.
2. The cannabinoid profile per serving and in total.
3. A list of ingredients, including identification of any major food allergens declared by name.
4. The following statement: “Keep out of reach of children.”

E. An Edible Cannabinoid Product must not contain more than five (5) milligrams of any tetrahydrocannabinol in a single serving, or more than a total of fifty (50) milligrams of any tetrahydrocannabinol per package.

3-14-8: **PROHIBITED SALES**: No person shall sell, donate, give, dispense, or distribute any cannabinoid or Edible Cannabinoid Product by any of the following:

A. Samples Prohibited. Sampling of Cannabinoid Products within any Retail Establishment is prohibited. No person shall distribute samples of any Cannabinoid Products free of charge or at a nominal cost. The distribution of Cannabinoid Products as a free donation is prohibited.
B. Coupon and Price Promotion. No person shall accept or redeem any coupon, price promotion, or other instrument or mechanism, whether in paper, digital, electronic, mobile, or any other form, that provides any Cannabinoid Products to a consumer at no cost or at a price that is less than the non-discounted, standard price listed by a retailer on the item or on any related shelving, posting, advertising, or display at the location where the item is sold or offered for Sale, including all applicable taxes.
C. Self-Service Displays. All Cannabinoid Products must 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. No person shall allow the Sale of Cannabinoid Products in open displays that are accessible to the public without the intervention of a store employee. This section does not apply to a Retail Establishment, as defined in this ordinance, that is continuously staffed by an employee from which persons under 21 years of age are prohibited from entering the store.
D. Prohibition Against Retail Sales of Cannabinoid Products by Vending Machines. No person will sell or dispense Cannabinoid Products through use of a Vending Machine.
E. Delivery Sales. All sales of Cannabinoid Products must be conducted in person, in a Retail Establishment under this ordinance, in over-the-counter Sales transactions.

3-14-9: **ILLEGAL ACTS**: Unless otherwise provided, the following action shall be a violation of this section:

A. Illegal Possession. It shall be a violation of this section for any person under the age of 21 to have any Cannabinoid Product in their possession. This subdivision shall not apply to persons under the age of 21 who are lawfully involved in a compliance check or who are authorized to sell Cannabinoid Products or Edible Cannabinoid Products.
B. Illegal Use. It shall be a violation of this ordinance for any person under the age of 21 to consume Cannabinoid Products or Edible Cannabinoid Products.
C. Illegal Procurement. It shall be a violation of this ordinance for any person under the age of 21 to purchase or attempt to purchase or otherwise obtain any Cannabinoid Product covered in this section. It shall be a violation of this section for any person to purchase, obtain, or coerce a person under the age of 21 to use such items covered in this section. This does not apply to individuals involved in Compliance Checks.
D. Use of False Identification. It shall be a violation of this section for any person under the age of 21 to attempt to disguise their true age by use of any form of false identification, including but not limited to an identification card of another real or fictional person and one on which the age of the person has been tampered with or modified.

3-14-10: **ADULTERATED OR MISBRANDED PRODUCTS**: A Cannabinoid Product shall be considered adulterated or misbranded under the provisions set forth in Minn. Stat. §151.72, Subd. 6, as may be amended.

3-14-11: **SIGNAGE**: At each location where Cannabinoid Products are sold, the Retail Establishment shall display a sign in plain view to provide public notice that selling any of these products to any person under the age of 21 is illegal and subject to penalties. The notice shall be placed in a conspicuous location in the Retail Establishment and shall be readily visible to any person who is purchasing or attempting to purchase these products. The sign shall provide notice that all persons responsible for selling these products must verify, by means of photographic identification containing the bearer's date of birth, the age of any person under 30 years of age.

3-14-12: **AGE VERIFICATION**: At each location where Edible Cannabinoid Products are sold, the Retail Establishment shall verify, by means of government-issued photographic identification containing the bearer's date of birth, that the purchaser or person attempting to make the purchase is at least 21 years of age.

3-14-13: **RESPONSIBILITY**: All Retail Establishments are responsible for the actions of their employees regarding the Sale, offer to sell, and furnishing of Cannabinoid Products on the premises. The Sale, offer to sell, or furnishing of any Cannabinoid Product by an employee shall be considered an act of the Retail Establishment.

3-14-14: **HOURS OF SALES:** No Sales of Cannabinoid Products will be allowed at Retail Establishments after 10:00 p.m. and before 8:00 a.m. daily.

3-14-15: **COMPLIANCE AND INSPECTIONS:** All Retail Establishments must be open to inspections by law enforcement or other authorized city officials during regular business hours. From time to time, but at least once per year, the City will conduct Compliance Checks. The City will conduct a compliance check that involves the participation of a person at least 17 years of age, but under the age of 21 to enter the Retail Establishment to attempt to purchase Cannabinoid Products. Prior written consent from a parent or guardian 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.

3-14-16: **VIOLATIONS:**

A. 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. The citation shall provide notice that a hearing must be requested within ten (10) business days of receipt and that hearing rights

shall be terminated if a hearing is not promptly requested. The citation shall provide information about how and where a hearing may be requested, including the contact name, address and phone number.

B. Hearings. Upon issuance of a citation, a person accused of violating this ordinance may request in writing a hearing on the matter. Hearing requests must be made within ten (10) business days of the issuance of the citation and delivered to the city clerk or other designated city officer. Failure to request a hearing within ten (10) business days of the issuance of the citation will terminate the person's right to a hearing. The city clerk or other designated city officer shall set the time and place for the hearing. Written notice of the hearing time and place shall be mailed or delivered to the accused violator at least ten (10) business days prior to the hearing.
C. Hearing Officer. The hearing officer must be an impartial employee of the city, or an impartial person retained by the city to conduct the hearing.
D. Decision. A decision shall be issued by the hearing officer within ten (10) business days. 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 Section 3-6-18 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.
E. Costs. If the citation is upheld by the hearing officer, the city's actual expenses in holding the hearing up to a maximum of $1,000.00 shall be paid by the person requesting the hearing. The decision of the hearing officer is final.
F. 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.
G. Continued Violation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

3-14-17: **PENALTIES FOR VIOLATIONS:** A violation of this ordinance by a Retail Establishment shall be deemed a violation of any tobacco or liquor license held by the Retail Establishment. Upon a violation by a Retail Establishment of any provision of this ordinance or any provision of state law regulating the Sale of Cannabinoid Products, or failing to comply with other statutory requirements of Minn. Stat. § 151.72, the City Council may impose a civil fine, suspend or revoke the corresponding tobacco or liquor license in accordance with the following schedule:

First violation..... fine of $300.00
Second violation within 36 months ..... fine of $600.00 and a 30-day license suspension
Third violation within 36 months ..... fine of $1,000.00 and a license revocation
Violation during period of suspension..... license revocation

A. Any Civil fine assessed against a Retail Establishment pursuant to this section must be paid in full within 30 days from receipt of written notification of the City Council's imposition of the civil fine. Failure to pay the fine within that time period will result in a ten-day license suspension. Retail Establishments whose licenses have been revoked may not be issued a new license within six months from the effective date of such revocation.

3-14-18: **MEDICAL CANNABIS MANUFACTURE, DISPENSING, AND USE**: Nothing herein shall be construed to prohibit, prevent, impede, or change any person's right to lawfully manufacture, obtain, dispense, distribute, possess, prescribe, or use medical cannabis in compliance with state law.

3-14-19: **SEVERABILITY AND SAVINGS CLAUSE:** If any section or provision of this ordinance is held invalid, such invalidity shall not affect other sections or provisions which can be given force and effect without the invalidated section or provision.

TITLE 4

PUBLIC HEALTH AND SAFETY

Subject	Chapter
Open Burning	1
Poisonous Liquids and Gas	2
Explosives Regulations	3
Fire Prevention And Protection	4
Nuisances	5
Garbage And Refuse	6
Shade Trees	7
Rental Dwellings	8
Fireworks Regulations	9
Maintenance of Turf Grass and Vegetation	10

CHAPTER 2

OPEN BURNING

SECTION:

4-1-1: Adoption Of Air Pollution Control Regulation
4-1-2: Open Burning Prohibited; Exception
4-1-3: Burning Of Leaves Prohibited
4-1-4: Prairie Burning

4-1-1: **ADOPTION OF AIR POLLUTION CONTROL REGULATION:**

A. Regulation 8 Adopted: Air Pollution Control Regulation 8, as amended, adopted by the Minnesota Pollution Control Agency, is hereby adopted by reference pursuant to Minnesota Statutes section 471.62, as amended.
B. Copy on File: One copy of said Regulation 8 shall be marked "Official Copy" and kept on file in the office of the Deputy Clerk for use and examination by the public.

4-1-2: **OPEN BURNING PROHIBITED; EXCEPTION:** No person shall dispose of refuse in the City by burning in an uncovered, outdoor container, or prairie burning unless as provided in Section 4-1-4 of this Chapter.

4-1-3: **BURNING OF LEAVES PROHIBITED:** The burning of leaves and yard waste is prohibited in all areas within the corporate limits of the City. This is consistent with the Minnesota State Fire Code as amended and adopted by the City of Sartell.

4-1-4: **PRAIRIE BURNING:**

A. The City of Sartell recognizes the maintenance requirements of natural prairies and will issue permits to a business, which have the personal, training and management experience to accommodate managed prescribed burns or a government agency that conducts prescribed burning and can provide proper forms of insurance. Permits will not be issued to the general public for prairie burning. Permits will be valid for a seven (7) day period. The Fire Chief or Fire Marshal's office must review permits prior to any permits being issued. Applicants for the permit must provide the following information:

    1. Site plan of proposed burn area:

        a. Burn plan, to include the methods for burning and fire control during the prescribed burn.
        b. Public relations plan which includes how residents within 100 feet of the area will be notified about the prescribed burn, in addition to the County Dispatch, Department of Natural Resources. Public notification should include that the burn is a controlled burn.
        c. Smoke management plan.

    2. Requested time frame for the prescribed burn.
    3. A letter of permission to conduct the prescribed burn signed by the property owner.
    4. The Fire Chief or Fire Marshal shall be notified and give final permission to conduct the burn the day the activity is to begin.
    5. No burning of prairie areas shall take place during an air pollution alert, warning or emergency declared by the Minnesota Pollution Control Agency or during a fire danger alert declared by the Fire Chief or by the Commissioner of the Minnesota Department of Natural Resources
    6. Any fire authorized by this Section shall be constantly attended by a competent person until such fire is extinguished.
    7. Expenses Related to Prairie Areas. If for reason it is determined that the burn will need the

assistance of the Fire Department and Equipment, the property owner shall be responsible for the payment of all costs associated in the utilization of Fire Department Personal and the rental of fire equipment as determined by ordinance.

CHAPTER 2

POISONOUS LIQUIDS AND GASES

SECTION:

4-2-1: Possession And/or Storage Restricted
4-2-2: Limitations
4-2-3: Precaution Necessary While Using
4-2-4: Storage of Containers
4-2-5: Excessive Storage, Permit Required
4-2-6: Penalty

4-2-1: **POSSESSION AND/OR STORAGE RESTRICTED:** It shall be illegal for any person to have in his or her possession or stored on or upon his or her premises within the corporate limits of the City, any chlorine or any other substance which is an element in gaseous form, and which is poisonous to humans and animals, or both, except as herein provided.

4-2-2: **LIMITATIONS:**

A. Amount In Possession: Any person who shall have in his or her possession or have stored for his or her own use on the premises, any chlorine or any other substance which is an element in gaseous form and which is poisonous and which storage drums are used for his or her convenience in the manufacturing or business enterprise conducted within the corporate limits of the City, may have in his or her possession not more than fifteen (15) drums or barrels at any one time; on condition, however, that each of said drums or barrels do not contain more than two thousand (2,000) pounds, or the equivalent thereof, and on condition that the same are stored as herein provided.

B. Size of Containers: It shall be illegal for any person to withdraw any chlorine or any substance which is an element in gaseous or liquid form from any container which has a larger capacity than two thousand (2,000) pounds per container, or the equivalent thereof.

C. Placement: Under no circumstance does the City allow private propane tanks to be buried underground.

4-2-3: **PRECAUTION NECESSARY WHILE USING**: All use, storage and disposal of such chlorine or other substances being an element in gaseous form shall be so conducted so as to prevent the escape of any part thereof into the atmosphere or into any public subsurface, sewer, drain, manhole or other underground tunnel, pipe, shaft or conduit or natural waterway. Should there be any evidence of the escape of any part of same as above described, any official of the City, including the Director of Emergency Services, shall have the power to order immediate corrective measures. Where such corrective measures are ineffective or not installed, said person may order the discontinuance of the operation or practice which in his/her opinion is responsible for the existing condition.

4-2-4: **STORAGE OF CONTAINERS:**

A. Location: The storage of any chlorine or other substance being an element in gaseous form shall be restricted to an area separate from any location in which substance is being used and shall also be stored in any separate from the storage of any combustible materials.

B. Method: Containers of chlorine or other substances being an element in gaseous form when piled one upon the other shall be separated by dunnage or other suitable means or devices sufficient to provide stability and to prevent excessive stress on container walls. The height of piles shaft be consistent with stability. Drums and barrels stored on their sides shall have their heads facing the aisles so that leakage of bungs may be readily detected. All such containers when empty shall have caps, plugs or bungs replaced immediately after use and where container is empty.

4-2-5: **EXCESSIVE STORAGE, PERMIT REQUIRED:**

A. Permit Required: Any person desiring to store a greater amount of said chlorine or substances being an element in gaseous form and which is poisonous, must make application to the City Council for a special permit.

B. Application For Permit:

1. Required Information: All applications shall contain the following information:

a. The nature of the business of the applicant.
b. The amount of such liquid or gases stored on said premises.
c. The maximum amount intended to be stores on said premises, including a diagram showing the location of such storage place together with a description of any safety devices installed to protect the public against the escape of any part of the substance.

2. Statement From State Board Of Health: A statement from the State Board of Health showing that the quantity desired to be stored is not injurious to the health, safety and welfare of the residents of the City.

C. Issuance/Non Issuance Of Permit: The City Council may or may not grant said special permit and if said special safety and welfare of the residents of the City and shall take effect immediately upon its passage and publication.

4-2-6: **PENALTY:** Any person who shall violate or fail to comply with any of the provisions of this Chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in this Code for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

CHAPTER 3

EXPLOSIVES REGULATIONS

SECTION:

4-3-1: Scope
4-3-2: Definitions
4-3-3: Acquisition And Use, Permit Required
4-3-4: Application For Permit; Inspection Of Premises
4-3-5: Permit Approval Or Denial
4-3-6: Permit Fee
4-3-7: Term Of Permit
4-3-8: Blasting
4-3-9: Sale Or Transfer
4-3-10: Seller's Record And Report
4-3-11: Storage And Security Requirements
4-3-12: Report Of Thefts
4-3-13: Permit Revocation Or Suspension
4-3-14: Penalty

4-3-1: **SCOPE:**

A. Applicability: This Chapter shall apply to the manufacture, keeping, having, storage, sale, transportation and use of explosives and blasting agents.
B. Excepted Acts: This Chapter shall not apply to the following:

1. Transportation of explosive or blasting agents when under the jurisdiction and in compliance with the regulation of the Federal Department of Transportation.
2. Shipment, transportation, and handling of military explosives by Armed Forces of the United States and State militia.
3. Transportation and use of explosives or blasting agents in the normal and emergency operation of Federal agencies or State or Municipal Fire and Police Departments; provided, that they are acting in their official capacities and in the proper performance of their duties.
4. Sale, use or public display of pyrotechnics commonly known as fireworks.

C. Excepted Commodities: This Chapter shall not apply to the following commodities and items:

1. Stocks of small arms ammunition, propellant-actuated powder cartridges, small arms ammunition primers in quantities of less than one million (1,000,000) or smokeless propellant in quantities of less than seven hundred fifty (750) pounds.
2. Explosive actuated powder devices when in quantities of less than fifty (50) pound net weight of explosives.
3. Fuse lighters and fuse igniters.
4. Safety fuse (safety fuse does not include cordeau detonant fuse), and three thirty-seconds inch (3/32") cannon fuses or matchlock fuses (slow match).
5. The sale or transfer of black powder or other commonly used non smokeless propellant in individual transactions involving quantities of five (5) pounds or less when used for muzzle-loaded sports equipment or used in the hand-loading of sports equipment.

4-3-2: **DEFINITIONS:** In this Chapter, the following words are used as defined in this Section:

BLASTING AGENT: Any material or mixture consisting of a fuel and oxidizer intended for blasting not otherwise classified as an explosive and in which none of the

	ingredients are classified as an explosive; provided, that the finished product, as mixed and packaged for use or shipment, cannot be detonated by means of a Number 8 test blasting cap when unconfined.
DOT:	The Department of Transportation of the United States.
EXPLOSIVE	Any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion, i.e., with substantially instantaneous release of gas and heat, unless such compound, mixture or device is otherwise specifically classified by the DOT (formerly ICC). The term "explosive" includes all material which is classified as Class A, Class B and Class C explosives by the DOT (formerly ICC), and includes, but is not limited to, Dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse lighters, fuse igniters, squibs, cordeau detonant fuse, instantaneous fuse, igniter cord, igniters, small arms ammunition, small arms ammunition primers, smokeless propellants, cartridges for propellant actuated powder devices and cartridges for industrial guns and some special fireworks. (Commercial explosives are those explosives which are intended to be used in commercial or industrial operations.)
EXPLOSIVE-ACTUATED POWDER DEVICE:	Any tool or special mechanized device which is actuated by explosives, but not to include propellant-activated powder devices. Examples of propellant-actuated powder devices. Examples explosive-activated devices are jet tappers and jet perforators.
EXPLOSIVES, CLASSIFICATION OF, DESCRIBED BY THE DOT (FORMERLY ICC):	A. Class an Explosives: Possessing, detonating or otherwise maximum hazard; such as dynamite, nitroglycerin, picric acid, lead azide. fulminate of mercury, black powder, blasting caps and detonating primers. B. Class B Explosives: Possessing flammable hazard, such as propellant explosives (including some smokeless propellants), photographic flash powders and some special fireworks. C. Class C Explosives: Includes certain types of manufactured articles which contain Class A or Class B explosives, or both, as components but in restricted quantities. D. Forbidden Or Not Acceptable Explosives: Explosives which are forbidden or not acceptable for transportation by common carriers, by rail freight, rail express, highway or water in accordance with the regulations of the DOT (formerly ICC). E. Unclassified Materials: Certain chemicals and certain fuel materials may have explosive characteristics which are not specifically classified by the DOT (formerly ICC) and are not readily classified for coverage in the Code. Authoritative information should be obtained for such unclassified materials and action commensurate with their hazards, location, isolation, and safeguards should be taken.
HIGHWAY:	Any public street, public alley, or public road.
ICC:	The Interstate Commerce Commission of the United States.

INHABITED BUILDING:	A building or structure regularly used in whole or in part as a place of human habitation. The term "inhabited building" also means any church, school, store, railway passenger station, airport terminal for passengers and any other building or structure where people are accustomed to congregating or assemble, but excluding any building or structure occupied in connection with the manufacture, transportation, storage and use of explosives.
MAGAZINE:	Any building or structure, other than an explosives manufacturing building, approved for the storage of explosives.
MOTOR VEHICLE:	Any self-propelled vehicle, truck, tractor, semitrailer or truck-full trailers used for the transportation of freight over public highways.
NITRO-CARBO-NITRATE:	Any blasting agent which has been classified as nitro-carbonite under the Department of Transportation regulations and which is packaged and shipped in compliance with the regulations of the Department of Transportation.
NUMBER 8 TEST BLASTING CAP	A blasting cap containing two (2) grams of a mixture of eighty percent (80%) mercury fulminate and twenty percent (20%) potassium chlorate, or a cap of equivalent strength.
PERSON:	Any individual, firm, partnership, corporation, company, association, joint stock association or other entity includes a trustee, receiver, assignee or personal representative of any of the above.
PROPELLANT-ACTUATED POWDER DEVICES:	Any tool or special mechanized device or gas generator system which is actuated by a smokeless propellant or which releases and directs work through a smokeless propellant charge.
PUBLIC CONVEYANCE:	Any railroad car, streetcar, ferry, cab, bus, airplane, or other vehicle which is carrying passengers for hire.
RAILWAY:	Any steam, diesel, electric or other railway which carries passengers for hire on the particular line or branch in the vicinity where explosives are stored or where explosives manufacturing buildings are situated.
SMALL ARMS AMMUNITION:	Any shotgun, rifle, pistol or revolver cartridge and cartridge for propellant-actuated powder devices and industrial guns. Military-type ammunition containing explosives, bursting charges, spotting or pyrotechnic projectiles is excluded from this definition.
SMALL ARMS AMMUNITION PRIMERS:	Small percussion-sensitive explosive charges, encased in a cup, used to ignite propellant powder.
SMOKELESS PROPELLANTS:	Propellants, commonly called smokeless powders in the trade, used in small arms ammunition, cannon, rockets, propellant-actuated powder devices, etc.
SPECIAL INDUSTRIAL EXPLOSIVE DEVICES:	Explosive-actuated powder devices and propellant-actuated powder devices.
SPECIAL INDUSTRIAL EXPLOSIVE	Shaped materials and sheet forms and various other extrusions, pellets and packages of high explosives, which include dynamite, and other

MATERIALS: TNT, PETN, RDS	compounds used for high energy rate forming, expanding, and shaping in metal fabrication, and for dismemberment and quick reduction of scrap metal. (Ord. 90-5, 8-27-1990)

4-3-3: **ACQUISITION AND USE, PERMIT REQUIRED**: It is unlawful for any person to acquire, possess, use, sell or handle any "explosive" as defined in Section 4-3-2 of this Chapter, except as otherwise provided by Section 4-3-1 of this Chapter, within the City, without first having obtained a permit.

4-3-4: **APPLICATION FOR PERMIT; INSPECTION OF PREMISES:**

A. Application: Any person desiring a permit shall make application by a means accepted by the City.
B. Required Information: The application for a permit shall be sworn to by the applicant and shall contain the following information:

1. Name and address of the applicant.
2. The applicant's date of birth and driver's license number.
3. Where applicant intends to permanently store the explosives and the storage security measures provided at the storage and use sites.
4. The applicant's intended use for explosives purchased pursuant to any permit that may be issued.
5. All information relative to applicant with respect to facts required under subsection 4-4-5B of this Chapter.
6. All such additional information as may be prescribed by the City Council in determining whether the applicant is qualified to possess a permit under the requirements of this Chapter.

C. Inspection Of Premises: Upon receipt of the application, the Community Development Director or his/her designee shall notify the City Fire Marshal that a permit has been requested. Upon receipt of notification, the Fire Marshal shall inspect the premises upon which the applicant desires to store, handle and use the explosives set forth in the application and if the Marshal is satisfied: 1) that no serious fire hazard will be created, and 2) that the applicant plans to store and use the explosives in the manner prescribed by this Chapter, the Marshal shall endorse the Marshal's approval upon the application.

4-3-5: **PERMIT APPROVAL OR DENIAL:**

A. Council Approval: A permit shall be issued by the Community Development Director or his/her designee only after approval of the application by the Fire Marshal and Police Chief.

Grounds for Denial: The City may deny the issuance of a permit to anyone who:

1. Has been convicted within the past ten (10) years of a felony or gross misdemeanor involving moral turpitude or anyone who is presently under indictment for any such crime.
2. Has been within the past ten (10) years convicted of a crime in which the use, possession or sale of narcotics or illicit drugs was an element.
3. Has been treated within the past ten (10) years for addiction to narcotic or illicit drugs or has been within such time period admitted to any hospital or institution for treatment of narcotics or illicit drug addiction or has been within such time period certified by a licensed medical doctor as being addicted to narcotic or illicit drugs.
4. Has been within the past ten (10) years acquitted of any criminal charge by reason of insanity.
5. Is not eighteen (18) years of age at the time when application for a permit is made.
6. Is or has been hospitalized or committed for treatment for the habitual use of a "narcotic drug", as defined in Minnesota Statutes section 152.01, subdivision 10, or a "controlled substance", as defined in Minnesota Statutes section 152.01, subdivision 4, or who has been certified by a medical doctor as being addicted to narcotic drugs or depressant or stimulant

drugs, unless in possession of a certificate of a medical doctor or psychiatrist licensed to practice in this State, or other satisfactory proof, that the person no longer has this disability.

4-3-6: **PERMIT FEE:** The Community Development Director or his/her designee shall, upon approval of the application and receipt of the required fee, approve the permit.

Deleted: Clerk-Treasurer

Deleted: prepare and mail the permit to the applicant

4-3-7: **TERM OF PERMIT:** No permit shall be granted for a period exceeding twelve (12) months.

4-3-8: **BLASTING:** In addition to the other requirements of this Chapter, persons using explosives or blasting agents for blasting activities shall observe the following requirements:

A. Presence Of City Engineer And/or Public Works Director Required: No use of explosives or blasting agents for blasting activities shall take place without the City Engineer and/or Public Works Director or the City Engineer and/or Public Works Director's designee being present. Any person engaging in blasting activities must, no later than three (3) days before the intended activity, arrange with the Clerk-Treasurer to have the City Engineer and/or Public Works Director or a designee present during the blasting activity. The expense of having the Engineer and/or Public Works Director present shall be borne by the person(s) engaging in blasting activity.
B. Notice Requirements: Any person using explosives or blasting agents for blasting activities shall, at least three (3) days prior to engaging in such activities, notify in writing: 1) the Chief of Police, 2) the City Fire Marshal, and 3) all property owners within five hundred feet (500') of the site where blasting activities are to be conducted.

4-3-9: **SALE OR TRANSFER**: No person shall sell, transfer or give away any explosive or blasting agent to anyone who does not possess a valid permit issued under this Chapter.

4-3-10: **SELLER'S RECORD AND REPORT:**

A. Required Information: Every person selling or giving away any explosive covered by this Chapter shall keep at all times an accurate record in a bound book of all such explosives handled, indicating a detailed account of:

1. Date of each transference of explosives;
2. Amount of each such transference;
3. Name and address of each purchaser or transferee;
4. Manufacturer of the explosives being transferred;
5. The type of and any identification numbers of explosives being transferred;
6. Explosives owner or user's permit number;
7. Intended place of storage of the explosive by the purchaser or transferee;
8. Intended use site; and
9. Security measures provided at the storage site and at the use site.

B. Inspection By City Officials: The record book shall at all reasonable times be open to the inspection of the City Fire Marshal and any law enforcement official of the City.
C. Monthly Report To Fire Marshal: On the first day of every month, the seller or transferor shall make a report to the City Fire Marshal of the transactions which took place that month.

4-3-11: **STORAGE AND SECURITY REQUIREMENTS**: Any person storing, handling, using or in any way disposing of explosives covered by this Chapter shall maintain minimum safety and security features of all permanent and temporary storage facilities in a manner prescribed by the rules and regulations of the Minnesota State Fire Marshal governing the storage, handling, use and transportation of blasting agents and explosives.

4-3-12: **REPORT OF THEFTS**: Any person who has explosives in his/her possession and who incurs a loss or theft of all or a portion thereof, upon discovery of such loss or theft, shall immediately, and

in no event longer than twenty four (24) hours from the time of discovery, inform the office of the local Chief of Police of the loss or theft, the amount missing and approximate time of the occurrence.

4-3-13: **PERMIT REVOCATION OR SUSPENSION**: A permit may be revoked or suspended at any time by order of the City for any violation of the provisions of this Chapter or upon the creation or existence of any condition which would, in the opinion of the City Fire Marshal, create or tend to create a serious fire hazard.

4-3-14: **PENALTY:** Any person who violates any provisions of this Chapter is guilty of a misdemeanor.

CHAPTER 4

FIRE PREVENTION AND PROTECTION

SECTION:

4-4-1: Storage Of Firewood
4-4-2: Barbecues And Deck Fires

4-4-1: STORAGE OF FIREWOOD:

A. Statement Of Policy: The City Council finds that the use of renewable resources including wood is increasing. The Council recognizes that to protect public health and safety, wood piles must be erected, located and maintained in a safe and orderly fashion.
B. Scope: This Section applies to the storage of wood on residential properties within the City except for the exemptions noted below. This Section shall apply to any wood or wood product usually used or intended to be used as firewood in the residence or any accessory structure.
C. Conditions of Storage: Firewood shall be stored in the following fashion:

1. In neat and secure stacks.
2. The Height of a wood pile over three (3) feet shall be no more than twice its width. The maximum height allowed it six (6) feet.
3. In a manner and location to minimize problems of pest infestation.
4. No wood shall be stored within the required minimum area of setback from a street right of way or property line.
5. No wood shall be stored in a front yard or yard that is commonly considered the front yard.
6. The maximum amount of wood that may be stored is twelve (12) cords. One cord is considered being: 4 feet by 4 feet by 8 feet or 128 cubic feet.

D. Exemptions: Wood storage under the following circumstances shall be exempt from the conditions outlined in subsection C of this Section:

1. Wood stored or kept in a covered structure impervious to the elements.
2. Temporary storage of logs for up to thirty (30) days outside of the required areas of setback from property lines and street is allowed for the purpose of cutting and splitting logs to a size useable in the resident's wood burning device.
3. Temporary storage for up to thirty (30) days of lumber and other wood products used in construction projects is allowed outside of the required areas of setback from property lines and street.

E. Penalty: Every person convicted of a violation of any provision of this Section shall be guilty of a misdemeanor.

4-4-2: BARBECUES AND DECK FIRES:

A. Multi-Family Dwellings:

1. Use Restricted: No persons shall construct, erect, install or use any incinerator or barbecue, nor kindle or maintain any open flame, charcoal or other material on any balcony or patio which is attached to or is within fifteen feet (15') of any apartment building in which there are two (2) or more separate living units on more than one level unless the separate living units each have their own private means of ingress and egress.
2. Storage Prohibited: No person shall store or use any charcoal, lighter fluid, natural gas, fuel, torch, barbecue grill or other similar heating or lighting chemical or device in any place where fire, open flame or electric heating element is prohibited in subsection A1 of this Section.

B. Penalty: Any person who shall violate any of the provisions of this Section shall be guilty of a misdemeanor each day the violation continues. (Ord. 90-3, 6-11-1990)

CHAPTER 5

NUISANCES

SECTION:

4-5-1: Public Nuisance Defined
4-5-2: Health-Related Nuisances
4-5-3: Safety-Related Nuisances
4-5-4: Noise-Related Nuisances
4-5-5: Duties of City Officers
4-5-6: Abatement
4-5-7: Recovery of Cost
4-5-8: Penalty

4-5-1: **PUBLIC NUISANCE DEFINED**: Whoever by act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor.

A. Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or
B. Interferes with, obstructs or renders dangerous for passage any public highway or right of way or waters used by the public; or
C. Is guilty of any other act or omission declared by law or this Chapter to be a public nuisance and for which no sentence is specifically provided.

4-5-2: **HEALTH-RELATED NUISANCES**: The following are hereby declared to be nuisances affecting health:

A. Decayed or Unwholesome Accumulations: Exposed accumulation of decayed or unwholesome food or vegetable matter.
B. Domestic Diseased Animals: All diseased animals running at large.
C. Stagnant Water: All ponds or pools or stagnant water.
D. Animal Carcasses: Carcasses of animals not buried or destroyed within twenty-four (24) hours after death.
E. Refuse Accumulations: Accumulations of manure, refuse or other debris.
F. Privy Vaults, Garbage Cans: 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 emit foul or disagreeable odors.
G. Water Pollution: The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances.
H. Noxious Weeds, Vegetation: All noxious weeds and other rank growths of vegetation, public or private.
I. Smoke, Fumes: Dense smoke, noxious fumes, gas and soot or cinders in unreasonable quantities as stated by State and Federal air quality standards & to include the following:

    1. Outdoor Solid Fuel Heating Device: A device, structure, or apparatus, which supplies direct or indirect heat from the burning of solid fuel, including but not limited to wood, to a building.
    2. Stacks or Chimneys: Any vertical structure enclosing a flue or flues that carry off smoke or exhaust from a solid fuel fired heating.
    3. Outdoor solid fuel heating devices are prohibited and shall not be installed or operated within the City of Sartell.
    4. All existing solid fuel units installed within the City limits at the time of adoption of this ordinance or annexed into the City limits following the adoption of this ordinance are required to meet emission standards currently required by the Environmental Protection Agency (EPA), which are hereby adopted by reference together with any amendments or modifications made to them in the future.

a. The minimum stack height for any solid fuel-fired heating device shall meet or exceed the manufacturer's guidelines.
b. Any existing non-complying stack shall be removed, replaced, or modified within a period of 60 days from the receipt of a notice generated from the Building Official.
c. All stacks or chimneys must be constructed to withstand high winds or other related elements.
d. Outdoor solid fuel heating devices may only be used from September 1st to May 31st each year, unless the furnace is being used to provide domestic water service.
e. Only the following materials may be burned in the outdoor solid fuel heating devices: biomass pellets, corn, firewood, and clean, untreated lumber or other wood product.
f. No outdoor solid fuel-heating device shall be utilized in any manner as a waste incinerator.

J. Contagious Disease: All public exposure of persons having a contagious disease.
K. Offensive Trade or Business: Any offensive trade or business as defined by statute and not licensed by the City Board of Health as defined by law.

4-5-3: **SAFETY-RELATED NUISANCES**: The following are declared to be nuisances affecting public safety:

A. Snow, Ice: All snow and ice not removed from public sidewalks twenty-four (24) hours after the snow or other precipitation causing the condition has ceased to fall.
B. Snow on Public Way: Plowing, blowing, moving or any related action which results in snow being moved onto any public right of way or on adjacent private property.
C. Intersections, Obstructing View of Traffic: All trees, hedges, billboards or other obstructions which prevent persons from having a clear view of all traffic approaching an intersection for a distance of at least thirty (30) feet each from the intersection of the street right of way.
D. Tree Limbs, Wires: All wires of any sort 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.
E. Obstructions, Excavations: Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks or public grounds except under such conditions as are permitted by this Code or other applicable law and where properly identified by warning signs and/or lights.
F. Radio, Television Antennas: Radio aerials or television antenna erected or maintained in a dangerous manner.
G. Large Crowds, Obstruction of Public Way: 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 free use of the streets or sidewalks.
H. Hanging Structures: All hanging signs, awnings and other similar structures over streets and sidewalks or so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance.
I. Rain, Snow Falling from Building: 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.
J. Barbed Wire Fence: Any barbed wire fence less than six (6) feet above the ground and within three (3) feet of a public sidewalk or way.
K. Dangerous, Unguarded Machinery: All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public.
L. Wastewater: Wastewater cast upon or permitted to flow upon streets or other public property.
M. Junk, Debris: The piling, storing, or keeping of old machinery, junked vehicles, any motorized vehicle, motorcycle, snowmobile, trailer, boat ,all-terrain vehicles, cut and uncut scrap lumber, pipes and other junk or debris in a residential area. The keeping or storing of old machinery, scrap lumber, junk vehicles, other junk, or debris in a commercial zone.

1. For the purposes of this subsection a junked vehicle means any motorized vehicle, motorcycle, snowmobile, trailer, boat, or all-terrain vehicles as defined in Minnesota statutes 84.92, subd 8,. that is extensively damaged, with the damage including such things as broken

and missing wheels, motor, drivetrain, or transmission; is apparently inoperable; and doesn't have valid registration displayed.

2. The storing on private property of an inoperative vehicle, for the purpose of repairing or restoring such vehicle, may be authorized by the Chief of Police for periods of up to ninety (90) days. The owner of said vehicle must procure a permit from the Chief of Police and the permit must be conspicuously displayed on or about the vehicle. Any vehicle of a class or category ordinarily required to have state registration, must have current registration displayed.
3. All unguarded dangerous machinery, equipment or other property in any public place or so situated or operated on private property as to attract minor children.
4. All other conditions or things which are likely to cause injury to the person or property of anyone.

. Uncovered Excavations: Any well, hole or similar excavation which is left uncovered or in such other condition as to constitute a hazard to any child coming on the premises where it is located.

O. Obstruction of Free Flow: Obstruction to the free flow of water in natural waterway or a public street drain, gutter or ditch with trash or other materials.

P. Nails, Glass on Public Way: The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles or other substance which may injure any person or animal or damage any pneumatic tire when passing over such substance.

Q. Garbage, Refuse on Public Way: The depositing of garbage and/or refuse, including leaves, grass, and yard waste. on a public right of way or on adjacent private property.

R. Other Conditions: All other conditions or things which are likely to cause injury to the person or property of anyone.

S. Unnecessary Noise: All unnecessary noises and annoying vibrations.

4-5-4: **NOISE-RELATED NUISANCES**:

A. Unlawful to Make Loud or Unnecessary Noises. It will be unlawful for any person to make, or cause to be made any loud, unnecessary, or unusual noise, which either annoys, disturbs, or affects the comfort, repose, health, or peace of others.

B. Unlawful Acts. The following acts set forth in the following subdivisions are declared to be loud, disturbing, and unnecessary noises in violation of this ordinance, but this list is not exclusive.

1. Horns, signaling devises, etc. The sounding of any horn or related signaling devise on any automobile, motorcycle, or other vehicle, except as a danger warning.
2. Radios, tape, speakers, disks, etc. The using, operating, or permitted to be played on any machine or device for the purpose of producing or reproducing sound in such a manner, considering the time, place, and purpose for which sound is produced, as to disturb the peace, quiet, or response of a person.

    a. The play, use, or operation of any radio, tape, or disc player, musical instrument, phonograph or other machine or device for the production or reproduction of sound in such a manner as to be plainly audible at 50 feet from such machine or device will be prima facie evidence of a violation of this section.
    b. When sound violating this section is produced or reproduced by a machine or device that is in or on a vehicle, the vehicle's owner is guilty of the violation. However, if the vehicle's owner is not present at the time of the violation, the person in charge or in control of the vehicle at the time of the violation is guilty of the violation.
    c. This section will not apply to sound produced by the following:

        1. Amplifying equipment used in connection with activities which are authorized, sponsored, our permitted by the City, so long as the activity is conducted pursuant to the conditions of the license, permit or contract authorizing the activity.
        2. Church bells, chimes, or carillons.
        3. School bells.

4. Anti-theft devices.
5. Machines or devices which produce sound on or in authorized emergency vehicles.

d. Except for the machines and/or devises listed in subsection C, this section will apply to all other machines and/or devices which produce or reproduce sound, whether on public or private property.

C. Loudspeakers. Amplifiers for Advertising. The using, operating, or permitting to be played any radio, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproduction of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.

D. Yelling, Shouting, etc. Yelling, shouting, hooting, whistling, or singing at any time or place as to annoy or disturb the quiet, comfort or repose of any persons in any office, or in any dwelling, hotel, motel, or other place of residence, or of any persons in the vicinity.

E. Animals, Birds, etc. Keeping of any animal or bird which by causing frequent or long continued noise will disturb the comfort or repose of any persons in the vicinity.

F. Whistles or Sirens. The blowing of a locomotive whistle or steam whistle attached to any stationary boiler or any siren whatsoever except to give notice of the time to begin or stop work as a warning of fire or danger, or by public emergency vehicles.

G. Exhausts. The discharge into the open air of the exhaust of any vehicle except through a muffler or other device, which will effectively prevent loud or explosive noises.

H. Vehicle and Truck Noise. The use of nay automobile, motorcycle, or vehicle so out of repair, so loaded, or in such manner as to create loud and unnecessary grating, grinding, or rattling which will disturb the comfort or repose of any persons in the vicinity, or such other noise emitted from an automobile, motorcycle, or vehicle in violation of Minn. R. ch. 7030, as they may be amended from time to time, are hereby incorporated into this ordinance by reference.

I. Sound Trucks for Advertising Purposes. The use of sound trucks or any other vehicle equipped with sound amplifying devise for the purpose of advertising a program, project, or meeting of any public agency, private business, religious organization, civic group, political party, or charitable organization.

J. Loading, Unloading, Opening Boxes. The creation of loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.

K. Construction or Repairing of Buildings. The erection (including excavating), demolition, alteration, or repair of any building between the hours of 9 p.m. and 6 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 case of emergency, grant permission to repair at any time when it is determined that such repair work will not affect the health and safety of the persons in the vicinity.

L. Schools, Courts, Churches, Hospitals. The creation of excessive noise in any street or private property which unreasonably interferes with any school, institution of learning, church, court, or hospital while the same is in use.

M. Hawkers, Peddlers. The shouting and crying of peddlers, hawkers, and vendors which disturbs the peace and quiet of the neighborhood.

N. Pile Drivers, Hammers, etc. The operation between the hours of 9 p.m. and 6 a.m. of any pile driver, power shovel, pneumatic hammer, derrick, power or electric hoist, or other appliance in the use of which is attended by loud or unusual noise.

O. Blowers. The operation of any noise creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of aerating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

P. Noisy Parties and Gatherings.

1. Prohibition. No person will, between the hours of 10:00 PM and 7:00 AM congregate at, or participate in, any party or gathering of two or more people from which noise emanates of a

sufficient volume to disturb the peace and/or quiet of another person. No person will knowingly remain at such a noisy party or gathering.

2. Evidence, Noise of such volume as to be clearly audible at 50 feet from the structure or building in which the gathering is occurring. Or in the case of apartment buildings, in the adjacent hallway or apartment.
3. Duty to disperse. When a police officer determines that a party of gathering is in violation of this Title, the office may order all persons present at the premises where the violation is occurring, other than the owner or tenants, to disperse immediately. No person will knowingly remain at such a gathering.
4. Exceptions. The following are exempt from the violation of this Section:

    a. Activities which are duly authorized, sponsored or licensed by the City of Sartell, so long as the activity is conducted pursuant to the conditions of the license, permit or contract authorizing such activity.
    b. Church bells, chimes, or carillons.
    c. Persons who have gone to a party for the sole purpose of abating the violation.

5. Penalties. Every owner or tenant of the premises where a party or gathering in violation of this section occurs, who is present at such party or gathering is guilty of a misdemeanor. Any person who refuses to disperse from a party or gathering in violation of this section after being ordered by a police officer to do so, is guilty of a misdemeanor.

Q. Exemptions Authorized by the Sartell City Council. Upon special request made by contractors, the Council may exempt contractors performing public works operations from time prohibitions set forth within this ordinance.

R. Persons Involved: The prohibitions of this Chapter shall extend beyond the person making or causing to be made said noise and extend to any person in control of any real estate, vehicle or equipment from which the noise is emanating. Any such person so allowing the making of said noise from said real estate, vehicle or equipment controlled, owned, or possessed by him/her, the making of which noise is unlawful by virtue of this Section shall be a violation of this Chapter.

4-5-5: **DUTIES OF CITY OFFICERS**:

A. Enforcement: The City Engineer and/or Public Works Director and Police shall enforce the provisions relating to nuisances affecting public safety. The Police Department shall enforce provisions relating to nuisances affecting public safety. Said employees have the full discretion of determining if there is an existence of a noise nuisance.
B. Power to Inspect: Such officers shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

4-5-6: **ABATEMENT:**

A. Notice of Determination: Whenever the officer charged with enforcement determines that a public nuisance is being maintained or exists on premises in the City, the officer shall notify verbally and in writing the owner or occupant of the premises of such fact and shall order that such nuisance be terminated and abated.
B. Service of Notice: The notice shall be served in person or by certified or registered mail. If the premises are not occupied and the owner is unknown, the notice may be served by posting it on the premises.
C. Necessary Action: The notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding thirty (30) days, within which the nuisance is to be abated.
D. Noncompliance: If the notice is not complied with within the time specified, the enforcing officer shall report that fact forthwith to the Council.
E. Notice of Abatement: The Council may, after notice to the owner or occupant and an opportunity to be heard, provide for abating the nuisance by the City. The notice shall be served in the same

manner as notice by the enforcing officer is served and shall be given at least ten (10) days before the date stated in the notice when the Council will consider the matter. If notice is given by posting, at least thirty (30) days shall elapse between the day of the posting and the notice of the hearing.

4-5-7: **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 determined, the Deputy 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 Deputy Clerk.

B. Assessment: If the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of the streets or unsound or insect-infested trees, any unpaid charges by the City for the cost of elimination of the nuisance may be collected as a special assessment pursuant to Minnesota Statutes section 429.101.

4-5-8: **PENALTY**: Any person violating any provision of this Chapter shall be guilty of a misdemeanor.

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CHAPTER 6

GARBAGE AND REFUSE

SECTION:

4-6-1: Definitions
4-6-2: General Regulations
4-6-3: Disposal Required
4-6-4: Containers
4-6-5: Licensed Collectors
4-6-6: Penalty; License Revocation

4-6-1: **DEFINITIONS:** For the purposes of this Chapter, the following words and phrases have the meanings given them in this Section:

GARBAGE: Organic waste resulting from the preparation of food and decayed and spoiled food from any source.

PERSON: For the purposes of the definition of "rubbish" only, "person" means mature individual. For the remainder of this Chapter, "person" shall mean any natural individual, firm, partnership, association or corporation. As applied to partnerships or associations, the term includes the partners or members; as applied to corporations the term includes the officers, agents or employees.

REFUSE: Includes garbage and rubbish.

RUBBISH: Inorganic solid waste such as tin cans, glass, paper, ashes, sweepings, etc. Rubbish does not mean or include stone, sod, earth, concrete, contractors' building materials, large automobile parts, large appliances, inflammable liquids, tree trunk sections over six inches (6") in diameter or articles so heavy or bulky that they cannot be handled by one person.

4-6-2: **GENERAL REGULATIONS**:

A. Unauthorized Accumulation: Any unauthorized accumulation of refuse on any premises is a nuisance and is prohibited.
B. Refuse In Public Way, Private Property: No person shall place any refuse in any street, alley or public place or upon any private property except in proper containers for collection. No person shall throw or deposit refuse in any stream or other body of water.
C. Scattering Of Refuse: No person shall deposit anywhere within the City any refuse in such manner that it may be carried or deposited by the elements upon any public or private premises within the City.
D. Burying Of Refuse; Composting:

    1. Restrictions: No person shall bury any refuse in the City except in a sanitary landfill, but leaves, grass clippings and easily biodegradable, nonpoisonous garbage may be composted on the premises where such refuse has been accumulated. Garbage may be composted only in a rodent-proof structure and in an otherwise sanitary manner.
    2. Council Approval Required: Such composting shall be done only after the Council gives its approval to such composting and after it finds that the composting will be done in accordance with these standards.

4-6-3: **DISPOSAL REQUIRED**: Every person shall, in a sanitary manner, dispose of refuse that may accumulate upon property owned or occupied by such person. Refuse shall be collected, or

otherwise lawfully disposed of, on a regular basis.

4-6-4: **CONTAINERS:**

A. General Requirements: Every householder, occupant or owner of any residence and any restaurant, industrial establishment or commercial establishment shall provide, on the premises, one or more nuisance-free containers to receive and contain all refuse which may accumulate between collections. All normal accumulations of refuse shall be deposited in such containers.
B. Placement: It shall be the duty of the property owner or occupant to place their garbage containers where the refuse is to be collected, but in no event shall containers be placed in the street or on the sidewalk or in any manner placed where the containers will interfere with vehicular or pedestrian traffic. It shall be the responsibility of the property owner or occupant to place the containers no earlier than 6:00 pm of the afternoon preceding the collection day and to remove all containers and any materials not picked up by the licensed refuse hauler from the location next to the street or alley by 8:00 pm on the day of collection. Up to two refuse/recycling containers per residential housing unit may be stored outside. Any refuse/recycling containers exceeding a total of two must be stored inside or screened from view from the public and neighboring property owners.
C. Use Of Containers: Refuse shall be drained of liquid, and highly flammable or explosive material shall not be placed in containers

4-6-5: **LICENSED COLLECTORS**:

A. Use Of Licensed Collector Required: Except as permitted by subsection K of this Section, no person shall permit refuse to be picked up from his/her premises by an unlicensed collector, nor shall an unlicensed collector pick up refuse from any premises.
B. Application For License; Investigation:

1. Application: Any person desiring a license shall make application to the Deputy Clerk on a form acceptable by the City. The application shall set forth:

    a. The name and the address of the applicant.
    b. A description of each piece of equipment proposed to be used.
    c. The proposed charges to be made to those who use the service.
    d. A description of the kind of service proposed to be offered.
    e. The place to which the refuse is to be hauled.
    f. The manner in which the refuse is to be disposed.

2. Investigation; Issuance/Denial Of License: The City Council shall investigate each application and, after due consideration, grant or deny a license.

C. License Fee:

1. Original License Applies To Single Vehicle: The license fee shall be an amount fixed from time to time by resolution of the Council and shall entitle the licensee to one refuse hauling vehicle.
2. Additional Vehicles: The registration fee for additional vehicles shall be an amount fixed from time to time by resolution of the Council.

D. Term Of License: Licenses shall be issued for a period of one year and shall expire on December 31 following issuance.
E. Insurance Requirements: No license shall be issued until the applicant files with the Deputy Clerk the following:

1. Public Liability Insurance: A current certificate of public liability insurance covering all vehicles to be used by the applicant in the licensed business with the following minimum coverages:

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a. Each person injured, at least one hundred thousand dollars ($100,000.00).
b. Each accident, at least three hundred thousand dollars ($300,000.00).
c. Property damage, at least fifty thousand dollars ($50,000.00) per accident.

2. Workers' Compensation Insurance: A current policy for workers' compensation insurance covering all employees of the licensee.

F. Limitations:

1. Number Of Licenses: The number of licenses issued shall be fixed from time to time by resolution of the Council.
2. Additional And/or Replacement Vehicles: Each license holder is entitled to register each additional or replacement vehicle with the Deputy Clerk within ten (10) days of being placed in service, provided this registration fee for each subsequent vehicle after the first are paid.

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G. Transfer Of License: No transfer of licenses between refuse hauling companies or from one owner to another shall be allowed.

H. Rates And Charges: The licensee shall set the fee charged for any user of their refuse collection service including single-family residential, multi-unit residential, commercial and all residents of mobile home parks.

I. Hours Of Collection: No licensee shall cause to be collected from any single-family residential dwelling any refuse before seven o'clock (7:00) A.M. of any day nor shall any refuse be collected after seven o'clock (7:00) P.M. of any day.

J. Refuse Collection Equipment: All garbage and wet rubbish shall be hauled in covered vehicles having metal, watertight bodies to prevent scattering or dripping of contents. Dry refuse may be hauled in any type of vehicle; provided however, that all necessary steps shall be taken, including tying or covering of the refuse to prevent scattering of any such refuse during transit.

K. Exemptions: The owner or occupant of any premises used for industrial purposes shall not be required to use a refuse hauler licensed by the City.

L. Recycling: Removal and hauling of recyclables must occur at least monthly, but not more frequently than every other week.

M. Axle: An empty weight of five (5) tons per axle will be the maximum refuse/recycling truck weight allowed during Spring weight restrictions.

4-6-6: **PENALTY; LICENSE REVOCATION:**

A. Revocation Of License: The violation of any provision or condition of this Chapter by a licensee or licensee's agent is grounds for revocation or suspension of the license.

B. Compliance Secured: The provisions or conditions of this Chapter shall be provided for by the City in the case of nonconformance, and the costs associated with providing conformance shall be certified as a special assessment according to Minnesota Statutes Chapter 429.

C. Penalty: Any person who shall violate any provision of this Chapter shall be subject to penalty as provided in this Title.

CHAPTER 7

SHADE TREES

SECTION:

4-7-1: Declaration Of Policy
4-7-2: Forester
4-7-3: Epidemic Disease Program
4-7-4: Nuisances Declared
4-7-5: Inspection; Investigation
4-7-6: Spraying Elm Trees
4-7-7: Removal Of Infected Trees And Wood
4-7-8: Transporting Elm Or Oak Wood, Permit Required
4-7-9: Interference Prohibited
4-7-10: Abatement Of Nuisance
4-7-11: Penalty

4-7-1: **DECLARATION OF POLICY**: The City Council determines that the health of the elm and oak trees within the Municipal limits is threatened by fatal diseases known as Dutch elm and oak wilt diseases, and other trees may be threatened by other epidemic diseases of shade trees, It further determines that the loss of elm, oak and other trees growing upon public and private property would substantially depreciate the value of property within the City and impair the safety, good order, general welfare and convenience of the public. It is declared to be the intention of the Council to control and prevent the spread of those diseases and this Chapter is enacted for that purpose.

4-7-2: **FORESTER:**

A. Position Created; Duties Conferred: The powers and duties of the City Forester as set forth in this Chapter are hereby conferred upon the Public Works Director or his/her designee.
B. Duties: It is the duly of the Forester to coordinate, under the direction and control of the Council, all activities of the Municipality relating to the control and prevention of Dutch elm disease, oak wilt disease and other epidemic diseases of shade trees. The Forester shall recommend to the Council the details of a program for the control of such diseases and perform the duties incident to such a program adopted by the Council.

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4-7-3: **EPIDEMIC DISEASE PROGRAM**: It is the intention of the Council to conduct a program of plant pest control pursuant to all the powers of this City, including the authority granted by Minnesota Statutes section 18.022. This program is concentrated on, but not limited to, the control and elimination of Dutch elm disease fungus, elm bark beetles and the oak wilt fungus and is undertaken at the recommendation of the Commissioner of Agriculture.

4-7-4: **NUISANCES DECLARED**:

A. Trees Constituting Nuisance: The following are public nuisances whenever they may be found within the City:

1. Dutch Elm Disease; Elm Bark Beetles:

a. Any living or standing elm tree or part thereof infected to any degree with the Dutch elm disease fungus ceratocystis ulmi (buisman) moreau or which harbors any of the elm bark beetles scolytus multistriatus (eichh.) or hylungopinus rufipes (marsh).
b. Any dead elm tree or part thereof, including logs, branches, stumps, firewood, or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle insecticide.

2. Oak Wilt Fungus:

    a. Any living or standing oak tree or part thereof infected to any degree with the oak wilt fungus ceratocystis fagacearum.
    b. Any dead oak tree or part thereof which, in the opinion of the Forester, constitutes a hazard, including, but not limited to, logs, branches, stumps, roots, firewood or other oak material, which has not been stripped of its bark and burned or sprayed with an effective fungicide.

3. Other Epidemic Disease: Any other shade trees with an epidemic disease.

B. Compliance Required: It is unlawful for any person to permit any "public nuisance" as defined in this Section to remain on any premises owned or controlled by such person within the City. Such nuisances may be abated in the manner prescribed in this Title.

4-7-5: **INSPECTION; INVESTIGATION:**

A. Inspection: As often as practicable, the Forester shall inspect all public and private premises within the City which might harbor any plant pest as defined in Minnesota Statutes section 18.46, subdivision 13, to determine whether any condition described in Section 4-7-4 of this Chapter exists thereon. The Forester shall investigate all reported incidents of infection of Dutch elm fungus, elm bark beetles, oak wilt fungus or any other epidemic disease of shade trees.
B. Entry On Private Premises: The Forester, or the Forester's duly authorized agents, may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned to the Forester under this Chapter.
C. Diagnosis: The Forester shall, upon finding conditions indicating Dutch elm, oak wilt, or other infestation, immediately send appropriate specimens or samples to the Commissioner of Agriculture for analysis or take such other steps for diagnosis as may be recommended by the Commissioner. Except as provided in Section 4-7-7 of this Chapter, no action to remove infected trees or wood shall be taken until positive diagnosis of the disease has been made.

4-7-6: **SPRAYING ELM TREES**: Whenever the Forester determines that any elm tree or elm wood within the City is infected with Dutch elm fungus, the Forester may spray or treat all nearby high-value elm trees with an effective elm bark beetle-destroying concentrate or fungicide, or both. Activities authorized by this Section shall be conducted in accordance with technical and expert opinions and plans of the Commissioner of Agriculture and under the supervision of the Commissioner and the Commissioner's agents whenever possible.

4-7-7: **REMOVAL OF INFECTED TREES AND WOOD:**

A. Action By Forester: Whenever the Forester finds, with reasonable certainty, that the infestation defined in Section 4-7-4 of this Chapter exists in any tree or wood in any public or private place in the City, the Forester shall proceed as follows:

    1. Notice Of Abatement: The Forester shall notify the property owner by mail that the nuisance must be abated within a specified time, not more than twenty (20) days from the date of mailing such notice.
    2. Noncompliance; Abatement By City: In cases of noncompliance by the property owner within the period specified by the notice, the Forester shall immediately abate the nuisance by using Municipal labor or by contracting for such services and shall report such action to the Council.
    3. Costs Of Abatement: The Forester may bill the owner of private property for costs incurred for abating such nuisance.

B. Record: The Forester shall keep a record of the costs of abatement done under this Section and shall report to the Deputy Clerk all work done for which assessments are to be made stating and

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certifying the description of the land, lots, parcels involved and the amount chargeable to each.

C. Special Assessment; Certification To Proper County Auditor: On or before September 1 of each year, the Deputy Clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this Chapter. The Council may then spread the charges, or any portion thereof, against the property involved as a special assessment under Minnesota Statutes section 429.101, and any other pertinent statutes for certification to the proper County Auditor and collection the following year along with current taxes.

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4-7-8: **TRANSPORTING ELM OR OAK WOOD, PERMIT REQUIRED:** It is unlawful for any person to transport within the City any bark-bearing elm or oak wood without first having obtained a permit from the Forester. The Forester shall grant such permits only when the purpose of this Chapter will be served thereby.

4-7-9: **INTERFERENCE PROHIBITED**: It is unlawful for any person to prevent, delay or interfere with the Forester or the Forester's agents while they are engaged in the performance of duties imposed by this Chapter.

4-7-10: **ABATEMENT OF NUISANCE**: In abating a nuisance defined in Section 4-7-4 of this Chapter, the Forester shall cause the infected tree or wood to be sprayed, removed, burned, or otherwise effectively treated so as to destroy and prevent, as fully as possible, the spread of epidemic diseases including Dutch elm disease and oak wilt disease. The Forester shall also take such steps as are necessary to prevent root graft transmission of the disease. Such abatement procedures shall be carried out in accordance with current technical and expert opinions and plans as may be designated by the Commissioner of Agriculture.

4-7-11: **PENALTY**: Any person who violates the provisions of this Chapter is guilty of a misdemeanor.

CHAPTER 8

RENTAL PROPERTY
LICENSING AND MAINTENANCE

SECTION:

4-8-1: Purpose and Intent
4-8-2: Applicability and Exceptions
4-8-3: Definitions
4-8-4: Fees and Licensing
4-8-5: Unsafe Structures, Equipment, and Use
4-8-6: Property Maintenance Standards
4-8-7: Display of License
4-8-8: Inspection; Right of Entry
4-8-9: Applicable Laws
4-8-10: Penalty, Violations, and Termination of Rental License
4-8-11: Crime Free Multi-Family Housing
4-8-12: Noise Limits

4-8-1: **PURPOSE AND INTENT**

A. Purpose: The purpose of this Ordinance is to protect, preserve, and promote the public health, safety and general welfare of the residents of the City living in a rental property for the payment of a rental charge. These general objectives include, among others, the following:

1. Maintain a quality character and stability of rental property within the City.
2. Correct and prevent rental housing 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 occupants of rental property within the City.
3. Provide minimum standards for cooking, heating and sanitary equipment necessary to the health and safety of occupants of rental property.
4. Provide minimum standards for light and ventilation necessary to the health and safety of occupants of rental property.
5. Provide minimum space standards to prevent overcrowding.
6. Provide minimum standards for the maintenance of rental property to prevent blight and slums.
7. Preserve the value of land and buildings throughout the City.

B. Intent: The intent of this Ordinance is to establish and continue a rental property licensing, inspection and maintenance program that corrects substandard conditions, maintains a standard for rental units, provides a means for imposing license fees to help the City defray the costs necessary for housing inspections and enforcement of this Ordinance, and provides for the quiet enjoyment of the normal activities of life for occupants of rental properties and for the neighborhoods in which such rental properties are located.

C. Savings Clause: With respect to rental disputes, and except as otherwise specifically provided by the terms of this Ordinance, it is not the intention of the City to intrude upon the fair and accepted contractual relationship between tenant and landlord. The City does not intend to intervene as an advocate of either party, or to act as an arbiter, or to be receptive to complaints from a 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 rights as are available to them without the intervention of the City. Neither in enacting this Ordinance is it the intention of the City to interfere or permit interference with legal rights to personal privacy.

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4-8-2: **APPLICABILITY AND EXCEPTIONS**: This Ordinance applies to all rental units that are

let, in whole or in part, and used or intended to be used for human habitation. It includes accessory structures such as garages and storage buildings. This chapter does not apply to any county, state, or federally licensed facilities/units.

4-9-3: **DEFINITIONS:**

BUILDING	Any structure used or intended for supporting or sheltering any use or occupancy.
CRIME FREE MULTI-HOUSING PROGRAM (CFMH)	Is a three-phase certification program available to owners and property managers of multi-family rental properties located within the corporate limits of the City of Sartell. Necessary training and support of the program is designed to provide for ease of participation. The program is known to be effective in reducing criminal activity in multi-family rental properties.
DWELLING	Any enclosed space which is wholly or partly used or intended to be used for living, sleeping, cooking, and eating purposes. Manufactured, industrialized and modular home constructions are included in this definition.
DWELLING UNIT	A single unit providing complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
EGRESS	An arrangement of exit facilities to assure a safe means of exit from a building.
HABITABLE ROOM	A room or enclosed floor space, used or intended to be used for living, sleeping, cooking, or eating, excluding bathrooms, water closet compartments, laundries, pantries, foyers or communicating corridors, closets, and storage spaces.
HOUSING INSPECTOR	The Building Official, Code Official, Fire Marshal, City Police Chief, or their designee authorized to administer and enforce this Ordinance.
IMMEDIATE FAMILY MEMBER	An individual related to the owner as parent, grandparent, spouse, child, or grandchild, whether related by birth, adoption, marriage, civil partnership, or cohabitation.
LET	To allow or offer occupancy of any rental property to a tenant.
MANAGER	The owner or owner's agent who has charge, care, control, or management of a building or rental unit(s), or part thereof, in which dwelling units, manufactured homes or rooming units are let.
MANUFACTURED HOME	A structure, transportable in one or more sections, which in the traveling mode is eight (8) body feet or more in width or forty (40) body feet or more in length or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the structure's plumbing, heating, air conditioning and electrical systems as defined in Minnesota

	Statutes 327.
MULTI-FAMILY RENTAL PROPERTY	A rental property that consists of three (3) or more rental units.
OCCUPANCY	The purpose for which a building or portion thereof is occupied.
OCCUPANT	Any person (including the owner or manager) living, sleeping, cooking, or eating in, or having actual possession of, a dwelling, dwelling unit, rental unit or rooming unit.
OWNER	Any person who, alone, jointly, or severally with others, shall be in actual possession of, or have charge, care or control of, any rental property within the City as title holder, employee or agent of the title holder, operator, or as trustee or guardian of the estate or person of the title holder. Any such person representing the actual title holder shall be bound to comply with the provisions of this Chapter to the same extent as the title holder.
PERSON	Any natural person, his/her heirs, executors, administrators or assigns, and also includes a firm, partnership, limited liability company, cooperative or corporation, it's or their successors or assigns, or the agent of any of the aforesaid.
RENTAL CHARGE	Any compensation, either monetary or "in lieu of" payments, such as, but not limited to, utilities, upkeep, or repair, but not including provision of in home care to the Property owner.
RENTAL PROPERTY	Any real property, dwelling, dwelling unit, rooming unit or rental unit which is rented or leased by one person or entity to another person or entity for payment of a rental charge, including but not limited to dwellings, apartments, townhouses, condominiums, manufactured homes, rooming houses, and other similar structures, including their accessory structures, appurtenances and common areas.
RENTAL UNIT	Any building, room or combination of rooms, manufactured home or other rental property
ROOMING HOUSE	A building or structure providing a room or rooms intended for living and sleeping to persons in the status of tenant. This term shall include fraternity houses and sorority houses, but does not include hotels, motels or hospitals.
ROOMING UNIT	Any room or group of rooms forming a single habitable unit used or intended to be used primarily for living and sleeping.
SINGLE FAMILY RENTAL PROPERTY	A rental property that consists of less than three (3) rental units.
SLEEPING ROOM	Any room or rooms used or intended to be used by a tenant for sleeping purposes.
TENANT	One who has as his/her place of abode a rental unit furnished to him/her for payment of a rental charge to another.

4-8-4: **FEES AND LICENSING:**

A. License Required: No person shall occupy, allow to be occupied or let to another for occupancy any rental property in the City for which an application for a rental license has not been properly obtained from the City. A person who allows to be occupied, lets or offers to let to another, any rental unit, without a license as required by this Chapter, is guilty of a misdemeanor and subject to penalty as provided in Title 1 of the City Code. The practice of pre-leasing new rental construction shall be exempt from the provisions of this section. In addition to, or in lieu of, charging a misdemeanor, the City may impose an administrative penalty in an amount set in the City of Sartell Schedule. For violations of this Section 4-~~8~~-6(A), the City shall not be required to issue a notice of violation and may proceed directly to issuance of an administrative citation.

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1. A rental license is not required if the rental unit is only occupied by immediate family members of the owner. A rental license is required if the rental unit is occupied by any non-immediate family members of the owner. The Housing Inspector may require sufficient written proof from the owner stipulating the relationship and living agreements.
2. Any "lease to Own" type arrangement is still technically a rental and must be licensed as such until the purchase transaction is completed.
3. These rental licensing requirements do not apply to residential property that has been sold on a contract for deed so long as the vendee occupies the property and the sale document used to memorialize the sale is recorded with the county recorder's office and a copy is provided to the City upon request.

B. Application:

1. Fee Prerequisite: A license fee for each rental unit as determined by the City of Sartell Fee Schedule shall be due at the time of an initial and/or renewal application. An application will not be processed or considered until the license fee is paid. If licensees wish to fully participate in the Sartell Crime Free Multi-Housing program, they may qualify for a rental fee reduction.

   a. A multi-family rental property will pay the full rental license fee for its initial rental license and will receive a credit refund from the City if they complete all the requirements for the crime free multi-family housing program discount within ninety (90) days of issuance of a certificate of occupancy for the property. If all requirements are not completed within the established time period, the property will not receive a refund and the property will then need to meet renewal license requirements as specified hereafter to achieve rental fee reduction in future years. For rental license renewals, a Multi-Family Rental Property shall not be eligible for a rental fee reduction unless:

      1. The rental license renewal applications for the current licensing year were filed on time,
      2. The rental license fees for the current licensing year were paid on time.
      3. The licensee has completed all the requirements of the Sartell Crime Free Multi-Family Housing program by October 1st of the year in which the rental license renewal application is submitted.

   b. License fees shall not be prorated or refunded in whole or in part for single family rental licenses. Multi-family rental licenses will not be refunded, but newly issued rental licenses will be prorated to the 1st day of the month in the month in which occupancy first occurs.

2. Required Information: The application for a rental license shall be submitted on a form accepted by the City and shall contain the following information:

   a. Name, residence address and phone number of the owner of the rental property and, if applicable, of an agent authorized by the owner to accept service of process and to receive and give receipt for notices.
   b. Owner shall indicate their assigned agent and provide address and phone number of

agent actively managing said rental property.
c. Street address of the rental property.
d. Tax parcel number of the rental property.
e. Number and kind of units within the rental property (dwelling or rooming units).
f. Name, phone number and address of the person authorized to make or order repairs and/or service the building or rental property to provide required services necessary to protect the health, safety, and welfare of the occupants or is able to contact the person so authorized.
g. Maximum number of people per rental unit.
h. Additional information as deemed necessary by the City.

3. Required Updates: An applicant or licensee must notify the City within fourteen (14) calendar days after any change to the information contained in the Application.
4. Manner of Application: The application shall be made by the owner if such owner is a natural person; if the owner is a corporation, cooperative or limited liability company, by an officer thereof; if a partnership, by one of the partners; and if an unincorporated association, by the manager or managing officer thereof, in the office of the Housing Inspector. In cases where the owner of the rental property lives outside of the City of Sartell, application shall be made by an agent who shall be legally responsible for compliance with this and other City Ordinances**.**

C. License Term/Renewal. All rental licenses shall expire on December 31st each year. An owner who is operating a rental property after the license has expired is operating an unlicensed rental property. License renewal as required by this Ordinance may be made by filling out the required renewal application. Such license renewal may only be made where there has not been a change of ownership, agent or type of occupancy as originally licensed. License renewal fees shall be paid and renewal applications shall be filed as provided in this Section 4-8-6. If the license renewal fee required hereunder is paid and/or the renewal application is filed after the deadline, the license renewal fee may be increased as set by the City of Sartell Fee Schedule.
D. Denials: The City may deny the issuance or renewal of a rental license for the following reasons:

1. The applicant has an ownership interest or management role in other rental properties that are in a suspended or revoked status.
2. The applicant fails to provide any information required on the City's form or provides false or misleading information.
3. The applicant has real estate taxes and/or special assessments levied against the rental property and/or other fines, fees, charges or other financial claims owed to the City or the State of Minnesota that have not been paid.
4. The rental property or any rental unit fails a property inspection in the opinion of the Housing Inspector.
5. The applicant has outstanding building, fire or property maintenance standards violations, fines, penalties, or delinquent utility charges owed to the City.
6. A development contract or land use requirement that restricts rental units.

An applicant who is denied a rental license will receive written notice of the denial and reasons for the denial and may request a hearing before the City Council pursuant to the provisions of this Chapter.

E. Inspection: All rental properties required to be licensed, will be inspected by the Housing Inspector as follows:

1. Initial License Issuance*:* No license shall be issued under this Ordinance unless the rental property conforms to the Ordinances of the City and the laws of the State. An inspection of the rental unit shall be conducted and verified by the Housing Inspector that it complies with this Ordinance prior to issuance of an initial rental license. If the license application is incomplete, or the applicant does not meet the requirements of the licensing process,

including the inspection requirements, within 30 days of the submittal date, the application will be canceled.

2. License Renewals: No license shall be renewed under this chapter unless the rental property conforms to the Ordinances of the City and the laws of the State. An inspection of the rental property may be conducted either prior to, or after issuance of a renewed rental license. Issuance of a renewal license prior to inspection is not a determination that the rental property complies with all the requirements of this Ordinance. Every rental property may be re-inspected after a renewal application is filed to determine if it still conforms to all applicable Ordinances and laws of the State.

    a. Inspection Policy: The City shall adopt a policy for inspecting all existing rental property required to have license renewals under this chapter. The policy shall contain objectives for the systematic inspection of all rental property and priorities. The inspection policy shall take into account the property's inspection history, history of compliance with this Ordinance, City or State laws, and any other enforcement violations or complaints of the property.
    b. Notification for Inspection: Upon determination by City policy that an inspection is required, the City will notify the licensee that an inspection of the rental property is required to ensure compliance with this Ordinance. The licensee must contact the City to schedule the inspection within thirty (30) days from the date of the notification letter. If the licensee does not schedule an inspection or fails to respond to the City's request for providing an inspection, the licensee may be subject to an administrative citation in accordance with Title 1 of the City Code. In addition, the rental license may be subject to revocation as permitted by this Ordinance.

F. Access for Inspection: Every applicant for and/or holder of a rental license shall permit the Housing Inspector and/or his or her authorized representatives, either voluntarily or pursuant to an administrative or other warrant, to enter upon the premises for the purpose of conducting inspections to verify compliance with this Ordinance. No license shall be issued or renewed under this chapter unless the owner of the rental unit(s) agrees in their application to permit inspections to determine compliance with City Code during the effective period of the rental license. The submission of a license application, or the possession of a license issued by the City, shall constitute the express consent of the owner to grant free access and entry to the structure or premises under the owner's control for inspection pursuant to this chapter. If any owner refuses to permit or schedule free access and entry to the structure or premises under their control for such inspection or refuses to be present during any such inspection when requested by the Housing Inspector, the application for a new or renewal rental license shall be immediately denied or an existing license may be revoked for such refusal. If at any other time the Housing Inspector seeks entry to a licensed rental unit for inspection and the Housing Inspector is refused free access and entry, the City may pursue any remedy at law, including, but not limited to, securing an administrative search warrant for the property, revoking, or suspending the rental license, or seeking such other remedies provided by law.

G. Transfers*:* No license under this chapter shall be transferable to another person or to another rental unit. Every new owner of a rental property (whether as fee owner, contract purchaser, lessee subletting the entire rental property or otherwise entitled to possession) shall apply for a new rental license within fourteen (14) calendar days of transfer of the rental property. No license fee shall be required of the new owner for the remaining term of the existing license for such rental property, provided the previous owner has paid the license fee, and further provided the new owner does not change the type of occupancy as originally licensed. An inspection shall be made within 14 days of the application for such new rental license due to transfer. Violation(s), if any, shall be corrected by the owners and a re-inspection will be made within 30 days of the initial inspection. Additional re-inspections required after the initial re-inspection will be charged a re-inspection fee according to the City fee schedule. Any uncorrected violations may be subject to the penalty provisions of Section 4-8-10 below.

H. Changes in the Rental Property or Rental Unit: If changes are made in the number or type of units within the rental property, the licensee shall file an application to amend the rental license.

Such application shall be accompanied by the fee required for any additional units. Depending on the nature of the changes, the City may require a new property inspection.

4-8-5: **UNSAFE STRUCTURES, EQUIPMENT AND USE**: When a structure, portion of a structure, or equipment is found by the Housing Inspector to be unsafe, or found to be used in an unlawful way, such structure, equipment, or use shall be abated by repair, rehabilitation, demolition, or removal in accordance with the Minnesota State Building Code and Minnesota Statutes, sections 463.15 to 463.26. The Housing Inspector may order any building to be vacated if any portion of the structure, or equipment or any use is dangerous to the life, health, or safety of the occupants. The Housing Inspector shall have the authority to order the disconnection of utility services to the building, or equipment.

A. Unsafe Structure: An unsafe structure is one that if found to be dangerous to the life, health, property, or safety of the occupants or public because of inadequate maintenance, dilapidation, physical damage, unsanitary condition, or abandonment.
B. Unsafe Equipment: Unsafe equipment includes fixtures, appliances, heating and/or cooling equipment, ventilation equipment, electrical equipment or systems, plumbing fixtures or systems, decorative appliances, and equipment, elevators, or chair lifts, or building services which constitute a fire, electrical, or health hazard or otherwise dangerous to human life.
C. Unsafe Use: Unsafe use is any use which constitutes a fire, health, or safety hazard to the occupants or public.

4-8-6: **PROPERTY MAINTENANCE STANDARDS**: Any rental unit or portion thereof, or the premises on which the same is located, which does not comply with the conditions referenced in this section to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof, shall be deemed and hereby declared to be an unsafe structure, equipment or use. Failure to comply with any of these standards and conditions shall be adequate grounds for the denial, refusal to renew, revocation or suspension of a rental license.

A. Space and Occupancy Standards.

1. Maximum Occupancy Requirements: The total number of occupants may not exceed three (3) occupants per the first sleeping room and two (2) occupants for each additional sleeping room thereafter.
2. Ceiling Heights: Habitable rooms or spaces shall have a ceiling height of not less than 6 feet 4 inches, including beams, girders, ducts, or other obstructions. Hallways, corridors, bathrooms, toilet rooms, kitchens, storage, and laundry rooms shall be permitted to have a ceiling height less than 6 feet 4 inches, including obstructions if approved by the Housing Inspector. If any room in a building has a sloping ceiling, the prescribed ceiling height for the room is required in only one-half the area thereof. In calculating the floor area of such rooms, only those portions of the floor area with a clear ceiling height of five (5) feet or more shall be included.
3. Room Area: Every living room shall contain at least 120 square feet and every bedroom or sleeping room shall contain at least 70 square feet.
4. Width: No habitable room other than a kitchen shall be less than seven (7) feet in any dimension.
5. Kitchen: Every dwelling unit shall have a room or portion of a room in which food may be prepared and/or cooked, which shall have adequate circulation area, and which shall be equipped with the following:

    a. A kitchen sink that is in good working condition, constructed of nonabsorbent materials and properly connected to a water supply system which is approved by the appropriate authority, and which provides at all times an adequate amount of heated and unheated running water under pressure, and which is connected to a sewer system approved by the City.
    b. A stove, or similar device, for cooking food, and a refrigerator, or similar device, for the safe storage of food at temperatures less than forty-five (45) degrees Fahrenheit but more than

thirty-two (32) degrees Fahrenheit under ordinary maximum summer conditions, which are properly installed with all necessary connections for safe, sanitary and efficient operation; provided that such stove, refrigerator, and/or similar devices need not be installed when a dwelling unit is not occupied and when the occupant is expected to provide same upon occupancy, and that sufficient space and adequate connections for the safe and efficient installation and operation of said stove, refrigerator and/or similar devices are provided.

c. A kitchen facility and/or cooking appliances, other than a microwave oven are not permissible in a dormitory or rooming unit.

5. Lighting: All enclosed areas of the rental unit being used or occupied shall be provided with natural light by means of exterior glazed openings or shall be provided with artificial light by the building's electrical system.

   a. Public hallways, corridors, stairways, and other exit facilities shall be lit at all times the building is used or occupied.

6. Ventilation: Every habitable room shall be provided with either an approved mechanical ventilation system or natural ventilation. Natural ventilation may be by means of operable exterior openings such as a window, door, skylight, or other approved opening. Every bathroom must be provided with either a mechanical exhaust or an openable window.
7. Sanitation: All sanitary facilities shall be installed and maintained in a safe and sanitary condition and in accordance with applicable requirements of the Minnesota State Plumbing Code.

   a. Rental Unit: All rental units must have access to a bathroom equipped with facilities consisting of a water closet, lavatory, and either a bathtub or shower.
   b. Bathroom Access: Where bathrooms are shared by rooming units or by occupants of a rental unit, the bathroom shall be located so that no occupant has to pass through another occupant's room to use the facility.
   c. Floor Coverings: Bathroom floors shall have a smooth, hard nonabsorbent surface such as vinyl tile, vinyl sheet goods, ceramic tile or sealed concrete. Floor surfaces shall be maintained in good condition so the floor can be maintained in a sanitary condition.

B. Mechanical/Heating:

1. Rental units shall be provided with heating appliances capable of maintaining a room temperature of 64 degrees Fahrenheit at a point three (3) feet above the floor in all habitable rooms, bathrooms, and water closet compartments. Heating appliances shall be installed and maintained in a safe condition and in accordance with their listings. Un-vented fuel-burning appliances are not permitted. All heating devices or appliances shall be of an approved type.
2. Every fuel-burning appliance shall discharge the products of combustion to the exterior through an approved factory-built chimney, masonry chimney or vent that is approved by the appliance manufacturer. Chimneys or vents shall be designed for the type of appliance being vented.
3. Exhaust vents, pipes, ducts, conductors, fans, or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant or occupant.
4. Hazardous Mechanical Equipment: Mechanical equipment that was installed in violation of code requirements in effect at the time of installation or mechanical equipment not installed in accordance with generally accepted construction practices in areas where no codes were in effect or mechanical equipment that has not been maintained in good and safe condition shall be considered hazardous and removed, replaced, or repaired.

C. Electrical:

1. The electrical service, lines, switches, outlets, fixtures, and fixture coverings, and supports in every building or structure shall be in good repair. Broken, loose, frayed, inoperative, defective, or missing portions shall be repaired or replaced. All unsafe conditions shall be corrected.

2. A clear and unobstructed means of access not less than 30 inches in width and full height of the floor space shall be maintained in front of and electrical service panel or meter.
3. All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner. All electrical equipment shall be of an approved type.

    a. Extension Cords: Extension cords shall be used only with portable appliances and shall not be used as a substitute for permanent wiring. Extension cords shall be plugged directly into an approved outlet or approved multi-plug adapter and shall, except for approved multi-plug extension cords, serve only one portable appliance. The amp capacity of the extension cord shall not be less than the rated capacity of the portable appliance supplied by the cord and shall be grounded when serving a grounded appliance. Extension cords shall be maintained in good condition without splices, deterioration or damage. Extension cords and flexible cords shall not be attached to the structure, extend through walls, ceilings, and floors or under doors or floor coverings, or be subject to environmental or physical damage.
    b. Multi plug type adapters must be approved UL listed or other approved type: The amp capacity being drawn from the outlet through the adapter shall not exceed 80% of the supply circuit capacity. Where a single or duplex type outlet is serving multiple electrical appliances or devices an approved listed power strip with overload protection may be required.

4. Every habitable room shall be provided with at least one switched ceiling or wall light fixture and one duplex outlet.

    a. Every water closet compartment, bathroom, laundry room and furnace room shall contain at least one electric light fixture and one convenience outlet.
    b. Outlets within six (6) feet of a sink or bathtub shall be Ground Fault Interrupted (GFI) outlets.

5. Electrical wiring that was installed in violation of the Minnesota State Electrical Code requirements in effect at the time of installation or that has not been maintained in good condition or that is not being used in a safe manner shall be considered a hazardous or unsafe use and shall be repaired, replaced, or removed.

D. Plumbing:

1. All plumbing fixtures shall be an approved type, properly installed, free of leaks and maintained in a safe, sanitary, and functional condition.

    a. All plumbing fixture drains shall be connected to a sanitary sewer or to an approved private sewage disposal system.
    b. All water supply fixtures shall be connected to an approved system of water supply and provided with hot and cold running water necessary for its normal operation. All plumbing fixtures shall be of an approved glazed earthenware type or of a similarly nonabsorbent material.

2. Plumbing System Leaks: Leaking drain or supply lines shall be repaired or replaced.
3. Plumbing System Hazards: Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or to the structure by reason of inadequate service, inadequate venting, improper installation, deterioration, or damage or for similar reasons, the code official shall require the defects or hazard to be corrected.
4. Cross Contamination: The water supply shall be maintained free from contamination and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture or provided with approved backflow prevention devices as required by the Minnesota State Plumbing Code. Hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

E. Means of Egress:

1. Rental units shall have access directly to the outside or to a common hallway, public corridor, exit passageway, or exit stair enclosure which provides access to an exterior exit door. An exit shall not pass through a hazardous area such as a furnace room, boiler room, storage room, private garage, or similar areas.
2. Means of egress system shall be deemed as meeting the intent of this Ordinance, provided that the means of egress system or systems is evaluated by the Housing Inspector and judged to be equivalent to the means of egress system that was required by the Minnesota State Building and/or Fire Code that was in effect at the time the building was constructed. This includes, but is not limited to, number of exits, separation of exits, egress illumination, emergency egress illumination, exit signage, rated corridors, doors, hardware and egress travel distance.
3. Obstruction of Egress: The means of egress shall not be obstructed in any manner and shall remain free of any material or matter where its presence would obstruct or render the means of egress hazardous. All egress routes shall be properly maintained in a safe manner.
4. Security: When an exit door provides security from unlawful entry, the door shall be provided with a dead-bolt lock or approved locking device which is operable from the inside without the use of a key, special knowledge, or effort. Double cylinder dead bolt locks are permissible in accordance with MN Statute 326B.106 Subd.4 (g) on existing single family homes, individual dwelling units of townhouse buildings, and first floor duplexes used exclusively as a residential dwelling.
5. Fire Department Key Box: Fire Department Key Box and building keys shall be maintained in accordance with the MN State Fire Code.

F. Life Safety:

1. Smoke Alarms: Smoke alarms shall be provided, powered, and maintained in accordance with the requirements of the Minnesota State Fire Code.

    a. Buildings constructed on or after 6-2-2015: Hardwired with battery back-up and interconnected in hallways outside sleeping rooms, in each sleeping room, on each level and in basements.
    b. Buildings constructed on or after 8-1-1989: Hardwired smoke alarms in hallways outside all sleeping rooms, on each level and in basements.
    c. Buildings constructed before 8-1-1989: Battery powered smoke alarms in hallways outside all sleeping rooms, on each level and in basements.
    d. Smoke alarms must be replaced when they exceed ten (10) years from the date of manufacture and remain operational at all times the building is used or occupied.

2. Carbon Monoxide Alarms*:* Carbon Monoxide alarms must be provided in accordance with Minnesota Statute 299F.50 and the Minnesota State Fire Code. A minimum of one approved and fully operational carbon monoxide alarm must be installed within ten (10) feet of each room lawfully used for sleeping purposes. If sleeping rooms are located on separate floors or separate areas on the same floor, additional carbon monoxide alarms would be necessary within ten (10) feet of each sleeping room.

    a. Carbon Monoxide alarms must be properly maintained in accordance with the manufacturer's requirements and installed in accordance with the manufacturer's installation requirements and MN Statute 299F.51.

3. Emergency Escape Openings: Basements, habitable attics, and every sleeping room below the fourth story shall have at least one operable emergency escape and rescue opening. Where basements contain one or more sleeping rooms, emergency egress and rescue openings shall be required in each sleeping room but not in adjoining areas of the basement. Emergency egress and rescue openings must comply with the Building Code in affect at the time the building was constructed. In the event that there was no Building Code, or the date of construction is unknown, emergency egress and rescue openings must comply with the

requirements for existing buildings in the Minnesota State Fire Code as follows:

a. Escape window openings shall have a minimum net clear opening area of 4.5 square feet,
b. Opening height and width dimensions shall not be less than 20 inches.
c. The maximum height from the floor to the windowsill opening shall not exceed 48 inches.
d. Emergency escape windows are allowed under decks and porches provided the window opening is not obstructed and there is a clear unobstructed path not less than 36 inches in height from the window opening to a yard or court.
e. Window Wells: The minimum horizontal area of the window well shall be nine (9) square feet with a minimum dimension of 36 inches. The area of the well shall allow the window to be fully opened. Window wells with a vertical depth of more than 44 inches shall be equipped with an affixed ladder or steps. Ladders or steps shall not encroach into the required dimensions of the well by more than 6 inches and shall not obstruct the window opening.

4. Fire Extinguishers: All rental units shall be equipped with a rechargeable fire extinguisher with a minimum rating of 2A 10BC. The extinguisher(s) shall be located in conspicuous locations along the normal path of travel where they will be readily accessible and immediately available for use in accordance with the Minnesota State Fire Code.

   a. Fire extinguishers shall be serviced at least annually or as required by the Housing Inspector. A tag with the name of the servicing company and the service date shall be affixed to the extinguisher and shall remain affixed until the next servicing.

5. Fire Sprinkler and Alarm Systems: All existing fire sprinkler, standpipe and fire alarm system piping, wiring, panels, notification devices, detection devices, sprinkler heads and applicable equipment, components and system monitoring shall be operational and properly maintained in accordance with their original approval and applicable Minnesota State Fire Code requirements.
6. Fire Resistive Construction: Existing fire resistive construction, assemblies, components, and associated hardware shall be properly maintained in accordance with their original approval and applicable Minnesota State Fire Code requirements.

G. General Building Requirements:

1. Building Construction: Building construction, such as roofs, walls, floors, structural elements, and components shall be properly maintained in safe, sound and good working condition present no visual dangerous conditions to human life or property.
2. Stairs/Decks: Every stair, ramp, landing, balcony, porch, deck, or other walking surface shall be maintained in sound condition and good repair.
3. Handrails: Stairways with four or more risers or ramps steeper than 1/12 slope within rental units shall have a continuous, full-length, grip-able handrail located not less than 30 inches and not more than 42 inches measured vertically above stair nosing on at least one side of the stair. Existing handrails that are firmly fastened, maintained in good condition are allowed to remain as they are. Existing stairs not provided with any handrails shall have handrails installed as required for new construction.
4. Guardrails: Unenclosed floors, platforms, open sides of stairways, landings, decks, balconies, porches, or occupied roofs which are more than 30 inches above grade or floor below shall be protected by a guardrail. Guards shall form a protective barrier not less than 42 inches high except for any the following:

   a. Guard within dwelling units shall not be less than 36 inches high.
   b. Guards on open stairs within dwelling units shall not be less than 34 inches measured vertically from the stair nosing.
   c. Existing guards of buildings designated as historic structures.
   d. Existing guards that are firmly fastened, maintained in good condition and constructed at

a height which was in compliance with the State Building Code when originally built are allowed to remain as they are.

e. Opening limitations: Open guards shall have balusters or ornamental patterns such that a 6-inch sphere cannot pass through any opening up to a height of 34 inches except for existing guards which were in compliance with the Minnesota State Building Code when originally constructed.

5. Windows: Windows shall be kept in sound repair, good condition, and weather tight. Emergency escape windows must also comply with the City Code.

    a. Operable windows shall be easily openable and capable of being held open by approved means.
    b. Window glazing shall be maintained from cracks and holes.
    c. Insect screens shall be free of tears and hole and in good working condition.

6. Doors: All door assemblies and hardware must be maintained in good condition, shall fit reasonably well within its frame and must be capable of being opened and closed
7. Refuse: The property owner or property manager shall provide an adequate number of refuse containers to contain the amount of refuse produced on the property or as required by local sanitation ordinance. Containers shall be rodent and animal proof with a tight fitting cover.
8. Storage Items: Flammable or combustible items and materials shall not be stored within three (3) feet of any fuel burning appliances. Storage of items shall be orderly and shall not block or obstruct exits. A minimum three (3) foot aisle shall be maintained to all exits, furnaces, water heaters, water meters, gas meters or other building service equipment.
9. Flammable and Combustible Storage: Fuel storage tanks such as LP tanks, gasoline containers and fueled equipment, including but not limited to motorcycles, mopeds, lawn-care equipment and portable cooking equipment, shall not be stored or repaired in an apartment building or rental unit except in a room constructed for that purpose in accordance with the Minnesota State Fire Code
10. Building Identification*:* Every building shall have the assigned street numbers displayed on the building in such a position as to be plainly visible and legible from the street or road fronting the property. Said numbers shall be no less than four (4) inches in height and shall contrast with the background on which they are displayed.
11. Exterior Finish: The exterior of a structure shall be maintained in good repair, structurally sound, and sanitary.

    a. All foundation walls shall be free from open cracks, holes and breaks and capable of supporting the imposed loads.
    b. All above grade exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.
    c. All roofs shall be sound, tight, and not have defects that admit rain and must prevent dampness or deterioration in the walls or interior of the structure.

12. Built In Deficiencies; It is determined that certain conditions within existing buildings, lawful at the time of construction of the building, and not creating a hazardous condition, may not comply with the minimum requirements of the Property Maintenance Standards of this Chapter. Such conditions are referred to as “built in deficiencies”, and the code official, in administering this Ordinance, may consider built in deficiencies as being beyond reasonable correction and accept them as an alternate method of meeting the intent of this section.

4-8-7: **DISPLAY OF LICENSE**: Every licensee of a rental property shall conspicuously display at all times on the premises a copy of the current license. This license shall be accessible so as to be easily viewed and readable by the occupants of the rental property.

4-8-8: **INSPECTION; RIGHT OF ENTRY**: In order to compel the compliance with the licensing requirements, the Housing Inspector shall have the authority to enter any building at reasonable times upon five (5) days' notice to the owner or agent to determine if said building is operated as a "rental property" as defined in this Ordinance or to enforce the Property Maintenance Standards, or both. In those cases where emergency conditions endangering a person or property exist, where either the Police Department or the Fire Department has responded to a rental property, the Housing Inspector will have the authority to enter any building at any time by the request of the Sartell Police Department or the Sartell Fire Department to enforce any provisions of this Ordinance. Failure to schedule or allow a request by the Housing Inspector for an inspection shall result in rejection of the application or renewal, and if access is denied the City may pursue remedies at law including an administrative search warrant.

4-8-9: **APPLICABLE LAWS**: Licensees shall be subject to all of the provisions of the ordinances of the City and the laws of the State relating to rental units; and this Ordinance shall not be construed or interpreted to supersede any other such applicable ordinance or law.

4-8-10: **PENALTY, VIOLATIONS AND TERMINATION OF RENTAL LICENSE**

A. Penalty and Violations: It shall be unlawful for a person, firm, or corporation to be in conflict with or in violation of any provisions of this Ordinance. Any person who fails to comply with any of the requirements of this Ordinance shall be prosecuted within the limits provided by local and state laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

    1. Penalty: A violation of any provision of this Ordinance is a misdemeanor and also subject to an administrative citation in accordance with Title 1 of the City Code.
    2. Violation: Whenever the Housing Inspector determines that a violation of this Ordinance has occurred, notice shall be given to the licensee or person responsible for the violation. Such notice shall be in writing, include a statement of the violation or violations and why the notice is being issued, include a correction order allowing a reasonable time to make the repairs or improvements and inform the licensee or person responsible of their right to appeal.
    3. Re-inspection Fee: The Housing Inspector may re-inspect the rental property described in the notice to certify that all corrections have been made.

        a. First Re-inspection: One re-inspection will be allowed to certify that all corrections of any violation(s) have been made.
        b. Second Re-inspection: If the violation has not been corrected and the Housing Inspector must return for additional re-inspections, a re-inspection fee as set forth by the City Fee Schedule will need to be paid prior to the Housing Inspector returning to re-inspect the property. Additional re-inspections will be subject to additional re-inspection fees.

B. Suspension and termination of rental license: The City may suspend or revoke a license or not renew a license for part or all of a facility at any time the Housing Inspector can determine that any owner, person, firm, corporation, or partnership subject to this Ordinance has failed to comply with the provisions of this Ordinance by means such as:

    1. False or misleading information given or provided in connection with the license application or renewal.
    2. Failure to correct violations in the time period prescribed.
    3. Violations committed or permitted by the licensed owner and/or the manager, or tenant, of any rules, codes, statutes, and ordinances related to, pertaining to, or governing the license and the premises.

4. Failure to pay all real estate taxes and special assessments levied against the rental property and/or other fines, fees, charges or other financial claims owed to the City or the State of Minnesota.
5. Failure to allow an inspection of a rental property pursuant to Section 4-9-8.
6. Failure to provide updated application information during the license period.
7. Commission of a felony related to the licensed activity by the property owner or manager.
8. Violation of an owner's duties under Minnesota statutes sections 299C.66 to 299C.71
9. Failure to comply with any part of this Ordinance.

a. Notification: A decision to suspend a license shall be effective immediately upon notice to the licensee. A decision to revoke, deny or not renew a license will be preceded by written notice to the applicant~~,~~ or licensee. Notice shall be in writing, include a statement of the violation or violations and why the license is being revoked, suspended, denied or not renewed.
b. Request for Hearing: If a hearing is desired by the licensee, the licensed owner must affirmatively request an evidentiary hearing in writing, to be received by the City Administrator. If such written notice is received by the City Administrator prior to expiration of the time specified for compliance, the City shall set a time for such hearing and shall inform the owner of the time and place at which the City Council will meet to consider such testimony as may be offered concerning the proposed violation. This hearing shall be evidentiary in nature and conducted before the Sartell City Council, which shall determine whether an ordinance or statutory violation did occur, warranting revocation or suspension of the rental license. The determination of the City Council shall be final and subject only to any rights of review or appeal to the State courts as provided by statute. If a request is not made prior to expiration of the time specified for compliance, the right to an evidentiary hearing is deemed waived.
c. Non-Compliance: In the event that a rental license is suspended by the Housing Inspector, it shall be unlawful for the owner or the duly authorized agent or manager to thereafter permit any new occupancy of vacant or thereafter vacated rental units until such time as a rental license is restored. In the event compliance has not been completed within the time provided, or a hearing has not been requested by the owner in writing, the Housing Inspector shall recommend to the City and the City Council may terminate the license. In the event that a rental license is revoked by the City Council, it shall be unlawful for the owner or the duly authorized agent or manager to thereafter permit any rental occupancy until such time as a rental license may be restored by the City Council. When a rental license is revoked, the property shall be vacated as of the effective date of the revocation and remain vacated until restoration of the license. In the case of suspension, restoration shall occur automatically upon re-inspection if compliance is completed prior to revocation. In the case of revocation, restoration of the license shall occur only after the owner of the premises has made an application for a new license, paid a new license fee and passed a property maintenance inspection. The new license may then be issued upon completion of the revocation period.

4-8-11: **CRIME FREE MULTI-HOUSING PROGRAM:**

A. For multi-family rental housing licensees to qualify for a rental fee reduction, they must complete Phases 1, 2 and 3 of the Sartell Crime Free Multi-Housing Program prior to October 1st in order to receive the rental fee reduction for the subsequent license year. New multi-family rental housing properties will receive the rental fee reduction for their initial rental license if they complete all phases within 90 days of issuance of a certificate of occupancy for the property. If all requirements are not completed within said 90 day period, the property will be ineligible for the rental fee reduction for the subsequent licensing year, regardless of if/when such requirements are completed, and property will then need to meet renewal license requirements as specified hereafter to achieve rental fee reduction in future years.
B. The cost of attending the educational requirements under this section shall be paid by the licensee in addition to any license and inspection fees. Licensees must maintain compliance with

all components of the Crime Free Multi-Housing Program and must complete all re-certifications/renewals prior to October 1st of each year in order to maintain qualification for the Crime Free Multi-Housing rental fee reduction for the following calendar year.

C. Certification: to obtain and maintain certification from the Sartell Police Department as a member of the Crime Free Multi-Family Housing Program, a rental property owner and/or manager must successfully complete and implement all of the components of the Crime Free Multi-Family Housing Program. Those requirements are:

1. Phase One: Attendance at and successful completion of the Management Training components which will be shown by demonstrating an understanding of each of the following subject matter:

    a. The Crime Free Multi-Housing Program and ordinance.
    b. Rental applications and housing discrimination.
    c. Screening and background checks.
    d. Lease and lease addendums.
    e. Unlawful detainer and eviction.
    f. Manager/Owner policies and roles.
    g. Data privacy.
    h. Narcotics and gangs.
    i. Rental housing.

2. Phase Two: Compliance with environmental crime prevention requirements by owners for their rental properties that are located within the corporate limits of the City of Sartell or in the case of a property manager, for all rental properties located within the corporate limits of the City of Sartell that are managed by that property manager. Compliance will be indicated by completion of the following requirements:

    a. Single cylinder deadbolt locks installed in each entry door for each dwelling unit.
    b. High security strike plate with 3-inch screws installed on each wooden entry door frame for each dwelling unit.
    c. Door viewer - 180˚ peephole installed in the primary entry door for each dwelling unit.
    d. Anti-lift/slide device installed on all windows and sliding glass doors.
    e. Security lighting adequate to illuminate exterior grounds.
    f. Landscaping in a manner that provides for visual sight lines.
    g. Visible address numbering installed.
    h. Compliance with Property Maintenance Standards as provided in Section 4-9-5.

3. Phase Three: Include, implement and enforce, as part of all written leases, the Lease Addendum for Crime Free/Drug Free Housing provided by the Sartell Police Department and at least once every twelve (12) months make available, in cooperation with the Sartell Police Department, training for tenants in respect to the following subject areas (with notification to tenants and the Sartell Police Department of the meeting location to be approved in advance by Sartell Police Department):

    a. The Crime Free Multi-Housing program together with the concept of partnerships and sharing responsibilities.
    b. Crime concerns and prevention awareness techniques.
    c. Application of Neighborhood Watch program/principles.

4. Following successful completion of the program components described in this Section, rental property owners or property managers must maintain compliance with all program components, including Sections D and E below.

5. Loss of Certification: Owners or property managers who do not maintain compliance with the certification requirements above will lose their certification for the following license year.

Violations of rental housing regulations as set forth in this Chapter, resulting in suspension and/or revocation of the rental license, will also result in loss of certification for the following license year.

D. Leases: As a condition of the Crime Free Multi-Housing Program, all signed crime free addendums to leases for the rental property shall be available for review by the Sartell Police Department upon request.

E. Criminal Background Checks and Register: As a condition of the Crime Free Multi-Housing Program, the licensee shall conduct criminal background checks on all prospective tenants of rental property in the City of Sartell. The licensee must maintain a current register of tenants and other persons who have a lawful right to occupancy of a rental unit. The register must include full names, dates of birth, and the most current phone number available. The register along with proof of the criminal background check(s) must be available for review by the City upon request. One failure to complete such required background check or to accurately maintain the register will result in forfeiture of 50% of reduction received on rental license fee for Crime Free Multi-Housing Program status in the subsequent license renewal year. A second failure will result in the entire fee reduction being forfeited and loss of Crime Free Multi-Housing Program rental reduction rates for the subsequent license year. Second failure will also result in immediate loss of other courtesy benefits which Sartell Police Department may provide to Crime Free Multi-Housing Program participants, such as courtesy report logs of activity and/or signage provided to Program participants.

4-8-12: **NOISE LIMITS**

A. Prohibition: No person shall, between the hours of 10:00 p.m. and 7:00 a.m., congregate at, or participate in any party or gathering of two (2) or more people from which noise emanates of a sufficient volume so as to disturb the peace, quiet or repose of another person. During those hours, no person shall create noise which emanates of a sufficient volume as to be clearly audible at a distance of fifty (50) feet from the rental unit at which the party or gathering is occurring and/or from which the noise is emanating.

B. Duty to Disperse: When a police officer of the City determines that noise exists in violation of this provision, the officer may order all persons present at the premises where the violation is occurring, other than the owners or tenants of the premises, to disperse immediately. No person shall knowingly remain at a noisy party or gathering.

C. Exceptions: The following are exempt from violation of this provision:

1. 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.
2. Persons who have gone to a party for the sole purpose of abating the violation.
3. Upon special request made by contractors, the City may exempt contractors performing work from time prohibitions set forth herein.

CHAPTER 9

FIREWORKS REGULATIONS

SECTION:

4-9-1: Definitions
4-9-2: Permit Required
4-9-3: Sales and Storage of Fireworks
4-9-4: Use and Possession
4-9-5: Pyrotechnics
4-9-6: Penalties

4-9-1: **DEFINITION:** For the purposes of this section, fireworks will have the same definition as contained in Minnesota Statue Section 624.20 Subd. 1 or any superseding statute.

4-9-2: **PERMIT REQUIRED:** No person shall sell or possess for sale fireworks without first having obtained an annual permit from the City.

A Permit fee: The permit cannot be granted until the sponsor pays the permit fee as established in the City Fee Schedule.

B. The designated Fire Inspector shall give final approval or denial of an application for the manufacture, storage for commercial purposes or sale of fireworks within 30 days of such application being made to the City.
C. Upon the successful inspection of the premise, permits shall be issued for the calendar year applied for and shall be issued on June 1st.
D. Prior to processing the application, criminal records check may be conducted. Neither the applicant nor the responsible party for the permit shall have been convicted of a felony or a fire or fireworks related misdemeanor within the last three (3) years.
E. Prior to processing the application, the designated Fire Inspector shall determine that the proposed location is code compliant.
F. The application shall include a letter from the person legally responsible for the property on which the fireworks related activity would occur. This may include both a tenant and property owner. Such letter shall grant permission to the applicant of said property.

4-9-3 **SALES AND STORAGE OF FIREWORKS:**

A. No person shall sell or store consumer fireworks on the exterior portion of a building located within 50 feet of any fuel dispensing apparatus unless the total aggregate quantities of consumer fireworks are below the exempt amounts listed in Chapter 7 of NFPA 1124 *Code for the Manufacture, Transportation, Storage and Retail Sales of Fireworks and Pyrotechnic Articles*®, 2003 addition. Consumer Firework sales and displays shall be limited to mercantile occupancies as defined in NFPA 101, *Life Safety Code*®. No person shall construct a retail display nor offer for sale explosive materials, or fireworks upon highways, sidewalks, public property, or in assembly or educational occupancies. The designated Fire Inspector shall determine compliance.
B. It shall be unlawful for any seller of any fireworks to permit smoking at any site containing fireworks, except in designated smoking areas. No Smoking signs must be conspicuously posted and approved fire extinguishers must be available for use.
C. Exempt amounts: The requirements of NFPA 1124® shall not apply to consumer fireworks retail sales facilities or stores where the total quantity of consumer fireworks on hand does not exceed 56.8 kg [125lb (net)] of pyrotechnic composition, or in a building protected throughout with an approved automatic sprinkler system installed in accordance with NFPA 13, *Standard for the installation of Sprinkler Systems®,* 113.6 kg [250lb (net)] of pyrotechnic composition. Where the

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actual weight of the pyrotechnic composition of consumer fireworks is not known, 25 percent of the gross weight of the consumer fireworks, including packaging, shall be permitted to be used to determine the weight of the pyrotechnic composition. Amounts is excess of the exempt amounts shall be required to comply with NFPA 1124®.

D. The requirements of this ordinance are in addition to any requirements imposed by any building and zoning regulations, fire codes or state law.
E. Only persons 18 years of age or older may purchase fireworks and the age of the purchaser must be verified by photographic identification.
F. Display, sales, or transient sales of fireworks are permitted subject to a conditional use permit according to section provided in this code Approved minimum separation distances in compliance with table 7.7.2. of NFPA 1124® shall be provided from the exterior display to adjacent buildings, combustibles, or flammable liquids. No manufacturing, sales, or storage for commercial purposes shall occur on residentially zoned property or within 100' thereof.
G. A list of consumer firework displayed for sale and stored on the property shall be available at all times. The list shall document the name, weight, and quantity of the fireworks and be accompanied by the material safety data sheets.
H. Manufacturing, warehouse buildings, or sales displays in excess of the quantities listed in (C) for retail consumer fireworks shall be classified as defined in the Building Code and where applicable, subject to the requirements of NFPA 1124® and the current edition of the Minnesota State Fire Code.
I. A handout created by the applicant describing fireworks use, safety and warnings shall be provided to each consumer purchasing fireworks by the retailer.

4-9-4 **USE AND POSSESSION:**

A. It is unlawful to use, fire or discharge any fireworks along the route of and during any parade, in any place of public assembly, on any public property or in any commercial/industrial-zoning district.
B. It is unlawful at any time to throw, toss, or aim any fireworks at any person, animal, vehicle or other thing or object or used in any manner that may threaten or cause possible harm to life or property.
C. The discharge of fireworks shall be prohibited inside a building and within fifteen (15) feet of any building.
D. The Fire Official may ban fireworks if dry or windy conditions occur.
E. Juveniles may not possess fireworks unless under the direct supervision of a responsible adult.
F. Fireworks shall not be discharged in such a manner that may create a nuisance nor between the hours of 11 pm and 7 am. Fireworks use shall be also subject to any additional ordinances such as noise and/or assembly.
G. Officers may seize illegal fireworks. The State Fire Marshal, or any Sheriff, Police Officer, Constable, or local Fire Official, shall seize, take, remove, or cause to be removed, at the expense of the owner, all stocks of fireworks or combustibles offered or exposed for sale, stored, or held in violation of this ordinance.

4-9-5 **PYROTECHNICS:**

A. Permits: The City of Sartell is authorized by state law to conduct a fireworks display within its own limits without a permit. Amusement parks and other organizations must obtain a permit approval from the City Council, prior to conducting such a display. The Fire Chief or their designee will review before issuing the permit. A licensed operator, however, must still conduct all displays. There is no exemption for fire departments that would allow the fire department to conduct the display without a licensed operator.
B Application timeframe: A permit must be secured from the City Council prior to conducting a fireworks display. The sponsor of the proposed display must submit an application for permit to the City at least 30 days in advance of the date of the display.
C. Restrictions on sponsors: Fireworks displays are only allowed to be sponsored by a city, fair association, amusement park or other public or private organization. A public organization might

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be, for example, a county, township or other public entity. Examples of private organizations might include churches, fraternal organizations (e.g. Eagles, Elks, Legion Clubs, etc.), community based festivals, businesses, companies, lake associations and private colleges. State law prohibits private individuals from sponsoring fireworks displays. A fireworks display company may sponsor displays for private parties.

D Application form: The sponsor must, as a minimum, provide the following information to the City when applying for a permit approval to conduct a fireworks display:

1. The name of the organization sponsoring the fireworks display, including the name, address and phone number of a contact person representing that organization, Permits are not transferable.
2. The name and certification number of the pyrotechnic operator that will be supervising the display.
3. The date, time of day and exact location of the proposed display.
4. A diagram of the grounds where the display will be held. The diagram must show the point at which the fireworks are to be discharged; the location of all buildings, highways, streets, communication lines and other possible overhead obstructions; and the lines behind which the audience will be restrained. For proximate audience displays, the diagram must also show the fallout radius for each pyrotechnic device used during the display. At no time will indoor displays be allowed.
5. The approximate number and types of fireworks and/or pyrotechnic special effects materials to be discharged.
6. For proximate audience displays, the Fire Chief must approve any changes adding fireworks or pyrotechnic special effects different from those described in the initial application in advance. Unless otherwise acceptable to the fire chief and/or fire inspector, all requests for changes must be submitted at least 24 hours prior to the display.
7. The number, names and ages of all assistants that will be present at the display. All assistants must be at least 18 years old. All assistants must be recorded on the display report. To be able to claim experience credit for working at a display, assistants must be recorded in the display report.
8. Proof of a bond or certificate of insurance in an amount deemed appropriate by the city for the payment of damages that could be caused either to persons or property as a result of the display and arising from acts of the sponsor or the pyrotechnic operator or their agents, employees, or subcontractors. In addition, the sponsor will need to agree to pay all costs incurred as a result of having representatives of the Fire Department and/or equipment in attendance at any fireworks display.

E. Permit fee: The permit cannot be granted until the sponsor pays the permit fee, if any, established by the city through resolution. The City Council may reduce or waive permit fees for community based events and festivals.

F. Upon receipt of an application for a permit, the application must be referred to the Fire Chief or their designee for review to determine the following:

1. That the operator of the display is competent and certified by the State Fire Marshal.
2. That the display is such of character and is to be located, discharged, or fired in a way that will not be hazardous to the property or endanger any person. In addition, the Fire Chief and Marshal may:

   a. Inspect the areas selected for the discharge site, spectator-viewing area, parking areas and designated landing (fallout) area.
   b. For proximate audience displays request a walk-through and representative demonstration of the pyrotechnic special effects as a condition of approval for the issuance of a permit.
   c. Request a written plan outlining the manner and location of storage of fireworks both prior to delivery to the display site and at the display site, what type of fire protection

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(e.g. portable fire extinguishers, standby apparatus/personnel) will be provided at the discharge site, and what provisions will be made for crowd control.

G. After conducting an appropriate investigation, the application may be presented to the City Council for review and approval.

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4-10-6 **PENALITIES:**

A. Materials that violate and/or pose a threat to public safety may be confiscated and destroyed. Costs associated with disposal shall be assessed back to the property owners or permit holder.
B. Violations of this regulation, city ordinance or state statute may result in revocation of the permit.
C. Violations of these fire rules are misdemeanor offenses punishable by fines up to $1000 and/or 90 days in jail.

CHAPTER 10

MAINTENANCE OF TURF GRASS AND VEGETATION

SECTION:

4-10-1: Purpose
4-10-2: Definitions
4-10-3: Where Planted
4-10-4: Location of Restoration Areas and Planned Landscape Areas
4-10-5: Maintenance Standards
4-10-6: Non-Conforming Planned Landscape Areas and Restoration Areas
4-10-7: Exemptions
4-10-8: Notice, Abatement by City
4-10-9: Penalty

4-10-1: **PURPOSE**: It is the purpose of this Section to prohibit the uncontrolled growth of vegetation, while permitting the planting and maintenance of landscaping or garden treatments which add diversity and a richness to the quality of life. There are reasonable expectations regarding the proper maintenance of vegetation on any lot or parcel of land. It is in the public's interest to provide standards regarding the maintenance of vegetation because vegetation which is not maintained may threaten public health, safety and order, and may decrease property values. It is also in the public's interests to encourage diverse landscaping and garden treatments, particularly those which restore native vegetation which requires less moisture and place a lower demand on the public's water resources. The City enacts this Section to balance these competing interests.

4-10-2: **DEFINITIONS**: Unless the context clearly indicates otherwise, the following terms shall have the stated meanings.

NATIVE GRASSES AND FORBES:	Grasses, including prairie grasses and flowering broad- leaf plants which are indigenous to the State.
NATURAL AREA:	Any wetland or floodplain or any area of mature woodland, prairie, and meadow vegetation native to the State.
ORNAMENTAL GRASSES AND GROUNDCOVER:	Grasses and groundcovers not indigenous to the State. Ornamental grasses and groundcovers do not include turf grasses.
PLANNED LANDSCAPE AREA:	An area where ornamental grasses and groundcovers or native grasses and forbs are planted and maintained pursuant to a plan.
RESTORATION AREA:	An area where native grasses and forbs are being or have been intentionally reestablished.
TURF GRASS:	Grasses commonly used in lawn areas, including any blue grass, fescue or rye grass blends or any other similar grasses.
WEED:	Any plant which is identified by the City Weed Inspector or Assistant City Weed Inspector as a noxious weed pursuant to Minnesota Statute 18.77, Subd. 8, or any volunteer plant, except trees and other woody vegetation, which is not customarily or

intentionally planted.

RAIN GARDEN: A planted depression that is designed to absorb rainwater runoff from impervious urban areas like roofs, driveways, walkways, and compacted lawn areas.

4-10-3: **WHERE PLANTED:**

A. Ornamental grasses and groundcovers shall be planted only in a planned landscape area.
B. Native grasses and forbs shall be planted only in a planned landscape area or a restoration area.
C. Raingardens proposed to be planted within the City right-of way must be approved by City.

4-10-4: **LOCATION OF RESTORATION AREAS AND PLANNED LANDSCAPE AREAS:**

A. Setback: A restoration area or planted landscape area must provide the following minimum setbacks:

    1. Ten (10) feet front, rear, or street side setback (as measured from the traveled portion of the street).
    2. Five (5) feet interior side yard.
    3. At the direction of the City, the setback may be increased if the landscape areas pose sight line issues with vehicular or pedestrian traffic.
    4. Provided, however, that the required side yard or rear yard setback may be reduced to zero (0) feet if:

        a. The restoration area or planned landscape area abuts a restoration area on any adjoining lot, a public park or open space, a vacant lot, a wetland, pond, lake or stream, or natural area.
        b. The restoration area or planned landscape area is located on slopes equal to or greater than three (3) feet horizontal to one (1) foot vertical.
        c. A fully opaque fence at least four feet in height is installed along the lot line adjoining the planned landscape area.

4-10-5: **PLANTING IN RIGHT-OF-WAY AREAS**: The city is not responsible for any damage to landscaped areas planted within right- of way areas. The City may also require the removal of landscaped areas from within right-of-way areas at no expense to the City.

4-10-6: **MAINTENANCE STANDARDS:** Every owner, lessee, occupant, or any other person having control of property shall maintain the vegetation growing thereon according to the following minimum standards:

A. Turf grasses shall be regularly cut such that no individual plant shall exceed, at any time, ten inches in height or length as measured from its base at the ground to the tip of each stalk, stem or blade. Provided, however, that turf grasses located on slopes equal to or steeper than three feet horizontal to one foot vertical (3:1) or within 20 feet of a wetland, pond, lake or stream, need not be maintained in accordance with this Section.
B. Property owns are responsible for planting and maintaining the boulevard areas adjoining their property in a manner which enhances and improves the aesthetic appearance of city streets with turf grass, or rain gardens. To maintain an adequate site line and safe travel within the right-of-way, such plantings, excluding trees, shall not exceed thirty-two inches in height.
C. Weeds shall be regularly cut or controlled such that no individual plant shall exceed at any time ten inches in height or length as measured from its base at the ground to the tip of each stalk, stem, blade, or leaf. Noxious weeds as defined by the State Commissioner of Agriculture shall be eradicated.
D. The City may require a Planned Landscape Area to be trimmed if the plants are causing vehicular and pedestrian sightline issues or posing similar safety concerns. Appropriate permits may be

obtained through the City Fire Marshal to burn. No person shall permit ornamental grasses and groundcovers growing on the person's property to invade adjoining properties.

4-10-7: **NON-CONFORMING PLANNED LANDSCAPE AREAS AND RESTORATION AREAS:** Any planned landscape area or restoration area which lawfully existed prior to the effective date of this Chapter may continue to exist and need not comply with the requirements of Section 4-10-4 but shall comply with Section 4-10-5. Any expansion or addition to a non-conforming landscaped area or restoration area shall comply with all provisions of this Chapter.

4-11-8: **EXEMPTIONS:** The provisions of this chapter shall not apply to the following:

A. Non-noxious weeds, grasses, and herbaceous vegetation within 50 feet of designated storm water ponds or within 50 feet of natural or altered creeks, rivers and stream corridors, including riparian buffer strips that convey water, provided they are cut to less than 10 inches at least once per year if located within 200 feet of an occupied residence or development property.
B. Non-noxious weeds and grass vegetation growing on agriculturally zoned land, including pastures that are fenced in.
C. Temporary erosion control grasses.
D. Grass and non-noxious weed vegetation on public owned parks designated as natural preserves, private property, or natural undisturbed areas where the land and vegetation appear not to have been graded, landscaped, or otherwise disturbed by human or mechanical means in recent time.
E. Grass and non-noxious weed vegetation on natural or altered slopes steeper than 2:1.
F. A city designed rain garden that is planted to absorb rainwater runoff from impervious urban areas like roofs, driveways, walkways, and compacted lawn areas.
G. Native landscapes as defined in Minn. Stat 412.925 and as amended from time to time.

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4-11-9: **NOTICE, ABATEMENT BY CITY:**

A. Nuisance: Any vegetation which does not meet the requirements of this Chapter is declared to be a nuisance.
B. Conditions allowing inspector to enter property: Entry by the City for the purpose of inspecting, cutting, removing, destroying, or eradicating vegetation shall be done only after written notice is served upon the owner, lessee, occupant, or other person having control of the property, and failure of the owner, lessee, or occupant to cut down, remove or eradicate vegetation declared to be a nuisance, within the time, and in such a manner as designated in the notice. The notice shall be given in the manner prescribed by Minnesota Statute 18.83, Subd. 2, and shall allow a minimum of seven days for the property owner, lessee, occupant, or other person having control over the property to comply with the requirements of the notice.
C. Owners' responsibility for costs incurred: The costs and expenses incurred by the City in connection with entering a property pursuant to Section 4-11-9 and cutting, removing, destroying, and eradicating vegetation declared to be a nuisance shall be paid by the owner or occupant of the property. If unpaid within 30 days of invoice to owner or occupant, such amount shall become a lien in favor of the City and a penalty as established by the governing body shall be added to the amount due as of that date and the total cost, expenses and penalties shall be certified to the County Auditor for entry as a special assessment upon such property for collection as other real estate taxes are collected

4-10-10: **PENALTY:** Any person who shall neglect to cut and remove noxious weeds and turf grass, as directed in this Chapter, or who shall fail, neglect, or refuse to comply with provisions of any notice herein provided or who shall violate any of the provisions of this Chapter or who shall resist or obstruct the city or its employees in the cutting and removal of weeds, grass, brush, and other vegetation, shall be guilty of a petty misdemeanor. Each day on which such violation continues shall constitute a separate offense.

TITLE 5

POLICE REGULATIONS

Subject	Chapter
Police Department	1
Animal Control	2
General Offenses	3
Curfew	4
Abandoned Property	5
Employment Background and Department of Vehicle Services Driver's License Checks	6
License Background Checks	7

CHAPTER 1

POLICE DEPARTMENT

SECTION:

5-1-1: Established
5-1-2: Membership
5-1-3: Chief Of Police
5-1-4: Reserved
5-1-5: Uniform And Badge
5-1-6: Police Reserve

5-1-1: **ESTABLISHED:** The Police Department presently in existence is hereby continued.

5-1-2: **MEMBERSHIP:**

A. Head Of Department; Size: The head of the Department shall be known as the Chief of Police and the number of additional members of the Department, together with ranks and titles, shall be determined by the Council by resolution.
B. Appointment: Members of the Department shall be appointed by the City Council.
C. Compensation: The compensation to be paid members of the Police Department shall be fixed by the Council.

5-1-3: **CHIEF OF POLICE:**

A. Powers And Duties:

1. Supervision And Control Of Department: The Chief of Police shall have supervision and control of the Police Department and its members.
2. Law Enforcement; Department Equipment: The Chief of Police shall be responsible to the Council for law enforcement and for the property of the City used by the Department.
3. Training And Discipline: The Chief of Police shall be responsible for the proper training and discipline of the members of the Department.
4. Records; Reports: The Chief of Police shall be responsible for the keeping of adequate records and shall report to the Council on the needs of the Department and its work.

5-1-4: **RESERVED**

5-1-5: **UNIFORM AND BADGE**: Each member of the Department shall, while on duty, wear a suitable badge and uniform except that the Chief may authorize the performance of specific duties while not in uniform. When a member terminates membership in the Department, such member shall immediately deliver to the City his/her badge, and all other property of the City in his/her possession.

5-1-6: **POLICE RESERVE:**

A. Established, Membership:

1. Reserve Created: There is hereby created within the Police Department a Police Reserve.
2. Reserved.
3. Supervision, Control by Chief: The police reserve shall be under the control and supervision of the Chief of Police and shall serve under the direction of the superior officers of the regular police force and such others as the Chief may appoint from their own number.

B. Each member shall be issued a badge, suitable items of clothing and such other insignia or evidence of identification as the Chief of Police may prescribe. Upon termination of membership, a

member shall surrender to the City all City property issued to such member.

C. Identification: No member of the police reserve shall exercise any authority over the persons or property of others without displaying identification as such member. No person except a police reserve
member shall use such identification or otherwise represent himself/herself to be a member of the police reserve.

D. Use Of Firearms: No police reserve member shall Carry any firearm while on duty except as specifically authorized and provided by the Police Chief.

CHAPTER 2

ANIMAL CONTROL

SECTION:

5-2-1: Definitions
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5-2-3: Limitations
5-2-4: Keeping or Harboring Prohibited
5-2-5: Animals at Large
5-2-6: Barking, Nuisances, Property Damage and Fecal Clean-up
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5-2-1: DEFINITIONS

As used in this Chapter, unless the context otherwise indicates, the following words shall be defined to mean:

ANIMAL CONTROL OFFICER: The city staff charged with the duty of picking up and impounding strays or abandoned animals as herein provided.

ANIMAL SHLTER: Any premises designated by the City for the purpose of impounding or caring for animals held under the authority of this Chapter.

AT LARGE: Off the premises of the owner and not under the control of the owner, or other competent person, by leash not exceeding eight (8) feet in length.

DANGEROUS ANIMAL: An Animal that has:

A. Without Provocation, inflicted substantial bodily harm on a human being on public or private property; or
B. Killed or caused substantial bodily harm to a domestic animal without provocation while off the owner's property; or
C. Been found to be potentially dangerous, and after the owner has notice that the animal is potentially dangerous, the animal aggressively bites, attacks, or endangers the safety of human or domestic animals; or
D. Been declared a Dangerous Dog pursuant to Minnesota Statutes by the animal control authority of another jurisdiction.

DOMESTIC ANIMAL: Any of various non-venomous animals domesticated so as to live and breed in a tame condition. Domestic animals do not include any animal considered "non-domestic" as defined by this Section. Domestic animals are limited to:

A. Dogs.
B. Cats.
C. Rabbits.
D. Ferrets.
E. Any of the class of Aves (birds) that are caged and otherwise kept inside the residence.
F. Any of the order of Rodentia such as mice, rats, gerbils, hamsters, chinchillas & guinea pigs.
G. Any of the class of Reptilia such as snakes, lizards, and turtles excepting those meeting the non-domestic animal definition.
H. Any of the class of Amphibian such as salamanders, frogs, toads excepting those meeting the non-domestic animal definition.
I. Chickens.

KENNEL: Any place, building, tract of land, abode, or vehicle where three or more dogs are kept and maintained. Kennel does not include a veterinarian licensed to practice in the State of Minnesota who keeps, congregates, or confines dogs in the normal pursuit of the practice of veterinary medicine. Kennel does not include an animal shelter owned and operated by any political subdivision of the State or providing animal sheltering services under contract with any political subdivision of the State.

NON-DOMESTIC ANIMAL: Those animals considered to be naturally wild and not naturally trained or domesticated; or which are considered to be farm animals or inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, non-domestic animals shall include:

A. Any member of the cat family (Felidae) including, but not limited to, lions, tigers, cougars, bobcats, leopards, jaguars, but excluding those recognized as domestic house cats.
B. Any naturally wild member of the canine family (Canidae) including, but not limited to, wolves, foxes, coyotes, dingoes, and jackals, but excluding those recognized as domesticated dogs.
C. Any hybrid or crossbreeds between an animal defined in clauses (1) or (2) and a domestic animal and offspring from all subsequent generations of those hybrids or crosses, such as the crossbreed between a wolf and a dog.
D. Any member or relative of the mammal family including any skunk (whether or not descented), raccoon, or squirrel, but excluding those members otherwise defined or commonly accepted as domesticated pets.
E. Any poisonous venomous, constricting (when snake is of size causing inherent risk to humans), or inherently dangerous member of the reptile or amphibian families including, but not limited to, rattlesnakes, boa constrictors, pit vipers, crocodiles, and alligators.
F. Goats, pigs (including potbellied pigs), horses, cattle, llama, bison.

G. Any other animal that is not explicitly listed above but which can be reasonably defined by the terms of this Section including, but not limited to exotic animals, human primates, bear, deer, elk, ducks, and game fish.

OWNER: Any person, keeper, custodian, or legal entity owning, harboring or keeping an animal, whether temporary or permanent.

POTENTIALLY DANGEROUS ANIMAL: An Animal which has:

A. When unprovoked, bitten a human or a domestic animal on public or private property; or
B. When unprovoked, chased or approached a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property, other than the animal owner's property, in an apparent attitude of attack; or
C. A known history or propensity, tendency, or disposition to attack while unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals; or
D. Deen declared a Potentially Dangerous dog pursuant to Minnesota Statutes by the animal control authority of another jurisdiction.

PREMISES: Any building, structure, shelter, or land whereupon animals are kept or confined.

PROPER ENCLOSURE: 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 animal. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only obstacles that prevent the animal from exiting.

PROVOCATION: An act that an adult could reasonably expect may cause an animal to attack or bite.

SUBSTANTIAL BODILY HARM: Bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

UNPROVOKED: The condition in which the animal is not purposely agitated or disturbed. It is a rebuttable presumption that any attack on a child fourteen years of age or younger for which a reasonable person connotes an intent to inflict bodily harm will be considered to be unprovoked unless the child is engaged in the commission of a crime or illegal activity, including activities classified under Minnesota Statutes as cruelty to animals.

5-2-2: **ANIMAL IDENTIFCATION:** All dogs and cats are required to have some identification on them that would assist animal control in contacting the owner. Identification allowed under this subdivision

includes microchips, veterinarian issued rabies certificates, or any tags or collars with contact information and phone number(s) inscribed on it.

5-2-3: **LIMITATIONS:**

A. Dogs & Cats: No more than two (2) dogs over six (6) months of age or four (4) cats over (6) months of age shall be owned, kept, or harbored on the premises of a single family home or per dwelling unit for multi-family properties.

1. Grandfathering: Owners who currently possess dogs or cats in excess of the limitations set forth in this Ordinance, will be allowed to continue to possess such dogs or cats for as long as such dogs or cats reside in the City. Once such dogs or cats become deceased or do not live within the City for a period of 6 months, the limitations set forth shall again apply.
2. Fostering: Owners who provide foster care for animals through the Tri-County Humane Society or other foster agencies are still subject to the number limitations and other provisions of this Ordinance.

B. Chickens: The following describes the guidelines and regulations regarding residents keeping and maintaining domesticated chickens in the City of Sartell.

1. Size of lot: 1 acre or more in R-R or R-1 only.
2. Number of chickens: No more than 4 hen chickens at one time.
3. Property: Chickens over 4 weeks of age may not be kept inside the home or garage. They must remain in the coop or run at all times. Additionally, chickens must be secured inside the coop from sunset to sunrise each day to prevent noise and to avoid attracting predators.
4. Coop: Must be constructed in a workmanship manner, maintained in good repair, kept clean and sanitary, and constructed with wood and wire materials to allow chickens to contact the ground. They must be fully enclosed and built with weather resistant materials. Coop must be located in the rear yard, not in the front or street side of the lot. The floor area of the coop shall be a minimum of 2 square feet in area per chicken. Must allow for fenced in area/enclosure for chickens to run. Coops must match the color of the main building on the property and be maintained per property maintenance code. Coop must neither exceed 120 square feet in size nor exceed 6 feet in height.
5. Coop Location: Coops or runs must be located closer to the property owner's dwelling than to any neighboring dwelling and no closer than 30 feet to lot line. No coops or runs shall be located closer to an abutting street than the principal structure. Additionally, screening from abutting residences, structures, and streets in the form of solid privacy fence of at least 4 feet in height (per fence ordinances) shall be provided for the coop and run.
6. Chicken Run: The run must neither exceed 20 square feet per bird nor exceed 6 feet in height. A chicken run is a requirement.
7. Food Storage: All food stored for chickens shall be kept in watertight, rodent proof containers stored inside coops or other buildings.
8. Roosters: No roosters or adult male chickens shall be allowed.
9. Breed Chickens: No breed chickens are allowed at any time.
10. Wellbeing: Chickens shall, at times, be provided with access to feed and clean water, proper shelter and protection from the weather, veterinary care when needed, and humane care and treatment.
11. Roaming: Chickens shall not roam free outside of a coop or attached run/enclosure.
12. Eggs: If eggs are harvested, they may not be sold to others. All chicken eggs shall be for personal use or consumption only.
13. Slaughter: No person shall slaughter chickens on-site.
14. Dead Chickens: Deceased chickens shall be disposed of immediately in a safe manner, which may include trash disposal after placing the deceased bird in a sealed bag.
15. Diseased Chickens: In the event of a diseased chicken or an Avian Flu (bird flu) outbreak, the reporting of the disease and disposal of the affected chickens is the responsibility of the permit holder. The City Council reserves the right to suspend permitting in the event of an outbreak.

16. Manure: The owner/keeper of the chickens shall control the animal manure in a timely manner and dispose of it in a safe and adequate manner that does not create a public nuisance, via sight or smell. Chicken feces and discarded feed are to be regularly collected and stored in leak-proof containers with tight-fitting covers until they can be properly disposed of.
17. Cockfighting: Cockfighting is specifically prohibited.
18. Nuisance: Chickens must be cared for in a humane manner and owners must prevent nuisance conditions.
19. City Authority: A permit is required. The city shall grant a permit for chickens after the applicant has obtained the written consent of at least 60 percent of the owners or occupants of privately or publicly owned real estate that are located adjacent (i.e., sharing property lines) on the outer boundaries of the premises for which the permit is being requested, or in the alternative, proof that the applicant's property lines are 150 feet or more from any house or business.

    a. Any person desiring a permit required under the provisions of this article shall make an application to the Deputy Clerk upon a form prescribed by and containing such information as required by the city clerk. Among other things, the application shall contain the following information:

        1. A description of the real property upon which it is desired to keep the chicken.
        2. The genus and number of chickens to be maintained on the premises.
        3. A site plan of the property showing the location and size of the proposed chicken coop and run, setbacks from the chicken coop to property lines and surrounding buildings (including houses and buildings on adjacent lots), and the location, style, and height of fencing proposed to contain the chicken in a run or exercise area.
        4. Statements that the applicant will at all times keep the chicken in accordance with all of the conditions prescribed by this ordinance, or modification thereof, and that failure to obey such conditions will constitute a violation of the provisions of this chapter and grounds for cancellation of the permit.

    b. If granted, the permit shall be issued by the Deputy Clerk and shall state the conditions, if any, imposed upon the permitted for the keeping of chicken under this permit. The permit shall specify the restrictions, limitations, conditions, and prohibitions which the clerk deems reasonably necessary to protect any person or neighboring use from unsanitary conditions, unreasonable noise or odors, or annoyance, or to protect the public health and safety. Such permit may be modified from time to time or revoked by the city for failure to conform to such restrictions, limitations, prohibitions. Such modification or revocation shall be effective after ten days following the mailing of written notice thereof by certified mail to the person or persons keeping or maintaining such chicken.
    c. Any person violating any of the sections of this ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be punished in accordance with this code. If any person is found guilty by a court for violation of this section, their permit to own, keep, harbor, or have custody of chickens shall be deemed automatically revoked and no new permit may be issued for a period of one year. Any person violating any conditions of this permit shall reimburse the city for all costs borne by the city to enforce the conditions of the permit including but not limited to the pickup and impounding of chicken.
    d. No person shall (without first obtaining a permit in writing from the Deputy Clerk) own, keep, harbor, or have custody of any live chicken.
    e. For each chicken permit the fee is as may be imposed, set, established, and fixed by the City, via the City Fee Schedule. Permits issued under this division shall have a duration period of two years. The first two years of a permit shall require an annual inspection after year one. The expiration date of such permit is as may be imposed, set, established, and fixed by the city clerk, from time to time. A permit renewal application shall be filed with the office of the city clerk prior to the expiration date.
    f. Revocation. The City may revoke any permit issued under this ordinance if the person holding the permit refuses or fails to comply with this ordinance, with any regulations promulgated by the city council pursuant to this ordinance, or with any state or local law

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governing cruelty to animals or the keeping of animals. Any person whose permit is revoked shall, within ten days thereafter, humanely dispose of all chicken being owned, kept, or harbored by such person, and no part of the permit fee shall be refunded.

5-2-4: **KEEPING OR HARBORING PROHIBITED:**

A. No person shall own, care for, have custody or control of, within the City limits, any non-domestic animal as defined in this Chapter.

   1. Exceptions: An exception may be made to this prohibition for the following:

      a. Non-domestic animals within the City's Agricultural Zoning District as specifically provided within the City's Zoning Ordinance.

B. Restrictions on Food and Drink Establishments: It is unlawful for the owner or operator of any establishment wherein the selling, handling, processing, or preparation of food is done to permit any animal in such establishment except as allowed by Minnesota Statutes.

5-2-5: **ANIMALS AT LARGE**

A. It will be unlawful for any person having or maintaining any animal to permit the animal to be at large or to be upon any premises other than as provided in the permit whether or not a permit for such animal has been issued as provided under the licensing and permit provisions of this Chapter or other ordinance of the City.
B. It is unlawful for any owner to allow a domestic animal to be at large at any time.
C. Dog Parks: Dogs are permitted to be unleashed in off leash dog park areas as designated by the City under the following conditions:

   1. The dog owner or owner's designee as allowed by Park rules must be present; and
   2. The dog must be under the voice control of the owner at all times; and
   3. Feces must be properly removed and disposed of; and
   4. A dog deemed a dangerous or potentially dangerous animal under this Chapter is not permitted to use off leash areas.

D. Owners of animals found running at large are subject to a fine pursuant to the City's fee schedule.

5-2-6: **BARKING, NUISANCES, PROPERTY DAMAGE, AND FECAL CELANUP**

A. Barking: No person will keep or harbor a dog which habitually barks or cries, howls or whines for a period of six (6) or more minutes out of a ten (10) consecutive minute period.
B. Nuisance Noise: It is unlawful for any owner to maintain at any place within the City any animals which, by their habitual whining, barking, howling or other disagreeable noises, disturbs the people in the locality where kept.
C. Damage to Property by Animals Prohibited: No person having the custody or control of a dog, cat or other animal will permit the animal to damage any lawn, garden, or other property, public or private, or to defecate on private property, without the consent of the property owner.
D. Animal Waste*:* No owner or custodian of any animal shall cause or allow such animal to soil, defile, or defecate on any public property or upon any street, sidewalk, public way, play area, common grounds owned jointly by members of a homeowner's or condominium association, or upon private property other than that of the owner, unless such owner immediately removes and disposes of all feces deposited by such animal in a sanitary manner.

   1. Any person owning, keeping, or harboring an animal to cause or permit said animal to be on any public or private property not owned or possessed by such person, without having in immediate possession of a device for the removal of feces and depository for the transmission of excrement to a proper receptacle.

2. It is unlawful for any person in control of, causing or permitting any animal to be on any public or private property not owned or possessed by such person, to fail to remove feces left by such animal and dispose of it properly as described.
3. Proper disposal of animal waste shall be limited to burial where lawfully permitted, flushing in the toilet, bagging for disposal in the owner or keeper's waste receptacle, and bagging for the disposal in a waste receptacle, designated for animal waste, in a public park or public area.
4. Disposal of animal waste in storm drains is prohibited.
5. Disposal of animal waste in public compost is prohibited.
6. Exceptions: The provisions of this subdivision do not apply to a guide dog or service animal accompanying a blind person or to a dog when used in police or rescue activities by or with the permission of the City. This subdivision will not be construed by implication or otherwise to allow dogs to be where they are otherwise prohibited by the ordinances of the City.

5-2-7: **RABIES CONTROL:**

A. Dogs and Cats Rabies Immunization Required: All dogs and cats over the age of six (6) months harbored or maintained within the City shall be immunized against rabies by a licensed veterinarian. The vaccines used and their duration of immunity against rabies will be as recommended by the National Association of State Public Health Veterinarians (NASPHV) in their current Compendium of Animal Rabies Prevention and Control. A certificate from the veterinarian inoculating said dog or cat shall be presented to the Animal Control Officer by the animal's owner upon demand. Failure to provide evidence of rabies immunization upon request may subject the owner to a fine pursuant to the City's fee schedule.
B. Exposure: Dogs, cats or other animals known to have been bitten by or exposed to a rabid animal must be euthanized or the animal's owner must adhere to procedures as described in the NAHSPV Compendium of Animal Rabies Prevention and Control. Notification of exposure shall be made immediately to the City. Costs associated with exposure are incurred at the animal owner's expense.
C. Disposition of Diseased Dogs, Cats or Other Animals: If a dog, cat or other animal quarantined under Section 5-2-11 is found to be sick or diseased, the operator of the quarantine facility will immediately report in writing to the City on the condition of the dog or animal. The City may then take possession of the dog, cat or animal for the purpose of submitting it to determine if it is suffering from rabies. A diseased dog, cat or animal may be euthanized, if the City determines such action necessary for the protection of public health and safety, or as recommended by a licensed veterinarian.

5-2-8: **DANGEROUS AND POTENTIALLY DANGEROUS ANIMALS**

A. Designation as a Dangerous or Potentially Dangerous Animal: The Animal Control Officer or their designee will designate any animal as a dangerous or potentially dangerous animal upon receiving evidence that such animal meets the definition set forth in this ordinance.
B. Exemption: Animals may not be designated as dangerous or potentially dangerous if the threat, injury, or damage was sustained by a person who was:

1. Committing, at the time, a willful trespass or other tort upon the premises occupied by the owner of the animal.
2. Provoking, tormenting, abusing, or assaulting the animal or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the animal.
3. Committing or attempting to commit a crime.

C. Notification and Procedure: When an animal is declared dangerous or potentially dangerous, the owner(s) of the dangerous or potentially dangerous animal shall be notified in writing that such animal is dangerous or potentially dangerous.

1. Notice of Right to Appeal: This notice shall state the date, time, place, the animal bit, chased, attacked, or threatened, and shall advise the owner that they have fourteen (14) days to appeal the determination by requesting a hearing with the Police Chief or designated assignee.
2. The owner of the animal must immediately comply with the Proper Enclosure requirements as defined in this ordinance, even if appealing the designation.
3. Written notice of the designation may either be mailed by first class US mail or by personally delivering the notice to the owner of the animal declared as dangerous or potentially dangerous.

D. Noncompliance of Order: If an owner of a dangerous or potentially dangerous animal fails to comply with any conditions for dangerous or potentially dangerous animals specified in this ordinance and fails to request a hearing within fourteen (14) days of the designation, the animal shall be seized.

1. Notice shall be provided to the owner of the basis for the seizure and the right to request a hearing to determine whether the conditions were violated.
2. A request for hearing must be made within fourteen (14) days of the seizure. If the owner fails to request a hearing within fourteen (14) days, or after a hearing, is found to have violated the conditions, the Animal Control Officer may order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining the animal. If the owner is found not to have violated the conditions, the owner may reclaim the animal.

E. An owner of a dangerous or potentially dangerous animal must notify the Police Chief in writing within fourteen (14) days of any transfer to a new owner or location, or death of the animal. This notification shall include proof of death 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.

F. Review of Designation: Beginning six months after an animal's dangerous or potentially dangerous designation, an owner may request in writing that the designation be reviewed by the Animal Control Officer or Police Chief. The owner must also provide evidence that the dog's behavior has changed, and that no violation of this ordinance has occurred during that time period. The city may use discretion in determining whether any conditions which have been ordered are still required.

5-2-9: **POTENTIALLY DANGEROUS ANIMALS**

A. Animal Subject to Conditions: An animal that has been determined to be potentially dangerous shall do the following:

1. The animal shall be required to be restrained by leash not to exceed six (6) feet in length, and/or muzzled, and under the control of a person eighteen (18) years of age or older at all times it is outdoors and not inside a proper enclosure; and
2. Spay/neuter: If the animal is a dog or cat, the owner shall provide proof of spay or neuter; and
3. Obedience Class: The owner of a dog shall be required to complete an approved dog obedience class; and
4. Microchip Identification Required: The owner of a potentially dangerous animal shall have a microchip installed or injected on the animal, to the extent that the species of the animal allows placement of the chip. The microchip will be installed in or injected under the skin of the animal by a licensed veterinarian and will be designed so that, when scanned by an electronic reader, it is capable of providing the identification of the animal's owner. The identification number and microchip manufacturer shall be provided to the Animal Control Officer. The owner shall maintain current address information with the manufacturer. All costs related to the installation and maintenance of the chip are the responsibility of the owner. If the animal is impounded, the microchip will be installed or injected prior to its release; and
5. Annual Registration Fee: The owner of a potentially dangerous animal is required to complete an annual registration form and pay annual registration fee as set by the City Council. If the animal is impounded the fee will be paid prior to the animal's release.

B. Appeal: Appeal of the animal control officer's dangerous animal designation will be a hearing before the Police Chief or designated assignee not more than fourteen (14) days after receipt of the appeal

request. At the time of the hearing, the animal owner may appear and present any evidence which the animal owner may deem material to the investigation. The Police Chief or designated assignee will make findings of fact as to whether a violation of the provisions of this Section has been committed. The Police Chief or designated assignee will affirm or reject the dangerous animal designation or may impose other sanctions as warranted. The decision shall be issued within 10 days of the hearing. If the declaration is upheld, the actual expenses of the hearing up to a maximum of $75 will be the responsibility of the animal's owner.

5-2-10: **DANGEROUS ANIMALS**

A. Disposition of Dangerous Animals: The Community Service Officer or Police Officer, after designation of an animal as dangerous has the authority to determine the disposition of the dangerous animal.

1. The dangerous animal will be euthanized; or
2. The dangerous animal will be subject to the following conditions:

a. Housed in a Proper Enclosure: Proper enclosure means securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the animal from exiting. Such an enclosure will not allow the egress of the animal in any manner without human assistance. A pen or kennel for a dog designated as dangerous will meet the following minimum specifications:

1. Have a minimum overall floor size of thirty-two square feet.
2. Sidewalls will have a minimum height of five feet and be constructed of 11-gauge or heavier wire. Openings in the wire will not exceed two inches, support posts will be one-and-one-quarter inch or larger steel pipe buried in the ground eighteen inches or more. When a concrete floor is not provided, the sidewalls will be buried a minimum of eighteen inches in the ground.
3. A cover over the entire pen or kennel will be provided. The cover will be constructed of the same gauge wire or heavier as the sidewalls and will also have no openings greater than two inches.
4. An entrance/exit gate will be provided and be constructed of the same material as the sidewalls and will also have no openings in the wire greater than two inches. The gate will be equipped with a device capable of being locked and will be locked at all times when the animal is in the pen or kennel; and

b. Insurance: The owner provides and shows proof annually of public liability insurance paid in full in the minimum amount of $500,000. If the animal is impounded, proof of insurance must be demonstrated prior to the animal's release; and

c. Posting: Post the front and rear of the premises with clearly visible warning signs including a warning symbol to inform children, that there is a dangerous animal on the property as specified in Minnesota Statute 347:51; and

d. Muzzle: If the animal is a dog and is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash not to exceed 6 feet in length and be under the physical restraint of a person eighteen years of age or older. The muzzle must be of such design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration; and

e. Microchip Identification Required: The owner of a dangerous animal is required to have a microchip installed or injected on the animal, to the extent that the species of the animal allows placement of the chip. The microchip will be installed in or injected under the skin of the animal by a licensed veterinarian and will be designed so that, when scanned by an

electronic reader, it is capable of providing the identification of the animal's owner. The identification number and microchip manufacturer shall be provided to the Animal Control Officer. The owner shall maintain current address information with the manufacturer. All costs related to the installation and maintenance of the chip are the responsibility of the owner. If the animal is impounded, the microchip will be installed or injected prior to its release; and

f. Annual Registration Fee: The owner of a dangerous animal is required to complete an annual registration form and pay annual registration fee as set by the City Council. If the animal is impounded the fee will be paid prior to the animal's release; and
g. Spay/neuter: If the animal is a dog or cat, the owner shall provide proof of spay or neuter; and
h. Tag: A 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; and
i. Obedience Class: The owner of a dog shall be required to complete an approved dog obedience class.

B. Appeal: Appeal of the animal control officer's dangerous animal designation will be a hearing before the Police Chief or designated assignee not more than fourteen (14) days after receipt of the appeal request. At the time of the hearing, the animal owner may appear and present any evidence which the animal owner may deem material to the investigation. The Police Chief or designated assignee will make findings of fact as to whether a violation of the provisions of this Section has been committed. The Police Chief or designated assignee will affirm or reject the dangerous animal designation or may impose other sanctions as warranted. The decision shall be issued within 10 days of the hearing. If the declaration is upheld, the actual expenses of the hearing up to a maximum of $75 will be the responsibility of the animal's owner.

5-2-11: **ANIMAL BITING; QUARANTINE**

A. Animal Biting: Whenever any animal capable of transmitting the rabies virus has bitten any person or domestic animal, the owner or custodian of the biting animal, upon being notified by the Animal Control Officer, will immediately cause the animal to be quarantined at the Animal Shelter, or by a veterinarian licensed to practice in the State of Minnesota and approved by the City, for a period of ten (10) days after the bite incident. The Animal Control Officer may allow the owner to quarantine the animal if proof of current rabies vaccination is provided. All expenses related to any quarantine will be the responsibility of the animal owner.
B. Release from Quarantine: At the end of ten (10) days, a licensed veterinarian shall examine the animal to ascertain whether symptoms of rabies exist. If the veterinarian diagnoses the animal to be free of the signs of rabies, the animal shall be released from quarantine.

1. If a quarantined animal sickens or dies, it shall be sent to the Minnesota Department of Health for rabies testing. The owner of the animal is responsible for the cost of quarantine, veterinary fees, and testing.

C. Noncompliance of Order: If an owner fails to comply with any portion of the quarantine the animal shall be seized and impounded for the remainder of the quarantine period. The animal may be reclaimed by the owner as set forth in this Chapter.

5-2-12: **ANIMALS SUBJECT TO IMPOUNDMENT**

A. Dogs: The Animal Control Officer or any duly authorized assistant may impound any dog found in the City without the currently effective rabies vaccination provided for in this ordinance; or any dog found at large at any time within the City.
B. Cats: It will be lawful for the Animal Control Officer or any duly authorized assistant to take up and impound any cat found in the City without a currently effective rabies vaccination as provided for in this ordinance; or any cat found at large at any time within the City.

C. Other Animals: Any animal considered at large is subject to impoundment.

5-2-13: **REDEMPTION**: Animals may be redeemed from the Animal Shelter by the owner any time, during office hours, within five (5) business days after seizure and impounding, upon a statement of ownership, and payment of the impounding fee, including the cost of caring for the animal during the impound period. The animal will be released to the owner, unless it is being held for rabies observation or for potentially dangerous or dangerous dog designation.

5-2-14: **DISPOSITION OF UNREDEEMED ANIMALS**: Any animal that is not redeemed by the owner becomes the property of the City. Suitable animals may be placed for adoption.

5-2-15: **INTERFERENCE WITH OFFICERS**: It unlawful for any unauthorized person to break open the Animal Shelter, or to attempt to do so, or to take or let out any animal, or to take, or attempt to take, from any Animal Control Officer any animal taken by them in compliance with this ordinance, or in any manner to interfere with or hinder such Animal Control Officer in the discharge of their duties under this ordinance.

5-2-16: **SERVICE ANIMALS**: Nothing in this ordinance shall be construed to limit:

A. The right of a person with disabilities to access places of public accommodation while accompanied by a service animal as provided in Minnesota Statutes; or
B. The lawful use of a service animal by a licensed peace officer.

5-2-17: **COMMERCIAL KENNELS**: No person will maintain a kennel within the City except in a location permitted by the zoning and subdivision code as a commercial kennel.

5-2-18: **VIOLATIONS AND PENALTIES:** A person violating this Chapter will be subject to an administrative penalty in accordance with the administrative fine schedule and/or subject to criminal prosecution.

CHAPTER 3

GENERAL OFFENSES

SECTION:

5-3-1: Minnesota Criminal Code Adopted By Reference
5-3-2: Dangerous Weapons
5-3-3: Obscene Phone Calls And Bomb Threats
5-3-4: Obscene Materials
5-3-5: Moral And Decency-Related Nuisances
5-3-6: Penalty

5-3-1: **MINNESOTA CRIMINAL CODE ADOPTED BY REFERENCE**: Except as insofar as the application thereof is clearly impractical or inappropriate, in view of the context of purposes or penalty as provided, all of the definitions, requirements, regulations, prohibitions, provisions and sections of the Minnesota Criminal Code (M.S.A. 609.01 et seq.), as amended, are hereby adopted by the City. Any and all violations thereof shall be considered violations of this Chapter, and each such violation shall subject the violator thereof to penalty provisions under this Chapter if proceeded hereunder.

5-3-2: **DANGEROUS WEAPONS:**

A. Use Restrictions: No person except a police officer in the performance of duty shall, within the City, discharge any gun, pistol or firearm of any description or carry any such weapon unless it is dismounted or broken apart or carried in a case in such a manner that it cannot be discharged. This Section does not prevent the carrying of a handgun within the City under a permit subject to the restrictions imposed by law.
B. Air Rifles, Sling Shots, Bows And Arrows: No person shall use or discharge any air rifle, sling shot or bow and arrow within the City.
C. Offense By Parents, Guardians: It is unlawful for any parent or guardian of any person under the age of eighteen (18) years knowingly to permit such person to violate any provision of this Section.

5-4-3: **OBSCENE PHONE CALLS AND BOMB THREATS**: No person, by means of a telephone, which includes but is not limited to: phone calls, social media platform communications, instant messaging, text messaging, emails, or any other communication as determined by law enforcement shall:

A. Make any comment, request, suggestion, or proposal which is obscene, lewd, lascivious, filthy, or indecent.
B. Make a telephone call, whether or not conversation ensues, without disclosing the caller's identity and with intent to annoy, abuse, threaten or harass any person at the called number.
C. Make or cause the telephone of another repeatedly or continuously to ring with the intent to harass any person at the called number.
D. Make or cause to be made a telephone call with the intent as a hoax to threaten to bomb or threaten that a bomb has been placed in any building or in any location other than a building where said bomb, if it were so placed, might cause injury or death to a person or damage to property.
E. Knowingly permits any telephone under his/her control to be used for any purposes prohibited by this Section or causes any person to be fearful for his/her life or properly or the life of any member of said household to be in jeopardy.

5-3-4: **OBSCENE MATERIALS**:

A. Definitions: As used in this Section, the terms defined herein shall have the following meanings ascribed to them:

DESCRIPTION OR DEPICTION OF ELLICIT SEX OR IMMORALITY:

A. Human genitals which are in a state of sexual stimulation or arousal.
B. Acts of human masturbation, sexual intercourse, or sodomy.
C. Fondling o other erotic touching of human genitals, pubic region, buttocks, or female breast.

KNOWINGLY: Having knowledge of the character of the publication or failure unnoticed or exercised reasonable inspection which would disclose the character of the same.

NUDE OR PARTIALLY NUDE: Less than completely and opaquely covered human genitals, pubic areas, buttocks, and female breast below a point immediately above the top of the areola and human male genitals in a discernible turgid state even if completely and opaquely covered.

B. Public Display To Minors Prohibited: It shall be unlawful to knowingly display to view at newsstands or any other business establishments frequented by minors under the age of eighteen (18) years or where said minors are or may be invited as a part of the general public, any motion picture, or any still picture, or any photograph or any book, pocketbook, pamphlet or magazine the cover of which exploits, is devoted to or is principally made up of descriptions or depictions of illicit sex or sexual immorality or which is lewd, lascivious or indecent, or which consists of pictures of nude or partially denuded figures posed or presented in a manner to provoke or arouse lust or passion or to exploit sex, lust or perversion for commercial gain or any article or instrument of indecent or immoral use.

5-3-5: **MORAL AND DECENCY-RELATED NUISANCES:** The following are hereby declared to be nuisances affecting public morals and decency:

A. Gambling Devices: All gambling devices, slot machines and punchboards, except as permitted by Title 3, Chapter 5 of this Code.
B. Betting; Bookmaking: Betting, bookmaking and all apparatus used in such occupations.
C. Houses Of Prostitution, Gambling: All houses kept for the purpose of prostitution or promiscuous sexual behavior, gambling houses, houses of ill fame and bawdy houses.
D. Illegal Use Of Alcohol: All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, persons are permitted to resort for the purpose of drinking intoxicating liquor or where intoxicating liquor is kept for sale or other disposition in violation of the law, and all liquor and other property used for maintaining such a place.
E. Vehicle Used For Illegal Purposes: Any vehicle used for the transportation of intoxicating liquor, for promiscuous sexual behavior or any other immoral or illegal purpose. (1981 Code § 801.03)
F. No person shall urinate or defecate within the City of Sartell while outside of a building or structure if the person is:

1. On, or in a public street, alley, sidewalk, boulevard, or parking lot.
2. In a private parking lot open to use by general members of the public.
3. On private property of another without the permission of the owner.
4. On private property and the prohibited act is performed in a location which would allow it to be observed by others from off the property. (ord. 03-07, 05-27-03)

5-3-6: **PENALTY**: Any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor.

CHAPTER 4

CURFEW

SECTION:

5-4-1: Curfew Imposed
5-4-2: Exceptions
5-4-3: Parent/Guardian Responsibility
5-4-4: Penalty

5-4-1: **CURFEW IMPOSED:** No person under the age of eighteen (18) years except, as provided in Section 5-5-2 of this Chapter, shall be on any public street or alley or in any park or other public grounds or building, place of amusement, entertainment or refreshment, vacant lot or any other unsupervised place between the hours of eleven o'clock (11:00) P.M. and five o'clock (5:00) A.M. of the following day.

5-4-2: **EXCEPTIONS:** The restrictions of Section 5-4-1 of this Chapter do not apply when the minor:

A. Is accompanied by the minor's parent, guardian or other person having the minor's lawful care, custody or control;
B. Is returning home by a direct route from and within thirty (30) minutes after a school activity or an activity of a religious or other voluntary association when prior notice of the activity and its place and probable time of termination has been given to the Police Department by an adult person authorized by the school or the religious or voluntary association to do so;
C. Is on his/her way to or from his/her place of employment; or
D. Is upon an emergency errand or other legitimate activity directed by the minor's parent, guardian or other adult having the lawful custody of the minor.

5-4-3: **PARENT/GUARDIAN RESPONSIBILITY**: No parent, guardian or other adult having custody and control of a minor under eighteen (18) years of age shall knowingly permit the minor to violate the provisions of Section 5-4-1 of this Chapter.

5-4-4: **PENALTY:** Any person under the age of eighteen (18) on the street or other place in violation of Section 5-4-1 of this Chapter shall be ordered to go home immediately. After investigation, if responsible City authorities determine that court action should be initiated, the minor shall be dealt with in accordance with juvenile court law and procedure. Any such minor who is convicted of a violation of this Chapter after the case has been referred for prosecution in the trial court under Minnesota Statutes chapter 260, and any person who is convicted of a violation of any provision in Section 5-4-3 is guilty of a petty misdemeanor and shall be punished by a fine of not to exceed two hundred dollars ($200.00).

CHAPTER 5

ABANDONED PROPERTY

SECTION:

5-5-1: Abandoned Automobiles
5-5-2: Other Abandoned Property

5-5-1 : ABANDONED AUTOMOBILES:

A. Impoundment: The City Police Department shall take into custody and impound any "abandoned motor vehicle" as defined by Minnesota Statutes.
B. Notice Of Impoundment: The Police Department shall give notice of taking as provided by law.
C. Sale: If the owner or any lienholder does not reclaim the vehicle within the period provided by law, the Police Department shall provide for the sale of the vehicle to the highest bidder at public auction or sale following two (2) weeks published notice.
D. Summary Action: When an abandoned motor vehicle is more than seven (7) 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 under subsection C of this Section and shall not be subject to the notification, reclamation or title provisions of Minnesota Statutes.
E. Disposition Of Proceeds; Redemption: The proceeds of the sale of an abandoned motor vehicle shall be placed in the General Fund of the City. If the former owner or entitled lienholder makes application and furnishes satisfactory proof of ownership or lien interest within ninety (90) days of the sale, the owner or lienholder shall be paid the proceeds of the sale of the vehicle less the cost of towing, preserving and storing the vehicle and all administrative, notice and publication costs incurred in its handling.

5-5-2: OTHER ABANDONED PROPERTY:

A. Procedure: All other property lawfully coming into the possession of the City shall be disposed of as provided in this Section.
B. Storage: The department of the City acquiring possession of the property shall arrange for its storage. If City facilities for storage are unavailable or inadequate, the department may arrange for storage at privately-owned facilities.
C. Claim By Owner: The owner may claim the property by exhibiting satisfactory proof of ownership and paying the City any storage or maintenance costs incurred by it. A receipt for the property shall be obtained upon release to the owner.
D. Sale: If the property remains unclaimed in the possession of the City for sixty (60) days, the property shall be sold to the highest bidder at a public auction conducted by the Chief of Police after two (2) weeks' published notice setting forth the time and place of the sale and the property to be sold.
E. Disposition Of Proceeds; Redemption: The proceeds of the sale shall be placed in the General Fund of the City. If the former owner makes application and furnishes satisfactory proof of ownership within six (6) months of the sale, the former owner shall be paid the proceeds of the sale of said former owner's property less the costs of storage and the proportionate part of the cost of published notice and other costs of the sale.

CHAPTER 6

EMPLOYMENT BACKGROUND AND DEPARTMENT OF VEHICLE SERVICES DRIVERS LICENSE CHECKS

SECTION:

5-6-1: Applicants for City Employment
5-6-2: Criminal History Employment Background Investigations

5-6-1: **APPLICANTS FOR CITY EMPLOYMENT** :The purpose and intent of this section is to establish regulations that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of employment background checks for the positions described in Section 9.

5-6-2: **CRIMINAL HISTORY EMPLOYMENT BACKGROUND INVESTIGATIONS, INCLUDING DEPARTMENT OF VEHICLE SERVICES DRIVERS LICENSE CHECKS:** The Sartell Police Department is authorized, as the exclusive entity within the City, to do a criminal history background investigation and department of vehicle services driver's license checks on the applicants for the following positions within the city:

A. Employment positions:

1. All regular part-time or full-time employees of the City of Sartell and other positions that work with children or vulnerable adults. In conducting the criminal history background investigation in order to screen employment applicants, the Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Police Department under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the Computerized Criminal History data may be released by the Police Department to the hiring authority, including the City Council, the City Administrator/Manager/Clerk, or other city staff involved in the hiring process.
2. Before the investigation is undertaken, the applicant must authorize the Police Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of Minn. Stat. Chap. 13 regarding the collection, maintenance and use of the information. Except for the positions set forth in Minnesota Statutes Section 364.09, the city will not reject an applicant for employment on the basis of the applicant's prior conviction unless the crime is directly related to the position of employment sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the City rejects the applicant's request on this basis, the City shall notify the applicant in writing of the following:

    a. The grounds and reasons for the denial.
    b. The applicant complaint and grievance procedure set forth in Minnesota Statutes Section 364.06.
    c. The earliest date the applicant may reapply for employment.
    d. That all competent evidence of rehabilitation will be considered upon reapplication.

CHAPTER 7

LICENSE BACKGROUND CHECKS

SECTION:

5-7-1: Applicants for City Licenses
5-7-2: Criminal History License Background Investigations

5-7-1: **APPLICANTS FOR CITY LICENSES**: The purpose and intent of this section is to establish regulations that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of licensing background checks.

5-7-2: **CRIMINAL HISTORY LICENSE BACKGROUND INVESTIGATIONS**: The Sartell Police Department is authorized, as the exclusive entity within the City, to do a criminal history background investigation on the applicants for the following licenses within the city:

A. City licenses:

1. Crime Free Multi-Housing Program Participants
2. Liquor
3. Transient Merchants
4. Pawn Shops

a. In conducting the criminal history background investigation in order to screen license applicants, the Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Police Department under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the Computerized Criminal History data may be released by the Police Department to the licensing authority, including the City Council, the City Administrator/Manager/Clerk, or other city staff involved the license approval process.

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

1. The grounds and reasons for the denial.
2. The applicant complaint and grievance procedure set forth in Minnesota Statutes Section 364.06.
3. The earliest date the applicant may reapply for the license.
4. That all competent evidence of rehabilitation will be considered upon reapplication.

TITLE 6

MOTOR VEHICLES AND TRAFFIC

Subject	Chapter
General Traffic Provisions	1
Parking Regulations Provisions	2
Snowmobiles	3
Self-Propelled Wheeled Devices	4
Motorized Golf Carts	5

CHAPTER 1

GENERAL TRAFFIC PROVISIONS

6-1- 1: Highway Regulation Act Adopted
6-1- 2: Definitions
6-1- 3: Driver's License Required
6-1- 4: Turning
6-1- 5: Through Streets; One-Way Streets
6-1- 6: Traffic-Control Zones
6-1- 7: Signs, Signals And Markings
6-1- 8: Hazardous Driving
6-1- 9: Emergency Vehicles
6-1-10: Weight Restrictions
6-1-11: Defective Exhaust System
6-1-12: Pedestrians
6-1-13: Hitchhiking
6-1-14: Penalty

6-1-1: **HIGHWAY REGULATION ACT ADOPTED**: The regulatory provisions of Minnesota Statutes Chapter 169, as amended, are hereby adopted as a traffic ordinance regulating the use of highways, streets and alleys within the corporate limits of the City and are hereby incorporated in and made a part of this Chapter by reference as provided for by Minnesota Statutes section 471.62.

6-1-2: **DEFINITIONS**: Any term used in this Chapter and defined in Minnesota Statutes section 169.011, has the meaning given it by that section.

Commented [WS1]: 169.011

Commented [KT2R1]: changed

6-1-3: **DRIVER'S LICENSE REQUIRED:** No person shall drive or operate a private vehicle upon any street or alley in the City unless such person has in his/her possession a driver's license issued to him/her in accordance with the laws of the State.

6-1-4: **TURNING:**

A. Restriction On Turns:

1. Council Designation: The Council, by resolution, may, whenever necessary to preserve a free flow of traffic or to prevent accidents, designate any intersection as one where the turning of vehicles to the left or to the right, or both, is to be restricted at all times or during specified hours.
2. Installation Of Signs: The City Engineer and/or Public Works Director shall mark by appropriate signs any intersection so designated.
3. Trunk Highway: No intersection on a trunk highway shall be so designated until the consent of the Commissioner of Transportation to such designation is first obtained.
4. Compliance Required: No person shall turn a vehicle at any such intersection contrary to the direction on such signs.

B. U-Turns: No person shall turn a vehicle so as to reverse its direction on any street in the business district or at any intersection where traffic is regulated by a traffic-control signal. (1981 Code § 701.03)

6-1-5: **THROUGH STREETS; ONE WAY STREETS:**

A. Council Designation: The Council, by resolution, may designate any street or portion of a street as through highway or a one-way roadway where necessary to preserve the free flow of traffic or to prevent accidents.
B. Installation Of Signs: The City Engineer and/or Public Works Director shall post appropriate signs

at the entrance to such street or where needed.

C. Trunk Highway: No trunk highway shall be so designated unless the consent of the Commissioner of Transportation to such designation is first secured.

6-1-6: **TRAFFIC-CONTROL ZONES:**

A. Zones Established: The Council, by resolution, may establish traffic-control zones on any street or portion of a street. Such zones may include, but shall not be limited to, no parking zones, no stopping zones and limited parking zones. This power shall include the power to modify such zones from time to time as appears necessary or desirable to the Council after consultation with the City Engineer and/or Public Works Director.

B. Installation Of Signs: Upon resolution by the Council designating any street as a traffic-control zone, the City Engineer and/or Director of Public Works shall erect appropriate signs on such streets. All such signs shall be in accordance with criteria established by the Federal Highway Administration or its successor agencies and as promulgated in Federal Highway Administration publication as the Manual on Uniform Control Devices or its equivalent.

6-1-7: **SIGNS, SIGNALS AND MARKINGS**:

A. Uniform Appearance: All signs, signals and markings placed by the City shall conform to the standards prescribed by the Commissioner of Transportation and whenever so required by law shall be so placed only with the express approval and authorization from the Commissioner.

B. Compliance Required: No person shall disobey the instructions of an official traffic-control device placed within the City by the State Highway Department, County, or the City unless at the time otherwise directed by a police officer.

C. Unauthorized Signs: No person shall place, maintain, or display any unauthorized sign, signal, marking or device imitating, resembling or hiding an official traffic-control device or signal or device used in the operation of a railroad.

D. Damage To Signs: No person shall alter, deface, injure, knock down or remove any official traffic-control device or railroad sign or signal or any inscription, shield or insignia thereon or any other part thereof. Any accidental damage to or removal of a sign shall be reported immediately to the Police Department.

6-1-8: **HAZARDOUS DRIVING:**

A. Unreasonable Acceleration, Squealing Of Tires, Backfiring: No person shall operate any motor vehicle on a public highway, street, parking lot, alley or other public or private way within the City in such a manner as to cause tires to squeal, gears to grind, motor to backfire or motor to be unreasonably accelerated except when an emergency creates the necessity for such operation. Prima facie evidence of said violation shall be unreasonable squealing or screeching sounds emitted from the tires of said vehicle or the throwing of sand or gravel by the tires of said vehicles, or both.

B. Erratic Driving: No person shall operate a motor vehicle on a public highway, street, parking lot, alley or other public property at erratic or irregular and changing speeds so as to create a hazard to himself/herself or other persons or property or so interfere with other traffic in the area.

C. Driving Under Influence Of Liquor Or Narcotics Prohibited: No person who is a habitual user or narcotic drugs nor any person who is under the influence of intoxicating liquor or narcotic drugs shall drive or operate any vehicle within the City.

6-1-9: **EMERGENCY VEHICLES:**

A. Following Emergency Vehicles: No driver of any vehicle other than one on official business, shall follow any Fire Department apparatus or other emergency vehicle traveling in response to a fire alarm or other emergency call closer than five hundred feet (500'), or drive into or park such vehicle within the block where the fire apparatus or other emergency vehicle has stopped to answer a fire alarm or other emergency call.

B. Driving Over Fire Hose: No person shall drive any vehicle over any unprotected hose of a Fire Department when laid down on any street, private driveway or alley to be used at any fire alarm or fire, without the consent of the Fire Department official in command.

C. Proceeding At Traffic Signs: The driver of any authorized emergency vehicle operated in response to any emergency call or in the immediate pursuit of an actual suspected violator of the law, sounding siren and displaying at least one red light to the front, shall not be subject to speed limitations, and upon approaching a red light or stop signal or ally stop sign, shall slow down as necessary for safety but may proceed past such sign or signal after sounding siren and displaying red lights. This provision does not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of other persons lawfully using the street, nor does it protect the driver of an authorized emergency vehicle from the consequences of a reckless disregard of the safety of others.

6-1-10: **WEIGHT RESTRICTIONS:**

A. Certain Streets Restricted:

1. Council Designation: The City Council, by resolution, may designate streets on which travel by commercial vehicles in excess of four (4) tons is prohibited.
2. Installation Of Signs: The City Engineer and/or Public Works Director shall erect appropriate signs on such streets.
3. Compliance Required: No person shall operate a commercial vehicle on such posted streets in violation of the restrictions stated.

B. Seasonal Weight Restrictions:

1. Limitations Imposed: The City Engineer and/or Public Works Director may prohibit the operation of vehicles upon any street under his/her jurisdiction or impose weight restrictions on vehicles to be operated on such street whenever the street, by reason of deterioration, rain, snow or other climatic conditions, will be seriously damaged or destroyed unless the use of vehicles on the street is prohibited or the permissible weights thereof reduced.
2. Installation Of Signs: The City Engineer and/or Public Works Director shall erect and maintain signs plainly indicating the prohibition or restriction at each end of that portion of the street affected.
3. Compliance Required: No person shall operate a vehicle on a posted street in violation of the prohibition or restriction.

6-1-11: **DEFECTIVE EXHAUST SYSTEM:** No person shall operate a motor vehicle within the City with a loud or defective exhaust system in violation of State noise standards as estimated by the Minnesota Pollution Control Agency.

6-1-12: **PEDESTRIANS**: Pedestrians shall cross any street in the City only at the intersection thereof with another street and shall pass over such portion of the street as is included within the lines of the sidewalk, projected, and not diagonally, nor in the middle of the block.

6-1-13**:** **HITCHHIKING**: No person shall stand in a street or alley for the purpose of soliciting a ride from the driver of any private vehicle.

6-1-14: **PENALTY**: Any violation of the statutes adopted by reference in Section 6-1-1 is a violation of this Chapter when it occurs within the City. Any person violating any provision of this Chapter shall be guilty of the offense provided in said State law and punishable in accordance therewith.

CHAPTER 2

PARKING REGULATIONS

SECTION:

6-2-1: Parallel Parking
6-2-2: Stopping Or Parking Prohibited
6-2-3: Restricted Parking
6-2-4: Disabled Vehicle
6-2-5: Removal Of Vehicle
6-2-6: Camping Purposes
6-2-7: Display For Sales Purposes
6-2-8: Penalty

6-2-1: **PARALLEL PARKING:**

A. Presence Of Curb: Except where angle parking is indicated by appropriate signs or markings, each vehicle parked upon a street where there is a curb shall be stopped or parked with the right-hand wheels parallel and within twelve inches (12") of the right-hand curb.
B. Absence Of Curb: If there is no curb, then such vehicles shall be parked parallel with the edge and as far to the right of the street or alley as may be practicable.
C. Left Side To Curb: No vehicle shall be stopped with its left side to the curb unless the street is one way.

6-2-2: **STOPPING OR PARKING PROHIBITED**: No person shall stop, stand or park a vehicle in the City except to avoid conflict with other traffic or in compliance with directions of a police officer or traffic-control device in any of the following places:

A. On a sidewalk.
B. In front of a public or private driveway, which includes blocking a mailbox.
C. Within an intersection.
D. Within ten (10) feet of a fire hydrant.
E. On a crosswalk.
F. Within twenty (20) feet of a crosswalk at an intersection.
G. Within thirty (30) feet upon the approach of any flashing beacon, stop sign or traffic-control signal located at the side of a roadway.
H. Within a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of e safety zone, unless a different length is indicated by signs or markings.
I. Within fifty (50) feet of the nearest rail of a railroad crossing.
J. Within twenty (20) 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 (75) feet of either side of said entrance when properly posted signs identify it as a fire station entrance.
K. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.
L. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
M. Upon any bridge or other elevated structure upon a highway or within a highway tunnel.
N. At any place where official signs prohibit stopping.
O. Within a public alley, except for loading and unloading and not to exceed thirty (30) minutes for those purposes.

6-2-3: **RESTRICTED PARKING**:

A. Posted No Parking Signs: No vehicle shall be parked or left standing where signs are displayed to prohibit said parking.

Deleted: driveway;

Deleted: ¶

Commented [WS3]: Is this still valid after construction?

Commented [AG4R3]: Kari, we should probably confirm or check with John/April?

Commented [KT5R3]: I will check with them.

Commented [KT6R3]: I am seeing their thoughts still.

Commented [WS7R3]: I only mention this as most of this area is posted as no parking. Do we need it in ordinance to post the signs? Or by just posting signs are we ok with this.

Also, the section about not parking on Riverside between 7am-9am. I would bet none of us realized this and have never enforced it. It is probably outdated since that road is always busy.

I think we can remove this section and just follow the no parking signs if that is allowed.

Commented [KT8R3]: Yes we can just follow the no parking signs if you are okay with that, and to ensure you are enforcing correctly as well.

Deleted: on Riverside Avenue, also known as Stearns County Road No. 1, between the intersections of Sartell Street and 12th Street North; nor on the west side from County Road No. 78 and Sartell Street between seven o'clock (7:00) A.M. and nine o'clock (9:00) A.M., weekdays except for holidays. (Ord. 93-5, 5-24-1993)

B. No vehicles shall be parked or left standing unattended between the hours of one o'clock (1:00) a.m. and seven o'clock (7:00) a.m. of any day in November, December, January, February, or March of each year on any street, avenue, or thoroughfare within the corporate limits of the city. (

C. Seventy Two Hour Parking: No motor vehicle, trailer or camper shall be parked or left standing for more than seventy two (72) consecutive hours on any public street, avenue or thoroughfare within the corporate limits of the City.

D. Residential Truck Parking: No person shall park a bus, truck-tractor, farm tractor, road tractor, trailer, semi-trailer, truck, commercial or industrial vehicle of any type on any street, avenue, or public way, except and unless the vehicle is in an area zoned commercial or industrial and the street, avenue, or public way does not otherwise prohibit said parking.

1. The provisions of this Section do not apply to light trucks classified as ½ ton and ¾ ton pickups, panels, and sedan deliveries, or to vehicles temporarily parked by the driver, while the driver is engaged in the performance of a trade or occupation within residentially zoned areas.

6-2-4: **DISABLED VEHICLE**: This Chapter shall not apply to the driver of any vehicle which is disabled to such an extent that it is impossible to avoid stopping or temporarily leaving such disabled vehicle in such position.

6-2-5: **REMOVAL OF VEHICLE**: Any vehicle so parked or left standing in violation of the provisions of this Chapter may be removed by the City with the expense of such removal and any ensuing expenses to be paid by the vehicle's owner.

6-2-6: **CAMPING PURPOSES**: No person shall leave or park an occupied recreational camper on any street or alley in the City.

6-2-7: **DISPLAY FOR SALES PURPOSES**: No person shall park any vehicle on any street for the purpose of displaying it for sale.

6-2-8: **PENALTY:** The owner of any vehicle which is parked in violation of the provisions of this Chapter shall be guilty of a petty misdemeanor.

Deleted: D. Semi-Tractors, Trailers, Truck Parking

Deleted: It shall be unlawful for any truck or motor vehicle larger than one ton capacity to be parked on any street, avenue, or public way in the City between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. any day

Commented [AG10R9]: LOL. No clue. Kari, let's reword this --- camper? Mobile Living Quarters? I feel like we should be vague because now days campers can be fish houses, tiny houses, campers, etc.

Commented [KT11R9]: Lol I will re word this.

Commented [WS12R9]: Can we say "recreational vehicle"

Deleted: house trailer

Commented [KM13]: Purpose? What's difference with someone just parking on the street or putting a sign in the window after parking it??

Commented [GM14R13]: Agreed

Commented [AG15R13]: Agreed.

Commented [KT16R13]: Remove?

Commented [KM17R13]: I'd support this.

Commented [WS18R13]: I believe this is in ordinance to keep folks from using the street to sell cars. I do agree, we usually don't ticket a car if they are just trying to sell it and happen to park on the street. We have to prove "for the purpose of displaying it for sale.' I don't think it hurts to leave it in here in case we run into an issue of someone trying to sell cars and parking them on the road. At least it gives us a chance to enforce something at that point.

Commented [KT19R13]: Sounds good, I will leave it in for now and forward to anna our comments.

CHAPTER 3

SNOWMOBILES

SECTION:

6-3-1: Definitions
6-3-2: General Operating Requirements And Restrictions
6-3-3: Crossing Roadways, Streets And Thoroughfares
6-3-4: Persons Under Eighteen Years Of Age
6-3-5: Equipment
6-3-6: Penalty

6-3-1: **DEFINITIONS**: For the purpose of this Chapter, the terms defined herein shall have the meaning as follows:

COMMISSIONER:	The Commissioner of Conservation acting directly or through his/her authorized agent.
OPERATE:	To ride in or on and to control the operation of a snowmobile.
OPERATOR:	Every person who operates or is in physical control of a snowmobile.
OWNER:	A person other than a lienholder, having a legal claim and/or the title to a snowmobile and entitled to the use and possession thereof.
PERSON:	An individual, partnership, corporation, the State and its agencies and subdivisions and any body of persons, whether incorporated or not.
ROADWAY, STREET, THOROUGHFARE:	That portion of a thoroughfare, improved, designed or ordinarily used for vehicular travel.
SNOWMOBILE:	A self-propelled vehicle designed for travel on snow, ice or a natural terrain steered by wheels, skis or runners. (Ord. 92-1,2-24-1992)

6-3-2: **GENERAL OPERATING REQUIREMENTS AND RESTRICTIONS**: Except as herein specifically permitted and authorized, it is unlawful to operate a snowmobile within the corporate limits of the City:

A. Public Rights Of Way:

1. Extreme Right-Hand Side: On the portion of any public roadway, street or thoroughfare, except the most right-hand side of the pavement or main traveled portion of the public roadway, street, or thoroughfare, in the same direction as the traffic of the adjacent lane to the operator's left, other than freeways, interstates, trunk, County State aid or County Highways.
2. Outside Slope Of Borrow Pit: Snowmobiles may also be operated on the outside Slope or bottom of a ditch of a trunk, County State aid or County highway where such highway may be configured within the City limits.
3. Bridges: Snowmobiles may be operated, as stated in this Section, on bridges designed for motor vehicle traffic.
4. Direct Route: Snowmobiles may only be operated on a public right of way for travel on the most direct route through the city, for leaving a single city address, or for entering the city to a single destination; other than on freeways, interstates, trunk, county State aid or County highways.

B. Speed: At a rate of speed greater than reasonable or proper under all surrounding circumstances; and when operated on public roadways, not in excess of the posted speed limit.
C. Hours Of Operation: During the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. of any day, closer than one hundred (100) feet to any dwelling which is usually occupied by one or more persons, except while returning home by direct route.
D. Towing: To tow any person or thing on a public street or highway, except if attached by a rigid frame hitch and no more than thirty six (36) inches shall be between the towed object and the snowmobile.
E. Emergencies: Notwithstanding the prohibitions contained in this Section, a snowmobile may be operated on a public roadway, street or thoroughfare in an emergency which renders travel by an automobile impractical.
F. Permission Required: It is unlawful to operate a snowmobile on a public sidewalk, in a public park or recreation area, cemetery, school property or on any private property without specific permission of the owner or person in control of the property.
G. Special Events Or Circumstances: The City Council or the Police Chief may designate specific areas or trails on public property for special events or circumstances which allow the operation of snowmobiles.
H. State Traffic Code: All provisions of Minnesota Statutes chapter 169 shall apply to the operation of snowmobiles upon roadways, streets and thoroughfares, except for those relating to required equipment and those which by their nature have no application.

6-3-3: **CROSSING ROADWAYS, STREETS AND THOROUGHFARES**: A snowmobile may make a direct crossing of a roadway, street, or thoroughfare, provided:

A. Right Angle: The crossing is made at a right angle of approximately ninety degrees (90°) to the direction of the thoroughfare and at a place where no obstruction prevents a quick and safe crossing.
B. Complete Stop Required: The snowmobile is brought to a complete stop before crossing the main traveled portion of the thoroughfare.
C. Yield Of Right Of Way: The operator yields the right of way to all traffic which constitutes an immediate hazard.
D. Divided Roadway; Intersection: In crossing a divided roadway, all such crossings are made only at an intersection of such highway with another public street or highway.

6-3-4: **PERSONS UNDER EIGHTEEN YEARS OF AGE:**

A. Operation Prohibited: No person under fourteen (14) years of age shall operate a snowmobile on a street or make a direct crossing of a trunk highway, County State aid highway, County highway or other street.
B. Safety Certificate: A person fourteen (14) years of age or older, but less than eighteen (18) years of age, may operate a snowmobile on streets and highways as permitted by this Section and make such crossings of streets and highways, only if the operator is in possession of a valid snowmobile safety certificate issued by the Commissioner, as provided by Minnesota Statutes section 84.872.
C. Owner Responsibility: It is unlawful for the owner of a snowmobile to permit its operation in violation of this Section.

6-3-5: **EQUIPMENT:** It is unlawful to operate a snowmobile in the City limits unless it is equipped as follows:

A. Muffler: Standard mufflers which are properly attached, and which reduce the noise of operation of the motor to the minimum necessary for operation. No person shall use a muffler cutout, bypass, straight pipe or similar device on a snowmobile motor.
B. Brakes: Brakes adequate to control the movement of and to stop and hold the snowmobile under any condition of operation.

C. Deadman Throttle: A deadman throttle in operating condition. A "deadman" throttle is defined as a device which, when pressure is removed from the engine accelerator throttle, causes the motor to cease operating.
D. Headlight; Taillight:

1. Headlight Specifications: At least one clear lamp attached to the front, with sufficient intensity to reveal persons and vehicles at a distance of at least one hundred feet (100') ahead during the hours of darkness under normal atmospheric conditions. Such headlamp shall be so aimed that glaring rays are not projected into the eyes of an oncoming vehicle operator.
2. Taillight Specifications: It shall also be equipped with at least one red taillamp having a minimum candle power of sufficient intensity to exhibit a red light plainly visible from a distance of five hundred feet (500') to the rear during hours of darkness under normal atmospheric conditions.
3. Continuous Operation: The headlamp and taillight must be functioning any time the snowmobile is being operated.

E. Pennant Flag: A pennant flag of red or blaze colored material, of a size not less than nine inches by twelve inches (9" x 12"), at a height not less than six (6) feet from the ground level may be used to enhance identification of a snowmobile.
F. Running Lights; Reflective Material Running lights or reflective material at least sixteen (16) square inches on each side, forward of the handlebars so as to reflect or beam light at a ninety degree (90°) angle may also be affixed to enhance identification of a snowmobile.

6-3-6: **PENALTY**: Any person who shall violate any provision of this Chapter or any regulation of the Commissioner of Conservation or Commissioner of Transportation promulgated pursuant to this Chapter shall be guilty of a misdemeanor.

CHAPTER 4

SELF-PROPELLED WHEELED DEVICES

SECTION:

6-4-1: Definitions
6-4-2: Traffic Laws Apply
6-4-3: Required Equipment
6-4-4: Operation
6-4-5: Manner and number of riders
6-4-6: Carrying Packages
6-4-7: Hitch-hiking to vehicle prohibited
6-4-8: Penalty

6-4-1 **DEFINITIONS:** For the purposes of this chapter, the terms defined herein shall have the meaning as follows:

SELF-PROPELLED WHEELED DEVICE OR SPWD:	In-line-skates, skateboards, roller-skates, rollerskies, wagons and strollers.
COMMISSIONER:	The Commissioner of Public Safety acting directly or through his/her authorized agent.
OPERATE:	To ride in or on and to control the operation of an SPWD.
OPERATOR:	Every person who operates or is in physical control of an SPWD.

6-4-2: **TRAFFIC LAWS APPLY:** Every person operating an SPWD upon the street or alley of the city shall have all the rights and duties of a driver of a motor vehicle except as to provisions of this code that by their nature cannot have application to SPWD.

6-4-3: **REQUIRED EQUIPMENT:** Every person operating an SPWD shall equip themselves or the SPWD with reflectors or reflective material of no less than 4 square inches to the front and rear when being operated one half hour after sunset and one half hour before sunrise.

6-4-4: **OPERATION:**

A. Single file. Persons operating a SPWD upon a street or alley shall ride to the far right-hand side of the roadway but shall not ride two or more abreast when other traffic or pedestrians are present.
B. Rights of pedestrian. Whenever a person is operating an SPWD upon a sidewalk, such person shall yield the right of way to any pedestrian.
C. Overtaking or passing pedestrian. Whenever any person operating an SPWD is on a sidewalk, such person shall give audible signal before overtaking and passing any pedestrian. (1981 Code State Statute 702.04)
D. Use of walking paths. SPWD's will be required to be operated on walking or bike paths where they conform to the same route of travel as a street.

6-4-5: **MANNER AND NUMBER OF RIDERS:** No SPWD shall be used to carry more persons at one time than the number for which it is designed and equipped except: a) on a baby seat attached to the device provided that the baby seat is equipped with a harness to hold the child securely in the seat, protection is provided against the child's feet hitting any moving parts of the device or; b) in a seat or sling

attached to the operator. (1981 Code State Statute 702.02, 1997 code)

6-4-6: **CARRYING PACKAGES:** No persons operating an SPWD shall carry package, bundle or article which prevents the operator from controlling the device in the manner in which it was designed, or which obstructs the operator's vision in any way.

6-4-7: **HITCHIKING TO VEHICLE PROHIBITED**: No person riding or operating a SPWD shall attach the same or himself/herself to may vehicle upon a street or alley.

6-4-8: **PENALTY**: Any person who shall violate any provision of this chapter or any regulation of the Commissioner of Transportation promulgated pursuant to this chapter shall be guilty of a misdemeanor.

CHAPTER 5

MOTORIZED GOLF CARTS

SECTION:

6-5-1: Definitions
6-5-2: Motorized Golf Carts
6-5-3: Permitting
6-5-4: Fees
6-5-5: Unlawful Acts
6-5-6: Penalty

6-5-1**:** **DEFINITIONS:** For the purposes of this chapter, the terms defined herein shall have the meaning as follows:

MOTORIZED GOLF CART	Motorized golf cart means a vehicle, usually driven with three or four smooth, low-pressure tires, which is self-propelled and is designed to be used to provide transportation on a golf course for not more than four (4) persons in a seated position, that is powered by a limited gas or electrical engine displacement of less than 800 cubic centimeters, and total dry weight less than 800 pounds.

6-5-2: **MOTORIZED GOLF CARTS:**

A. Operation: The following operating restrictions shall apply to the operation of Motorized Golf Carts:

1. Single File, Right Hand Lane on designated Public Roads: No person shall operate a motorized golf cart on the portion of any right of way of any public road, except single file, on the most right-hand lane when available for traffic or as close as practical to the right-hand curb or edge of the roadway, except when passing another vehicle stopped in that lane.
2. Private Property: No person shall operate a motorized golf cart on the private property of another, private business property, and private parking lots, without lawful authority or consent of the owner.
3. Sidewalks And Paved Walkways: No person shall operate a motorized golf cart on public sidewalks, pedestrian paths, or paved trails within the City. Privately owned sidewalks, paths, and trails are not to be included in this definition.
4. Times of Operation. No person shall operate a motorized golf cart on designated Public Roads between sunset and sunrise without rear-facing brake lights, taillights, turn signals, and headlights. No motorized golf cart shall be operated in inclement weather, except during emergency conditions, or when visibility is impaired by weather, smoke, fog, or other conditions, or at any time when there is insufficient visibility to clearly see persons and vehicles on the roadway at a distance of 500 feet.
5. Stop And Yield Intersections: Motorized golf carts may cross any street or highway intersecting a designated highway. The operator shall follow vehicle traffic laws in all circumstances.
6. Motorized Golf Carts not equipped with brake lights or turn signals must use appropriate hand signals to signal turns as defined by Minnesota State Statute 169.19 Subd. 8.
7. Persons at least sixteen (16) years of age and holding a valid driver's license recognized by the State of Minnesota as permitting the operation of motor vehicles in the state are allowed to operate a motorized golf cart on designated Public Roads within the City of Sartell.
8. Insurance: Motorized Golf Cart must have current liability vehicle insurance that complies with the provisions of Minnesota Statutes Section 65B.48 subdivision. 5, or its successors.

9. Motorized golfs carts shall only be operated on City owned designated streets and alleys within the boundaries of the City with the following exception:

    a. Motorized golfs carts may cross any county or state highway intersecting a City owned street, but only for the purposes of crossing.
    b. Motorized golf carts are prohibited from traveling on roadways where the speed limit is posted in excess of 30 mph.
    c. Motorized golf carts are prohibited from driving on Riverside Ave (Stearns Co. Rd. 1), 2nd St. S (Stearns Co. Rd. 133), Pinecone Road, Benton Drive (Benton Co. Rd. 33) and 1st St. NE (Benton Co. Rd. 29).

10. Operation of a motorized golf cart on any city streets may only be done with a city-issued permit.
11. The number of occupants of the motorized golf cart may not exceed the design occupant load.

B. Operation Prohibited in City Parks: It shall be illegal to operate a motorized golf cart within the boundaries of a City designated park, except for the use of and within the parking lot. Exception to this section would include the City owned golf course property. Motorized golf carts use can be allowed under the permission and guidance of management.
C. Required Equipment: Motorized Golfs Carts shall have the following required equipment:

1. Brakes: Brakes adequate to control the movement of and to stop and hold the motorized golf cart.
2. Mufflers: Gas motorized golf cart: 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. No person shall use a muffler cutout, bypass, straight pipe or similar device on a gas motorized golf car, and the exhaust system shall not emit or produce a sharp popping or crackling sound.
3. Rearview Mirror: The motorized golf cart shall be equipped with a rearview mirror so located as to reflect to the driver, operator, or controller, a view of the roadway for a distance of at least 200 feet to the rear of such vehicle, in compliance with Minnesota Statue Section 169.70, or its predecessors.
4. Slowing Moving Vehicle Sign: The motorized golf cart shall be equipped with a slow- moving vehicle sign on the rear of the vehicle in compliance with Minnesota Statutes Section 169.522. The emblem must consist of a fluorescent or illuminated red-orange triangle with a dark red reflective boarder and be mounted so as to be visible from a distance of not less than 600 feet to the rear.
5. Permit: The City of Sartell permit for operating a motorized golf cart must be visible from the rear-view of the golf cart at all times.

6-5-3: **PERMITTING:**

A. Permits: No motorized golf cart shall be driven, operated, or controlled on the roadways or shoulders of roadways under the jurisdiction of the City of Sartell, or with the joint jurisdiction of Stearns or Benton Counties, unless the driver or operator has in his or her actual physical possession a valid, current and un-revoked permit from the City of Sartell for such driving or operation of a motorized golf cart.
B. Permit Issuance: Permits shall be issued by the Police Department, or authorized designee, upon compliance with this section.

1. No person whose driver's license is revoked, suspended, canceled, or withdrawn as a result of criminal proceedings may be issued an individual permit. Any restrictions on the use of the motor vehicle driver's license shall apply to the permit provided for under this ordinance
2. Application: An individual permit application shall include the following:

    a. Full name and address of the applicant.

b. Model name, make and year and number of motorized golf cart.
c. Current valid driver's license information, including State where the driver's license was issued and driver's license number, or the reason for not having a valid driver's license.
d. The date of application and applicant's signature.
e. Proof of Insurance and the name of applicant's insurance company as provided for in Minnesota Statutes Section 65B.48 subdivision 5. The proof of insurance must show that the golf cart is covered by the applicant's insurance policy; to include the number of the applicant's insurance policy; and the date of expiration of insurance coverage for such vehicle.

3. Expiration and Renewal: Permits shall be effective on January 1st of each calendar year and expire on December 31st of the year of their issuance. Permits will need to be renewed on an annual basis, with verification of the accuracy of the information provided in the initial application.
4. Revocations or Non-Renewal. An individual permit may be revoked by the Police Department, or designee under the following circumstances:

a. If there is found that there was any misrepresentation made in the permit application;
b. There is a cancellation, non-renewal, or termination of the liability insurance for the golf cart; or
c. The permit holder is found to be in violation of any provision of this Chapter on two separate occasions during the calendar year.
d. A permit may be revoked at any time if there is evidence that the permittee cannot safely operate the motorized golf cart on the designated roadways.

The Chief of Police, or designee shall issue a notice of revocation or non-renewal of a permit to the permit holder in writing and either hand deliver the notice to the permit holder or send the notice by certified mail to the permit holder at the address provided on the application. The permit holder shall have 10 days to appeal the revocation or non-renewal to the City Attorney's Office through the administrative civil penalties' proceedings, otherwise the revocation or non-renewal shall be effective. Said notice of appeal shall be in writing and filed with the Chief of Police, or designee.

6-5-4: **FEES:** An individual shall pay a fee as determined by the annual fee schedule at the time an application is submitted.

6-5-5: **UNLAWFUL ACTS:**

A. No motorized golf cart shall be driven, operated, or controlled on the roadways or shoulders of roadways under the jurisdiction of the City of Sartell, or with the joint jurisdiction of the City of Sartell and Stearns or Benton Counties, if it is in violation of any portion of this ordinance or as follows:

1. Contrary to any Sartell City Code or the traffic code of the State of Minnesota.
2. Without a current valid driver's license.
3. With a number of passengers that exceeds the number of passengers which the golf cart was designed for.

B. Every person operating a motorized golf cart has all the rights and duties applicable to the driver of any other vehicle under the provisions of Minnesota Statute Chapter 169, as it may be amended from time to time, except when these provisions cannot reasonably be applied to motorized golf carts and except as otherwise specifically provided in Minnesota Statute Section 169.045, Subd. 7, as it may be amended from time to time.

6-5-6: **PENALTY**: Any person violating any provisions of this ordinance shall be guilty of a petty misdemeanor and upon conviction thereof shall be punished by a fine as determined by the adopted city administrative fee schedule.

TITLE 7

PUBLIC WAYS AND PROPERTY

Subject	Chapter
Local Improvements And Assessments	1
Right of Way	2
Parks	3
Cemetery	4
House Moving	5
Driveway, Sidewalk, Curb or Gutters/Apron, Rain Garden Surfacing of Boulevards	6
Tobacco, E-Cigarette, and Cannabis Free	7

CHAPTER 1

LOCAL IMPROVEMENTS AND ASSESSMENTS

SECTION:

7-1-1: Compliance With Statute
7-1-2: Partial Payment Of Assessment

7-1-1: **COMPLIANCE WITH STATUTE**: Local improvements and special assessments shall conform to Minnesota Statutes chapter 429, as amended. (1981 Code § 304.01) and the City's current assessment policy.

Deleted: .

7-1-2: **PARTIAL PAYMENT OF ASSESSMENT:** Prior to certification of a special assessment for any local improvement, the owner of any property specially assessed may pay to the Deputy Clerk any portion of the assessment, but not less than one hundred dollars ($100.00). The remaining unpaid balance shall be spread over the period of time established in the resolution passed by the Council for installment payments of the assessment.

CHAPTER 2

RIGHT-OF-WAY

SECTION:

7-2-1	Findings, Purpose, and Intent
7-2-2	Election to Manage the Public Rights-of-Way
7-2-3	Definitions
7-2-4	Administration
7-2-5	Utility Coordination Committee
7-2-6	Right-of-Way Occupancy
7-2-7	Application Information
7-2-8	Permit Requirement
7-2-9	Permit Applications
7-2-10	Issuance of Permit; Conditions
7-2-11	Permit Fees
7-2-12	Right-of-Way Patching and Restoration
7-2-13	Supplementary Applications
7-2-14	Other Obligations
7-2-15	Denial of Permit
7-2-16	Installation Requirements
7-2-17	Inspection
7-2-18	Work Done Without a Permit
7-2-19	Supplementary Notification
7-2-20	Revocation of Permits
7-2-21	Mapping Data
7-2-22	Location and Relocation of Facilities
7-2-23	Pre-excavation Facilities Location
7-2-24	Damage to Other Facilities
7-2-25	Right-of-Way Vacation
7-2-26	Indemnification and Liability
7-2-27	Abandoned and Unused Facilities
7-2-30	Small Wireless Facilities
7-2-31	Appeal
7-2-32	Severability

Deleted: Registration and

Deleted: Registration

7-2-1: **FINDINGS, PURPOSE AND INTENT:**

To provide for the health, safety, and welfare of its citizens, and to ensure the integrity of its streets and the appropriate use of the rights-of-way, the city strives to keep its rights-of-way in a state of good repair and free from unnecessary encumbrances.

Accordingly, the city hereby enacts this new chapter of this code relating to right-of-way permits and administration. This chapter imposes reasonable regulation on the placement and maintenance of facilities and equipment currently within its rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies. Under this chapter, persons excavating and obstructing the rights-of-way will bear financial responsibility for their work. Finally, this chapter provides for recovery of out-of-pocket and projected costs from persons using the public rights-of-way.

This chapter shall be interpreted consistently with 1997 Session Laws, Chapter 123, substantially codified in Minnesota Statutes Sections 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the “Act”) and the other laws governing applicable rights of the city and users of the right-of-way. This chapter shall also be interpreted consistent with Minnesota Rules 7819.0050 – 7819.9950 where possible. By enactment of this

Chapter, the City Council hereby exercises its lawful police power and common law authority, and all statutory authority which is available to it, including, but not limited to, the powers conferred on it under Minn. Stat. § 237.162 and §237.163, while preserving all power and authority to further require franchises from rights-of-way users under Minn. Stat. §216B.36, §222.37, §300.03, and §412.11 and other provisions of law.

To the extent any provision of this chapter cannot be interpreted consistently with the Minnesota Rules, that interpretation most consistent with the Act and other applicable statutory and case law is intended. This chapter shall not be interpreted to limit the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

The Minnesota Legislature has recognized that it is in the public's interest that the use and regulation of rights-of-way be carried on in a fair, efficient, competitively neutral and substantially uniform manner while recognizing such regulation must reflect distinct engineering, construction, operation, maintenance, and public and worker safety requirements and standards applicable to various users of rights-of-way. Further, the legislature has determined that because increasing numbers of persons may seek usage of rights-of-way, municipalities such as the City must be and have been authorized to regulate use of rights-of-way. Consistent with this mandate, the City has endeavored to model its right-of-way regulations consistent with those of models enacted or under consideration by municipalities throughout the state. Further, the City has endeavored to create competitively neutral rights-of-way standards and regulations of general applicability.

7-2-2: **ELECTION TO MANAGE THE PUBLIC RIGHTS-OF-WAY**

Pursuant to the authority granted to the city under state and federal statutory, administrative and common law, the city hereby elects, pursuant to Minn. Stat. 237.163 subd. 2(b), to manage rights-of-way within its jurisdiction.

7-2-3: **DEFINITIONS**

The following definitions apply in this chapter of this code. References hereafter to “sections” are, unless otherwise specified, references to sections in this chapter. Defined terms remain defined terms, whether or not capitalized.

ABANDONED FACILITY:	A facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service. A facility is not abandoned unless declared so by the right-of-way user.
APPLICANT:	Any person requesting permission to excavate or obstruct a right-of-way.
CAMOUFLAGE:	Using shape, color, and texture to cause an object to appear to become part of something else. Camouflage does not mean invisible but rather appearing as part of the landscape or another structure. Includes wireless telecommunication facilities disguised to appear as another structure such flagpole, light pole, sign, tree, or utility pole.
CITY:	The city of Sartell, Minnesota. For purposes of section 7-2-28, “city” means its elected officials, officers, employees and agents.
COLLECTION:	The sharing of a structures by wireless service providers and other right-of-way users on a single support structure or otherwise sharing a common location.
COMMISSON:	The State Public Utilities Commission.
CONCEALED:	Fully hidden from view. Refers to a wireless telecommunication facility that is not evident and is hidden or integrated into a structure such

as a pole, building, wall, or roof.

CONRESTED RIGHT-OF-WAY: A crowded condition in the subsurface of the public right-of-way that occurs when the maximum lateral spacing between existing underground facilities does not allow for construction of new underground facilities without using hand digging to expose the existing lateral facilities in conformance with Minnesota Statutes, section 216D.04. subdivision 3, over a continuous length in excess of 500 feet.

CONSTRUCTION PERFORMANCE BOND:

Any of the following forms of security provided at permittee's option:

A. Individual project bond;
B. Cash deposit;
C. Security of a form listed or approved under Minn. Stat. Sec. 15.73, subd. 3;
D. Letter of Credit, in a form acceptable to the city;
E. Self-insurance, in a form acceptable to the city;
F. A blanket bond for projects within the city, or other form of construction bond, for a time specified and, in a form, acceptable to the city.

DEGRADATION: A decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation or disturbance did not occur.

DEGRADATION COST: Subject to Minnesota Rules 7819.1100 means the cost to achieve a level of restoration, as determined by the city at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minnesota Rules parts 7819.9900 to 7819.9950.

DEGRADATION FEE: The estimated fee established at the time of permitting by the city to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost.

DEPARTMENT: The department of public works of the city.

DEPARTMENT INSPECTOR: Any person authorized by the city to carry out inspections related to the provisions of this chapter.

DELAY PENALTY: The penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.

DIRECTOR: The director of the department of public works of the city, or her or his designee.

DISRUPTIVE FEE: The penalty imposed as a result of the adverse impact on the residents of the city and others who are required to alter travel routes and times resulting from right-of-way obstructions.

DISTRIBUTED ANTENNA SYSTEM (das):
A network of spatially or geographically separated antenna nodes that are connected to a common source through a transport or communication medium in order to provide wireless communication service in a specific

locality or building. A das can be deployed indoors (idas) to provide network or cellular connectivity throughout a building or outdoors (odas) in areas where regular wireless coverage does not reach.

DAS HUB: An ancillary equipment usually contained in a shelter or other enclosure which does not have any wireless transmission or receive equipment contained therein but is utilized in the deployment and operation of wireless das receive/transmit infrastructure that is located elsewhere.

EMERGENCY: A condition that (1) poses a danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement of facilities in order to restore service to a customer.

ENGINEER: Is but is not limited to a radio, electrical, structural, or mechanical engineer, licensed by the State of Minnesota.

EQUIPMENT: Any tangible asset used to install, repair, or maintain facilities in any right-of-way.

EQUIPMENT ENCLOSURE: An structure, shelter, cabinet, box, or vault designed for and used to house and protect the electronic equipment necessary and/or desirable for processing wireless telecommunication signals and data, including any provisions for mechanical cooling equipment, air conditions, ventilation, and/or auxiliary electric generators.

EXCAVATE: To dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

EXCAVATION PERMIT: The permit which, pursuant to this chapter, must be obtained before a person may excavate in a right-of-way. An Excavation permit allows the holder to excavate that part of the right-of-way described in such permit.

EXCAVATION PERMIT FEE: Money paid to the city by an applicant to cover the costs as provided in Section 7-2-12.

FACILITY OR FACILITIES: Any tangible asset in the right-of-way required to provide Utility Service.

FIVE-YEAR PROJECT PLAN: Shows projects adopted by the city for construction within the next five years.

GROUND-MOUNTED EQUIPMENT: Is equipment used in operation of a wireless facility that is located on the ground and protrudes above the surface elevation of the ground.

HIGH DENSITY CORRIDOR: A designated portion of the public right-of-way within which telecommunications right-of-way users having multiple and competing facilities may be required to build and install facilities in a common conduit system or other common structure.

HEIGHT, POLE: Is the distance measured to the highest point of the antenna or tower from the mean ground level measured at the base of a freestanding facility or the projected base as determined by extending the antenna or tower base down vertically to the ground. For building mounted antennas, height is

measured to the highest point of the equipment enclosure from the top of the cornice of a flat roof, from the top line of a mansard roof, from a point on the roof directly above the highest wall of a shed roof, from the uppermost point on a round or other arch-type roof, or from the highest gable on a pitched or hip roof in when used in conjunction with "right-of-way," means over, above, in, within, on or under a right-of-way.

HOLE: An excavation in the pavement, with the excavation having a length less than the width of the pavement.

INVENTORY OF SMALL CELL/DAS SITES:
Refers to an accurate and current inventory of all small cell/das sites approved by permittee pursuant to a lease agreement, including sites that become inactive for any reason.

LESSEE OR TENANT: Is the party who rents land or property from a lessor. The lessee is also known as the "tenant", and must uphold specific obligations as defined in the lease agreement and by law.

LESSOR OR LANDLORD: Is the owner of an asset that is leased under an agreement to the lessee. The lessee (tenant) makes one-time or periodic payments to the lessor in return for the use of the asset. The lease agreement is binding on both the lessor and the lessee, and spells out the rights and obligations of both parties.

LOCAL REPRESENTATIVE: A local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this chapter.

MANAGEMENT COSTS: The actual costs the city incurs in managing its rights-of-way, including such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, the fees and cost of litigation relating to the interpretation of Minnesota Session Laws 1997, Chapter 123; Minnesota Statutes Sections 237.162 or 237.163; or any ordinance enacted under those sections, or the city fees and costs related to appeals taken pursuant to Section 7-2-30 of this chapter.

MAINTENANCE: To repair unscheduled and scheduled deficiencies in telecommunications equipment or performing routine actions which keep the equipment in working order (known as scheduled maintenance) or prevent trouble from arising (preventive maintenance).

MICRO WIRELESS FACILITY: A small cell facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, not longer than 11 inches.

OBSTRUCT:	To place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.
OBSTRUCTION PERMIT:	The permit which, pursuant to this chapter, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way, for the duration specified therein.
OBSTRUCTION PERMIT FEE:	Money paid to the city by a permittee to cover the costs as provided in Section 7-2-12.
PATCH OR PATCHING:	A method of pavement replacement that is temporary in nature. A patch consists of (1) the compaction of the subbase and aggregate base, and (2) the replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions. A patch is considered full restoration only when the pavement is included in the city's five-year project plan.
PAVEMENT:	Any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.
PERFORMANCE SECURITY:	A performance bond, a restoration bond, a letter of credit, or cash deposit posted to ensure the availability of sufficient funds to assure that right-of-way excavation and obstruction work is completed in both a timely and quality manner.
PERMIT:	Has the meaning given "right-of-way permit" in Minnesota Statutes, section 237.162.
PERMIT HOLDER:	A person or entity who holds a permit issued pursuant to this Ordinance for a Telecommunications Facility.
PERMITTEE:	Any person to whom a permit to excavate or obstruct a right-of-way has been granted by the city under this chapter.
PERSON:	An individual or entity subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.
POINT OF DEMARCATION:	Is the point of where the transmission media of small cell equipment terminates and interconnects with broadband backhaul transmission facilities, whether provided by landline or wireless communications infrastructure.
PUBLIC UTILITY STRUCTURE:	A structure that is owned by a governmental agency or utility company and which may be/can be used to support illumination devices or lines and other equipment carrying electricity or communications.
RADIO PROPAGATION STUDY:	The propagation of radio waves is described through the modeling of the different physical mechanisms (free-space attenuation, atmospheric attenuation, vegetation and hydrometer attenuation, attenuation by diffraction, building penetration loss, etc). This modeling is necessary for the conception of telecommunications systems and, once they have been designed, for their actual field deployment. Propagation

models are implemented in engineering tools for the prediction different parameters useful for the field deployment of systems, for the study of the radio coverage (selection of the emission sites, frequency allocation, powers evaluation, antenna gains, polarization) and for the definition of the interferences occurring between distant transmitters

REGISTRANT: Any person who (1) has or seeks to have its equipment or facilities located in any right-of-way, or (2) in any way occupies or uses, or seeks to occupy or use, the right-of-way or place its facilities or equipment in the right-of-way.

RESTORE OR RESTORATION: The process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition and life expectancy that existed before excavation.

RESTORATION COST: The amount of money paid to the city by a permittee to achieve the level of restoration according to plates 1 to 13 of Minnesota Public Utilities Commission rules.

PUBLIC RIGHT-OF-WAY: The area on, below, or above a public roadway, highway, street, cartway, bicycle lane or public sidewalk in which the city has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the city.

RIGHT-OF-WAY PERMIT: Either the excavation permit or the obstruction permit, or both, depending on the context, required by this chapter.

RIGHT-OFWAY USER: (1) a telecommunications right-of-way user as defined by Minnesota Statutes, section 237.162, subd. 4; or (2) a person owning or controlling a facility in the right-of-way that is used or intended to be used for providing utility service, and who has a right under law, franchise, or ordinance to use the public right-of-way.

SERVICE OR UTILITY SERVICES: Includes (1) those services provided by a public utility as defined in Minn. Stat. 216B.02, subds. 4 and 6; (2) services of a telecommunications right-of-way user, including transporting of voice or data information; (3) services of a cable communications systems as defined in Minn. Stat. Chapter. 238; (4) natural gas or electric energy or telecommunications services provided by the city; (5) services provided by a cooperative electric association organized under Minn. Stat., Chapter 308A; and (6) water, and sewer, including service laterals, steam, cooling or heating services.

SERVICE LATERAL: An underground facility that is used to transmit, distribute, Or furnish gas, electricity, communications, or water from a common source to an end-use customer. A service lateral is also an underground facility that is used in the removal of wastewater from a customer's premises.

SMALL CELL SITE: A low-power radio access facility, together with associated antennas, mounting and mechanical equipment, which provides and extends wireless communications systems' service coverage and increases network capacity.

SMALL WIRELESS CELL FACILITY PERMIT:
A permit and/or application to place a new wireless support structure or

collocate small wireless facilities on wireless support structures in the public right-of-way.

SMALL WIRELESS FACILITY: A wireless facility that meets both of the following qualifications:

A. Each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all its exposed elements could fit within an enclosure of no more than six cubic feet; and
B. All other wireless equipment associated with the small wireless facility, excluding electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment, is in aggregate no more than 28 cubic feet in volume; or (2) a micro wireless facility.

STEALTH DESIGN: A method of camouflaging any tower, antenna, wireless facilities, or other ancillary supporting communications facility, including, but not limited to, supporting electrical, optical, or mechanical, or other equipment, which enhances compatibility with adjacent land uses and which is visually and aurally unobtrusive. Stealth design may include a repurposed structure. Stealth design includes any method of camouflaging wireless facilities adopted by the City.

STREET LIGHT: A raised source of light usually mounted on a pole and constituting one of a series spaced at intervals along a public street or highway used to illuminate a public area, usually urban. Also referred to as a streetlamp.

SUPPLEMENTARY APPLICATION: An application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.

TEMPORARY SURFACE: The compaction of subbase and aggregate base and replacement, in kind, of the existing pavement only to the edges of the excavation. It is temporary in nature except when the replacement is of pavement included in the city's two-year plan, in which case it is considered full restoration.

TRENCH: An excavation in the pavement, with the excavation having a length equal to or greater than the width of the pavement.

TELECOMMUNICATION RIGHT-OF-WAY USER: A person owning or controlling a facility in the right-of-way, or seeking to own or control a facility in the right-of-way, that is used or is intended to be used for transporting telecommunication or other voice or data information.

TRANSMISSION MEDIA: All of the permittee's radios, antennas, transmitters, wires, fibers, optic cables, and other wireless transmission devices that are part of the small cell/das equipment.

TWO YEAR PROJECT PLAN: Shows projects adopted by the city for construction within the next two years.

UNUSALBE FACILITIES: Facilities in the right-of-way which have remained unused for one year and for which the registrant is unable to provide proof that it has either a plan to begin using it within the next twelve (12) months or a potential purchaser or user of the facilities.

UPGRADE OR CAPITAL IMPROVEMENT:
The construction, installation, or assembly of new telecommunications equipment or the alteration, expansion, or extension of an existing equipment to accommodate a change of function or unmet programmatic needs, or to incorporate new technology.

UTILITY POLE: A structure that is:

A. Owned or operated by a public utility, a communications service provided, a municipality, an electric membership cooperation, or a rural electric cooperative; and
B. Designed and used to carry line, cables, or wires for telephone, cable television, electricity, or provide lighting,

WIRELESS FACILITY: As defined by SF 1456, Article 9, 157.13 Subd. 13, Equipment at a fixed location that enables the provision of wireless services between user equipment and a wireless service network, including:

A. Equipment associated with wireless service, radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, comparable equipment, regardless of technological configuration, and a small wireless facility.
B. “Wireless facility” does not include wireless support structures, wireline backhaul facilities, coaxial or fiber optic cables between utility poles or wireless support structures, 157.24 or that are not otherwise immediately adjacent or directly associated with a specific.

WIRELESS SUPPORT STRUCTURE:

A new or existing structure in a public right-of-way designed to support or capable of supporting small wireless facilities, as reasonably determined by a local government unit.

WIRELINE BACKHAUL FACILITY: A facility used to transport communications data by wire from a wireless facility to a communications network.

7-2-4: **ADMINISTRATION**: The Public Works Director is the principal city official responsible for the administration of the rights-of-way, right-of-way permits, and the ordinances related thereto. The director may delegate any or all of the duties hereunder.

7-2-5: **UTILITY COORDINATION COMMITTEE**: The City may create an advisory utility coordination committee. Participation on the committee is voluntary. It will be composed of any registrants

that wish to assist the city in obtaining information and by making recommendations regarding use of the right-of-way, and to improve the process of performing construction work therein.

7-2-6: **RIGHT-OF-WAY OCCUPANCY:**

A. Application: Each person who occupies or uses, or seeks to occupy or use, the right-of-way or place any equipment or facilities in or on the right-of-way, including persons with installation and maintenance responsibilities by lease, sublease or assignment, must submit an application to the City. The application consists of providing the application information and paying the application fee as determined within the City's current Fee Schedule.

B. Application Prior to Work: No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof, in any right-of-way without being currently registered with the city.

C. Responsibility: Anything that is placed within the right-of-way is the property owner's responsibility. The property owner assumes that anything placed within the right-of-way may be lost with maintenance or construction without warning, this includes new and existing items such as irrigation systems, landscaping, and/or similar items.

D. Exceptions: Nothing herein shall be construed to repeal or amend the provisions of a city ordinance permitting persons to plant or maintain boulevard plantings or gardens in the area of the right-of-way between their property and the street curb. Persons planting or maintaining boulevard plantings or gardens shall not be deemed to use or occupy the right-of-way and shall not be required to obtain any permits or satisfy any other requirements for planting or maintaining such boulevard plantings or gardens under this chapter. However, nothing herein relieves a person from complying with the provisions of the Minn. Stat. Chap. 216D, Gopher One Call Law.

7-2-7: **APPLICATION INFORMATION:** Information Required. The information provided to the city at the time of the application may include, but not be limited to:

A. The Applicant's name, Gopher One-Call registration certificate number, address, and email address, and telephone number.

B. The name, address and e-mail address, and telephone numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

C. A certificate of insurance or self-insurance:

1. Verifying that an insurance policy has been issued to the applicant by an insurance company licensed to do business in the State of Minnesota, or a form of self-insurance acceptable to the city;
2. Verifying that the applicant is insured against claims for personal injury, including death, as well as claims for property damage.
3. Naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages;
4. Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the city in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this chapter.

D. The city may require a copy of the actual insurance policies.

E. If the person is a corporation, a copy of the certificate is required to be filed under Minn. Stat. 300.06 as recorded and certified by the Secretary of State.

F. A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other applicable state or federal agency, where the person is lawfully required to have such certificate from said commission or other state or federal agency.

G. An as built map of utilities owned by the registrant, if any, within the Public Right of Way in the city.

7-2-8: **PERMIT REQUIREMENT:**

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A. Permit Required*:* Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way without first having obtained the appropriate right-of-way permit from the city to do so.

1. Excavation Permit*.* An excavation permit is required by a registrant to excavate that part of the right-of-way described in such permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.
2. Obstruction Permit*.* An obstruction permit is required by a registrant to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

B. Permit Extensions: No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and a new permit or permit extension is granted.
C. Delay Penalty: In accordance with Minnesota Rule 7819.1000 sub. 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 the city council.
D. 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.

7-2-9: **PERMIT APPLICATION:** An application for a permit is made to the city. Right-of-way permit applications shall contain, and will be considered complete only upon compliance with, the requirements of the following provisions:

A. Registration with the city pursuant to this Chapter.
B. Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities.
C. Payment of money due the city for:

1. Permit fees, estimated restoration costs and other management costs.
2. Prior obstructions or excavations.
3. Any undisputed loss, damage, or expense suffered by the city because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city.
4. Franchise fees or other charges, if applicable.

D. Payment of disputed amounts due the city by posting security or depositing in an escrow account an amount equal to at least 125% of the amount owing.
E. Posting an additional or larger construction performance bond for additional facilities when applicant requests an excavation permit to install additional facilities and the city deems the existing construction performance bond inadequate under applicable standards.

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7-2-10: **ISSUANCE OF PERMIT; CONDITIONS**:

A. Permit Issuance: If the applicant has satisfied the requirements of this chapter, the city shall issue a permit.
B. Conditions: The city may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use.

7-2-11: **PERMIT FEES:**

A. Excavation Permit Fee. The city shall establish an Excavation permit fee in an amount sufficient to recover the city costs and degradation costs, if applicable.
B. Obstruction Permit Fee: The city shall establish an obstruction permit fee and shall be in an amount sufficient to recover the city management costs.
C. Payment of Permit Fees: No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction permit fees.
D. Non Refundable: Permit fees that were paid for a permit that the city has revoked for a breach as stated in this Section are non-refundable.
E. Application to Franchises: Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

7-2-12: **RIGHT-OF-WAY PATCHING AND RESTORATION:**

A. Timing: The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable.
B. Patch and Restoration: Permittee shall patch its own work. The city may choose either to have the permittee restore the right-of-way or to restore the right-of-way itself.

1. City Restoration. If the city restores the right-of-way, permittee shall pay the costs. If, following such restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the city, all costs associated with correcting the defective work.
2. Permittee Restoration: If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minnesota Rule 7819.3000.
3. Degradation Fee in Lieu of Restoration. In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

C. Standards: The permittee shall perform excavation, backfilling, patching and restoration according to the standards and with the materials specified by the city and shall comply with Minnesota Rule 7819.1100.
D. Duty to Correct Defects. The permittee shall correct defects in patching or restoration performed by permittee or its agents. The permittee upon notification from the city, shall correct all restoration work to the extent necessary, using the method required by the city. Said work shall be completed within five (5) calendar days of the receipt of the notice from the city, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable.
E. 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, the cost of restoring the right-of-way. If the permittee fails to pay as required, the city may exercise its rights under the construction performance bond.

7-2-13: **SUPPLEMENTARY APPLICATIONS:**

A. Limitation on Area: A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area (i) make application for a permit extension and pay any additional fees required thereby, and (ii) be granted a new permit or permit extension.

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7-2-14: **JOINT APPLICATIONS**¶
¶
1. Joint application. Registrants may jointly apply for permits to excavate or obstruct the right-of-way at the same place and time.¶
¶
2. Shared fees. Registrants who apply for permits for the same obstruction or excavation, which the city does not perform, may share in the payment of the obstruction or excavation permit fee. In order to obtain a joint permit, registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.¶
¶
3. With city projects. Registrants who join in a scheduled obstruction or excavation performed by the city, whether or not it is a joint application by two or more registrants or a single application, are not required to pay the excavation or obstruction and degradation portions of the permit fee, but a permit would still be required.¶

B. Limitation on Dates: A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs and receive the new permit or an extension of the old permit before working after the end date of the previous permit.

7-2-14: **OTHER OBLIGATIONS**:

A. Compliance With Other Laws: Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the city or other applicable rule, law or regulation. A permittee shall comply with all requirements of local, state and federal laws, including but not limited to Minnesota Statutes, Section 216D.01-.09 (Gopher One Call Excavation Notice System) and Minnesota Rules Chapter 7560. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.
B. Prohibited Work: Except in an emergency, and with the approval of the city, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.
C. Interference with Right-of-Way: A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with. Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with city parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.
D. Trenchless Excavation: As a condition of all applicable permits, permittees employing trenchless excavation methods, including but not limited to Horizontal Directional Drilling, shall follow all requirements set forth in Minnesota Statutes, Chapter 216D and Minnesota Rules Chapter 7560, and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the director.

7-2-15: **DENIAL OF PERMIT:** The city may deny a permit for failure to meet the requirements and conditions of this Chapter or if the city determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

7-2-16: **INSTALLATION REQUIREMENTS**: The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minnesota Rules 7819.1100 and 7819.5000 and other applicable local requirements, in so far as they are not inconsistent with the Minnesota Statutes, Sections 237.162 and 237.163. Installation of service laterals shall be performed in accordance with Minnesota Rules Chapter 7560 and these ordinances. Service lateral installation is further subject to those requirements and conditions set forth by the city in the applicable permits and/or agreements referenced in this ordinance.

7-2-17: **INSPECTION:**

A. Notice of Completion: When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance Minnesota Rule 7819.1300.
B. Site Inspection: The permittee shall make the work-site available to the city and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.
C. Authority of Director:

1. At the time of inspection, the director may order the immediate cessation of any work which poses a serious threat to the life, health, safety, or well-being of the public.
2. The director may issue an order to the permittee for any work that does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10)

days after issuance of the order, the permittee shall present proof to the director that the violation has been corrected. If such proof has not been presented within the required time, the director may revoke the permit pursuant to Sec 7-2-20.

7-2-18: **WORK DONE WITHOUT A PERMIT:**

A. Emergency Situation. The registrant may proceed to take whatever actions are necessary to respond to an emergency. Within two (2) business days after the occurrence of the emergency, the registrant shall apply for the necessary permits, pay the fees associated therewith, and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency. If the city becomes aware of an emergency regarding a registrant's facilities, the city will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the city may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.
B. Non-Emergency Situations. Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit and, as a penalty, pay double the normal fee for said permit, pay double all the other fees required by the city code, deposit with the city the fees necessary to correct any damage to the right-of-way, and comply with all of the requirements of this chapter.

7-2-19: **SUPPLEMENTARY NOTIFICATION**: If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, the permittee shall notify the city of the accurate information as soon as this information is known.

7-2-20: **REVOCATION OF PERMITS**

A. 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:

1. The violation of any material provision of the right-of-way permit.
2. 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.
3. Any material misrepresentation of fact in the application for a right-of-way permit.
4. The failure to complete the work in a timely manner, unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee's control; or
5. The failure to correct, in a timely manner, work that does not conform to a condition indicated in the order issued.

B. Written Notice of Breach: If the City determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit, the city shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the city, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.
C. Response to Notice of Breach. Within a time period established within a written notification of breach received from the city, permittee shall provide the city with a plan, acceptable to the city, that will cure the breach. Permittee's failure to so contact the city, or permittee's failure to timely submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.
D. 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.

7-2-21: **MAPPING DATA**

A. Information Required: Each registrant and permittee shall provide mapping information required by the city in accordance with Minnesota Rules 7819.4000 and 7819.4100.
B. Service Laterals: All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minnesota Rules 7560.0150 subpart 2, shall require the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals. Permittees or their subcontractors shall submit to the director evidence satisfactory to the director of the installed service lateral locations. Compliance with this subdivision 2 and with applicable Gopher State One Call law and Minnesota Rules governing service laterals installed after December 31, 2005, shall be a condition of any city approval necessary for 1) payments to contractors working on a public improvement project including those under Minnesota Statutes, Chapter 429, and 2) city approval of performance under development agreements, or other subdivision or site plan approval under Minnesota Statutes, Chapter 462. The director shall reasonably determine the appropriate method of providing such information to the city. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or for future permits to the offending permittee or its subcontractors.

7-2-22: **LOCATION AND RELOCATION OF FACILITIES:**

A. Placement, location, and relocation of facilities must comply with the Act, with other applicable law, and with Minnesota Rules 7819.3100, 7819.5000 and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.
B. Corridors: The city may assign a specific area within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities that is or, pursuant to current technology, the city expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the city involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue. Any registrant who has facilities in the right-of-way in a position at variance with the corridors established by the city shall, no later than at the time of the next reconstruction or excavation of the area where the facilities are located, move the facilities to the assigned position within the right-of-way, unless this requirement is waived by the city for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the registrant.
C. Nuisance. One year after the passage of this chapter, any facilities found in a right-of-way that have not been registered shall be deemed to be a nuisance. The city may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the facilities and restoring the right-of-way to a usable condition.
D. Limitation of Space. To protect health, safety, and welfare, or when necessary to protect the right-of-way and its current use, the city shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making such decisions, the city shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

7-2-23: **PRE-EXCAVATION FACILITIES LOCATION**: In addition to complying with the requirements of Minn. Stat. 216D.01-.09 ("One Call Excavation Notice System") before the start date of any right-of-way excavation, each registrant who has facilities or equipment in the area to be excavated shall mark the horizontal placement of all said facilities. Any registrant whose facilities are less than twenty (20) inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor to establish the exact location of its facilities and the best procedure for excavation.

7-2-24: **DAMAGE TO OTHER FACILITES**: When the City does work in the right-of-way and finds it necessary to maintain, support, or move a registrant's facilities to protect it, the city shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to that

registrant. Each registrant shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities are damaged. Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the city's response to an emergency occasioned by that registrant's facilities.

7-2-25: **RIGHT-OF-WAY VACATION**: If the City vacates a right-of-way that contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minnesota Rules 7819.3200.

7-2-26: **INDEMNIFICATION AND LIABILITY**: By registering with the City, or by accepting a permit under this chapter, a registrant or permittee agrees to defend and indemnify the city in accordance with the provisions of Minnesota Rule 7819.1250.

7-2-27: **ABANDONED AND UNUSABLE FACILITIES**

A. Discontinued Operations: A registrant who has determined to discontinue all or a portion of its operations in the city must provide information satisfactory to the city that the registrant's obligations for its facilities in the right-of-way under this chapter have been lawfully assumed by another registrant.
B. Removal: Any registrant who has abandoned facilities in any right-of-way shall remove it from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the city.

7-2-28: **SMALL WIRELESS FACILITIES**:

A. Purpose and Findings. The City desires high-quality wireless services to accommodate the needs of residents and businesses. At the same time, the City strives to minimize the negative impacts that small wireless facilities can create. These negative impacts include, but are not limited to, interference with right-of-way user sight lines, impacts to right-of-way user circulation, incompatible aesthetics with the surrounding area, fall zone risk, clear zone risk, creating navigation obstacles, interference with future travel way expansion plans, interference with the delivery of other utility services, interference with stormwater management facilities, and increased noise pollution. To minimize these negative impacts, any person desiring to place a new wireless support structure in the right-of-way or collocate small wireless facilities on existing privately-owned wireless support structures in the right-of-way shall first obtain a small wireless facility permit from the City. Any person desiring to collocate small wireless facilities on existing wireless support structures owned or controlled by the City shall first enter into a standard small wireless facility collocation agreement. The purpose of these requirements is to comply with Minnesota Statutes while at the same time protecting the public, health, safety, and welfare. The City will consider impacts to the public health, safety and welfare when reviewing a small wireless permit application and a request to enter into a small wireless facility collocation agreement. The public health, safety and welfare can be best accommodated by locating small wireless facilities in the following order, which affords the greatest protection of the public:

1. Locate outside of the right-of-way.
2. Locate in the right-of-way on or adjacent to Principal Arterial, Other Arterial, Major Collector, or Minor Collector roads, as classified by the Sartell Comprehensive Plan.
3. Collocate existing wireless support structures within the right-of-way.
4. Locate on a new wireless support structure within the right-of-way that replaces an existing wireless support structure of the same height.
5. Locate on a new wireless support structure within the right-of-way that replaces an existing wireless support structure whose height is less than or equal to 50 feet.
6. Locate a new wireless support structure within the right-of-way whose height is similar to nearby structures.
7. Locate on a new wireless support structure within the right-of-way whose height is less than or the City will also consider factors such as aesthetic compatibility of the small wireless facility

with surrounding structures, ability to eliminate, underground, or screen ground-mounted equipment, dangers within the small wireless facility fall zone, distance of the small wireless facility from roads, sidewalks, trails and bicycle lanes, and future roadway, pedestrian, bicycle, water, wastewater, and stormwater improvement plans for the site before issuing small wireless facility permit or entering into a standard small wireless facility collocation agreement.

B. Small Wireless Facility Permit: No person may place a new wireless support structure within the right-of-way or collocate a small wireless facility on an existing privately-owned wireless support structure in the right-of-way without first obtaining a small wireless facility permit from the City.

1. Permit Application and Fee: A written application for a small wireless facility permit shall be submitted to the Director on a form provided by the City. The applicant shall pay an application fee in the amount set forth in the Fee Resolution adopted by the City Council, as the same may be amended from time to time. The application will be processed in accordance with the requirements of Minnesota Statutes§ 237.163, subd. 3c (b) and (c).

C. Consolidated Permit Application: An applicant may file a consolidated permit application to collate up to fifteen (15) small wireless facilities provided that the small wireless facilities in the application:

1. Are located within a two-mile radius.
2. Consist of substantially similar equipment.
3. Are to be placed on similar types of wireless support structures.

D. Permission from Owner:. If the applicant seeks to collocate a small wireless facility on an existing wireless support structure, the applicant shall, at the time of application, provide the City with proof that it has obtained the necessary authority from the owner of the wireless support structure to collocate the small wireless facility on the structure.

E. Issuance of Permit and Conditions: Upon the Director's determination that the applicant has satisfied the requirements of this Section, the Director shall issue the small wireless facility permit. The Director may condition permit approval on compliance with the following:

1. Generally applicable and reasonable health, safety, and welfare regulations consistent with the City's authority to manage its public right-of-way.
2. Reasonable accommodations for decorative wireless support structures or signs.
3. Any reasonable restocking, replacement, or relocation requirements when a new wireless support structure is placed in the right-of-way. In rendering a decision on a consolidated permit application, the Director may approve a permit for some small wireless facilities and deny a permit for others but may not use denial of one or more permits as a basis to deny all the small wireless facilities in the consolidated application.
4. An applicant may file a consolidated small wireless facility permit application addressing the proposed collocation of up to 15 small wireless facilities, or a greater number if agreed to by a local government unit, provided that all small wireless facilities in the application: are located within a two-mile radius, consist of substantially similar equipment; and are to be placed on similar types of wireless support structures.

F. In rendering a decision on a consolidated permit application, the city may approve some small wireless facilities and deny others but may not use denial of one or more permits as a basis to deny all small wireless facilities in the application.

G. Permit Denial: The Director may deny a small wireless facility permit if he or she reasonably determines that the applicant has not satisfied the requirements of this Section or that approval of the permit would be contrary to generally applicable and reasonable health, safety, and welfare regulations. The City shall notify the applicant in writing within three (3) business days of its decision to deny the permit. Upon denial, the applicant may cure the deficiencies identified by the City and resubmit its application. If the applicant resubmits the application within thirty (30) days of receiving written notice of the denial, no additional filing or processing fee shall be required. The City shall

approve or deny the revised application within thirty (30) days after the revised application is submitted.

H. Term: The term of a small wireless facility permit shall be equal to the length of time that the small wireless facility is in use, unless earlier revoked under this Section.

I. Obstruction or Excavation: A small wireless facility permit holder who's approved work in the right-of-way involves obstruction or excavation of the right-of-way shall also obtain a right-of-way permit from the City.

J. Requirements for New Wireless Support Structures: New wireless support structures that comply with the following requirements may be placed in the right-of-way after the issuance of a small wireless facility permit:

1. A new wireless support structure shall be similar in height as the street light poles in the vicinity, but shall not exceed fifty (50) feet, above ground level, subject to the requirements of the City Code and shall be separated from other wireless support structures by a minimum of six hundred (600) feet.
2. Notwithstanding subsection:

    a. A new wireless support structure that replaces an existing wireless support structure that is higher than 50 feet above ground level may be placed at the height of the existing wireless support structure, subject to the requirements of the City Code.
    b. 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.
    c. The diameter of a new wireless support structure that replaces an existing wireless support structure shall not exceed the diameter of the existing wireless support structure by more than fifty percent (50%).
    d. Wireless facilities constructed in the right-of-way after March 11, 2019 shall not extend more than ten (10) feet above an existing wireless support structure in place as of March 11, 2019.

K. Requirements for Small Wireless Facilities: A small wireless facility that complies with the following requirements may be located on a new wireless support structure within the right-of-way or collocated on an existing privately-owned wireless support structure within the right-of-way after issuance of a small wireless facility permit:

1. The small wireless facility shall have limited exposed cabling and mounting hardware. It shall also match the wireless support structure it is attached to in color and, as close as practicable, in material and design.
2. The small wireless facility shall not interfere with public safety wireless telecommunications.
3. Small wireless facilities in the right-of-way shall be removed and relocated at the City's request and at no cost to the City when the Director determines that removal and relocation is necessary to prevent interference with:

    a. Present or future City use of the right-of-way for a public project.
    b. Public health, safety, or welfare.
    c. The safety and convenience of travel over the right-of-way.

4. A small wireless facility attached to an existing wireless support structure shall not block light emanating from the wireless support structure and shall not otherwise interfere with the original use of the wireless support structure.
5. Ground-mounted equipment associated with the small wireless facility is prohibited unless the applicant can show that ground-mounted equipment is necessary for operation of the small wireless facility. If ground-mounted equipment is necessary, it shall comply with the provisions of City Code and shall also meet the following standards:

a. Ground-mounted equipment shall be placed below grade unless not feasible.
b. Ground-mounted equipment shall not disrupt traffic or pedestrian circulation and shall not interfere with vehicle and pedestrian intersection sight lines.
c. Ground-mounted equipment shall not create a safety hazard.
d. If placed above grade, ground-mounted equipment shall be separated from the nearest ground-mounted equipment on the same block face by a minimum of 330 feet unless the equipment is placed underground, or unless waived by the Director.
e. If placed above grade, ground-mounted equipment shall be limited to three (3) feet in height and twenty-eight (28) cubic feet in cumulative size.
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. 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.

L. Exemptions: No small wireless facility permit is required to conduct the following activities in the right-of-way:

1. Routine maintenance of a small wireless facility.
2. Replacement of a small wireless facility that is substantially similar or smaller in size, weight, height, and wind or structural loading than the small wireless facility being replaced.
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.
4. If any of the above activities will obstruct the right-of-way, the small wireless facility permit holder shall provide notification to the City at least ten (10) days in advance of such activity.

M. Collocation on City-Owned Wireless Support Structure: No person may collocate a small wireless facility on an existing wireless support structure owned or controlled by the City without first entering into a Standard Small Wireless Facility Collocation Agreement with the City.
N. New Structures: The erection in the public right-of-way of a new public utility structure to support wireless facilities other than small wireless facilities is prohibited, except where the Director determines there is a need for additional roadway lighting, emergency warning siren, or other infrastructure that must be supported by a public utility structure. Any new structure erected to support wireless facilities other than small wireless facilities allowed by the City under this paragraph and any associated or attached equipment must comply with the requirements of this Section.
O. Other Wireless Facilities: A telecommunications right-of-way user who desires to place a new public utility structure or wireless facilities other than small wireless facilities in the right-of-way shall enter into a license agreement with the City for use of space that sets forth such terms and conditions as the City deems appropriate and shall obtain any necessary right-of-way permit.

7-2-29: **APPEAL**: A right-of-way user that: (1) has been denied registration; (2) has been denied a permit; (3) has had a permit revoked; (4) believes that the fees imposed are not in conformity with Minn. Stat. § 237.163, Subd. 6; or (5) disputes a determination of the director regarding Section 7-2-23 of this ordinance may have the denial, revocation, fee imposition, or decision reviewed, upon written request, by the city council. The city council shall act on a timely written request at its next regularly scheduled meeting, provided the right-of-way user has submitted its appeal with sufficient time to include the appeal as a regular agenda item. A decision by the city council affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

7-2-30: **SEVERABILITY**: If any portion of this chapter is for any reason held invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof. Nothing in this chapter precludes

the city from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.

CHAPTER 3

PARKS

SECTION:

7-3-1: Intent; Purpose
7-3-2: Park Hours
7-3-3: Park Rental
7-3-4: Care And Use Of Park Property
7-3-5: Winter Use Of Parks
7-3-6: Selling And Commercial Enterprise
7-3-7: Traffic And Parking
7-3-8: Law Enforcement Authority
7-3-9: Penalty

7-3-1: **INTENT; PURPOSE:**

A. Intent: It is the intent of this Chapter to promote the peaceable use and enjoyment of City parks by the general public by regulating their use pursuant to the provisions of this Chapter.
B. Purpose: It is the express purpose of this Chapter to prevent disturbances or behavior in "the use of the parks that interfere with, or impede, the designated use of the parks from their inherent recreational purposes, such as for picnics, camping (where designated), and other controlled athletic activities.

7-3-2: **PARK HOURS**: Parks Hours will be the following, dependent on the classification of the park and neighboring properties. Parks must meet all conditions to be classified in the applicable park category (regional or neighborhood) for both current and future parks:

A. Regional Parks: Parks that have access from regional roads, have separate and designated public parking spaces, have unique amenities beyond neighborhood parks, have regional attractions, and have shelters that are rentable (if applicable) will be open from seven o'clock (7:00) A.M. to ten o'clock (10:00) P.M, unless they are a 24-hour park as noted in 7-3-2-C. This includes:

Deleted: #3

Northside Park	Celebration Park
Lions Park	Pinecone Central Park
Pinecone Regional Park	Veterans Park
Rotary Park	Val Smith Park
Watab Park	Huntington Park
Sauk River Regional Park	Lake Francis Park

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B. Neighborhood Parks: Parks that are located within residential neighborhoods, have access from local roads, and have the same neighborhood amenities (playground structure with a separate picnic table/shade) will be open from eight o'clock (8:00) A.M. to nine o'clock (9:00) P.M. or dusk, whichever is earlier. This includes the following current parks and any future residential development, neighborhood parks:

Creekview Preserve	Madison Park
Morningstar Park	Rolling Meadows Park
Cypress Park	Fox Run Park
Pine Tree Pond Park	Wilds Park North & South
Daybreak Park	Meadow Lake Park
Nature's Edge Park	Eastside Kiddie Park
Geoffrey Park	Sabre Oaks Park

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C. Rotary Park and Lake Francis Regional Park will be open 24 hours a day.

7-3-3: **PARK RENTAL:**

A. Rental Application & Fees: Renting a park shelter provides the renter with the exclusive use of the designated facility or portion during the rental period. For parks which the City Council has designated available for rental for various group activities and/or benefits, a rental application shall be made to the City and the prescribed fees as set forth by City Ordinance shall be paid at the time of application. All relative information requested by the City must be provided or it will be considered grounds for denial of said rental. The City may also deny a permit application on any of the following grounds:

1. The permit application contains incorrect or falsified information.
2. The applicant or the person on whose behalf the application for permit was made has on prior occasions damaged park property and has not paid in full for such damage.
3. A fully executed prior application for permit for the same time and place has been received, and a permit has been or will be granted to a prior applicant authorizing uses or activities which do not reasonably permit multiple occupancy of the particular park shelter or part thereof.
4. The use or activity intended by the applicant would conflict with previously planned programs organized and conducted by the City and previously scheduled for the same time and place.
5. The proposed use or activity is prohibited by or inconsistent with the classifications and uses of the park.

B. Open Dates: A shelter rental application can be made beginning at the start of the calendar year for that year's reservation and are available for rent during the following months:

Northside Park	May 1 to September 30
Watab Park	May 1 to September 30
Lions Park Gazebo	May 1 to September 30
Val Smith Park	May 1 to September 30

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C. Damage Deposit: The rental applicant shall be personally liable for the conduct of the participants and any subsequent damages to the public facilities. The damage deposit must be paid at the time of picking up the shelter keys. The amount of the damage deposit will be equal to the estimated cost of cleaning up and restoring the park upon the conclusion of the use or activity.

D. Cancellation and/or Refund: In order to cancel the rental and to receive a refund of the fee, minus an administrative processing fee, the City must be notified at least two (2) weeks in advance of the rental date. Otherwise, the fee will be forfeited, and the shelter made available for rental on a first-come, first-serve basis.

E. Alcoholic Beverages:

1. Alcoholic Beverages Permitted: Except as provided for in 7-3-3-E. below and as otherwise provided for in law, alcoholic beverages are allowed for personal consumption.
2. Special Permit Required: For groups of twenty five (25) or more to consume alcoholic beverages, a special permit may be required. The permit must also be approved by the City Administrator or the City Administrator's designee.
3. Sale of Alcoholic Beverages: No person shall sell alcoholic beverages in any city park unless authorized by the City Council, and only at locations designated by the City Council.

7-3-4: **CARE AND USE OF PARK PROPERTY**:

A. Damage To Park Property:

1. Damage To Property: No person shall disfigure, injure, tamper with, willfully mark or remove any of the manmade or natural resources and environment of the parks. This shall include, but not be limited to, equipment, shelters, picnic facilities, utility lines, trees, plants or wildlife, of any and all sorts.
2. Use Of Poisonous Substance Prohibited; Exception: No poisonous substance shall be utilized in any of the park premises which would have an effect of destroying or damaging any person, wildlife or result, directly or indirectly, or the pollution of any water source. The City may use weed killer to get rid of the weeds.

B. Use Of Weapons; No person shall use or discharge any air rifle, sling shot, bow and arrow, gun, pistol or firearm of any description within any City park except in areas which may be expressly designated for such activities.
C. Refuse: All refuse or other trash or waste generated by the use of the park shall be placed in the proper receptacles provided. Every attempt must be made to maintain the park grounds in a neat and clean state.
D. Fire; Burning: All fires shall be restricted to proper fireplaces, charcoal burners, stoves or grills. Cigarettes, pipes and cigars should be properly put out in such a manner so as to prevent damage to the premises and to ensure the avoidance of any improper burning or fires within the parks.
E. Swimming: All swimming, bathing, and wading in the Mississippi River, Sauk River and Watab River accessed from any City-owned or controlled property is prohibited.
F. Fishing Areas: Fishing in the Mississippi River, Sauk River and Watab River accessed from any City-owned or controlled property is permitted.
G. Sports; Games:

1. Prescribed Areas: All sports and gaming activities of a team nature or other organized games such as football, baseball, softball or golf and horseshoes, are restricted to the prescribed areas for those activities. Any equipment associated with the prescribed areas (such as balls, bats, or nets) shall remain on public property and not impede private property. Such sports and gaming activities are intended to be separate from the picnic areas to prevent injuries and promote safety of all park occupants.
2. Use of Areas: The use of the prescribed sports activity areas shall be governed by the rule of first come, first serve except where prior reservations have been made to a maximum of 2 hours if other users are waiting.
3. Use of abutting property: Public utilizing the prescribed areas must remain on the public park space and are not allowed to rest, walk on, or utilize private property near the prescribed areas. Such use will be considered trespassing.

H. Picnic Tables: No stacking or rearranging of picnic tables in such a manner as to disrupt overall park use shall be allowed.
I. Pets: The owners of all domestic pets are responsible for the behavior of their animal(s). Such pets must be kept leashed.
J. Horseback Riding: No horseback riding shall be allowed within City parks nor shall such animals be allowed to graze or go unattended.
K. Use of Park Shelters: Park Shelters that have been reserved for the exclusive use of the renter may not be used or occupied by any person not a guest of the renter during the rental period. Shelter facilities that are not reserved may be utilized on a first come first serve basis.
L. Profanity and Harassment: All park users should avoid personal accusations, profanity, harassment, or other improper content in public parks. Intimidating behaviors, threats, hostility, and violence will not be tolerated.
M. Music: music is allowed within parks, so long as it complies with the noise ordinances. Music that can be heard within 50 feet is to be considered in violation of the noise ordinance.

7-3-5: **WINTER USE OF PARKS**: All authorized activities shall be confined to their designated areas which shall include, but not be limited to, Nordic skiing, snowshoeing, sledding, tobogganing, ice skating, hockey and similar activities.

7-3-6: **SELLING AND COMMERCIAL ENTERPRISE**: No person shall sell, solicit, or carry on any business or commercial enterprise or service in a park unless authorized by the City Council.

7-3-7: **TRAFFIC AND PARKING:**

A. Parking: All vehicles, whether motorized or non-motorized, shall be restricted to their designated parking area.
B. Speed Limit: In those parks where roadways extend into and through the parks, no vehicle may drive at a speed in excess of five (5) miles per hour.
C. Operation Of Vehicle: All persons must operate their vehicles in a safe and reasonable manner. No vehicles are to extend beyond the roadway or parking areas.

7-3-8: **LAW ENFORCEMENT AUTHORITY:**

A. Grant Of Power: Whenever, in the judgment of any City official or the Police Department, hereinafter referred to as "City authorities", the peaceable use and enjoyment of the park premises is disturbed by individual(s) or groups, it is expressly provided by this Chapter that the appropriate City authorities have the full power to remove said person or persons temporarily or permanently in order to promote the public health, welfare, safety, recreation and enjoyment of the parks. Any activity that is reasonably anticipated to invite violence, crime or disorderly conduct shall be prohibited.
B. Obeyance Required: All City law enforcement authorities and designated City authorities shall be obeyed concerning the use, care and occupancy of City parks.

7-3-9: **PENALTY:** Any person violating any provision of this Chapter shall be guilty of a misdemeanor.

CHAPTER 4

CEMETERY

SECTION:

7-4-1: Establishment; Name
7-4-2: Sale Of Lots
7-4-3: Handling Of Funds
7-4-4: Burial Permits
7-4-5: Superintendent Of Cemetery
7-4-6: General Regulations
7-4-7: Penalty

7-4-1: **ESTABLISHMENT; NAME:**

A. Establishment, Continuance: A cemetery has been established and is continued upon City owned land legally described as:

Situated N.E.1/4, of the S.W.1/4, of the Sec. Twenty One (21), of Township One Hundred Twenty Five (125) North, of Range Twenty Eight (28) West.

B. Plat Adopted; Name: A plat of the cemetery, as prepared by C.H. West, Civil Engineer, and placed on file with the Deputy Clerk, is hereby adopted as the official plat of the cemetery, which shall be called the Oak Hills Cemetery.

Deleted: in the office of the Clerk-Treasurer

7-4-2: **SALE OF LOTS:**

A. Price: The price of cemetery Jots and other services, as determined by Council resolution, shall be filed with the Deputy Clerk.
B. Conveyance: Any person paying the price thus fixed for any lot shall be entitled to a receipt conveying the same executed by the Mayor and Deputy Clerk.
C. Purchaser's Rights: The purchaser shall expressly agree that purchaser's rights are subject to such reasonable rules and regulations as the Council may adopt relative to the use of the cemetery. (1981 Code § 211.02)

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7-4-3: **HANDLING OF FUNDS:**

A. Receipt Issued: All monies received from the sale of lots and other services shall be paid to the Deputy Clerk, who shall provide a receipt. No receipt to any cemetery lot shall be issued, nor shall any services be performed until a receipt showing payment to the Deputy Clerk of the cost thereof shall be exhibited to the person whose duty it is to perform the services.
B. Cemetery Fund: All monies received from the sale of lots and for the performance of services shall be placed in the Cemetery Fund, which shall be used for the payment of the purchase price of grounds, or for maintenance and improvements and for no other purpose.
C. Accounting: The Finance Director shall keep an account of all receipts and disbursements of monies belonging to the Cemetery Fund The orders shall specify that the money shall be paid from the Cemetery Fund.

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7-4-4: **BURIAL PERMITS:**

A. Required: Before any interment shall be made in any cemetery in this City, a burial permit shall be obtained from the local or State Registrar of Vital Statistics.
B. Undertaker To Apply: Within thirty six (36) hours after the death of any person in the City and before the body is removed for burial within the City, the undertaker or person having charge of the

interment shall apply for the permit. This application shall be accompanied by a death certificate as prescribed by the State Board of Health. No burial permit shall be issued until the application and death certificate shall have been properly completed and presented.

C. Burial Of Decedent From Outside Of City: The body of a deceased person shall not be brought into the City for burial unless accompanied by a death certificate and permit for removal issued by the registrar of the registration district wherein the death occurred.

7-4-5: **SUPERINTENDENT OF CEMETERY:**

A. Appointment: The City Council shall appoint a Superintendent who shall have control and management of the cemetery and be responsible for its maintenance and improvement.
B. Duties: The Superintendent shall have such powers and duties as are prescribed by the City Council.

7-4-6: **GENERAL REGULATIONS:**

A. Use Or Possession Of Firearms: No person may discharge any firearm or have possession of any firearm within the cemetery grounds without the permission of the Superintendent.
B. Removal Of Object: No person may remove any object from any place in the cemetery without the consent of the Superintendent.
C. Excavation: No person may make any excavation without the consent of the Superintendent.
D. Obstruction Of Drive Or Path: No person may obstruct any drive or path in the cemetery.
E. Injury To Property: No person may in any way injure, deface or destroy any structure, grave, flower, tree or other thing in the cemetery.
F. Driving Within Cemetery:

1. No person may drive any vehicle faster than ten (10) miles per hour within the cemetery, nor drive over any path or roadway not authorized by the Superintendent.
2. No person may use the cemetery grounds or any road therein as a public thoroughfare, nor drive any vehicle through the cemetery grounds except for purposes relating to the cemetery.

G. Noise; Improper Conduct: No person may disturb the quiet of the cemetery by noise or improper conduct of any kind.
H. Use Of Gates: No person may enter or leave the cemetery except at the gates provided.
I. Children: No child under the age of twelve (12) years may be permitted within the cemetery unless in the control of an adult.
J. Animals Running At Large: No person may allow any animal to run at large in the cemetery.
K. Loitering: No person may loiter at any time, nor be in the cemetery without permission of the Cemetery Superintendent at any time between the hours of sunset to seven o'clock (7:00) A.M.

7-4-7: **PENALTY:** Any person violating any provision of this Chapter is guilty of a misdemeanor.

CHAPTER 5

HOUSE MOVING

SECTION:

7-5-1: Permit Required
7-5-2: Application
7-5-3: Consent Of Utilities
7-5-4: Issuance Of Permit
7-5-5: Notification Of Police And Fire Chief

7-5-1: **PERMIT REQUIRED**: It shall be unlawful for any person to move any house, or other building along, over or across any of the public streets or alleys of the City without first securing a permit to do so as hereinafter provided.

7-5-2: **APPLICATION**:

A. Application: Any person desiring to move any house or other building, along, over or across any streets or alleys in the City shall, before the commencement of such moving, shall submit a permit to the City.
B. Required Information: In the application shall be stated the dimensions, nature, and kind of house or other building desired to be moved, route to be used, the location from which and the location to which applicant desires the same to be moved, the time when applicant desires to commence, the time when applicant desires to complete such moving and the manner in which applicant desires to effect such moving.
C. Bond Required: Applicant shall execute a bond in the sum of five thousand dollars ($10,000.00) running to the City, conditioned to indemnify it from all damages that might occur from injury to streets, alleys, trees, pavements, sidewalks or other property of the City by reason of such moving. Such bond shall be approved by and filed.
D. Additional Restrictions: The City Council reserves the right to impose other restrictions as it may deem necessary for the protection of the City.

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7-5-3: **CONSENT OF UTILITIES**: Said written application for permit shall be accompanied by a written statement from each of the companies owning or operating any wires, cables, or other apparatus legally in or over any of the streets, alleys or public grounds along said prescribed route to the effect that satisfactory arrangements have been made with the company owning or operating such wires, cables or other apparatus. If satisfactory arrangements cannot be made the permit will may not be issued.

7-5-4: **ISSUANCE OF PERMIT:** Upon such application being submitted, a bond being approved and filed, associated fees paid, the permit shall be issued to the applicant the authority to move the building described in such application from the location and to the location described in such application, which permit shall specifically state all the conditions.

7-5-5: **NOTIFICATION OF POLICE AND FIRE CHIEF**: No permit shall be issued hereunder to move any building from a location without to a location within the fire limits of said City, or from a location within to another location within such fire limits, without first notifying the Fire Chief and Police Chief.

CHAPTER 6

DRIVEWAY, SIDEWALK, CURB OR GUTTERS/APRON, RAIN GARDEN, SURFACING OF BOULEVARDS

SECTION:

7-6-1: Permits Required, Exceptions
7-6-2: General Conditions
7-6-3: Bond, Insurance Requirements
7-6-4: Regulations

7-6-1: **PERMITS REQUIRED, EXCEPTIONS:**

A. No person shall construct or repair any driveway, sidewalk, curb or other impervious surfacing within the public right-of-way outside the normal vehicle traveled area, on or within any public street, alley or other public property without first obtaining a permit from the city.
B. Permits will not be required for the initial construction of streets, curb and gutter, aprons, driveways and sidewalks within new subdivisions.

7-6-2: **GENERAL CONDITIONS:**

A. If a driveway location is changed, any and all existing driveway cuts and aprons will be removed and replaced with barrier curb and gutter.
B. All replacement concrete or bituminous street surfacing, concrete curbs or gutters, sidewalks, apron, shall be constructed in accordance with the current standards for such construction as used by the City on its construction projects and such special requirements established by the City.
C. Rain gardens located in the right of way shall be maintained by the adjacent property owner. The gardens should be cleaned at least once per year to remove weeds, debris, and excess sediment that has accumulated. Should the regular maintenance not be completed, the city will undertake the maintenance and the costs of this work will be billed to the property owner. Filling of the rain garden within the right of way is not allowed except in those instances where the property owner submits an application requesting a detailed review by the Public Works and Engineering staff. The granting of the removal of the rain garden will only occur if the location of the rain garden is deemed to not be a critical location for the overall functioning of the City storm sewer system. If filling of the rain garden is approved, the property owner, at their own cost, will be responsible for removal of the existing curb cut and installing the full-back curb in its place in order to keep water within the street's curb and gutter. Property owners wishing to create or add a new rain garden within the right of way will need to submit a rain garden application to the City for review and approval. New rain garden locations will be considered and approved on a case-by-case basis. The rain garden application fee and all installation costs shall be the responsibility of the applicant.

7-6-3: **BOND, INSURANCE REQUIREMENTS:**

A. Corporate Surety Bond: Any permittee except a public utility corporation shall file with the Clerk-Treasurer a corporate surety bond in the amount of five thousand dollars ($5,000.00) conditioned that the permittee will:

1. Perform work in connection with the excavation in accordance with applicable ordinances and regulations;
2. Indemnify the City and hold it harmless from all damage caused in the execution of such work; and
3. Pay all costs and damages suffered by the City by reason of the failure of the permittee to observe the terms of applicable ordinances and regulations or because of negligence in the execution of the work.
4. The bond shall be approved on a form accepted by the City.

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The bond shall be approved as to form and legality by the City Attorney.¶

B. Liability Insurance: Any permittee except a public utility corporation shall furnish proof that the permittee has in existence an insurance policy protecting permittee from liability to the public, including the City, in an amount equal to the maximum claim the City might be required to pay under Minnesota Statutes chapter 466.

7-6-4: **REGULATIONS AND GENERAL CONDITIONS:** The director of Public Works is authorized to enact reasonable rules and regulations, which shall include the following:

A. The Property Owner is responsible for any maintenance and/or repairs to the sidewalk(s).
B. All work shall be performed by a licensed contractor and in accordance with plans and specifications approved by the director.
C. Payment of permit fees, as determined by council resolution, and payment of all additional costs of inspection incurred by the department.
D. During construction, the work shall be guarded by day with suitable barriers and by night with flashing yellow lights to prevent injury or damage to persons or property.
E. The contractor shall assume full responsibility for all damages to persons or property arising out of the construction, reconstruction, or repair of the improvements.
F. All work shall be performed in accordance with all applicable laws or regulations.
G. Materials, methods of construction, minimum and maximum width of driveways and sidewalks, shall be subject to the approval of the director.
H. All driveway aprons shall be concrete construction.
I. Driveways that lead to new or altered parking areas on private property must comply with applicable zoning requirements.
J. Duty to correct defects. The permittee shall correct defects in patching, or restoration performed by the permittee or its agents. The permittee, upon notification from the Director, shall correct all restoration work to the extent necessary. The work shall be completed within 10 calendar days of the receipt of the notice from the Director.
K. Failure to restore. If the permittee fails to restore the right-of-way in the manner and to the condition required by the Director or fails to satisfactorily and timely complete all restoration required by the Director, the City at its option may do the work. In that event the permittee shall pay to the city the cost of restoring the right-of-way. If the permittee fails to pay as required, the city may exercise its rights under the construction performance bond.

CHAPTER 7

TOBACCO, E-CIGARETTE, AND CANNABIS FREE

SECTION:

7-7-1: General Conditions
7-7-2: Penalty

7-7-1: **GENERAL CONDITIONS**

A. Tobacco and E-Cigarette Use on City-Owned Property is prohibited. This includes parks, trails, greenways, and other outdoor spaces, per Resolution 108-2016.
B. The use of cannabis products on any City-Owned Property is prohibited. This includes parks, trails, greenways, and other outdoor spaces. For the purpose of this Section, a cannabis product is any product made out of cannabis concentrate, a product infused with cannabinoid, including but not limited to tetrahydrocannabinol, extract or derived from cannabis plants or cannabis flower, and edible cannabis products.

7-7-2: **PENALTY**: Any person violating any provision of this Chapter is guilty of a misdemeanor.

TITLE 8

WATER AND SEWER

Subject	Chapter
Water and Sewer Services	1
Water System	2
Sewer Use Code	3
Sewer Service Charge System	4
Storm Water Utility	5

CHAPTER 1

WATER AND SEWER SERVICES

SECTION:

8-1-1: Water And Sewer Department Established
8-1-2: Permit Required
8-1-3: Application For Service; Fees And Deposit
8-1-4: Licensed Contractor Required
8-1-5: Bond Requirement
8-1-6: Insurance Requirements
8-1-7: Installation And Connection Costs
8-1-8: Prohibition of Private Drinking Water Wells
8-1-9: Service Connection Charges
8-1-10: Accounting; Billing; Collecting
8-1-11: Maintenance Of Service Lines
8-1-12: Water and Sewer Availability Charge

8-1-1: **WATER AND SEWER DEPARTMENT ESTABLISHED**: There is hereby established a Water and Sewer Department which shall be under the supervision of the Maintenance Department. The Department shall be responsible for the management, maintenance, care and operation of the waterworks and sanitary sewerage system of the City.

8-1-2: **PERMIT REQUIRED**: No person shall make or use any water or sewer service installation connection to the City water or sewer system except pursuant to application and permit as provided in this Chapter. No person shall make or use any such installation contrary to the regulatory provisions of this Title.

8-1-3: **APPLICATION FOR SERVICE; FEES AND DEPOSIT**:

A. Service Installation: Application for a service installation shall be made by the owner of the property to be served or by owner's agent.
B. Water Service: When a water service connection has been installed, application for water service may be made either by the owner or his agent, and the tenant or occupant of the premises will be considered Owner's agent for these purposes.
C. Agreement To Conform: By applying for such service, the owner and applicant agree to conform to this Title and to rules and regulations that may be established by the City as conditions for the use of water.
D. Fees; Deposit: The applicant shall, at the time of making application, pay to the City the amount of the fees or deposit required for the installation of the service connection as required by the City.

8-1-4: **LICENSED CONTRACTOR REQUIRED**: A permit for construction and connection of the extension between a building drain and the sewer main or stub (herein called the building sewer), or between the building water service pipes and a water main or stub shall be issued only upon application by a licensed sewer and water contractor who has furnished a bond to the Deputy Clerk.

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8-1-5: **BOND REQUIREMENT**: The licensed sewer and water contractor shall furnish a bond in the amount of five thousand dollars ($5,000.00) conditioned so as to secure compliance by the principal with the provisions to this Chapter and to further secure performance by such contractor of all work undertaken within the City.

8-1-6: **INSURANCE REQUIREMENTS:**

A. Property Damage; Public Liability: Before undertaking the construction work authorized by the permit, the contractor shall secure and maintain a policy of insurance against damage to property or injury or death to persons.
B. Indemnification Of City: The policy shall indemnify and save harmless the City and its personnel against any claim, damages, or cause of action rising out of the work and from any expenses of defending the same.
C. Minimum Policy Limits: The property damage insurance shall be in the amount of at least six hundred thousand dollars ($600,000.00) and the public liability damage for injury or death shall be in the amount of at least one hundred thousand dollars ($100,000.00) per claimant and three hundred thousand dollars ($300,000.00) for any number of claims per occurrence.
D. Proof Of insurance: Proof of such insurance shall be filed with the City prior to construction work.
E. Notice Of Termination Or Modification: Such policy shall provide that the City shall be notified not less than 30 days prior to any termination or modification of such insurance.
F. Inadequate Limits; Indemnification: If the insurance coverage is inadequate in amount, the contractor shall indemnify and save harmless the City and its personnel in like manner.

8-1-7: **INSTALLATION AND CONNECTION COSTS**: The owner shall bear the costs and expenses incident to the installation and connection of the building sewer or extension of water service to private property. He shall indemnify the City for any loss or damage directly or indirectly caused by its installation and connection.

8-1-8: **PROHIBITION OF PRIVATE DRINKING WATER WELLS:** The City Council of the City of Sartell finds that it is necessary, to protect the integrity of the City Water Utility and to ensure adequate water supplies to meet the health, safety and welfare needs of the City and its residents, to prohibit the use of private wells for domestic drinking water use on properties served by the City water system.

A. Definitions:

DOMESTIC DRINKING WATER USE:	Water used for drinking or potable water but shall not include water from wells drilled for such purposes as irrigation, dewatering, groundwater monitoring, heating, or cooling, elevator borings or environmental bore holes.
IRRIGATE:	To supply (land) with water by any artificial means, such as by diverting streams, flooding, or spraying, to moisten or wet.
PRIVATE WELLS FOR DOMESTIC USE:	Any well not owned by the City Water Utility, which is drilled for human consumption such as drinking water. “Private Wells for Domestic Use” shall not include wells drilled for such purposes as irrigation, dewatering, groundwater monitoring, heating, or cooling, elevator borings or environmental bore holes.

C. The drilling of new private wells for domestic drinking use on any property to which City Water Utility Service is available within 1000 feet is prohibited.

8-1-9: **SERVICE CONNECTION CHARGES:**

A. Permit Required: No connection shall be made to the City water or sanitary sewer system without a permit received from the City.
B. Permit Fee: The fee for each such permit shall be established by Council resolution or Fee Schedule Ordinance. These fees shall be in addition to any fees required under the following subsections C, D and E.

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

D. Main Construction Costs: No permit shall be issued to connect with any water or sanitary sewer main unless the City determines one of the following assessments has been collected or the payment required under subsection E below is made:

1. That the lot or tract to be served has been assessed for the cost of construction of the main with which the connection is made or that proceedings for levying such assessment have been or will be commenced in due course; or
2. That the cost of construction of the main has been paid by the developer or builder platting the lot or tract; or
3. That, if neither of the foregoing is true, a sum equal to the portion of the cost of constructing the main which would be assessable against the lot or parcel has been paid to the City.

E. Additional Connection Fee: If a charge or assessment under D above has not been made, the City will determine the connection fee based upon current City assessment rates and fee schedule rates.

1. Notice Of Proposed Connection Fee; Before the City makes a final determination of the additional connection fee under this subsection, the Deputy Clerk shall submit a notice to the applicant stating the amount of the proposed connection fee and the basis of its calculation.
2. Request For Hearing: The notice shall also state that the applicant may, within ten (10) days of receipt of the notice, demand a hearing on the matter.
3. Hearing: If the applicant requests a hearing within that time, a hearing shall be held on the matter by the City Council.
4. Findings Of Council: If as a result of the hearing the City Council finds that the proposed connection fee complies with the requirements of subsection E, they shall so determine. If they determine that the proposed fee is incorrect, they shall make a determination of the proper amount of the fee.
5. Payment Required: No connection shall be made without payment of the connection fee determined after the hearing or determined after the expiration of ten (10) days from the receipt of the notice when there has been no request with that time for a hearing.

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8-1-10: **ACCOUNTING; BILLING; COLLECTING**:

A. Owner Responsibility: All accounts shall be carried in the name of the owner. The owner shall be liable for water supplied to owner's property, whether owner is occupying the property or not and any charges unpaid shall be a lien upon the property.

B. Bills For Service: Water, storm water and sewer service charges shall be billed together. Bills shall be mailed to the customers bimonthly and shall specify the water consumed and the sewer and storm water charges in accordance with the then current fee schedule Ordinance.

C. Penalties. A late payment penalty as set out in the City's fee schedule shall be assessed on all accounts with a past due balance.

D. Shut-off for nonpayment. Water shall not be shut off until notice and an opportunity for a hearing before the city council or an employee designated by the city council have been provided to the occupant and owner of the premises involved.

1. If any bill is not paid by the due date listed on the bill, a second bill will be mailed by first class mail and shall state that if payment is not made within ten days of the mailing of the second bill, water service to the premises will be shut off for nonpayment.
2. The second bill and shut-off notice shall contain the title, address, and telephone number of the official in charge of billing; the title, address and phone number shall be clearly visible and

easily readable.

3. The notice shall also state that any occupant or owner has the right to a hearing before the water service is shut off. The owner or occupant may be represented in person and by counsel or any other person of his or her choosing. The owner or occupant may present orally or in writing his or her complaint to the city official in charge of utility billing. This official shall be authorized to order continuation of the customer's service and shall have the authority to adjust the customer's bill or enter into a mutually agreeable payment plan.
4. If an occupant or owner requests a hearing, the water shall not be shut off until the hearing process is complete.
5. If a customer fails to pay and fails to request a hearing under this part, service will be shut off at the time specified in the notice but not until the charges have been due and unpaid for at least 30 days.

E. Certification for collection with taxes: Unpaid charges on sewer and water accounts 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 unpaid plus penalties will be certified to the county auditor for collection as other taxes are collected. The notice shall also state that the occupant may, before such certification date, attend or schedule a hearing on the matter to object to certification of unpaid utility charges.

F. The owner of the property shall have the option of paying the balance due on the account until the date the notice of the certification hearing is mailed. After the date the notice of certification hearing is mailed, payments will still be accepted but will include unpaid penalties.

G. A hearing shall be held on the matter by the City Council. Property owners with unpaid utility charges shall have the opportunity to object to the certification of unpaid charges to be collected as taxes are collected. If, after the hearing, the City Council finds the that the amounts claimed as delinquent are actually due and unpaid and that there is no legal reason why the unpaid charges should not be certified for collection with taxes in accordance with this ordinance, the City may certify the unpaid charges to the county auditor for collection as other taxes are collected.

H. For each certification sustained, the property owner shall have the following options after the hearing:

1. To pay the delinquent amount listed on the preliminary roll, but without additional interest after the hearing, within ten days of the hearing date.
2. To pay the certified delinquent amount after the hearing date, but before the county certification deadline, with interest at the rate set in the assessment roll adoption of the City Council, accrued beginning on eleventh day following the hearing date through the date of payment.
3. To pay the certified charges as billed to them by the County on their property tax statement with a collection term of one year.

I. Disconnection of City Water Utility:

1. Any City water service customer or property owner responsible for paying for water service desiring to discontinue the use of City water must make a request to disconnect the service to the Water and Sewer Department. The Water and Sewer Department will have the service shut off by authorized personnel.
2. No unauthorized person will shut off the water service.
3. A fee, to be determined from time to time by ordinance of the City Council, will be charged for disconnecting service. A separate fee will be charged for restoring service.
4. The Public Works Director, to protect the public health and safety and in order to protect the public water supply and/or private property, may order the City water service immediately disconnected to any property upon determining that any of the following conditions exist:

    a. The property is vacant.
    b. The property is unsecured.

c. The property is determined to be uninhabitable or unsuitable for occupancy.
d. Other utilities to the property have been shut off.
e. The property has plumbing that is unsafe or failing.
f. That running water to the property creates unsanitary or unsafe conditions for anyone who may enter the property.
g. The property owner or occupant has been refused access by authorized officials.

8-1-11: **MAINTENANCE OF SERVICE LINES:** The owner shall bear the entire cost of all maintenance and repairs of the building sewer and water service lines from the main to the building. This shall include the cost of the street and boulevard restoration.

8-1-12: **WATER AND SEWER AVAILABILITY CHARGE**

A. Definitions: For the purpose of this article, the following phrases will have the following respective meanings.

WATER AVAILABILITY CHARGE (WAC):	A development impact fee assessed for water storage, supply, and connection rights to the City water mains.
SEWER AVAILABILITY CHARGE (SAC):	A developmental impact fee assessed for reserve capacity, sewage treatment, and connection rights to the City sanitary sewer system.

B. Purpose and Intent:

1. Based upon the existing and increasing demand placed upon the infrastructure of the City's water and sewer system, an applicant for building permit to construct a new structure or convert an existing structure to:

   a. A residential unit, including single-family, two-family, mobile homes, dormitories, or boarding rooms.
   b. A commercial, Industrial, or institutional unit.
   c. Conversion of an existing structure from an accessory to primary use resulting in increased water usage on sewer discharge.
   d. Adding to an existing structure resulting in increased water usage or sewer discharge, will be required to pay a Sewer Availability Charge and Water Availability Charge.

2. Such charges are designed to offset the impact of new development and increase demand placed upon the municipal utilities.
3. Revenues received from such charges will be designated to the sewer and water depreciation fund for replacement and upgrading of the infrastructure of the sewer and water system resulting from the increased impact.
4. No connection shall be made into the municipal water or sanitary sewerage system without a permit from the city engineer and no such permit shall be issued until after the payment of a connection fee.

C. Rates and Charges:

1. The criteria for the fees and the amount of the WAC and SAC shall be established, from time to time, by City Council resolution.
2. The City shall receive all monies from applicants for building permits in which the above mentioned conditions are met.
3. Upon payment by the building permit applicant for the WAC and SAC, the City shall give provide a receipt of payment.
4. It shall be the duty of the City Administrator or his designee to preserve copies of statements

delivered to the City by the applicant and which records shall be kept with the records of the official City.

D. Reserve Clause: The City reserves the right to review the assigned WAC and SAC one year after the user has commenced water usage and sewer discharge to determine if the assignment was proper and justified.

CHAPTER 2

WATER SYSTEM

SECTION:

8-2-1: Plumbing Regulations
8-2-2: Water Meters
8-2-3: Turning On Water; Tapping Mains
8-2-4: Supply From One Service
8-2-5: Private Water Supply; Cross-Connection Prohibited
8-2-6: Repair Of Leaks
8-2-7: Discontinuance Of Service
8-2- 8: Restricted Hours
8-2- 9: Permitting Use By Others Restricted
8-2-10: Fire Hydrants
8-2-11: Water Rates
8-2-12: Water Emergency
8-2-13: Yard Sprinkling Conservation Plan

8-2-1**:** **PLUMBING REGULATIONS:**

A. Service Pipes: Every service pipe shall be laid with sufficient bend to allow not less than one foot (1') of extra length and in such manner as to prevent rupture by settlement. The service pipe shall be placed not less than eight and one-half feet (8 ½") below the surface and be so arranged as to prevent rupture by freezing.
B. Shutoff; Stop Cock: A shutoff or other stop cock with waste valve of the size and strength required shall be placed to the inside wall of the building and will be protected from freezing.
C. Service Two inches And Under: Connections with the mains for domestic supply shall be at least a inch (1"). Service pipe material and installation shall meet the City's current design standards and standard details. Copper tubing shall not be used for two-inch (2") services or larger. Joints on tubing shall be as few as possible and not more than one joint shall be used for a service up to seventy feet (70') in length. Each joint shall be left uncovered until inspected by the City.
D. Service Over Two Inches: Services pipe material and installation shall meet the City's current design standards and standard details.
E. Curb Stop Boxes: Curb stop boxes shall be installed generally on the property/right-of-way/easement line if on a street or within one (1) foot of an alley line if the main is located in the alley. Stop boxes shall be installed at an approximate depth of eight and one-half feet (8.5') below the established grade and shall be left in an accurate vertical position when backfilling is completed. (1981 Code § 402.03)

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8-2-2: **WATER METERS:**

A. Meters Required: Except for the extinguishment of fires, no person other than an authorized City employee shall use water from the City water supply system or permit water to be drawn there from unless the water passes through a meter supplied or approved by the City. No person not authorized by the Maintenance Department shall connect, disconnect, take apart or in any manner change or interfere with any such meter or its use.
B. Charge for Meter: A charge shall be made to owners for new water meters and for replacement water meters due to the negligence of the owner or owner's property manager, and payment for meters shall be made in advance before delivery for installation. Water meters shall be equipped with remote reading devices. The charge of the meter is established in the City's fee schedule.
C. Installation: Every water meter shall be installed in accordance with the following provisions:

1. The service pipe from the water main to the meter shall be brought through the floor in a vertical

position where the pipe enters the building. The stop and waste valve shall be twelve inches (12") above the floor.

2. The bottom of the meter shall be between six inches (6") and twelve inches (12") horizontally from the inside line of the basement well unless a different position is approved by the Maintenance Department. A suitable bracket shall be provided to support the meter in a proper vertical position and prevent noise from vibration.
3. Each meter installation shall have a stop and waste valve on the street side of the meter. In no case shall more than twelve inches (12") of pipe be exposed between the point of entrance through the basement floor and the stop and waste valve. A stop and waste valve shall also be installed on the house side of the meter.
4. The water pipe connecting with the main shall not exceed two feet (2') under the basement floor from the inside of the basement wall to the water meter connection.
5. Meter setting devices for five-eighths inch (5/8"), three-fourths inch (3/4") and one inch (1") meters shall be of copper pipe or tubing from the terminus of the service pipe up to and including the stop and waste valve on the building side.

D. Maintenance, Repair, and Replacement: The City shall maintain and repair or replace any meter that has become unserviceable through ordinary wear and tear. Where repair or replacement is made necessary by the act, neglect, or carelessness of the owner or occupant of the premises it serves, any City expense caused thereby shall be charged against and collected from the water consumer. Water service may be discontinued until the cause is corrected and, the amount charged is paid.

E. Complaints; Meter Testing: When a consumer complains that the bill for any past service period is excessive, the City shall have the meter reread on request. If the consumer remains dissatisfied, such consumer may, on written request and a deposit as established by Council resolution, have the meter tested. If the test shows an error in the City's favor exceeding five percent (5%) of the water consumed, the deposit shall be refunded, an accurate meter shall be installed, and the bill shall be adjusted accordingly. Such adjustment shall not extend back more than one service period from the date of the written request.

F. City Property: Water meters are and shall remain the property of the City and may be removed or replaced by an authorized City employee when deemed necessary.

G. Access to Meters: Authorized City employees shall have free access at reasonable hours of the day to all parts of every building and premises connected with the City water supply system for reading, servicing, or inspecting meters. If City employees make repeated attempts to access a meter, and are not provided access to the meter, water service may be disconnected.

8-2-3: **TURNING ON WATER; TAPPING MAINS:** No person except an authorized City employee shall turn on any water supply at the stop box or tap any distributing main or pipe of the water supply system or insert a stop cock or other appurtenance therein without a City permit

8-2-4: **SUPPLY FROM ONE SERVICE**: No more than one house or building shall be supplied from one service connection except by special permission from the Council.

8-2-5: **PRIVATE WATER SUPPLY; CROSS-CONNECTION PROHIBITED**: No water pipe of the City water supply system shall be connected with any pump, well or tank that is connected with any other source of water supply. When any such connection is found, the Maintenance Department shall notify the owner to sever the connection and if this is not done immediately, the City shall turn off the water supply forthwith. Before any new connection to the City system is permitted, the Department shall ascertain that no cross-connection will exist when the new connection is made.

8-2-6: **REPAIR OF LEAKS:**

A. Responsibility Of Owner: The owner shall be responsible for maintaining the service pipe from the water main including the corporation stop, curb stop and box into the building served.

B. Failure To Repair: If the owner fails to repair any leak in such a service pipe within twenty four (24)

hours after notice by the City, the City may turn the water off. The water shall not be turned on again until the sum as established by Council resolution has been paid to the City.

C. Waste Of Water; Damage: When the waste of water is great or damage is likely to result from the leak, the City shall turn the water off immediately upon giving of notice if repair is not commenced immediately.

8-2-7: **DISCONTINUANCE OF SERVICE:**

A. Repairs: The City may discontinue service to any water consumer without notice for necessary repairs.
B. Nonpayment Of Charges: The City may discontinue service to any water consumer, upon notice as provided in subsection 8-1-10D of this Title, for nonpayment of charges or for violation of rules and regulations affecting utility service.

8-2-8: **RESTRICTED HOURS:**

A. Determination Of Shortage: Whenever the Council determines that a shortage of water supply threatens the City, it may, by resolution, limit the time and hours during which City water may be used for sprinkling, irrigation, car washing, air conditioning or other specified uses.
B. Notice To Users: After publication of the resolution or two (2) days after the mailing of the resolution to each customer, no person shall use or permit water to be used in violation of the resolution.
C. Violation: Any customer who uses water in violation of the resolution shall be charged as provided in Section 1-4-1 of this Code for each day of violation and the charges shall be added to such user's next water bill.
D. Emergency: If the emergency requires immediate compliance with terms of the resolution, the Council may provide for the delivery of a copy of the resolution to the premises of each customer, and any customer who has received such notice and thereafter uses or permits water to be used in violation of the resolution shall be subject to the charge provided in subsection C of this Section.
E. Continued Violation: Continued violation shall be cause for discontinuance of water service.

8-2-9: **PERMITTING USE BY OTHERS RESTRICTED:** No person shall permit City water to be used for any purpose except upon such person's own premises except in an emergency and then only if written permission is first obtained from the Maintenance Department.

8-2-10: **FIRE HYDRANTS:** No person other than an authorized City employee shall operate a fire hydrant or interfere in any way with the City water system without first obtaining authority to do so from the City Engineer and/or Public Works Director. Anyone wishing to obtain water from a hydrant for construction purposes shall make an application to the City Engineer and/or Public Works Director for such services.

8-2-11: **WATER RATES:**

A. Base Charge: Each water user shall pay a base charge if connected to the city's water system, as established by Council resolution.
B. Rate Schedule: In addition, each water user shall pay for water used each bimonthly period as established by Council resolution.
C. Senior Citizen Rate: The Council may establish, by resolution, rates for senior citizens aged sixty five (65) and older.

8-2-12: **WATER EMERGENCY**: Whenever necessary to meet a water shortage, the City Administrator may declare a water emergency and promulgate reasonable rules and regulations for the use of water.

8-2-13: **YARD SPRINKLING CONSERVATION PLAN:** City water may be used for irrigation during the year subject to the following:

A. Even-Numbered Addresses: All properties with an address ending with an even number may use city water for irrigation purposes on even-numbered dates only.
B. Odd-Numbered Addresses: All properties with an address ending with an odd number may use city water for irrigation purposes on odd-numbered dates only.
C. Private Wells Exempt: The requirements of subsection A and B of this Section shall not apply to irrigation with privately owned wells.
D. New Lawns and Trees: All properties that have seeded or sodded their yard or have planted new tree (s) and wish to irrigate daily, may apply for an exemption through City Hall from subsections A and B of this Section for a period of thirty (30) days.
E. Penalty: Any violation of this Section shall be a petty misdemeanor.

CHAPTER 3

SEWER USE CODE

SECTION:

8-3-1: Purpose and Policy
8-3-2: Definitions
8-3-3: Individual Sewage Treatment System
8-3-4: Building Sewers and Connections
8-3-5: Main and Lateral Sewers
8-3-6: Protection from Damage
8-3-7: Use of Public Sewers
8-3-8: Phosphorus Management
8-3-9: Mercury Management
8-3-10: Industrial Discharge Permit
8-3-11: Liquid Waste Hauler Requirements
8-3-12: Prohibitive Discharge
8-3-13: Limitations on Wastewater Strength
8-3-14: Strength Charge System
8-3-15: Accidental and Slug Discharges
8-3-16: Monitoring Requirements
8-3-17: Pretreatment
8-3-18: Confidential Information
8-3-19: Severability and Conflicts
8-3-20: Enforcement
8-3-21: Penalties
8-3-22: Publication of Significant Violations

8-3-1**:** **PURPOSE AND POLICY:** This Sewer Use Ordinance (SUO) sets forth uniform requirements for discharges into the St. Cloud Wastewater Treatment System (SCWWTS), a publicly owned system of interceptors and a Wastewater Treatment Facility (WWTF), for the conveyance, treatment, and disposal of domestic waste, industrial waste, and other waste from residential, commercial, institutional, and industrial users in the SCWWTS service area. The SUO enables the City of Sartell (City) to comply with all State (Minnesota Pollution Control Agency) and Federal (U.S. Environmental Protection Agency) laws.

A. The objectives of this ordinance are:

   1. To prevent the introduction of pollutants to the SCWWTS that will interfere with the operation of the treatment process or the beneficial reuse or disposal of the biosolids;
   2. To prevent the introduction of pollutants to the SCWWTS that will pass through the system inadequately treated, into receiving waters, atmosphere, or otherwise be incompatible with the system;
   3. To comply with Federal (EPA) and State (MPCA) rules and regulations in to maintain eligibility for federal and state grants and loans for construction for improvements or upgrades; and
   4. To improve the ability to recycle and reclaim wastewater and biosolids from the system.

B. The ordinance provides for the regulation of discharges to the SCWWTS through; the issuance of permits to specific users and through enforcement of the general requirements for all users, authorizes monitoring and enforcement activities, provides for penalty relief, requires user reporting, and provides for the method of setting fees necessary to carry out the programs established herein.
C. The ordinance shall apply to the City and to persons outside the City who are, by contract or agreement with the City, users of the SCWWTS. Except as otherwise provided herein, the Public

Works Director (Director) shall administer, implement and enforce the provisions of this ordinance.

8-3-2**:** **DEFINITIONS:** Unless specifically defined below, words or phrases used in this Title shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Title its most reasonable application:

ACT	Means the Federal Water Pollution Control Act, as amended, commonly referred to as the Clean Water Act, United States Code, Title 33, Sections 1251, et. Seq.
BIOSOLIDS:	Means the nutrient-rich organic, treated, and tested residuals from the wastewater treatment process that meet federal and state standards for beneficial reuse as a fertilizers and as a soil conditioner.
BEST MANAGEMENT PRACTICES:	(BMP's) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 403.5. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
BUILDING DRAIN:	Means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
BUILDING SEWER:	Means the extension from the building drain to the public sewer or other place of disposal.
CARBONACEOUS BIOCHEMICAL:	"Carbonaceous Biochemical Oxygen Demand (CBOD5)" means the quantity of oxygen utilized in the biochemical oxidation of organic matter, in the presence of a nitrification inhibitor, under standard laboratory procedures in five (5) days at 20 degrees Centigrade expressed in terms of weight and concentration (milligrams per liter-mg/1).
CFR:	The Code of Federal Regulations, which is the codification of general and permanent rules of departments and agencies of the federal government.
CHEMICAL OXYGEN DEMAND (COD):	Is a measure of the oxygen equivalent of that portion of organic matter that is susceptible to oxidation by a strong chemical oxidant, using EPA approved laboratory procedures.
CITY:	Means the City of Sartell or the City Council of Sartell or the Public Utility.
COOLING WATER:	Means the water discharged from any use such as air conditioning, cooling, or refrigeration, or during which the only pollutant added to the water is heat.
CONTROL AUTHORITY:	Means the City of St. Cloud.

DIRECTOR:	Means the City of Sartell's Public Works Director or authorized agent.
DOMESTIC WASTE:	Means wastes from residential users and from the sanitary conveniences of multiple dwellings, commercial buildings, institutions and industrial facilities.
EPA:	Means the United States Environmental Protection Agency.
FLOW:	Means the quantity of wastewater expressed in gallons or cubic feet per twenty-four (24) hours.
GENERAL PRETREATMENT:	Means the general pretreatment regulations for existing and new sources of pollution promulgated by the EPA under Section 307(b) and (c) of the Act and found at 40 CFR Part 403.
INDIRECT DISCHARGE:	Means the introduction of pollutants or wastes into the SCWWTS from any nondomestic source regulated under Section 301 (b), (c), or (d) of the Act.
INDIVIDUAL SEWAGE TREATMENT SYSTEM PERMIT:	Means the permit required of a person to construct a private wastewater disposal system.
INDUSTRIALDISCHARGE PERMIT:	Means a permit issued by the City to an Industrial User authorizing them to use the SCWWTS as established herein.
INDUSTRIAL WASTE:	Means solid, liquid, or gaseous wastes, excluding domestic waste, resulting from any industrial, manufacturing, commercial, institutional, or business activity, or from the development, recovery, or processing of a natural resource.
INDUSTRIAL USER:	Means any person who discharges industrial waste into the SCWWTS.
INTERFERENCE:	Means a discharge which alone or in conjunction with a discharge or discharges from other sources inhibits or disrupts the WWTF, its treatment processes, operations or solids processes, use or disposal and, therefore, is a cause of a violation of any requirement of the WWTF's NPDES Permit or of the prevention of biosolids use or disposal with statutory provisions and regulations or permits.
LEACHATE:	Means wastewater resulting from the percolation of rainwater and/or internal liquids through the deposited material in a solid waste disposal facility.
LIQUID WASTE:	Means wastewater that is collected from residential units, commercial/industrial buildings, and institutions within the community.
LIQUID WASTE HAULER:	Means a user that transports waste for the purpose of discharge to the WWTF.
LOCAL PERMITS:	Means discharge limitations established by the City to protect

	the wastewater treatment process, infrastructure, and the beneficial reuse of biosolids
MPCA:	Means the Minnesota Pollution Control Agency.
MRP:	Means a Mercury Reduction Plan to ensure the maximum allowable mercury loading to the WWTF is not exceeded.
NPDES:	National Pollutant Discharge Elimination System (NPDES) Permit means any permit or requirements issued by the Minnesota Pollution Control Agency (MPCA) pursuant to the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq); for the purpose of regulating the discharge of wastewater, industrial wastes, or other wastes under the authority of Section 402 of the Act.
NDNC:	Non-Domestic Nutrient Contributor (NDNC) means any non-domestic (as defined by subd. 12 Domestic Waste) wastewater source which is determined to contribute nutrients (as defined by subd. 32 Nutrients).
NUTRIENTS:	Means elements and substances which are required to support living plants and organisms, including carbon, hydrogen, nitrogen, oxygen, and phosphorus.
ORDINANCE:	Means the set of rules contained herein governing the discharge of wastewater to the SCWWTS.
PERMITTEE:	Means an Industrial User authorized to discharge industrial waste into the SCWWTS pursuant to an Industrial Discharge Permit.
PERSON:	Means the State or any agency or institution thereof, any municipality, governmental subdivision, public or private corporation, individual, partnership, or other entity, including, but not limited to, association, commission, or any interstate body, and including any officer or governing or managing body of any municipality, governmental subdivision or public or private corporation, or other entity.
PH:	Means the logarithm of the reciprocal of the concentration of hydrogen ions in moles per liter of solution. It is a measure of the acidity of basicity of a waste.
PHOSPHORUS MANAGEMENT PLAN:	Means the strategy used by the City, including pretreatment and operational procedures, to reduce the amount of phosphorus discharged to the environment.
PRS:	Phosphorus Reduction Strategy (PRS) means the process of reporting, evaluating, and reducing the amount of phosphorus discharged to the WWTF.
PRETREATMENT:	Means the process of reducing the amount of pollutants, eliminating pollutants, or altering the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the

	SCWWTS. The reduction, elimination, or alteration may be obtained by physical, chemical or biological processes, process changes or other means, except as prohibited by this ordinance.
PRETREATMENT STANDARDS:	Means standards for industrial groups (categories) promulgated by the EPA pursuant to the Act which regulates the quality of effluent discharge to publicly owned treatment works and must be met by all users subject to such standards.
PUBLIC UTILITY:	Means the unit of municipal government and its people responsible for the operation of the SCWWTS and this ordinance.
SANITARY SEWER:	Means a sewer which carries wastewater, and to which storm, surface and groundwater are not intentionally admitted.
SCAWAC:	St. Cloud Area Wastewater Advisory Committee (SCAWAC) is an advisory group whose objectives are to share information, improve understanding of regional wastewater issues and to improve the level of cooperation in the resolution of regional wastewater issues.
SCWTTS:	St. Cloud Wastewater Treatment System (SCWWTS) means POTW (Publicly Owned Treatment Works) which is the treatment system as defined by Section 212 of the Act, which is owned by the municipality (as defined by Section 502(4) of the Act). This includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal solids residuals or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the WWTF. The term also means the municipality as defined in Section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment system.
RISIDUALS SOLIDS:	Means solids and associated liquids in municipal wastewater which are encountered and concentrated by a municipal wastewater treatment facility.
SEWER:	Means a pipe or conduit for carrying wastewater, industrial waste, or other waste liquids.
SEWER SYSTEM:	Means pipelines or conduits, pumping stations, force mains, and all other devices and appliances appurtenant thereto, used for collecting or conducting wastewater.
SHALL:	“Shall" is mandatory; "May" is permissive.
SIGNIFICANT INDUSTRIAL USER:	means all Industrial Users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N and any other Industrial User that discharges an average of 25,000 gallons per day or more of process wastewater to the WWTF (excluding sanitary, noncontact cooling and boiler blowdown wastewater), contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the WWTF, or is designated as such by the control authority as defined in 40

CFR 403.12 (a) on the basis that the Industrial User has a reasonable potential for adversely affecting the WWTF's operation or for violating any pretreatment standard or requirement in accordance with 40 CFR 403.8 (f)(6). If, upon finding that an Industrial User meeting the criteria of this subdivision has no reasonable potential for adversely affecting the WWTF's operation or for violating any pretreatment standard or requirement, the control authority, as defined in 40 CFR 403.12 (a), may, at any time, on its own initiative or in response to a petition received from an Industrial User or WWTF and in accordance with 40 CFR 403.8 (f)(6) determine that such Industrial User is not a Significant Industrial User. The City may determine that an Industrial User subject to categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter 1, subchapter N is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling water and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the conditions are met stated in 40 CFR 403.3 (v)(2) (i,ii,iii).

SLUG: means any waste discharge which, in concentration of any given constituent or in quantity of flow, exceeds four (4) times the average twenty-four (24) hour concentration or flow during normal operation which may by itself or in combination with other wastes cause an interference within the WWTF.

STORM WATER: Means any flow occurring during or following any form of natural precipitation and resulting there from.

STORM SEWER: Means a sewer which carries storm and surface water and drainage, but excludes wastewater and industrial wastes, other than unpolluted cooling or process water.

SUMP PUMP: Means a pump which removes storm or ground water from a sump well.

TOTAL SUSPENDED SOLIDS: Means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids, and which is removable by a standard glass fiber filter.

TOTAL TOXIC ORGANICS: Means the summation of all values greater than 0.01 mg/1 of toxic organics listed in Section 307 (A) of the Act.

UNPOLLUTED WATER: Means clean water uncontaminated by industrial wastes, other wastes, or any substance which renders such water unclean, or noxious, or impure so as to be actually or potentially harmful or detrimental or injurious to public health, safety, or welfare, to domestic, commercial, industrial, or recreational use, or to livestock, wild animals, bird, fish, or other aquatic life.

USER: Means any person who discharges, causes, or permits the discharge of wastewater into the SCWWTS.

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

8-3-3**:** **INDIVIDUAL SEWAGE TREATMENT SYSTEM:**

A. Where a public sanitary sewer is not available under the provision of Section 360:30, the building sewer shall be connected to an individual sewage treatment system complying with the provisions of this Section 8-3-7, Sewage Treatment Systems, and Minnesota Pollution Control Agency Rules, Chapter 7080. The provisions of this subsection shall be in addition to any requirements established by applicable federal, state or local laws and regulations and shall not be construed to relieve any liability or obligation imposed by such laws and regulations.
B. Any person operating a private wastewater disposal system who wishes to discharge waste products to the SCWWTS resulting from the treatment of domestic wastewater only shall obtain permission from the Director prior to the discharge occurring.

8-3-4**:** **BUILDING SEWERS AND CONNECTIONS:**

A. No person, unless authorized, shall uncover, make any connections with, or disturb any public sewer or appurtenance thereof, except in accordance with the applicable provisions of Title 7, Chapter 2 of this Code.
B. All costs incurred in the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify and hold harmless the City from any loss or damage to the public sewer that may directly or indirectly be caused by the installation of the building sewer.
C. A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, provided that the City shall require a written agreement between the property owners as to the share of the costs of construction and maintenance which each will contribute.
D. Old building sewers may be used in connections with new buildings only when they are found, on examination and test by the City, to meet all requirements of this ordinance.
E. The size, slope, alignment, materials of construction of a building sewer, and the method to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in Practice No. 9 and applicable American Society of Testing and Materials (ASTM) standards shall apply.
F. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, such building drain shall be provided with a lifting device approved by the Plumbing Inspector and discharged to the building sewer.
G. No persons shall make connection of roof downspouts, sump pump, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a drain which in turn is connected directly or indirectly to a public sanitary sewer.
H. The construction of the building sewer and its connection into the public sewer shall conform to the requirements of the building and plumbing code, the sewer specifications included herein, or other applicable rules and regulations and the procedures set forth in appropriate specifications of the Water Pollution Control Federation Manual (ASTM). All such construction shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Plumbing Inspector before installation.

I. Employees of the City shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the connection shall notify the Plumbing Inspector and City Engineer when the work is ready for final inspection and no underground portions shall be covered before the final inspection is completed. The connection shall be made under the supervision of the Building Inspector Program Coordinator or his/her representative.

J. Any new connections to the sanitary sewer system shall be prohibited unless sufficient capacity is available in all downstream facilities including, but not limited to capacity for flow, $_{c}BOD_{5}$, nutrients, and suspended solids, as determined by the Director.

8-3-5**:** **MAIN AND LATERAL SEWERS:**

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

B. No sanitary or storm sewers shall be constructed in the City (except house or building service sewers) except by the City or others and subject to inspection during construction by engineers and employees of the City. No such sewers shall be considered to be a part of the public sewer system unless accepted by the City.

C. The size, slope, alignment, material of construction, methods to be used in excavation, placing of pipe, jointing, testing, backfilling, and other work connected with the construction of sewers shall conform to the requirements of the City.

8-3-6**:** **PROTECTION FROM DAMAGE:** No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the SCWWTS.

8-3-7**:** **USE OF PUBLIC SEWERS:**

A. It shall be unlawful to discharge to any natural outlet within the City or in any area under the jurisdiction of the City any wastewater or other polluted water, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.

B. It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

C. The owner of any building or property which is located within the City, or in any area under the jurisdiction of the City, and from which wastewater is discharged, shall be required to connect to a public sewer at the owner's expense within one year after service of official notice to do so, provided that said public sewer is available for connection. Additionally, if the building or property is used for human occupancy, employment or recreation, the owner shall be required to install at the same time toilet facilities in accordance with the Minnesota Building Code and other ordinances of the City.

D. In the event an owner shall fail to connect to a public sewer in compliance with a notice given under Section 8-3-7 of this ordinance, the City may undertake to have said connection made and shall assess the cost thereof against the benefited property and said assessment shall be a lien against said property. Such assessment, when levied, shall bear interest at the rate set by the City and shall be certified to the auditor of the county in which the land is situated and shall be collected and remitted to the City in the same manner as assessments for local improvements. The rights of the City under this subdivision shall be in addition to any other remedial or enforcement provisions of this ordinance.

E. No person shall discharge or cause to be discharged directly or indirectly any storm water, surface water, groundwater, roof runoff, sub-surface drainage, unpolluted cooling, or process water to any sanitary sewer unless there is no prudent and feasible alternative and unless as approved by the Director.

F. Storm water and all other unpolluted water shall be discharged to a storm sewer, except that unpolluted cooling or process water shall only be discharged upon approval by the Director and the user may be required to obtain a NPDES Permit by the MPCA.

8-3-8**:** **PHOSPHORUS MANAGEMENT:**

A. Any non-domestic (commercial or industrial), source may be included as part of the Phosphorus Management Plan (PMP) and required to evaluate their phosphorus discharge to the SCWWTS.
B. Any significant non-domestic nutrient contributor (NDNC) of phosphorus, as determined by the Director, will be required to develop a Phosphorus Reduction Strategy (PRS). The NDNC will evaluate and/or update the PRS to include methods and/or steps taken to eliminate or reduce phosphorus loading to the SCWWTS.

8-3-9**:** **MERCURY MANAGEMENT:**

A. Mercury levels shall not be detectable above 0.2 micrograms per liter in the wastewater discharged to the SCWWTS. Mercury sampling procedures, preservation and handling and analytical protocol for compliance monitoring shall be in accordance with EPA Method 245.1 or another method approved or required by the Director. The level of detection developed in accordance with the procedure specified in 40 CFR 136, shall not exceed 0.2 micrograms per liter for mercury, unless higher levels are appropriate due to matrix interference.
B. To ensure that the maximum allowable mercury loading to the WWTF is not exceeded, the WWTF may require non-domestic users with a reasonable potential to discharge mercury to develop, submit for approval and implement a Mercury Reduction Plan (MRP). At a minimum, an approved MRP shall contain the following:

1. A written commitment by the non-domestic user to reduce all non-domestic discharges of mercury to levels below the level of detection within 36 months of the MRP's original approval date.
2. Within 60 days of notification by the WWTF that a MRP is required, the non-domestic user shall supply an initial identification of all potential sources of mercury which could be discharged to the WWTF.
3. Specific strategies for mercury reduction with reasonable time frames for implementation, capable of ensuring that mercury discharges will be below the specified level of detection within 36 months.
4. A program for quarterly sampling and analysis of the non-domestic discharge for mercury in accordance with EPA method 245.1.
5. A demonstration of specific, measurable and/or otherwise quantifiable mercury reductions consistent with the goal of reducing mercury discharges below the specified level of detection. Where such reductions cannot be demonstrated through normal effluent monitoring (mercury discharges are already near level of detection), the demonstration should incorporate the following:

    a. Internal process monitoring, documenting the results of mercury reduction strategies at sampling locations within the facility (e.g., a program of regular monitoring of sink traps where mercury containing reagents had previously been disposed of, but have since been substituted by non-mercury containing compounds).
    b. Internal and/or effluent sampling utilizing clean and/or ultra-clean sampling and analytical methods as referenced by the EPA Federal Register. The results of such monitoring will not be used for compliance purposes unless performed in accordance with EPA Method 245.1 and collected at the appropriate compliance measurement location.
    c. Loading calculations wherein the non-domestic user calculates the total mass of mercury reduced from the sanitary sewer discharge through reagent substitutions, changes in disposal practices and/or other approved MRP strategies implemented.

6. A semi-annual report on the status of mercury reduction efforts. At a minimum, these reports shall: identify compliance or noncompliance with specific reduction commitments in the MRP; summarize the analytical, mass-based or quantifiable demonstration of mercury reductions performed to date; provide all applicable analytical data; provide an evaluation of effectiveness of actions taken to date; provide updates to the initial list of mercury containing compounds discharged to the sanitary sewer and propose for approval new strategies and/or modifications to the current MRP to continue and improve mercury reduction efforts;
7. Failure to submit an approvable MRP within 30 days of the required due date shall constitute

significant non-compliance in accordance with this Section and will result in publication as a significant violator.

8. A non-domestic user may request a variance from MRP requirements if all samples of the discharge for a period of one year are less than the specified level of detection; the non-domestic user has complied with the minimum monitoring frequency of quarterly sampling events; and the Director deems that the MRP commitments have been fulfilled sufficiently to ensure continued compliance with the mercury limitation. Notice of approval or disapproval of the variance from MRP requirements will be made in writing to the Director
9. If a MRP variance is issued, the non-domestic user remains subject to the local limitation for mercury.

8-3-10**:** **INDUSTRIAL DISCHARGE PERMIT:**

A. Permit Required Industrial users discharging wastewater to the SCWWTS shall apply for an industrial discharge permit in accordance with these rules unless the Director determines that the wastewater has an insignificant impact to the collection system or the WWTF. No industrial user requiring a permit shall discharge to the SCWWTS until the industrial user has been issued a permit. Issuance of an industrial discharge permit shall not relieve the industrial user from any obligation to obtain any hazardous waste license required by other authorities or to comply with any other local, state, or federal requirements regarding waste disposal. The criteria to be utilized by the Director to determine if an Industrial Discharge Permit will be required include:

1. An average flow loading greater than 25,000 gallons per operating day.
2. A pollutant concentration of greater than 50% for one or more regulated pollutants at the point of discharge.
3. Has properties in the discharge for it to be constituted a prohibited discharge.
4. Has been pretreated or passed through an equalization tank before discharge.
5. A hydraulic or organic loading greater than 5% of the average dry weather capacity of the WWTF.
6. An industrial process regulated by EPA categorical standards.
7. Others as so designated by the WWTF as defined in 40 CFR 403.12 (a).

B. Permit Application:

1. Existing Significant Industrial User: An existing Significant Industrial User or other person who is required to obtain an Industrial Discharge Permit shall complete and file a permit application with the WWTF within (ninety) 90 days of notification. The appropriate permit fee as provided by Section 597 shall accompany the permit application form at the time of application. A user shall have one year from the date of notification by the City to obtain an Industrial Discharge Permit.
2. New Significant Industrial User: New Significant Industrial Users proposing to connect or to commence a new discharge to the wastewater disposal system shall apply for an Industrial Discharge Permit prior to connection to or discharging into the SCWWTS. No discharge to the WWTF can commence until an Industrial Discharge Permit is received unless the Director has ruled that:

    a. An Industrial Discharge Permit is not required or;
    b. A discharge waiver is granted to commence discharge pending final action by the Director.

3. Incomplete or Deficient Application: If the permit application is incomplete or otherwise deficient, the Director will advise the applicant of such incompleteness or deficiency. An Industrial Discharge Permit shall not be issued until an application is complete.
4. Issuance of Industrial Discharge Permit: Within sixty (60) days after receipt of a completed application form from the industrial user, the Director shall, upon a determination that the applicant is capable of compliance with the Industrial Discharge Permit conditions and these rules, issue an Industrial Discharge Permit subject to the terms and conditions provided herein.

    Types of Industrial Discharge Permits:

a. A Standard Permit, with requirements for a specific facility, will be issued to an industrial user with a direct discharge connection to a public sewer. A Standard Permit will be issued to each Significant Industrial User, and other industrial users determined by the Director.
b. A Liquid Waste Hauler Permit will be issued to an industrial user who transports and discharges industrial waste to the collection system and the WWTF.
c. A Special Discharge Permit will be issued to an industrial user who discharges leachate, groundwater, or other waste to the collection system or the WWTF for which other permit forms are not applicable.

C. Permit Conditions: Industrial Discharge Permits shall be expressly subject to all provisions of this ordinance and all other applicable regulations, user charges and fees established by the City Council. Permits shall contain the following:

1. A summary of the penalties and charges applicable for violations of the terms of permit as provided in this ordinance.
2. The unit charge or schedule of user charges and fees for the wastewater to be discharged to the WWTF.
3. Limits on the average and maximum wastewater constituents and characteristics, either in terms of concentrations, mass limitations or other appropriate limits.
4. Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization.
5. Requirements for installation and maintenance on inspection and sampling facilities.
6. Requirements for access to the permittee's premises and records
7. Requirements for installation, operation, and maintenance of pretreatment facilities.
8. Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number, types, and standards for tests and self-reporting schedule.
9. Compliance schedules.
11. Requirements for maintaining and retaining records relating to wastewater discharge as specified by the Director and affording the Director access thereto.
12. Requirements for notification to the Director of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the SCWWTS.
13. Requirements for notification of slug discharges as provided in this ordinance.
14. Requirements for the specific location, time, and volume of discharge to the WWTF for Liquid Waste Haulers.
15. The requirement for Industrial Discharge Permit transfer as stated herein.
16. Other conditions as deemed appropriate by the City to ensure compliance with this ordinance.

D. Permit Modification, Suspension, and Revocation: An Industrial Discharge Permit may be modified, suspended, or revoked, in whole or in part, by the Director or City during its term for cause, including:

1. Violation of these rules.
2. Violation of any terms or conditions of the Industrial Discharge Permit.
3. Obtaining an Industrial Discharge Permit by misrepresentation or failure to fully disclose all relevant facts.
4. Amendment of these rules.
5. A change in the wastewater treatment process which results in the permittee's discharge having a significantly different and negative impact on the process;
6. A change in the permittee's industrial waste volume or characteristics which the permittee knows or has reason to know will or is likely to have, either by itself or by interaction with other wastes, a negative impact on the treatment process.
7. A change in the WWTF's NPDES or SDS Permit requirements, or any other changes made by Local, State and/or Federal rules.
8. A determination by the Director that the permittee's discharge reasonably appears to present an imminent endangerment to the health or welfare of persons, present an endangerment to the

environment, or threaten interference with the operation of the SCWWTS.

E. Time Schedule for Compliance: Any modifications in the Industrial Discharge Permit shall specify a reasonable time schedule for compliance.
F. Refund of Permit Fee on Surrender or Revocation: A permittee may surrender an Industrial Discharge Permit to the City prior to the permit's scheduled termination. In the event that a permit is surrendered or revoked, the permittee shall be refunded a pro-rated portion of the permit fee paid.
G. Permit Duration: Permits shall be issued for a specified time period, not to exceed five (5) years. The user shall apply for permit reissuance a minimum of 180 days prior to the permit's expiration date by filing with the City a permit reissuance application. The terms and conditions of the permit may be subject to modification by the Director during the term of the permit as limitations or requirements as identified in Section 8-3-10 are modified or other just cause exists. The user shall be informed prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
H. Permit Transfer: Industrial Discharge Permits are issued to a specific user at a specific location, for a specific operation, except in the case of Liquid Waste Haulers. An Industrial Discharge Permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the Director. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. In the event of a change in the entity owning the industrial discharge facilities for which there is an Industrial Discharge Permit, the prior owner, if feasible, shall notify the City and the succeeding owner of said change in ownership and of the provisions of the Industrial Discharge Permit and these rules. The new owner shall submit a new permit application or shall submit to the City an executed statement agreeing to be bound by the terms and conditions of the existing Industrial Discharge Permit for the facility, in which case, upon consent of the City, the permit shall continue in effect until its expiration date.
I. Permit Fees: The Industrial Discharge Permit fee, paid to the City, for total waste (million gallons per year) for both initial and reissuance shall be as follows:

1. Less than one (1) million gallons per year, annual permit fee of $200 paid at time of issuance or reissuance of industrial permit agreement.
2. Between one (1) and ten (10) million gallons per year, annual permit fee of $300 paid at time of issuance or reissuance of industrial permit agreement.
3. Greater than ten (10) million gallons per year, annual permit fee of $400 paid at time of issuance or reissuance of industrial permit agreement.
4. Permit Application and Reissuance Application fee of $100.

J. Permit Violation Fees: Permitees shall pay violation fees as follows by forty-five (45) days original report due date:

1. Discharge Violation Fee of $100.
2. Late Industrial Discharge Monitoring Report Fee of $100.

8-3-11**:** **LIQUID WASTE HAULER REQUIREMENTS:**

A. Any person seeking to transport and subsequently discharge residential, commercial, institutional or industrial waste into the SCWWTS shall comply with applicable requirements specified in this section.

1. Permit: Liquid Waste Haulers shall obtain an industrial discharge permit and shall comply with applicable requirements of these rules.
2. An annual permit fee of $100 is due at the time of issuance or reissuance of industrial discharge agreement.
3. Load Charge: Liquid Waste Haulers shall pay load charges to the City. Load charges are specified in the Liquid Waste Hauler's Permit.
4. Approved Disposal Sites: Liquid Waste Haulers shall discharge only at approved disposal sites as designated by the Director.

5. Conditions of Discharge: Any person who has obtained a written approval or permit shall discharge in accordance with the terms of that approval or permit, any other applicable provisions of these rules, applicable pretreatment standards under the Act, and any other requirements set forth by the Director.

B. Leachate and Contaminated Groundwater Discharge Requirements: Any person seeking to discharge leachate or contaminated groundwater into the SCWWTS shall apply to the Director for discharge approval.

1. Application: A written application for approval to discharge leachate or contaminated groundwater into the SCWWTS shall be submitted to the Director according to the following:

   a. An application for approval to discharge shall be submitted at least 15 days prior to initiation of the proposed discharge.
   b. An application for approval to discharge for a duration greater than six (6) months shall be submitted at least 60 days prior to initiation of the proposed discharge.
   c. The application shall be made on a form established by the Director.

2. Approval or Denial: Upon receipt of a complete application for discharge approval, the Director shall:

   a. Within 30 days, issue a written approval for discharges that will not exceed six (6) months in duration.
   b. Within 90 days, issue an industrial discharge permit for discharges that will exceed six (6) months of duration.
   c. Deny the request for discharging into the WWTF and state the reasons for denial.

3. Conditions of Discharge: Any person who has obtained a written approval or a permit shall discharge in accordance with the terms of the approval or permit, any other applicable provisions of these rules, applicable pretreatment standards under the Act, and any other requirements set forth by the Director.

8-3-12**:** **PROHIBITVE DISCHARGE:**

A. No person shall discharge or cause to be discharged, directly or indirectly, into the SCWWTS any of the following:

1. Any combustible, flammable or explosive solids, liquids, or gases which by their nature or quantity will or are likely to cause either alone or by interaction with other substances a fire or explosion or be injurious to the treatment facility operation. At no time shall two (2) successive readings on an explosimeter, at the point of discharge into the sewer system, be more than five percent (5%) nor shall there be any single reading over ten percent (10%) of the Lower Explosive Limit (LEL). Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, fuel oil, lubricating oil, benzene, toluene, xylene, ethers, alcohols, and ketones.
2. Any solids or viscous substances which will or are likely to cause obstruction to the flow in a sewer or interference with the operation of the wastewater treatment facility. These include garbage with particles greater than one-half inch (1/2") in any dimension, grease, animal guts or tissues, bones, hair, hides or fleshings, entrails, feathers, ashes, sand, spent lime, stone or marble dust, metal, glass, grass clippings, rags, spent grains, waste paper, wood, plastic gar tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, glass grinding and polishing wastes.
3. Any wastewater having a pH less than 5.0 or greater than 12.0 or having any corrosive property that will or is likely to cause damage or hazard to structures, equipment, or employee of the Public Utility.
4. Any alkaline wastewater which alone or with others will or is likely to cause an elevated pH in the treatment facility influent so as to result in an inhibiting effect on the biological process or encrustation to the sewer.

5. Any wastewater containing toxic or poisonous pollutants in sufficient quantity, either by itself or by interaction with other pollutants that will or is likely to cause interference or constitute a hazard to humans. (A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.)
6. Any noxious or malodorous solids, liquids, or gases, which either by itself or by interaction with other wastes, will or are likely to create a public nuisance or hazard to life or prevent the entry of Utility employees into a sewer for its monitoring, maintenance, and repair.
7. Any wastewater which will or is likely to cause excessive discoloration in the treatment facility effluent.
8. Wastes, other than Domestic Wastes, that is infectious before discharging into the sewer.
9. Any solids residual from an industrial pretreatment facility except as provided in this Section.
10. Heat in amounts which will or is likely to inhibit biological activity in the treatment facility resulting in interference or causing damage to the treatment facility, but in no case heat in such quantities that the Industrial User's waste temperature is greater than 65^0C (150^0F) at its point of discharge to the sewer system, or heat causing, individually or in combination with other wastewater, the influent at the wastewater treatment plant to have a temperature exceeding 40^0C (104^0F).
11. Any wastewater containing fat, wax, grease, or oil in excess of 100 mg/L that will or is likely to solidify or become viscous at temperatures between 0 and 65^0C and which will or is likely to cause interference at the WWTF, including petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin.
12. Any slug discharged in such volume or strength which a person knows or has reason to know will or is likely to cause interference to the SCWWTS.
13. Any substance including nutrients which will cause the WWTF to violate its NPDES and/or State Disposal System Permit or the receiving water quality standards or goals.
14. Any substance which may cause the WWTF's effluent or any other product of the wastewater treatment process such as residues, biosolids, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the wastewater treatment system cause the system to be in noncompliance with biosolids use or disposal criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State standards applicable to the biosolids management method being used.
15. Any wastewater containing inert suspended solids (including lime slurries and lime residues) or dissolved solids (including sodium chloride) in such quantities that will or is likely to cause interference with the WWTF.
16. Radioactive wastes or isotopes of such a half-life or concentration that they are in noncompliance with standards issued by the appropriate authority having control over their use and which will or are likely to cause damage or hazards to the SCWWTS or employees operating it.
17. Any hazardous waste unless prior approval has been obtained from the Director.
18. Any waste generated outside the area served by the SCWWTS without prior approval of the Director.
19. Any unpolluted water, including cooling water, rainwater, storm water or groundwater, unless there is no other prudent or feasible alternative.
20. Any trucked or hauled wastes or pollutants, except if approved by the Director at discharge points designated by the City.
21. Phosphorus or other nutrients that exceed acceptable limits as set by the WWTF.

8-3-13**:** **LIMITATIONS ON WASTEWATER STRENGTH:**

A. Federal Pretreatment Standards: Federal Pretreatment Standards and General Pretreatment Regulations promulgated by the U.S. Environmental Protection Agency (EPA) pursuant to the Act shall be met by all users which are subject to such standards in any instance where they are more stringent than the limitations in this ordinance unless the Director has applied for, and obtained from the MPCA, approval to modify the specific limits in the federal pretreatment standards. In all other respects, Industrial Users subject to Pretreatment Standards shall comply with all provisions of these rules and any permit issued there under, notwithstanding less stringent provisions of the General Pretreatment Regulations or any applicable Pretreatment Standard.

B. State Requirements: State requirements and limitations on discharges shall be met by all users which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations or those in this ordinance.

C. City's Right of Revision: The City reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the WWTF if deemed necessary to comply with the objectives.

D. Dilution: No user shall increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in any local or State requirements or Federal Pretreatment Standards.

E. Removal Credits and Variances:

1. If the WWTF achieves consistent removal of pollutants limited by Federal Pretreatment Standards, the City may apply to the MPCA for modification of specific limits of the EPA Pretreatment Standards. The City shall modify pollutant discharge limits applicable to an Industrial User in the Pretreatment Standards if the requirements contained in 40 CFR 403.7 of the General Pretreatment Regulations relating to credits for the removal of pollutants are fulfilled and approval from the MPCA is obtained. However, nothing herein shall be construed to require the City to apply to the MPCA for removal credits nor shall it be construed to in any way limit the applicability of the limitations provided in Section 8-3-12 in the event that such a removal credit is granted, except as provided in 8-3-12.
2. The City shall recognize and enforce the conditions allowed for by variances from Pretreatment Standards for fundamentally different factors as granted by the EPA to individual Industrial Users in accordance with 40 CFR 403.13 of the General Pretreatment Regulations.
3. The Director shall notify all affected Industrial Users of the applicable Pretreatment Standards, their amendments, and reporting requirements in accordance with 40 CFR 403.12 of the General Pretreatment Regulations. A compliance schedule as part of the Industrial Discharge Permit shall be developed between the Director and the Industrial User to ensure that the Industrial User complies with local, State and Federal limitations in a timely manner as provided by the same section of the General Pretreatment Regulations.

F. Local Limitations/Pretreatment Standards: No person, except as authorized pursuant to a compliance schedule in a permit, shall discharge or cause or allow to be discharged, directly or indirectly, into the SCWWTS any of the following waste pollutants containing concentrations in excess of the following maximum limitations for any operating day:

Pollutant	Maximum Allowable Concentration* (mg/L)
Arsenic	0.13
Cadmium	0.20
Chromium, Total	3.94
Copper	2.76
Cyanide, Total	3.11
Lead	1.25
Mercury	0.0002
Molybdenum	0.11
Nickel	0.75
Selenium	0.23

Silver	0.56
Zinc	4.23
Ammonia Nitrogen	Best Management Practices
$cBOD_5$	Best Management Practices
Phosphorus	Best Management Practices
Total Suspended Solids	Best Management Practices

G. Special Agreements: No statement contained in this subsection, except as promulgated by the EPA as stated in 8-3-13, shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore, by the industrial concern, in accordance with applicable ordinances and any supplemental agreement with the City.
H. Pretreatment Standards Notification: The Director shall notify all affected Industrial Users of the applicable Pretreatment Standards, their amendments and reporting requirements in accordance with Code of Federal Regulations, Title 40, Section 403.12 of the General Pretreatment Regulations. A compliance schedule shall be developed between the City and the Industrial User to ensure that the Industrial User complies with local, State and Federal limitations in a timely manner as provided by the same section of the General Pretreatment Regulations.
I. Reports: Reports specified in Code of Federal Regulations, Title 40, Section 403.12 of the General Pretreatment Regulations shall be submitted to the WWTF by affected users.
J. BMP's: BMPs shall be considered local limits and Pretreatment Standards.

8-3-14**:** **STRENGTH CHARGE SYSTEM:**

A. Any permittee as designated by the Director, discharging into the SCWWTS industrial waste at carbonaceous biochemical oxygen demand and/or total suspended solids concentrations in excess of base levels shall be subject to a strength charge. Further, any person discharging waste into the SCWWTS may be subject to a strength charge under the same provisions. Base levels, strength charge rates and the procedures for determining strength charges shall be set forth by the Director. These rates and methods may be adjusted annually. Additional parameters, other than carbonaceous biochemical oxygen demand and total suspended solids may be subject to a strength charge.
B. Industrial user charges may also include specific credits for industrial pretreatment which would encourage a reduction in overall WWTF plant loading. Such credit shall be determined by the Director.
C. Persons subject to a strength charge shall pay the full amount to the City. A penalty may be added to all Public Utilities accounts not paid in full by the due date. The penalty for late payment shall be added to each billing for which the account remains unpaid.
D. Certification Fee: A charge will be added, according to the current fee schedule, to all accounts certified to the County Auditor's officer for collection. This fee is to be considered separate and distinct from any penalty or interest that may be charged by the County as a result of certification.

8-3-15**:** **ACCIDENTAL AND SLUG DISCHARGES:**

A. Prevention of Accidental and Slug Discharges: All Industrial Users shall provide adequate protective procedures to prevent the accidental discharge of any waste prohibited in Section 8-3-12, any waste in excess of the limitations provided in 8-3-13, or any waste in violation of an applicable pretreatment standard.
B. Accidental Discharge: Accidental discharges of prohibited waste into the SCWWTS, directly or through

another disposal system, or to any place from which such waste may enter the SCWWTS, shall be reported to the Director by the persons responsible for the discharge, or by the owner or occupant of the premises where the discharge occurred, immediately upon obtaining knowledge of the fact of such discharge. Such notification will not relieve users of liability for any expense, loss or damage to the wastewater disposal system or treatment process, or for any fines imposed on the City on account thereof under any State or Federal law. The responsible person shall take immediate action as is reasonably possible to minimize or abate the prohibited discharge. The responsible person shall send a letter describing the prohibited discharge to the Director within seven (7) days after obtaining knowledge of the discharge. The letter shall include the following information:

1. The time and location of the spill.
2. Description of the accidentally discharged waste, including estimate of pollutant concentrations.
3. Time period and volume of wastewater discharged.
4. Actions taken to correct or control the spill.
5. A schedule of corrective measures to prevent further spill occurrences.

C. Slug Discharge: In the event that an Industrial User discharges a slug in such volume or strength that the Industrial User knows or has reason to know it will cause interference in the WWTF, the Industrial User shall immediately report the same to the Director. Within seven (7) days thereafter, the Industrial User shall send a letter to the Director describing the slug as specified under Accidental Discharge.

D. Spill Containment Program Requirement: Any Industrial User with a significant potential to discharge materials listed in the prohibited discharge section of this ordinance is required to install and maintain an adequate spill containment system. General spill containment requirements are listed below:

1. Process, storage, holding, or treatment tanks containing materials listed in the prohibitive discharge section of this ordinance as well as the associated piping, pumps and other appurtenances must be contained if a spill or leak could enter the sewer. This includes tanks used for short duration mixing, processing or storage.
2. The City prohibits floor drains with direct connections to the public sewer in facilities that store toxic or flammable materials.
3. The spill containment system must be capable of containing 100 percent of the volume of the largest tank of restricted material.
4. Acceptable Containment Systems Include:

    a. Diking: Diking may be used to spill contain single shell tanks. Diking usually consists of concrete blocks, concrete berming or other materials that form a permanent structural barrier. Portable spill containment trays/pallets are also acceptable.
    b. Self-Containment: Tanks of double shell construction are considered to be self-contained and do not require additional spill containment features unless there is a significant likelihood of overflowing. These tanks consist of two independent structural shells with the outer shell capable of containing any leakage from the inner one. An air gap of at least one inch must be provided between the inner and outer shell.
    c. Pits: Pits constructed under or around tanks are acceptable as spill containment. No openings, manual or electric gates or valves are allowed.

E. Slug Discharge Control Plan: Any Significant Industrial User (SIU) that may batch discharge any wastewater (including from spill containment areas), treated or otherwise, and that discharge may potentially cause adverse impacts to the collection system or treatment plant must complete and implement a Slug Discharge Control Plan. Slug Discharge Control Plan must contain the following elements:

1. Description of discharge practices, including non-routine batch discharges.
2. Description of stored chemicals.
3. Procedure for promptly notifying the WWTF of slug discharges as defined under Section 403.5(b) of the Code of Federal Regulations Title 40 and this ordinance, with procedures for follow-up

written notification within five (5) days.

4. Procedures necessary to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling, and transfer of materials, loading and unloading operations, control of site runoff, and employee training. Include drawings that show spill containment dimensions and the locations of all floor drains, wastewater piping and pretreatment equipment.
5. The Slug Control Plan must be maintained at the discharge location and be available to staff from the City, MPCA or EPA upon request.

8-3-16**:** **MONITORING REQUIREMENTS:**

A. Monitoring Facilities: When required by the City's permit, the permittee of any property services by a building sewer carrying industrial wastes shall install a suitable control structure, together with such necessary meters and other appurtenances in the building sewer to facilitate observation sampling, flow measurement and measurement of the wastes. Such structure and equipment, when required shall be constructed at the owner's expense in accordance with plans approved by the City and shall be maintained by the owner so as to be safe and accessible at all times.

B. Monitoring Point: Each permittee shall have an approved monitoring point provided at the permittee's expense. Liquid Waste Haulers and special industrial users may be exempted by permit from portions of this section. An approved monitoring point shall meet the following criteria:

1. The wastewater flow is visible and accessible for inspection and monitoring purposes.
2. The wastewater flow has appropriate velocity and is well mixed to yield representative samples.
3. The wastewater flow at the monitoring point conveys all of the permittee's industrial waste.
4. The monitoring point is large enough or space is provided nearby to allow for monitoring equipment and replacement.
5. The total wastewater flow of the permitted facility, if exceeding 25,000 gallons per day, can be measured using an open channel or other acceptable measuring device.

    a. The City may allow multiple monitoring points provided that each point meets criteria 1-5 of this section.
    b. All permittees shall have an approved monitoring point. All new installations shall be in accordance with the provisions of the Minnesota Plumbing Code, Minnesota Rules, chapter 4715.
    c. Each permittee is responsible for all maintenance on the approved monitoring point, including routine cleaning.

C. Inspection Maintenance Hatch: The Director may require the installation of an inspection maintenance hatch (manhole), in the event of construction, replacement or modification of a permittee's sewer connection(s). Permittees shall provide notice to the Director prior to any such replacement or modification. The inspection maintenance hatch shall be of standard size and shape and be located on the private sewer line between the facility and the public sewer. If feasible, the inspection maintenance hole shall convey the total facility wastewater discharge.

D. Flow Measurement: A permittee, when required by permit, shall install, and maintain a flow measurement device for instantaneous rate and/or cumulative flow volume determinations. Metered water supply may be used in lieu of flow measurement devices if it can be documented that the water usage and waste discharge are the same, or where a measurable adjustment to the metered supply can be made to determine the waste volume.

E. Meters and flow records shall be maintained at the permittee's expense in good operating condition at all times. The permittee shall notify the Director in writing within five (5) days in the event that the permittee becomes aware that the meter or flow recorder has failed to accurately register the flow. The permittee shall also notify the Director of the permittee's intention to alter the installation of a meter or flow recorder so as to affect the accurate recording of industrial waste entering the SCWWTS.

F. The following requirements apply to the selection and installation of wastewater flow measuring devices:

1. Flow measuring devices including, but not limited to, weirs, flumes, area-velocity sensors, and closed-pipe flow meters, shall be installed such that proper hydraulic conditions exist. Factors used to determine the type, size and location of a flow measuring device include:

    a. Flow rate and velocity.
    b. Pipe configuration and slope.
    c. Turbulence.
    d. Presence of nearby tributary flows.
    e. Solids concentration.

2. All flow measuring devices shall be properly installed and, where applicable, properly level and sealed.
3. When a weir or a flume is utilized, the flow level-sensing device shall be installed at a proper distance upstream of the primary flow device and in a location where excessive turbulence is not created.

G. Self-monitoring Analyses: All measurements, tests, and analyses of the characteristics of water and wastes as outlined in the permit shall be determined in accordance with guidelines established in 40 CFR Part 136 and 40 CFR 403.12 (g) of the General Pretreatment Regulations.

H. Representative Sampling: Representative samples of a permittee's industrial waste shall be collected on a normal operating day and in accordance with guidelines listed in the Industrial Discharge Permit. Industrial Users subject to Pretreatment Standards shall sample in accordance with the Pretreatment Standards. Self-monitoring point(s) for Industrial Users who are not subject to Pretreatment Standards shall be at a location and at a frequency as specified in the Permit. The samples shall accurately characterize the discharge, taking into account batch discharges, daily production variations, downtime, cleanup, and other operating conditions.

I. Monitoring Techniques: Monitoring methods that will be used by industrial users, and contracted monitoring services and/or commercial analytical laboratories that collect and/or analyze wastewater samples to fulfill requirements of these rules or any permit issued under these rules. Monitoring methods specified in this section include sample collection, preservation, handling, analysis, and flow measurement.

1. A series of at least four grab samples is required when analyzing wastewater for pH, grease, and oil, total phenols, and sulfides. Samples for cyanide and volatile organics may be collected by the grab sampling technique described above or by an automatic sampler, using acceptable techniques. For other parameters, grab samples may be required when the wastewater flow is not continuous or when necessary to determine the instantaneous wastewater characteristics. Grab samples can be taken manually or automatically. Appropriate containers shall be used when collected grab samples.
2. Composite samples are formed by combining discrete samples collected either manually or by an automatic sampler. Each discrete sample shall have a minimum volume of at least 100 milliliters. Discrete samples can be composited using any of the following methods:

    a. Equal time intervals and equal volume samples.
    b. Equal time intervals and unequal volume samples.
    c. Unequal time intervals and equal volume samples.

3. When an equal time interval is used, the maximum sampling interval shall be 30 minutes. The composite sample volume shall be well mixed before sub sampling.

J. Sample Handling Procedures: All samples shall be contained, preserved and held in accordance with 40 CFR Part 136. The sample temperature shall be maintained at four (4) degrees Celsius, if necessary, from the time of collection until sample analysis is performed. When applicable, additional preservation shall be performed upon sample collection.

K. Industrial Discharge Monitoring Reports (IDMR's): A condition of the Industrial Discharge Permit shall include the completion and submittal of accurate routine self-monitoring reports to the Director in a

form subscribed to by the Director. The nature and frequency of routine reporting shall be based upon the requirements specified in the Discharge Permit.

1. The Director may modify the reporting schedule set forth in the Industrial Discharge Permit for a particular permittee based on the permittee's industrial waste characteristics. Permittee's subject to Pretreatment Standards shall submit reports to the City in accordance with the applicable Pretreatment Standards
2. Permittees shall submit complete IDMR's to the City such that the Director has received such reports on or before the 21st calendar day of the month following the end of each applicable reporting period, unless otherwise stated in the Industrial Discharge Permit. Any permittee not submitting a self-monitoring report by this date shall pay a late reporting fee as defined in 8-3-10.

L. Inspection and Sampling: The City may conduct such tests as are necessary to enforce this ordinance, and employees of the City may enter any property for the purpose of taking samples, obtaining information, or conducting surveys or investigations relating to such enforcement. Entry shall be made during operating hours unless circumstances require otherwise. In all cases where tests are conducted by the City for the purpose of determining whether the user is in compliance with regulations, the cost of such tests shall be charged to the user and added to the user's sewer charge. In those cases where the City determines that the nature or volume of a particular user's wastewater requires more frequent testing, the City may charge such user for the tests, after giving the user ten (10) days written notice of its intention to do so, and the cost thereof shall be added to the user's sewer charge.

1. Duly authorized employees of the City, the MPCA and the EPA bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this ordinance. Those employees shall have no authority to inquire into any processes except as is necessary to determine the kind and source of the discharge to the SCWWTS.
2. While performing the necessary work on private properties referred to in this ordinance, the authorized employees of the City shall observe all safety rules applicable to the premises established by the company.
3. Duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds an easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the SCWWTS lying within said easement. All entry and subsequent work, if any, on said easement shall be done in all accordance with the terms of the easement pertaining to the private property involved.

M. Testing Procedures: Testing procedures for the analysis of pollutants for permit applications and routine self-monitoring shall conform to the guidelines established in Code of Regulations, Title 40,Part 136 and Code of Federal Regulations, Title 40, Section 403.12 (g) of the Federal Pretreatment Regulations.

N. Report and Monitoring Discrepancies: A permittee shall be notified in writing by the Director of a significant discrepancy between the permittee's routine, self-monitoring records and the City's monitoring results within thirty (30) days after the receipt of such reports and monitoring results. The permittee shall then have ten (10) working days to reply in writing to such notification. If mutual resolution of such discrepancy is not achieved, additional sampling shall be performed by the City. Samples may be split between the permittee's laboratory or agent and the City's laboratory for analysis.

O. Wastewater Discharge Records: Wastewater discharge records shall be kept by the permittee for a period of not less than three (3) years. The permittee shall provide the Director reasonable access to these records during normal business hours. A permittee, subject to an applicable Pretreatment Standard, shall maintain all records required by the Code of Federal Regulations.

8-3-17**:** **PRETREATMENT:**

A. Compliance With Standards: Where pretreatment, flow equalizing facilities or interceptors are provided

for any water or wastes, they shall be effectively operated and maintained in satisfactory and effective condition by the owner and at the owner's expense and shall be available for inspection by City employees at all reasonable times.

1. Industrial Users shall achieve compliance with all Federal Categorical Pretreatment Standards within the time limitations as specified by the Federal Pretreatment Regulations. Industrial Users as required by their Industrial Discharge Permit shall submit to the Director for review detailed plans showing the pretreatment facilities at least sixty (60) days prior to initiation of construction. The Director shall approve the Industrial User's pretreatment plans if it appears that the proposed pretreatment facility is capable of meeting all applicable limitations.
2. The Director's review and approval shall in no way relieve the Industrial User from the responsibility of modifying the facility as necessary to produce an effluent complying with the provisions of these rules. Any subsequent modifications in the pretreatment facilities which will result in a substantial change in discharge shall be reported for approval by the Director upon a determination that the modified facility is capable of meeting all applicable limitations, prior to the modification of the existing facility.
3. Residual solids from a pretreatment facility shall not be disposed, directly or indirectly, into the SCWWTS without prior written approval from the Director. The disposal method shall be in accordance with local, State and Federal requirements. The Director shall be notified in writing within ten (10) days of any substantial changes in such residual solids disposal procedures and/or characteristics.

B. Separator and Trap Installations: Grease, oil and sand separators and traps shall be provided for at the owner's expense for the proper collection of waste containing excessive amounts of grease, oil, or sand. All trap installations shall be regularly cleaned and maintained for adequate performance. All records of separators and traps must be available for review by City personnel. The distance between the inlet and outlet of the separator or trap must be sufficient to allow gravity separation of solids. To prevent overloading, flow control baffles and any necessary inlet flow, control fitting shall be provided.

1. Separators and traps shall be maintained in efficient operation condition by periodic removal of any accumulated solids. Floating materials shall be removed before the accumulation is within two inches of the outlet. Settled solids shall be removed before the solids reach 75% of the trap or separator capacity. Solids removed from a separator or trap, for subsequent sewer disposal, shall be transported and discharged by a permitted liquid waste hauler.

8-3-18**:** **CONFIDENTIAL INFORMATION:**

A. User information obtained from reports, questionnaires, permit applications, permits, monitoring programs and from inspections shall be available to the public or other governmental agencies without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Director that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets.
B. When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this ordinance, the NPDES Permit, State Disposal System Permit, and/or the Pretreatment Program; provided, however, that such portions of a report shall be available for use by the State or any State agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.
C. Information accepted by the Director as confidential shall not be transmitted to any governmental agency or to the general public by the Director until and unless a ten (10) day notification is given to the user.

8-3-19**:** **SEVERABILITY AND CONFLICTS:**

A. Severability: If the provisions of any section, paragraph, or sentence of these rules shall for any reason be held to be unconstitutional or invalid by any court of competent jurisdiction, the provisions of the remaining sections, paragraphs and sentences shall nevertheless continue in full force and effect.
B. Conflicts: If conflicts arise between these rules or regulations previously adopted by the City, these rules, and the interpretations thereof, shall take precedence.

8-3-20**:** **ENFORCEMENT:**

A. Remedies Available: The Director may suspend the sewer system service and/or an Industrial Discharge Permit when such suspension is necessary, in the opinion of the Director, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, ~~to~~ the environment, or the SCWWTS, or would cause the City to violate any condition of its NPDES or SDS Permit. Any user notified of a suspension of the sewer system service and/or the Industrial Discharge Permit shall immediately stop the discharge. In the event of a failure of the user to comply voluntarily with the suspension order, the Director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the SCWWTS or endangerment to any individuals. The Director shall reinstate the Industrial Discharge Permit and/or the sewer system service upon proof of the elimination of the non-complying discharge.
B. Revocation of Permit: In accordance with the procedures of this ordinance, the Director may revoke the Permit of any user which fails to factually report the wastewater constituents and characteristics of its discharge; which fails to report significant changes in wastewater constituents or characteristics; which refuses reasonable access to the user's premises for the purpose of inspection or monitoring; or for violation of conditions of its permit, this ordinance, or applicable State and Federal regulations.
C. Notification of Violation: Whenever the Director finds that any person has violated or is violating this ordinance, Industrial Discharge Permit, Phosphorus Management Plan or any prohibition, limitation or requirement contained herein, the Director may serve upon such person a written notice stating the nature of the violation. Within ten (10) days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the City by the user.
D. Show Cause Hearing:

1. Notice of Hearing: If the violation is not corrected by timely compliance, the Director may order any user which causes or allows an unauthorized discharge to show cause before the City Council why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the City Council regarding the violation, the reason the action will be taken, the proposed enforcement action, and directing the user to show cause before the City Council why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least fourteen (14) days before the hearing. Service may be made on any agent or officer of a corporation.
2. Hearing Officials: The City Council may itself conduct the hearing and take the evidence, or may designate any of its members, administrative law judge, or any officer or employee of the (assigned department) to:

    a. Issue in the name of the City, notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.
    b. Take the evidence.
    c. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the City Council for action thereon.

3. Transcripts: At any hearing held pursuant to this ordinance, testimony taken must be under oath and recorded. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.
4. Issuance of Orders: After the City Council has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related

appurtenances shall have been installed or existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

E. Legal Action: If any person discharges wastewater, industrial wastes, or other wastes into the City's wastewater disposal system contrary to the provisions of this ordinance, Federal or State pretreatment requirements or any order of the City, the City Attorney may commence an action for appropriate legal and/or equitable relief.

8-3-21**:** **PENALTIES:**

A. Administrative Fines: Notwithstanding any other section of this ordinance, any user who is found to have violated any provision of this ordinance, or permits and orders issued hereunder, shall be fined in an amount not to exceed $1,000 per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Unpaid charges, fines and penalties shall constitute a lien against the individual user's property. Industrial Users desiring to dispute such fines must file a request for the City Finance Director to reconsider the fine within 10 days of being notified of the fine. Where the City Finance Director believes a request has merit, the Finance Director shall convene a hearing on the matter within 30 days of receiving the request from the Industrial User.
B. Criminal Penalties: Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be furnished by a fine of not more than $800, or by imprisonment not to exceed 90 days, or both.
C. Costs: In addition to the penalties provided herein, the City may recover court costs, court reporter's fees and other expenses of litigation by an appropriate action against the person found to have violated this ordinance or the orders, rules, regulations and permits issued hereunder.
D. Costs of Damage: Any person violating any of the provisions of this ordinance shall become liable to the City for any expense, loss, or damage. The Director may add to the user's charges and fees the costs assessed for any cleaning, repair, or replacement work caused by the violation or discharge. Any refusal to pay the assessed costs shall constitute a violation of this ordinance.
E. Falsifying Information: Any person who knowingly makes false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this ordinance, or Industrial Discharge Permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance, shall upon conviction, be punished by a fine of not more than $1000 or by imprisonment for not more than 90 days, or both.

8-3-21**:** **PUBLICATION OF SIGNIFICANT VIOLATIONS:** Public notification will occur at least annually in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the WWTF of Industrial Users which, at any time during the previous twelve (12) months, were in significant violation of applicable Pretreatment Standards or Pretreatment Requirements. For the purpose of this provision, an Industrial User is in significant violation if its violations meet one or more of the following:

A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken during a six (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or requirement, including instantaneous limits.
B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all the measurements taken for the same pollutant parameter during a six (6) month period equal or exceed the product of the a numeric Pretreatment Standard or requirement, including instantaneous limits times the applicable TRC (TRC = 1.4 for $_{C}BOD_{5}$, TSS, fats, oil and grease and TRC = 1.2 for all other pollutants except pH).
C. Any other violation of a Pretreatment Standard (daily maximum, longer term average, instantaneous limit or narrative standard) that the Director has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of City employees or the general public).
D. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment and has resulted in the necessity for the City to exercise its emergency authority under

40 CFR 403.8 (F)(1)(vii)(b) to halt or prevent such a discharge.

E. Violation, by ninety (90) days or more after the schedule date, of a compliance schedule milestone contained in a local control mechanism or enforcement order, for starting construction, completing construction, or attaining final compliance.

F. Failure to provide required reports such as baseline monitoring reports, self-monitoring reports and reports on compliance with compliance schedules, within forty-five (45) days of the due date.

G. Failure to accurately report noncompliance.

H. Any other violation or group of violations, which may include a violation of Best Management Practices, which the Director determines will adversely affect the operation or implementation of the local Pretreatment Program.

CHAPTER 4

SEWER SERVICE CHARGE SYSTEM

SECTION:

8-4-1: Purpose
8-4-2: Definitions
8-4-3: Sanitary Sewer User Rates
8-4-4: Determination Of Charges

8-4-1: **PURPOSE**: This Chapter provides for sewer service charges to recover costs associated with:

A. Operation, maintenance, and replacement to ensure effective functioning of the City's wastewater conveyance system.
B. Local capital costs incurred in the construction of the City's wastewater conveyance system.

8-4-2: **DEFINITIONS**: Unless the context specifically indicates otherwise, the meaning of the terms used in this Chapter shall be as hereafter designated:

ACT:	Federal Water Pollution Control Act, as amended.
ADMINISTRATION:	Those fixed costs attributable to administration of the wastewater conveyance works (i.e., billing and associated bookkeeping and accounting costs).
BIOCHEMICAL OXYGEN DEMAND OR BOD5:	The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees Centigrade (20°C) expressed in milligrams per liter.
CITY:	The area within the corporate boundaries of the City as presently established or as amended by ordinance or other legal actions at a future time.When used herein the term "City" may also refer to the City Council or its authorized representative.
COMMERCIAL USER:	Any place of business which discharges sanitary waste as distinct from industrial wastewater.
COMMERCIAL WASTEWATERS:	Domestic wastewater emanating from a place of business as distinct from industrial wastewater.
DEBT SERVICE CHARGE:	A charge levied on users of wastewater facilities for the cost of repaying money bonded to construct said facilities.
EXTRA STRENGTH WASTE:	Wastewater having a BOD and/or TSS greater than domestic as defined in "Normal Domestic Strength Wastewater", classified as an incompatible waste.
GOVERNMENTAL USER:	Users which are units, agencies, or instrumentalities of Federal State or local government discharging normal domestic strength wastewater.

INCOMPATIBLE WASTE:	Waste that either singly or by interaction with other waste interferes with any waste treatment process, constitutes a hazard to humans or animals, creates a public nuisance or creates any hazard in the receiving waters of the wastewater treatment works.
INDUSTRIAL USERS OR INDUSTRIES:	Entities that discharge into a publicly owned wastewater treatment works, liquid wastes resulting from the processes employed in industrial or manufacturing process or from the development of any natural resources. These are identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemental under one of the following divisions: Division A: Agriculture, forestry and fishing; Division B: Mining; Division D: Manufacturing; Division E: Transportation, communications, electric, gas and sanitary sewers; Division F: Services. For the purpose of this definition, domestic waste shall be considered to have the following characteristics: BOD5: Less than 21B mg/l Suspended Solids: Less than 240 mg/l Any nongovernmental user of a publicly-owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids or gases in sufficient quantity either singly or by interaction with other wastes, to contaminate the sludge of any municipal system, or injure or interfere with any sewage treatment process, or which constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.
INDUSTRIAL WASTEWATER:	The liquid processing wastes from an industrial manufacturing process, trade or business including but not limited to all Standard Industrial Classification Manual Divisions A, B, D, E and I manufacturers as distinct from domestic wastewater.
INSTITUTIONAL USER:	Users other than commercial, governmental, industrial or residential users discharging primarily normal domestic strength wastewater (e.g., nonprofit organizations).
NORMAL DOMESTIC STRENGTH WASTEWATER:	Wastewater that is primarily produced by residential users, with SOD5 concentrations not greater than 218 mg/l and suspended solids concentrations not greater than 240 mg/l.
OPERATION AND MAINTENANCE:	Activities required to provide for the dependable and economical functioning of the wastewater system throughout the design or

	useful life, whichever is longer, of the system, and at the level of performance for which the system was constructed. Operation and maintenance, including replacement.
OPERATION AND MAINTENANCE COSTS:	Expenditures for operation and maintenance including replacement.
PUBLIC SERVICE ENTERPRISE FUND:	A fund into which income from sewer service charges is deposited along with other income, including taxes intended to retire debt incurred through capital expenditures for wastewater facilities. Expenditures from the Public Service Enterprise Fund will be for operation, maintenance, and replacement costs and to retire debt incurred through capital expenditure for wastewater treatment.
PUBLIC WASTEWATER COLLECTION SYSTEM:	A system of sanitary sewers owned, maintained, operated and controlled by the City.
REPLACEMENT:	Obtaining and installing of equipment, accessories or appurtenances which are necessary during the design life or useful life, whichever is longer, of the wastewater system to maintain the capacity and performance for which such system was designed and constructed.
REPLACEMENT COSTS:	Expenditure for replacement.
RESIDENTIAL USER:	A user of the facilities whose premises or building is used primarily as a residence for one or more persons, including dwelling units such as detached and semi-detached housing, apartments and mobile homes; and which discharges primarily normal domestic strength sanitary wastes.
SANITARY SEWER:	A sewer intended to carry only liquid, and water carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm and surface waters which are not admitted intentionally.
SEWER SERVICE CHARGE:	The aggregate of all charges, including charges for operation, maintenance, replacement, debt service and other sewer related charges that are billed periodically to users of the City's wastewater facilities.
SHALL/MAY:	Shall is mandatory; may is permissive.
SLUG:	Any discharge of water or wastewater which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes, more than five (5) times the average twenty four (24) hour concentration or flow during normal operation and adversely affects the collection systems and/or performance of the wastewater treatment works.

STANDARD INDUSTRIAL CLASSIFICATION MANUAL:	Office of Management and Budget, 1972.
SUSPENDED SOLIDS (SS) OR TOTAL SUSPENDED SOLIDS (TSS):	The total suspended matter that either floats on the surface or is in suspension in water, wastewater or other liquids and is removable by laboratory filtering as prescribed in Standard Methods for the Examination of Water and Wastewater, latest edition, and referred to as nonfilterable residue.
TOXIC POLLUTANT:	The concentration of any pollutant or combination of pollutants as defined in standards issued pursuant to section 307(a) of the Federal Water Pollution Act, which upon exposure to or assimilation into any organism will cause adverse effects.
USER CHARGE:	A charge levied on users .of a wastewater system for the user's proportionate share of the cost of operation and maintenance including replacement.
USERS:	Those residential, commercial, governmental, institutional and industrial establishments which are connected to the public sewer collection system.
WASTEWATER:	The spent water of a community, also referred to as sewage. From the standpoint of source, it may be a combination of the liquid end water-carried wastes from residences, commercial buildings, industrial plants and institutions together with any ground water, surface water and storm water that may be present.
WASTEWATER TREATMENT WORKS, WASTEWATER SYSTEM OR WASTEWATER FACILITIES:	An arrangement of any devices, facilities, structures, equipment or processes owned or used by the City for the purpose of the transmission, storage, treatment, recycling and reclamation of Municipal sewage, domestic sewage or industrial wastewater, or structures necessary to recycle or reuse water including interceptor sewers, outfall sewers, collection sewers, pumping, power and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled water supply such as standby treatment units and clear well facilities; and any works including land which is an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

8-4-3: **SANITARY SEWER USER RATES:** Determination Of Rates: Sewer service rates and charges to users of the wastewater facilities shall be determined and fixed in a sewer service charge system developed with the assistance of the City Engineer and/or Public Works Director and shall be adopted by City fee schedule Ordinance.

8-4-4: **DETERMINATION OF CHARGES:**

A. User Classes: Users of the City wastewater facilities shall be identified as belonging to one of the following user classes:

1. Residential.

2. Commercial.

3. Industrial.

4, Institutional.

5. Governmental.

B. Allocation Of Users: The allocation of users to these categories for the purpose of assessing user charges and debt service charges shall be the responsibility of the Deputy Clerk, Allocation of users to user classes shall be based on the substantive intent of the definitions of these classes contained herein.

Deleted: Clerk-Treasurer

C. Proportionate Contribution:

1. Each user shall pay operation, maintenance, and replacement costs in proportion to the user's proportionate contribution of wastewater flows and loadings, with, the minimum rate for loadings of BOD and TSS being the rate established for concentrations of 218 mg/I BOO and 240 mg/I TSS (i.e., normal domestic strength wastewater).
2. Those industrial users discharging segregated normal domestic strength wastewater can only be classified as commercial users for the purpose of rate determination.

D. Billable Wastewater Volume: The charges assessed to residential users and those users of other classes discharging normal domestic strength wastewater shall be established proportionately according to billable wastewater volume. Billable wastewater volume shall be calculated as follows:

1. Residential Users:

   a. Calculation Of Charge: Each sewer user shall pay a base charge if connected to the city's sewer system. This rate shall be charged bimonthly as established by Council resolution. In addition, billable wastewater volume for residential users shall be calculated on the basis of metered water usage. The two (2) month billable wastewater volume for the summer months shall be the lesser of the actual metered water usage for that period, or the most recent two (2) month winter period (Dec/Jan or Feb/Mar, in the sole discretion of the City).
   b. Water Meters: The City requires residential users to install water meters. Wastewater users who are not connected to City water and therefore have no water meter will pay a flat sewer rate each billing period as established by the City's fee schedule Ordinance.

2. Nonresidential Users:

   a. Calculation Of Charge: Each sewer user shall pay a base charge if connected to the city's sewer system. This rate shall be charged bimonthly as established by Council resolution. In addition, billable wastewater volume for nonresidential users shall be calculated on the basis of the current metered water usage unless it is determined that seasonable fluctuations result in substantial amounts of water not entering the sanitary sewer system, in which case the bimonthly volume shall be based on the most recent two (2) month winter period. Proof of such fluctuation shall be borne by the user.

E. Additional Charges: The sewer service charges established in this Chapter shall not prevent the assessment of additional charges to users who discharge wastes with concentrations greater than normal domestic strength or wastes of unusual character or contractual agreements with such users, as long as the following conditions are met:

1. The user pays operation, maintenance and replacement costs in proportion to the user's proportionate contribution of wastewater flows and loadings to the treatment plant and no user is charged at a rate less than that of normal domestic strength wastewater.

CHAPTER 5

STORM WATER UTILITY

SECTION:

8-5-1: Storm Water Utility
8-5-2: Authority
8-5-3: Purpose
8-5-4: Rates and Charges

8-5-1: **STORM WATER UTILITY:** Chapter 5 of Title 8 of the City Code of Ordinances, entitled "Storm Water Utility" is hereby enacted.

8-5-2: **AUTHORITY:** Minnesota Statutes Section 444.075 establishes the authority for public utilities, including storm water system utilities.

8-5-3: **PURPOSE:** The purpose of this Ordinance is to establish a storm water utility to provide a method for funding services to protect and improve the quality of local water resources and to maintain compliance with the National Pollutant Discharge Elimination System Permit requirements propagated by the U.S. Environmental Protection Agency. This Ordinance applies to the entire City. The Council finds that the municipal storm water system should be operated as a public utility pursuant to Minnesota Statutes, from which revenues will be derived subject to the provisions of this Ordinance and Minnesota Statutes. The storm water utility will be part of the Public Works Department and under the administration of the Public Works Director.

8-5-4: **RATES AND CHARGES:** In determining charges, the Council may from time to time specify unit areas, residential equivalency factors, and unit rates to charge utility users based upon the volume of runoff estimated to be generated by various land uses within the City. As an alternative to that fee structure, when the Council determines the storm utility rate is set low enough that it does not warrant the administrative time and costs necessary to implement and monitor such a varying fee schedule, the Council shall from time to time establish a basic unit rate to be applied to each utility account of the City. The Council may also establish connection charges and other allowable fees for the operation and maintenance of the City's storm water system.

A. The following land uses are exempt from the storm water utility fees established herein:

    1. Publicly owned park lands, natural areas, and recreational fields.
    2. Railroad rights-of-ways.
    3. And other property exempt from the City's water and sewer utility billing.

B. Storm water utility fees will be collected by the City together with other City utility fees, in accordance with the procedures set forth in Title 8 of the City Code.
C. Delinquent and unpaid storm water utility fees may be certified to the County Auditor for collection with the real estate taxes in the same manner as other delinquent City utility charges as set forth in Title 8 of the City Code.

TITLE 9

BUILDING REGULATIONS

Subject	Chapter
Building Codes	1
Electrical Installations	2
Fire Codes	3

CHAPTER 1

BUILDING CODES

SECTION:

9-1-1 Purpose
9-1-2 Codes Adopted By Reference
9-1-3 Application, Administration and Enforcement
9-1-4 Permits and Fees
9-1-5 Violations and Penalties
9-1-6 Building Code Optional Chapters

9-1-1: **PURPOSE:** The purpose of this ordinance is to provide 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; to provide for the issuance of permits and collection of fees thereof; to provide penalties for violation thereof; to repeal all ordinances and parts of ordinances that conflict therewith. This ordinance shall perpetually include the most current edition of the Minnesota State Building Code with the exception of the optional appendix chapters. Optional appendix chapters shall not apply, unless specifically adopted.

9-1-2: **CODES ADOPTED BY REFERENCE:** The Minnesota State Building Code, as adopted by the Commissioner of Labor and Industry pursuant to Minnesota Statutes chapter 326B, including all of the amendments, rules and regulations established, adopted, and published from time to time by the Minnesota Commissioner of Labor and Industry, through the Building Codes and Standards Unit, is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this ordinance. The Minnesota State Building Code is hereby incorporated in this ordinance as if fully set out herein.

9-1-3: **APPLICATION, ADMINISTRATION AND ENFORCEMENT:** The application, administration, and enforcement of the code shall be in accordance with the Minnesota State Building Code. The code shall be enforced within the extraterritorial limits permitted by Minnesota Statutes, 326B.121, Subd. 2(d), when so established by this ordinance.

The code enforcement agency of this City is called the Building Department.

This code shall be enforced by the Minnesota Certified Building Official designated by this City to administer the code in accordance with Minnesota Statutes 326B.133, Subd. 1.

9-1-4: **PERMITS AND FEES:** The issuance of permits and the collection of fees shall be as authorized in Minnesota Rules Chapter 1300. Permit fees shall be assessed for work governed by this code in accordance with the City of Sartell fee schedule adopted by the City Council. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with Minnesota Statutes 326B.148.

9-1-5: **VIOLATIONS AND PENALTIES:** Any person violating any provision of this ordinance is guilty of a misdemeanor and subject to penalty as provided in Title 1 of this Ordinance.

9-1-6: **BUILDING CODE OPTIONAL CHAPTERS:** Minnesota State Building Code, Chapter 1300 allows the City to adopt by reference and enforce certain optional chapters of the most current edition of the Minnesota State Building Code.

CHAPTER 2

ELECTRICAL INSTALLATIONS

SECTION:

9-2-1: Purpose
9-2-2: Authority to Inspect
9-2-3: Adopted By Reference
9-2-4: Compliance
9-2-5: Permits and Fees
9-2-6: Violations and Penalties

9-2-1: **PURPOSE:** The purpose of this ordinance is to continue an electrical inspections program in the City of Sartell that is administered and enforced by the City.

9-2-2: **AUTHORITY TO INSPECT:** The City of Sartell hereby provides for the inspection of all electrical installations, pursuant to Minn. Stat. Section 326B.36, Subd.6.

9-2-3: **ADOPTED BY REFERENCE:** The Minnesota Electrical Act, as adopted by the Commissioner of Labor and Industry pursuant to Minnesota Statutes Chapter 326B, Section 326B.31 to 326B.399, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Labor and Industry, through the Construction Codes and Licensing Division, is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this ordinance. The Minnesota Electrical Act is hereby incorporated in this ordinance as if fully set out herein.

9-2-4: **COMPLIANCE:** All electrical installations shall comply with the requirements of the electrical code of the City of Sartell and this Ordinance.

9-2-5: **PERMITS AND FEES:** The issuance of permits and the collection of fees shall be as authorized in Minnesota Statutes 326B.37. Any inspection or handling fees will be payable to the City of Sartell following the MN Department of Labor and Industry fee schedule.

9-2-6: **VIOLATIONS AND PENALTIES:** Any person violating any provision of this ordinance is guilty of a misdemeanor and subject to penalty as provided in Title 1 of this Ordinance.

CHAPTER 3

FIRE CODES

SECTION:

9-3-1: Adoption of State Code
9-3-2: Definitions
9-3-3: Enforcement
9-3-4: Amendments to the Minnesota State Fire Code
9-3-5: Permits
9-3-6: Penalties

9-3-1: **ADOPTION OF STATE CODE:** The Minnesota State Fire Code, as adopted pursuant to Minnesota Statutes, section 299F.011, and as modified by Minnesota Rules, Chapter 7511, shall be applicable within the City of Sartell.

9-3-2: **DEFINITIONS**

Jurisdiction: Wherever the word "jurisdiction" is used in the Minnesota State Fire Code, it shall mean the City of Sartell.

This Code: Whenever the term "this code" is used in the Minnesota State Fire Code or this ordinance, it shall mean the code adopted pursuant to this ordinance.

9-3-3: **ENFORCEMENT**

A. The chief of the fire department is authorized to enforce the provisions of the Minnesota State Fire Code and this ordinance.
B. The chief of the fire department may detail such members of the fire department as may be necessary to administer and enforce the provisions of this ordinance.

9-3-4: **AMENDMENTS TO THE MINNESOTA STATE FIRE CODE:**

The following appendices are hereby adopted:

A. Appendix B FIRE-FLOW REQUIREMENTS FOR BUILDINGS, except for the last sentence of the Exception to Section B105.2
B. Appendix C FIRE HYDRANT LOCATIONS AND DISTRIBUTION
C. Appendix D FIRE APPARATUS ACCESS
D. Appendix E HAZARD CATEGORIES
E. Appendix F HAZARD RANKINGS
F. BARBECUES AND DECK FIRES

9-3-5: **PERMITS:** Permits are required for the following:

A. Operational Permits

1. Carnivals and fairs
2. Exhibits and trade shows
3. Explosives
4. Open burning
5. Pyrotechnic special effects material

B. Construction Permits

1. Automatic fire-extinguishing systems

Deleted: BARBECUES AND DECK FIRES:¶
¶
Multi-Family Dwellings:¶
¶
a. Use Restricted: No persons shall construct, erect, install or use any incinerator or barbecue, nor kindle or maintain any open flame, charcoal, dispose of any smoking materials or other material on any balcony or patio which is attached to or is within fifteen feet (15') of any apartment building in which there are two (2) or more separate living units on more than one level unless the separate living units each have their own private means of ingress and egress.¶
¶
b. Storage Prohibited: No person shall store or use any charcoal, lighter fluid, natural gas, fuel, torch, barbecue grill or other similar heating or lighting chemical or device in any place where fire, open flame or electric heating element is prohibited in subsection A1 of this Section.¶
Penalty: Any person who shall violate any of the provisions of this Section shall be guilty of a misdemeanor each day the violation continues and be charged with any applicable fire department fees. (Ord. 90-3, 6-11-1990) (MN Statute 88.195 Sub Dv. 3)¶

2. Fire alarm and detection systems and related equipment
3. Fire pumps and related equipment
4. Private fire hydrants
5. Standpipe systems
6. Hazardous materials

9-3-6: **PENALTIES**: Any person violating any provision of this ordinance is guilty of a misdemeanor and subject to penalty as provided in Title 1 of this Code.

TITLE 10

ZONING REGULATIONS

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CHAPTER 1

TITLE, INTENT, AND JURISDICTION

SECTION:

10-1-1 Title
10-1-2 Intent; Purpose
10-1-3 Jurisdiction
10-1-4 Application; Interpretation
10-1-5 Separability

10-1-1: **TITLE**: This Title shall be known as the CITY OF SARTELL ZONING ORDINANCE and will be referred to herein as "this Title."

10-1-2: **INTENT; PURPOSE**

A. Generally: This Title is adopted for the purpose of:

1. Protecting the public, health, safety, morals, comfort, convenience, and general welfare.
2. Dividing the Municipality into zones and districts restricting and regulating therein the location, construction, reconstruction, alteration, and use of structures and land.
3. Promoting orderly development of the residential, business, and industrial districts.
4. Providing adequate light, air, and convenience of access to property by regulating the construction of buildings to control density of population.
5. Providing for the compatibility of different land uses and the most appropriate use of land within the Municipality.
6. Providing for the administration of this Title and amendments thereto, defining the powers and duties of the administrative officers and governing bodies as provided hereinafter.
7. Prescribing the penalties for the violation of the provisions of this Chapter.

B. Adult Use Zoning Regulations

1. The purpose and intent of the adult use regulations set forth in this Title is to serve a substantial government interest by attempting to preserve the quality and vitality of neighborhoods, curtail the depression of property values, restrain increased criminal activity and slow the spread of sexually transmitted diseases.
2. "Adult use establishments", as defined by this Title, because of their very nature, are recognized as having serious objectionable operational characteristics that may be harmful to the use and enjoyment of adjacent areas. These secondary effects are especially evident where such uses are concentrated.
3. One of the Title's objectives is to disperse the adult uses through separation requirements from other adult uses and from other significantly incompatible uses. This Title allows adult uses only in I-2, Heavy Industrial Districts. Those areas are located throughout the City and provide opportunity for sites with visibility and access to major streets and highways.

4. The secondary effects associated with adult uses include: an increased level of criminal activity, increased risk of exposure to sexually transmitted diseases, depression of property values and a significant change in character of the surrounding neighborhoods.
5. However, it is recognized that such regulations cannot de facto approach prohibition. Otherwise, a protected form of expression would vanish. The adult use regulations set forth in this Title represent a balancing of competing interests: reduction of objectionable secondary effects through the regulation of adult uses versus the protected rights of the owners, operators, performers, and patrons of those adult uses.
6. Adult Establishment Standards.

    a. Adult entertainment establishments shall only be allowed as permitted in the applicable zoning classification.
    b. Adult entertainment establishments shall not sell or dispense intoxicating or non-intoxicating liquors, nor shall they be located in a building which contains a business that sells or dispenses non-intoxicating or intoxicating liquors.
    c. Adult entertainment establishment business shall not be conducted in a manner that permits the perception or observation from any property not approved as an adult use of any materials depicting, describing or related to "specified sexual activities" or "specified anatomical areas" by any visual or auditory media, including display, decoration, sign, show window, sound transmission or other means.
    d. Adult entertainment establishments shall prominently display at the entrance and located within two feet of the door-opening device of the establishment a sign which states "This business sells or displays material containing adult themes. Persons under eighteen (18) years of age shall not enter.
    e. No person under the age of eighteen (18) shall be permitted on the premises, and no person under the age of eighteen (18) shall be permitted access to material displayed or offered for sale or rent by adult entertainment establishments.

10-1-3: **JURISDICTION**: The jurisdiction of this Title shall apply to all of the area within the corporate limits of the City.

10-1-4: **APPLICATION; INTERPRETATION:**

A. Minimum Requirements: in their application and interpretation, the provisions of this Title shall be held to be the minimum requirements for the promotion of public health, safety, and welfare.
B. Higher Standards Prevail: Where the conditions of imposed by any provision of this Title are either more or less restrictive than comparable conditions imposed by any law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive, or which impose higher standards or requirements shall prevail.
C. Wherein a use is not specifically identified herein, the use shall be considered prohibited.
D. Conformance Required:

    1. No structure shall be erected, converted, enlarged, reconstructed or altered without first obtaining a building permit, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with the provisions of this Title.
    2. Except as herein provided no building, structure, or premises shall hereafter be used or occupied and no building permit shall be granted that does not conform to the requirements in this Title.

Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9 the City of Sartell opts-out of the requirements of Minn. Stat. 462.3593, which defines and regulates Temporary Family Health Care Dwellings.

10-1-5: **SEPARABILITY:**

A. If any court of competent jurisdiction shall judge any provision of this Title to be invalid, such judgment shall not affect any other provisions of this Title not specifically included in said judgment.
B. If any court of competent jurisdiction shall judge invalid the application of any provision of this Title to a particular property, building or other structure, such judgment shall not affect the application of said provision to any other property, building or structure not specifically included in said judgment.

CHAPTER 2

RULES AND DEFINITIONS

SECTION:

10-2-1: Rules
10-2-2: Definitions

10-2-1: **RULES**: The language, set forth in the text of this Title shall be interpreted in accordance with the following rules:

A. The singular includes the plural, and the plural includes the singular.
B. The present tense includes the past and the future tense. The future tense includes the present.
C. The word "shall" is mandatory, the word "may" is permissible.
D. A word or term appearing in the text of this Title shall be interpreted as to its meaning in accordance with the definitions contained in this Chapter.

10-2-2: **DEFINITIONS**: For the purpose of this Title, certain words and terms are herein defined:

ABUTTING:	Making contact with or separated only by public thoroughfare railroad or public right-of-way.
ABANDONED SIGN:	A sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product, or activity, and/or for which no legal or owner can be found.
ACCESSORY APARTMENT:	A separate dwelling unit contained within an existing single-family structure, to be occupied by another individual(s) as a separate, complete housekeeping unit, subject to the permit procedures and criteria of Section 10-8-12 of this Title. The existence of separate cooking facilities shall distinguish an accessory apartment from the renting of rooms for lodging purposes.
ACCESSORY BUILDING:	A subordinate building or structure on the same lot, or immediately adjacent lot, or part of the main building exclusively occupied by or devoted to a use incidental to the main use.
ACCESSORY USE:	A use subordinate to the principal use on the same lot, or immediately adjacent lot, and customarily incidental to the main use.
ADDITION:	An extension or increase in floor area or height of a building or structure.
ADULT ARCADE:	An establishment where, for any form of consideration, one or more motion picture projectors, slide projectors or similar machines for viewing by five (5) or fewer persons each are used to show films,

motion pictures, video cassettes, slides or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE: An establishment that has a substantial portion of its stock in trade and offers for sale, for any form of consideration, any one or more of the following:

A. The singular Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or
B. Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

ADULT CABARET: A nightclub, bar, restaurant or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities or films, motion pictures, video cassettes, slides or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

ADULT MOTION PICTURE THEATER: An establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

ADULT THEATER: A theater, concert hall, auditorium or similar establishment characterized by (activities featuring) the exposure of specified anatomical areas or by specified sexual activities.

ADULT USE ESTABLISHMENTS: Adult use establishments include, but are not limited to, adult arcade, adult bookstore, adult cabaret, adult motion picture theater, adult theater or sexual encounter establishment.

AGRICULTURAL BUILDING: A structure constructed on a minimum of ten (10) acres of agricultural land and designed to house farm implements (not a parking garage) livestock (which does not include horses and the commercial boarding of horses) and/ or “agricultural products”. Agricultural buildings shall not be used for human habitation, retail sales, mini storage, riding lessons, livestock shows, etc. however the building can serve as a place of employment for persons working with the agricultural

products and those engaged in the pickup or delivery.

ALLEY: A public right of way which affords a secondary means of access to abutting property.

ANIMATED SIGN: A sign or display manifesting either kinetic or illusionary motion occasioned by natural, manual, mechanical, electrical, or other means. Animated signs include the following types:

A. Electrically illuminated signs whose motion or visual energized impression of motion is activated primarily by electrical means.
B. Flashing Signs: Illuminated signs exhibiting a pre-programmed repetitious cyclical interruption of illumination from one or more sources in which the duration of the period of illumination (on phase) is either the same as or less than the duration of period of darkness (off phase), and in which the intensity of illumination varies from zero (off) to one hundred percent (100%) (on) during the programmed cycle.
C.. Illusionary Movement Sign: Illuminated signs exhibiting the illusion of movement by means of pre-programmed repetitious sequential switching action in which illuminated elements of the sign are turned on or off to visually simulate the impression of motion characteristic of chasing, running, blinking, oscillating, twinkling, scintillating, or expanding and contracting light patterns.
D. Mechanically Energized Signs: manifesting a repetitious pre-programmed physical movement or rotation in either one or a series of plans activated by means of mechanically based drives.
E. Naturally Energized Sign: Signs whose motion is activated by wind or other atmospheric impingement. Wind driven signs include banners, pennants, streamers, spinners, metallic disks, or other devices designed to move in the wind.

ANTENNA: Equipment located on the exterior of, or outside of any building or structure and used for transmitting or receiving telecommunications.

APARTMENT: A multiple-family building containing dwelling units in a stacked configuration having common walls and floors/ceilings.

ASSISTED AND CONGREGATE CARE HOUSING: A multiple dwelling which typically provides at least one meal per day for each of its residents and may include other supportive services including, but not limited to, housekeeping, home health care, and transportation.

AUTOMOBILE DEALERSHIP: A business that sells or leases new or used automobiles, trucks, or vans. An automobile dealership may include ancillary on-site repair and service of vehicles sold or leased by the dealership.

AUTOMOBILE REDUCTION YARD: A lot or yard where one or more unlicensed motor vehicles, or the remains thereof, are kept for the purpose of dismantling, wrecking, crushing, sale of parts, sale of scrap, storage or abandonment.

AUTOMOBILE REPAIR SHOP: A shop or place of business for repair and maintenance of automobiles, trucks and other automotive equipment.
Salvage and junk shall not be kept, stored or worked on in an auto repair shop.

AUTOMOBILE REPAIR, MAJOR: General repair, rebuilding or reconditioning of engines, motor vehicles or trailers, including body work, framework, welding and major painting service for any type of vehicle and any type of repair of licensed dump trucks, tow trucks, semi tractors or trailers, tank trucks, tractors, buses, construction vehicles or equipment or earth moving vehicles or equipment.

AUTOMOBILE REPAIR, MINOR: Replacement of any part or repair of any part which does not require removal of the engine head or pan, engine transmission or differential; incidental body and fender work, minor painting and upholstering service. This definition is applied to passenger vehicles but does not include dump trucks, tow trucks, semi tractors or trailers, tank trucks, tractors, buses, construction vehicles or equipment or earth moving vehicles or equipment.

AWNING: Any architectural projection that provides weather protection identity or decoration and is wholly supported by the building to which it is attached. An awning is comprised of a lightweight, rigid skeleton structure over which a covering is attached.

BALCONY: A floor projecting from and supported by a structure by a structure without additional independent supports.

BANNER SIGN: A sign made of fabric, or any nonrigid material with no enclosing framework.

BASEMENT: A portion of a building located partially underground but having one-half (1/2) or less of its clear floor-to-ceiling height below the average grade of the adjoining ground. Basements, except portions used for garages, shall be used in arriving at total gross floor area.

BED AND BREAKFAST: An owner occupied single family residence that provides overnight accommodations to a limited number of visitors for a chance for a charge, not to exceed a stay of seven consecutive nights.

BLUFF: A topographic feature such as a hill, cliff, or embankment having all of the following characteristics:

A. Part of all of the feature is located in a shoreland area;
B. The slope rises at least 25 feet above the ordinary high water

level of the waterbody;

C. The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and
D. The slope must drain toward the waterbody. An area with an average slope of less than 18 percent over a distance of 50 feet or more shall not be considered part of the bluff.

BLUFF IMPACT ZONE: A bluff and land located within 20 feet from the top of the bluff.

BOARDING HOUSE: Any dwelling other than the motel or hotel where, by prearrangement, meals or lodging are provided for five (5) or more persons.

BOUNDARY LINES: Any line indicating the bounds or limits of any tract or parcel of land; also, a line separating the various use districts as shown on the Zoning Map.

BUFFER: A strip of land intended to create a physical and/or visual separation between potentially incompatible uses of land.

BUILDABLE AREA: That part of the lot remaining after required yards have been provided but not including floodways, wetlands, public rights-of-way, surface waters, bluffs and/or areas deeded to the public.

BUILDING COVERAGE: The area of the lot covered by the building(s).

BUILDING PRINCIPAL: A building or structure in which is conducted the main or principal use of the lot on which said building r structure is situated.

BUILDING SETBACK LINE: The front line of the building of the legally established line which determines the location of the building with respect to the minimum measured distance from the public right-of-way. Said line shall be measured from the public right-of-way on which the structure fronts.

BUILDING: Any structure providing shelter for persons, animals or chattel of any kind. When separated by bearing walls without openings, each portion so separated shall be considered as a separate building.

BUISNESS: Any establishment, occupation, employment or enterprise where merchandise is manufactured, exhibited or sold, or where services are offered for compensation.

CALIPER: The length in inches of a parallel line measured through the trunk of a tree at a height of thirty (30) inches above the ground.

CAMPING TRAILERS: Any of the following:

A. Camping Trailer: A folded structure, mounted on wheels and designed for travel, recreation and vacation uses.

B. Motor Home: A portable, temporary dwelling to be used for travel, recreation and vacation, constructed on an integral part of a self-propelled vehicle.
C. Pickup Coach: A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.
D. 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.

CELLAR: That portion of a building having more than half of the clear floor-to-ceiling height below the average grade of the adjacent ground. It shall not be included in arriving at the total gross floor area.

CHANGEABLE SIGN: A sign whose informational content can be changed or altered by manual or electric, electro-mechanical, or electronic means. Changeable signs include the following types:

A. Electronically Activated: Signs whose alphabetic, pictographic, or symbolic informational content can be changed or altered on a fixed display surface composed of electrically illuminated or mechanically driven changeable segments. Includes the following two (2) types.
B. Fixed Message Electronic Signs: Signs whose basic informational content has been pre-programmed to include only certain types of information, such as time, temperature, predictable traffic conditions, or other events subject to prior programming.
C. Manually Activated: Signs in which informational content can be altered by a manual means.
D. Computer Controlled Variable Message Electronic Signs: Signs whose informational content can be changed by computer-driven electronic impulses.

CHANNEL: A natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct water either continuously or periodically.

CHURCH: A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which buildings and uses are maintained and controlled by a religious body organized to sustain regular public worship.

CLUB OR LODGE: A nonprofit association of persons who are bona fide members paying annual dues, use of premises being restricted to members and their guests.

COMMERCIAL RECREATION: A bowling alley, cart track, jump center, golf, pool hall, vehicle racing or amusement, dance hall, skating, trampoline, theatre, firearms

range, boat rental, amusement rides, bingo halls, campgrounds, RV park, live music, dancing and similar uses.

COMMERCIAL MOTOR VEHICLE: A motor vehicle or combination of motor vehicles used to transport passengers or property if the motor vehicle: has a gross vehicle weight of more than 26,000 pounds; has a towed unit with a gross vehicle weight of more than 10,000 pounds and the combination of vehicles has a combined gross vehicle weight of more than 26,000 pounds; is a bus; is of any size and is used in the transportation of hazardous materials, except for those vehicles having a gross vehicle weight of 26,000 pounds or less and carrying in bulk tanks a total of not more than 200 gallons of liquid fertilizer and petroleum products; or is outwardly equipped and identified as a school bus, except for school buses defined in Mn. Rules, Section 169.01, Subd. 6(5) as may be amended.

COMMERCIAL USE: Any use occurring and permitted within a business or commercial district.

COMPREHENSIVE PLAN: The Comprehensive Plan of the City of Sartell.

CONDITIONAL USE PERMIT: A permit specially and individually issued by the City Council in accordance with procedures specified in this Code and following review and recommendation by the Planning Commission, as a flexibility device to enable the City Council to assign dimensions to a proposed use or conditions surrounding it after consideration of adjacent uses, their functions, and the special problems which the proposed use may present.

CONDOMINIUM: The legal arrangement in which a dwelling unit in an apartment building or residential development is individually owned but in which the common areas are owned, controlled and maintained through an organization consisting of all the individual owners. Condominium ownership provides design flexibility and the sharing of responsibility through the use of common open spaces that are in addition to private open spaces.

CONSTRUCTION MATERIALS MANUFACTURED: A material which is created from constituent parts which are reduced, pulverized, chemically treated or otherwise altered and then combined in a manufacturing process to form a new material. Examples of such materials include but are not limited to chipboard, plywood, hardboard sheets, vinyl sheets, aluminum or steel sheets, stucco, brick, concrete, concrete block and pre-cast panels.

CONSTRUCTION MATERIALS, NATURAL: A non-manufactured material existing in nature which is prepared for use only by cutting, forming or machining. Examples of such materials include but are not limited to wood planks, timbers and stone.

CONSTRUCTION SIGNS:	A temporary sign identifying an architect, contractor, subcontractor, and/or material supplier participating in construction on the property on which the sign is located.
CONVENIENCE COMMERCIAL CENTERS:	A limited commercial office, retail, service outlet, which deals directly with the customer for whom the goods or services are furnished. The centers are to provide services or goods for the surrounding neighborhoods and are not intended to draw customers from the entire community.
CONVENIENCE FOOD ESTABLISHMENT:	An establishment which serves food in or disposable or edible containers in individual servings for consumption on or off the premises.
COOPERATIVE HOUSING:	A multiple family dwelling owned and maintained by the residents and subject to and as Defined by Mn. Statutes. The entire structure and real property are under common ownership as contrasted to a condominium dwelling where individual units are under separate individual occupant ownership.
COURT/COURTYARD:	An unoccupied open space which is bounded by the walls of the buildings.
CRAWL SPACE:	Shall have the definition given in the building code.
DAY CARE HOME, GROUP:	Any residence or portion of a residence licensed by the Department of Human Services under chapter 9502 for no more than 14 children at any one time, and must meet Group R, Division 3 occupancy requirements.
DAY CARE GROUP FACILITY:	A public or private facility, which for gain or otherwise regularly provides persons 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 person's own home for persons of school age or older.
DAY CARE, HOME FAMILY:	A residence or portion of a residence licensed by the Department of Human Services under chapter 9502 for no more than ten children at one time of which no more than six are under school age, and must meet Group R, Division 3 occupancy requirements.
DECK, OPEN	An accessory use structure consisting of an open platform structure elevated seven inches (7") or more above the average grade of the ground surface below the deck and containing no rails or walls.
DECK, RAILED	An accessory use structure consisting of a platform structure with rails or fencing material that extends a maximum of six feet (6') high from the platform and contains no roof.

DECORATIVE BLOCK:	A building block of cast concrete and aggregate rock that has a split-rock, brick-like, burnished, or ribbed texture on the side to be exposed, and is available in a variety of colors.
DEVELOPMENT PLAN:	A plan guiding the development of the property to the ultimate land use. The plan shall include, but not limited to: site analysis information, staging plan, grading plan, drainage plan and end use plan.
DISTRICT:	A section of the City for which the regulations governing the use of buildings and premises, the height of buildings, the size of yards, the intensity of uses is uniform for each class of use therein.
DIRECTIONAL/ INFORMATIONAL SIGN:	An on-premise sign giving directions, instructions, or facility information and which may contain the name or logo of an establishment but no advertising copy, e.g., parking or exit parking or exit and entrance signs. May contain logo provided that the logo may not compromise more than twenty percent (20%) of the total sign area.
DOG KENNEL:	Any premises where more than two (2) dogs over six (6) months of age are kept.
DRIVE-IN OR DRIVE-THRU:	An establishment which accommodates the patron's automobile from which the occupants may receive a service or in which products purchased from the establishment may be consumed on or off of the site.
DWELLING, ATTACHED:	A dwelling which is joined to other dwellings at both sides by party walls, as one of not more than eight (8) dwellings of a series arranged in a row, including the semi-detached dwellings at the ends.
DWELLING UNIT:	Any building or portion thereof which is designed or used exclusively for residential purposes.
DWELLING UNIT, QUADRUPLEX:	An attached multiple-family dwelling designed exclusively for occupancy by four (4) families/household units living independently of each other but sharing common ingress/egress, stairs, hallways, and other common areas.
DWELLING UNIT SINGLE	A dwelling unit designed exclusively for occupancy by one (1) family. A single-family dwelling unit may be of one of two types: A. Attached, meaning a dwelling which is joined to another at one or more sides by a common vertical wall, and so designed as to supply each unit separate ingress/egress. Attached units may be of row or town house types as opposed to multiple dwelling apartment structures. Attached units and/or lots may

be owned or rented.

B. Detached, meaning a dwelling unit not attached to another. No single structure shall contain in excess of six family dwelling units.

DWELLING UNIT, TOWNHOME:	A single-family dwelling unit constructed in a group of three or more attached units in which each unit extends from foundation to roof and with open space on at least two sides.
DWELLING UNIT TRIPLEX:	A multiple-family dwelling designed exclusively for occupancy by three (3) families/households living independently but sharing common ingress/egress, hallways, stairs and other common areas.
DWELLING UNIT, TWO FAMILY:	A dwelling designed exclusively for occupancy by two (2) families living independently of each other but sharing common ingress/egress such as a double bungalow (a two-family dwelling with two (2) units side-by-side) or a duplex (a two-family dwelling with one (1) unit above the other).
DWELLING, MULTIPLE (APARTMENT):	A building designed with three (3) or more dwelling units exclusively for occupancy by three (3) or more families living independently of each other, but sharing hallways, stairs, building entrances and exit and/or other common elements.
DWELLING, ZERO LOT LINE:	A single-family dwellings attached by a common wall in such a manner that the common/party wall is located on the common lot line (e.g., twin home).
EASEMENT:	A temporary or permanent grant by a property owner for the use of a strip or area of land, from the ground to the sky, for purposes including but not limited to the constructing and maintaining of utilities, sanitary sewer, water mains, electric lines, telephone lines, storm sewer or storm water drainage way, and gas lines.
ELECTRICAL SIGN:	A sign or sign structure in which electrical wiring, connections, or fixtures are used.
ESSENTIAL SERVICES:	The erection, construction, alteration or maintenance of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply, or disposal systems by public utilities, municipal or other governmental agencies.
EXTERIOR STORAGE:	The storage of goods, materials, equipment, manufactured products, and similar items not fully enclosed by a building.
EXTERIOR WALL FINISH:	A material or assembly of materials applied on the exterior side of exterior walls for the purpose of providing a weather resisting barrier, insulation or for aesthetics, including veneers, siding, exterior insulation and finish systems, architectural trim and embellishments

such as cornices, soffits, fascias, gutters and leaders.

EXTRACTIVE USE: The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, peat and/or similar materials.

FACE BRICK: A masonry building block or clay baked in a kiln until hard.

FAMILY CARE HOME: A residential structure typical of those in the neighborhood having a maximum of six residents needing the adult care and supervision of a "supervised residential program" or "social rehabilitation program," plus a minimum of two or more adults who operate the dwelling unit as a family home. The family care home typically may be a single-family detached dwelling, attached townhouse, rental or owned apartment, or similar unit to those of the immediate neighborhood where it is located. The unit must be acceptable to the licensing requirements of the state, federal government or other governmental licensing agency and the Minnesota Uniform Building Code.

FAMILY: An individual or two (2) or more persons each related to the other by blood, marriage, adoption, or foster care, or a group of not more than six (6) persons not so related maintaining a common household, excluding servants.

FARM: A tract of land of ten (10) or more acres in size usually with a house and barn plus other buildings on which crops and often livestock are raised for a principal source of livelihood.

FARMERS MARKET: An area used for the sale of produce grown by local and regional producers.

FEEDLOT: An enclosure for the feeding of poultry or livestock which is not normally used for pasture or crops and in which animal wastes may accumulate.

FENCE: Any partition, structure, wall or gate erected as a dividing mark, barrier or enclosure.

FILLING: The act of depositing any rock, soil, gravel, sand or other material so as to fill a waterbody, watercourse or wetland.

FLOOD AREAS: Land which is subjected to either permanent or temporary flooding from any cause whatsoever. This shall include lands which are flooded by overflowing streams, rivers or lakes or by heavy rainstorms or seasonal runoff (See Title 12 of this Code).

FLOOD FRINGE: That portion of the flood plain outside of the floodway.

FLOOD: A temporary rise in stream flow or stage that results in inundation of

the area adjacent to the channel.

FLOODPLAIN:	The channel or beds proper and areas adjoining a watercourse which have been or hereafter may be covered by a regional flood. Floodplain areas within the City shall encompass all areas designated as such by the Federal Emergency Management Agency.
FLOODWAY:	The channel of a watercourse, bed of a wetland or lake, and those portions of the adjoining floodplains reasonably required to carry and discharge a regional flood.
FLOOR AREA, GROSS:	The floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns or other features. The floor area of a building or portion thereof not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.
FLOOR AREA, NET:	The actual occupied area not including unoccupied accessory areas such as: corridors, stairways, toilet rooms, mechanical rooms, and closets.
FLOOR AREA:	The sum of the horizontal areas of the several floors of a building measured from the exterior walls including all floors, basements and attached accessory buildings.
FLOOR AREA (LIVABLE):	Livable floor area shall be the same as “floor area” defined above, excluding all areas occupied by garages, open and screened porches, decks, attics, stairways and storage, and utility and heating rooms.
FREESTANDING SIGN:	A sign supported permanently upon the ground by poles or braces and not attached to any building.
FRONTAGE:	The width of a lot or building site measured on the line separating it from the public street or way. (For the purpose of this Title, the front line of corner lots shall be considered to be the shortest street line.)
GARAGE, PRIVATE:	A garage with a capacity of not more than four (4) power driven vehicles for storage only, and which is erected as an accessory to a dwelling. Space to store up to two (2) vehicles, passenger only, may be rented to nonresidents.
GARAGE, PUBLIC:	A garage, except those described as a private or storage garage, used for the storage or care of power driven vehicles, or where any such vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.

GOVERNING BODY:	A group of persons elected by voters of the Municipality to govern the public affairs thereof. The term shall include town board of supervisors and also city councils.
GOVERNMENT SIGN:	Any temporary or permanent sign erected and maintained by the City, County, State, or Federal government for traffic direction or for designation of or direction to any school, hospital, historical site, or public service, property or facility.
HEIGHT:	The vertical distance measured from the entry grade (grade/ground level wherever the front door is located) to the peak of the building.
HOME OCCUPATIONS:	Any gainful occupation engaged in by occupants of the dwelling when the occupation is conducted within the principal structure, or the principal structure becomes the base of operation in accordance with the provisions of this Title.
HOTEL:	A building in which lodging is provided and offered to the public for compensation, and which is open to transient guests in contradistinction to a boarding house or lodging house.
HOSPITAL:	A health care facility, comprised of one or more structures on a single lot of record, licensed as a hospital by the State of Minnesota, providing primary health services, medical and surgical care to persons suffering from illness, disease, injury, deformity, infirmity or other abnormal physical or mental conditions and including, as an integral part of the facility, related facilities such as laboratories, diagnostic services, rehabilitation, medical imaging and community education.
HYDRIC SOILS:	Soils that are saturated, flooded or ponded long enough during the growing season to develop anaerobic conditions in the upper part.
ILLEGAL SIGN:	A sign which does not meet the requirements of this Code and which has not received legal nonconforming status.
ILLUMINATED SIGN:	A sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.
IMPERVIOUS SURFACE:	An artificial or natural surface through which water, air, or roots cannot penetrate, including but not limited to buildings, parking spaces, driveways, sidewalks, patios, decks, porches, pools and sports courts.
INDUSTRIAL SOLID WASTE:	Non-hazardous, nontoxic waste material resulting from an industrial operation. It shall not include garbage, refuse and other discarded materials, animal waste, fertilizer or solid or dissolved material from domestic sewage.
INDUSTRIAL	A facility permitted by the Minnesota Pollution Control Agency or its

STORAGE AND DISPOSAL FACILITY:	regulatory successor for the disposal of non-hazardous and nontoxic industrial solid waste.
JUNK YARD:	An area where used, waste, discarded or salvaged material is disassembled, including but not limited to scrap iron and other metal, paper, rags, rubber products, bottles and lumber. Storage of such material in conjunction with a permitted manufacturing process when within an enclosed area of building shall not be included.
LICENSED RESIDENTIAL FACILITY:	A facility as defined under Minnesota Statute 245A.02, as amended.
LAND DISTURBING ACTIVITY:	Any change of the land surface including, but not limited to removing vegetative cover, excavating filling, grading and/or the construction of any structure.
LAND RECLAMATION:	The process of the re-establishment of acceptable topography (i.e. slopes), vegetative cover, soil stability and the establishment of safe conditions appropriate to the subsequent use of the land.
LANDSCAPE MATERIALS:	Trees, shrubs and vines, sod, grass seed and other similar entities.
LICENSED RESIDENTIAL FACILITY:	A facility as defined under Minnesota Statute 245A.02, as amended.
LIGHTING, CUTOFF:	The point at which all light rays emitted by a lamp, light source or luminaire is completely eliminated (cutoff) at a specific angle above the ground.
LIGHTING, CUTOFF ANGLE:	The maximum angle formed by a line drawn in the direction of emitted light rays at the light source and a line perpendicular to the ground from the light source.
LIGHTING, FOOT CANDLE:	A unit of illumination produced on a surface, all points of which are one foot from a uniform point source of one-candle.
LIGHTING, FULL CUTOFF LUMINARIES:	A luminaire constructed or shielded to direct all light at a cutoff angle of less than 90 degrees. Also, referred to as a horizon limited luminaire.
LIGHTING, GLARE:	Direct light emitted from a light source which causes eye discomfort.
LIGHT POLLUTION:	The shining of light produced by a luminaire above the height of the luminaire and into the sky.
LIGHT TRESPASS:	The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.
LIGHTING, LUMINARY:	A complete lighting unit consisting of a light source and all necessary

	mechanical, electrical and decorative parts.
LIVABLE SPACE:	An area that is habitable for the entire year.
LOADING BERTH/DOCK:	An unobstructed area provided and maintained for the temporary parking of trucks and other motor vehicles for the purpose of loading and unloading goods, wares, materials and merchandise.
LOADING SPACE:	A space, accessible from a street, alley, railroad or way, in a building or on a lot, for the use of trucks while loading and unloading merchandise or materials.
LOT:	A parcel of land, abutting on or having access to a public street, being a lot designated in a recorded plat or a parcel occupied by a principal building upon the effective date of the ordinance codified in this Title, or being a parcel of record of sufficient size to provide the yards required by this Title.
LOT AREA:	The area of a horizontal plane within the lot lines.
LOT, BUILDABLE AREA:	That part of the lot remaining after required yards has been provided but not including floodways, wetlands, public rights-of-way, surface waters, bluffs and/or areas deeded to the public.
LOT, CORNER:	A lot situated at the intersection of two (2) or more streets.
LOT, COVERAGE:	The part or percentage of the lot occupied by buildings, structures and/or impervious surfaces, including accessory building/structures, parking lots, driveways, tennis courts etc.
LOT DEPTH:	The average distance between the front and the rear lines of a lot.
LOT, DOUBLE FRONTAGE (THROUGH LOT):	A lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.
LOT FRONTAGE:	That boundary abutting a public right-of-way having the least width.
LOT, INTERIOR:	A lot other than a corner lot.
LOT, LINE:	The property line bounding a lot.
LOT, LINE – FRONT:	That boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot, it shall be the shortest dimension on a public street.
LOT, LINE – REAR:	That boundary of a lot which is opposite the front lot line. If the rear lot line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet in length within the lot connecting the side lot lines and parallel to the front lot line.

LOT, LINE – SIDE:	Any boundary of a lot which is not a front lot line or a rear lot line or a lot line along a public street.
LOT OF RECORD:	A part of a subdivision approved by the city, the plat of which has been duly recorded in the office of the Register of Deeds or Registrar of Titles, prior to the adoption of this Ordinance which meets the minimum requirements of state law and all city ordinances in effect upon the date of the recording.
LOT, STANDARD:	A lot which meets the minimum lot area and lot width requirements as specified by the applicable zoning use district(s).
LOT, UNIT:	Lots created from the subdivision of a twin home, townhouse or quadraminium having different minimum lot size requirements than the conventional base lots within the zoning district.
LOT WIDTH:	The mean horizontal distance between the side lot lines of a lot, measured within the lot boundaries.
MAINTENANCE SIGN:	For the purposes of this Title, the cleaning, painting, repair, or replacement of defective parts of a sign in a manner that does not alter the basic copy, design, or structure of the sign.
MANUFACTURED HOME:	A structure, transportable in one or more sections, which in the traveling mode is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein; except that the term includes any structure which meets the requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary and complies with the standards established under this Title and which meets the Manufactured Home Builders Code as defined in Minnesota Statutes 327.32, subdivision 3.
MANUFACTURED HOME PARK:	Any site, lot, field, or tract of land upon which two (2) or more occupied manufactured homes are located, either free of charge or for compensation, including any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of the manufactured home park.
MANUFACTURING:	Combining machinery, tools, power and labor to bring material closer to a final state.
MANUFACTURING, HEAVY:	The manufacture, compounding, processing, packaging, treatment or assembly of products and materials that may emit objectionable, hazardous and/or offensive influences; including but not limited to: odors, material/byproduct discharges, dust, glare, ash, smoke,

	vibration, and noise beyond the lot on which the use is located.
MANUFACTURING, LIGHT:	Uses which include the manufacture, compounding, processing, packaging, treatment or assembly of products and materials provided such use will not generate objectionable and/or offensive influences; including but not limited to: odors, material/byproduct discharges, dust, glare, ash, smoke, vibration and noise beyond the lot on which the use is located.
MEDICAL AND DENTAL CLINIC:	A structure intended for providing medical and dental examinations and service available to the public. This service is provided without overnight care available.
MINING:	The extraction of sand, gravel, granite or other material from the land in the amount of 400 cubic yards or more and removal from the site.
MIXED USE:	A mixed use of business and residential uses, when located within a single structure.
MODEL HOME:	A single-family dwelling unit built and used by a builder to demonstrate quality of construction, floor plans, styles, and amenities that are to be available in other homes available for sale by the builder within a subdivision, following subdivision build-out, a model home shall be placed on the market and sold as residence.
MODULAR HOME:	A non-manufactured housing unit that is manufactured at a central factory and transported to a building site where final installations are made permanently affixing the unit to the site.
MOTEL:	Two (2) or more attached, detached or semi-detached buildings containing guestrooms or apartments, designed, intended or used for the accommodation of automobile travelers; including auto cabins, motor lodges, motor courts, automobile courts and similar designations.
MOTOR FREIGHT TERMINAL (TRUCK TERMINAL):	A building in which freight brought by motor truck is assembled and sorted for routing in intra-state and inter-state shipment.
MOTOR FUEL STATION:	A place where gasoline is stored only in underground tanks, kerosene or motor oil and lubricants or grease, for operation of automobiles, are retailed directly to the public on premises, and including minor accessories and services for automobiles, but not including automobile major repairs and rebuilding.
MULTIPLE FAMILY RESIDENTIAL:	Any dwelling which is joined to another dwelling typically at two or more sides by a common wall(s) and featuring a shared ingress/egress, facilities, hallways and/or other common areas.
MUNICIPALITY:	The governmental unit or area described in and governed by the

provisions of this Title. The term shall include unincorporated as well as incorporated areas.

NONCONFORMING SIGN: A nonconforming sign includes, but not limited to the following:

A. A sign which was erected that does not comply with the subsequently enacted sign restrictions and regulations.
B. A sign which does not conform to the Sign Code requirements but for which a special permit has been issued.

NON-CONFORMING STRUCTURE: Any lawfully established structure which on the effective date of this Ordinance does not conform to the applicable conditions if the structure was to be erected under the guidance of this Ordinance.

NONCONFORMING USE: A use lawfully in existence on the effective date of this Title but not conforming to the regulations for the district in which it is situated except as modified elsewhere in this Title.

NURSING HOME (REST HOME): A building having accommodations where care is provided for two (2) or more invalids, infirmed, aged convalescent or physically disabled persons that are not of the immediate family; but not including hospitals, clinics, sanitariums, or similar institutions in accordance with the regulations of the State Board of Health.

OFFICE BUILDING: A building designed or used primarily for office purposes, no part of which is used for manufacturing or for dwelling.

OFF-PREMISES SIGN: A sign structure advertising an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured, or furnished at the property on which said sign is located, e.g., "billboards" or "outdoor advertising".

ON-PREMISES SIGN: A sign which pertains to the use of the use of the premises and/or property on which it is located.

OPEN SALES LOT: Land devoted to the display of goods for sale, rent, lease, advertising or trade, where the goods are not enclosed within a building.

ORDINARY HIGH WATER LEVEL: The boundary of public waters, and wetlands 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 predominately 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.

OUTPATIENT CARE FACILITY: Medical examination or service available to the public provided without overnight care.

OWNER:	A person recorded as such on official records. For the purposes of this Title, the owner of property on which a sign is located is presumed to be the owner of the sign unless facts to the contrary are officially recorded or otherwise brought to the attention of the Administrator, e.g. a sign leased from a sign company.
PARCEL:	A lot, piece or portion of land designed by metes and bounds, registered land survey, auditor's plat or other means separated from other parcels and portions by said description for the purpose of separation thereof.
PARKING LOT:	Three or more parking spaces, along with the driveway connecting the parking spaces to the street or alley and permitting satisfactory ingress and egress of an automobile and the driving lane between or servicing the parking spaces.
PARKING RAMP:	An accessory structure designed and used for the storage of motor vehicles at, below and/or above grade.
PARKING SPACE:	An area of not less than one hundred eighty (180) square feet net, exclusive of access or maneuvering area, to be used exclusively as a temporary storage space for one private motor vehicle.
PATIO:	An at-grade ground covering consisting of interlocking brick, tile, cement, asphalt, or similar material. The term patio shall include any such area greater than 25 contiguous square feet in area, and which may be utilized for recreation (such as sport courts), entertaining, relaxation, or other purposes.
PATIO HOME/COTTAGE HOME:	A single family attached or detached unit and structure consisting of a one level living area.
PERFORMANCE STANDARD:	Criteria established to control height, bulk, setback, land coverage and density of buildings as well as noise, odor, toxic or noxious matter, vibration, fire, explosive hazards or glare or heat generated by or inherent in uses of land or buildings.
PERSON:	Any individual, corporation, firm, partnership, association, organization or other group acting as a unit. It also includes any executor, administrator, trustee, receiver or other representative appointed by law. Whenever the word "person" is used in any section prescribing a penalty or fine, it shall include partners, associates, or members of a corporation, who are responsible for the violation.
PLANNED UNIT DEVELOPMENT:	A large lot or tract of land developed as a unit rather than as individual development where in two or more buildings may be located in relationship to each other rather than to lot lines or zoning district boundaries.

PORCH/PATIO, OPEN: A building or portion thereof consisting of a platform structure with a roof, with or without rails or walls, that extends a maximum of four (4) feet high (excluding roof columns) from the platform, that contains no windows or screening materials.

PORCH/PATIO, SCREENED: A building or portion thereof consisting of a platform structure with a roof that is enclosed, in whole or part, by a screening or a permeable material (such as mesh, lattice or other similar open material) and containing no windows.

PORCH, THREE SEASON: A building that is fully enclosed by non-permeable materials (such as walls, doors, and/or windows) which is not served by a permanent heating system or fixtures.

PORCH, FOUR SEASON: A building that is fully enclosed by non-permeable materials (such as walls, doors, and/or windows) which is served by a permanent heating system or fixtures.

POLITICAL SIGN: A temporary sign used in connection with a local, state, or national election or referendum.

PORTABLE SIGN: Any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building.

PRECAST PANEL: A building wall section of concrete poured into a form at the manufacture facility and shipped to the construction site for installation.

PREMISES: A lot or plot with the required front, side and rear yards for a dwelling or other use as allowed under this Title.

PROCESSING: The crushing, washing, compounding or treating of rock, sand, gravel, minerals, organic materials, organic compounds, artificially created materials or materials similar in nature.

PROJECTING SIGN: A sign, other than a flat wall sign, which is attached to and projects from a building wall or other structure not specifically designed to support the sign.

PROTECTED WATERS: Any waters of the state which serve a beneficial public purpose, as defined in Mn. Statutes. However, no lake, pond or flowage of less than ten acres in size and no river or stream having a total drainage area less than two square miles shall be regulated for the purpose of these regulations. A body of water created by a private user where there was no previous shoreland, as defined herein, for a designated private use authorized by the Commissioner of Natural Resources shall be exempt from the provisions of this chapter. The official determination of the size and physical limits of drainage areas of rivers and streams shall be made by the Commissioner of Natural Resources. The official size of lakes, ponds or flowages shall be the

areas listed in the Division of Waters Bulletin 25, “An Inventory of Minnesota Lakes,” or in the event that lakes, ponds, or flowages are not listed therein, official determination of size and physical limits shall be made by the Commissioner of Natural Resources in cooperation with the municipality.

PUBLIC USE: Uses owned or operated by municipal, school districts, county, state, or other governmental units.

PUBLICATION: A notice placed in the official city newspaper stating time, location and date of meeting and description of topic.

REAL ESTATE SIGN: A temporary sign advertising the real estate upon which the sign is located as being for rent, lease or sale.

RECREATIONAL VEHICLE:
RECREATION SPORT VEHICLE: A vehicular or portable structure used for amusement, vacation or recreational activities, including but not limited to travel trailers, motor homes, camping trailers, boats, jet skis, ATV’s and snowmobiles.

RESIDENTIAL CARE FACILITY: A residential dwelling typical of those in the neighborhood having from 7 to 16 residents needing the adult care and supervision of a supervised residential program or social rehabilitation program plus a minimum of one adult supervisor for every four residents.

RESIDENTIAL DISTRICT: A zoning classification primarily providing for dwelling units.

RETAIL SALES: Establishments engaged in retailing merchandise, generally without transformation, and rendering services incidental to the sale of merchandise organized to sell merchandise in small quantities to the general public. Store retailers operate fixed point of sale locations, located and designed to attract a high volume of walk-in customers. In general, retail stores have extensive displays of merchandise and use mass-media advertising to attract customers. They typically sell merchandise to the general public for personal or household consumption, but some also serve businesses and institutional clients. These include establishments, such as office supply stores, computer and software stores, apparel stores and electronic stores. In addition to retailing merchandise, some types of store retailers are also engaged in the provision of after-sale services, such as repair and installation.

SACRED COMMUNITY: A residential settlement established on or contiguous to the grounds of a religious institution’s primary worship location primarily for the purpose of providing permanent housing for chronically homeless persons, extremely low-income persons, and designated volunteers as defined in Minn. Stat. 327.30.

SATELLITE DISH A parabolic shaped antenna (including all supporting

ANTENNA:	apparatus) located on the exterior of, or outside of, any building or structure and is used for receiving telecommunications, television or radio signals.
SCREENING:	An artificial barrier, vegetation, or topography which makes any structure on any property visually inconspicuous.
SETBACKS:	The minimum distance between the front, side, or rear lines of a building and the property line.
SEXUAL ENCOUNTER ESTABLISHMENT:	Adult use establishments include, but are not limited to, an establishment other than a hotel, motel or similar establishment offering public accommodations which, for any form of consideration, provides a place where two (2) or more persons may congregate, associate orconsort in connection with specified sexual activities or the exposure of specified anatomical areas. This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist or similar professional persons licensed by the State engages in sexual therapy.
SHOWROOM:	Any business wherein a family of related products and/or services are housed, enclosed, sold and exhibited directly to the customer or to other businesses.
SIGN:	Any device, structure, fixture, or placard using graphics, symbols, end/or written copy for the primary purpose of identifying, providing directions, or advertising any establishment, product, goods, or services.
SIGN, AREA IDENTIFICATION:	A freestanding sign or pylon which identifies the name of a neighborhood, a residential subdivision, a multiple-residential complex consisting of three (3) or more structures, a shopping center consisting of three (3) or more separate business concerns or an industrial area consisting of three (3) or more structures.
SIGN, BUSINESS:	A sign which directs attention to a business or profession conducted, or to a commodity, service or entertainment sold or offered on the premises on which such sign is located or to which it is affixed.
SIGN, DIRECTIONAL:	A sign erected on public or private property which bears the address and/or name of a business, institution, church or other use or activity plus directional arrows or information on location.
SIGN, FLASHING:	Any illuminated sign on which such illumination is not kept stationary or constant in intensity or in color at all times when such sign is in use.
SIGN, IDENTIFICATION:	Any sign which states the name and/or address or of the business or occupant of the lot or building where the sign is placed and may be a directory listing the names, addresses and businesses of occupants.

SIGN, ILLUMINATED: Any sign which has characters, letters, figures, designs or outlines illuminated by electric lights or luminous tubes as a part of the sign.

SIGN, INSTITUTIONAL: A sign or bulletin board which identifies the name and other characteristics of a public or private institution on the site where the sign is located.

SIGN, SURFACE AREA: The entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface, not including any structure elements outside the limits of such sign and not forming an integral part of the display.

SOLAR ENERGY SYSTEM: A solar array composed of multiple solar panels that convert sunlight to electricity, which is directly connected to the energy needs for the principal, permitted use of the property.

SOLAR GARDENS: A solar array composed of multiple solar panels that convert sunlight to electricity, which is not directly connected to the energy needs for a principal, permitted use of the property.

SPECIFIED ANATOMICAL AREAS: As used herein, specified anatomical areas means and includes any of the following:

A. Less than completely and/or opaquely covered human genitals, public region, buttocks, anus, or female breasts below a point immediately above the top of the areolae.
B. Human male genitals covered in a discernibly turgid state, even if completely and/or opaquely covered.

SPECIFIED SEXUAL ACTIVITIES: As used herein, specified sexual activities means and includes any of the following:

C. The fondling or other erotic touching of human genitals, public region, buttocks, anus, or female breasts.

D. Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy.

E. Masturbation, actual or simulated.

F. Excretory functions as part or in connection with any of the activities set forth in subsections A through C of this definition.

SPORT COURT: An outdoor facility that typically includes a paved playing surface for one or more sport activities such as, but not limited to, tennis, basketball, hockey, or volleyball.

STAND, ROADSIDE: A structure used only for the display and sale of products with no space for customers within the structure.

STEEP SLOPE:	Land where agriculture 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 these regulations. 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, that are not bluffs.
STORY:	The vertical distance from top to top of two successive finished floor surfaces; and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, were there is not a ceiling, to the top of the roof rafters.
STREET:	All property dedicated or intended for public street, highway, freeway or roadway purposes and subject to public easements theretofore.
STREET, ARTERIAL – PRINCIPAL:	The functional classification of streets placing highest emphasis on mobility as opposed to land access. Although various sections of roadway may vary in functional classification and characteristics, principal arterials generally carry large volumes of traffic and have right-of-way widths of 200 to 300 feet. Principal arterials in general have highly managed intersection spacing and control criteria, do not provide direct land access and do not allow for on–street parking. Large truck traffic is unrestricted. Principal arterial streets in the City of Sartell are defined in the Comprehensive Plan.
STREET, ARTERIAL – MINOR:	The functional street classification placing high emphasis on mobility as opposed to land access. Although various sections of roadway may vary in functional classification and characteristics, minor arterials generally carry a moderate volume of traffic and have right-of-way widths of 100 to 150 feet. Minor arterials in general have managed intersection spacing and control criteria, highly restrict direct land access and highly restrict on–street parking. Large truck traffic on minor arterial streets is generally unrestricted. Minor arterial streets in the City of Sartell are defined in the Comprehensive Plan.
STREET, COLLECTOR:	The functional classification of streets that places moderate emphasis on mobility and moderate emphasis on land access, may be major or minor collector. Although various sections of roadway may vary in functional classification and characteristics, collectors generally carry a modest volume of traffic and have right-of-way widths of 80 to 100 feet. Collector streets in general have managed intersection spacing, may employ traffic control measures, may somewhat restrict direct land access and may somewhat restrict on–street parking. Large truck traffic on collector streets is generally unrestricted. Collector streets in the City of Sartell are defined in the Comprehensive Plan.
STREET, LOCAL:	The functional classification of streets that places low emphasis on

	mobility and high emphasis on land access. Although various sections of roadway may vary in functional classification and characteristics, local streets generally carry a small volume of traffic and have right-of-way widths of 66 feet. Local streets in general have limited on-street parking restrictions, permit driveway accesses and restricts large truck traffic.
STORY:	That portion of a building included between the surface of any floor and the surface of the floor next above; or if no floor is above, the space between the floor and ceiling next above. A basement shall be counted as a story and a collar shall not be counted as a story.
STRIP MALL/SHOPPING CENTER:	A group of commercial establishments joined, planned, developed and managed as a unit related in location, size and type of shops that the unit serves. Each establishment will have a separate entrance at street level.
STRUCTURAL ALTERATION:	Any change in a building or structure affecting its supporting members such as bearing walls or partitions, beams, girders, etc., roofs or exterior walls included. Incidental repairs shall not be considered as alterations.
SUBDIVISION IDENTIFICATION:	A freestanding or wall sign identifying a recognized subdivision, condominium complex, or residential development.
TEMPORARY SIGN:	A sign not constructed or intended for long-term use.
TOP OF THE BLUFF:	The higher point of a 50-foot segment with an average slope exceeding 18 percent.
TOWER:	Any pole, spire or structure, or any combination thereof, to which an antenna is attached, or which is designed for an antenna to be attached, and all supporting lines, cables, wires and braces.
TOWNHOUSE:	A group of three (3) or more single-family residences attached one to the other with common sidewalls. These dwellings may be one story or two (2) story buildings, but each unit shall be designed and constructed to house single families. The design, construction or use of two (2) story units to house more than one family shall not be permitted.
USE:	The purpose for which a building, lot, sign, or structure is intended, designed, occupied, or maintained.
USE, ACCESSORY:	A use incidental or accessory to the principal use of the lot or a building located on the same lot as a building but detached there from.
USE, CONDITIONAL:	A use which because of unique characteristics cannot be properly classified as a permitted use in a particular district. After due consideration of each case, a public hearing, an examination of the

impact of such use upon a neighboring land and conditional use standards according to this Ordinance, the City Council may approve such use and/or attach conditions to the use. Conditional uses are itemized in individual zoning classes.

USE, INDUSTRIAL: The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

USE, INTERIM: A use which requires an interim use permit. Interim Use Permits are granted by the City Council for a specific period of time in accordance with procedures specified in this Ordinance.

USE, PRINCIPAL: The main use of land or buildings as distinguished from subordinate or accessory uses. A 'principal use' shall either be a permitted or a conditional or an interim use within the applicable zoning classification. There shall be only one principal use per lot.

UTILITY BUILDING: A nonpermanent structure on the same lot, or immediately adjacent lot, for the storage of domestic supplies.

WALL SIGN: A sign attached essentially parallel to and extending not more than twenty four (24) inches from the wall of a building with no copy on the sides or edges. This definition includes painted, individual letter, and cabinet signs, and signs on a mansard.

WAREHOUSING: The storage of goods, material, or equipment within an enclosed building as a principal use (30% or more of the gross floor area).

WATERBODY: A body of water (lake, pond) in a depression of land or expanded part of a river or an enclosed basin that holds water and is surrounded by land.

WATERCOURSE: A channel or depression through which water flows, such as rivers, streams or creeks and may flow year around or intermittently.

WATERSHED: The area drained by the natural and artificial drainage system, bounded peripherally by a bridge or stretch of high land dividing drainage areas.

WETLAND: An area where water stands near, at, or above the soil surface during a significant portion of most years, saturating the soil and supporting a predominantly aquatic form of vegetation, and which may have the following characteristics: a) Vegetation belonging to the marsh (emergent aquatic), bog, fen, sedge meadow, shrub land, southern lowland forest (lowland hardwood), and northern lowland forest (conifer swamp) communities. (These communities correspond roughly to wetland types 1, 2, 3, 4,6, 7, and 8 described by the United States Fish and Wildlife Service, Circular 39, "Wetlands of the U.S. 1971"). (Ref. Ord. 915, 12/13/94) b) Mineral soils with grey horizons

or organic soils belonging to the Histosol order (peat and muck). c) Soil which is water logged or covered with water at least three (3) months of the year. Swamps, bogs, marshes, potholes, wet meadows, and sloughs are wetlands, and such property, may be shallow water bodies, the waters of which are stagnant or actuated by very feeble currents, and may at times be sufficiently dry to permit tillage but would require drainage to be made arable. The edge of a wetland is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

WHOLESALE TRADE: Establishments engaged in wholesaling merchandise, generally without transformation, and rendering services incidental to the sale of merchandise. Wholesalers are organized to sell or arrange the purchase of (a) goods for resale (i.e., goods sold to other wholesalers or retailers), (b) capital or durable non-consumer goods, and (c) raw and intermediate materials and supplies used in production. Wholesalers sell merchandise to other businesses and normally operate from a warehouse or office. These warehouses and offices are characterized by having little or no display of merchandise. In addition, neither the design nor the location of the premises is intended to solicit walk-in traffic. Wholesalers do not normally use advertising directed at the general public. Customers are generally reached initially by telephone, in-person marketing, or by specialized advertising that may include the internet and/or other electronic means. Follow-up orders are either vendor-initiated or client-initiated, generally based on previous sales, and typically exhibit strong ties between sellers and buyers. Although, in general, wholesaling normally denotes sales in large volumes, durable non-consumer goods may be sold in single units. Sales of capital or durable non-consumer goods used in the production of goods and services, such as farm machinery, medium and heavy duty trucks, and industrial machinery, are always included in wholesale trade. (NAICS manual description).

YARD: An open space on a lot which is unoccupied and obstructed from its lowest level to the sky, except as otherwise permitted in this Title.

YARD, FRONT: A yard extending along the full width of the front lot line between side lot lines and from the abutting front street right of way to the front building line in depth.

YARD, REAR: That portion of the yard on the same lot with the principal building located between the rear building line and the rear lot line and extending the full width of the lot.

YARD, REQUIRED: That distance specified in the yard requirements pertaining to setbacks. Setbacks and required yards are used interchangeably.

YARD, SIDE: A yard between the side line of the lot and the nearest line of the building and extending from the front line of a lot to the rear yard.

CHAPTER 3

ZONING DISTRICTS; MAP

SECTION:

10-3-1: Establishment of Districts
10-3-2: Official Zoning Map
10-3-3: Recording of an Ordinance
10-3-4: Changes on Official Map
10-3-5: District Boundaries
10-3-6: Permitted Uses
10-3-7: Annexations

10-3-1: **ESTABLISHMENT OF DISTRICTS**: For the purpose of this Title, the Municipality is hereby divided into the following districts:

AG	-	Agricultural
R-R	-	Rural Residential
R-1	-	Single-Family Residence
R-2	-	Single and Multiple Family Residence
R-3	-	Multiple-Family Residence
R-4	-	Transitional District
R-5	-	Planned Unit Development
B-1	-	Reserved
B-2	-	General Business
B-3	-	Medical Professional
I-1	-	Light Industrial
I-2	-	Heavy Industrial

Deleted: A

Deleted: Large Lot Single Family Residential

Deleted: Single- or Two-Family Residence

10-3-2: **OFFICIAL ZONING MAP**: The boundaries of the districts established by this Title are delineated on a map. The map shall be kept by the City Administrator and/or his/her assigned and shall be available for public inspection. It shall be the responsibility of the City Administrator and/or his/her assigned to cause the map to be amended within thirty (30) days after amendments made by the governing body. The Official Zoning Map shall be identified by the signature of the City Administrator and/or his/her assigned under the following words: This is to certify that this map constitutes the Official Zoning Map of Sartell referred to in the Zoning Ordinance of the Municipality.

10-3-3: **RECORDING OF AN ORDINANCE**: Notice to the effect that the Ordinance codified in this Title and Zoning Map have been adopted, stating the date of adoption, and that same may be examined in the City Administrator and/or his/her assignee's office, shall be recorded in the offices of the County Recorders of Stearns and Benton Counties by the City Administrator and/or his/her assigned. The recorded notice shall serve as notice to the public of authorized property uses.

10-3-4: **CHANGES ON OFFICIAL MAP:** Changes of any nature shall be made on the Official Zoning Map except in conformity with the procedures set forth in this Title. Any unauthorized changes made by any person shall be considered a violation of this Title and punishable as provided in the enforcement section of this Title.

10-3-5: **DISTRICT BOUNDARIES:**

A. Boundary Lines: The boundaries between districts are, unless otherwise indicated, either the center line of streets, alleys, or railroad rights of way. These boundaries may also follow lot lines or other property lines as indicated on the Map and the center of streams, shoreline of rivers and the shoreline of lakes
B. Inundated Areas: All areas within the corporate limits underwater shall be subject to all of the regulations of the district which immediately adjoins the water area. (This should not be confused with areas subject to flooding as described elsewhere in this Title.
C. Parks, Playgrounds, Schools, Cemeteries, Etc.: Any area shown on the Zoning Map as a park, playground, school, cemetery, water, etc., shall be subject to the zoning regulations of the district in which they are located. In case of doubt, the zoning regulations of the most restrictive adjoining district shall govern.
D. Vacated Public Ways: Whenever any street, alley or other public way is vacated, the zoning district adjoining that of such vacated street, alley or public way shall be automatically extended to the center of such vacated area and all area included therein shall be then henceforth subject to all regulations of the extended district.

10-3-6: **PERMITTED USES**: In all cases where a use is neither specifically permitted nor denied, the use shall be considered prohibited. In such cases the use may be added as a permitted use upon approval by the City Council only after review by the Planning Commission. Such use shall be general in keeping with all of the permitted uses identified within the respective district.

10-3-7 **CHANGE IN USE**: All properties with a metes and bounds legal description that undergo development and/or redevelopment, regardless of the underlying Zoning District, shall be platted in accordance with Title 11, Chapter 3 of the City Code prior to or in conjunction with any request for site plan approval.

10-3-8 **ANNEXATIONS:**

A. Properties annexed to the which are greater than five (5) acres and/or are not part of an existing lot of record will automatically be zoned R-R – Rural Residential unless an application of a zoning district establishment is simultaneously submitted with the annexation petition and conforms to the criteria as addressed in 10-3-7.
B. Properties annexed to the City which are 5 acres or less and/or part of an existing lot of record will automatically be zoned R-1 – Single Family Residential unless an application of a zoning district establishment is simultaneously submitted with an annexation petition and conforms to the criteria as addressed in 10-3-7.

    1. Zoning District Establishment Criteria: In evaluating the suitability of a proposed zoning district, the Planning Commission and City Council will examine the following conditions:

        a. The proposed zoning and land use is in harmony with the objectives of the Comprehensive Plan.
        b. The availability and capacity of existing utilities, transportation needs and fire hydrant coverage on the property is adequate for the proposed zoning.

CHAPTER 4

ENFORCEMENT AND ADMINISTRATION

SECTION:

10-4-1: Enforcement
10-4-2: Planning Commission Report
10-4-3: Penalty

10-4-1: **ENFORCEMENT**: This Title shall be administered by the Zoning Administrator. The Planning and Community Development Director and/or his/her assigned shall be the Zoning Administrator. The Zoning Administrator shall require that the application for a building permit and the accompanying site plot plan contain all of the information necessary to ascertain whether the proposed building complies with the provisions of this Title. No building permit shall be issued until the Zoning Administrator and/or his/her assigned has certified that the proposed building or alteration complies with all provisions of this Title.

10-4-2: **PLANNING COMMISSION REPORT**: The Planning Commission report shall report to the governing body on any matter referred to said Planning Commission within thirty (30) days after such reference. After forty (40) days have elapsed, the governing body may proceed as prescribed herein without said Planning Commission report.

10-4-3: **PENALTY**

A. Violation: Any person who violates, disobeys, admits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of this Title shall be guilty of a misdemeanor. If the violator has not complied with said order within ten (10) days after being so served, the violator shall be guilty of a penal offense, and upon conviction thereof shall be punishable as a misdemeanor.
B. Continuing Violation: Each day that a violation continues to exist shall constitute a separate offense.
C. Civil Action: In the event of a violation or threatened violation of this Title, the City Council may direct the City Administrator and/or his/her assigned and City Attorney to institute appropriate action or proceedings to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the City Attorney to institute such legal action.

    1. Should civil action be needed, legal fees shall be paid by the property owner. If the fees are not paid, they shall be assessed to the property according to the current Assessment Policy.

CHAPTER 5

RESIDENTIAL DISTRICTS

ARTICLE A. AG AGRICULTURE DISTRICT:

SECTION:

10-5A-1:	Intent
10-5A-2:	Permitted Uses
10-5A-3:	Conditional Uses
10-5A-3.5:	Interim Uses
10-5A-4:	Permitted Accessory Uses
10-5A-5:	Lot, Area and Yard Requirements
10-5A-6	Animal Density Allowances
10-5A-7	Minnesota Agricultural Land Preservation Program
10-5A-8	Waste Utilization Plan

10-5A-1: **INTENT**: The agriculture district is intended to preserve the city's agricultural uses in order to protect farms, to maintain the city's small town character and to create an urban reserve for such time when there is a need for additional urban development and public utilities may be extended.

10-5A-2: **PERMITTED USES**: The following uses shall be permitted within the AG – Agriculture District:

A. General Farming.
B. Single Family detached dwellings.
C. Greenhouses, Nurseries and tree farms.
D. Public parks and playgrounds, game refuge.
E. Roadside/Seasonal produce stands.

1. They are erected at least fifty (50) feet from the nearest edge of roadway surface.
2. Parking space is provided off the road right of way

10-5A-3: **CONDITIONAL USES**: The following uses require a conditional use permit as provided in Chapter 14 of this Title:

A. Living quarters for up to six (6) persons employed on the premises.
B. Cemeteries.
C. Equipment maintenance and storage facilities.
D. Commercial outdoor recreation facilities including Golf courses, club houses, swimming pools and other similar uses.
E. Commercial Kennels and veterinary establishments.
F. Stables and riding academies.
G. Public and Private Schools.
H. Public buildings, essential services
I. Churches.
J. Agricultural service establishments
K. Sacred Community

10-5A-3.5: **INTERIM USES:** The following uses require an interim use permit as provided in Chapter 15 of this Title:

A. Mining/extraction of minerals, sand, gravel, other granular materials and the like subject to other applicable sections of this Title.
B. Land Filling of over 50 cubic yards of material.
C. Solar Gardens.

10-5A-4: **PERMITTED ACCESSORY USES:**

A. Accessory structures.
B. Operation and storage of vehicles, equipment, and machinery that is incidental to an allowed principal or conditional use permit.
C. Solar and Wind energy systems.
D. Fenced runs, pens and similar intensively used facilities for animal raising and care provided they are not located within three hundred (300) feet of a neighboring property.
E. Home Occupations.
F. Living quarters for up to six (6) persons employed on the premise.
G. Fishponds for private use to not exceed five (5) acres.
H. Signs.
I. Gardening.

10-5A-5: **LOT, YARD, AREA, AND HEIGHT REQUIREMENTS:**

A. Lot Area: Minimum lot area forty (40) acres.
B. Lot Width: Minimum lot width one hundred fifty (150) feet.
C. Front Yard Setback: The minimum front yard setback in the A-1 Agriculture District shall be fifty (50) feet.
D. Side Yard Setback: The minimum side yard setback in the A-1 Agriculture District shall be twenty (20) feet.
E. Rear Yard Setback: The minimum rear yard setback in the A-1 Agriculture District shall be thirty (30) feet.
F. Height: Maximum height of buildings shall be forty-five (45) feet.

10-5A-6: **ANIMAL DENSITY ALLOWANCES:** Animal density allowances shall be calculated using gross acreage of all substantially contiguous property owned or leased by the same property owner regardless of jurisdictional boundary and rounded to the nearest whole number.

A. One (1) equine/acre.
B. One (1) cattle/acre.
C. Three (3) swine/acre.
D. Four (4) cervidae/acre (e.g. deer).
E. Five (5) goats or sheep/acre.
F. Twenty-five (25) large poultry/acre (such as turkey, ducks, etc.).
G. Fifty (50) small poultry and animals/acre (such as chickens, rabbits, etc.).
H. Fifty-one (51) or more, small poultry/acre by conditional use permit.

10-5A-7: **MINNESOTA AGRICULTURAL LAND PRESERVATION PROGRAM:** Properties proposed for designation under agricultural preserve status as provided for by MN Statute, Chapter 40A, must be zoned AG – Agricultural District.

10-5A-8: **WASTE UTILIZATION PLAN:** All properties with livestock must have a Waste Utilization Plan (according to NRCS Standard 633) that is approved by the applicable county soil and water conservation district and must comply with all MPCA permitting requirements.

CHAPTER 5

RESIDENTIAL DISTRICTS

ARTICLE B. R-R RURAL RESIDENTIAL DISTRICT

SECTION:

10-5B-1: Intent
10-5B-2: Permitted Uses
10-AB-3: Conditional Uses
10-5B-4: Protection Of Residential Districts
10-5B-5: Permitted Accessory Uses
10-5B-5.5: Interim Uses
10-5B-6: Area Requirements

10-5B-1: **INTENT:** In areas where Council determines it appropriate, the use of the R-R, Rural Residential District provides for large lot single family residential uses. The District is appropriate for transitional areas from agricultural to residential uses, or where soils, site location, availability of existing utilities, or other factors favor larger single family residential lots than R-1 zoning minimums. Such areas may, at the complete discretion of the City, be developed with rural services and/or infrastructure standards, including private utilities, rural-section roadways, or other improvements common in large-lot communities.

10-5B-2: **PERMITTED USES:** The following uses shall be permitted within the R-R Rural Residential Residence District:

A. Single-family detached dwellings.
B. Agricultural crop production or gardening.
C. Roadside stand for the sale of agricultural products produced on the premises (providing that such stands conform with the requirements of this Title relative to construction, setback, and use).
D. Residences for principal farm operators.
E. Nurseries and tree farms.
F. Parks, recreational areas, wildlife areas, game refuges and forest preserves owned by government agencies.
G. State licensed residential facility or a housing with services establishment registered under chapter 144D serving six or fewer persons; licensed day care facility serving twelve (12) or fewer persons; group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve fourteen (14) or fewer children, except that residential facilities whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be permitted. General, parking, signage, landscaping/screening standards within this Title.

10-5B-3: **CONDITIONAL USES**: The following uses require a conditional use permit as provided in Chapter 14 of this Title:

A. Golf courses (miniature and regular), country clubs, tennis clubs, public swimming pools serving more than one family.
B. Cemeteries.

C. Essential service structures
D. Farming operations involving the construction of new buildings.
E. Greenhouses.
F. Ski runs, snowmobile trails, riding trails, overnight camping and picnicking (privately owned and operated).
G. Schools, churches, and familiar facilities.
H. Residential Planned Unit Development per Section 5H of this Title.
I. Sacred community.

Deleted: ¶

10-5B-4: **PROTECTION OF RESIDENTIAL DISTRICTS:** In the issuance of any conditional use permit which permits or in any way pertains to the construction or operations of any nonresidential facility under this Article, the City Council shall, in addition to the restrictions, stipulate that such construction and operation be situated on the land involved in such a way that distance from residential property and general topography will prevent the operation from being or becoming a nuisance which will, in any way, be deleterious to residential property. Applications for these conditional use permits shall be accompanied by a site plan of the property indicating thereon the proposed location of all facilities.

10-5B-5: **PERMITTED ACCESSORY USES:** As Allowed in Table 2: Residential Use Matrix.

A. Private garage for parking space.
B. Repair garage (for the repair of machinery used on the premises only.)
C. Living quarters of the persons directly connected with the operation of the farm.
D. Signs as regulated elsewhere in this Title for residential districts.
E. Home occupations as regulated within this Title.
F. "Accessory apartments" as defined and regulated in this Title.
G. Dog kennels with two (2) or fewer dogs, must be in side or rear yard.
H. Fishponds and fishing for privately owned fish stocked and raised on the premises, providing said ponds are landscaped, do not exceed five (5) acres in size, and do not exceed ten (10) feet in depth.
I. Gardening or other horticultural uses where no sale of products is conducted on the premises.
J. Gazebos.
K. Off street parking and loading subject to the standards contained within Section 10-10 of this Ordinance.
L. Personal antennas, satellite dish antennas and towers.
M. Playhouses not exceeding 220 square feet in gross area.
N. Private swimming pools, as provided for in Section 10-8 of this Title.
O. Private sports courts provided they have ten foot rear and ten foot side yard setbacks.
P. Temporary facilities for construction purposes for a period not to exceed construction or nine months (whichever is shorter).
Q. Detached accessory structures as provided for in Section 10-8 of this Title.
R. Solar energy systems.

10-5B-5.5: **INTERIM USES:** The following uses require an interim use permit as provided in Chapter 15 of this Title:

A. Mining/extraction of minerals, sand, gravel, other granular materials and the like subject to other applicable sections of this Title.
B. Temporary, seasonal sale of produce and goods produced on site.
C. Solar gardens.

10-5B-6: **LOT, YARD, AREA, AND HEIGHT REQUIREMENTS:**

A. Minimum: Any tract of land shall contain not less than one (1) acre (43,560 square feet).
B. Present Status: Nothing in this Title is intended to change the present status of any existing agricultural operation building location, field or pasture use.
C. Front Yard Setback: The front yard setback shall be thirty (30) feet.
D. Side Yard Setback: The side yard setback shall be fifteen (15) feet, except corner lots on which the side yard on the intersecting street shall be not less than thirty (30) feet.
E. Rear Yard Setback: The rear yard setback shall be thirty (30) feet.
F. Detached accessory structures greater than 120 square feet shall be setback ten (10) feet from side and rear lot lines.
G. Detached accessory structures of 120 square feet or less shall be setback 6 feet from the side and rear lot lines.
H. Parking pads shall not be located within any easement areas within the lot and must be at least six (6) feet from the side lot lines. Except corner lots on which the side yard on the intersecting street shall not be less than fifteen (15) feet.
I. Decks, patios, and open and screened porches (as defined by Chapter 2 of this code) part of the principal structure shall be setback a minimum of twenty (20) feet from the rear yard line and ten (10) feet from the side yard line. Except corner lots on which the side yard on the intersecting street shall not be less than fifteen (15) feet.
J. Lot Coverage: Building coverage may not exceed thirty-five percent (35%) of a lot or plot of land. Total impervious surfaces shall not exceed forty-five percent (45%) of a lot or plot of land or 32,000 square feet, whichever is less.
K. Height: Maximum height of buildings shall be forty-five (45) feet.

CHAPTER 5

RESIDENTIAL DISTRICTS

ARTICLE C. R-1 SINGLE-FAMILY RESIDENCE DISTRICT

SECTION:

10-5C-1: Intent
10-5C-2: Permitted Uses
10-5C-3: Conditional Uses
10-5C-4: Interim Uses
10-5C-5: Permitted Accessory Uses
10-5C-6: Lot, Yard, Area and Height Requirements
10-5C-7 General Building and Performance Standards

10-5C-1: **INTENT:** The R-1 Residential District provides space for low-density residential living with full provision of necessary urban service facilities. Existing agricultural uses are allowed to continue, within regulations, on land not yet needed for residential development, but other nonresidential uses are limited to the minimum necessary for residential convenience and welfare. This district is suitable for areas guided to very low and/or low density residential development in the Comprehensive Plan.

10-5C-2: **PERMITTED USES:** The following uses shall be permitted within the R-1 Single Family Residence District:

A. Single-family Detached dwellings
B. Parks, Athletic Facilities and playgrounds.
C. Public and private preschool, elementary/secondary schools provided no building shall be located within fifty (50) feet of any lot line of an abutting lot in a Residential use district. Any fence erected around a play area shall not be less than twenty feet (20) feet from the property line of the abutting lot in a residential use district. A preschool shall be defined as pre-kindergarten education.
D. Religious institutions, including churches, synagogues, chapels, and temples including those related structures located on the same site which are an integral part of the church proper, convents or homes for persons related to a religious function on the same site provided no buildings shall be located with fifty (50) feet of any lot line of an abutting lot in a residential use district.
E. Community Centers, municipal buildings, and structures, excluding storage of maintenance equipment and trucks over on and one-half (1 ½) tons, stockpiling of aggregate and open storage of material, but including firefighting apparatus, provided these shall not be located within fifty (50) feet of any lot line of an abutting lot in a residential use district.
F. State licensed residential facility or a housing with services establishment registered under chapter 144D serving six or fewer persons; licensed day care facility serving twelve (12) or fewer persons; group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve fourteen (14) or fewer children, except that residential facilities whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be permitted. General, parking, signage, landscaping/screening standards within this Title.
G. Residential Planned Unit Development per Section 5H of this Title.

10-5C-3: **CONDITIONAL USES**: The following uses require a conditional use permit as provided in Chapter 14 of this Title:

A. Golf courses, country clubs, tennis clubs.
B. Service structures, public or private, designed and used to serve the families in the surrounding area such as electric power substations, telephone buildings, deep wells, elevated tanks and similar structures and uses.
C. Industrial and commercial parking lot provided they are appropriately screened from adjacent residential uses so as to prevent headlamps from shining onto adjacent property, to lessen noise at the property line and to buffer the parking lot from adjacent residential uses.
D. Guesthouse, provided the Building Inspector and governing body are satisfied that lot area is adequate for sewage disposal system; the premises contains a minimum area equal to two (2) ordinary minimum sized lots in the District; additional off-street parking is provided; the guest house is a detached accessory use to a principal residence; and, the guest house shall not be less than six hundred (600) square feet or exceed twenty five (25) percent of the area of the principal residence or 1,000 square feet, whichever is more. The rental or lease of a guest house or the use of a guest house as a permanent residence for a second family on the premises shall be prohibited. All property regulations applicable to the principal residence shall also be applicable to the guest house, including setbacks, yards, and height limitations.
E. Public or private cemeteries or exterior columbarium's.
F. Commercial telecommunication towers.
G. Sacred community.

10-5C-4 **INTERIM USES:** The following uses require an interim use permit as provided in Chapter 15 of this Title:

A. Temporary, seasonal outdoor sale of produce and goods provided the site is adjacent to an arterial or collector street and the site must be at least twenty (20) acres in size.
B. Solar Gardens.

10-5C-5: **PERMITTED ACCESSORY USES:** As Allowed in Table 2: Residential Use Matrix.

A. Private detached garages and parking pads provided they comply with setback requirements and building material requirements.
B. Private sports courts, provided they have ten (10) foot rear and ten (10) foot side yard setbacks.
C. Home occupations as regulated by this Title.
D. Signs as regulated by this Title.
E. Temporary buildings for construction purposes, for a period not to exceed construction or nine (9) months whichever is less.
F. Gardening or other horticultural uses in compliance with 10-5C-4:A.
G. Keeping of not more than a total of two (2) boarders or roomers by a resident family.
H. Separate living quarters for domestic servants employed on the premises; provided, that said premises contain a minimum area equal to two (2) minimum sized lots in the District.
I. Detached accessory buildings provided they comply with setback and building material requirements. Hoop/Tubular frame buildings and sheet metal siding shall not be permitted.
J. Personal antennas and satellite dish antennas and towers.
K. Private swimming pools in compliance with 10-8 of this Title.
L. Dog kennels with two (2) or fewer dogs, must be in rear yard (not to exceed 100 square feet) must be located no further than fifteen (15) feet from the principal structure and no closer than 10 feet from any adjoining property line.
M. Gazebos (not to exceed 220 square feet, inside area).
N. Playhouses, not exceeding 220 square feet in gross area.

O. “Accessory apartments” as defined and regulated by this Title and under the permit procedures in Section 10-8-11 of this Title.
P. Off street parking/loading subject to Section 10-10 of this Title.
Q. Solar Energy Systems.

10-5C-6: **LOT, YARD, AREA AND HEIGHT REQUIREMENTS:** As provided for in Table 1: Residential Lot Requirements.

A. Lot Area: Nine thousand five hundred (9,500) square feet.
B. Width: Each lot shall have a minimum average width of seventy-five (75) feet (in new plats). Each lot shall have a minimum frontage on a public street of fifty (50) feet. Lots within a subdivision or plat recorded prior to the enactment of this Ordinance which are smaller in width or in area than the minimum as set forth in this Title and separately owned, may be utilized for a single-family dwelling if the area if at least five thousand (5,000) square feet and setback requirements are met.
C. Front Yard Setback: The front yard setback in R-1 Residence District shall be thirty (30) feet.
D. Side Yard Setback: The side yard setback in the R-1 Residence District shall be ten (10) feet. Except corner lots on which the side yard on the intersecting street shall be not less than thirty (30) feet.
E. Rear Yard Setback: The rear yard setback in the R-1 Residence District shall be thirty (30) feet.
F. Detached accessory structures greater than 120 square feet shall be setback ten (10) feet from side and rear lot lines. Detached accessory structures of 120 square feet or less shall be setback six (6) feet from the side and rear lot lines.
G. Parking pads shall not be located within any easement areas within the lot and must be a minimum of six feet from the side yard lot line. Except corner lots on which the side yard on the intersecting street shall not be less than fifteen (15) feet.
H. Height: Maximum height of buildings shall be forty (40) feet.
I. Lot Coverage: Building coverage shall not exceed thirty-five percent (35%) of a lot or plot of land. Total impervious surfaces shall not exceed forty-five percent (45%) of a lot or plot of land.
Decks, patios, open and screened porches (as defined by Chapter 2 of this code) part of the principal structure shall be setback a minimum of twenty (20) feet from the rear yard line and ten (10) feet from the side yard line. Except corner lots on which the side yard on the intersecting street shall not be less than fifteen (15) feet.

10-5C-7 **GENERAL BUILDING AND PERFORMANCE STANDARDS:** Single Family Dwellings: All single family detached dwellings shall meet the following design criteria:

A. All structures shall have permanent type foundations that are designed and constructed in accordance with all applicable provisions of the State Building Code as adopted in the State of Minnesota.
B. The exterior wall finish of all single family residences shall be similar in appearance to normal wood, stucco, stone veneer or masonry material. Vinyl and metal siding is permitted with no exposed fasteners and overlapping in sections not wider than twelve (12) inches. Sheet metal siding is not permitted.

1. The primary color of all elevations shall match.

C. All roofs shall be covered with materials as approved by the State Building Code as adopted by the State of Minnesota and shall be similar in appearance to asphalt shingles, wood shakes, slate, and concrete tile. Sheet type metal roofing is an approved alternative provided all of the following are met:

1. A metal material which is an approved type in accordance with the State Building Code.
2. Be standing-seam profiled metal.
3. Constructed of corrosion resistant material or have a corrosion resistant coating.
4. Have concealed fasteners.

CHAPTER 5

RESIDENTIAL DISTRICTS

ARTICLE D. RESERVED

CHAPTER 5

RESIDENTIAL DISTRICTS

ARTICLE E. R-2 SINGLE AND MULTIPLE-FAMILY RESIDENCE DISTRICT

SECTION:

10-5E-1: Intent
10-5E-2: Permitted Uses
10-5E-3: Conditional Uses
10-5E-4: Permitted Accessory Uses
10-5E-5: Lot, Yard, Area and Height Requirements
10-5E-6: General Building and Performance Standards

10-5E-1 **INTENT:** The R-2 Residential District is similar in intent to the R-1 District except that it permits a somewhat higher residential density and a somewhat broader range or uses. Provides for a variety of single-family housing types, including single-family detached and single-family common wall attached housing units such as twin homes, townhomes (Conditional Use Permit) or two-family dwellings at low to moderate residential densities. This district is suitable for areas guided to medium density residential development in the Comprehensive Plan. This district is also suitable for areas guided for low to medium density residential development in the Comprehensive Plan. In many cases, the R-2 zoning district shall be applied to newly platted subdivisions where the open space and other requirements of the district can be met. Land judged suitable for R-2 development shall be at the discretion of the City Council including avoiding an imbalance of housing stock in specific categories, avoiding impacts on natural features that may support larger lots for environmental protection, compatibility (or lack thereof) with existing surrounding land uses, or other purposes identified in the Comprehensive Plan.

10-5C-7 **PERMITTED USES:** The following uses shall be permitted within the R-2 Single and Multiple Family Residence District:

A. Any principal use or structure permitted and regulated in the R-1 District principal except as here modified from time to time.

B. Two-family dwellings/Twin Homes.
C. Parks, Athletic facilities, and playgrounds.
D. State licensed residential facility or a housing with services establishment registered under chapter 144D serving six or fewer persons; licensed day care facility serving twelve (12) or fewer persons; group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve fourteen (14) or fewer children, except that residential facilities whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be permitted. General, parking, signage, landscaping/screening standards within this Title.

10-5E-3: **CONDITIONAL USES**: The following uses require a conditional use permit as provided in Chapter 14 of this Title:

A. Any principal use or structure permitted and regulated in the R-1 District principal except as here modified from time to time.

B. Any use or structure permitted and regulated as a conditional use in an R-1 and R-1A District.
C. Activity or community centers.
D. Commercial telecommunication towers.
Sacred community.

10-5E-4. **INTERIM USES:** The following uses require an interim use permit as provided in Chapter 15 of this Title:

A. Solar Gardens.

10-5E-5: **PERMITTED ACCESSORY USES:**

A. Private detached garages and parking pads provided they comply with setback requirements and building material requirements.
B. Private sports courts provided they have ten (10) foot rear and ten (10) foot side yard setbacks.
C. Home occupations as regulated by this Title.
D. Signs as regulated by this Title.
E. Temporary building for construction purposes, for a period not to exceed construction.
F. Gardening or other horticultural uses in compliance with 10-5C-4:A.
G. Keeping of not more than a total of two (2) boarding or roomers by a resident family.
H. Detached accessory building provided they comply with setback and building material requirements. Hoop/Tubular frame building, and sheet metal siding shall not be permitted.
I. Personal antennas and satellite dish antennas and towers.
J. Private swimming pools in compliance with 10-8 of this Title.
K. Dog kennels with two (2) or fewer dogs, must be in the rear yard (not to exceed 100 square feet) must be located no further than fifteen (15) feet from the principal structure and no closer than ten (10) feet from any adjoining property line.
L. Gazebos (not to exceed 220 square feet, inside area).
M. Playhouses (not to exceed 220 square feet, in gross area).
N. Off street parking/loading subject to Section 10-10 of this Title.
O. Solar Energy Systems.

10-5E-6: **LOT, YARD, AREA AND HEIGHT REQUIREMENTS:**

	Requirements for Attached Dwellings	**Requirements for Single Family Detached Dwellings**
A. Lot Area	Lot Area: Nine thousand Five Hundred (9,500) square feet	Lot Area: six thousand (6,000) square feet
	Lot area per unit: Single Family Housing shall have no less than 6,000 square feet of lot area per unit.	Lot Area Per Unit: Single Family housing shall have no less than 6,000 square feet of lot area per unit.
B. Lot Width	1. Each base lot shall have a minimum width of seventy five feet (75') (in new plats), or thirty feet (30') of total lot width per unit, whichever is greater. Individual units lots may be subdivided along common walls to a lesser dimension provided the overall lot width, lot area, and lot	1. Each lot shall have a minimum width of fifty feet (50') (in new plats). Corner lots shall have a minimum width of sixty five feet (65').

	area per unit requirements are met. In no case, however, shall any individual unit lot be narrower than twenty six (26) feet.	
	2. Each lot shall have a minimum frontage on a street of fifty feet (50) feet.	2. Each lot shall have a minimum frontage on a public street of forty (40) feet.
	3. Lots within a subdivision or plat recorded prior to the enactment of the Ordinance codified in this Title which are smaller in width or in area than the minimum as set forth in this Title and separately owned may be utilized for a single-family dwelling if the area is at least five thousand (5,000) square feet providing required setbacks are met.	3. Lots within a subdivision or plat recorded prior to the enactment of the Ordinance codified in this Title which are smaller in width or in area than the minimum as set forth in this Title and separately owned may be utilized for a single-family dwelling if the area is at least five thousand (5,000) square feet providing required setbacks are met.
C. Front Yard Setback	The front yard setback in the R-2 Residence District shall be thirty (30) feet for all attached housing.	Front Yard Setback: The front yard setback in the R-2 Residence District for detached housing units shall be twenty five (25) feet from face of garage to right of way line or curb line, whichever is greater, and twenty (20) feet from face of living area or porch to right of way line.
D. Side Yard Setback	The side yard setback in the R-2 Residence District for all attached housing shall be ten (10) feet. Except corner lots on which the side yard on the intersecting street shall be not less than thirty (30) feet.	Side Yard Setback: The side yard setback in the R-2 Residence District for all detached housing units shall be six (6) feet. Except on corner lots on which the side yard on the intersecting street shall be not less than twenty (20) feet.
E. Rear Yard Setback	The rear yard setback in the R-2 Residence District for all attached housing shall be thirty (30) feet.	The rear yard setback in the R-2 Residence District for all detached housing units shall be twenty five (25) feet.
F. Height	Maximum height of buildings shall be forty (40) feet.	Maximum height of buildings shall be thirty (30) feet.
G. Detached Accessory Structures	Detached accessory structures greater than 200 square feet on attached housing parcels shall be setback a minimum of ten (10) feet from side and rear property lines. Detached accessory structures of 200 square feet or less shall be setback a minimum of six (6) feet from side and rear property lines.	Detached accessory structures on single family detached parcels greater than 200 square feet shall be setback ten (10) feet from rear lot lines and six (6) feet from side lot lines. Detached accessory structures of 200 square feet or less shall be setback six (6) feet from the side and rear lot lines. No detached accessory structure shall be located closer to the front lot line than twenty five (25) feet or the front building line of the attached garage, whichever is greater.
H. Attached Structures	Decks, patios, open and screened porches (as defined by Chapter 2 of this	Decks, patios, open and screened porches (as defined by Chapter 2 of this

	code) part of the principal structure shall be setback a minimum of twenty (20) feet from the rear yard line and ten (10) feet from the side yard line. Except corner lots on which the side yard on the intersecting street shall not be less than fifteen (15) feet.	code) part of the principal structure shall be setback a minimum of twenty (20) feet from the rear yard line and six (6) feet from the side yard line. Except corner lots on which the side yard on the intersecting street shall not be less than fifteen (15) feet.
I. Lot Coverage	Building coverage shall not exceed thirty-five percent (35%) of a lot or plot of land. Total impervious surfaces shall not exceed forty-five percent (45%) of a lot or plot of land.	Building coverage shall not exceed forty-five percent (45%) of a lot or plot of land. Total impervious surfaces shall not exceed fifty percent (50%) of a lot or plot of land.
J. Parking Pads	Parking pads shall not be located within any easement areas within the lot and must be a minimum of six (6) feet from the side yard lot line. Except corner lots on which the side yard on the intersecting street shall not be less than fifteen (15) feet.	Parking pads shall not be located within any easement areas within the lot and must be a minimum of six (6) feet from the side yard lot line. Except corner lots on which the side yard on the intersecting street shall not be less than fifteen (15) feet.
K. Landscaping	Each lot in an R-2 District which abuts an R-1 or R-R district shall include a planting of trees as a buffer along the property line shared with the R-1 or R-R District. No less than one tree per twenty five (25) feet shall be planted as the required buffer. This shall be in addition to any other required landscaping per Section 10-12 of this Ordinance.	Each lot in an R-2 District which abuts an R-1 or R-R district shall include a planting of trees as a buffer along the property line shared with the R-1 or R-R District. No less than one tree per twenty five (25) feet shall be planted as the required buffer. This shall be in addition to any other required landscaping per Section 10-12 of this Ordinance.
L. Driveways	N. Driveways. No driveway in the R-2 District shall exceed twenty four (24) feet in width at the property line and shall comply with all other requirements of Section 10-10 of this Ordinance.	No driveway in the R-2 District serving single family detached dwellings shall exceed twenty (20) feet in width at the property line and shall comply with all other requirements of Section 10-10 of this Ordinance.
M. Other Elements	In any R-2 subdivision, mailboxes, utility boxes and structures, and similar elements in the right of way or public easements shall be consolidated into as few locations as possible to minimize impacts to on-street parking availability.	In any R-2 subdivision, mailboxes, utility boxes and structures, and similar elements in the right of way or public easements shall be consolidated into as few locations as possible to minimize impacts to on-street parking availability.

10-5E-6: GENERAL BUILDING AND PERFORMANCE STANDARDS:

Dwellings in the R-2 District shall meet the following design criteria:	Attached Dwellings	Single Family Dwellings
	1. All structures shall have permanent type foundations that are designed and constructed in accordance with	1. All structures shall have permanent type foundations that are designed and constructed in accordance with

	all applicable provisions of the State Building Code as adopted in the State of Minnesota.	all applicable provisions of the State Building Code as adopted in the State of Minnesota.
	2. The exterior wall finish of all single family residences shall be similar in appearance to normal wood, stucco, stone veneer or masonry material. Vinyl and metal siding is permitted with no exposed fasteners and overlapping in sections not wider than twelve (12) inches. Sheet metal siding is not permitted.	2. The exterior wall finish of all single family residences shall be similar in appearance to normal wood, stucco, stone veneer or masonry material. Vinyl and metal siding is permitted with no exposed fasteners and overlapping in sections not wider than twelve (12) inches. Sheet metal siding is not permitted.
	3. All roofs shall be covered with materials as approved by the State Building Code as adopted by the State of Minnesota and shall be similar in appearance to asphalt shingles, wood shakes, slate, and concrete tile. Sheet type metal roofing is an approved alternative provided all of the following are met: a. A metal material which is an approved type in accordance with the State Building Code. b. Be standing-seam profiled metal. c. Constructed of corrosion resistant material or have a corrosion resistant coating. d. Have concealed fasteners.	3. All roofs shall be covered with materials as approved by the State Building Code as adopted by the State of Minnesota and shall be similar in appearance to asphalt shingles, wood shakes, slate, and concrete tile. Sheet type metal roofing is an approved alternative provided all of the following are met: a. A metal material which is an approved type in accordance with the State Building Code. b. Be standing-seam profiled metal. c. Constructed of corrosion resistant material or have a corrosion resistant coating. d. Have concealed fasteners.
		4. Single Family Dwellings in the R-2 District shall be designed so that no less than thirty-three percent (33%) of the building width facing the street is living space.

CHAPTER 5

RESIDENTIAL DISTRICTS

ARTICLE F. R-3 MULTIPLE-FAMILY RESIDENCE DISTRICT

SECTION:

10-5F-1: Intent
10-5F-2: Permitted Uses
10-5F-3: Conditional Uses
10-5F-4: Permitted Accessory Uses
10-5F-5: Lot, Yard, Area and Height Requirements
10-5F-6: General Building and Performance Standards

10-5F-1: **INTENT:** By providing space for apartment buildings and other styles of multiple-dwelling structures, the R-3 Residential District permits a variety of housing options while still promoting a neighborhood atmosphere. This district is suitable for areas guided to medium and high density residential development in the Comprehensive Plan.

10-5F-2: **PERMITTED USES:** the following uses shall be permitted within the R-3 Multiple-Family Residence District:

A. Any use or structure permitted and regulated in the R-2 District except as modified from time to time.
B. Multiple-family dwelling structures.
C. Post-secondary schools and colleges provided no buildings shall be located within fifty (50) feet of any R-R, R-1, or R-2 Residential District.

10-5F-3: **CONDITIONAL USES:** The following uses require a conditional use permit as provided in Chapter 14 of this Title:

A. Any use or structure regulated as a conditional use in an R-2 District.
B. Boarding houses provided the site shall contain not less than five hundred (500) square feet of lot area for each person to be accommodated.
C. Private swimming pools intended to serve more than one family who are occupants of the property on which it is located in compliance with 10-8 of this Title.
D. Buildings used for the treatment of human ailments, nursing homes, homes for the aged.
E. Dormitories, sororities, fraternities.
F. Manufactured home parks, pursuant to the issuance of a permit under section 5H of this Ordinance and subject to submittal of site development plans and all minimum requirements of State, County, and local regulations for said uses and provided that no manufactured home is less than fifty (50) feet from any lot line of an abutting lot in a Residential District.
G. Activity or community centers.
H. Commercial telecommunication towers.
I. Sacred community.

10-5F-4. **INTERIM USES:** The following uses require an interim use permit as provided in Chapter 15 of this Title:

A. Solar Gardens.

10-5F-5: **PERMITTED ACCESSORY USES**: As provided for in Table Two: Residential Use Matrix, any use or structure permitted and regulated in the R-2 District.

10-5F-6: **LOT, YARD, AREA, AND HEIGHT REQUIREMENTS:** According to Table One: Residential Lot Requirements.

A. Lot Area:

1. Efficiency Unit: Two thousand four hundred and twenty (2,420) square feet per unit.
2. One Bedroom: Two thousand five hundred (2,500) square feet per unit.
3. Two Bedroom: Three thousand (3,000) square feet per unit.
4. Three or more bedrooms: Three thousand five hundred (3,500) square feet per unit.
5. The required lot area as established in this section may be reduced by twenty five (25) percent where one-half of the required parking is provided underground or under the principal building.

B. Lot Width:

1. Each lot shall have a minimum width one hundred fifty (150) feet.
2. Each lot shall have a minimum frontage on a street of two hundred (200) feet.

C. Front Yard Setback: The front yard setback in the R-3 Residence District shall be sixty (60) feet. Side Yard Setback: The side yard setback in the R-3 Residence District shall be forty (40) feet. Except corner lots on which the side yard on the intersecting street shall be not less than sixty (60) feet. When abutting an R-R, R-1, or R-2, District, or any existing residential use, side yard setbacks shall be a minimum of fifty (50) feet plus an additional ½ foot of setback for each one foot of building height over fifteen feet

D. Rear Yard Setback: The rear yard setback in the R-3 Residence District shall be sixty (60) feet. When abutting an R-R, R-1, , R-2, for any existing residential use, rear yard setbacks shall be a minimum of fifty (50) feet plus an additional ½ foot of setback for each one foot of building height over fifteen feet.

E. Height: Maximum height of buildings may be three (3) stories or forty (40) feet whichever is less. Multiple Family Structures with at least one-half of its required parking provided in an underground parking garage, or under the principal building at grade, may be four (4) stories of residential use, or sixty (60) feet, whichever is less.

F. Lot Coverage: Impervious surfaces shall not exceed fifty-five (55) percent of a lot or plot of land. Total building coverage shall not exceed thirty-five (35) percent of a lot or plot of land. Total paved parking and circulation shall not exceed forty (40) percent of a lot or plot of land.

G. Detached accessory structures and parking lots with more than two (2) stalls shall be setback a minimum of ten (10) feet from those side and rear property lines adjacent to uses of a similar density (R-3, R-4 or R-5) commercial and industrial properties. Detached accessory structures shall be setback a minimum of thirty (30) feet from those side and rear property lines adjacent to lower density residential uses. Parking and circulation shall be setback a minimum of twenty (20) feet from any property line abutting a public right of way, which space shall be landscaped with trees, shrubs, and other ornamental landscaping. Lawn grasses shall comprise no more than sixty (60) percent of the area between the paved parking lot/driveways and such property line.

H. Decks, patios, open and screened porches (as defined by Chapter 2 of this code) part of the principal structure shall be setback a minimum of twenty (20) feet from the rear yard line and ten

(10) feet from the side yard line. Except corner lots on which the side yard on the intersecting street shall not be less than fifteen (15) feet.

10-5F-7: **GENERAL BUILDING AND PERFORMANCE STANDARDS:** Multiple Family Dwellings: All multiple family dwellings shall meet the following design criteria:

A. All structures shall have permanent type foundations that are designed and constructed in accordance with all applicable provisions of the State Building Code as adopted in the State of Minnesota.
B. The exterior wall finish of all multiple family buildings shall be similar in appearance to normal wood, stucco, stone veneer or masonry material. Vinyl and metal siding is permitted with no exposed fasteners and overlapping in sections not wider than twelve (12) inches. Sheet metal siding is not permitted. Notwithstanding the above, forty (40) percent of the exterior of each building shall be covered with stone, brick, or manufactured masonry veneer product designed to look like natural stone or brick.
C. All roofs shall be covered with materials as approved by the State Building Code as adopted by the State of Minnesota and shall be similar in appearance to asphalt shingles, wood shakes, slate, and concrete tile. Sheet type metal roofing is an approved alternative provided all the following are met:

    1. A metal material which is an approved type in accordance with the State Building Code.
    2. Be standing-seam profiled metal.
    3. Constructed of corrosion resistant material or have a corrosion resistant coating.
    4. Have concealed fasteners.

CHAPTER 5

RESIDENTIAL DISTRICTS

ARTICLE G. R-4 TRANSITIONAL DISTRICT

SECTION:

10-5G-1: Intent
10-5G-2: Permitted Uses
10-5G-3: Conditional Uses
10-5G-4: Permitted Accessory Uses
10-5G-5: Lot, Yard, Area, and Height Requirements

10-5G-1: **INTENT:** The R-4 Transitional District provides for a transitional zone between residential and commercial areas by allowing a mixture of office and residential uses. This District is suitable for areas guided to mixed use development in the Comprehensive Plan.

10-5G-2: **PERMITTED USES:** The following uses shall be permitted within the R-4 Transitional District:

A. Any use or structure permitted and regulated in the R-3 District (such use shall comply with the standards of the use district in which it is specifically listed).
B. Multiple-family dwellings (3 to 7 stories).
C. Public parks and playgrounds.
D. Offices.
E. Clinics and other buildings used for the treatment of human ailments, nursing homes for the aged.

10-5G-3: **CONDITIONAL USES:** The following uses require a conditional use permit as provided in Chapter 14 of this Title:

A. Any use or structure permitted and regulated as a conditional use in an R-3 District.
B. Gasoline service stations if abutting a collector or arterial street**.**
C. Neighborhood grocery store, coffee shop, dairy store, drug store, dry-cleaning and laundry pickup station provided no single retail establishment exceeds 20,000 square feet in gross area. The square foot limitation shall apply to individual retail establishments and structures for which permits are sought and also to the cumulative sum of related or successive permits for retail establishments or structures that are part of a larger project, such as piecemeal additions to a building or multiple buildings on a lot or adjacent lots. Wholesale establishments are prohibited.
D. Retail service operations where necessary for the operation of a permitted use.
E. Restaurant or supper club, with or without an on-sale liquor license.
F. Motels, hotel, and apartment hotels.
G. Private clubs and lodges.
H. Commercial telecommunication towers.
I. Sacred Community.

10-5G-4. **INTERIM USES:** The following uses require an interim use permit as provided in Chapter 15 of this Title:

A. Solar Gardens.

10-5G-5: **PERMITTED ACCESSORY USES**: as provided for in Table Two: Residential Use Matrix.

A. Any use or structure permitted and regulated in the R-3 District.

10-5G-6: **LOT, YARD, AREA AND HEIGHT REQUIREMENTS**: as provided for in Table One: Residential Lot Requirements.

A. Lot Area:

1. Single Family residential units shall be consistent with R-1 standards.
2. Twin home/Townhome units shall be consistent with R-1a standards
3. For office units the minimum areas shall be consistent with B-2 zoning standards.
4. For multiple family residential units, the lot area shall be a minimum of two thousand four hundred and twenty (2,420) square feet per unit with a maximum lot width of two hundred (200) feet.

B. Schedule of Allowances.

1. The lot areas per dwelling unit are subject to the following schedule of allowances, which shall be added to or subtracted from, the required lot area.

    a. For each parking space provided within the building, or underground, subtract 150 square feet of required gross lot area.
    b. If the multiple dwelling units contain major outdoor recreational features or structures such as swimming pools, improved outdoor common areas with pathways/parkland or similar facilities requiring a substantial investment equal to or greater than five (5%) percent of the construction cost of the principal structure, subtract 75 square feet of required gross lot area for each unit.

2. The net density requirements are subject to the following schedule of allowances:

    a. In such cases where it is necessary to demolish an existing principal structure in a dilapidated condition, or where said building is economically not feasible to rehabilitate, there shall be provided a net density allowance of two dwelling units per net developable acre not to exceed a maximum allowance of ten (10) additional units.

3. Reduction of parking space requirements: The documentation of factors including but not limited to the present or future availability of transit services, shared parking, pedestrian orientation and occupancy characteristics may allow, at the discretion of the City, the parking requirements to be reduced from the required stalls.

C. Yard And Setback Regulations:

1. Front yard setback shall be a minimum of thirty (30) feet unless height of structure is greater than three (3) stories or forty-five (45) feet, then the required front yard setback is fifty (50) feet.
2. Side yard setbacks shall be a minimum of fifteen (15) feet except on corner lots on which the side yard on the intersecting street shall be not less than thirty (30) feet unless height of

structure is greater than three stories or forty-five (45) feet, then the required side yard setbacks are twenty-five (25) for an interior lot and forty (40) feet for a corner lot. When abutting an R-1, R-1A, R-2, R-5 (PUD) or CDZ (residential) or any existing residential use, the side yard setbacks shall be a minimum of fifty (50) feet plus an additional ½ foot of setback for each one foot of building height over fifteen feet.

3. The rear yard setback shall be a minimum of forty (40) feet unless the height of the structure is greater than three stories or forty-five (45) feet, then the required rear yard setback is sixty (60) feet.

D. Height: The maximum height of a building may be seven (7) stories or one hundred five (105) feet, whichever is less.

E. Lot Coverage: Impervious surfaces shall not exceed fifty-five (55) percent of a lot or plot of land. Building coverage shall not exceed thirty-five (35) percent of a lot or plot of land.

F. Detached accessory structures and parking lots with more than two stalls shall be setback a minimum of ten (10) feet from those side and rear property lines adjacent to uses of a similar density (R-3, R-4 or R-5), commercial and industrial properties. Detached accessory structures shall be setback a minimum of thirty (30) feet from those side and rear property lines adjacent to lower density residential uses.

G. Decks, patios, open and screened porches (as defined by Chapter 2 of this code) part of the principal structure shall be setback a minimum of twenty (20) feet from the rear yard line.

CHAPTER 5

RESIDENTIAL DISTRICTS

ARTICLE H. R-5 PLANNED UNIT DEVELOPMENT DISTRICT

SECTION:

10-5H-1: Purpose; Intent
10-5H-2: Types of Planned Unit Developments
10-5H-3: General Requirements
10-5H-4: Phased Development
10-5H-5: Procedures
10-5H-6: Property Control
10-5H-7: Major and Minor Changes to an Approved Preliminary PUD
10-5H-8: Major and Minor Changes to an Approved Final PUD
10-5H-9: Building Permits and Certificates of Occupancy
10-5H-10: Extension of Time for Construction
10-5H-11: Termination of Planned Development – Failure to Commence or Continue Construction
10-5H-12: Sale of Lots
10-5H-13: Lots Subject to Final PUD

10-5H-1: **PURPOSE; INTENT:**

1. Purpose: The purpose of this chapter is to provide for the utilization of planned unit development districts, which allow for a more flexible regulatory process as compared to standard regulations common to traditional zoning districts. The Planned Unit Development (PUD) process provides for a joint planning/design effort by developers and City officials rather than the City establishing maximum limits within which developers may perform. Benefits resulting from this process include an opportunity to protect and preserve valuable natural resources and amenities, and to assure a higher quality environment and provide for the modification of certain regulations when it can be demonstrated that such modification would result in development which: would not have been provided if no regulations were modified; which remains compatible with surrounding development; and, which conforms to the goals and policies of the Comprehensive Plan. Throughout this title, "PUD" shall mean the same as "planned unit development." The PUD District is further intended to encourage one or more of the following:

    1. Promote Mixed Uses: Promote mixed uses so that not only may the unit be solely residential or commercial, but it may also contain a combination of uses (mixed residential or residential – commercial) for greater convenience to the residents;
    2. Preserve Natural Features: Development that preserves natural vegetation, topographic and geologic features;
    3. Conserve Open And Recreational Space: Conserve land for common open and recreational space through clustering of buildings and activities; and
    4. Efficient Use Of Land: Create an efficient use of land resulting in smaller networks of utilities and streets thereby lowering housing costs and public investment.

2. Intent: These regulations are not intended as subdivision regulations and do not replace them. The approval of a subdivision shall be required of all projects which involve or contemplate the subdivision of land and the procedures set forth in the subdivision ordinance shall be followed

concurrently herewith. The approved final planned unit development plan shall be a binding site plan. A lease of land not involving a residential structure shall be exempt from the subdivision ordinance if the lease conforms to the final planned unit development plan**.**

10-5H-2: **TYPES OF PLANNED UNIT DEVELOPMENTS:**

A. Planned Residential Unit Development District (PUD).

B. Purpose: In addition to the general purposes of Planned Unit Development Districts as described above, the purposes of the Planned Residential Unit Development District (PUD) District are to allow greater variety in the types of residential environment available to the residents, to respond to changes in housing demands and new housing concepts, to encourage the provision of privately controlled common open space ancillary to new housing developments, and to allow a more efficient allocation and maintenance of public facilities such as streets and utility lines serving new housing developments.

1. Permitted Uses: Dwelling Units in detached, semi-detached, attached, or multi-story structures, or combinations thereof, as specified in an approved plan.
2. Density: It is intended that the gross density (number of housing units per acre of land) of the PUD District shall not exceed the density that would have been achieved with the original zoning district; however, the City Council may approve a higher density for good cause, but in no case shall such higher density exceed 115% of that permitted by the original district. An applicant desiring higher densities shall demonstrate that the higher number will not have an undue or adverse impact upon existing public facilities and upon the reasonable use and enjoyment of neighboring property and is appropriate for that site. In determining the reasonableness of the authorized housing units per acre, the physical amenities, increased efficiency in public facilities and services, and preservation of natural resources and amenities beyond Ordinance requirements may be considered.

C. Planned Multiple-Use Unit Development Districts (PMD).

1. Purpose: In addition to the general purposes of Planned Unit Development Districts described above, the purpose of the Planned Multiple-Use Unit Development District (PMD) is to provide for development of a variety of complementary uses in a cohesive arrangement. Type and intensity of development is controlled by the development standards of the existing Residential, Commercial and Institutional Districts and by the Comprehensive Plan.
2. Permitted Uses: Uses specified within the approved PUD/Development Agreement for the property, including residential, commercial, and institutional uses.
3. Density: It is intended that the gross density of the PMD District shall not exceed the density that would have been achieved with the most restrictive original zoning district; however, the City Council may approve a higher density for good cause, but in no case shall such higher density exceed 115% of that permitted by the original district.

10-5H-3: **GENERAL REQUIREMENTS:**

A. Specific allowed uses and performance standards for each PUD shall be delineated in the planned unit development plan and the development agreement. The PUD development plan and agreement shall identify all the proposed land uses and those uses shall become permitted uses with the acceptance of the planned unit development plan and agreement. Any change in the list

of uses presented in the development plan and agreement will be considered a major amendment to the PUD and will follow the procedure described herein relative to major PUD amendments.

B. The design of a PUD shall take into account the relationship of the site to the surrounding areas. The perimeter of the PUD shall be so designed as to minimize undesirable impact of the PUD on adjacent properties and, conversely, to minimize undesirable impact of adjacent land use and development characteristics on the PUD.

C. Common open space shall be either held in common ownership by all owners in the PUD or dedicated for public use with the approval of the City Council. Whenever possible, common open space shall be linked to the open space areas of adjoining developments. Common open space shall be of such size, shape, character, and locations as to be usable for its proposed purpose.

D. Off-street parking and loading space shall be provided in each PUD in the same ratios for types of buildings and uses as required within Chapter 10 of this Ordinance. However, the City may reduce the number of parking spaces required provided PUD applicants submit information demonstrating a reduced need for parking facilities (e.g. senior housing complex, PUD's featuring joint parking facilities, parking study, proximity to and availability of bus service coupled with transit-friendly design, etc.).

E. The major internal streets serving each planned unit development shall be functionally connected to at least one minor arterial or collector street as defined by the comprehensive plan.

F: The streets connecting with any planned unit development must be of sufficient size and character to accommodate the traffic to be produced by the project. Evaluation of the proposal pursuant to this section shall include consideration of the following criteria:

1. The increase in traffic which will be generated by the development.
2. The present width and condition of streets to be affected.
3. Presence or absence of improved sidewalks.
4. Potential impacts upon the value of surrounding properties.
5. Anticipated effect upon availability of parking.
6. Existence of a particular conflict between vehicular and pedestrian traffic.
7. The street type designated in the comprehensive plan.

G. The City may reduce paved right-of-way width requirements outlined in the subdivision ordinance for streets contained within the PUD providing:

1. A demonstrated benefit to the public exists that would not exist if not for the reduction of street width; and
2. Providing the City Engineer and City's Emergency Service providers (Fire, Ambulance and Police) review the PUD to determine adequacy of proposed street widths. The City may require total right-of-way widths (including non-paved) to adhere to standards contained within the subdivision ordinance.

10-5H-4: **PHASED DEVELOPMENT:** Development of the project may be phased; in which case each complete phase may be processed separately through both preliminary development plan review and final development plan review. A map showing all property owned or controlled by the developer which is contiguous to the development site, or which is within the area determined by the City to be relevant for comprehensive planning and environmental assessment purposes, together with a conceptual plan of said properties' eventual development through all potential phases shall be submitted with the application for the first phase. The developer is not responsible for providing a conceptual plan for contiguous or nearby property which is not owned or controlled by the developer. The conceptual plan shall conform to the purposes of this chapter and shall be used by the city to review all phases of the development. All phases

of the development shall conform to the conceptual plan, all conditions of approval, and applicable regulations.

10-5H-5: **PROCEDURES:**

A. Pre-Application/Informational Meeting and Concept Review Phase:

1. Informational Meeting: Prior to filing an application for preliminary PUD plan approval, the applicant of the proposed PUD shall arrange for and attend an informational meeting with City staff. At the meeting, the applicant shall be prepared to generally describe their proposal for a PUD. The primary purpose of the meeting shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of the conformity to the provisions of this code before incurring substantial expense in the preparation of detailed plans, surveys, and other data.
2. Following a pre-application/informational meeting but prior to submitting an application for preliminary plan approval, the applicant for a proposed PUD shall submit to the City a general concept plan for review by the Zoning Administrator and Planning Commission. The purpose of the review is to give guidance as to the suitability of the project, including conformity to this Title and the Land Use Plan. One (1) electronic copy of the following shall be made available to the City at least one week in advance of the review meeting:

    a. Base Map: Base map showing applicant's land and uses in adjoining properties.
    b. Physical Feature Map: Physical feature map showing the general topography, trees, watercourses, etc.
    c. Overall maximum PUD density range.
    d. General location of major streets and pedestrian walkways.
    e. General location and extent of public and/or common open space.
    f. General location of residential and non-residential land uses with approximate intensities of development.
    g. Staging and timetable of development.
    h. Other special criteria for development.

3. Review By Commission: The Commission shall complete its review within forty-five (45) days of submission.

B. Preliminary Development Phase: Each PUD shall require preliminary and final approval. The preliminary development phase shall follow upon Planning Commission recommendations resulting from the concept review phase.

1. The first step in the preliminary phase shall be the application for rezoning to an R-5 District in accordance with procedures outlined in Chapter 15 of this Title.
2. If land subdivision is requested in conjunction with the PUD plan, both preliminary and final PUD approvals shall be processed concurrently with the platting procedures set forth in the City's Title 11 Subdivision Ordinances. Required data, parkland/fee in-lieu of parkland dedication, design standards and required improvements shall be the same as per a conventional subdivision and as set forth within the City's Title 11 Subdivision Ordinance. In addition to the data requirements itemized within the Subdivision Ordinance the application shall also include information necessary to process the PUD preliminary and final plan(s) as contained within this chapter. The zoning administrator may waive requirements determined to be redundant.

3. The preliminary development plan and the final development plan may be combined and together processed through review as a final development plan. In addition the applicant may file a concurrent rezone application in accordance with the procedures set forth in the zoning ordinance.

C. Preliminary PUDs – Contents of Complete Application.

1. The applicant shall file with the City a preliminary development plan one (1) electronic copy which includes the following:

    a. The full legal description of the property proposed to be developed in a Word Document format.
    b. A map of the subject property and surrounding area determined by the City to be relevant for comprehensive planning, environmental assessment or zoning review purposes, which shall depict comprehensive plan designations, zoning classifications and existing land uses and utility mains/urban facilities including parks and streets.
    c. A proposed site plan for the subject property depicting the following:

        i. Topography at two-foot contours for slopes 15 percent or less and five-foot contours for slopes over 15 percent.
        ii. Individual trees over ten inches in trunk diameter measured four feet above the base of the trunk in areas to be developed or otherwise disturbed.
        iii. Designated placement, location, and principal dimensions of lots, buildings, streets, parking areas, recreation areas and other open space, landscaping areas and utilities.
        iv. If the developer owns or otherwise controls property adjacent to the proposed development, a conceptual plan for such property demonstrating that it can be developed in a compatible manner with the proposed development.

    d. A conceptual landscape plan showing existing and proposed landscaping including groundcover, shrubbery and tree species.
    e. Drawing and/or text showing scale, bulk and architectural character of proposed structures.
    f. For single-family PUDs, a conceptual drawing depicting the number and location of lots which would be allowed if no regulations were modified.
    g. Special features including but not limited to critical areas and sites or structures of historic significance.
    h. Text describing conditions or features which cannot be adequately displayed on maps or drawings.
    i. A narrative stating how the proposed development complies with the goals and policies of the Comprehensive Plan.
    j. A narrative stating how the proposed plan impacts adjacent property owners.
    k. A narrative describing the public benefit of the proposed PUD.
    l. A narrative describing proposed operation/maintenance of the development including open areas, stormwater features and recreational facilities resulting from the subdivision.
    m. If applicable, draft conditions, covenants and restrictions and other documents relating to operation and maintenance of the development, including all of its open areas and recreational facilities.
    n. Information normally required within the zoning ordinance relating to site plan review.
    o. Other information required by the City.

2. The applicant may submit to the community development director proposed development standards which, if approved by the City, shall become a part of the preliminary plan in lieu of

the requirement of subsection (1)(b) of this section for specifying placement, location and principal dimensions of buildings, streets, and parking areas. This alternative process is intended to accommodate the need for flexibility in large scale non-single-family developments, while insuring that sufficient information as to the nature of the development is available upon which to base a decision concerning the preliminary development plan. Proposed development standards shall specifically set forth parameters for location, dimensions and design of buildings, streets, and parking areas.

D. Preliminary PUDs – Criteria for Approval: Preliminary PUD approval shall be granted by the city only if the applicant demonstrates that:

1. The proposed project shall not be detrimental to present and potential surrounding land use.
2. Land surrounding the proposed development can be planned in coordination with the proposed development and can be developed so as to be mutually compatible.
3. Streets and sidewalks, existing and proposed, are suitable and adequate to carry anticipated traffic within the proposed project and in the vicinity of the proposed project, in light of the criteria set forth in the City's Title 11 Subdivision Ordinance and the comprehensive plan.
4. Services including potable water, sanitary sewer and storm drainage are available or can be provided by the development prior to occupancy.
5. Each phase of the proposed development, as it is planned to be completed, contains the required parking spaces, recreation spaces, landscape, and utility areas necessary for creating and sustaining a desirable and stable environment.
6. The project conforms with the purposes and standards prescribed in this chapter.
7. The project conforms to the Comprehensive Plan.
8. Conformance with the design standards and required improvements as set forth within the Subdivision Ordinance.

E. Final Development Phase:

1. Following the completion of the preliminary development pause, the applicant shall enter into the final development phase. It is recognized that certain PUD projects may involve construction over an extended period of time. Therefore, the final development phase may occur in stages. Whether review is to occur in stages or as a whole, the final development phase shall include the following content:

    a. A survey of the property, showing for all areas to be developed or disturbed existing features, including topography at two-foot contours for slopes 15 percent or less and five-foot contours for slopes over 15 percent, buildings, structures, trees over eight inches in trunk diameter measured four feet above the base of the trunk, streets, utility easements, rights-of-way, and existing land uses.
    b. Elevation and perspective drawings of project structures and improvements.
    c. Proposed final conditions, covenants and restrictions (CC&Rs) and other documents relating to operation and maintenance of the development, including all of its open areas and recreational facilities, which CC&Rs and other documents shall be recorded upon final PUD approval.
    d. Proposed final agreements which may have been required as conditions of preliminary PUD approval.
    e. A development schedule.
    f. The following plans and diagrams as requested:

i. An off-street parking plan.
ii. A circulation diagram indicating the proposed movement of vehicles and pedestrians within the planned unit development, and to and from existing and programmed thoroughfares; any special engineering features and traffic regulating devices needed to facilitate or insure the safety of this circulation pattern must be shown.
iii. Landscaping and tree planting plan, including site grading.
iv. A topographic map or model of the site and surrounding vicinity.

2. In the event that development standards were submitted and approved as part of the preliminary development plan, development standards shall be made binding upon all future developers of the property in a manner acceptable to the city and may be submitted in lieu of elevation and perspective drawings of project improvements.

F. Criteria for Approval: Final PUD approval shall be granted by the city only if the applicant demonstrates that the final PUD substantially conforms to the approved preliminary PUD. For the purposes of this section, "substantially conforms" means that, as compared to the preliminary PUD, the final PUD contains no revisions in density, uses, design or development standards or in the site plan, other than the minor changes pursuant to Subd. 11 of this chapter.

G. Extension of Time for Filing: For good cause shown, the city, at its discretion, may grant an extension of time of one year for filing the final PUD and required accompanying papers, and may grant additional one-year extensions; provided, however, the city shall have the right to re-examine and update any conditions made to mitigate development impact.

H. Failure to File – Termination:

1. In the event the final PUD or any required attendant papers are not filed within 12 months following approval of a preliminary PUD, except as provided elsewhere in this Chapter or as noted in subsection 2 (immediately following this subsection), the approval of the preliminary PUD shall lapse, and the approval shall be deemed null and void and without force or effect.
2. When it is determined as part of the preliminary PUD approval that the final PUD is to be phased, the final PUD for the first phase shall be submitted within 12 months of preliminary approval. The final development plan for each subsequent phase shall be submitted within the schedule established at the time of preliminary PUD approval. In the case of a PUD which includes a subdivision, the final PUD shall be submitted within five years of receiving preliminary approval.
3. The time period for filing of final PUDs shall not include periods of time during which progress on the final PUD was reasonably halted or delayed due to the filing and pendency of legal actions challenging an approval granted by the city pursuant to this chapter; provided, that in all cases when more than two years have elapsed subsequent to the date of approval of a preliminary PUD the permittee shall be required to comply with all current building, construction, subdivision and other applicable standards of the city prior to being granted approval of the final PUD; provided, that a change in zoning district classification enacted subsequent to approval of the final development plan shall not affect the project.

10-5H-6: **PROPERTY CONTROL:**

A. Ownership, Unified Whole: At all phases an application for PUD approval must be filed by the landowner or jointly by all landowners of the property to be included in the project. The application and all submissions must be directed to the development of the property as a unified whole. In case

of multiple ownership, the approved PUD Plan, final plan, and final plat shall be binding to all owners.

B. Whenever common open space or service facilities are provided within the PUD, the PUD plan shall contain provisions to assure the continued operation and maintenance of such open space and service facilities to a predetermined reasonable standard.

C. Common open space and service facilities within a PUD shall be placed under the ownership of one or more of the following:

1. Landlord control where only use by tenants is anticipated.
2. Property owners' association, provided all of the following conditions are met:

    a. Prior to the use, occupancy, sale, or the execution of contracts for sale of an individual building unit, parcel, tract, townhouse, apartment, or common area, a declaration of covenants, conditions and restrictions or an equivalent document as specified in Minnesota Statutes shall be filed with the Zoning Administrator prior to the filings of the declaration of documents or floor plans with the County Recorder's Office.
    b. The declaration of covenants, conditions and restrictions or equivalent document shall specify that deeds, leases, or documents of conveyance affecting buildings, units, parcels, tracts, townhouses or apartments shall subject the properties to the terms of the declaration.
    c. The declaration of covenants, conditions and restrictions shall provide that an owner's association or corporation may be formed and if such an association or corporation is formed property owners must be members of the association or corporation which shall maintain all properties and common areas in good repair and which shall assess individual property owners' proportionate shares of joint or common costs. This declaration shall be subject to the review and approval of the City Attorney. The intent of this requirement is to protect the property values of the individual owner through establishing effective private control.
    d. The declaration shall additionally provide that in the event the association or corporation fails to maintain properties in accordance with the applicable rules and regulations of the City or fails to pay taxes or assessments on properties as they become due, and in the event the City incurs any expenses not immediately reimbursed by the association or corporation, then the City shall have the right to assess each property its pro rata share of the expenses. Such assessments, together with interest thereon and costs of collection, shall be a lien on each property against which such assessment is made.
    e. Membership in the association must be mandatory for each owner and any successive buyer and the association must be responsible for liability insurance, taxes, and the maintenance of the open space facilities to be deeded to it.
    f. The open space restrictions must be permanent and not for a given period of years.
    g. Property owners must pay their pro rata share of the cost of the association by means of an assessment to be levied by the association which meets the requirements for becoming a lien on the property in accordance with state law and the association must be able to adjust the assessment to meet changing needs.
    h. The by-laws and rules of the association and all covenants and restrictions to be recorded must be approved by the City Council prior to the approval of the final PUD plan.

D. Staging of common open space. The construction and provision of all of the common open space and public improvements and recreational facilities that are shown on the final development plan for a PUD must proceed at the same rate as the construction of dwelling units or other private facilities.

10-5H-7: **MAJOR AND MINOR CHANGES TO AN APPROVED PRELIMINARY PUD**

A. A proposed minor change to an approved PUD requires a public hearing and shall be incorporated into the application for final PUD approval, and any notification regarding such final PUD approval shall describe the proposed minor change(s). A "minor change" means any departure from the conditions of preliminary approval which is not a "major change" and includes but is not limited to the following revisions:

1. The number of dwelling units in a structure.
2. The number of nonresidential structures.
3. The heights of structures.
4. The location of internal roads.
5. Any revision similar in nature to those above, as determined by the city.

B. A proposed major change to an approved preliminary PUD shall require reapplication for preliminary PUD approval and any notification regarding such preliminary PUD approval shall describe the proposed major change or changes. A major change is any departure from the conditions of preliminary PUD approval which would result in any of the following revisions:

C. The approved design concept.
D. The approved use(s);
E. An increase in the number of residential dwelling units.
F. An increase in square footage of nonresidential structures.
G. A decrease in the amount of landscaping, site perimeter buffering, and open space; and
H. An increase in traffic volumes or change in circulation patterns which impacts surrounding development.

10-5H-8: **MAJOR AND MINOR CHANGES TO AN APPROVED FINAL PUD:**

A. The zoning administrator is authorized to allow adjustments in accordance with subsection B (which immediately follows this section) of this chapter. The zoning administrator shall allow only such adjustments as are consistent with guidelines established in subsection B of this section, and in no case shall an adjustment be allowed if it will increase the total amount of floor space authorized in the approved final PUD, or the number of dwelling units or density, or decrease the amount of parking or loading facilities or permit buildings to locate substantially closer to any boundary line or change substantially any point of ingress or egress to the site.

B. For the purposes of this section, "adjustments" means any departure from the conditions of final PUD approval which complies with the following criteria:

1. The adjustment maintains the design intent and quality of the original approval.
2. The amount of landscaping, buffering and open space shall not be reduced.
3. The number of dwelling units in residential developments and the square footage of structures shall not increase.
4. The density of the development shall not change.
5. The adjustment shall not relocate a building, street or other use more than 20 feet in any direction and shall not reduce any required yard and/or setback.
6. The height of buildings and other structures shall not increase.

7. Views from both structures on-site and off-site shall not be substantially reduced.
8. Traffic volumes shall not increase, and circulation patterns shall not change.
9. Changes in colors, plant material and parking lot configurations are minor.
10. The adjustment does not add significant new environmental impacts or significantly increase environmental impacts disclosed in the original documents.
11. The zoning administrator determines that the change will not increase any adverse impacts or undesirable effects of the project, or that the change in no way significantly alters the project.

10-5H-9: **BUILDING PERMITS/CERTIFICATES OF OCCUPANCY:** The city shall issue building permits for buildings and structures which conform with the approved final PUD and with all other applicable city ordinances and regulations. The city shall issue a certificate of occupancy for completed buildings or structures which conform to the requirements of the approved final PUD and all other applicable city ordinances and regulations.

10-5H-10: **EXTENSION OF TIME FOR CONSTRUCTION:** For good cause shown, the city, at its discretion, may grant one extension of time for commencement or continuation of construction subsequent to approval of the final PUD.

10-5H-11: **TERMINATION OF PLANNED UNIT DEVELOPMENT – FAILURE TO COMMENCE OR CONTINUE CONSTRUCTION:** If the construction has not been started within five years from the date of approval of a final PUD with an associated subdivision, or two years from the date of approval of any other final PUD, or if construction has been commenced but the work has been abandoned for a period of one year or more, and if no extension of time has been granted as provided in herein, the authorization granted for the planned unit development project shall terminate and all permits and approvals issued pursuant to such authorization shall expire and be null and void.

The time period of commencing or continuing construction shall not include periods of time during which commencement of construction or continuation of construction was reasonably halted or reasonably delayed due to the filing of a pendency of legal action challenging an approval granted by the city pursuant to this chapter; however, in all cases, when more than five years have elapsed subsequent to the date of approval of a final PUD with associated subdivision, or more than two years have elapsed subsequent to the date of approval of any other final PUD the permittee shall be required to comply with all current building, construction, subdivision and other applicable standards of the city; provided, that a change in zoning district classification enacted subsequent to approval of the final development plan shall not affect the project.

10-5H-12: **SALE OF LOTS:** Lots in a platted planned unit development may be sold to separate owners according to the separate lots as shown in the plat filed and approved in connection therewith. No sale shall be permitted which subdivides a lot in such a manner as to create a new lot line except as provided in Section 11, Chapter 2 of the Subdivision Ordinance.

10-5H-13: **LOTS SUBJECT TO FINAL PUD**: All lots or other divisions of a subdivided planned unit development shall remain subject to compliance with the final development plan regardless of the fact of subdivision in compliance with the subdivision ordinance or lot(s)/division(s) of a subdivided PUD were subsequently conveyed.

CHAPTER 6

BUSINESS DISTRICTS

ARTICLE A. RESERVED

CHAPTER 6

BUSINESS DISTRICTS

ARTICLE B. B-2 GENERAL BUSINESS DISTRICT

SECTION:

10-6B-1: Intent
10-6B-2: Permitted Uses
10-6B-3: Conditional Uses
10-6B-4: Permitted Accessory Uses
10-6B-4.5: Interim uses
10-6B-5: Lot, Yard, Area, and Height Requirements

10-6B-1: **INTENT:** The B-2 General Business District is intended to provide space for concentrated general business and commercial activities or central business district at locations where the interaction between such activities can be maximized with minimal infringement on residential neighborhoods. This district is suitable for areas guided to general business and mixed use in the Comprehensive Plan.

10-6B-2: **PERMITTED USES:** The following uses shall be permitted within the B-2 General District:

A. Animal hospital.
B. Appliance store.
C. Armory, exhibition hall, auction hall.
D. Art and school supply store, book, or stationary store.
E. Automotive accessory (retail) sales.
F. Automotive repair, Minor.
G. Bakery goods, sales, and baking goods for retail sales on premises.
H. Banks, loan companies, insurance offices and other financial offices.
I. Barber and beauty shops.
J. Bar or tavern.
K. Battery sales (retail).
L. Bicycle sales and repairs.
M. Business or trade school.
N. Business supply.
O. Call Center.
P. Camera and photographic supply store.
Q. Candy, ice cream, popcorn, coffee, frozen dessert, and soft drink shop, but not of the drive-in type.
R. Churches/places of worship.
S. Clothing sales.
T. Coin and collector's shop.
U. Convenience store provided the subject lot for the use abuts a collector or arterial street.
V. Copy shop.
W. Delicatessen, grocery, fruit, meat, or vegetable store.
X. Department, discount, or general merchandise store.
Y. Drive in/through establishment such as restaurants, frozen desserts, and theaters.
Z. Drug store.

AA. Electrical sales/service – household, retail.
BB. Employment agencies.
CC. Floor covering store.
DD. Florists.
EE. Fraternal organizations, YMCA, YWCA.
FF. Garden supply store provided conducted within an enclosed building.
GG. Gasoline service stations.
HH. General merchandise store.
II. Hardware store.
JJ. Hobby shop and gift store.
KK. Hospitals clinics and other buildings used for the treatment of human ailments, nursing homes, homes for the aged.
LL. Jewelry sales and repair store.
MM. Laundromat of the self-service type.
NN. Laundry pickup stations including incidental pressing and repair.
OO. Library.
PP. Liquor store.
QQ. Medical, optical and dental clinics.
RR. Mortuaries.
SS. Motels and hotels.
TT. Municipal and other governmental buildings.
UU. Offices.
VV. Musical instrument stores.
WW. Paint and wallpaper sales store.
XX. Pet shops provided no pets are maintained outside an enclosed building.
YY. Photographic studio.
ZZ. Plumbing (retail) sales with repair services incidental to the retail sales establishment.
AAA. Public buildings and public uses.
BBB. Record shop and video stores.
CCC. Restaurant, café, tearoom, but not the drive-in type.
DDD. Shoe sales and repair.
EEE. Sporting goods store.
FFF. State licensed day care centers and nursery school facilities provided that there is adequate off-street parking and loading.
GGG. Television/electronic sales/service.
HHH. Theaters.
III. Tire sales – Retail.
JJJ. Upholstery service.

10-6B-3: **CONDITIONAL USES**: The following uses require a conditional use permit as provided in Chapter 14 of this Title:

A. Car washes.
B. Service structures, public or private, designed and used to serve the uses in the surrounding area, such as electric power substations, telephone buildings, deep wells, elevated tanks, and similar structures and uses.
C. Building materials yard provided said yard is compliant with outdoor storage and architectural design standards included in this ordinance.
D. Crematorium.
E. Heating, ventilation, and air conditioning sales/service.

F. Municipal, commercial, or industrial parking lot providing lighting, screening and off-street parking standards are achieved.
G. Places of commercial amusement, including bowling alleys, billiard and pool rooms, skating rinks and trampoline centers, dance halls, night clubs and children amusement parks when conducted entirely within an enclosed structure. Excludes adult uses.
H. Travel trailers, motor homes and other recreational sales and services, providing aggregate outdoor sales areas are not more than twice the aggregate square footage of indoor sales areas.
I. Water softener repair, sales and service.
J. Boat or marine sales (retail), providing aggregate outdoor sales area is not more than twice the aggregate square footage amount of indoor sales area.
K. Automobile Dealership.
L. Commercial telecommunications towers.
M. Self-Storage Facilities, provided that:

1. Such facilities shall provide a perimeter landscaped buffer consisting of a double staggered row of evergreen trees between the facility and any residentially zoned property.
2. Lighting of the facility, its buildings and/or its drive aisles shall be hooded so no light source is visible to neighboring residential property and shall be measured at zero (0) footcandles at the property line, as shown on a photometric plan of the proposed development.
3. No storage unit shall house any business operation or activity other than storage, and the loading or unloading of said storage.
4. No storage unit abutting residentially zoned property shall have doors facing outward toward the residential zone.
5. No outdoor storage shall be permitted in Self Storage facilities in any B-2 zoning district.
6. Fencing materials consisting of chain link at the boundary with residentially zoned property shall be black coated, and shall not include razor wire, barbed wire, or similar components.
7. All other zoning standards applicable to B-2 property are complied with. Where standards differ the more restrictive shall apply.

N. Sacred Community.

Deleted: N

10-6B-4: **PERMITTED ACCESSORY USES:** The following are permitted accessory uses in the B-2 General Business District.

A. Newsstand provided all accessory uses combined do not exceed thirty five (35) percent of the aggregate square footage of the structure.
B. Off-street parking and loading areas as required by this Title.
C. Signs as regulated by this Title.
D. Temporary buildings for construction purposes, for a period not to exceed construction or nine months, whichever is less.
E. School facilities.
F. Solar Energy Systems.

10-6B-4.5: **INTERIM USES:** The following uses require an interim use permit as provided in Chapter 15 of this Title:

A. Outdoor seasonal sales/displays of any kind.
B. Solar Gardens.

10-6B-5: **LOT, YARD, AREA AND HEIGHT REQUIREMENTS**:

A. Minimum lot size: 32,670 square feet (.75 acres).
B. Minimum lot width: one hundred (100) feet.
C. Front Yard Setback. A minimum of thirty (30) feet.
D. Side Yard Setback: minimum fifteen (15) feet; if adjacent to any residential district thirty (30) feet.
E. Rear Yard Setback: minimum of thirty (30) feet.
F. Maximum impervious surface coverage of all buildings, parking areas, sidewalks and other covered surfaces: seventy-five (75) percent. Properties developed prior to the effective date of this ordinance are exempt from this standard.
G. Height: No structure or building shall exceed fifty-five (55) feet in height, except each required setback shall be increased by one foot for every one foot of building height exceeding thirty-five (35) feet.
H. Buffer Requirements: Where a business development and/or parking lot exceeding two (2) spaces abuts upon an R-1, R-1a, R-2, R-3, CDZ or R-5 (PUD) Residential District or is separated from such residential district by an alley, there shall be a protective strip of not less than twenty five (25) feet in width established as a buffer zone. Landscaped buffer must contain a fence or evergreen hedge as described in 10-9-2. If abutting an R-4 District, the buffer shall be not less than fifteen (15) feet in width.
I. Exterior Material Requirements:

    1. Building facades shall be designed to avoid a monolithic or monotonous appearance by employing designs which prevent the appearance of straight, unbroken lines in their horizontal and vertical surface.
    2. Portions of buildings facing or oriented toward public rights of way shall feature breaks/divisions in materials, separate entrances/entrance treatments, variations in roof lines and/or variations in building setbacks.
    3. Portions of buildings facing or oriented toward public rights of way shall feature a minimum of 75% of the total walls above grade level, excluding doors and windows constructed of approved stone, brick, concrete masonry (indented, hammered, split face or similar) units, glass, or concrete (integrally painted or exposed aggregate) masonry units.
    4. The use of various textures, colors and accents is encouraged. The following are acceptable exterior materials:

        a. Brick or face brick,
        b. Decorative architectural precast concrete masonry units. Concrete masonry units shall have an indented, hammered, split face finish or other similar architectural finish and be integrally colored. Light weight concreted block or cinder block construction is prohibited,
        c. Specially designed, precast or tilt wall concrete panel units if the surfaces have been integrally treated with an applied decorative material or texture (excluding raw concrete block painted or unpainted).
        d. Wood.
        e. Natural or Cut Stone such as granite, marble, limestone, slate, river rock and other durable naturally occurring all weather stone.
        f. Stucco (plaster), EIFS.
        g. Glass curtain walls provided they are designed as non-load bearing exterior walls supported in a metal framework.
        h. Decorative synthetic material approved by the City Council.
        i. Any combination of the materials identified herein.

j. Any other material approved by the City Council, including but not limited to hardy plank or other concrete composite materials found to be of comparable or superior durability which mimic the appearance of other approved materials.

J. Roof Materials: Commercial grade asphalt shingles, wood shingles, standing seam pre-finished architectural metal, slate, tile or copper. Flat roofs are exempt from this requirement. Flat roofs are not allowed unless a parapet is provided.

K. Framing Types: Concrete block or masonry framing systems are preferred. Tilt-up, Post-Frame wood and/or steel construction framing is allowed as long as any structure has a contiguous masonry frost-free foundation.

L. Building Design Requirements:

1. Accessory structures must be similar to principal structure in material, quality and appearance. Accessory structures shall not exceed the height of the principal structure.
2. Screening walls and/or exposed areas of retaining walls must be constructed of permanent material and finish and in a color compatible with the principal structure.

M. Excessive Bulk Requirements: Flat, blank, or unarticulated facades fronting on streets or residentially designated areas are prohibited. Facades fronting streets or residentially designated areas shall be designed to incorporate architectural elements which provide breaks in the planes of the exterior walls and/or roof lines. Such breaks can include openings, canopies, windows, changes in materials, changes in height and/or depth of walls/roof, cornice/ molding detail and the like.

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CHAPTER 6

BUSINESS DISTRICTS

ARTICLE C. B-3 MEDICAL/PROFESSIONAL DISTRICT

SECTION:

10-6C-1: Intent
10-6C-2: Permitted Uses
10-6C-3: Conditional Uses
10-6C-4: Permitted Accessory Uses
10-6C-4.5: Interim uses
10-6C-5: Yard and Height Requirements

10-6C-1: **INTENT:** The B-3 Medical/Professional District is intended to provide for high quality professional medical office and mixed use development, including hospitals, retail offices and senior or other medium to high-density housing. This district is suitable for areas guided to medical professional mixed-use development in the Comprehensive Plan principally those areas adjacent to Trunk Highway 15 north of County Road 120.

10-6C-2: **PERMITTED USES:** The following uses shall be permitted within the B-3 Medical/Professional District:

A. Business or Trade School.
B. Churches, places or worship.
C. Clothing sales.
D. Copy shop.
E. Drug Store.
F. Electrical sales, service.
G. Fraternal organizations, YMCA, YWCA.
H. Hospitals clinics and other buildings used for the treatment of human ailments, nursing homes, homes for the aged.
I. Library.
J. Medical, optical, and dental clinics.
K. Medical Research Laboratory.
L. Professional and financial offices, banks, loan companies, insurance companies, etc.
M. Public buildings and uses.
N. Restaurant, café, tearoom.
O. State licensed day care centers and nursery school facilities provided adequate off-street parking and loading is provided and the facility meets Minn. Stat. requirements.
P. Television/electronics sales/service.
Q. Call Centers.

10-6C-3: **CONDITIONAL USES:** The following uses require a conditional use permit as provided in Chapter 14 of this Title:

A. Car wash, drive through provided in conjunction with convenience store.
B. Commercial telecommunications towers.

C. Mixed Uses, including business and residential uses, when located within a single structure, provided that:

1. The non-residential use is a permitted use as defined in 10-6B and 10-6C-.
2. The residential use shall have a separate entry apart from the business use.
3. the applicant shall demonstrate to the satisfaction of the City that the proposed lot sized, uses, mix, and their location are compatible and complementary both internally and with adjacent land uses.
4. Lot, Yard, Area, and heigh requirements shall meet the R-3 Multi-Family District as defined in this Title.

D. Motels and Hotels.
E. Sacred community.

10-6C-4: **PERMITTED ACCESSORY USES**: The following are permitted accessory uses in the B-2 General Business District.

A. Permitted accessory uses in the B-1 and B-2 Business District.
B. Any combination of the following provided all accessory uses combined do not exceed thirty five (35) percent of the aggregate square footage of the structure: art and school supply store; book or stationary store; bakeries baked goods, sales and service; banks, loans, insurance offices (if not the principal use of the structure); barber/beauty shops; candy, ice cream, coffee, popcorn, frozen dessert and soft drink shops and the like but not the drive thru type; delicatessen, grocer, fruit, meat or vegetable store; laundry pick up stations including incidental pressing and repair; employment agencies; florists; hobby/gift shops; record shop/video store; and, residential structures and related residential uses necessary for security and safety reasons in relation to the principal use.

10-6C-4.5: **INTERIM USES:** The following uses require an interim use permit as provided in Chapter 15 of this Title:

A. Outdoor seasonal sales/displays of any kind.
B. Solar Gardens.

10-6C-5: **LOT, YARD, AREA AND HEIGHT REQUIREMENTS**:

A. Minimum lot size: 32,670 square feet (.75 acres).
B. Minimum lot width: 100 feet.
C. Front Yard Setback. A minimum of thirty (30) feet.
D. Side Yard Setback: minimum fifteen (15) feet.
E. Rear Yard Setback: minimum of thirty (30) feet.
F. Maximum impervious surface coverage of all buildings, parking areas, sidewalks and other covered surfaces: Eighty (80) percent. Properties developed prior to the effective date of this ordinance are exempt from this standard.
G. Height: No structure or building shall exceed sixty-five (65) feet in height, except each required setback shall be increased by one-half foot for every one foot of building height exceeding thirty-five (35) feet.
H. Buffer Requirements: Where a business development and/or parking lot exceeding two (2) spaces abuts upon an R-1, R-1a, R-2 or R-3, CDZ or R-5 PUD Residential District or is separated from such residential district by an alley, there shall be a protective strip of not less than twenty five (25) feet in width established as a buffer zone. Landscaped buffer must contain a fence or evergreen

hedge as described in 10-9-2. If abutting an R-4 District, the buffer shall be not less than fifteen (15) feet in width.

I. Exterior Material Requirements:

1. Building facades shall be designed to avoid a monolithic or monotonous appearance by employing designs, which prevent the appearance of straight, unbroken lines in their horizontal and vertical surface.
2. Portions of buildings facing or oriented toward public rights of way shall feature breaks/divisions in materials, separate entrances/entrance treatments, variations in rooflines and/or variations in building setbacks.
3. Portions of buildings facing or oriented toward public rights of way shall feature a minimum of seventy-five (75) percent of the total walls above grade level, excluding doors and windows constructed of approved stone, brick, concrete masonry (indented, hammered, split face or similar) units, glass, or concrete (integrally painted or exposed aggregate) masonry units.
4. The use of various textures, colors and accents is encouraged. The following are acceptable exterior materials:

    a. Brick or face brick,
    b. Decorative architectural precast concrete masonry units. Concrete masonry units shall have an indented, hammered, split face finish or other similar architectural finish and be integrally colored. Light weight concreted block or cinder block construction is prohibited,
    c. Specially designed, precast or tilt wall concrete panel units if the surfaces have been integrally treated with an applied decorative material or texture (excluding raw concrete block painted or unpainted),
    d. Wood,
    e. Natural or Cut Stone such as granite, marble, limestone, slate, river rock and other durable naturally occurring all weather stone,
    f. Stucco (plaster) EIFS,
    g. Glass curtain walls provided they are designed as non-load bearing exterior walls supported in a metal framework,
    h. Decorative synthetic material approved by the City Council,
    i. Any combination of the materials identified herein,
    j. Any other material approved by the City Council, including but not limited to hardy plank or other concrete composite materials found to be of comparable or superior durability which mimic the appearance of other approved materials.

5. Framing Types: Concrete block or masonry framing systems are preferred. Tilt-up, post frame wood and/or steel framing are allowed as long as any structure has a contiguous masonry frost-free foundation.
6. Roof Materials: Commercial grade asphalt shingles, wood shingles, standing seam pre-finished architectural metal, slate, tile or copper. Flat roofs are exempt from this requirement. Flat roofs are not allowed unless a parapet is provided.
7. Building Design Requirements:

    a. Accessory structures must be similar to principal structure in material, quality, and appearance.
    b. Accessory structures shall not exceed the height of principal structure.
    c. Screening walls and/or exposed areas of retaining walls must be constructed of permanent material and finish and in a color compatible with the principal structure.

d. Excessive Bulk Requirements: Flat, blank, or unarticulated facades fronting on streets or residentially designated areas are prohibited. Facades fronting streets or residentially designated areas shall be designed to incorporate architectural elements, which provide breaks in the planes of the exterior walls and/or rooflines. Such breaks can include openings, canopies, windows, changes in materials, changes in height and/or depth of walls/roof, cornice/ molding detail and the like.

CHAPTER 7

INDUSTRIAL DISTRICTS

ARTICLE A. I-1 LIGHT INDUSTRIAL-OFFICE DISTRICT

SECTION:

10-7A-1: Intent
10-7A-2: Permitted Uses
10-7A-3: Conditional Uses
10-7A-4: Permitted Accessory Uses
10-7A-5: Lot, Yard, Area and Height Requirements
10-7A-6: Performance Standards

10-7A-1: **INTENT:** The purpose of the Industrial-Office District is to provide for light manufacturing, office, research and development, warehousing, and other permitted uses in a functional, attractive manner which does not unduly affect the development or use of nearby properties.

10-7A-2: **PERMITTED USES:** The following uses shall be permitted within the I-1 Light Industrial District:

A. Light manufacturing, production service/repair processing, treatment, printing, or assembly of products of materials occurring within an enclosed building, except as provided for in 10-7A*3 and 10-7a-4. Does not include the processing and packing of meat and flesh products.
B. Offices.
C. Research and development facilities.
D. Office-Warehouse.
E. Office- Showrooms.
F. Motels, hotels, and conference centers.
G. Indoor community recreation and outdoor civic events and facilities.
H. Mini-storage facilities, self-storage facilities, or public storage facilities occurring within an enclosed building.
I. Public buildings or facilities.
J. Vehicle body repair and painting businesses.
K. Breweries, microbreweries, and distilleries.
L. Indoor fitness facilities, including gyms and health clubs.
M. Retail, or service uses occupying up to twenty-five (25) percent of the gross area of the principal structure.
N. Railroad right of ways.

10-7A-3: **CONDITIONAL USES:** The following uses require a conditional use permit as provided in Chapter 14 of this Title:

A. Retail, or service uses occupying between twenty-five (25) and fifty (50) percent of the gross area of the principal structure.
B. Cemeteries.
C. Marinas.

D. Service structures, public or private, designed and used to serve the uses in the surrounding area, such as electric power substation, solar, telephone buildings, deep wells, elevated tanks and similar structures and uses.
E. Other uses similar to those permitted in this section, as determined by the City.
F. Transit stations, park, and ride facility .
G. Outdoor storage which is no greater than 10 percent of the total building area and is subject to the screening requirements in Section 10 Chapter 17 Site Design Standards and may not exceed 10 feet in height.
H. Commercial telecommunications towers.

10-7A-4: **INTERIM USES:** The following uses require an interim use permit as provided in Chapter 15 of this Title:

A. Solar Gardens.

10-7A-5: **PERMITTED ACCESSORY USES:** The following are permitted accessory uses in the Light Industrial District.

A. Off-street parking and off-street loading.
B. Temporary buildings for construction purposes for a period not to exceed construction or nine months, whichever is less.
C. Any combination of the following provided all accessory uses combined do not exceed 25% of the aggregate square footage of the structure: offices, residential structures and related residential uses necessary for security and safety reasons in relation to the principal use; and, restaurant, café and the like but not drive in/through type.
D. Any combination of the following provided all accessory uses combined do not exceed 25% of the aggregate square footage of the structure: commercial activities directly relating to a product produced on site and/or commercial activities relating to production systems, structural maintenance programs or the construction industry; and wholesale showrooms.
E. Solar Energy Systems.

10-7A-6: **LOT, YARD, AREA AND HEIGHT REQUIREMENTS**:

A. Lot Area: Minimum lot size: 1 acre. Minimum lot width: 100 feet.
B. Front Yard Setback:

1. The front yard setback in any industrial district shall be forty (40) feet. On corner lots, the setback shall be forty (40) feet. Where an industrial district is separated from a residential or residential planned unit development district by a street, the setback from the street in the industrial district shall not be less than one hundred (100) feet.
2. The front yard bordering upon a street shall be landscaped.
3. Structures adjacent to Trunk or County State Aid Highways shall be set back an additional ½ foot for each one foot of building height over fifteen feet.

C. Side Yard Setback:
1. The side yard setback in any industrial district shall be not less than fifteen (15) feet.
2. The industrial district side yard adjacent to a residential boundary line shall provide for a landscaped strip sixty (60) feet in width along such boundary line. A portion of this landscaped strip shall be planted to provide a screen. The governing body may require additional side yard

width in these cases. When such additional width is required, such additional width shall not exceed one hundred (100) feet.

3. The side yard bordering upon a street or river shall be landscaped.
4. Structures adjacent to Trunk or County State Aid Highways shall be set back an additional ½ foot for each one foot of building height over fifteen (15) feet.

D. Rear Yard Setback: The rear yard setback in all industrial districts shall be a minimum of thirty (30) feet which may be used for parking. If the rear of an industrial district abuts on or is across from an alley or street from a residential use, the rear yard setback shall be a minimum of one hundred (100) feet.

E. Height: No building constructed adjacent to any residential use shall be more than fifty-five (55) feet. Each required setback shall be increased by one foot for every one foot of height exceeding 35 feet. This increased setback can be combined with requirements pertaining to increased setbacks from certain roadways.

F. Maximum impervious surface coverage of all buildings, parking areas, sidewalks, and other covered surfaces: seventy-five (75) percent. All industrial properties greater than one acre shall come into compliance with the minimum impervious surface coverage requirement as a part of any new primary building construction or an expansion of at least twenty-five (25) percent of an existing building (horizontal or vertical) project which would trigger a site plan approval process. This includes new or proposed building footprints; parking areas; driveways; loading, storage and trash areas and other areas covered by any impervious surface.

G. Buffer Requirements: Where a business development and/or parking lot exceeding two (2) spaces abuts upon a residential use or is separated from such residential district by an alley, there shall be a protective strip of not less than twenty-five (25) feet in width established as a buffer zone. Landscaped buffer must contain a fence or evergreen hedge as described in 10-9-2.

H. Any yard bordering a street or river shall be landscaped. All industrial properties shall be landscaped as a part of any new building or expansion (horizontal or vertical) project. Such required landscape plans shall include overstory trees, understory trees, shrubs, deciduous trees, coniferous trees, or ground covers as described in 10-9-2.

I. Setback from active rail lines: All structures, parking lots, buildings, ponds shall comply with the minimum setback requirements as determined by the rail authority.

J. Setback from River: All structures, buildings, and roadways shall be set back a minimum of fifty (50) feet from the river. Trails, sidewalks and boardwalks are not subject to this setback requirement.

K. Exterior Material Requirements:

1. Any approved commercial materials in B-1, B-2 and B-3 Districts.
2. Standard smooth-faced concrete masonry units.
3. Unfinished pan formed precast or cast in place concrete panels.
4. Portions of buildings facing or oriented toward public rights of way or in some cases the Mississippi River, shall feature a minimum of fifty (50) percent of the total walls above grade level, excluding doors and window, constructed of approved stone, brick, concrete masonry (indented, hammered, split face or similar) units, glass or concrete (integrally painted or exposed aggregate) masonry units.
5. Other materials as approved by the City Council.

L. Framing Types. Concrete block or masonry framing systems are preferred. Tilt-up, post frame steel framing is allowed as long as any structure has a continuous masonry frost-free foundation.

M. Roof Materials. Commercial grade asphalt shingles, wood shingles, standing seam pre-finished architectural metal, slate, tile or copper. Flat roofs are exempt from this requirement.

N. Building Design Requirements. Accessory structures must be similar to the principal structure in the material, quality, and appearance. Accessory structures cannot exceed height of principal structure. Screening walls and/or exposed areas of retaining walls must be constructed of a permanent material and finish and in a color compatible with the principal structure. Pole Building Construction is prohibited for commercial or industrial construction.

O. Excessive Bulk Requirements: Flat, blank or unarticulated facades over forty (40) feet in length, width and/or depth and fronting on streets, the Mississippi River or residentially designated areas are prohibited. Breaks in planes of the exterior walls/roof may be provided by changes in exterior finish materials (excluding windows/doors), wall and/or roof height and/or wall depth.

P. Impound lots, scrap yards or like uses are prohibited.

Q. On-site storage or handling of hazardous waste materials or non hazardous waste materials and defined by state law is prohibited. Hazardous waste materials inadvertently delivered to the facility shall be promptly removed from the site in accordance with county and state requirements.

10-7A-7: **PERFORMANCE STANDARDS:** Applicants for a permit to develop any light industrial property (I-1) in the Municipality shall be required to submit a complete and accurate statement concerning the specific nature of the use to which the property is to be put. This statement shall include detailed information relative to the control of smoke, odors, noise, vibrations, or other effects, which may be considered by the governing body or the Planning Commission as detrimental to health, safety, or general welfare. The City Council may require any additional information, corrections or control deemed necessary for the protection of the public.

In order to assure compliance with the performance standards set forth above, the City Council may require the owner or operator of any permitted or conditional use to have made such investigations and tests as may be required to show compliance with these performance standards. Such investigation and tests as are required to be made may be carried out by an independent testing organization as may be agreed upon by all parties concerned, or if there is failure to agree, by such independent testing organization as may be selected by the City Council after thirty (30) day notice. The costs incurred in having such investigations or tests conducted shall be the responsibility of the owner or operator. The procedure stated above does not preclude the City from making any tests and investigations it finds appropriate to determine compliance with these performance standards.

CHAPTER 7

INDUSTRIAL DISTRICTS

ARTICLE B. I-2 GENERAL INDUSTRIAL DISTRICT

SECTION:

10-7B-1: Intent
10-7B-2: Permitted Uses
10-7B-3: Conditional Uses
10-7B-4: Interim Uses
10-7B-5: Permitted Accessory Uses
10-7B-6: Lot, Yard, Area and Height Requirements
10-7B-7: Performance Standards

10-7B-1: **INTENT:** The I-2 General Industrial District is established to protect public health, safety, comfort, convenience and the general welfare and to protect the economic base of the City as well as the value of real estate, by regulating industrial development in appropriate locations. This district is suitable for areas guided to industrial development in the Comprehensive Plan. These general objectives include, among others, the following specific objectives:

A. To protect previously established residential and commercial areas by regulating those nearby industrial activities which may create offensive noise, vibration, smoke, dust odors, heat, glare, fire hazards, and other objectionable influences on those areas which are appropriate therefor.
B. To establish proper standards of performance which will restrict undesirable or temporary industrial activities, while at the same time encouraging and permitting industrial activities which are able to comply with the standards established herein without adversely affecting the health, happiness, safety, convenience and welfare of the people living and working in nearby areas.
C. To promote the most desirable use of land in accordance with a well-considered plan of land use for all of the City, to conserve the use of property, to promote stability of industrial activities and related development, to protect the character and established development in each area of the community, and to enhance and stabilize the value of land and to protect the tax base of the City of Sartell.

10-7B-2: **PERMITTED USES:** The following are the only permitted uses in I-2 General Industrial Districts:

A. Any permitted use allowed in the I-1 Light Industrial District.
B. Acetylene gas manufacture and electrical power plants.
C. Adult use establishments with a minimum separation of three hundred fifty (350) lineal feet from any other adult use establishment and one thousand three hundred twenty (1,320) lineal feet from any hotel, motel, nursing care home, housing for the elderly, day care facility, church, school , park and/or any residentially zoned property. Also subject to Chapter 1, Section 10-1-2 (B), Purpose and intent of Adult Use Zoning Regulations of this Ordinance and Chapter 2, Definitions, that apply to adult use establishments.
D. Alcohol manufacture, Bottling works and distributors.
E. The manufacturing, compounding, processing, packing or treatment of products such as candy, cosmetics, drugs, perfumes, pharmaceuticals, and toiletries provided it is completely enclosed.

F. The manufacturing, compounding, assembly or treatment of particles or merchandise from the following previously prepared materials: aluminum, brass, bronze, cellophane, canvas, cloth, cork, felt, fiber, glass, iron, paper, plastics, precious or semi-precious metal or stones, shell, rubber, steel, tin, wood (excluding saw mills), provided it is completely enclosed.
F. Printing facilities.
H. Railroad Rights Of Way: All in-use railroad rights shall be considered as General Industrial District.

10-7B-3: **CONDITIONAL USES:** The following uses require a conditional use permit as provided in Chapter 14 of this Title:

A. Retail, or service uses occupying between twenty-five (25) and fifty (50) percent of the gross area of the principal structure.
B. Cemeteries.
C. Marinas.
D. Service structures, public or private, designed and used to serve the uses in the surrounding area, such as electric power substation, solar, telephone buildings, deep wells, elevated tanks and similar structures and uses.
E. Other uses similar to those permitted in this section, as determined by the City.
G. Transit stations, park and ride facility.
H. Outdoor storage which is no greater than twenty-five (25) percent of the total building area and is subject to the screening requirements in Section 10 Chapter 12 and may not exceed ten (10) feet in height.
I. Commercial telecommunications towers.

10-7B-4; **INTERIM USES:** The following uses require an interim use permit as provided in Chapter 15 of this Title:

A. The decommissioning which is defined as the significant removal of machinery from service within a site, or the demolition of existing buildings, pavement, structures or facilities, along with site remediation for the purposes of leaving a property barren for an unspecified amount of time. A site plan shall be submitted.
B. Solar Gardens.

10-7B-5: **PERMITTED ACCESSORY USES:** The following are permitted accessory uses within the I-2 District:

A. Off-street parking and off-street loading.
B. Signs.
C. Temporary buildings for construction purposes for a period not to exceed construction or nine months, whichever is less.
D. Any combination of the following provided all accessory uses combined do not exceed twenty-five (25) percent of the aggregate square footage of the structure: offices, residential structures and related residential uses necessary for security and safety reasons in relation to the principal use; and, restaurant, café and the like but not drive in/through type.
E. Any combination of the following provided all accessory uses combined do not exceed twenty -five (25) percent of the aggregate square footage of the structure: commercial activities directly relating to a product produced on site and/or commercial activities relating to production systems, structural maintenance programs or the construction industry; and wholesale showrooms.
F. Solar Energy Systems.

10-7B-6: **LOT, YARD, AREA AND HEIGHT REQUIREMENTS:**

A. Lot Area: Minimum lot size: 1 acre. Minimum lot width: 100 feet.
B. Front Yard Setback:

1. The front yard setback in any industrial district shall be forty (40) feet. On corner lots, the setback shall be forty (40) feet. Where an industrial district is separated from a residential use by a street, the setback from the street in the industrial district shall not be less than one hundred (100) feet.
2. The front yard bordering upon a street shall be landscaped.
3. Structures adjacent to Trunk or County State Aid Highways shall be set back an additional ½ foot for each one foot of building height over fifteen feet.

C. Side Yard Setback:

1. The side yard setback in any industrial district shall be not less than fifteen (15) feet.
2. The industrial district side yard adjacent to a residential use boundary line shall provide for a landscaped strip sixty (60) feet in width along such boundary line. A portion of this landscaped strip shall be planted to provide a screen. The governing body may require additional side yard width in these cases. When such additional width is required, such additional width shall not exceed one hundred (100) feet.
3. The side yard bordering upon a street or river shall be landscaped.
4. Structures adjacent to Trunk or County State Aid Highways shall be set back an additional ½ foot for each one foot of building height over fifteen feet.

D. Rear Yard Setback: The rear yard setback in all industrial districts shall be a minimum of thirty (30) feet which may be used for parking. If the rear of an industrial district abuts on or is across from an alley from a residential use, the rear yard setback shall be a minimum of one hundred (100) feet.
E. Height: No building constructed adjacent to residential use shall be more than fifty five (55) feet. Each required setback shall be increased by one foot for every one foot of height exceeding thirty-five (35) feet. This increased setback can be combined with requirements pertaining to increased setbacks from certain roadways.
F. Maximum impervious surface coverage of all buildings, parking areas, sidewalks and other covered surfaces: seventy-five (75) percent. All industrial properties greater than one acre shall come into compliance with the minimum impervious surface coverage requirement as a part of any new primary building construction or an expansion of at least twenty-five (25) percent of an existing building (horizontal or vertical) project which would trigger a site plan approval process. This includes new or proposed building footprints; parking areas; driveways; loading, storage and trash areas and other areas covered by any impervious surface.
G. Buffer Requirements: Where a business development and/or parking lot exceeding two (2) spaces abuts upon any residential use or is separated from such residential use by an alley or street, there shall be a protective strip of not less than twenty-five (25) feet in width established as a buffer zone. Landscaped buffer must contain a fence or evergreen hedge as described in 10-12.
H. Any yard bordering a street or river shall be landscaped: All industrial properties shall be landscaped as a part of any new building or expansion (horizontal or vertical) project. Such required landscape plans shall include over story trees, under story trees, shrubs, deciduous trees, coniferous trees, or ground covers as described in 10-12.
I. Setback from active rail lines: All structures, parking lots, buildings, ponds shall comply with the minimum setback requirements as determined by the rail authority.

J. Setback from River: All structures, buildings, and roadways shall be set back a minimum of fifty (50) feet from the river. Trails, sidewalks and boardwalks are not subject to this setback requirement.

K. Exterior Material Requirements:

1. Any approved commercial materials in B-1, B-2 and B-3 Districts.
2. Standard smooth-faced concrete masonry units.
3. Unfinished pan formed precast or cast in place concrete panels.
4. Portions of buildings facing or oriented toward public rights of way or in some cases the Mississippi River, shall feature a minimum of fifty (50) percent of the total walls above grade level, excluding doors and window, constructed of approved stone, brick, concrete masonry (indented, hammered, split face or similar) units, glass or concrete (integrally painted or exposed aggregate) masonry units.
5. Other materials as approved by the City Council.

L. Framing Types: Concrete block or masonry framing systems are preferred. Tilt-up, post frame steel framing are allowed as long as any structure has a continuous masonry frost-free foundation.

M. Roof Materials: Commercial grade asphalt shingles, wood shingles, standing seam pre-finished architectural metal, slate, tile or copper. Flat roofs are exempt from this requirement.

N. Building Design Requirements: Accessory structures must be similar to the principal structure in the material, quality, and appearance. Accessory structures cannot exceed height of principal structure. Screening walls and/or exposed areas of retaining walls must be constructed of a permanent material and finish and in a color compatible with the principal structure. Pole Building Construction is prohibited for commercial or industrial construction.

O. Excessive Bulk Requirements: Flat, blank or unarticulated facades over forty (40) feet in length, width and/or depth and fronting on streets, the Mississippi River or residentially designated areas are prohibited. Breaks in planes of the exterior walls/roof may be provided by changes in exterior finish materials (excluding windows/doors), wall and/or roof height and/or wall depth.

P. Impound lots, scrap yards or like uses are prohibited.

Q. On-site storage or handling of hazardous waste materials as defined by state law is prohibited. Hazardous waste materials inadvertently delivered to the facility shall be promptly removed from the site in accordance with county and state requirements. Special programs for the collection of residential hazardous waste may be conducted within the facility with prior city approval.

10-7B-7: **PERFORMANCE STANDARDS:** Applicants for a permit to develop any general industrial property (I-2) in the Municipality shall be required to submit a complete and accurate statement concerning the specific nature of the use to which the property is to be put. This statement shall include detailed information relative to the control of smoke, odors, noise, vibrations or other effects, which may be considered by the governing body or the Planning Commission as detrimental to health, safety or general welfare. The City Council may require any additional information, corrections or control deemed necessary for the protection of the public.

In order to assure compliance with the performance standards set forth above and below, the City Council may require the owner or operator of any permitted use to have made such investigations and tests as may be required to show compliance with these performance standards. Such investigation and tests as are required to be made may be carried out by an independent testing organization as may be agreed upon by all parties concerned, or if there is failure to agree, by such independent testing organization as may be selected by the City Council after thirty (30) day notice. The costs incurred in having such investigations or tests conducted shall be the responsibility of the owner or operator. The procedure stated above does not

preclude the City from making any tests and investigations it finds appropriate to determine compliance with these performance standards.

A. Landscaping (for permitted, accessory, CUP and IUP uses)**:** All open areas of any zoning lot must be graded to provide proper drainage and, except for areas used for parking, drives or storage, landscaped with trees, shrubs or planted groundcover in accord with the zoning code (Landscaping, Buffering and Screening). It is the owner's responsibility to see that this landscaping is maintained in an attractive and well-kept condition. All vacant lots must be properly maintained including but not limited to weed growth and pavement management.
B. Noise (for permitted, accessory, CUP and IUP uses): Noise will be measured on any property line of the zoning lot on which the operation is located. Noise must be muffled so as not to become objectionable due to intermittence, beat frequency, shrillness or intensity. The sound pressure level of noise in an octave band frequency radiated continuously from a facility shall not exceed the noise area classification (NAC) established by the MPCA and as amended, exempted or granted a variance from those standards as directed and approved by the MPCA. This requirement does not apply to snow removal activities, noise as a result of safety equipment or the noise created from truck and waste traffic entering or exiting the site.
C. Vibration (for permitted, accessory, CUP and IUP uses): Vibration must not be discernible at any adjoining property line to the human sense of feeling for three (3) minutes or more in duration in any one (1) hour.
D. Wastes (for permitted, accessory, CUP and IUP uses): All solid waste material, debris, refuse or garbage must be kept within an enclosed building or properly contained in closed or screened containers, or stored in racks designed for such purpose. The containers or buildings used for waste materials may be open on the top. If materials need to be temporary (less than 72 hours) stored outside of a contained building or structure, it must be completely screened from all public roadways and public waterways to the greatest extent possible. All liquid wastes containing any organic or toxic matter must be discharged in the manner prescribed by the Health Department, must meet all city, state and federal storm water and erosion control requirements and permits. Any deviations of this provision may be addressed with appropriate mitigative impacts as part of the IUP.
E. Air Pollution (for permitted, accessory, CUP and IUP uses): Any activity or operation must conform with the MPCA regulations relating to ambient air quality standards and air pollution control regulations. All crushing of concrete or other demolition activities which create dust shall be continually watered to ensure that dust does not impact neighboring properties.
F. Performance Bond (for IUP uses): A security agreement in the form of a performance Bond may be required, as directed the City and shall be 110% of the cost associated with all work included in all phases, or in the amount as determined by the City, before any permits, including a IUP for the work included in all phases of the decommission, site remediation or demolition activities, including, but not limited to the removal of buildings structures, slabs foundations and paved parking areas on the site. Once site restoration, grading and seeding of areas disturbed are completed, the inspected and approved by the City, the amount of the Bond may be reduced.
G. Environmental Investigations and Cleanup (for permitted, accessory, CUP and IUP uses): The property may be subject to regulatory oversight by the Minnesota Pollution Control Agency's Voluntary Investigation and Cleanup and Brownfields Program.
H. Historical Buildings (for IUP uses): A historic assessment of the property and buildings may be conducted prior to the issuance of any permit or the commencement of any demolition, site remediation, decommissioning or the dismantling of interior facilities, or the like.
I. Transportation (CUP and IUP uses): A traffic impact study may need to be submitted which will determine the utilization (wear) and circulation features of the site and cumulative effects of beyond the subject property. The property will be responsible for excessive use and destruction of the

public roadways; the utilities adjacent to the site which includes but is not limited to streets, sidewalks, curbs and driveways caused by trucks or equipment from the demolition and restoration activities. The impact study need shall be determined by the City Engineer and the study must be approved by the City Engineer and/or County Engineer. Onsite weighing equipment may be required.

J. Hours of Operation (CUP and IUP uses): All events related to the demolition, redevelopment site remediation are limited to the hours of 7 am to 8 pm. Truck traffic entering or exiting the site must be limited to 8 am to 8 pm Monday through Friday. Modifications to the hours of operations are subject to the traffic impact study. Hours of operation must be posted on the site and at all entrances and exits.

K. Fire and Building Safety (for permitted, accessory, CUP and IUP uses): All site plans and actions are subject to compliance with all applicable code requirements for fire safety and safeguards during demolition and construction with the current Minnesota Building and Fire Codes as adopted by the City.

L. Utility connection (for IUP uses): The site must appropriately disconnect any private utility connections and connect to the public system. This includes, but is not limited too; storm water connections, sewer lines and water lines.

M. All information and evidence submitted in applications which are to indicate conformity to performance standards shall constitute certification and agreement on the part of the applicant that the proposed use can and will conform to all federal, state or City laws, ordinances and standards at all times.

CHAPTER 8

GENERAL REQUIREMENTS

SECTION:

10-8-1: Regulations and Purpose
10-8-2: Setback Exemptions
10-8-3: Height Exemptions
10-8-4: Corner Lots; Setback Provisions
10-8-5: Traffic Visibility at Corner Lots
10-8-6: Removal Of Topsoil
10-8-7: Protected Water Alterations
10-8-8: Dwelling Unit Restrictions
10-8-9: Fences
10-8-10: Accessory Buildings and Structures In Residential Districts
10-8-11: Accessory Apartments
10-8-12: Private Swimming Pools
10-8-13: Conformance With Municipal Thoroughfare Plan
10-8-14: Land Subject To Flooding
10-8-15: Building Line Established By Development
10-8-16: Home Occupations
10-8-17: Geothermal, Solar, and Wind Energy Conversion Systems
10-8-18: Antennas, Satellite Dish Antennas, And Towers
10-8-19: Sacred Community

10-8-1: **REGULATIONS:** The provisions of this Title shall be subject to such exemptions, additions or modifications as herein provided in this Chapter. These standards in this article are intended and designed to ensure compatibility of uses, to prevent urban blight, deterioration, and decay, and to enhance the health, safety and general welfare of the residents of the community

10-8-2: **SETBACK EXEMPTIONS**: The following shall not be considered as encroachments on setback requirements: chimneys, flues, belt courses, leaders, sills, pilasters, cornices, eaves, gutters and the like, provided they do not project more than two (2) feet.

10-8-3: **HEIGHT EXEMPTIONS:** Height limitations as set forth in this Title shall not apply to elevator or mechanical penthouses, church spires, cupolas and domes which do not contain usable space, water towers, observation towers, flagpoles, chimneys, smokestacks, monuments, parapet walls extending nor more than three feet above the limiting height of the buildings and grain elevators.

10-8-4: **CORNER LOTS; SETBACK PROVISIONS:** In residential districts where the rear yard boundary line of a corner lot is part of the side yard boundary line of another residential lot, no part of any structure or building on the corner lot shall be nearer or further back from its side lot line (long side) or its front yard (short side) as the required minimum front yard setback thirty (30) feet or the setback established by existing structures or through a PUD. In the case of a narrow corner lot where compliance with this requirement would give an impractical depth to a structure or building, the City Council may permit the construction of such structure as near to the side street lot line as will give a practicable depth, after the matter has been considered by the City's Planning Commission and they have given their recommendation to the City Council.

10-8-5: **TRAFFIC VISIBILITY AT CORNER LOTS:** On any corner lot, no wall, fence or other structure shall be erected or altered and no hedge, tree, shrub or other growth shall be maintained which may cause danger to traffic on a street or public way by obstructing the view, and shall be placed within the property line.

10-8-6: **REMOVAL OF TOPSOIL; APPEARANCE OF LAND:**

A. Removal Of Topsoil: No person shall strip, excavate, or otherwise remove topsoil for sale or for use other than on the premises from which the same shall be taken, except in connection with the construction or alteration of a building on said premises and excavation or grading incidental thereto, except as provided elsewhere in this Title.

   1. Any soil/land disturbance of 0.1 acres (4356 square feet) or more must meet the requirements of the City of Sartell Erosion Control and Sediment Control Ordinance.

B. Appearance Of Land: In all districts, the lot area remaining after providing for off-street parking, sidewalks, driveways, building sites and other requirements shall be planted and maintained in grass, sodding, shrubs or other acceptable vegetation or treatment generally used in landscaping.

10-8-7: **PROTECTED PUBLIC WATER ALTERATIONS:** Alterations of vegetation and topography will be regulated along the public waters to prevent erosion, monitor nutrients, prevent bank slumping, and to protect the fish and wildlife habitat. The public waters for the City have been classified below which is consistent with the Protected Waters Inventory Map for Stearns and Benton Counties.

Urban Rivers	Mississippi River and Sauk River
Tributary River	Watab River
Tributary Stream	Unnamed Tributary (Ditch 13)
Natural Environment Lake	Bakers Lake (PWID #73-0031)
Recreational Development Lake	Davenport Lake (PWID # - 32P)
Wetland	Kruchten Lake (PWID # - 33W)

A. The removal of natural vegetation along the public waters shall be subject to the following provisions:

   1. That appropriate erosion control measures are intact which is consistent with the Minnesota Pollution Control (MPCA) standards.
   2. Within twenty (20) feet from the ordinary high water level and in bluff impact zones and on steep slopes, limited clearing of trees and shrubs, and the 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 along rivers, existing shading of water surfaces is preserved.
   3. The total cumulative view corridor shall not exceed fifty (50) feet or one-half (1/2) the lot width, whichever is less.

4. These provisions are not applicable to the removal of exotic species such as European Buckthorn and Purple Loosestrife, noxious species such as Poison Ivy and Prickly Ash and trees and as referenced in MN Statutes 18.75-18.91, limbs, or branches that are dead, diseased or pose safety hazards.

B. Grading and filling and excavations necessary for the construction of structures and driveways under validly issued construction permits for these facilities do not require the issuance of a separate Land Disturbance permit. However, the grading and filling standards in this section must be incorporated into the issuance of permits for construction of structures and driveways. A Land disturbance permit will be required for the movement of material on steep slopes or within 20 feet from the ordinary high water level or within a bluff impact zone disturbance of 0.1 acres (4356 square feet) or more outside of steep slopes and bluff impact zones and beyond twenty (20) feet from the ordinary high water level. The permit may be granted subject to the following conditions:

1. The smallest amount of bare ground is exposed for as short a time as possible.
2. That the grading and filling does not enter the ordinary high water level of the public water bodies.
3. Temporary ground cover, such as mulch, is used and permanent ground cover, such as sod, is planted.
4. Methods to prevent erosion and to trap sediment are employed that are consistent with the Minnesota Pollution Control Agency's (MPCA) standards.
5. Fill is stabilized to accepted engineering standards.
6. Fill or excavated material must not be placed in a manner that creates an unstable slope.
7. Plans to place fill or excavated material on steep slopes must be reviewed by a qualified engineer for continued slope stability and must not create finished slopes of thirty (30) percent or greater and documentation must be provided to the City verifying this.
8. Fill or excavated material must not be placed in bluff impact zones.
9. 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 (3) feet horizontal to one (1) foot vertical, the landward extent of the riprap is within (10) ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three (3) feet.
10. The Commissioner of Natural Resources shall have issued a permit for any work below the ordinary high water level of public water before construction begins.
11. Excavations where the intended purpose is connection to public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given by the City only after the proper permits are obtained from the Minnesota Department of Natural Resources and other applicable agencies.

10-8-8: **DWELLING UNIT RESTRICTIONS:**

A. Purpose: The purpose of this Section is to maintain neighborhood property values and otherwise promote health, safety, order and general welfare providing for manufactured homes in safe, attractive, residential neighborhoods with all urban services and desired amenities as other residential dwellings.
B. Regulations: Single-family detached dwelling units, which shall include manufactured homes meeting the regulations of this Section, shall be governed by the following restrictions.

1. Foundation; Anchoring: All dwellings shall be anchored by being placed on a permanent concrete or treated wood foundation (solid for the complete circumference of the dwelling) that meets the requirements of the State Building Code.
2. Width; Minimum Ground Floor: A dwelling shall have a minimum width of the main portion of the structure of not less than twenty-four (24) feet, not including an attached garage, Width measurements shall not take account of overhang and other projections beyond the principal walls. Dwellings shall not be less than thirty (30) feet in length.
3. Roof; Pitch: The pitch of the main roof shall not be less than three (3) feet of rise for each twelve (12) feet of horizontal run (or shall have a pitched main roof). The roof shall be covered with shingles or tiles, excluding sheet roofs of corrugated or ribbed metal, and have eaves of not less than six (6) inches.
4. Exterior Finish: Dwelling units shall have exterior siding of a conventional exterior dwelling type material. Any metal siding would have horizontal edges and overlap in sections no wider than twelve (12) inches. Sheet metal siding is not permitted. All units shall have exterior siding from within six (6) inches of the dirt and two (2) inches of the concrete.
5. Utilities: All dwelling units shall be attached to required city utilities.
6. Design: The exterior architectural design of a proposed dwelling shall be similar in style to the exterior architectural design of any primary structure or structures already constructed or in the course of construction in the immediate neighborhood.
7. Manufactured Homes Outside Manufactured Home Parks: No single-family manufactured home shall be located outside of a manufactured home park unless it is in compliance with this Section and with Minnesota Statutes.

C. Denial Of Building Permit: In the event of a denial of a building permit based on the requirements in this Section the matter may be referred to the governing body. The governing body may refuse to grant a permit for the construction or location of any building in such a manner as to significantly diminish neighboring property values or otherwise impair the health, safety and welfare of the community. The governing body shall have the additional power to require appropriate screening to the extent that such screening sufficiently improves deficiencies of any design or construction.

10-8-9: **FENCES:**

A. Height: Fences in districts other than Agricultural shall conform to the following height:

1. Front Yard Height: The fence shall not exceed four (4) feet (with an additional 6 feet to compensate for changes in grade) and shall be ornamental or picket style. Ornamental fences shall include fences constructed of aluminum, wrought iron or steel and shall not include chain link fences. Decorative fencing is allowed in the required front yard if no higher than 3½ feet and not designed or serving as an enclosure. Decorative fencing includes such things as split rail, picket, and brick fences, but not such things as chain-link fences.
2. Side and Rear Yard Height: The fence shall not exceed six (6) feet. However, the height of the post structure (which includes the distance from grade) shall not exceed seven (7) feet.
3. Chain link fences may not exceed six (6) feet in height in residential zones. Fences for tennis courts and athletic fields will be allowed a maximum of twelve (12) feet and shall not exceed twenty-five (25) percent opacity. Fences up to twenty (20) feet in height may be permitted to enclose back stops for athletic fields.

B. Fence materials:

1. Fences in residential, commercial, or industrial areas must be constructed of lumber, iron, maintenance free type material or rust-free chain link. Maintenance free type material shall include vinyl, plastic, wrought iron, aluminum, steel and rust resistant chain link.
2. The following materials are prohibited for fences:

    a. Barbed wire and electrical fences, except in the agricultural district.
    b. Razor wire.
    c. Creosote lumber.
    d. Concrete.
    e. Masonry, except when less than thirty (30) inches in height and accompanied by a boundary survey at the time of the application.
    f. Chicken wire.
    g. Deer fencing.
    h. Woven or welded wire, except in the Industrial Districts.
    i. Plastic webbing, except when used for temporary traffic, police, or erosion control. This shall not prohibit the use of plastic materials intended to resemble wood products.
    j. Makeshift, flimsy materials, such as paper, twine, rope, tin and the like, except when used for traffic control or police security.
    k. Plywood.
    l. Pressed Wood.

3. Snow fencing, or fencing of similar materials, may only be utilized, and installed, by the City, and at the discretion of the Public Works Director and/or their designee.

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C. Placement:

1. Fences shall be placed at least two (2) feet within the property line unless the adjacent property owner consents in writing to the ability for the applicant to construct and maintain the fence directly on the property line or closer than two (2) feet. Written consent shall be submitted to the City at the time the zoning permit is applied for. All posts or similar supporting instruments used in the construction of fences shall be faced inward toward the property being fenced. The side of the fence considered to be its evident finished side or face (the more attractive side) shall front adjacent property.
2. Fences shall not be placed within ten (10) feet of the curb, and/or surface of any street, road or alley. For corner lots the setback may be increased to fifteen (15) feet if the Zoning Administrator determines that the fence will interfere with traffic or pedestrian visibility. Fences shall have a minimum two (2) foot setback from any walking path or outside any trail/recreational easement area.
3. No fence shall be placed on or extend into public right-of-way.
4. No fence shall be allowed below the ordinary high water mark or obstruct a natural drainage way.
5. No fence shall be placed within a pond, wetland, ditch, or infiltration area,
6. Fences may be permitted over a public easement provided that the structure does not interfere in any way with existing underground or over ground utilities nor negatively impact drainage. Fences are not allowed over any manholes. For private utilities, fences may only be permitted if the owner of the utility provides written consent to the City allowing the applicant to construct the fence over the easement area.
7. Removal and replacement of a fence or wall or a portion thereof for the purpose of utilizing an easement shall be at the property owner's expense.

8. No fence shall be constructed which is approximately parallel to an existing fence, and closer than two feet as to create an area between the fences which has limited accessibility for purposes of maintenance unless maintenance can be achieved.

D. Construction and Maintenance:

1. Maintenance free fences and lumber fences within side and rear yards shall have a maximum panel width of six (6) inches. Fences extending across front yards shall have a maximum panel width of three (3) inches and no less than two (2) inches apart.
2. All wood fences, other than those constructed out of redwood or cedar, shall be sealed, stained or painted upon completion of construction and all wood fences routinely thereafter.
3. Chain link fences shall be constructed in such a manner that no barbed ends shall be at the top.
4. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger or constitute a nuisance. Any such fence, which is, or has become dangerous to the public safety, health, or welfare, is a public nuisance, and the Zoning Administrator shall commence proper proceedings for the abatement thereof. Any fence is a public nuisance if it does not comply with the following requirements:

    a. The fence shall be firmly fastened and anchored in order that it is not leaning or otherwise in the stage of collapse.
    b. The fence shall be free from deterioration, loose or rotting pieces, or holes, breaks, or gaps not otherwise intended in the original design of the fence.
    c. The fence shall be free from any defects or condition which makes the fence hazardous.
    d. No fence section shall have peeling, cracked, chipped or otherwise deteriorated surface finish, including but not limited to paint or other protective covering or treatment, on more than twenty (20) percent of any one linear ten-foot section of the fence.

E. Access to Fenced Areas and Boulevards: In those instances where a fence exists as an enclosure which restricts access from the front to the rear yard, a gate, identifiable collapsible section, or other such means of recognizable ingress shall be unobstructed and a minimum of three (3) feet in width. The location of such ingress points shall be positioned at any point paralleling the front lot line, between the side lot property line and the principal structure. Access to Boulevards shall be provided to allow for property owners to maintain the boulevard areas adjoining their property.

F. Permit Required: No person shall construct, erect, or cause to be constructed or erected, any fence within the City limits, without first making application for and securing a fence permit for the construction and erection of a fence from the City Zoning Administrator. Manufactured home parks with approved fence standards are exempt from the permit requirement.

G. Expiration of Fence Permits: All fence permits issued shall expire one hundred-eighty (180) days after the day of Issuance. All fees paid under a lapsed permit shall be forfeited to the city.

H. Application: Every application to construct or erect a fence within the City limits shall include the address of the property on which the fence is to be constructed and a site plan drawn to scale showing the location of house(s), garage(s), and other improvements on the lot and the location of the fencing and its proximity to the applicant's lot lines as well as the type of fence to be constructed, materials to be used in the construction of the fence, and the height of the fence. The property owner shall be required to provide demonstrable evidence as to the exact location of the property line(s) as required by the City. All survey pins are to be shown and visible to the inspector at the time of the inspection. Public properties shall be exempt from the requirements.

I. Application Fees: Each applicant shall pay the fees set forth by City Ordinance with each application.

10-8-10: **ACCESSORY BUILDINGS AND STRUCTURES:**

A. Location: Accessory buildings and structures, except porches, decks, and patios shall be located in the rear yard. Detached garages may be allowed in the side yard as long as they conform with setback regulations and other requirements set forth in this title.
B. Height: Accessory buildings shall not exceed the height of the principal structure or twenty feet (20) in height whichever is less. The maximum height may be extended to twenty-five (25) feet if the roof pitch matches the primary roof pitch of the principal structure. Within the R-1B district, accessory buildings shall not exceed the height of the principal structure or twenty-five (25) feet in height, whichever is less. The maximum height may be extended to thirty (30) feet if the principal structure is at least five (5) feet taller than the accessory structure.
C. Setbacks: Detached accessory buildings and structures shall conform with all the setback regulations as set forth in this Title.

    1. Detached accessory building and structures greater than 120 SF must be setback a minimum of ten (10) feet from the rear and side yard lot lines.
    2. Detached accessory buildings and structures constructed on corner lots shall have a side yard setback of fifteen (15) feet on the intersecting street.
    3. Detached accessory buildings and structures of 120 SF or less must be setback a minimum of six (6) feet from the rear and side lot lines.
    4. Detached accessory buildings and structures must be anchored.
    5. Accessory buildings and structures shall not be located over any easement.
    6. Free-standing patios shall not be located over any easements. For lots without easements, free-standing patios must be at least six (6) feet from side and ten (10) feet from rear lot lines. Patios in the front yard shall not encroach more than ten (10) feet into the front yard setback requirement. Free-standing patios require a permit issued by the City.
    7. Sidewalks and concrete paths installed by the property must be located outside of all easement areas. Sidewalks and concrete paths may encroach into an easement if the sidewalk or concrete path makes a connection to a public street, alley, sidewalk, or path.

D. Accessory buildings and structures require a permit issued by the City. Accessory buildings 100 SF or less are exempt from permit requirements but must still be anchored and meet setback requirements set forth in this title. Manufactured home parks with approved shed standards are exempt from the permit requirement provided the shed does not qualify for a building permit.
E. Exterior: All accessory buildings shall have similar exterior material as, and be homogenous in design, to the principal structure. Metal roofs are allowed provided the roof color matches the roof color of the principal structure and the metal roof has no exposed fasteners. “Similar exterior material” shall be interpreted to include type and pattern of siding, same or complementary colors, roof pitch, and architectural style.
F. Number Of Buildings: No lot may have more than two (2) detached accessory buildings.
G. Except for lots greater than 30,000 square feet in area, no combination of residential accessory buildings shall contain square foot area that exceeds the ground floor area of the principal building.
H. The attachment of any accessory building or use to the principal building via breezeway or similar attachment shall only be constructed with full perimeter foundation and frost footings as required for the permanent principal structure.

10-8-11: **ACCESSORY APARTMENTS:**

A. Purpose: The purpose of this Section is to permit the installation of no more than one accessory apartment in an existing single-family dwelling. Because this opportunity is allowed in

neighborhoods with established utility systems, parking, traffic patterns and architectural character, the installation and use of accessory apartments must be strictly controlled to avoid physical, health, safety, economic and aesthetic impacts. By allowing only those accessory apartments that are in compliance with all of the performance standards of this Section, the health and safety of occupants and the character and quality of existing neighborhoods will be protected.

B. Permit Procedures:

1. Application Procedures:

   a. Permit Required: No one shall install an accessory apartment without first having obtained a permit from the Fire Marshall or designated person.
   b. Application; Fee: Application for the yearly permit shall be made on forms designated by the Zoning, Building and/or Police Department and shall be accompanied by a permit fee as set by the City Council.
   c. Inspection: The Building Inspector shall inspect the property to determine whether the proposed accessory apartment meets Building, Rental, Police, and Fire Code standards.

2. Permit Renewal: The permit shall be renewed yearly and a permit renewal fee, as set by the City Council, paid. Permit renewal may be conditional upon the inspection.
3. Revocation Of Permits:

   a. Violation: Violation of the performance standards shall be grounds for the revocation of the permit.
   b. Notice Of Intent To Revoke: Notice of intent to revoke the permit shall be sent (by certified mail) by the City Administrator to the permit holder. The notice shall state the grounds for revocation and the date, at least ten (10) days after the notice is sent, when the City Council shall consider revocation.
   c. Cease Operation: Operation of the accessory apartment shall cease within sixty (60) days from the date of revocation by the City Council.

C. Performance Standards:

1. Remodeling: All remodeling for the addition of the accessory apartment shall be on the inside of the structure. Exceptions of this condition will be made only if the applicant submits exterior elevation drawings determined by the Building Official and Zoning Administrator to be architecturally compatible with the adjacent structures and consistent with this Title.
2. Off-Street Parking: In addition to the normal parking required for the dwelling unit, there shall be at least one additional paved off-street parking space per accessory apartment dweller.
3. Detached Garages: Detached garages shall not be converted to living spaces.
4. Compliance With Uniform Building Code: Both the principal and accessory structure must meet the standards of the Uniform Building Code.
5. Residence of Owners(s): The owner(s) of the residence in which the accessory unit is created shall occupy at least one of the dwelling units on the premises, except for temporary absences.
6. House Numbers: House numbers shall be placed on the structure to indicate that the structure has more than one dwelling unit.
7. Conformity With State And Local Codes: The accessory apartment must at all times be kept in conformity with all State and local codes and ordinances.
8. Total Dwelling Space: The accessory apartment shall occupy no more than fifty (50) percent of the total dwelling space.

10-8-12: **PRIVATE SWIMMING POOLS**: A building permit shall be required for the construction or installation of a permanent swimming pool that has a depth of more than twenty four (24) inches and/or a volume of over 5,000 gallons. The following requirements shall be met:

A. The pool, surrounding sidewalk and pool equipment must be located within the rear yard, outside of any easement, and a minimum of ten (10) feet from the rear and side yard lot lines. Except corner lots on which the side yard on the intersecting street shall be a minimum of fifteen (15) feet.
B. Back-flush water or water from pool drainage shall be on the owner's property or into approved public drainage ways. Water shall not drain onto adjacent land.
C. Lighting for the pool shall be directed onto the pool and shall not spill onto the adjacent property.
D. Permanent pools shall be enclosed by a fence to effectively prevent the entrance of small children and be without hand or footholds that would enable a small child to climb over them. The fence and gate shall be at least four (4) feet high. Entrances shall be equipped with self-closing, latching gates, which are capable of being locked and be placed on the top of the gate or otherwise inaccessible to small children and provided with hardware for permanent locking devices. The opening between the bottom of the fence and the ground or other surface shall not be more than four (4) inches.
E. For an in-ground pool, an automatic pool cover can be used in lieu of fencing requirements provided it is certified and complies with ASTM F 1346-91 requirements.
F. For an above ground pool, the wall of the pool can serve as the fence provided the pool wall is at least four (4) feet high and has an automatically retractable ladder or a removable ladder. The ladder must be removed or retracted when the pool is not being attended.
G. If access to the pool is via a deck or porch, then no access from the ground is permitted to the deck areas unless the property or ground access to the deck is fenced.

10-8-13: **CONFORMANCE WITH MUNICIPAL THOROUGHFARE PLAN:** No building permit shall be issued, and no structure shall be placed in such a way as to interfere with the construction of streets or roads as shown in the Comprehensive Plan or on the street plan as such plan exists or is amended or adopted in the future.

10-8-14: **LAND SUBJECT TO FLOODING:** All development or redevelopment of land, which is located within the flood plain, shall occur in conformance with the Title 12 of this Code.

10-8-15: **BUILDING LINE ESTABLISHED BY DEVELOPMENT**: In platted areas, where buildings have been constructed having front yard setbacks different from those described as minimum of this Title and said construction extends over thirty (30) percent or more of one block, the setback line will be assumed to have been established and subsequent construction shall not be required to provide a greater or lesser depth of front yard, in which instance no new building or portion thereof shall project beyond a straight line drawn between the point closest to the street line of the residence upon either side of proposed structure or, if there be residences upon only one side, then beyond the straight line projected from the front of the nearest residences, and no new building or portion thereof shall have a front yard more than twenty feet (20) feet deeper than the established building line. However, this Section shall not be interpreted to require a front yard of more than fifty (50) feet. Where the street is curved the line shall follow the curve of the street rather than a straight line.

10-8-16: **HOME OCCUPATIONS:** Home occupations shall be permitted as authorized by State law and other ordinances of the Municipality, it being the intention that such are exempt from the application of this Title.

A. Purpose: The purpose of this Section is to regulate home occupations through specific standards and procedures so that they may be conducted in residential areas without jeopardizing the health, safety and welfare of the surrounding neighborhood.
B. Performance Standards: Permitted home occupations must conform to the following performance standards:

1. They shall not be conducted in any building on the premises other than the building which is used by the occupant as the private dwelling (including garage); not more than twenty (20) percent of buildings on the lot or the total floor space may be used for such purpose.
2. No person not residing on the premises shall be employed in the performance of such occupation.
3. This use shall not include exterior display or signs except as are permitted by the sign regulations for a residence district.
4. This use shall be no exterior storage of equipment or materials used in permitted home occupations.
5. No structural alterations or enlargements shall be made for the sole or primary purpose of conducting the home occupation.
6. No traffic shall be generated by such home occupations in greater volumes than would be normally found in a similar residential neighborhood.
7. Any needed parking generated by the conduct of such home occupations shall be met off the street on a dust free surface, and other than in a required front yard.
8. There shall be no detrimental effect on the residential character of the neighborhood due to the emission of noise, odor, smoke, dust, gas, heat, glare, vibration, electrical interference, traffic congestion or any other annoyance from the home occupation detectable to the normal senses off the lot or premises.
9. Any waste disposed of in the sewer system shall not create or cause a greater volume than that which is normally generated by a similar residential dwelling in the district.
10. No more than one (1) single one (1) ton or smaller commercial vehicle related to the business use shall be kept at the dwelling.
11. A home occupation shall comply with all of the codes adopted by reference including, but not limited to the State Building Code and the Fire Code.

C. Permitted Home Occupations: The following are home occupations not requiring a permit from the Zoning Administrator that must still conform to the performance standards:

1. Tailoring and sewing
2. Artists, sculptors, authors, composer's woodwork which do not involve reportable or regulated quantities of hazardous or flammable substances and where such operations will not generate outside audible noise, dust or orders.
3. Photo developing or processing.
4. Music, art or dancing teachers with no more than one pupil at a time.
5. Office facilities of ministers, rabbis, priests or members of religious orders.
6. Office facilities of salespersons administrative services, sales representatives or manufacturer's representatives who utilize phone, mail or off premises customer contacts; This includes home marketing businesses where sales of products happen sporadically and do not occur more than two times in a month.
7. Other uses deemed similar to the above by the Zoning Administrator.

D. Home Occupations Requiring Permit: The following are permitted home occupations which, because of greater potential for conflict with surrounding residential neighborhoods, are required

annually to obtain a permit from the Zoning Administrator showing conformity with the performance standards. The applicant shall pay a fee as set by the City Council. As a condition of granting the permit the Zoning Administrator may require an inspection of the premises. Upon denial of a permit, the applicant may appeal to the City Council.

1. Office facilities of physicians, dentists or other licensed medical practitioners who receive one client at a time on premises.
2. Office facilities of lawyers, architects, engineers, realtors, insurance agents, brokers, contractors and members of similar professions who receive one client at a time on premises.
3. Printing shops which do not involve reportable or regulated quantities of hazardous or flammable substances and where such operations will not generate outside audible noise, dust or orders.
4. Hair salons, day spas, massage therapy, Barber or beauty shops who receive one client at a time.
5. Upholstering.
6. Carpentry work which does not involve reportable or regulated quantities of hazardous or flammable substances and where such operations will not generate outside audible noise, dust or orders.
7. Repair of non-motorized bicycles, small electrical appliances, typewriters, cameras or other similar small items, which do not involve reportable or regulated quantities of hazardous or flammable substances and where such operations will not generate outside audible noise, dust or orders.
8. The operation of wholesale or retail business, conducted by mail or phone, where only limited and incidental sale of products may be conducted on site.
9. Other uses deemed similar to the above by the Zoning Administrator.

E. Prohibited Home Occupations: Permitted home occupations shall not include any of the following:

1. Any manufacturing business
2. Any schools, excluding nursery schools, with organized classes of more than one pupil at a time
3. Repair of internal combustion engines, body shops, machine shops, welding or other services that require equipment other than that normally found in dwellings
4. Animal hospital or pet shops
5. Clinics, hospitals or mortuaries.
6. Renting or painting of vehicles, trailers or boats.
7. Short term rental of a room or home for a period less than 30 days.
8. Dismantling, junk, scrap, or storage yards.
9. Taxidermy.
10. Services which consist of more than one pupil, client, or customer at a time.

10-8-17: **GEOTHERMAL, SOLAR, AND WIND ENERGY CONVERSION SYSTEMS:**

A. Geothermal system.

1. Permitted accessory use in all zoning districts on the condition it meets the requirements of this Section and other provisions of the Code.
2. Coils and piping may not cross property lines without a recorded easement from the effected properties.

3. Upon determine by the City that the encroachment of coils and piping into drainage and utility easements does not interfere with the City's use of the easement, coils and piping may cross into drainage and utility easements with the City's written permission subject to the conditions determined by the City.
4. Systems shall meet the Minnesota Department of Health Standards (Minnesota Rules Chapter 47-25, part 18.31 and part 70.50, as amended.

B. Solar Energy Systems and Solar Gardens:

1. Solar Energy Systems.

a. Shall be a permitted accessory use in all zoning districts, if on a building, both principal and accessory buildings, provided they do not create glare for neighboring properties, or the public right of way. All ground mounted Solar Energy Systems shall be located in the rear yard and subject to the following standards:.

1. Ground mounted Solar Energy Systems shall be limited to a maximum area consistent with the accessory structure limitations or not more than twenty-five (25) percent of the rear yard, whichever is less.
2. All Ground mounted Solar Energy Systems shall meet the standards of the Minnesota Building Code and the owner and/or contractor shall receive a building permit prior to installation of the Solar Energy System.
3. Solar Energy Systems are subject to screening requirements as defined in 10-12-4 to the extent possible without reducing their efficiency.
4. Shall not exceed fifteen (15) feet in height at maximum design tilt.
5. Shall not be used to display advertising unless requested by the Fire Marshal.
6. As requested by the City, energy production reports shall be provided.

2. Solar Gardens.

a. Shall be an Interim Use within all zoning districts and subject to the following standards:

1. Setbacks:
   a. All Solar Gardens shall meet the building setback requirements for the specific zone in which the property is located within.
   b. 200-foot setback from any existing structure at the time the Interim Use Permit is used; measured at the property line.
   c. 1/4-mile setback from Minor and Principal Arterial roadways.
   d. 100-foot setback from all other public roadways, trails, and/or sidewalks.
   e. 200-foot setback from public parks.

2. Shall not exceed fifteen (15) feet in height at maximum design tilt.
3. Shall be designed and located in such a way as to utilize existing lowland/wetland areas that are otherwise non-buildable in their current condition, and to avoid agricultural and otherwise developable areas.
4. Solar Gardens are subject to screening requirements as defined in 10-12-4 to the extent possible without reducing their efficiency.
5. Solar Gardens shall not be used for the display of advertising unless requested by the Fire Marshal.

6. All Solar Gardens shall be designed and located in order to prevent reflective glare toward inhabited buildings on adjacent properties and adjacent public roadways.
7. Solar Gardens shall include the establishment of ground cover meeting the beneficial habitat standards using native plant species and seed mixes consistent with the Department of Natural Resources and guidance as set by the Minnesota Board of Water and Soil Resources.
8. Power and communication lines running between banks of solar panels, electric substations or interconnections with buildings shall be buried underground. The City may grant exemptions to this requirement in instances where natural elements may interfere with the ability to bury lines.
9. As requested by the City, energy production reports shall be provided.

10. All Solar Gardens shall be in compliance with any applicable local, state, and federal regulatory standards.

11. All Interim Use Permit application for Solar Gardens shall include a site plan of existing conditions that include:
    a. Existing property lines and property lines extending one hundred (100) feet from the exterior boundaries, including the names of the adjacent property owners and current use of those properties.
    b. Existing public and private roads, showing widths of the roads and any associated easements.
    c. Existing buildings onsite.
    d. Topography at (2) foot intervals and source of contour interval. A contour map of surrounding properties may also be required.
    e. Existing vegetation (list type and percent of coverage: i.e., grassland, pasture, plowed field, wooded areas, etc.)
    f. Waterways, watercourses, lakes and public water and wetlands.
    g. Delineated wetland boundaries.
    h. The one hundred (100) year flood elevation and Regulatory Flood Protection Elevation, floodway, flood fringe and/or general flood plain district boundary, if applicable.
    i. Drainage and grading plan.
    j. Location and spacing of solar panels.
    k. Planned location of underground or overhead electric lines connecting the Solar Garden to the building, substation or electric load.
    l. Sketch elevation of the premises accurately depicting the proposed solar energy conversion system and its relationship to structures on adjacent lots, if applicable.
    m. Glare Study. Solar projects utilizing a reflector system shall conduct a glare study (US Department of Energy's Solar Glare Hazard Analysis tool) to identify the impacts of the system on occupied buildings and transportation rights-of-way within a half mile of the project boundary.
    n. A detailed landscaping plan.
    o. Decommissioning Plan: a decommissioning plan shall be required for solar projects to ensure that facilities are properly removed after the expiration of the IUP, or if earlier, after the useful life of

the solar panels and other facilities. Decommissioning of solar panels and related facilities. Decommissioning of solar panels and related facilities must occur in the event the IUP expires or is terminated, and/or the solar panels are not in use for twelve (12) consecutive months. The plan shall include provisions for removal of all structures, foundations, equipment, power, communication lines. Restoration of soil and vegetation to its pre-developed condition, and a financial guarantee ensuring that financial resources will be available to fully decommission the site. The City requires that the applicant provides a bond, letter of credit, or escrow, or other financial security in a form and amount set by the City, the amount shall not be less than 125% of the total cost of decommissioning, naming the City as oblige. In determining the financial security, the City shall require an inflationary escalator in determining the appropriate amount of security. If said decommissioning has not been completed within a six (6) month period after the IUP has expired or has been terminated and/or the solar panels are not in use for (12) twelve consecutive months, then the City shall provide written notice by certified mail to the landowner requiring that decommissioning be completed within thirty (30) calendar days of the receipt of said notice. If the decommissioning has not been completed within thirty (30) calendar days of the receipt of said notice, the City may either undertake the decommissioning and charge the landowner and/or facility owner and operator for all of the costs and expenses thereof, including reasonable attorney's fees, or take appropriate legal action to compel the decommissioning. All costs incurred by the City shall be billed to the landowner and if not paid within sixty (60) calendar days of billing, shall become a lien against the project or levied as an assessment against the property. In the event that the City chooses to undertake the decommissioning as stated above, the City shall have the right to draw on the bond, letter of credit, escrow or other financial security at its discretion.

12. For roof mounted Solar Garden installation, the site plan must include:
    a. The number of panels.
    b. The highest finished slope of the solar panel and the slope of the finished roof surface on which it is mounted.
    c. The shortest distance of the system from the street frontage edge of the residential building,
    d. New electrical equipment other than at the existing building or substation that is the connection point for the Solar Garden.
    e. Any proposed erosion and sediment control measures, if applicable.
    f. Proposed stormwater management measures, as required.
    g. A sketch elevation of the premises accurately depicting the proposed solar energy conversion system and its relationship to structures on adjacent lots, if applicable.

13. For all roof-mounted solar panels mounted on a flat roof, applications of the site plain shall be submitted showing:
    a. The number of panels.
    b. The distance to the rood edge and any parapets on the residential building.
    c. Shall identify the height of the residential building on the street frontage side.
    d. The shortest distance of the system from the street frontage edge of the residential building.
    e. The highest finished height of the solar panels above the finished surface of the roof.
    f. new electrical equipment other than at the existing building or substation that is the connection point for the Solar Garden or Solar Energy System.
    g. Anny proposed erosion and sediment control measures, if applicable.
    h. Proposed stormwater management measures, if applicable.
    i. A sketch elevation of the premises accurately depicting the proposed solar energy conversion system and its relationship to structures on the adjacent lots (if any).

14. Ground mounted solar panels. For all ground mounted solar panels, the site plan must show:
    a. The number of panels.
    b. The shortest distance of the system from the street frontage edge of the residential building.
    c. New electrical equipment other than at the existing building or substation that is the connection point for the solar panels.
    d. Any proposed erosion and sediment control measures, if applicable.
    e. Proposed stormwater management measures, if applicable.
    f. A sketch elevation of the premises accurately depicting the proposed solar energy conversion system and its relationship to structures on adjacent lots, if applicable.

3. Requirements for all zoning districts.

    a. Solar thermal piping shall match the roof or solar collector color.
    b. Panels on buildings shall not hang over the edge of the roof.

C. Wind energy conversion systems.

1. Residential zoning districts.

    a. Permitted accessory use for lots under two acres in size wind, energy conversion systems must be attached to a building.
    b. Permitted accessory use on lots over two acres and under twenty (20) acres in size wind energy conversion systems must be attached to a building or to a monopole in the rear yard that is under forty-five (45) feet in height.

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b. The maximum total amount of Solar Gardens shall not exceed 10MW within the City at any given time. City owned properties are exempt from the 10MW limit. ¶

c. Permitted accessory use on lots twenty (20) acres and over, wind energy conversion systems must be attached to a building or to a monopole that may be over seventy-five (75) feet in height.
d. Lot line setbacks shall be equal to maximum structure height.

2. Nonresidential zoning districts.

a. Permitted accessory use if under forty-five (45) feet in height.
b. Conditional use for forty-five (45) feet in height and over and/or more than one pole mounted on a lot.
c. Lot line setbacks shall be equal to maximum structure height.
d. No limit on the number of roof mounted turbines.

3. For all zoning districts.
   a. Free standing towers shall be of monopole design.
   b. All wind energy system shall be equipped with an automatic overspeed control device as part of the design.
   c. Restriction on sound level at lot line (55 dba) or shall comply with the MPCA noise pollution control section as amended, whichever is most restrictive.
   d. Minimum blade clearance to the ground of thirty (30) feet for pole mounted horizontal turbines.
   e. Prior to issuance of a permit, the applicant shall provide, among other things, to the City documentation or other evidence from the dealer/manufacturer that the wind energy conversion system has been successfully operated in atmospheric conditions and is warranted against any systems failure under reasonably expected severe weather operation conditions as established by Building and Fire Departments. The applicant shall also provide that the tower structure has received a professional engineer's certification.
   f. Wind energy conversion system tower foundations shall be designed to resist two times the wind uplift calculated under the Building Code and shall have a professional engineer's certification.
   g. No wind energy conversion system tower shall be constructed within twenty (20) feet laterally of an overhead electrical power line (excluding secondary electrical service lines or service drops). The setback from underground electric distribution lines shall be at least five (5) feet.
   h. No wind energy conversion system or support tower of any kind shall be erected anywhere within the city without first making an application for and obtaining from the city a permit therefor which shall not be granted unless all requirements of this article are met, and the proposed use will not be harmful to the public health, welfare, and safety.
   i. Wind energy conversion systems and towers shall be adequately grounded, as determined by the city engineer, for protection against a direct strike by lightning and shall comply, as to electrical wiring and connections, with all applicable federal regulations, state statutes, regulations, and standards, as well as city code
   j. For all wind energy conversion system towers, effective measures shall be taken to prevent public interference and to place the tower in a substantially unclimbable condition. Effective measures include removal of climbing rungs or ladders from the bottom eight (8) feet of the tower. The intention shall be to prevent climbing of the tower by unauthorized persons.

k. Except for illumination devices required by FAA regulations and residential lighting in compliance with city codes, no wind energy conversion system or tower shall have affixed or attached to it in any way any sign (does not include equipment labels), banner, or placard of any kind, except for one sign, not to exceed two square feet, which displays suitable warning of danger to unauthorized persons, the system's manufacturer, and emergency shut -down procedures.
l. All wind energy conversion systems shall comply with all applicable Federal Communications Commission regulations, as amended.
m. All wind energy conversion systems shall comply with all applicable Federal Aviation Administration regulations, as amended.
n. The interface of a wind energy conversion system with the consumer's electric service shall be pursuant to all applicable federal and state regulations. The city encourages the owner to notify his local electric utility company in advance and requests that both parties regulate their activities in a cooperative manner.
o. Any wind system or tower which is not used for twelve (12) successive months, shall be deemed abandoned and shall be removed as abandoned lot pursuant to the procedures outlined in the Uniform Building Code as adopted by the city.
p. No more than once wind energy conversion system shall be on any lot.

D. General conditions.

1. All Conditional Use and Interim Use permits required by this section shall be subject to and shall comply with the requirements in Title 10 of the Zoning Code and all other applicable local, state and federal rules and regulations.
2. The system shall be constructed and maintained under all applicable local, state and federal regulations.
3. No system shall be erected anywhere within the city without first making an application and obtaining from the city a permit, which shall not be granted unless all requirements of this article are met, and the proposed use will not be harmful to the public health, welfare, and safety.
4. Unless specifically stated otherwise in this section, all systems shall be subject to applicable front, rear and side yard setback.
5. Decommissioning of Solar Projects and related facilities must occur in the event the Interim Use Permit expires or is terminated, and/or the solar panels are not in use for 12 consecutive months. The plan shall include provisions for removal of structures, foundation, equipment and power and communication lines, restoration of soil and vegetation to its pre-development conditions, and a financial guarantee ensuring that financial resources will be available to fully decommission the site. The applicant shall provide a bond, letter of credit, escrow, or other financial security in a form and amount as deemed appropriate by the City, naming the City as the oblige. In determining the financial security required, the City shall require an inflationary escalator in determining the appropriate amount of security.

   If said decommissioning has not been completed within a six-month period after the Interim Use Permit has been expired or has been terminated and/or the solar panels have not been in use for 12 consecutive months, then the City shall provide written notice by certified mail to the landowner requiring the decommissioning be completed within 60 days. If the decommissioning has not been completed within 60 days of the notice, the City may undertake the decommissioning and charge the landowner and/or facility owner and operator for all costs and associated expenses. In the event that the City chooses to undertake the decommissioning, the City shall have the right to draw on the bond, letter of credit, escrow, or other financial security.

10-8-18: **ANTENNAS, SATELLITE DISH ANTENNAS AND TOWERS:**

A. Purpose: The purpose of this ordinance is to accommodate the communication needs of residents and businesses while protecting public health, safety and general welfare of the community. The City finds that these regulations are necessary in order to:

1. Facilitate the provision of wireless communication services to residents and businesses.
2. Minimize adverse visual effects of towers through careful design and site standards.
3. Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements.
4. Maximize the use of existing and approved towers and buildings to accommodate new wireless communication antennas in order to reduce the number of towers needed to serve the community.
5. To encourage clustering of communications towers in appropriate locations.

B. Definitions: The following words and terms shall have the following meanings unless the context clearly indicates otherwise:

Antenna: Any structure or device used for the purpose of collecting or transmitting electrical magnetic waves, including but not limited to directional antennas, such as panels, microwave dishes and satellite dishes, and omni-directional antennas, such as whip antennas.

Commercial Wireless Telecommunication Services: Licensed commercial wireless telecommunication services, including cellular, personal communication services (PCS), specialized mobilized radio (SSMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

Public Utility: Persons, corporations, or governments supplying gas, electric, transportation, water, sewer or land lying telephone service to the general public. For the purpose of this ordinance, commercial wireless communication service facilities shall not be considered public utility uses, and are defined separately.

Tower: Any ground or roof-mounted pole, spire, structure or a combination thereof taller than 15 feet, including supporting lines, cables, wires, braces, and masks, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus above grade.

Multi-User Towers: A tower to which is attached the antennas of more than one commercial wireless telecommunications service provider or governmental entity.

Single-User Towers: A tower to which is attached only the antennas of a single user, although the tower may be designed to accommodate antennas of multiple users as required by this ordinance.

Amateur Radio Towers: A tower used exclusively for transmission and reception by an amateur radio operator, which is located on the same property as the radio, and does not exceed 40 feet in height.

Residential Television Towers: A tower used exclusively for the non-commercial reception of television signals, which is located on the same property as the television (s), and does not exceed 40 feet in height.

Exempted Dish: A satellite or microwave dish that is two meters or less in diameter and used for reception of signals exclusively for the occupants of the property on which it is located.

Accessory Utility Buildings: All utility buildings and structures accessory to a tower.

Building Mounted Antenna: A wireless communications antenna mounted on or attached to the roof or wall of an existing building.

Commercial Towers: A tower designed or used for commercial wireless telecommunications services, public radio transmission or commercial television transmission.

C. Permitted Towers: The construction and maintenance of an Amateur Radio Towers, Residential Television Tower or Exempted Dish is a permitted use within any zoning district.

D. Permitted Zoning Districts: The Construction and maintenance of a tower shall be permitted within the following zoning classifications, pursuant to a conditional use permit granted in accordance with the Zoning Ordinance.

1. Industrial Districts. I-1 Light Industrial and I-2 Heavy Industrial. All permitted towers and antennas, subject to height and setback provisions as identified in this Title and 10-8-18-F.
2. Business Districts. B-2 General Business and B-3 Medical/Professional District . All permitted towers and antennas, subject to height and setback provisions as identified in this Title and 10-8-18-F..
3. Residential Districts. R-1 Single Family Residential, R-2 Single and Multiple Family Residential, and R-3 Multi-Family Residential. All permitted towers and antennas, subject to height and setback provisions as identified in this Title and 10-8-18-F.

E. General Performance Standards: All towers shall meet the following performance standards:

1. Multi-User Requirements: A proposal for a new commercial wireless communication tower shall not be approved unless the City finds that the telecommunications equipment plans for the proposed tower cannot be accommodated by an existing or approved tower or building within a two (2) mile search radius of the proposed tower due to one or more of the following reasons:

    a. The planned equipment would exceed the structural capacity of the existing or approved tower, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be re-enforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
    b. The planned equipment would cause interference materially impacting the usability or other existing or planned equipment at the tower as documented by a qualified and licensed professional engineer, and the interference cannot be prevented at a reasonable cost.
    c. Existing or approval towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
    d. Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.
    e. Any proposed commercial wireless telecommunication service tower shall be designed (structurally and electronically) in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users. The tower must be designed to allow for future re-arrangement of antennas upon the tower and to accept antennas mounted at various heights.

2. Tower and Antenna Design Requirements: Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration. Commercial wireless telecommunication service towers shall be of a monopole design unless the City determines that an alternative design would better blend in the surrounding environment or allow for greater future multi-use.
3. Landscaping and Screening: The City may establish as a condition of approval of a commercial tower, reasonable requirements relating to landscaping and screening to improve the aesthetic appearance of the base of the tower and accessory buildings. Existing on-site vegetation should be preserved to the maximum extent possible.
4. Fencing: All commercial towers and accessory buildings shall be enclosed within a galvanized chain link fence with a locked gate to prevent unauthorized entry. The fence shall be at least eight feet, but not greater than ten feet, in height with the option of adding barbed or razor wire on top of the fence.
5. Construction Standards: All towers shall be constructed and maintained in accordance with the Electronic Industry Association Standards and all applicable building codes.
6. Minimum Spacing: Minimum spacing between commercial tower locations is one half mile.

F. Tower Setbacks: All towers shall confirm with the following minimum setback requirements:

1. All towers shall be set back from property lines a minimum of 125% of the height of the tower, including all antennas and attachments. The height of the tower shall be measured from the average grade of the property on which it is located or the actual tower height, whichever is greater.
2. Building accessory to a tower shall comply with the setback requirement of the zone in which the tower is located.
3. Commercial towers shall be set back a minimum of 500 feet from schools or structures used as dwellings and a minimum of 300 feet from property zoned for residential use. A change in the use of the property adjacent to an existing commercial tower does not render the tower a non-conforming use, if the tower was in conformance with this ordinance when constructed.
4. A tower setback may be reduced or varied, if the variance will facilitate the integration of the tower into an existing or proposed structure, such as a church steeple, light standards, power line support device or similar structure.

G. Tower Lighting: A tower shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other state or federal authority for a particular tower. When incorporated into the design standards of the tower, light fixtures to illuminate ball fields, parking lots or similar areas may be attached to the tower.

H. Signs and Advertising: The use of any portion of a tower for signs other than a warning or equipment informational signs is prohibited.

I. Abandoned or Unused Towers: Abandoned, unused towers or portions of towers shall be removed as follows:

1. All abandoned, unused towers and associated facilities shall be removed within 12 months of the cession of operations at the site unless a time extension is approved by the Town. In the event the tower is not removed within 12 months of cession of operations at the site, the tower

and the associated facilities may be removed by the Town and the cost of removal assessed against the property.

2. Any unused portions of towers above a manufactured connection shall be removed within six (6) months of the time of antenna relocation. The replacement of portions of a tower previously removed requires the issuance of a new conditional use permit.

J. Interference with Safety Communications: No new or existing telecommunication service shall interfere with public safety communications. All applications for a conditional use permit for new service shall be accompanied by an intermodulation study which provides the technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the introduction of a new service or change in existing service, telecommunication providers shall notify the City at least ten (10) calendar days in advance of such changes and allow the City to monitor interference levels during the testing process.

K. Conditional Use Permit Submittal: In addition to the information generally required to accompany a request for a conditional use permit as found in the Zoning Ordinance, applications for towers shall include the following supplemental information:

1. A report from a qualified and licensed engineer which:

a. Describes the tower height and design, including a cross section and elevation.
b. Documents the height above grade for all potential mounting positions for collocated antennas and the minimum separation distance between antennas.
c. Describes the tower's capacity, including the number and type of antennas it can accommodate.
d. Describes how the applicant will take steps to avoid interference with established public safety communication.
e. Includes the engineer's stamp and registration number.
f. Includes other information necessary to evaluate the request.

1. Letter of intent committing the tower owner, and successors, to allow the shared use of the tower if any additional user agrees in writing to meet reasonable terms and conditions for shared use.
2. Proof that the proposed tower complies with regulations administered by the Federal Aviation Administration.
3. A report from a qualified and licensed professional engineer which demonstrates the tower's compliance with all applicable structural and electrical standards.
4. A site plan showing the boundaries of the property on which the tower is located, adjacent land uses, the location of the tower and any accessory buildings within the property, distance setbacks from property lines for the tower and accessory buildings, fence locations, and proposed landscaping or screening.
5. A bond of other form of security approved by the City, posted for the purpose of reimbursing the City for cost of removal of the tower in the event its use is discontinued.

L. Building Mounted Antennas: The placement of a wireless telecommunication antennas on roofs of walls of existing buildings or structures shall be approved by the City as a conditional use provided that the antennas meet the requirements of this ordinance, after submittal of a final site and building plan, and a report prepared by qualified licensed professional engineer indicating the existing building structure suitability to accept the antenna as well as a proposed method for affixing the antenna to the structure. Complete details of all fixtures, couplings, and the precise point of attachment shall be indicated.

M. Amateur Radio and Residential Television Towers: Amateur Radio Towers, Residential Television Towers and antennas are subject to the standards and conditions established by this ordinance, except for those specific to commercial towers. The City may waive strict compliance with this ordinance if it finds that the stated purpose of this ordinance is met.

N. Penalties: A violation of this ordinance shall constitute a misdemeanor. Each calendar day of a continued violation of the ordinance shall constitute an individual misdemeanor or offense.

10-8-19: **SACRED COMMUNITY:**

A. PURPOSE: The purpose of this ordinance is to provide permanent housing to people who are chronically homeless, extremely low income, or designed volunteers. Each religious institution that has a sacred community must annually certify to the local unit of government that is has complied with the eligibility requirements for residents of a sacred community as defined within Minnesota Statute 327.30, as amended.

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CHAPTER 9

SITE (PLOT) PLAN

SECTION:

10-9-1: Site and Building Plan Review
10-9-2: Building Permit Requirements For Existing Buildings
10-9-3: Flatwork Permits

10-9-1: **SITE AND BUILDING PLAN REVIEW:**

A. General: all site and building plans shall require review and approval by the Planning and Building Department.
B. Platted Property: All properties shall be platted prior to or in conjunction with any request for site plan approval.
C. Certificate of Survey: Applications and plans submitted for site and building review of new Single Family Dwellings must include a Certificate of Survey which is signed and certified by a registered and licensed land surveyor and must include all information as required by the City.
D. Applications and Submittal Requirements: Applications for site and building plan review for multiple family residential, commercial, industrial, or public/semi-public uses shall be filed with the Zoning Administrator and shall be accompanied by the appropriate fee and the following submittal information:

1. Proof of title and contract/purchase agreement and property owner signature on the application form when applicable.
2. One (1) electronic copy of all detailed plans and specifications in a format compatible with the City.
3. Site Plan depicting the following:

    a. Name of project or development.
    b. Name and address of developer and/or owner.
    c. Name and address of engineer/architect/designer.
    d. Date of plan preparation and dates of any subsequent revisions.
    e. Scale (engineering only) at not less than one (1) inch equals one hundred (100) feet.
    f. North point indication.
    g. Existing boundaries, lot dimensions, and lot area.
    h. Existing buildings, structures, and improvements.
    i. Easements of record.
    j. Delineated wetland boundary, to include OHWL or any waters.
    k. All encroachments,
    l. Legal description.
    m. All proposed improvements, including:

        1. Required and proposed setbacks.
        2. Location, setback and dimensions of all proposed buildings and structures.
        3. Location of all adjacent buildings and structures within one hundred (100) feet of the exterior boundaries of the Subject Property.

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4. Location, number, dimensions of all proposed parking stalls, loading areas, drive aisles, with curbing shown.
5. Location, width and setbacks of all proposed street accesses and driveways and existing accesses within 100 feet of the property.
6. Location, width and setbacks of all proposed sidewalks, walkways and trails.
7. Location and type of all proposed lighting, including fixture details.
8. Provisions for storage and disposal of waste, garbage and recyclables, including details for enclosing and screening exterior containers.

10. Calculations for impervious/pervious surfaces.

n. Grading Plan depicting the following:

1. Existing contours at two (2) foot intervals.
2. Proposed grade elevations at two (2) foot maximum intervals.
3. Drainage plan, including the configuration of drainage areas and calculations.
4. Spot elevations.
5. Surface water ponding and treatment areas.
6. Erosion control measures.
7. Wetland replacement plan, if applicable.
8. Soil borings.
9. Drainage calculations for 2, 10, and 100 year storm events and 10 day snow melt indicating compliance with Title 11, Chapter 6 of this Code.
10. Delineated wetland boundary, to include OHWL of any waters.
11. Date of plan preparation and dates of subsequent revisions.

o. Landscaping Plan depicting the following:

1. Planting schedule including symbols, quantities, common and botanical names, sizes of plant materials, root specification (care, root, balled/burlapped, potted, etc.), and special installation instructions.
2. Tree Preservation Plan: location, type, and size of all significant trees to be removed or preserved.

    i. Significant trees mean deciduous trees measuring four and one-half (4 ½) inches or more in diameter or coniferous trees measuring eighteen (18) feet or more in height.

3. Planting detail showing all species to scale at normal mature crown diameter or spread.
4. Typical Sections with details for fences, tie walls, planter boxes, picnic areas and similar items.
5. Typical sections with details of landscape islands, planter beds, and foundation planting with identification of materials to be used.
6. Delineation of sodded, seeded and native planting areas with respective areas measured in square feet.
7. Date of plan preparation and dates of subsequent revisions.

p. Photometric Lighting Plan, to include:

1. Layout of proposed luminaries' locations.
2. Photometric Plan.

3. Location and uses of adjacent properties.
4. Cut sheets that provide a description of the luminaries, including glare reduction/control devices, lamps, on-off cycle control devices and mounting devices.
5. Foundation details.
6. Location of power source and connection details.
7. Size and type of conduit and wire to be used.
8. Statement of proposed hours.

q. Architectural Plans, to include:

1. Date of plan preparation and dates of any subsequent revisions.
2. Architectural elevations, in color, of all principal and accessory buildings (type and materials used for all exterior surfaces).
3. Typical floor and room plan drawn to scale with a summary of square footage by use or activity.

r. Utility Plan, to include:

1. Location of hydrants, valves, and manholes, if applicable.
2. Location, sizing, and type of water and sewer system main and proposed service connections, hydrants, valves, and manholes.
3. Location and size of proposed primary and secondary on-site treatment systems, when allowed.
4. Storm sewer, catch basin, invert elevation, type of castings and type of materials.
5. Date of plan preparation and dates of any subsequent revisions.

s. Other plans and information as may be required by the Zoning Administrator which may include (but is not limited to) the following:

1. Location, type and size (area and height) of all signs to be erected upon the Subject Property.
2. Vicinity map showing the Subject Property in relation to nearby highways or major street intersections.
3. Sound source control plan.
4. Fire protection plan.
5. Certificate of Survey.

E. Review**:**

1. The Zoning Administrator shall forward copies of the application and site and building plans to the appropriate staff, consultants and governmental agencies for review and recommendation. The Planning Department shall perform a review and approve or deny the application. The Planning Department may also suggest such conditions as they deem necessary to the approval of the site and building plans.
2. The applicant may appeal any denial or decision by the Department to the Planning Commission and City Council according to Chapter 16 of this Title.
3. The Planning Department shall provide to the Planning Commission and City Council reports summarizing submitted site and building plan applications and outcomes regarding approval or denial as they occur.

F. Design Standards: Plans which fail to meet the following criteria shall not be approved.

1. The proposed development application must be consistent with the Sartell Comprehensive Plan, city policies and plans, including:

    a. Land Use Plan.
    b. Utility (Sewer and Water) Plans.
    c. Local Water Management Plan.
    d. Capital Improvement Plan.
    e. Transportation Plan.

2. The proposed development application conforms to this Title and other applicable City Codes.
3. The proposed development shall be served with adequate and safe water supply.
4. The proposed development shall be served with an adequate and safe sanitary sewer system.

10-9-2: **BUILDING PERMIT REQUIREMENTS FOR EXISTING BUILDINGS:**

A. Interior Modifications Of Existing Permitted Building: Construction which is limited to interior modifications of an existing permitted building that do not change the permitted use of the existing facility may proceed following application and approval of a building permit by the City Building Inspector.
B. Exterior Modifications Of Existing Buildings: Modifications to an existing permitted building may proceed following application and approval of a building permit by the City Building Inspector and Planning Department provided the modification results in less than a twenty-five (25) percent increase in the building footprint.
C. Statement Of Specific Nature Or Use: Every applicant for a permit to build or alter an existing building pursuant to this Section 10-9-2 on any industrial property in the municipality shall be required to submit with the building permit application, a complete and accurate statement concerning the specific nature of the use to which the property is to be put. It shall be required by the governing body that any use established in an industrial district shall be so operated that the entire community and surrounding communities shall be protected from any nuisance brought about by an excess of smoke, noise, odors, vibrations or any other activity that might be termed detrimental to the public health, safety or general welfare of surrounding inhabitants.

10-9-3: **FLATWORK PERMITS:** A Flatwork Permit is hereby established for the purpose of ensuring proper location and extent of paved improvements to property, in addition to any other required permit, including zoning permits, building permits, or other processes.

A. A Flatwork Permit shall be required for the installation of any driveway, sidewalk, patio, or other similar improvement.
B. No Fee. For flatwork with a surface area less than or equal to twenty five (25) square feet, or for any work that replaces, without expansion, an existing driveway or patio, a permit shall be required, but no fee shall be imposed.
C. The application shall be submitted to the City on an approved form, and shall clearly identify the location, including setbacks from any property line and/or public right of way, the location of any public easements, and the proximity of the proposed work from any existing or proposed structure on the property.

D. A site plan shall be required, drawn to scale, that identifies the location of all features, as well as the proposed materials to be used.
E. The City Clerk or designee shall have the authority to request that the location of existing property lines and other features of the project be established by a Registered Land Surveyor.
F. The applicant shall take care to place the improvements so as to meet all applicable zoning and other relevant ordinance requirements.
G. No work subject to this Section shall be undertaken until a Flatwork Permit is approved and issued. A copy of this Permit shall be displayed at the site in a manner similar to that of Building Permits.

CHAPTER 10

PARKING AND LOADING REQUIREMENTS

SECTION:

10-10-1: Purpose And Intent
10-10-2: Off-Street Parking
10-10-3: General Regulations
10-10-4: Required Parking Spaces
10-10-5: Off-Street Loading

10-10-1: **PURPOSE AND INTENT:** The purpose and intent of this Chapter is to alleviate or prevent congestion of the public right-of-way and to promote the safety and general welfare of the public by establishing minimum requirements for off-street parking of motor vehicles in accordance with the intensity of utilization of the various parcels of land or structures. The intent of this Chapter is to establish general standards for off-street parking. The regulations provided herein shall apply equally to all districts except where special provisions provide otherwise.

10-10-2: **OFF-STREET PARKING:**

A. Residential Parking:

1. Spaces for residential parking shall be on the same lot or immediately adjacent lot as the principal building.
2. Parking Pads: Parking pads are allowed in the residential districts subject to the following standards:

    a. Parking pads shall be six (6) feet from the side yard lot line, except corner lot lots on which the side yard on the intersecting street shall not be less than fifteen (15) feet.
    b. Parking pads shall be easily accessible from an improved driveway. The driveway approach to the additional off street parking pad shall be concrete, asphalt, stone, brick pavers and porous pavers. Parking pads shall be surfaced with durable materials such as concrete, asphalt, gravel, stone, brick pavers and porous pavers. Gravel is not permitted for parking pads located within the front yard of a lot.
    c. Total parking pad and driveway area shall not occupy more than thirty (30) percent of the front yard or the rear yard for a driveway adjacent to an alleyway.
    d. Parking pads shall not encroach onto utility and drainage easements.
    e. Parking pads and their access drives shall be no greater than two hundred (200) square feet in total area, exclusive of permitted driveway area leading directly into a garage.
    f. No person shall construct a parking pad without first making an application for and securing a flatwork permit from the City Zoning Administrator and said permit shall expire (180) days after the day of issuance if not constructed. All fees paid under a lapsed permit shall be forfeited to the city.

3. Parking of licensed, operable passenger and recreational vehicles and trailers owned by those residing at the premises are allowed in driveways leading to garages and legal parking areas/pads providing said parking of vehicle complies with standards of this Title and other applicable sections of the City code. Guests of the occupant of the premises may park a

recreational vehicle on a driveway or legal parking pad on the premises for a period not exceeding seven (7) consecutive days.

4. No residential driveways, pard pad, or combination thereof shall exceed forty (40) percent of the lot width of the parcel on which it is located.
5. No residential driveway or parking pad shall be located closer than six (6) feet from any side lt line, except corner lots on which the side yard on the intersecting street shall be less than fifteen (15) feet.

B. Recreational Vehicles and Trailers:

1. No more than two (2) recreational vehicles or trailers may be parked outside on your lot in a residential district and must be parked a minimum of ten (10) feet from the back of the curb or roadway. A boat, snowmobiles, ATV's, jet skis, and similar vehicles on a trailer shall be considered one recreational vehicle.

2. Up to one (1) recreational vehicle or trailer may be parked in a rear yard on grass or ground surface provided the following conditions are met:

    a. The recreational vehicle or trailer is not permanently affixed to the ground in a manner that would prevent its removal.
    b. The recreational vehicle or trailer is not partially dismantled or used for sale or parts.
    c. The recreational vehicle or trailer is registered to the property owner or occupant on which the recreational vehicle or trailer is stored.
    d. The trailer is a noncommercial utility trailer.
    e. The recreational vehicle or trailer shall not exceed six (6) feet in length (as measured from the box size).
    f. The recreational vehicle or trailer shall not encroach onto drainage and utility easements.
    g. The recreational vehicle or trailer must be setback a minimum of ten (10) feet from the rear and side yard lot lines. Except corner lots on which the side yard on the intersecting street shall not be less than fifteen (15) feet.

3. Recreational vehicles may be stored on any part of a lot for the sole purpose of loading or unloading for a period of up to twenty-four (24) hours.
4. Recreational vehicles and trailers shall not be utilized for storage of goods, materials or equipment other than those items considered to be part of the unit or essential for its immediate use.
5. Recreational vehicles and trailers shall not be used as a living quarter while stored/parked on a residential property.
6. The total lot coverage of all recreational vehicles and trailers stored outside shall not exceed ten (10) percent of the lot area.
7. Trailers shall not exceed twelve (12) feet in length (as measured from the box size) with the exception of boat trailers.

C. Change of Occupancy:

1. Change of Use. When an existing building changes occupancy, the existing parking supply shall be presumptively adequate when the new use is a permitted use in the applicable zoning district. If the new use requires a Conditional Use Permit or Interim Use Permit, the City shall apply the parking regulations applicable to the specific proposed use and require such additional required parking to be constructed.

2. Physical changes to the building or parking lot shall require bringing the parking lot and improvements into conformance with the zoning ordinance.

10-10-3: **GENERAL REGULATIONS:**

A. Size: A parking space, as referred to in this Title, shall be at least nine feet wide by twenty feet long (9'x 20'). In areas where the parking space may accommodate for the overhang of the front or rear bumper, such as the perimeter of the parking lot, the parking space may be a minimum of nine feet by 18 feet (9'x18').
B. Screening: Any off-street parking areas containing five (5) or more parking spaces must be screened from any adjacent residential use or district by proper landscaping
C. Surface: All off-street, parking and loading spaces, together with driveways, aisles, and other circulation areas, shall be improved in such a way as to provide a durable, dust-free hard surface constructed of concrete, asphalt, stone, brick pavers and porous pavers. All high volume traffic areas shall have a hard surface.
D. Parking facilities may be used for the parking of licensed and operable passenger automobiles and trucks.
E. No vehicle may block a sidewalk or be parked within the street right of way.
F. Parking or the storage of any vehicles is not allowed on grassy or landscaped areas except as specified for recreational vehicles and trailers in this Title.
G. Weight Restriction; Repairs: Off-street parking in residential districts shall be used only for parking of vehicles of under fourteen thousand (14,000) pounds gross weight. No commercial repairs will be permitted.
H. Drainage: All parking and loading areas shall provide for proper drainage of surface water to prevent the drainage of such water onto adjacent properties or walkways.
I. Maintenance: The owner of any parking or loading area shall maintain the area in good condition without holes and free of all dust, trash, and other debris.
J. Lighting: If lighting is used, it shall be directed away from adjacent residential property.
K. Site (Plot) Plan: The application for any building permit shall be accompanied by a site (plot) plan, which in addition to other information, shall show the location of the off-street parking area provided for such building.
L. Entrance/Exit Width: No entrance to or exit from a parking area shall be more than twenty four (24) feet in width with the exception of commercial, industrial, and civic/institutional uses as approved by the city and under no circumstances will off-street parking areas be designed so that vehicles must back into the street or public way, with the exception of R-R, R-1 and R-2.
M. Distance from Residential District: No public or private garage in a business or industrial district for more than five (5) motor vehicles shall have an entrance or exit within thirty (30) feet of a residential district boundary line.
N. Curbing: Except for single-family, two-family, and townhomes, all off street parking shall have continuous concrete curbing around the exterior perimeter of the parking lot except for curb cuts for infiltration features designed to infiltrate storm water runoff from impervious surfaces. Following a review by city staff, curbing requirements may be waived if any of the following conditions are met:

    1. The city engineer has determined sheet drainage over ground would improve storm water quality.
    2. Where an adjacent future development phase excluding future parking would be built that would result in the removal of the curbing.
    3. The parking lot will be porous pavement, along with the installation and maintenance of rain gardens or infiltration features.

O. Interior Plantings: Ten (10) percent of the impervious, interior parking area (excluding the maneuvering areas) shall be landscaped islands, rain gardens or other green spaces for parking lots of at least twenty-five (25) parking spaces or more in addition to perimeter landscaping**.**

10-10-4: **REQUIRED PARKING SPACES:**

A. Day Care/Nursery School: One space per each required staff person, plus one space per each five (5) students.
B. Dwellings (R-R, R-1, R-2): Two (2) parking spaces per living unit plus two additional spaces per boarder or accessory apartment whether the spaces are covered or uncovered.
C. Multi-Family Dwellings (R-3, R-4): 1.1 parking spaces per bedroom , 40% of which must be covered in garages or underground/under-building.
D. Senior Housing:

1. Independent Living: 1.1 spaces per bedroom.
2. Assisted Living: .7 spaces per bedroom.
3. Memory Care: .5 spaces per bedroom.

E. Hotel/Motel: 1.2 spaces per guest room or suite plus additional spaces for accessory uses such as restaurants, bars, etc
F. Churches and other places of religious assembly: One space for every four (4) seats or one space for every eight (8) feet of pew length.
G. Private Clubs, Community Centers, Libraries, Museums and Similar Places of Assemble: One space per four (4) seats patrons at maximum design capacity.
H. Theater, Auditorium, Stadium or Similar Places of Assemble: One space per four (4) seats.
I. Schools (Elementary, Jr. High, Middle) two (2) spaces per classroom.
J. High School: Two (2) spaces per classroom and one space per seven (7) students.
K. Bowling Alley: Three (3) spaces for each lane plus spaces for related bar/restaurant service area.
L. Retail Business: One (1) space for every three hundred (300) square feet of net sales area.
M. Office Building: One (1) space per three hundred and fifty feet (350) net floor area.
N. Bank: One (1) space per three hundred fifty (350) square feet of gross floor area.
O. Convenience/Gas Store: One (1) space per 400 square feet of gross floor area, not including space at fuel pumps.
P. Adult Daycare/State Licensed Residential Facility: Four (4) spaces, plus one (1) space for each three (3) beds for which accommodations are offered.
Q. Hospital: Two (2) spaces per bed.
R. Medical Office. One (1) space per two hundred and fifty feet (250) gross floor area.
S. Industrial/Warehouse Uses: (1) per 1,000 square feet of floor area.
T. Sit Down Restaurant: One (1) space per four (4) seats plus one (I) space per eighty (80) square feet of kitchen and food/beverage prep area.
U. Fast Food Restaurant: Four (4) spaces per 1000 gross floor area. Additional stacking space for drive through lanes at six (6) spaces per lane, or ten (10) per lane for coffee shops.
V. Bar/Tavern/Night Club; Five (5) spaces per 1000 gross floor area.
W. Shopping Center: Five (5) spaces per 1000 square feet of gross floor area.
X. County Club: Twenty (20) spaces plus one (1) space per 500 square feet gross floor area.
Y. Health and Fitness Club: One (1) space per 500 square feet.
Z. Other Businesses: One (1) space per 250 square feet of gross floor area, or as determined based on a separate study and approved by the City Council.
AA. Other Structures or Uses: For any and all uses or structures not specifically provided for in the

foregoing, such parking space as the governing body shall determine to be necessary, considering all the parking generating factors involved.

BB. Mixed Uses: In the case of mixed uses, the parking facilities required shall be the sum of the requirements for the various individual uses, computed separately in accordance with this Section. Parking facilities for one use shall not be considered as providing the required parking facilities for any other use except that the governing body may consider the joint use of a parking area (other than residential) where it is known that because of a time element, the parking facilities will not be needed by more than one of the uses thereof at one time.

10-10-5: **OFF-STREET LOADING:** On the same premises with every building devoted to retail trade, retail and wholesale food markets, warehouses, supply houses, wholesale or manufacturing trades, laundry, dry-cleaning establishments or other buildings which do not rely primarily on railroad transfer and where large amounts of goods are received or shipped, erected in any district after the effective date of the Ordinance codified in this Title, loading and unloading space shall be provided as follows:

A. General Business Districts: In general business districts two (2) off-street loading and unloading spaces may be provided for each store unit having a gross area of ten thousand (10,000) square feet. One additional space shall be provided for each additional fifteen thousand (15,000) square feet of floor space.
B. Neighborhood Business Districts: In neighborhood business districts, one off-street loading and unloading space may be provided for each store unit.
C. Industrial Districts: In industrial districts, the use of any building requiring loading or unloading of materials to and from trucks may require two (2) off-street loading spaces for the first ten thousand (10,000) square feet of floor space for each additional fifteen thousand (15,000) square feet of floor space.
D. Distance From Residential Uses and Districts: No required off-street loading space shall be less than one hundred feet (100') from any residential use or district boundary line.
E. Screening: All loading areas shall be screened with screening walls and landscaped from abutting and surrounding residential uses and districts. The screening walls must be constructed of permanent material and finish and in a color compatible with the principal structure.

CHAPTER 11

SIGNS

SECTION:

10-11-1: Findings
10-11-2: Purpose and Intent
10-11-3: Severability
10-11-4: Definitions
10-11-5: Permits
10-11-6: Signs In Residential Districts
10-11-7: Signs In Commercial Districts
10-11-8: Signs In Industrial Districts
10-11-9: Changeable Signs
10-11-10: Temporary Signs
10-11-11: Nonconforming Signs
10-11-12: General Regulations
10-11-13: Sports, Arts, and Other Performance Venues

10-11-1: **FINDINGS:** It is hereby determined that the regulation of the location, placement, size, shape, height, condition, presentation or/and illumination of signs is necessary to achieve the following objectives:

A. To establish standards which would permit businesses in the City a reasonable and equitable opportunity to identify and advertise themselves.
B. To preserve and protect the value of land, buildings, and landscapes which specifically:

    1. Are compatible with their surroundings;
    2. Are appropriate for the activity or displaying the graphic;
    3. Express the identity of individual activities and the community as a whole; and
    4. Are legible in the circumstances in which they are seen.

C. Signs can create traffic hazards, aesthetic concerns, and detriments to property values, thereby threatening the public health, safety and welfare.
D. The City's zoning regulations have, since as early as 1996, included the regulation of signs in an effort to provide adequate means of expression and to promote the economic viability of the business community, while protecting the City and its citizens from a proliferation of signs of a type, size, location and character that would adversely impact upon the aesthetics of the community, or threaten the health, safety, or welfare of the community. The regulation of the physical characteristics of signs within the City has had a positive impact on traffic safety and the appearance of the community.
E. To encourage businesses and residents to erect permanent signage that is designed as an integral component of the site and building design.

10-11-2: **PURPOSE AND INTENT:** It is not the purpose or intent of this Chapter to regulate the content displayed on any sign; nor is it the purpose or intent of this Chapter to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building or structure. The purpose and intent of this Chapter is to:

A. Regulate the number, location, size, type, illumination and other physical characteristics of signs within the City in order to promote the public health, safety, and welfare.
B. Maintain, enhance, and improve the aesthetic environment of the community by preventing visual clutter that is harmful to the appearance of the community.
C. Improve the visual appearance of the community while providing for effective means of communication, consistent with constitutional guarantees and the City's goals of public safety and aesthetics.
D. Provide for fair and consistent enforcement of the sign regulations set forth herein under the zoning authority of the City.
E. Allow for a wide variety of sign types in commercial districts, and a more limited variety of signs in other districts subject to the standards set forth in this Chapter.
F. Prohibit signs whose location, size, type, illumination or other characteristics negatively affect the environment and where the communication can be accomplished by means having a lesser impact on the environment and public health, safety and welfare.
G. Provide for the enforcement of the provisions of this Chapter.

10-11-3: **SEVERABILITY:** If any section, subsection, sentence, clause, or phrase of this Chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining sections of this Chapter. The City Council hereby declares that it would have adopted this Chapter in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

10-11-4: **DEFINITIONS:** The following words and terms, in addition to the words and terms identified in Chapter 2, Section 2, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise:

Awning Sign: A building sign or graphic printed on or in some fashion attached directly to the awning material.

Balloon Sign: A sign consisting of a bag made of lightweight material supported by helium or by hot or pressurized air, which is greater than twenty-four (24) inches in diameter.

Building Sign: Any sign attached or supported by any structure used or intended for supporting or sheltering any use or occupancy.

Cabinet Sign: Any wall sign that is not of channel or individually mounted letter construction.

Canopy: A roof-like cover, often of fabric, plastic, metal, or glass on a support, which provides shelter over a doorway.

Canopy Sign: Any sign that is part of or attached to a canopy. A canopy sign is not a marquee and is different from service area canopy signs.

Changeable Sign: Notwithstanding Section 10-2-2, a permanent sign with the capability of content change by means of manual or remote input. Includes the following types:

A. Manually Activated: Changeable sign whose message copy or content can be changed on a display surface.

B. Electronically activated: changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light emitting devices; or it may be from an external light source designed to reflect off the changeable component display.

Commercial Speech: Speech advertising a business, profession, commodity, service, or entertainment.

Electronic Message Sign or Electronic Display Screen: An electrically activated changeable sign whose variable message capability can be electronically programmed. This does not include signs which contain weather information, date or time, or fuel prices.

Elevation: The view of the side, front, or rear of a given structure.

Elevation Area: The area of all walls that face any lot line.

Erect: To construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.

Flag: Any fabric or similar lightweight material attached at one end of the material, usually to a staff or pole, so as to allow movement of the material by atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia, or other symbolic devices.

Flashing Sign: Notwithstanding Section 10-2-2, a directly or indirectly illuminated sign which exhibits changing light or color effect by any means, so as to provide intermittent illumination which includes the illusion of intermittent flashing light by means of animation. Also, any mode of lighting which resembles zooming, twinkling, or sparkling.

Garage Sale Sign: A temporary sign advertising a sale of goods by the owner of a private residence at a private residence.

Grade: The final ground elevation after construction. Earth mounding criteria for landscaping and screening is not part of the final grade for sign height computation.

Height of Sign: The height of a sign shall be computed as the vertical distance measure from the base of the sign at grade to the top of the highest attached component of the sign or sign structure.

Interior Sign: A sign which is located within the interior of any building, or within an enclosed lobby or court of any building, and a sign for and located within the inner or outer body, court or entrance of any theater.

Legally Established Nonconforming Sign: Any sign and its support structure lawfully erected prior to the effective date of this Chapter which fails to conform to the requirements of this Chapter. A sign which was erected in accordance with a variance granted prior to the adoption of this Chapter and which does not comply with this Chapter shall be deemed to be a legal nonconforming sign. A sign which was unlawfully erected shall be deemed to be an illegal sign.

Marquee: Any permanent roof-like structure projecting beyond a theater building or extending along and projecting beyond the wall of that building, generally designed and constructed to provide protection from the weather.

Marquee Sign: Any building sign painted, mounted, constructed, or attached in any manner, on a marquee.

Non-Commercial Speech: Any sign, display, device or other message permitted, but not required, under this Chapter or ordinances of the City may contain, in lieu of any other copy, any otherwise lawful non-commercial message that does not direct attention to a business operated for profit or to a commodity, service or property for sale or rent, and complies with all other requirements of this Chapter and other ordinances of the City.

Portable Sign: Any sign which is manifestly designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support is converted to another sign or attached temporarily or permanently to the ground since this characteristics is based on the design of such a sign.

Property Owner: Legal owner of property as officially recorded by Stearns or Benton County.

Pylon Sign: Any freestanding sign which has its supportive structure(s) anchored in the ground and which has a sign face elevated above ground level by pole(s) or beam(s) and with the area below the sign face open.

Rotating Sign: A sign or portion of a sign which turns about on an axis.

Shimmering Sign: a sign which reflects an oscillating, sometimes distorted visual image.

Sign: Notwithstanding Section 10-2-2, any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of an advertisement, announcement, message, or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.

Sign Face: The surface of a sign upon, against, or through which the message of the sign is exhibited.

Sign Structure: Any structure including the supports, uprights, bracing and framework which supports or is capable of supporting any sign.

Stringer: A line of string, rope, cording, or an equivalent to which is attached a number of pennants.

Suspended Sign: Any sign that is suspended from the underside of a horizontal plane surface and is connected to this surface.

Visible: Capable of being seen by a person of normal visual acuity (whether legible or not) without visual aid.

Wall: Any structure which defines the exterior boundaries or courts of a building or structure and which has a slope of sixty (60) degrees or greater with the horizontal plane.

Wall Sign: Any sign attached parallel to, but within two (2) feet of a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one (1) sign surface.

Window Sign: any sign, picture, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, which is placed inside a window or upon the windowpanes or glass and is visible from the exterior of the window.

10-11-5: **PERMITS:**

A. Permit Required; Fees: Except as otherwise herein provided, it shall be unlawful for any person to erect, repair, alter, relocate, or maintain within the City any "sign" as defined in this Chapter without first obtaining a permit from the Building Inspector and paying the fee required. Fees for sign permits shall be in the amount established from time to time by the governing body.

B. Application For Permit: Application for permits shall be made upon forms provided by the City and shall be accompanied by:

1. The name and address of the sign owner and sign erector.
2. A drawing to scale showing the design, location and construction of the sign.
3. Written consent of the owner or lessee of any site on which a sign is to be located; and
4. Such other pertinent information as the Building Inspector may require to ensure compliance with this Chapter.
5. The sign contractor must be licensed, bonded, and have a Certificate of Insurance.
6. If the proposed sign is along a state trunk highway, the application shall be accompanied by proof that the applicant has obtained all necessary permits from the State of Minnesota.

C. Signs Exempt From Fee: The following signs shall be exempt only from a permit fee. The owner shall not be relieved from the responsibilities of following other regulations of erection and maintenance.

1. One on-premise unlighted or indirectly illuminated identification sign not exceeding two (2) square feet in area in residential zones and six (6) square feet in other zones. The identification sign may announce only the name and/or address of the occupants of the premises.
2. Signs located on the rolling stock of common carriers, or on motor vehicles or trailers bearing current license plates, which are traveling or lawfully parked upon public highways, or lawfully parked upon other premises for a period not exceeding four (4) hours, or for longer periods when the primary purpose of such parking is not the display of any sign, and where the number of vehicles bearing a sign or signs of any one advertiser does not exceed one plus one more for each twenty five thousand (25,000) square feet of area of the premises.
3. Signs which are located on the interior of a building or structure and are not visible from outside the building or public rights of way.
4. On-premises signs located inside an enclosed building and visible through a window or windows thereof where the area of such sign does not exceed twenty five percent (25%) of the area of the windows.
5. Signs indicating only the name and/or date of erection of a building, having an area not exceeding six (6) square feet, and made an integral part of the structure.
6. Public signs whose primary purpose is to communicate community events are erected by, or on the order of, a duly constituted public office of City, County, State or Federal governments in pursuance of their public duties.
7. One on-premise institutional sign (bulletin board), not exceeding twenty four (24) square feet in surface area, for churches, schools, public or semi-public institutions. Any illumination shall be diffused or indirect and the sign shall be set back at least one-third (1/3) the distance of any required side yard or setback from the property line.

8. On-premise signs having an area of not more than six (6) square feet each, the message of which is limited to warning of any danger, prohibition, or regulation of the use of this property or traffic or parking thereon.

D. Enforcement; Abatement: All signs not in conformance with this Chapter shall be subject to removal by the City at the expense of the recorded land or sign owner. The City will send notice of violation to the owner. In all cases of violations of this Chapter which are unabated thirty (30) days after written notice to the record owner of the property on which the sign is located or the sign owner, the City may proceed to abate and remove the violation and, if deemed necessary, to have the cost thereof specially assessed against the parcel where the violation was located.

10-11-6: **SIGNS IN RESIDENTIAL DISTRICTS:**

A. Permitted On-Premises Signs: The following on-premises signs shall be permitted in residential districts:

1. One unlighted identification sign for each use other than residential not exceeding four (4) square feet in area.
2. One lighted or unlighted sign having a surface area not exceeding thirty-two (32) square feet and a height not exceeding eight (8) feet per vehicle entrance identifying each subdivision or housing development.
3. In R-3 and R-4 Districts, one unlighted sign per vehicle entrance identifying a dwelling unit complex. Such signs may indicate the name and address of the building and rental or management offices. Such signs shall have a surface area not exceeding twenty-four (24) square feet and a height not exceeding eight (8) feet.
4. In R-3 and R-4 Districts, one area identification sign for each multiple-residential complex consisting of three (3) or more structures. In R-3 Districts such signs shall have a surface area not exceeding seventy five (75) square feet. In R-4 Districts such signs shall have a surface area not exceeding one hundred (100) square feet. The height of the signs may not exceed eight (8) feet.

B. Permits Not Required: All signs not requiring a permit as specified in Section 10-11-5 of this Chapter are permitted.
C. Temporary Signs: All temporary signs as specified in Section 10-11-10 of this Chapter are permitted.
D. Restricted Area: In order to protect its scenic status, no signs, permanent or temporary, are permitted along the river side of the Great River Road, except unlighted identification signs for uses other than residential.
E. Setbacks for the in residential zones shall be as follows:

Front:	Twelve (12) feet
Side:	Six (6) feet
Side Corner:	Twelve (12) feet
Rear:	Six (6) feet

F. The following types of signs are not permitted in residential zoning districts:

1. Balloon signs.
2. Canopy signs.

3. Flashing signs.
4. Marquee signs.
5. Pylon signs.
6. Shimmering signs.

10-11-7: **SIGNS IN BUSINESS DISTRICTS:**

A. Permitted On-Premises Signs: On-premises identification, business or area identification signs are permitted. Nearby residents shall be protected from direct light if these signs are illuminated
B. Sign Area in B-1 Districts: In B-1 Districts, the business sign area in a lot shall not exceed the following:

1. Building wall signs shall not exceed eight (8) percent of building frontage area, or fifty (50) square feet, whichever is greater.
2. Freestanding signs shall not exceed fifty (50) square feet and a height of thirty-five (35) feet.
3. One area identification sign per shopping center may be erected without reducing the square footage allowance for businesses in the center. In B-1 Districts the sign may be one (1) square foot per lineal front footage of all buildings up to a maximum of one hundred (100) square feet.
4. Changeable signs for the purposes of displaying advertising sales or messages shall be permitted above and beyond above stated allowances at a maximum of twelve (12) square feet. This additional square footage may be used on the freestanding sign, wall sign or a combination of both as to not exceed a total of twelve (12) square feet. Changeable signs are subject to Section 11-10-9.

C. Sign Area In B-2 and B-3 Districts: The sign area per lot shall not exceed the following:

1. Building wall signs shall not exceed fifteen (15) percent of building frontage area or seventy-five (75) square feet, whichever is greater.
2. Freestanding signs may not exceed seventy-five (75) square feet and a height of thirty-five (35) feet.
3. One area identification sign per multi-tenant building may be erected without reducing the square footage allowance for businesses in the center. In B-2, B-3 and CDZ Commercial Districts the sign area may be two (2) square feet per lineal front footage of all buildings up to a maximum of two hundred (200) square feet.
4. Changeable signs for the purposes of displaying advertising sales or messages shall be permitted above and beyond above stated allowances at a maximum of thirty-two (32) square feet. This additional square footage may be used on the freestanding sign, wall sign or a combination of both as to not exceed a total of thirty-two (32) square feet. Changeable signs are subject to Section 11-10-9.

D. Setbacks: Setbacks for signage in the business zones shall not be located within recorded drainage and utility easements
E. The following types of signs are not permitted in any business zoning districts:

1. Balloon signs.
2. Shimmering signs.
3. Stringers.

10-11-8: **SIGNS IN INDUSTRIAL DISTRICTS:**

A. Permitted Signs: Where appropriate, any sign permitted in the residential or business district shall be permitted in the industrial district. Signs shall be under the same restrictions specified for those districts except as modified in this Section. Where any sign is illuminated, the illumination there from shall not produce illumination upon any residence in a residential zone beyond the foot-candle limitations imposed by the pertinent ordinances or regulations of the City.
B. Identification; Signs: Identification signs shall not exceed six (6) square feet. Building wall signs shall not exceed twenty (20) percent of building frontage area. Freestanding, pylon or area identification signs may not exceed two hundred (200) square feet and a height of thirty-five (35) feet.
C. Sign Area: The total square footage of sign area for each lot shall not exceed five (5) square feet for each lineal foot of lot frontage.
D. Setbacks: Setbacks for signage in the industrial zones shall not be located within recorded drainage and utility easements.
E. Changeable signs for the purposes of displaying advertising sales or messages shall be permitted above and beyond above stated allowances at a maximum of thirty-two (32) square feet. This additional square footage may be used on the freestanding sign, wall sign or a combination of both so as to not exceed a total of thirty-two (32) square feet.

10-11-9: **CHANGEABLE SIGNS:** All changeable signs are subject to the following:

A. Changeable signs may only be located in the B-2, B-3, or R-5 PUD Districts, subject to the size requirements set forth in Section 10-11-7.
B. Changeable signs may not be freestanding but must be physically connected to a non-changeable on-premise sign.
C. Changeable signs may not exceed twenty (20) feet in height.
D. Every line of copy and graphics on a changeable sign must be at least seven (7) inches in height on a road with a speed limit of 25 to 34 miles per hour; nine (9) inches in height on a road with a speed limit of 35 to 44 miles per hour; twelve (12) inches in height on a road with a speed limit of 45 to 54 miles per hour; and fifteen (15) inches in height on a road with a speed limit of 55 miles per hour or higher.
E. The leading edge of a changeable sign must be a minimum distance of two hundred (200) feet from an abutting residential district boundary.
F. Except as otherwise provided in this Section, animation, streaming video, and images which move or give the appearance of movement are prohibited on all changeable signs.
G. A changeable sign must not exceed a maximum illumination of six thousand (6,000) nits during daylight hours, and a maximum illumination of five hundred (500) nits between dusk and dawn, as measured from the sign's face at maximum brightness. All electrically activated changeable signs, electronic message signs and electronic display screens must have ambient light monitors which automatically adjust the brightness level of the sign based on ambient light conditions.
H. Audio speakers and components, along with any form of pyrotechnics, are prohibited in association with a changeable sign. Only one (1) on-premise electronic message sign or electronic display screen is permitted per zoning lot. A minimum of 50 feet from a traffic control device to a changeable sign shall be maintained. All other signs must have a minimum of 25 feet from a traffic control device.
J. Electronic message signs or electronic display screens must be separated from other electronic message signs, electronic display screens, electronic graphic displays or video displays by at least one hundred fifty (150) feet.
K. When located within two hundred (200) feet of a lot in a residential zone that is being used for residential purposes, all parts of an electronic message sign or electronic display screen must be

oriented so that no portion of the sign face is visible from an existing or permitted principal structure on the residential lot.

L. Each message or image displayed on an electronic message sign or electronic display screen must be static or depicted for a minimum of ten (10) seconds.

M. Each text message displayed on an electronic message sign or electronic display screen must remain static for a reasonable amount of time for the average reader to read the message, as determined by the Zoning Administrator; however, based on sign area, text messages displayed on an electronic message sign or electronic display screen may scroll in order to accomplish the same result. No text message may blink, flash, or mimic strobe-lighting effects.

10-11-10: T**EMPORARY SIGNS:**

A. Permit Required; Temporary signs announcing a unique civic happening, action, purpose or action which appeals to a broad community interest are allowed in any district only by permit issued by the Zoning Administrator. This excludes garage, political signs, and real estate signs. A fee, set forth by ordinance, applies to a permit for temporary signs. Fundraisers, grand openings, closings, sales, would not be considered a unique happening, action purpose or action which appeals to a broad community interest.

B. Location; Placement: Temporary signs announcing a unique happening, action, purpose or occasion which appeals to a broad community interest shall be allowed to be erected for up to fifteen (15) days prior to the event. Properties can have a temporary sign which announces a unique civic happening, action, purpose or action which appeals to a broad community interest four times during any calendar year and only after an application has been approved for location and placement.

C. One Sign Per Parcel: There shall be no more than one temporary sign per parcel of property or business, whichever is less, permitted at any one time.

E. Anchors: Anchors for temporary signs shall be subject to approval by the Building Inspector and maintained to prevent displacement or tipping over during high winds.

F. Subdivision Development Signs; Fee: During the development of a, there shall be allowed two (2) signs in the subdivision, not to exceed sixty-four (64) square feet in surface area and not to exceed twelve (12) feet in height. The sign shall advertise the development and may name the subdivision, subdivision layout, developer, contractors, suppliers, brokers and financial institutions involved. A permit shall be obtained for the placement of such signs and a fee paid. Additional signs having a surface area not exceeding four (4) square feet, and a height not exceeding six (6) feet, directing the public and/or identifying models within the subdivision are also permitted. Both types of signs shall be removed when seventy five (75) percent of the lots are developed or within two (2) years, whichever shall occur first. Such signs shall not be illuminated.

G. Construction Signs: Each Contractor, engineer, architect, supplier, financial institution and any other new construction related signs shall be limited to four (4) square feet each for a total signage per property not to exceed 32 square feet and shall be removed four (4) weeks after sale or issuance of a certificate of occupancy of the land or building, whichever occurs first.

H. Real Estate Signs:

1. Real estate signs for residential property are not to exceed a total of nine (9) square feet in size.
2. Open House Signs: Real estate signs which state that a particular house will be open for inspection by the public for a limited number of hours on a specific day may not be placed within the right of way and must have the consent of the property owner prior to erecting

the sign. The signs are limited to four (4) square feet. Open house signs may not be placed on sidewalks, trails, or any place, which may be considered a nuisance or traffic hazard.

3. Real Estate Signs for commercial and industrial buildings are not to exceed a total of 12 square feet.
4. Real Estate Signs for commercial and industrial vacant ground are not to exceed a total of 32 square feet and must be removed once the property has received site plan approval.

I. Political Signs During Election Year: All non-commercial signs of any size may be posted in any number in accordance with and for the period authorized by Minnesota Statutes Section 211B.045, as amended. Such signs do not require a permit; however, they must comply with all other applicable temporary sign regulations contained in Section 10-11-10, this Chapter and the City Code, such as setbacks and structural integrity.

J. Garage Sale Signs: Signs advertising garage sales shall be limited to a maximum of three (3) days for each sale. There shall be no more than three (3) sales each calendar year for a household and signs shall not exceed three (3) square feet in area. The signs may not be placed within the right of way of any street and the individual erecting the sign must have the property owner's consent prior to erecting the sign.

K. Revocation Of Permit: If the provisions listed in this Section are not met, the Zoning Administrator, by certified mail or written notice served upon the owner, lessee or person responsible for the sign, or the owner's agent, may revoke the permit and remove the sign at the expense of the owners, lessee or person responsible therefor.

L. Residential: Temporary Onsite Signs:

1. A permit is required at the beginning of each calendar year determining the number of temporary signs proposed to be erected within the City. The commercial product or service vendor is required to obtain the permit.
2. One sign identifying an onsite commercial or non-commercial project or purpose shall be permitted for each street frontage of the property.
3. Signs shall not exceed five (5) square feet in size.
4. Signs shall not exceed three and one half (3 1/2) feet in height, including support members.
5. Temporary signs are valid for fifteen (15) consecutive days.
6. Temporary signs are only allowed one time during the calendar year.
7. Temporary signs may not be off-premise commercial signs.
   Temporary signs may not be indirectly or directly illuminated.

M. Commercial Temporary Signs

1. A permit is required at the beginning of each calendar year determining the times in which a temporary sign is proposed to be erected on any given property. The business or property owner must obtain the permit. Minor modifications may be made to the permit throughout the year. Erecting a temporary sign outside the times and dates dictated by the permit may limit the abilities to gain permit approval in subsequent years.
2. Temporary signs are valid for fifteen (15) consecutive days. A total of three (3) permits are allowed per property regardless of the number of businesses or tenants. If a property has a business with more than three (3) tenants, up to three (3) permits are allowed per year.
3. Only freestanding temporary signs are allowed and may not exceed twelve (12) square feet in size or exceed six (6) feet in height including support structures.
4. Signs must be made of a permanent rigid material. Signs of a non-permanent nature such as plastic banners and poster boards made of cardboard, paper are not allowed.
5. Temporary signs attached to a building are not allowed.

6. No temporary sign shall contain off-premise commercial messages.
7. No sign shall have more than two (2) faces
8. No sign shall be lighted by attached external or individual internal lights either directly or indirectly.
9. The following temporary signs are prohibited:

    a. Illuminates, animated, rotating, inflatable and flashing signs.
    b. Signs in which balloons, pinwheels, streamers or similar objects are attached.
    c. Signs attached to other signs, landscaping materials, posts, or utility poles.

N. Commercial Private Walkway Signs. Private Walkway signs are limited to those with B-1 and B-2 districts, subject to the standards listed below. Walkway signs are not permanently affixed but are designed or capable of movement.

1. Signs shall be limited to two (2) feet in width and three and one-half (3 1/2) feet in height, including support members.
2. No sign shall have more than two (2) faces.
3. Signs shall not limit the normal pedestrian use of the walkway, and a minimum passable contiguous space of four (4) feet shall be maintained at all times.
4. One sign is permitted for each building, unless multiple businesses within one building allow separate business signs to be spaced no closer than thirty (30) feet from another walkway sign. The sign must be within ten (10) feet of the main entrance of the building.
5. A business or building with two (2) rights-of-way frontages may display a walkway sign on either frontage, but not both.
6. All signs must be removed from the private walkway at the end of each business day.
7. No walkway sign shall be lit by attached external or individual internal lights.
8. Walkway signs may not be portable, changeable, copy, reader-board or trailer signs.
9. Walkway signs may not be within the public rights-of- way.

O. Farmers Market Signs: Signs advertising an organized community farmer's market with at least five (5) independent vendors may not be placed within the right-of-way of any street and the individual erecting the sign must have the property owner's consent prior to erecting the community farmer's market sign. Only one farmer's market sign, not exceeding four (4) square feet, per property will be allowed. The sign may be erected and removed the same day as the event.

10-11-11: **NONCONFORMING SIGNS:**

A. Legally established nonconforming signs as defined in this Chapter, which do not conform to the requirements set forth as the result of this amended Chapter, shall become a legal nonconforming use and are subject to the following sections.
B. Restrictions: No nonconforming sign:

1. Shall be changed to another nonconforming sign.
2. Shall have any changes made in the words, symbols used, or the message displayed unless the sign is an institutional board, or substantially similar type of sign, specifically designed for periodic change of message.
3. Shall be structurally altered as to change the shape, size, type or design of the sign.
4. Shall be reestablished after the activity, business, or usage to which it relates has been discontinued for thirty (30) days or longer.
5. Shall be changed to enlarge or extend its nonconformity.

C. Variances: The City Council may permit variances from subsection (B) above or variances permitting the erection or maintenance of a nonconforming sign only upon the grounds established by law for the granting of zoning variances or upon a finding that a grant of a variance will reduce the degree of nonconformance of an existing sign or will result in the removal of one or more lawfully nonconforming signs and replacement by a sign or signs more in keeping with the spirit, purpose and provisions of this Chapter.
D. Maintenance: Normal maintenance of a legally established nonconforming sign is permitted, including necessary structural repairs, which do not intensify or extend the nonconforming status.
E. Damage To Sign: Whenever a legally established nonconforming sign has been damaged and the damage is fifty (50) percent or more of its appraised, as estimated by the Building Inspector, the sign must be removed within thirty (30) days from the date of damage or destruction, and provided further, that completion is accomplished within three (3) months from the date of such damage or destruction. If the restoration is not started within thirty (30) days from the date of damage or destruction, and diligently prosecuted to completion, the sign shall be removed.
F. Sign Not In Compliance: Temporary and portable signs that do not comply with the requirements of this Section shall be removed within twenty-four (24) hours of verbal or written notice of the sign's nonconformity. (See Section 10-2-2 of this Title for definition of "temporary signs").

10-11-12: **GENERAL REGULATIONS:**

A. Hazards Prohibited: No sign shall be permitted that is a hazard to the public health, safety, convenience, or welfare. No sign shall be erected or maintained so as to prevent free ingress or egress from any door, window or fire escape.
B. Public Right Of Way, Easements: Signs shall not be permitted within the public right of way or easements except public traffic-control signs as determined by the City Engineer.
C. Clearance: Signs or marquees, which may extend beyond the building line, shall not be constructed to extend over the property line. Signs located within three (3) feet of an alley, driveway or parking area shall have a clearance of fourteen (14) feet above finished grade.
D. Interference With Traffic-Control Devices: No signs shall be erected or maintained as such a place or manner as to obscure or otherwise physically interfere with an official traffic-control device or railroad safety signal or sign, or to obstruct or physically interfere with the drivers' view of approaching, merging or intersecting traffic. A minimum of fifty (50) feet from a traffic control device to a changeable sign shall be maintained. All other signs must have a minimum of twenty-five (25) feet from a traffic control device.
E. Distance Between Signs: Each sign shall be a minimum of one hundred (100) feet from another sign except as provided in Section 10-11-12.
F. Directional Signs: Directional signs shall be permitted in all districts, provided the total area of each sign shall not exceed twelve (12) feet per facing.
G. Obsolete Signs: It is unlawful to maintain for more than thirty (30) days from written notice, any sign which has become obsolete because of the discontinuance of the business, service or activity which it advertises, removal from the location to which it directs, or for any other reason.
H. Consent Of Owner/Occupant: It is unlawful to erect or maintain any sign on any property, public or private, without the consent of the owner or occupant thereof.
I. Maintenance: All permanent signs shall be maintained in good condition and the area around them kept free from debris, bushes, high weeds and from anything else which would be a nuisance.

1. All permanent signs shall be kept in good repair and, unless of galvanized or non-corroding metal or treated with appropriate wood preservative, shall be thoroughly painted as often as is necessary, consistent with good maintenance practices. All braces, bolts, clips, supporting

frame and fastenings shall be free from deterioration, rot, or loosening. All signs shall be able to withstand safely at all times the wind load as prescribed in Minnesota State Building Code.

2. In any case of any sign not so maintained, the Zoning Administrator shall give thirty (30) days written notice to the owner or lessee thereof to so maintain the sign, or to remove the sign.

J. Off-Premises Signs Prohibited: All off-premises signs are strictly prohibited, except as allowed by Sections 10-11-9 and 10-11-10.

K. Agreements With Federal Government: The City or its agent, is authorized and required by this Title to enter into an agreement with the United States, or any of its agencies or departments, to the end that the objective stated in Title 23, United States Code, section 131, section 319, or any other applicable Federal statute to obtain nonconforming signs along the Great River Road within the City. However, the City, or its agent, shall not be required, nor allowed to expend funds for the acquisition of nonconforming signs or advertising devices under this Chapter until Federal Funds in the amount of seventy-five (75) percent or more of this acquisition cost are made available to the City for the purpose of carrying out this Title. No sign nor advertising device legal under Laws 1971, chapter 883, shall be required to be removed or relocated until payment, as provided in Laws 1971 chapter 883, is tendered to the City.

L. Prohibited Commercial Vehicles: Nonconforming signs include commercial vehicles, which are parked in such a way where the primary purpose and function is to serve as a portable sign or billboard.

M. Signage Calculation. For purposes of calculating the appropriate square footage for multi-sided signs, which contain two sides (back to back), the total square footage shall be calculated on one side. The area of a v-shaped or multiple-sided sign shall be calculated by multiplying the height of the sign face by the width of the sign structure at its widest part.

N. Painted wall signs depicting commercial speech, including signs painted on the face of a structure, are prohibited. Non-commercial messages (except for graffiti and vandalism otherwise prohibited by ordinance) are exempt.

O. A sign may not be the principal use of a parcel of property or easement. For purposes of this paragraph, “parcel of property” means any property for which one property identification number has been issued by the county, or all contiguous property in common ownership.

P. Variance Provisions. No variance in the provisions or requirements of this ordinance shall be authorized unless the governing body, following a review by the Planning Commission, finds that substantially the following facts and conditions exist:

1. That there is undue hardship in the strict application of the provisions of this ordinance;
2. That there are uniquely exceptional circumstances or conditions applying to the land, structures, or building in question, that do not apply generally to other properties;
3. That the variance, if granted, will not alter the essential character and high standards of the ordinance; and
4. That the variance, if granted, will be in keeping with the spirit and the intent of this ordinance.

If granting a variance, the governing body may impose conditions to ensure compliance to the purpose and intent of this ordinance. The procedure for variance requests in this district shall be the same as those set in the Zoning Ordinance, Title 10, Chapter 16, Variance/Appeals.

Q. Community Identification Signs. Freestanding community identification signs are permitted in any zone, subject to sign approval by the Planning Commission and City Council, and must adhere to the following guidelines:

1. Design: Community identification signs shall be architecturally related to the community area in which they are located and shall be constructed with decorative materials that are compatible with the location and the community.
2. Each sign shall not exceed thirty-five (35) feet in height, nor exceed two hundred (200) square feet in sign face size. Community signs may contain up to 32 square feet of changeable signs.
3. Community identification signs shall be a minimum of one (1) mile from each other.

R. Lighting requirements for all signs in all districts:

1. Externally lit signs shall be illuminated only with steady, stationary, shielded light sources directed onto the sign without causing glare. Light bulbs or lighting tubes used for illuminating a sign shall not be visible from adjacent public rights-of-way or residential
2. The intensity of sign lighting shall not exceed that necessary to illuminate and make legible a sign from the adjacent travel way or closest right-of-way; and the illumination of a sign shall not be obtrusive to the surrounding area.
3. The fixtures used to illuminate signs shall not be directed toward nearby residential properties.
4. Where any sign is illuminated, the illumination therefrom shall not produce illumination upon any residence in a residential zone beyond the foot-candle limitations imposed by the pertinent ordinances or regulations of the City.

10-11-13: **SPORTS, ARTS, AND OTHER PERFORMANCE VENUES:**

A. The owner or developer of a clearly defined regional public use or private sports venue, arena, arts venue, or similar performance facility may apply for approval by the City Council of a sign package that may deviate from the number, size, and type of signs permitted in the underlying zoning district. This provision is intended to be used only where additional signs or signs of an unusual size or format are required because:

1. There are a high number of residents and/or visitors to the site;
2. There are a high percentage of residents and/or visitors who are likely unfamiliar with the area;
3. The development is unique such that the degree to which normal sign requirements are applicable may not be appropriate; and
4. The development is anticipated to have a significant impact on the local economy.

B. The provisions of this Section are not intended to apply to developments that consist primarily of businesses selling recreational or entertainment services and merchandise, or developments that are less than five) acres in size Signs permitted under this Section shall only be located on the site of the facility.

C. The application for sign approval shall include detailed drawings, maps, and text that clearly delineate the various types of signs proposed and the locations where each type of sign may be installed. For each type of sign, the application shall include the maximum sign size, sign construction details, colors, fonts, mounting method, and general sign content. Decorative banners mounted on internal light poles may be included in the proposed sign package provided that details are included on the anticipated content of the banners, the typical amount of time the banners will be in place, and the maximum banner size. The Planning Commission shall evaluate the appropriateness of the proposed sign package based on the following:

1. The nature of the development and the probable informational needs of its visitors and residents.

2. The degree to which the proposed signs will enhance the visitor and resident experience.
3. The character and intensity of the surrounding land uses or anticipated land uses, and the degree to which the proposed signs and any associated lighting would be compatible with that character.
4. The size and topography of the site.
5. The durability and quantity of the materials being proposed.
6. The probable legibility of the signs given their purpose and location.
7. The quality and creativity of the sign design; and the degree to which the design is integrated into the overall aesthetics of the development.

D. Sponsorship signs advertising a company, service, or product in exchange for revenue used to reduce construction or operating costs may be approved by the City Council following a recommendation from the Planning Commission. The general character, location, and size of each type of sponsorship sign shall be included as part of the sign package application, along with any proposed restrictions regarding content, the number of sponsorship signs allowed, and the frequency of sign changes. The Planning Commission and the City Council shall evaluate the sponsorship signs based on the criteria listed in subsection (C) above, on the degree to which the sponsorship signs are considered necessary for the economic viability of the development, and on the appropriateness of the number of sponsors and the number of signs per sponsor given the character and purpose of the development.

CHAPTER 12

LANDSCAPING

SECTION:

10-12-1: Statement Of Intent
10-12-2: Minimum Requirements
10-12-3: Performance Standards
10-12-4: Screening And Buffering
10-12-5: Parking Area Screening
10-12-6: Additional Screening
10-12-7: Compliance
10-12-8: Conflicts With Other Ordinances
10-12-9: Penalty

10-12-1: STATEMENT OF INTENT

A. Primary Purpose: A primary purpose of this Chapter is to eliminate such problems as excessive uniformity, dissimilarity, inappropriateness, or poor quality of design in the exterior appearance of structure and the lack of proper attention to site development and landscaping in the City.
B. Promote Harmony: Standards set forth in this Chapter will promote harmonious development in the City, increase the desirability of residences, encourage investment or occupation in the City, optimize use and value of land and improvements, increase the stability and value of the property, provide for visual relief and aesthetics, add to the conditions affecting the peace, health and welfare of the City and establish a proper relationship between the taxable value of property and cost of Municipal services.
C. Maintain Standards: The maintenance of certain standards is essential to ensure compatible relationships between land uses within a community. All uses, allowed as either permitted or conditional uses within the City's various zoning districts, shall conform to the following general provisions and performance standards.

10-12-2: MINIMUM REQUIREMENTS:

A. Commercial Districts: At least twenty-five (25) percent of the land area shall be landscaped with grass, approved ground cover, shrubbery and trees.
B. Industrial Districts: At least twenty-five (25) percent of the land area within industrial lots which are located around the perimeter of industrial areas and viewable from major arterial roadway corridors shall be landscaped with grass, approved ground cover, shrubbery and trees. At least fifteen (15) percent of the land area within industrial lots located in the interior of industrial areas shall be landscaped.
C. Residential Districts: For R-3, R-4 and R-5 Districts, all exposed ground area surrounding the principal building and accessory buildings which are not driveways, sidewalks or patios shall be landscaped with grass, shrubs, trees or ornamental landscape material. In R-1 and R-1 A Districts, double frontage lots shall comply with the additional screening requirements in this Chapter.
D. Minimum Size Of Trees And Shrubs: The following minimum standards shall be required:

Overstory deciduous trees ……...1 ½ inch diameter
Ornamental trees ……1 ½ inch diameter
Coniferous trees ……4 feet tall
Major shrub planting ……...2 ½ gallons

10-12-3: **PERFORMANCE STANDARDS:**

A. Landscape Plan: A landscape plan must be submitted with each project and such plan must be prepared by an experienced landscape person.
B. Application Of Minimum Standards; Exceptions: In order to achieve landscaping which is appropriate to scale with the site of a building and site, the minimum standards apply to all Districts except R-R, R-1, and R-2. Also see 10-12-6 for additional requirements for multi-family developments.

    1. Trees: One tree for every one thousand (1,000) square feet of total building floor area or one tree for every one hundred (100) feet of site perimeter, whichever is greater. A minimum of thirty (30) percent of the trees required will be coniferous.
    2. Ornamental Trees: One ornamental tree can be substituted for every six-tenths (6/10) overstory deciduous shade tree. In no case shall ornamental trees exceed fifty (50) percent of the required number of trees.
    3. Understory Shrubs: One understory shrub for every three hundred fifty (350) square feet of building or one shrub for every seventy five (75) feet of site perimeter, whichever is greater.
    4. R-R and R-1 Districts: Minimum standards set above apply in these instances:

        a. Double frontage lots.
        b. Anything other than a single-family home.

C. Credit For Large Trees: The total number of required overstory trees may be reduced by one-half (1/2) tree for each new deciduous trees measuring four and one-half (4 ½) inches or more in diameter or each new coniferous tree measuring eighteen (18) feet or more in height. In no event, however, shall the reduction be greater than twenty five (25) percent of the total number of trees required.
D. Credit For Existing Trees: The total number of required new overstory trees may be reduced by the retention of existing overstory trees; provided, that the following conditions are met:

    1. Size And Species: Such trees fulfill the minimum requirements of this Chapter as to condition, size, and species. City staff shall decide the amount of the credit for such exiting trees based upon their condition, location, and distribution in the lot.
    2. Protection During Development: Proper precautions to protect trees during development shall be indicated on grading plans submitted for plan review. These precautions shall be included in the landscape surety.

E. In all districts, the lot remaining after providing for off-street parking, sidewalks, driveways, building sites and other requirements, shall be planted, and maintained in grass, sodding, shrubs or other acceptable vegetation or treatment generally used in landscaping. Prior to any turf establishment, the portion of the lot to be established with turf must have a minimum of four (4) inches of black dirt as a base as defined in MNDOT construction specifications, Section 3877-Topsoil Borrow. No permanent Certificates of Occupancy will be given unless these conditions are met.
F. Grass And Ground Cover:

1. Open Areas: All open areas of a site not occupied by building, parking, walkways, other permitted structures, or storage shall be grass or approved ground cover. Ground cover shall be planted in such a manner as to present a finished appearance and reasonably complete coverage within twelve (12) months after planting with proper erosion control during plant establishment period.
2. Undisturbed Areas: Exception to this is undisturbed areas containing natural vegetation, which can be maintained free of foreign and noxious materials.

G. Slopes And Berms:

1. Final slope grades steeper than three to one (3:1) will not be permitted without special approval or treatment such as terracing or retaining walls.
2. Earth berm screening parking lots and other open areas shall not have slopes exceeding three to one (3:1). A minimum two (2) foot berm is required.

H. Placement Of Plant Materials And Utilities:

1. All required screening or buffering shall be located on the lot occupied by the use, building, facility or structures to be screened. No screening or buffering shall be located on any public right of way or within eight (8) feet of the traveled portion of any street or highway.
2. All utilities are required to be underground. Plant materials shall be located to provide reasonable access to all utilities.

I. Maintenance: The property owner shall be responsible for replacement of any dead trees, shrubs, ground covers and sodding. If any plant materials are not maintained or replaced, the City shall maintain or replace said plant materials and assess the property for the costs thereof.

J. Sizing Of Plant Material And Methods Of Installation: All deciduous and coniferous trees shall be sized and planted in accordance with National Nurseryman Standards.

10-12-4: **SCREENING AND BUFFERING:**

A. Satisfying Requirements: Screening and buffering shall be satisfied through the use of screening fences, walls, earth berms and/or planting screens. If the topography, existing vegetation, permanent structures or other features create a barrier, which meets the screening requirements, they may be substituted.

B. Screening Fence Or Wall:

1. A fence or wall may be used for screening when plant materials are provided along the outside of the fence or wall for aesthetic appeal.
2. A screening fence, different from residential yard fence or wall shall be constructed of attractive, permanent finished materials, compatible with those used in the construction of the principal structure. Such screens shall provide a minimum year-round opaqueness of eighty (80) percent and be of sufficient height to achieve screening but not to exceed six (6) feet in height.
3. Screen fences and walls, which are in disrepair, shall be repaired.

C. Earth Berms:

1. An earth berm shall be allowed for screening when used in combination with plant material. A height minimum of twenty five (25) percent of the required screen must be provided with plant material.

2. Earth berms shall be of sufficient height to achieve screening but shall not exceed three to one (3:1) slope.

D. Planting Screens:

1. A planting screen shall consist of healthy, fully hardy plant materials and shall be designed to provide a minimum year-round opaqueness of eighty (80) percent at the time of maturity. The plant material shall be of sufficient height to achieve the required screening.
2. Composition of plant material for screening shall be composed of these minimum standards:

   a. Not less than thirty three (33) percent coniferous.
   b. Not less than twenty five (25) percent deciduous
   c. Not less than thirty three (33) percent shrubs.
   d. Not less than forty five (45) percent of one species.

3. Planting screens shall be maintained in a neat and healthy condition. Plants, which have died, shall be promptly replaced.

10-12-5: **PARKING AREA SCREENING:** Any off-street parking area containing more than five (5) parking spaces from any adjoining residential zone or across the street from any adjoining residential zone, and any driveway to a parking area containing at least five (5) spaces within fifteen (15) feet of an adjoining residential zone shall be completely screened to a height of at least three and one-half (3 ½) feet above the parking grade. Such screening shall be accomplished through the use of earth berming and/or plant materials.

10-12-6: **ADDITIONAL SCREENING:**

A. Required: Double fronted residential buildings and lots adjacent to collector or arterial streets shall be screened in accordance with the provisions of this Chapter. A fifteen (15) foot easement area for landscaping will be provided. Screening shall be accomplished by a combination of earth berming and planting. Other requirements may be imposed on a case-by-case basis. The required screening must be placed within the fifteen (15) foot easement and designed by an experienced landscape person.
B. Light Encroachment: The light from automobile headlights and other sources shall be screened whenever it may be directed onto adjacent residential windows.
C. Construction Materials: In R-3, R-4 and R-5 Districts, all waste material, debris, refuse containers, garbage, fuel or materials not currently in use for construction shall be totally screened from the eye level view from public streets and adjacent properties.
D. Multi-Family Developments (R-3, R-4 and R-5): When adjacent to a lower density residential use, all multifamily developments shall provide a landscaped area within the minimum 30-foot setback. The landscaped area shall provide an additional 20% in landscaping materials within the setback as a buffer between structures and the lower density residential property line. The additional landscaping materials located within the setback area shall be in addition to the number of required landscaping minimums.
E. Single Family Residential (R-1): If the City determines that there is an excessive amount of perimeter utilities on the Property, the Property Owner shall meet the screening requirements as defined within this Chapter.

10-12-7: **COMPLIANCE:**

A. Existing Uses To Comply; Exception: Existing uses shall comply with the screening requirements listed in this Section at the time alterations are made on the building or premises which increase the existing floor space of the building by twenty five (25) percent or more. Compliance by existing uses shall not be required if the City determines either that because of the unique character of the existing use compliance is not needed to promote the welfare of the City or that compliance is not reasonably possible because of the existing development.
B. Joint Obligation: The obligation to establish new screening uses shall be joint when businesses abut multi-family uses and districts.

10-12-8: **CONFLICTS WITH OTHER ORDINANCES**: If any provision of this Chapter conflicts with any provision of any other City ordinance, the most restrictive ordinance shall be used.

10-12-9: **PENALTY:** Any person who violates, disobeys, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this Chapter shall be guilty of a misdemeanor. Each day that a violation continues to exist constitutes a separate offense.

CHAPTER 13

NONCONFORMING USES

SECTION:

10-13-1: Intent
10-13-2: Existing Uses Of Structures
10-13-3: Repairs And Maintenance
10-13-4: Nonconforming Structures
10-13-5: Nonconforming Uses Of Land
10-13-6: Abandonment
10-13-7: Uses By Conditional Use Permit
10-13-8: Construction Started Prior To Enactment
10-13-9: Unsafe Structures
10-13-10: Nonconforming Lots Of Record
10-13-11: Dwellings And Farm Property Exempt

10-13-1: **INTENT:** Within the districts established by this Title or amendments that may later be adopted, there may exist lots, structures and uses of land and structures which were lawful before this Title was passed or amended but which would be prohibited, regulated or restricted under the terms of this Title or future amendments. It is the intent of this Title to permit the nonconformities to continue until they are removed but not to encourage their survival.

10-13-2: **EXISTING USES OF STRUCTURES:** If a lawful use of a structure exists at the effective date of the Ordinance codified in this Title or the adoption of an amendment hereof which would not be allowed in the district under the terms of this Title, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. Structural Alteration: No existing structure devoted to a use other than farm residence or other farm buildings, residential R-R, R-1, R-2 or R-3 but not permitted by this Title in the district in which it is located, shall be enlarge, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
B. Extended Use: Any nonconforming use may be extended throughout any part of a building which is manifestly arranged or designed for such use at the time of adoption or amendment of the Ordinance codified in this Title, but no such use shall be extended to occupy any additional land outside such buildings.
C. Change To Another Nonconforming Use: If no structural alterations are made, any nonconforming use of a structure or structure on the premises may be changed to another nonconforming use providing that the governing body, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district of the nonconforming use. In permitting such a change, the governing body acting upon the recommendations of the Planning Commission may require appropriate conditions and safeguards in accord with the provisions of this Title.

D. Supersede By Permitted Use: When a nonconforming use is superseded by a permitted use, the nonconforming use may not thereafter be resumed.
E. Discontinued Use: When a nonconforming use is discontinued for twelve (12) consecutive months during any three (3) year period, such use shall not thereafter be resumed except in conformance with regulations of the district in which it is located.
F. Removal or Destruction: Where nonconforming use status applies to a structure or structure and premises in combination, removal or destruction of the structures shall eliminate the nonconforming status of the land.

10-13-3: **REPAIRS AND MAINTENANCE:** On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding ten percent (10) percent of the current replacement value of the buildings, provided that the cubic content of the building as it existed at the time of passage or amendment of this Title shall not be increased.

10-13-4: **NONCONFORMING STRUCTURES**: Where a lawful structure exists after the effective date of the adoption or amendment of the Ordinance codified in this Title that could not be built under the terms of this Title or by any reason of restrictions on area, lot coverage, height, yard or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. Increased Nonconformity: No such structure may be enlarged or altered in a way which increases its nonconformity.
B. Destruction: Should such structure be destroyed by fire, collapse, explosion or act of God to an extent of more than fifty (50) percent of its market value as computed by the County tax officials, it shall not be reconstructed except in conformity with the provisions of this Title. If such structure is not destroyed by fifty (50) percent and it is rebuilt, such rebuilding shall be commenced within six (6) months after the damage is done.
C. Moving Structure: Should such structure be moved for any reason for any distance whatever, it shall thereafter conform with the regulations for the district in which it is located after it is moved.

10-13-5: **NONCONFORMING USES OF LAND:** On the effective date of adoption or amendment of the Ordinance codified in this Title, should lawful uses of land exist that are no longer permissible under the terms of this Title as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. Increased Nonconformity: No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater square footage of land than was occupied as required for the effective operation of said use, at the effective date of adoption or amendment of the Ordinance codified in this Title.
B. Moving Use: No such nonconforming use of land ceases for any reason for a period of more than ninety (90) days, any subsequent use of such land shall conform to the regulation specified by this Title for the district in which such land is located.
C. Discontinued Use: If any such nonconforming use of land ceases for any reason for a period of more than ninety (90) days, any subsequent use of such land shall conform to the regulation specified by this Title for the district in which such land is located.
D. Marked Value Under Two Hundred Fifty Dollars: Any nonconforming use of land not involving a building or structure and any nonconforming use involving a building or structure with an adjusted market value at the date of enactment of the Ordinance codified in this Title of two hundred fifty (250) dollars or less may be continued for a period of twelve (12) months after the enactment of

the Ordinance codified in this Title, whereupon such nonconforming use shall cease. The above regulation shall apply to signboards and billboards which, if not brought into conformance, shall be moved from the site.

10-13-6: **ABANDONDMENT:** A nonconforming use of a building or premises which has been abandoned shall not thereafter be returned to such nonconforming use. A nonconforming use shall be considered abandoned when the characteristic equipment and the furnishings of the nonconforming use have been removed from the premises and have not been replace by similar equipment within six (6) months.

10-13-7: **USES BY CONDITIONAL USE PERMIT:** Any use for which a conditional use permit has been issued as provided in this Title shall not be deemed a nonconforming use but shall, without further action, be deemed a conforming use in such district. Conditional (special) uses permitted prior to the effective date of the Ordinance codified in this Title shall be deemed nonconforming.

10-13-8: **CONSTRUCTION STARTED PRIOR TO ENACTMENT:** To avoid undue hardship, nothing in this Title shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date or adoption or amendment of the Ordinance codified in this Title and upon which actual building construction has been diligently carried on.

10-13-9: **UNSAFE STRUCTURES:** Nothing in this Title will prevent the temporary strengthening or restoring to a safe condition any portion of a building or structure declared unsafe.

10-13-10: **NONCONFORMING LOTS OF RECORD:** Lots within a subdivision or plat recorded prior to the enactment of the Ordinance codified in this Title, which are smaller in width or in area than the minimum as set forth in this Title and separately owned, may be utilized for a single-family dwelling if the area is at least five thousand (5,000) square feet.

10-13-11: **DWELLINGS AND FARM PROPERTY EXEMPT:** Any and all dwellings and also farm buildings shall be considered as conforming provided they are in place on the date of the adoption of the Ordinance codified in this Title. Such buildings shall not be considered as nonconforming and therefore shall not be subject to any of the restrictions imposed by this Chapter.

CHAPTER 14

CONDITIONAL USE PERMITS

SECTION:

10-14-1: Purpose; Intent
10-14-2: Application; Fee
10-14-3: Procedure
10-14-4: Findings
10-14-5: Compliance
10-14-6: Time Limit

10-14-1: **PURPOSE; INTENT:**

A. Purpose: The purpose of this Chapter is to provide the City with a reasonable degree of discretion in determining the suitability of certain designated uses related to the general welfare and public safety.
B. Additional Conditions: Conditional uses as shown in the zoning districts of this Title may be permitted in those districts where uses are deemed essential or desirable and are in harmony with the various elements and objectives of the Land Use Plan. In the exercise of its approval, the governing body may impose such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable in the furtherance of the purposes of this Title.

10-14-2: **APPLICATION; FEE:** Application for conditional use permits shall be made to the Community Development Director and/or his/her assigned together with the fee, as established by Council resolution. The application shall be accompanied by a site plan showing such information as is necessary to show compliance with this Title, including but not limited to:

A. Description of site (legal description).
B. Site plan drawn at scale showing parcel and building dimensions.
C. Location of all buildings and their square footage.
D. Curb cuts, driveways, access roads, parking spaces, off-street loading areas and sidewalks.
E. Landscaping and screening plans.
F. Drainage plan.
G. Sanitary sewer and water plan with estimated use per day.
H. Soil type.
I. Any additional written or graphic data reasonably required by the Clerk-Treasurer or Planning Commission.

10-14-3: **PROCEDURE:**

A. Filing With the Community Development Director and/or his/her assigned: Application for conditional use permits shall be accepted by the Community Development Director and/or his/her assigned upon the payment of the fee established by Council resolution.

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B. Referral To Governing Body: All applications shall be referred by the Community Development Director and/or his/her assigned to the governing body for consideration.

C. Referral To Planning Commission: The governing body may refer any applications to the Planning Commission for consideration and recommendation. Where referral is made, the Planning Commission shall report to the governing body within forty-five (45) days thereafter.

D. Public Hearing; Notice:

1. Public Hearing: The governing body shall, within sixty (60) days after receipt of the application by the Clerk-Treasurer and with or without a recommendation from the Planning Commission, consider the application at a public hearing following publication in accordance with State Law.
2. Notice Requirements:

   a. Publication: Notice of the public hearing shall be published at least once in the official newspaper of the City.
   b. Mailing To Property Owners: Notice of the public hearing shall be mailed to individual property owners within three hundred fifty (350) feet of the parcel included in the request no less than ten (10) days nor more than thirty (30) days prior to the date of said hearing.
   c. Contents Of Notice: The notice shall describe the particular conditional use and shall contain a brief description thereof.
   d. Certificate of Notice: Assessor tax records and street addresses shall be deemed sufficient for location or certification of ownership of said adjacent properties. Failure of a property owner to receive said notice shall not invalidate any such proceedings.

E. Adverse Effects: The governing body shall consider possible adverse effects of the proposed conditional use and what additional requirements may be necessary to reduce any adverse effects. The governing body may impose any conditions deemed necessary to protect the public health, safety, and welfare of the community.

F. Approval: Approval of a conditional use shall require passage by a majority vote of the membership of the governing body.

10-14-4: **FINDINGS:** No conditional use shall be approved unless the governing body shall find:

A. That the conditional use will not be injurious to the use and enjoyment of other property owners in the immediate vicinity for the purposes already permitted nor substantially diminish and impair property values within the immediate vicinity and is compatible with the existing neighborhood.
B. That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
C. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
D. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.
E. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration so that none of these will constitute a nuisance and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.
F. That soil conditions are adequate to accommodate the proposed use.
G. That proper facilities are provided which would eliminate any traffic congestion or traffic hazard, which may result from the proposed use.
H. That a demonstrated need exists for the proposed use.
I. That the proposed use is in compliance with the Land Use Plan adopted by the City.

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10-14-5: **COMPLIANCE:**

A. Duration Of Permit: Any use permitted under the terms of any conditional use permit shall be established and conducted in conformity with the terms of such permit and of any conditions designated in connection therewith, and the conditional use permit shall remain in effect only so long as the terms and conditions agreed upon are observed.
B. Revocation: The City Council shall revoke a conditional use permit when it determines that the terms and conditions of the permit as issued are no longer being complied with. A certified copy of an order of the City revoking a conditional use permit shall be filed with the County Recorder for record.
G. A Conditional Use Permit, when granted to the property, may be continued in the same manner and extent as when originally approved, provided all applicable conditions and regulations of the original permit are adhered to. The Permit may be utilized by subsequent occupants under the same terms. If the use ceases to operate for a period of one (1) year, then the Permit shall expire automatically without further notice, and the resumption of such use shall require approval of a new Permit and be in compliance with any ordinances then in force.

10-14-6: **TIME LIMIT:** A conditional use permit, when not used, shall expire after one hundred eighty (180) days following date of issuance unless written application for renewal or time extension is received and granted by the governing body prior to the expiration date.

CHAPTER 15

INTERIM USE PERMITS

SECTION:

10-15-1: Purpose; Intent
10-15-2: Application; Fee
10-15-3: Procedure
10-15-4: Findings
10-15-5: Termination
10-15-6 Compliance
10-15-7: Time Limit

10-15-1: **PURPOSE; INTENT:**

A. Purpose: The purpose of this Chapter is to provide the City with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare and public safety; to allow a use for a limited period of time that reasonably utilizes the property in the manner not permitted in the applicable zoning district; and/or to allow a use that is presently acceptable, but not permitted within the zoning district and, with anticipated development, may not be acceptable in the future
B. Additional Conditions: Interim uses as shown in the zoning districts of this Title may be permitted in those districts where uses are deemed essential or desirable and are in harmony with the various elements and objectives of the Land Use Plan. In the exercise of its approval, the governing body may impose such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable in the furtherance of the purposes of this Title.

10-15-2: **APPLICATION; FEE:** Application for Interim use permits shall be made to the Community Development Director and/or his/her assigned as prescribed in Section 10-14-2 of this Title. The application shall be accompanies by a fee, as established by Council ordinance.

10-15-3: **PROCEDURE:** Interim Use Permits shall be processed in the manner identified in Section 10-14-3 of this Title (Conditional Uses).

10-15-4: **FINDINGS:** No Interim use shall be approved unless the governing body shall find:

A. That the Interim use will not be injurious to the use and enjoyment of other property owners in the immediate vicinity for the purposes already permitted nor substantially diminish and impair property values within the immediate vicinity and is compatible with the existing neighborhood.
B. That the establishment of the Interim use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
C. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
D. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

E. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration so that none of these will constitute a nuisance and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.
F. That soil conditions are adequate to accommodate the proposed use.
G. That proper facilities are provided which would eliminate any traffic congestion or traffic hazard, which may result from the proposed use.
H. That a demonstrated need exists for the proposed use.
I. That the proposed use is in compliance with the Land Use Plan adopted by the City.

10-15-5: **TERMINATION:**

A. An interim use permit shall terminate upon the occurrence of any of the following events: whichever first occurs:

1. The date specified in the permit;
2. A violation of the conditions under which the permit was issued; or
3. A change in the City's zoning regulations, however, the City may provide a period of relief for up to a year if warranted.

B. No more than three (3) interim use permits shall be granted to a single property at one time.

10-15-6: **COMPLIANCE:**

A. Duration Of Permit: Any use permitted under the terms of any Interim use permit shall be established and conducted in conformity with the terms of such permit and of any conditions designated in connection therewith, and the Interim use permit shall remain in effect only so long as the terms and conditions agreed upon are observed and/or until the specified termination date/event occurs.
B. Revocation: The City Council shall revoke an Interim use permit when it determines that the terms and conditions of the permit as issued are no longer being complied with. A certified copy of an order of the City revoking the Interim use permit shall be filed with the County Recorder for recording.

10-15-7: **TIME LIMIT**: An Interim use permit, when not used, shall expire after one hundred eighty (180) days following date of issuance unless written application for renewal or time extension is received and granted by the governing body prior to the expiration date.

CHAPTER 16

AMENDMENTS AND REZONING

SECTION:

10-16-1: Rezoning By Petition
10-16-2: Rezoning By Initiative Of Governing Body
10-16-3: Final Action
10-16-4: Planning Commission Reference
10-16-5: Record Rezonings

10-16-1: **REZONING BY PETITION:**

A. Petition; Fee: The governing body shall, upon the petition of fifty (50) percent or more of the property owners within three hundred fifty (350) feet of the boundary lines of the entire tract owned by the petitioner for rezoning, fix a date for public hearing. A petition, when filed with the Community Development Director and/or his/her assigned, shall be accompanied by the fee established by Council resolution in order to defray the expenses incurred by advertising, public hearing, etc., in the handling of said petition. A request for rezoning signed by the petitioners only will not be considered as binding upon the governing body.

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B. Public Hearing: The governing body shall hold at least one public hearing on any petition for rezoning after notice of the time and place of such hearing has been published in accordance with State law.
C. Notice Requirements:

1. Notice by Mail: Individual notices shall be provided in accordance with Minnesota Statute 462.357 Subd. 3. or its successor statute. Mailed notice of any proposed rezoning of a parcel presently zoned R-1 Single-Family Residential shall be provided to all owners of property within three hundred fifty feet (350) feet of the parcel to be rezoned, regardless of the size of the parcel to be rezoned.
2. Publication Of Notice: Such notice shall also be published in the official newspaper within the above time periods.
3. Contents Of Notice: The notice shall describe the particular amendment and shall contain a description thereof.
4. Certification Of Ownership: Assessor tax records and street addresses shall be deemed sufficient for location of certification of ownership of said adjacent properties.

D. Approval/Denial Of Petition: After the hearing on a petition, the governing body may by resolution grant or deny said as required by statute.

10-16-2: **REZONING BY INTIATIVE OF GOVERNING BODY:** The governing body may, by resolution on its own initiative, change boundaries of a district, or a use, height or area regulation of any district after a public hearing and upon a two-thirds (2/3) vote of all of its members. Notice of such hearing shall be given in the same manner as specified above.

10-16-3: **FINAL ACTION:** At the time of the hearing, the governing body may take final action upon the application or it may continue the hearing from time to time for further investigation and hearing. The governing body may also request further information and report from the Planning Commission.

10-16-4: **PLANNING COMMISSION REFERENCE:** The governing body shall not rezone any land or area in any zoning district without having first referred it to the Planning Commission for recommendation. Any other proposed amendment to this Title shall be referred to the Planning Commission.

10-16-5: **RECORDING REZONINGS:** Any governing body resolution rezoning any area after the effective date of the Ordinance codified in this Title shall be recorded and inscribed upon the Official Zoning Map by the Deputy Clerk.

CHAPTER 17

VARIANCES AND APPEALS

SECTION:

10-17-1: Purpose
10-17-2: Board of Adjustment
10-17-3: Variances
10-17-4: Fees
10-17-5: Variance Procedure
10-17-6: Lapse of Variance
10-17-7: Appeal Procedure

10-17-1: **PURPOSE:** The variance process is intended to provide limited relief from the strict requirements of this Title in those cases where strict application of a particular requirement will create practical difficulties due to circumstances unique to the individual property under consideration. It is not intended that variances be granted to allow a use not permitted by the underlying zoning district, nor to merely remove inconveniences or financial burdens that the requirements of this Title may impose on property owners in general. Variances are intended to address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission. The zoning appeals process for review of decisions of the Zoning Administrator is intended to provide appropriate checks and balances on administrative authority.

10-17-2: **BOARD OF ADJUSTMENT:**

A. Established: The Board of Adjustment is hereby established as the City Council and vested with such authority as is hereinafter provided, and as provided by Minnesota Statutes section 462,357, subdivision 6, as amended.
B. Powers: The City Council shall have the following powers:

1. To grant variances, that is, to vary and modify the strict application of any of the regulations or provisions contained in this Title in cases in which there are practical difficulties in the way of such strict applications. No variance or modification of the uses permitted within a district shall be allowed, except as an official amendment to this Title.
2. To hear and determine appeals as to the exact boundaries of zoning districts.
3. To interpret this Title.
4. To hear and decided appeals from and review any order, requirement, decision or determination made by an administrative official charged with enforcing this Title.
5. Any decision by the City Council shall be final; however, any person having an interest affected by such decision shall have the right to appeal to the District Court.

10-17-3: **VARIANCES:**

A. Criteria: A variance shall only be permitted if all of the following facts and conditions exist:
   1. That the variance, if granted, will be in harmony with the general purpose and intent of this Title.

2. That the variance, if granted, will be consistent with the comprehensive plan.
3. When the applicant establishes that there are practical difficulties in complying with the zoning ordinance. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. "Practical difficulties," as used in connection with the granting of a variance means that:

    a. The property owner proposes to use the property in a reasonable manner not permitted in the zoning ordinance;
    b. The plight of the landowner is due circumstances unique to the property not created by the landowner; and
    c. The variance, if granted, will not alter the essential character of the locality.

B. Economic Consideration: Economic considerations alone do not constitute practical difficulties.
C. Earth Sheltered Construction: Variances shall be granted for "earth sheltered construction" as defined in Minnesota Statutes 216C.06, subdivision14 when in harmony with this Title.
D. Additional Conditions: If granting a variance, the Board of Adjustments may impose conditions to ensure compliance with this Title and to protect adjacent properties. The Board of Adjustment may not permit as a variance any use that is not permitted under this Title for the property in the district where the affected person's land is located.

10-17-4: **FEES:** To defray administrative costs of processing requests for variances, a fee shall be paid by the applicant. Such fee shall be established by resolution of the City Council.

10-17-5: **VARIANCE PROCEDURE:**

A. Request for Variance: Request for a variance shall be filed with the Community Development Director and/or his/her assigned and shall be accompanied by the required fee as set by Council resolution. The request shall be made by the owner of the property on an official application form supplied by the City. The application shall include the material in this section and be submitted no less than twelve (12) days prior to the Planning Commission meeting at which the item is to be considered.
B. Information Required: The Community Development Director and/or his/her assigned or City Council may, at their option, require all or part of the following information prior to the public hearing on a variance request (in cases where the application is judged to be incomplete, the Zoning Administrator shall notify the applicant, in writing, within fifteen (15) days of the date of submission):

    1. Description of site (legal description).
    2. Site plan drawn at 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 plans with estimated use per day.
    8. Soil type.
    9. Any additional data reasonably required by the Board of Adjustment.

C. Public Hearing: The City Council, upon receipt of a proper application for a variance, and upon receiving the recommendation of the Planning Commission, shall set a time and place for a public hearing before the board on such application. At least ten (10) days in advance of any such hearing,

notice of the time, place and purpose of the hearing shall be published in the official newspaper of the City.

D. Notice Requirements: Written notices for the public hearing on a variance shall be sent to all property owners or residents within three hundred fifty (350) feet of said property. The public hearings shall be given not more than thirty (30) days nor less than ten (10) days in advance by publishing a notice in the official newspaper of the area. The notice shall describe the particular variance and shall contain a description thereof. Assessor tax records and street addresses shall be deemed sufficient for location or certification of ownership of said adjacent properties. Failure of a property owner to receive said notice shall not invalidate any such proceedings.

E. Continued Hearing; Additional Hearings: The City Council may continue the hearing concerning the application for a variance or it may hold additional hearings as it deems advisable. The City Council shall issue its order concerning the application of a variance within ten (10) days of the conclusion of the hearing relating to any given application.

F. Voting By City Council: A variance of this Title shall be by majority vote of the full City Council.

G. Written Order: A certified copy of the resolution of the City Council either granting or denying an application for a variance or appeal shall be filed with the records of the City Council. The order issued by the City Council shall be in writing, giving the reasons for the Council's decision and shall include a legal description of the property involved.

H. Appeal: All decisions by the City Council in granting or denying a variance or appeal shall be final except that any aggrieved person or persons, or any department, board or commission shall have the right to appeal, within thirty (30) days after receipt of notice of the Council's decision, to the District Court on questions of law and fact.

10-17-6: **LAPSE OF VARIANCE:** A variance permit, when not used, shall expire after ninety (90) days following the date of issuance unless written application for time extension is received and granted by the City Council prior to such expiration date.

10-17-7: **APPEAL PROCEDURE:** An appeal shall only be applicable to an administrative permit, order, requirement or interpretation of intent of provisions of this Ordinance. Opinions and evaluations as they pertain to the impact or result of a request are not subject to the appeal procedure.

A. Appeal Procedures:

1. An appeal from an administrative action shall be filed by the property owner or their agent with the Zoning Administrator within ten (10) days after the making of the order, requirement, or interpretation being appealed.
2. The property owner or their agent shall file with the Zoning Administrator an application for appeal stating the specific grounds upon which the appeal is made. Said application shall be accompanied by a fee as established by City Council resolution. In cases where the application is judged to be incomplete, the Zoning Administrator shall notify the applicant, in writing, within ten (10) days of the date of submission.
3. An appeal stays all proceedings and the furtherance of the action being appealed unless it is certified to the City Council, after the notice of appeal is filed, that by reason of facts stated in the certificate a stay would cause imminent peril to life and property.
4. The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports when appropriate and shall provide general assistance in preparing a recommendation on the action to the City Council.
5. The City Council shall consider the application for appeal at a public meeting after a review and recommendation by the Planning Commission and consider testimony of the property owner and City staff.

6. Pursuant to Minnesota Statutes 15.99, the City Council shall make its decision in accordance with the timeline described for variances.
7. The Zoning Administrator shall serve a copy of the final order of the City Council Applicant via mail or e-mail.

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CHAPTER 18

SITE DESIGN STANDARDS

SECTION:

10-18-1: Purpose and Intent
10-18-2: Screening Requirements
10-18-3: Site Lighting
10-18-4: Site Signage
10-18-5: Site Drainage, Street and Utility Requirements
10-18-6: Additions and Alterations
10-18-7: Site Parking Requirements
10-18-8: Site Landscaping Requirements

10-18-1: **PURPOSE AND INTENT:** It is the intent of this section to promote consistent and high standards of design and construction for commercial, public, and industrial uses in the City. These standards are set forth in order to enhance the visual appearance of the commercial, public, and industrial areas within the City. This section is to ensure the high quality of development, redevelopment, and compatibility with evolving architectural or planning themes that contribute to a community image of quality. Site plans will be required for any development other than a single family home in any zoning district. Each site plan where land use is business, residential (with the exception of single family units)or industrial in nature must conform to the following standards and demonstrated in each site plan application.

10-18-2: **SCREENING REQUIREMENTS:** The screening requirements contained in this section shall be satisfied in addition to other screening and landscaping requirements of the Sartell Zoning Code.

A. Rooftop and Perimeter Utilities Screening: All mechanical equipment located on the roof or around the perimeter of the building shall be screened as to not be seen by view on the property line by the following means and with materials that are comparable and compatible with that of the exterior building materials. If due to factors unique to the property or the project, it is physically impossible or impractical to screen these utilities, the City Council may approve alternative solutions that render them aesthetically compatible with the principal structure.

    1. A raised parapet or other architectural feature that is an integral part of the building as a method of screening for rooftop mechanical equipment or to soften the rooftop view.
    2. Screening for rooftop mechanical equipment shall incorporate similar architectural features of the building and/or be constructed of a material and color compatible with other elements of the building.

B. Loading Dock and Garage Entrance Screening (Residential, Industrial and Commercial): Loading docks and garage entrances and exits shall be prohibited in the front yard. However, where allowed, they shall be screened to minimize visibility from any public street, from adjacent building structures front or side yard viewing point, and away from any residential uses through the following means.

1. Planting screens shall consist of healthy, hardy plant materials at least 4 to 6 feet in height and eighty (80) percent opaqueness at the time of maturity. Berms shall be a minimum of 3 feet in height and shall have a maximum slope ratio of 3:1. See also Title 10, Chapter 12-4.
2. Screen fences that are in disrepair shall be repaired. Planting screens shall be maintained in a neat and healthy condition. Plantings that have died shall be promptly replaced.

C Waste Handling Screening: All waste, recycling and related handling equipment shall be stored and kept in a four sided enclosure constructed of a brick, stone, decorative concrete material or a material compatible with the material of the principal structure. Any changes to trash handling once the building is constructed shall comply with City Codes, ordinances, standards, and policies. (i.e. new tenants).

D. Outdoor Storage: All outdoor storage, to include storage containers and trailers, shall meet the following requirements.

1. Residential zoned properties: All outdoor storage shall be screened from public view with the exemption of temporary portable storage containers and trailers . Portable storage containers and trailers shall not remain on the property for more than fifteen (15) days.
2. Business Districts: All outdoor storage shall be screened from public view, as defined in 10-12-4, including storage containers and trailers. Portable storage containers and trailers shall be allowed upon the approval of a Zoning permit. If the Permit holder fails to adhere to the screening requirements, the Permit may be revoked.
3. Industrial Districts: All outdoor storage shall be screened from the public view, as defined in 10-12-4, including storage containers and trailers.
4. Exemptions. All storage must be screened as defined in 10-12-4, except for the following:
   a. Merchandise being displayed for sale in accordance with the zoning district requirements.
   b. Materials and equipment being used for construction on the premises which must be in conjunction with an active building permit.

E. Parking Area/Lot Screening: All areas of land other than that occupied by building and improved surfaces (parking areas and driveways) shall be landscaped by a licensed landscape architect and follow the provisions set forth in Section 10, chapter 12 and Section 10, Chapter 10 of the Sartell Zoning Ordinance, in addition to the following requirements:

1. In addition to Section 10, Chapter 12, Subsection 5-6, Parking lots shall be screened from the public right-of-way. Screening shall consist of the berming that is 3 feet in height and shall have a maximum slope ratio of 3:1.
2. Landscape plans and screening plantings shall be completed within one year from the date of the certificate of occupancy. All plantings shall be maintained in a neat and healthful condition. All plantings that have died shall be promptly replaced.

F. Buffer Zone:

1. Abuts R-1, R-2 or R-3, CDZ or PUD residential District or use: Where a business development abuts upon Residential District or use, or is separated from such residential district or use only by an alley, there shall be a protective strip of not less than twenty-five (25) feet in width established as a buffer zone. This buffer zone shall contain no structures, shall not be used for parking, off-street loading or storage, and shall be landscaped. The landscape treatment shall contain a compact evergreen hedge or fence, but such hedge or fence shall not extend with fifteen (15) feet of a street right of way. The planting or fence design must be approved by the Zoning Administrator as being in harmony with a residential neighborhood and providing

sufficient screening of the commercial area. The hedge or fence shall not be less than four f(4) feet and not more than six (6) feet in height.

2. Abuts R-4 District: Where a business development (B-1 or B-2) abuts an R-4 District, there shall be a buffer strip at least fifteen (15) feet wide screened in accordance with subsection G1 of this Section.

10-18-3: **SITE LIGHTING:**

A. In All Districts: Any lighting used to illuminate an off-street parking area, sign, structure, or other area shall meet the City's current Design Standards, Standard Details and the following: direct or sky-reflected glare, from high temperature processes such as combustion, shall not be directed into any adjoining property, all luminaries shall be full cut off style lens and shall be parallel with the pavement and ground, except for decorative fixtures and ground mounted lighting, which shall be permitted, and any light or combination of light shall not exceed 0.5 foot candles (meter reading) as measured at any property line.

B. Exemptions: The provisions of this section shall not apply to the following:

1. Temporary outdoor lighting used during customary holiday seasons.
2. Temporary outdoor lighting used for civic celebrations and promotions.
3. Emergency lighting by police, fire, and rescue authorities.
4. Outdoor recreational uses, such as, but not limited to, baseball fields, football fields, hockey rinks, and tennis courts. No outdoor recreation facility shall be illuminated from 11 PM to 7AM, unless it meets 10-17-4:A.

C. Lighting Plan: Except for single family dwellings, plans for required parking lot and security lighting shall be approved by Zoning Administrator prior to approvals for or the issuance of permits for the activities requiring compliance under subdivision of this section. The plans, at appropriate scale, shall be based on accurate, approved final site plans and shall include the following information:

1. Layout of proposed luminaries' locations.
2. Photometric Plan.
3. Location and uses of adjacent properties.
4. Cut sheets that provide a description of the luminaries, including glare reduction/control devices, lamps, on-off cycle control devices and mounting devices.
5. Foundation details.
6. Location of power source and connection details.
7. Size and type of conduit and wires.
8. Statement of proposed hours.

D. Inspection of Lighting: As part of the subdivision process, the City will conduct a post-installation inspection of lighting installations to ensure compliance with the ordinance requirements, and may require, at the City's discretion, any corrective action for any lighting installation that fails to meet ordinance –cited safety, and or security luminance criteria, or that produces unacceptable levels of light trespass, light pollution and/or glare.

10-18-4: **SITE SIGNAGE:** A signage plan must be submitted as part of the site plan review process, which provides diagrams, and proposed materials of the signage to be installed within the site. The Sign must conform to the requirements set forth in Title 10, Chapter 11 of the Sartell Zoning Ordinance.

10-18-5: **SITE DRAINAGE, STREET AND UTILTY REQUIREMENTS:** See Subdivision Ordinance Title 11, Chapter 6 on Requirement Improvements

10-18-6: **ADDITIONS AND ALTERATIONS:** All subsequent additions and exterior alterations constructed after the erection of an original building or buildings shall be of the same materials as those used in the original building and shall be designed in a manner conforming to the original architectural concept and general appearance.

10-18-7: **SITE PARKING REQUIREMENTS:** The parking requirements contained in Title 10, Chapter 10 of the Sartell Zoning Ordinance shall be satisfied in each site plan.

10-18-8: **LANDSCAPING REQUIREMENTS:** The landscaping Requirements contained in Title 10, Chapter 12, of the Sartell Zoning Ordinance shall be satisfied in each site.

CHAPTER 19

WETLAND DISTRICT (WD)

SECTION:

10-19-1: Title
10-19-2: Intent; purpose
10-19-3: Designation of protected wetlands
10-19-4: Wetland delineation
10-19-5: Interpretation of wetland boundaries
10-19-6: Wetland buffer areas
10-19-7: Acceptable buffer strips
10-19-8: Unacceptable buffer strips
10-19-9: Permitted uses
10-19-10: Standards for delineated wetlands, Buffer Areas, and Neighboring Lands
10-19-11: Alteration of the Wetlands
10-19-12: Public Control of Wetlands
10-19-13: Wetland Buffer Markers

10-19-1: **TITLE:** This Title shall be known as the City of Sartell's Wetland Ordinance and will be referred to herein as "this Title."

10-19-2: **INTENT; PURPOSE:**

A. Purpose The purpose of this section is to recognize, preserve and protect the environmental, aesthetic and hydrologic functions of the city's nonpublic wetlands by regulating the use of wetlands and their adjacent properties. These functions include, but are not limited to, sediment control, pollution control, filtration, fish and wildlife habitat and aquifer recharge.
B. Intent: The intent of this section is to protect wetlands while allowing a reasonable use of the property. This section adopts the regulations and standards of the Wetland Conservation Act of 1991 (WCA), Laws of Minnesota 1991, Chapter 8420, as amended and the rules adopted pursuant to the WCA.

Deleted: is to protect wetlands to the maximum extent possible while allowing a reasonable use of the property. This section adopts the regulations and standards of the Wetland Conservation Act of 1991 (WCA), Laws of Minnesota 1991, chapter 354, as amended, and the rules adopted pursuant to the WCA.

10-19-3: **DESIGNATION OF PROTECTED WETLANDS:** The wetlands protected and regulated by this Section are classified by Types 1,2,3,4,5,6,7, and 8 wetlands, as defined in Circular 39, "Wetlands of the United States," 1971 edition, United States Department of the Interior and by "Wetland Plants and Plant Communities of Minnesota and Wisconsin" (Eggers and Reed 1997) as modified by the Board of Water and Soil Resources – United States Army Corps of Engineers Wetland Mitigation Memorandum of Understanding (May 2007) Protected wetlands are further defined as follows:

Deleted: The wetlands protected and regulated by this Section are types 1,2,3,4,5,6,7, and 8 wetlands, as defined in circular 39, "Wetlands of the United States," 1971 edition, United States Department of the Interior. Protected wetlands are further defined as follows:

Type 1: Seasonally Flooded Basins or Floodplains, Forested Floodplains, Wet to Met-Mesic Prairie, and fresh (wet) Meadows: Type 1 wetlands are seasonally flooded basins or flats in which soil is covered with water or is waterlogged during variable seasonal periods but usually is dry during much of the growing season. Type 1 wetlands are located in depressions and/or in overflow bottomlands along watercourses. Vegetation varies greatly

according to the seasons and duration of the flooding, and included bottomland hardwoods, as well as herbaceous plants.

Type 2: Fresh (wet) Meadow and Sedge Meadows: Occurs along the shallow edges of lakes, marshes and floodplains, or in perched depressions. The soil is usually without standing water during much of the growing season, but is waterlogged within at least a few inches of the surface. Vegetation includes grasses, sedges, rushes and various herbaceous plants.

Type 3: Inland Shallow Fresh Marsh: Soil is usually water logged during the growing season, often covered with as much as six inches or more of water. Vegetation includes grasses, bulrushes, cattails, arrowheads, smartweeds and other emergent aquatic vegetation.

Type 4: Inland Deep Fresh Marsh: Soil covered with six inches to three feet or more of water during growing season. Vegetation includes cattails, reeds, bulrushes and wild rice. Open water areas may contain pondweeds, naiads, coontail, water milfoils and other submergent aquatic vegetation.

Type 5: Shallow Open Water: Water is usually less than 10 feet deep and is fringed by a border of emergent vegetation. Vegetation includes pondweeds, naiads, coontail, water milfoils and other submergent aquatic vegetation.

Type 6: Shrub – Carr and Alder Thicket: Occurs along sluggish streams, floodplains, and wetlands. The soil is usually waterlogged during the growing season and is often covered with as much as six inches of water. Vegetation includes alder, willow and dogwood.

Type 7: Hardwood Swamp and Coniferous Swamp: Occurs along sluggish streams, on floodplains, on flat-perched depressions and in shallow lake basins. The soil is waterlogged to within a few inches of its surface during the growing season and is often covered with as much as one foot of water. Vegetation typical to this wetland includes tamarack, white cedar, black spruce, balsam fir, red maple and black ash.

Type 8: Coniferous or Open Bog: Occurs along sluggish streams, on flat-perched depressions and shallow lake basins. The soil is waterlogged and supports a spongy covering of mosses. Vegetation typical to this wetland type includes sphagnum moss, heath shrubs and sedges. Minnesota bogs contain leather leaf, Labrador tea, cranberries and pitcher plants. Scattered stunted black spruce and tamarack also are common features of bogs

10-19-4: **WETLAND DELINEATION:** A wetland delineation must be completed in accordance to USACE Delineation Manual (1987) and Regional Supplement (Midwest or North Central and Northeast) and approved by the City's designated WCA official prior to the approval of the preliminary plat and/or under WCA rules. The property owner is responsible for all costs, as designated in the fee schedule, in obtaining the wetland delineation and approval.

10-19-5: **INTERPRETATION OF WETLAND BOUNDARIES:** Whenever a wetland boundary is disputed or uncertain, the Community Development Director and/or his/her designee and staff WCA consultant may require the submission of a delineation of the wetland completed by an individual within

Deleted: : Type 1 wetlands are seasonally flooded basins or flats in which soil is covered with water or is waterlogged during variable seasonal periods but usually is well drained during much of the growing season. Type 1 wetlands are located in depressions and in overflow bottomlands along watercourses. Vegetation varies greatly according to the season and duration of the flooding, and includes bottomland hardwoods, as well as herbaceous plants.

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Deleted: City Planning Director

Minnesota Wetland Professional Certification, and such other information as required to resolve the dispute or uncertainty. No boundary change may be authorized on the basis of fill that was placed on the site after the city designed the area as part of a wetland. Persons aggrieved by a decision of the Community Development Director and/or his/her designee may appeal such decision in accordance with the provisions of the WCA rules.

Deleted: of a registered survey of the property and field staking showing the city-designated wetland contour or a delineation of the wetland, and such other information as the director may require to resolve the dispute or uncertainty. No boundary change may be authorized on the basis of fill that was placed on the site after the city designated the area as part of the wetland. Persons aggrieved by a decision of the City Planning Director may appeal such decision in accordance with the provisions of the WCA rules.

10-19-6: **WETLAND BUFFER AREAS:**

A. his subsection establishes requirements for wetland buffer areas around delineated and protected wetlands. Buffer areas are necessary and beneficial to maintain the health of wetlands. Buffer areas protect the edge of wetlands from erosion while filtering sediment, chemicals and other nutrients from runoff that drains into wetlands. Buffer areas can improve the biological diversity and health of a wetland environment while reducing the adverse impacts of human activities.
B. Buffer areas regulated by this section are areas of vegetative cover that are upland of the wetland edge, and that occur in a natural condition or through restoration. Buffer areas consist of shrubbery and trees, a native grasses that are not mowed, fertilized or manicured in any manner.
C. Wetland buffer areas must be created, existing buffer areas must be maintained around all delineated wetlands in the following situations:

1. When wetlands are required to be replaced or restored.
2. When new development occurs. For purposes of this subsection, new development means:

   a. Any subdivision that creates a new lot that has no principal use on it.
   b. b. Construction of a principal use on an existing vacant parcel of land.

3. When redevelopment occurs. For purposes of this subsection redevelopment means the removal of the principal use of more than 50 percent of its market value and reconstruction on the same property. This requirement does not apply if construction is the result of more than fifty (50) percent of the building being damaged by an involuntary force, such as fire, wind, or vandalism.
4. When the city requires a buffer as part of a variance, conditional use permit, or a site plan review.
5. On any preserve wetland when grading or construction is proposed that requires a city permit and the proposed activity could potentially impact the quality of the wetland by increasing hard surface run off, altering existing drainage, or impacting an existing buffer.

D. Buffer area widths will be based on the wetland size. The following are the required minimum buffer area widths:

Wetland Size	Width of Buffer area from Delineated Wetland
0-5 Acres	10 Feet
Greater than 5 acres	20 Feet

E. In cases of new development or redevelopment the city may require that vegetation in the wetland buffer be installed prior to the issuance of the certificate of occupancy. The city may waive this requirement in lieu of a cash escrow or letter of credit equal to one hundred fifty(150) percent of the cost to install the required buffer.
F. The city may allow the disturbance of an existing buffer area during the course of construction activity. This disturbance must be kept to a minimum, soils must be de-compacted to a level that will accommodate root growth, and the buffer area must be re-established as required by the city.

The city will determine the amount of allowable disturbance. The city may require a cash escrow or letter of credit equal to one hundred fifty (150) percent of the cost to re-establish the buffer to its original condition.

G. The city may require buffer area planting and maintenance when the city determines that there is inadequate vegetation in the buffer area to meet the intent of this section. The city may require a cash escrow or letter of credit equal to one hundred fifty (150) percent of the estimated cost of the vegetation and installation. The escrow or letter of credit must be valid for up to two years and may be used by the city to replace any vegetation that dies.
H. The affected property owner or homeowner association that is responsible for the maintenance must:

1. Maintain and repair damage to buffer areas from such activities as mowing, cutting, grading or other prohibited activities, unless mowing is approved by the city as a buffer management strategy. Permission must be obtained from the city before implementing buffer management strategies, which may include mowing, burning, and the use of herbicides.
2. Be responsible for maintaining only the permitted vegetation in the buffer area and must remove all noxious weeds and invasive, non-native species such as European buckthorn.
3. Ensure that all soil surfaces in the buffer area are planted with the permitted vegetation and that there is no open soil surface that may result in erosion.

10-19-7: **ACCEPTABLE BUFFER STRIPS:**

A. Continuous dense layer of perennial grasses that have been uncultivated or unbroken for at least ten (10) consecutive years.
B. Has an over story of trees and/or shrubs with a herbaceous layer that has been uncultivated or unbroken for at least ten (10) consecutive years and does not contain bare or disturbed soil that is greater than ten (10) percent.
C. Contains a mixture of the plant communities described above, which have been uncultivated or unbroken for at least ten (10) consecutive years.

10-19-8: **UNACCEPTABLE BUFFER STRIPS:**

A. It has thirty (30) percent or more of its vegetation composed of undesirable pant species (including, but not limited to: reed canary grass, common buckthorn, purple loosestrife, leafy spurge, bull thistle, and other noxious weeds as listed by the State of Minnesota Department of Agriculture).
B. Has bare or disturbed soil that is greater than ten (10) percent of the area.
C. Contains Turf grass.

10-19-9: **PERMITTED USES:**

A. Within wetland buffer areas no land may be used except for one or more of the following uses:

1. Native vegetation provided that no change is made to the ground elevation.
2. Wildlife and nature preserves.
3. Pervious hiking, skiing and horseback riding trails. Pervious will mean an area where water is able to infiltrate into the ground.
4. Public and private flood control structures, ponding and drainage facilities and associated accessory appurtenances.
5. Environmental monitoring or control facilities, including those related to water quality and wildlife regulation.

6. Overhead utility poles and lines that are less then two feet in diameter, under-ground utility lines and distribution equipment, light poles, traffic signals, traffic regulatory signs, mailboxes and other equipment that provides an essential public service;
6. Structures if the city determines that a particular structure will protect the wetland from existing conditions of erosion.

B. The following are permissible actions in the buffer area:

1. Maintenance of an existing public or private lawfully located road, structure, or facility, including, without limitation, drainage facilities, water conveyance structures, dams, fences or trails, and any facility used to provide transportation, electric, gas, water, telephone, telegraph, telecommunication, or other services.
2. Maintenance of an existing farm or stock pond, irrigation ditch, fence, or drainage system.
3. Weed control consistent with state and county laws.
4. Continuation of existing agricultural practices such as cultivation and harvesting of hay or pasturing of livestock or change of agricultural practices which has no greater impact on wetland function.
5. Private and public recreational uses, including golf courses, impervious trails, picnic grounds and boat ramps.

10-19-10: **STANDARDS:** The following standards apply to all land adjoining a delineated wetland, wetland buffer areas, and to neighboring lands:

A. Protection of wetlands and wetland buffer areas:

1. Except as modified or regulated by the standards of this subsection, all requirements of the underlying zoning district apply.
2. No structures are allowed in the wetland buffer area.
3. Activities including, but not limited to, building, paving, mowing, cutting, filling, dumping, yard waste disposal or fertilizer application are prohibited in the buffer areas. Mowing may be permitted when approved by the city as a buffer management strategy. However, invasive non-native vegetation, such as European buckthorn and noxious weeds, may be removed.
4. Before grading or construction near a wetland overlay district or buffer area, the owner or contractor must place and maintain erosion control fencing on the upland side of the perimeter of the wetland overlay district or wetland buffer area, whichever is more restrictive, or as required by the city. This fencing must remain in place until all development activities that may affect the wetland and the wetland buffer area have been finished and adequate vegetative cover has been established.
5. All structures must have a minimum basement floor elevation not less than two feet above the 100-year flood elevation.
6. All hard surface runoff must be treated in accordance with the requirements of the city and the appropriate watershed district. Treatment may include site retention, skimmers, weirs or sedimentation ponds of appropriate scale. Structures and ponds serving this purpose must be properly maintained and serviced by the property owner.
7. Discharge into the wetlands must occur at a rate no greater than allowed by the city engineer in accordance with the city's water resources management plan and the appropriate watershed district requirements.
8. Developers and property owners will be responsible for erecting markers at the wetland buffer line indicating the proposed uses and best management practices for the buffer and wetland.

B. Wetland Setbacks:

1. All buildings (principal and accessory) must be set back at least twenty (20) feet from the outer wetland buffer line.
2. Play structures, uncovered porches, decks, patio slabs, open terraces, stairways, and walkway areas may extend up to ten (10) feet from the required buffer line setbacks.
3. Parking or driveway areas must be setback at least ten (10) feet from the outer wetland buffer line.
4. A setback from the buffer line is not required for overhead utility poles and lines that are less than two feet in diameter, underground utility lines and distribution equipment, light poles, traffic signals, traffic regulatory signs, mailboxes, and other equipment that provides an essential public service.
5. A setback is not required for fences or retaining walls. However, they may not be located within the buffer area.
6. An existing structure, driveway or parking area meeting the required setback from a city-designated wetland boundary or buffer area is considered a legal nonconforming development if a later WCA delineation or implementation of a wetland buffer shows that the wetland or its buffer is closer than the required setback.

10-19-11: **ALTERATION OF THE WETLANDS:** No alteration of wetlands or a wetland buffer is allowed without a wetland alteration permit, subject to the approval of the city council. Activities that constitute an alteration regulated by this section include:

A. Placement of any material, including, without limitation, any soil, sand, gravel, mineral, aggregate, organic material, or excessive amounts of water.
B. Construction, installation, or placement of any obstruction or the erection of a building or structure.
C. Removal, excavation, or dredging of solid material of any kind, including, without limitation, any soil, sand, gravel, mineral, aggregate, or organic material.
D. Removal of any existing vegetation or any activity, which will cause any loss of vegetation in a wetland.
E. Alteration of the water level or water table by any means, including, without limitation, draining, ditching, trenching, impounding, or pumping.
F. Disturbance of existing surface drainage characteristics, sedimentation patterns, flow patterns, or flood retention characteristics by any means, including, without limitation, grading and alteration of existing topography.
G. Alterations do not include wetland planting or the selective clearing or pruning of trees or vegetation that are dead, diseased, noxious weeds or similar hazards.

10-19-12: **PUBLIC CONTROL OF WETLANDS:**

A. The city council may require that the owner of any property affected by this ordinance must record wetland and buffer area easements or restrictive covenants within the property's chain of title. These easements or covenants must describe the boundaries of the wetland setback and buffer area and prohibit any building, paving, mowing (unless approved as a management strategy), cutting, filling, dumping, yard waste disposal or fertilizer application within the wetland and the buffer area. The owner or developer must record these easements or covenants with the final plat, with deeds from a lot division or, if no subdivision is involved, before the city issues a grading permit or building permit for an affected property. The applicant must submit evidence that the easement or covenant has been submitted to the county for recording.

B. If the city council does not require an easement or covenant, the city may record a notice of the wetland and buffer area requirements against the property. The property owner must still comply with the requirements of this section.

10-19-13: **WETLAND BUFFER MARKERS:** When new development or redevelopment results in residential, industrial or a business use, the developer must place markers at the upland boundary of the wetland buffer edge at least every seventy-five (75) feet (or a minimum of one per lot).

A. The marker(s) shall be provided to the developer by the City at a cost established by the City.
B. One sign shall be placed per lot at the upslope edge of the required buffer strip for the wetland. Proposed locations of signs shall be shown on grading or site plan. In general the location of signs shall capture the portion of the buffer that extends the furthest upslope into the lot. The plan that shows the location of the sign shall be provided to the City Engineer or other appropriate staff for review and approval.
C. Artwork and verbiage shall face principal living (structure).

CHAPTER 20

COMPREHENSIVE DESIGN ZONE

SECTION:

10-20-1: Intent and Purpose
10-20-2: Comprehensive Design Zone Areas
10-20-3: Requirements
10-20-4: Definitions
10-20-5: Single Family Residential Area Standards
10-20-6: Multiple Family Residential Area Standards
10-20-7: Business District Area Standards
10-20-8: Industrial District Area Standards
10-20-9: Shared Requirements
10-20-10: Building Structure Requirements
10-20-11: On-Site Requirements

10-20-1: **INTENT AND PURPOSE:** The purpose of this Comprehensive Design Zone is to provide exemplary standards of development for the grouping of land parcels for development as an integrated, coordinated unit. In order to better provide for community health, welfare and safety needs, greater flexibility of development is conditionally allowed than would be possible under strict application of fixed zoning ordinance. It is further intended to encourage one or more of the following:

A. Utilize a pre-planned land use, which is designed to encourage a plan for compatible adjacent uses, to protect and enhance land values and to achieve the highest aesthetical standards.
B. Development that preserves natural vegetation, topographic and geological features.

10-20-2: **COMPREHENSIVE DESIGN ZONE AREAS:**

SRD Area: Single Residential Dwelling Area
MRD Area: Multiple Residential Dwelling Area
CRB Area: Commercial/Retail Business Area
COP Area: Corporate Office Park Area

10-20-3: **COMMON REQUIREMENTS:**

Setback/Lot Coverage/Height/Lot Size Requirements
Landscape Requirements
Building Structure Requirements
On-site Requirements
Signage Requirements
Special Requirements

10-20-4: **DEFINITIONS**

BUILDINGS: Any structure providing shelter for the persons, animals, or chattel of any kind. When separated by bearing walls

	without openings each portion so separated shall be considered as a separate building.
COMMERICAL/RESIDENTIAL BUISNESS:	The CRB provides space for concentrated general business district, at locations where the interaction between such activities can be maximized with minimal infringement on residential neighborhood.
CORPORATE OFFICE PARK:	Provides space for minimally light industrial areas, however it is primarily targeted for office space and buildings.
FRONTAGE:	The width of a lot or building site measured on the line separating it from the public street or way. (For purposes of this ordinance, the front line of corner lots shall be considered to be the shortest street line.)
LIGHT INDUSTRIAL AREA:	Space is provided for industrial activities involving a minimum degree of refuse by-products and air pollution and noise pollution and requiring a relatively low level of on-premise processing.
LOADING SPACE:	A space, accessible from a street, alley, railroad, or way, in a building or on a lot, for the use of trucks while loading and unloading merchandise or materials.
LOT:	A parcel of land, abutting on or having access to a public street, being a lot designed in a recorded plat or a parcel occupied by a principal building upon the effective date of the Ordinance, or being a parcel of record of sufficient size to provide the yards required by this Ordinance.
MULTIPLE FAMILY RESIDENCE:	By providing space for apartment buildings and other styles of multiple dwelling structures, the Multiple Family Residential District permits a variety of housing options while still promoting a neighborhood atmosphere.
PARKING SPACE:	An area to be used exclusively as a temporary storage space for one (1) private motor vehicle.
SETBACKS, FRONT:	The minimum horizontal distance between the front line of a building and the property line, disregarding steps, and eaves.
SHOPPING CENTER:	A group of commercial establishments planned, developed, owned, and managed as a unit related to location size and type of shops the unit serves.
SINGLE RESIDENTIAL AREA:	The residential district provides space for low-density residential living with full provision of necessary urban service facilities. Nonresidential uses are limited to the

	minimum necessary for residential convenience and welfare.
TOWNHOUSES:	A group of three or more single-family residences attached one to the other with common sidewalls. These dwellings may be one story or two story buildings, but each unit shall be designed and constructed to house single families. The design, construction, or use of two-story units to house more than one family shall not be permitted.
YARD:	An open space on a lot which is unoccupied and unobstructed from its lowest level to the sky, Except as otherwise permitted in this Ordinance.
YARD, FRONT:	A yard extending along the full width of the front lot line that between the side lot lines and from the abutting front street right-of-way to the front of the building line depth.
YARD, REAR:	That portion of the yard on the same lot with the principal building located between the rear lot line and extending the full width of the lot.

10-20-5: **SINGLE FAMILY RESIDENTIAL AREA STANDARDS:**

A. SETBACK/LOT COVERAGE/HEIGHT/LOT SIZE REQUIREMENTS:

Front Yard Setback	30 feet
Side Yard Setback	10 feet
Rear Yard Setback	30 feet
Maximum Building Coverage	35%
Maximum Lot Coverage	45%
Height Limitation	35 feet
Minimum Lot Size	9,500 square feet
Minimum Lot Width (in new plats)	75 feet

10-20-6: **MULTIPLE FAMILY RESIDENTIAL AREA STANDARDS:**

A. SETBACK/LOT COVERAGE/HEIGHT/LOT SIZE REQUIREMENTS

1. SINGLE AND MULTIPLE-FAMILY RESIDENTIAL DISTRICT:

Front Yard Setback	30 feet
Side Yard Setback	10 feet
Rear Yard Setback	30 feet
Maximum Building Coverage	35%
Maximum Lot Coverage	45%
Height Limitation	40 feet
Minimum Lot Size	6,000 square feet

2. MULTIPLE FAMILY RESIDENTIAL DISTRICT:

Front Yard Setback	60 feet
Side Yard Setback	40 feet
Rear Yard Setback	60 feet
Maximum Lot Coverage	55%
Maximum Building Coverage	35%
Height Limitation	40 feet
Minimum Lot Size	Efficiency Unit – 2,420 square ft/unit 1 Bedroom: 2,500 square ft/unit 2 Bedroom: 3,000 square ft/unit 3 Bedroom: 3,500 square ft/unit

10-20-7: **BUSINESS DISTRICT AREA STANDARDS:**

A. SETBACK/LOT COVERAGE/HEIGHT/LOT SIZE REQUIREMENTS:

1. B-2 GENERAL BUSINESS DISTRICT:

Front Yard Setback	30 feet
Side Yard Setback	15 feet
Rear Yard Setback	30 feet
Maximum Lot Coverage	75%
Height Limitation	55 feet
Minimum Lot Width	100 feet
Minimum Lot Size	32,670 square feet / .75 acres

2. B-3 GENERAL BUSINESS DISTRICT:

Front Yard Setback	30 feet
Side Yard Setback	15 feet
Rear Yard Setback	30 feet
Maximum Lot Coverage	80%
Height Limitation	65 feet
Minimum Lot Width	100 feet
Minimum Lot Size	32,670 square feet / .75 acres

10-20-8: **INDUSTRIAL AREA STANDARDS:**

A. SETBACK/LOT COVERAGE/HEIGHT/LOT SIZE REQUIREMENTS:

1. I-1 LIGHT INDUSTRIAL- OFFICE DISTRICT:

Front Yard Setback	40 feet
Side Yard Setback	15 feet
Rear Yard Setback	30 feet
Maximum Lot Coverage	75%
Height Limitation	55 feet
Minimum Lot Width	100 feet
Minimum Lot Size	1 acre

2. I-2 GENERAL INDUSTRIAL DISTRICT:

Front Yard Setback	40 feet
Side Yard Setback	15 feet
Rear Yard Setback	30 feet
Maximum Lot Coverage	75%
Height Limitation	55 feet
Minimum Lot Width	100 feet
Minimum Lot Size	1 acre

10-20-9: **SHARED REQUIREMENTS:**

A. Landscaping requirements: All requirements are put forth in the City of Sartell Landscaping Ordinance, Title 10, chapter 12. All open areas of any site, tract or parcel shall be upgraded to provide proper drainage, and except for areas used for parking, drives, and storage, shall be landscaped with trees, shrubs or planted ground cover. It shall be the owner's responsibility to see that this landscaping is maintained in an attractive and well-kept condition. All vacant lots, tracts or parcels shall also be properly maintained.

10-20-10: **BUILDING STRUCTURE REQUIREMENTS:**

A. Pole barns: The construction of a pole barn shall be prohibited in this and all areas of the Comprehensive Design Zone. A pole barn is defined as a structure, the basic support and framework of which is provided by wooden poles inserted into the ground vertically similar to the telephone pole.
B. Materials/residential: Materials are to be used as allowed by the uniform building codes in the governing body's ordinance.
C. Materials/all other zoning districts: The exteriors of all buildings located in this area shall consist of brick, decorative precast concrete, decorative and/or colored concrete masonry units, stone or glass, or any combination thereof, or a decorative synthetic material approved by the city council; but not including such things as metal or standard smooth-faced concrete masonry units, or unfinished pan formed precast concrete. All other materials unless allowed by the following exceptions shall be prohibited:
D. Conditionally approved materials: Pre-finished architectural metal panes may be utilized for accent and/or architectural components of a building such as the entry or entry appendage, a required enclosure or screen (unless expressly prohibited by section language) or architectural roofing as an intended designed accent or a mandatory component of a prototype national or regional building program. In no case, shall the extent of the prefinished metal area exceed fifteen (15) percent of the exposed wall area on any two visible sides of the building when viewed from any one viewing point.

10-20-11: **ON-SITE REQUIREMENTS:**

A. Hazards: Every operation shall be carried on with reasonable precautions against fire and explosion.
B. Air pollution: Any activity or operation shall conform with the City and State regulations relating to ambient air quality standards and air pollution control regulations.

C. Noise: Noise shall be measured on any property line of the tract on which the operation is located. Noise emanating from land use shall be in compliance with and regulated by the state of Minnesota Pollution Control Agency standards, Minnesota NPC, as amended.
D. Odors: The emission of odor by any use shall be in compliance with and regulated by the state of Minnesota Pollution Control Agency standards, Minnesota Regulation APC-1-15, as amended.
E. Dust and other particulate matter: The emission of dust, fly, ash or other particulate matter by any use shall be in compliance with and regulated by the state of Minnesota Pollution Control Agency standards, Minnesota Regulation APC-1-15, as amended.
F. Smoke: The emission of smoke by any use shall be in compliance with and regulated by the state of Minnesota Pollution Control Agency standards, Minnesota Regulation APC-1-15, as amended.
G. Glare: Any lighting used to illuminate off-street parking area, sign accent lighting for the main building structure, whether direct or reflected, shall be arranged so as to not be visible ~~form~~ **from** beyond the site or origin at any property line.
H. Waste: All solid waste material, debris or other refuge shall be contained within an enclosure as specified under "enclosures" of this Ordinance. All liquid wastes containing organic or toxic materials shall be discharged in a manner described by the Minnesota Pollution Control Agency. Any temporary storage of any such materials shall be contained in an approved manner complying with the state and federal offices of Fire Marshall, PCA and agricultural department.
I. Radiation and electrical emission: All activities that emit radioactivity and/or electrical emissions shall be in strict compliance with the Minnesota Pollution Control Agency Act and Federal Communications Commission.
J. Screening and enclosures::

1. Rooftop enclosures: All rooftop units and/or mechanical rooftop extensions, which are visible from any viewing point outside the building lot, shall be enclosed or screened with a four wall structure utilizing the approved materials, so as to cause the object to be non-visible from any viewing point outside the building lot.
2. Refuse enclosures: All refuse containers shall be kept in a four sided enclosure constructed of a brick, stone, decorative concrete material or a durable material compatible with material of structure at a minimum of five (5) feet high.
3. Loading dock and garage entrance screening: Loading docks and garage entrances and exits shall be screened to minimize visibility from any public street and/or any adjacent building structures front or side yard viewing point, and away from any residentially zoned area.
4. Outdoor storage screening: Outdoor storage shall follow Title 10, Chapter 17 requirements, as amended.
5. Parking area screening, residential only: Any off-street parking area containing more than five (5) parking spaces from any adjoining residential zone or across the street from any adjoining residential zone, and any driveway to a parking area containing at least five (5) spaces within fifteen (15) feet of an adjoining residential zone shall be completely screened to a height of at least three and one half (3 ½) feet above the parking grade. Such screening shall be accomplished through the use of earth berming and/or plant materials.
6. Parking area screening, all other zoning districts: When a parking lot is located adjacent to a public right of way, a strip of landscaping shall shield views of parked cars to passing motorists and pedestrians.
7. Parking lots: Required to have a curb and gutter and be paved, a six foot landscaped strip with a minimum three-foot grade drop from the right of way to the parking lot. One shade tree and five shrubs are required for every thirty-five linear feet.

CHAPTER 21

ENVIRONMENTAL ORDINANCE

EROSION AND SEDIMENT CONTROL ORDINANCE

SECTION:

10-21-1: Intent, Purpose
10-21-2: Statutory Authorization
10-21-3: Definitions
10-21-4: Required Land Disturbance Permit
10-21-5: Land Disturbance Permit Process and Data Requirements
10-21-6: Storm Water Pollution Prevention Plan
10-21-7: Special or Impaired Waters
10-21-8: Inspection and Maintenance
10-21-9: Final Stabilization
10-21-10 Stockpiles
10-21-11: Enforcement

10-21-1: **INTENT, PURPOSE:** During the construction (roadway, utility and building) process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches and the dredging of lakes.

As a result, the purpose of this local regulation is to safeguard persons, protect property, and prevent damage to the environment in the City of Sartell. This Code will also promote the public welfare by guiding, regulating, and controlling the design, construction, use and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in the City of Sartell.

10-21-2: **STATUTORY AUTHORIZATION:** This Section is adopted pursuant to the authorization and policies contained in Minnesota Statutes Chapters 103B and 462: Minnesota Rules, Parts 6120.2500-6120.3900. Minnesota Rules Chapters 8410,8420 and 70510.0210

Most restrictive law applied. In the event of any conflict between provisions of this chapter or other regulations adopted by The City of Sartell, the State of Minnesota, or Federal Authorities, watershed district or watershed management organization, the more restrictive standard shall prevail.

10-21-3: **DEFINITIONS:**

BEST MANAGEMENT PRACTICES (BMPS): Means the most effective and practicable means of erosion prevention and sediment control, and water quality management practices that are the most effective and practicable means to control, prevent, and minimize degradation of surface water, including avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, pollution prevention through good housekeeping, and other management practices published by state or designated area-wide planning agencies.

CERTIFIED CONTRACTOR: A person who has received training to inspect and maintain erosion and sediment control practices.

CLEARING:	Any activity that removes ground cover and exposes topsoil material. Drainage way: Any channel that conveys surface runoff throughout the site.
COMMON PLAN OF DEVELOPMENT:	Means one proposed plan for a contiguous area where multiple separate and distinct land-disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur.
CONSTRUCTION SITE:	Means any portion or all of the real property that is identified as the location of any excavation of the erection, enlargement, alteration, repair, removal, or demolition of any building, structure or structural part within the city that requires a permit.
DRAINAGE WAY:	Any channel that conveys surface runoff throughout the site.
EROSION CONTROL:	A measure that prevents soil particle exposure and detachment.
EROSION AND SEDIMENT CONTROL PLAN:	Otherwise known as a storm water pollution prevention plan (SWPPP) which is a set of plans prepared by or under the direction of a licensed professional engineer or certified contractor indicating the specific measures and sequencing to be used to control the sediment and erosion on a development site during and after construction.
FULLY RECONSTRUCTED:	Means area where impervious surfaces have been removed down to the underlying soils. Activities such as structure renovation, mill and overlay projects, and other pavement rehabilitation projects that do not expose the underlying soils beneath the structure, pavement, or activity are not considered fully reconstructed. Maintenance activities such as catch basin repair/replacement, utility repair/replacement, pipe repair/replacement, lighting, and pedestrian ramp improvements are not considered fully reconstructed.
GRADING:	Excavation or fill of material.
IMPAIRED OR SPECIAL WATERS:	Means a water with an USEPA approved TMDL for any of the impairments listed in this item, and waters identified as impaired under section 303 (d) of the federal Clean Water Act for phosphorus (nutrient eutrophication biological indicators), turbidity, TSS, dissolved oxygen or

	aquatic biota (fish bioassessment, aquatic plan bioassessment and aquatic macroinvertebrate bioassessment).
IMPERVIOUS SURFACE:	Means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, driveways, parking lots, and concrete, asphalt, or gravel roads. Bridges over surface waters are considered impervious surfaces.
PERIMETER CONTROL:	A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.
SEDIMENT CONTROL:	Measures that prevent eroded sediment from leaving the site.
LAND DISTURBANCE:	Any project or activity, including excavations, clearing and grading that directly or indirectly affects slopes, water bodies or the moving of ground cover.
LAND DISTRUBANCE PERMIT:	A permit issued by the City for the construction or alteration of ground cover improvement and structures for the control of erosion, runoff, and grading.
MATERIAL:	Includes, but not limited to, dirt, soil, sand, rocks, concrete, vegetative material, building and other demolition or waste debris.
NEW DEVELOPMENT:	All construction activity that is not defined as redevelopment.
PRIMARY STRUCTURE:	A structure in which the principal use of the lot on which the structure is located is conducted.
REDEVELOPMENT:	Projects with more than 15 percent impervious surface prior to construction.
SITE:	A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.
STABILIZATION:	The use of practices that prevent exposed soil from eroding. Otherwise known as Best Management Practices (BMP's).
START OF CONSTRUCTION:	The first land disturbing activity associated with a development, including land preparation such as ground

clearing (grubbing), grading, and filling. Installation of streets and walkways, excavation for basements, footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

STOCKPILE: Means the accumulation of materials that are generated in the amount of 40 cubic yards or more.

10-21-4: **REQUIRED LAND DISTURBANCE PERMITS:**

A. Residential, Commercial and Industrial Site Construction Plans: All persons wishing to start a land disturbance project on an existing lot of record (see Title 11, Chapter 3 of the Subdivision Code), for the purposes of the construction of a residential, commercial or industrial primary structure, shall submit a Land Disturbance Permit or be issued with the building permit.
B. Roadway and Utility Installation Construction Plans: All persons wishing to start a land disturbance project on an existing lot of record (see Title 11, Chapter 3 of the Subdivision Code), for the purposes of the construction of any roadway or utilities, shall submit a Land Disturbance Permit to the City Engineer at the time of the roadway and utility plan submittal.
C. Land Disturbance. Any persons wishing to disturb any land 0.1 acres (4356 square feet) or more shall obtain a Land Disturbance Permit and meet the erosion, sediment, and waste control standards established by the Minnesota Pollution Control Agency's NPDES/SDS Construction Stormwater General Permit MNR100001 (CSW Permit) as now constituted and from time to time amended.

    1. Disturbances where the sum of the new impervious surface and the fully reconstructed impervious surface equals ½ acre or more shall meet the stormwater management requirements identified in Title 11, Chapter 6, and the requirements identified in the current City of Sartell Design Standards.

D. The following activities are not required to obtain a Land Disturbance Permit:

    1. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
    2. Existing nursery, as long as the activity does not exceed 43,560 square feet (one acre) and agricultural operations conducted as a permitted main or accessory use.

10-21-5: **LAND DISTURBANCE PERMIT PROCESS AND REQUIREMENTS:**

A. An application and applicable application fee for land disturbance permit for each project having that 0.1 acre (4,356 square feet) or more of land disturbance, shall be filed with the Building Department online with requirements documents.
B. Residential, Commercial and Industrial Site Construction Plans: An application and applicable application fee for a land disturbance permit for each property, which has been platted, shall be filed with the Building Department online with required documents.
C. Roadway and Utility Installation Construction Plans: An application for a land disturbance permit for property has been platted shall be filed with the City Engineer online with required documents.
D. Each application shall bear the name(s) and address (es) of the owner or developer of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal

contact at such firm and shall be accompanied by an application fee as set by the Code, Storm Water Pollution Prevention Plan and outlined in section 10-21-6.

E. The City of Sartell's building department will review each residential, commercial and industrial land disturbance permit application for site construction (which shall include a site drawing of all structures and stabilization methods) to determine its conformance with the provisions of this regulation. The City of Sartell's Engineering department will review each roadway and utility land disturbance permit applications and Land Disturbance applications where the sum of the new impervious surface and the fully reconstructed impervious surface equal ½ acre or more to determine its conformance with the provisions of this Code, the City's stormwater management requirements (Title 11, Chapter 6) and the requirements identified in the current City of Sartell Design Standards. Most land disturbance permits for building site plans will be issued within the same time period as the building permit. Within 60 days of the receipt of a roadway and utility land disturbance permit application, unless extended to 120 days or waived by the applicant, the City of Sartell shall document within the permitting software:

1. Approve the permit application.
2. Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation and issue the permit subject to these conditions.
3. Disapprove the permit applications, indicating the reason(s) and procedure for submitting a revised application and/or submission.

F. Failure of the City of Sartell to act on an original or revised Land Disturbance Permit application within 60 days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and the City of Sartell. Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with the conditions established by the City of Sartell.

G. Unless otherwise exempted by this ordinance, projects that require a land disturbance permit as identified in section 10-21-4 of this code shall meet the following requirements.

1. The erosion and sediment control standards established by the Minnesota Pollution Control Agency's NPDES/SDS Construction Stormwater General Permit MNR100001 (CSW Permit), as amended.
2. Title 11, Chapter 6 of this Code.
3. City of Sartell Design Standards.

10-21-6: **STORM WATER POLLUTION PREVENTION PLAN (SWPPP):**

A. The Owner of the construction activity shall submit a copy of a Stormwater Pollution Prevention Plan, including a site plan, as part of the Land Disturbance Permit Process for review. The Stormwater Pollution Prevention plan shall be prepared in accordance with and meeting the following:

1. All applicable Chapters and Sections of the City Code requirements.
2. The erosion, sediment, and waste control standards established by Minnesota Pollution Control Agency's NPDES/SDS Construction Stormwater General Permit MNR100001 (CSW Permit), as amended.
3. The current City of Sartell Design Standards.

Deleted: in writing:

B. If the Land Disturbance Permit is denied, and the Owner would like to proceed with the project, the Owner must revise the Land Disturbance permit application, including the Stormwater Pollution Prevention Plan, and resubmit.
C. Once a Land Disturbance Permit has been issued/approved, the Stormwater Pollution Prevention Plan and site plan becomes an enforceable document, and the Owner must comply with all requirements identified in the Stormwater Pollution Prevention Plan and site plan. The Owner is also responsible for keeping the stormwater runoff control requirements identified in the Stormwater Pollution Prevention Plan and site plan up to date.

10-21-7: **SPECIAL OR IMPAIRED WATER**: Additional BMP's together with enhanced runoff controls are required in conformance with the erosion, sediment, and waste control standards established by the Minnesota Pollution Control Agency's NPDES/SDS Construction Stormwater General Permit MNR100001 (CSW Permit), as amended.

10-21-8: **INSPECTION AND MAINTENANCE:**

A. The Developer shall pay for all costs incurred by the City for subdivision review and inspection. This would include preparation and review of plans and specifications by technical assistants and costs incurred by the Attorney, as well as other costs of similar nature.
B. The City Engineer and/or Building Inspector or designated agent shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Storm Water Pollution Prevention Plan as approved. Plans for grading, stripping, excavating, and filling work bearing shall be maintained at the site during the progress of the work.
C. The permittee or his/her agent shall make inspection in conformance with the erosion, sediment, and waste control standards established by the Minnesota Pollution Control Agency's NPDES/SDS Construction Stormwater General Permit MNR100001 (CSW Permit), as amended. The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and available upon request to the City Engineer and/or Building Inspector.
D. All inspections and maintenance conducted during construction must be recorded in writing and must meet the requirements of the erosion, sediment, and waste control standards established by the Minnesota Pollution Control Agency's NPDES/SDS Construction Stormwater General Permit MNR100001 (CSW Permit), as amended.
E. The City Engineer and/or the Building Inspector or designated agent shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity and compliance of the permit filed.
F. All erosion and sediment BMP's shall be inspected to ensure integrity and effectiveness. All nonfunctional BMP's shall be replaced or supplemented with functional BMP's. The permittee shall investigate and comply with the following inspection and maintenance requirements identified within the erosion, sediment, and waste control standards established by the Minnesota Pollution Control Agency's NPDES/SDS Construction Stormwater Permit MNR100001 (CSW Permit), as amended.
G. The Applicant shall notify the City a minimum of forty eight hour (48) notice prior to the following required City Inspections.

    1. Initial Inspection – when all Erosion and Sediment Control BMP's are installed. This inspection must be completed before a building Permit can be issued.

2. Project Complete Inspection – when the project is complete including, but not limited to, final Grading, installation of all Stormwater Management Facilities and Final Stabilization measures are complete.

10-21-09: **FINAL STABILIZATION:** The Permittee must ensure final stabilization of the project. Final stabilization shall meet the requirements identified within erosion, sediment, and waste control standards established by the Minnesota Pollution Control Agency's NPDES/SDS Construction Stormwater General Permit MNR100001 (CSW Permit), as amended.

A. Final stabilization requires all soil disturbing activities at the site have been completed and all soils are stabilized with uniform perennial vegetative cover with a density of at least seventy-five (75) percent over the entire pervious surface area or other equivalent means necessary to prevent soil failure under erosive conditions and:

    1. All drainage ditches, constructed to drain water from the site after construction is complete must be stabilized to preclude erosion; and
    2. All temporary synthetic, and structural erosion prevention and sediment control BMP's (such as silt fence) must be removed as part of the site final stabilization; and
    3. The Permittee must clean out all sediment from conveyances and permanent water quality management facilities.

B. For residential construction only, final stabilization requires:

    1. Temporary erosion protection and down gradient perimeter control for individual lots has been completed and the residence has been transferred to the homeowner.
    2. The Permittee must distribute the MPCA "homeowner factsheet" to the homeowner so the homeowner is informed for the need, and benefits of final stabilization.

10-21-10: **STOCKPILES:** Stockpiles within the City shall be allowed under the following conditions:

A. Stockpiles that exist prior to the adoption of this Ordinance. Such stockpiles may remain under the following conditions:

    1. No additional materials may be added to an existing Stockpile; and
    2. Stockpiles shall not be relocated, screened, and/or actively worked unless by the approval and issuance of a land disturbance permit, which may require the Applicant to provide a letter of credit in the amount as determined by the City.

B. Active Constriction Sites. Stockpiles within an active construction site may remain under the following conditions:

    1. Stockpiles shall be located within the defined project area and/or adjacent property as approved by the City Engineer and/or their designee; and
    2. Stockpiles shall be removed from the defined project area and/or approved adjacent property prior to final acceptance, final payment, and/or issuance of Certificate of Occupancy.
    3. Letter of Credits may not be released until Stockpiles are removed from the defined project area and/or adjacent property.

C. Industrial Districts: Stockpiles shall only be allowed within Industrial Zoning Districts (I-1 Light Industrial-Office District and I-2 General Industrial District) as identified on the Official Zoning Map Adopted by the City (10-3-2). Stockpiles may remain under the following conditions:

1. Stockpiles shall meet the building setback requirements for the specific zone in which the property is located within; and
2. Stockpile height shall not be greater than thirty (30) feet. The vertical distance shall be measured from the nearest street elevation to the highest point of the Stockpile.

D. Requirements: Stockpiles shall meet the following erosion and sediment control and stabilization requirements:

1. Stockpiles shall meet the current issuance of the Minnesota Pollution Control Agency's NPDES/SDS Construction Stormwater General Permit MNR100001 (CSW Permit); and
2. Stockpiles shall have the proper perimeter control as approved by the City Engineer and/or their designee; and
3. Stockpile's vegetation shall be maintained as though to prevent tree and shrubbery growth as defined within the current issuance of the Minnesota Pollution Control Agency's NPDES/SDS Construction Permit.

E. Exemptions: The following shall be exempt from the enforcement of this Ordinance:
1. City compost site.
2. Public works facilities.

F. Administrative Regulations:

1. Administration: The Community Development Director and/or their designee shall administer and enforce this Ordinance.
2. Appeals: The Planning Commission shall hear and decide appeals where it is alleged there is an error in any order, requirements, decision, or determination made by the Community Development Director and/or their designee in the enforcement or administration of this Ordinance. The procedure for appeals shall follow the procedures as denoted in 10-16-1 of the Sartell Zoning Ordinance.
3. Variances: The Planning Commission and City Council shall hear and decide request for variance from the literal provisions of this Ordinance, in instances where strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration. The procedure for variances shall follow the procedures as denoted in 10-16-4 of the Sartell Zoning Ordinance.

10-21-11: **ENFORCEMENT:**

A. Compliance required. The applicant shall implement and comply with the land disturbance permit prior to and during any construction of land disturbing activity under the land-disturbing permit. All stabilization measures shall be implemented and maintained until all grading, excavation and construction work has ended.
B. Stop-Work Order: Revocation of Permit and Suspension of Construction In the event that any person holding a land disturbance permit pursuant to this Code violates the terms of the permit and in found non-compliant with the permit or implements site development construction practices in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public

welfare or injurious to property or improvements in the neighborhood, the City of Sartell may suspend construction and revoke the site development permit . The City shall serve upon the property manager, or other responsible persons written notice of the violation of the approved Land Disturbance Permit.

C. Violation and Penalties. No person shall construct, enlarge, alter, repair or maintain any grading, excavation, or fill or cause the same to be done, contrary to or in violation of any terms of this Code. Any person violating any of the provisions of this ordinance shall be deemed quality of a misdemeanor and each day during which any violation of any of the provisions of his ordinance is committed, continued, or permitted, shall constitute a separate offence. Upon conviction of any such violation, a fine to be determined by the City of Sartell for each offense shall punish such person, partnership, or corporation. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this Code shall be required to bear the expense of such restoration.

CHAPTER 22

ILLICIT DISCHARGE AND CONNECTION ORDINANCE

SECTION:

10-22-1: Purpose and Intent
10-22-2: Definitions
10-22-3: Applicability
10-22-4: Responsibility for Administration
10-22-5: Severability
10-22-6: Ultimate Responsibility
10-22-7: Discharge Prohibitions
10-22-8: Suspension of MS4 Access
10-22-9: Industrial or Construction Activity Discharges
10-22-10: Salt Storage Requirements
10-22-11: Monitoring of Discharges
10-22-12: Requirement to Prevent, Control, and Reduce Storm Water Pollutants by the use of Best Management Practices
10-22-13: Watercourse Protection
10-22-14: Notification of Spills
10-22-15: Enforcement
10-22-16: Injunctive Relief
10-22-17: Compensatory Action
10-22-18: Violations Deemed A Public Nuisance
10-22-19: Criminal Prosecution
10-22-20: Remedies Not Exclusive

10-22-1: **PURPOSE AND INTENT:** The purpose of this ordinance is provide for the health, safety, and general welfare of the citizens of Sartell through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

A. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user.
B. To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system.
C. To establish legal authority to carry out all inspection, surveillance, enforcement, and monitoring procedures necessary to ensure compliance with this ordinance.

10-22-2: **DEFINITIONS:**

ACCIDENTAL DISCHARGE:	Means a discharge prohibited by this ordinance and without planning or thought prior to occurrence.
AUTHORIZED ENFORCEMENT AGENCY:	Employees or designees of the City of Sartell designated to enforce this ordinance.

BEST MANAGEMENT PRACTICES (BMP):	Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
CLEAN WATER ACT:	The Federal Water Pollution Control Act (33 U.S. C. § 1251 et seq.), and any subsequent amendments thereto.
CONSTRUCTION ACTIVITY:	Activities subject to the NDPES Construction Permits. Currently these include construction projects resulting in land disturbance of 1 acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
HAZARDOUS MATERIALS:	Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
ILLICIT DISCHARGE:	Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 7 of this ordinance.
ILLICIT CONNECTIONS:	An illicit connection is defined as either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge including sewage, process wastewater, and wash water to enter the storm drain system, including any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or, Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
INDUSTRIAL ACTIVITY:	Activities subject to NDPES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

MS4:	Municipal Separate Storm Sewer System (MS4) is a stormwater conveyance or unified stormwater conveyance system (including without limitation: roads with drainage systems, municipal streets, catch basins, stormwater detention facilities, curbs, gutters, ditches, natural or man-made channels, or storm drains), that: is located within the corporate limits of Sartell, Mn, is owned or operated by the State, County, the City, or other public body, or discharges to waters of the State and/or United States, excluding publicly owned treatment works, and lawful connections thereto, which in turn discharge into the Water of the State and/or United States.
NPDES PERMIT:	The National Pollution Discharge Elimination System Permit is any permit or requirement enforced pursuant to the clean water act as amended for the purposes of regulating storm water discharge.
NON-STORM WATER DISCHARGE:	Any discharge to the storm drain system that is not composed entirely of storm water.
PERSON:	Means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.
POLLUTANT:	Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatable, pesticides, herbicides; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.
POLLUTION:	Man-made or man-induced alteration of the chemical, physical, biological, thermal, and/or radiological integrity of water.
PREMISES:	Any buildings, lot, parcel of land or portion or land whether improved or unimproved including adjacent sidewalks and parking strips.
STORM DRAINAGE SYSTEM:	Publicly owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs,

	inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.
STORM WATER:	Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.
SWPPP:	Stormwater Pollution Prevention Plan is a document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges and/or Receiving Waters to the Maximum Extent Practicable.
WASTEWATER:	Any water or other liquid, other than uncontaminated storm water, discharged from a facility.
WATERCOURSES:	Any natural or engineered wetland, raingarden, river, lake, ditch.
WATERS OF THE STATE OR US:	All water bodies regulated by the State and/or United States including streams, lakes, ponds, wetlands, marshes, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations or water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state of Minnesota or any portion thereof, or which may be susceptible to use in interstate or foreign commerce.

10-22-3: **APPLICABILITY:** This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

10-22-4: **RESPONSIBILITY FOR ADMINISTRATION:** The City of Sartell shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Director of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

10-22-5: **SEVERABILITY**: The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance.

10-22-6: **ULTIMATE RESPONSIBILITY:** The standards set forth herein and promulgated pursuant to this ordinance are minimum standards: Therefore this ordinance does not intend nor imply that

compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

10-22-7: **DISCHARGE PROHIBITIONS:** Prohibition of Illicit Discharges. No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. The commencement, conduct or continuance of any illicit discharge to the storm drain system is prohibited except as described as follows:

A. The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if chlorinated – typically less than one PPM chlorine), firefighting activities, and any other water source not containing Pollutants.
B. Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
C. Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
D. The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

Prohibition of Illicit Connections.

A. The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited.
B. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
C. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4 or allows such a connection to continue.

10-22-8: **SUSPENSION OF MS4 ACCESS:**

A. Suspension due to Illicit Discharges in Emergency Situations: The City of Sartell may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the State and/or United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the State and/or United States, or to minimize danger to persons.
B. Suspension due to the Detection of Illicit Discharge: Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the authorized enforcement agency.

10-22-9: **INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES:** Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City of Sartell prior to the allowing of discharges to the MS4.

10-22-10: **SALT STORAGE REQUIREMENTS:** The permittee's regulatory mechanism(s) must require proper salt storage at commercial, industrial, and non-NPDES permitted industrial facilities. At a minimum, best-Management practices (BMPs) must require the following:

A. Designated salt and deicer storage areas must be covered or indoors to prevent such materials from being affected by rain, snow, and melt water;
B. Designated salt, sand, and other deicer material storage areas must be located on an impervious surface; and
C. Implementation of practices to reduce exposure when transferring material in designated salt and deicer storage areas (sweeping, diversions, and/or containment).

10-22-11: **MONITORING OF DISCHARGES:**

A. Applicability: This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.
B. Access to Facilities:

    1. The City of Sartell shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
    2. Facility operators shall allow the City of Sartell ready access to all parts of the premises for the purposes of inspection, sampling, examination, and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.
    3. The City of Sartell shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water discharge.
    4. The City of Sartell has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
    5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City of Sartell and shall not be replaced. The costs of clearing such access shall be borne by the operator.
    6. Unreasonable delays in allowing the City of Sartell access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable

access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.

7. If the City of Sartell has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

10-22-12: **REQUIREMENTS TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES:** The City of Sartell endorses the MPCA's requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the State and/or United States. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

10-22-13: **WATERCOURSE PROTECTION:** Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through or infiltrate within the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

10-22-14: **NOTIFICATION OF SPILLS**: Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into storm water, the storm drain system, or water of the State and/or United States said person shall take all necessary steps to ensure the discovery, person containment, and cleanup of such release. In the event of such a release of hazardous materials said shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Public Works Director, City of Sartell within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

10-22-15: **ENFORCEMENT:**

A. Notice of Violation: Whenever the City of Sartell finds a person has violated a prohibition or failed to meet a requirement of this Ordinance, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

1. Monitoring, analyses, and reporting,
2. Elimination of illicit connections or discharges.
3. Abatement of pollution and hazards.
4. Restoration of affected property.
5. Payment of fine to cover administrative and remediation costs.
6. Implementation of source control or treatment BMPs.
7. Other actions as deemed necessary by the City.

B. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

10-22-16: **INJUNCTIVE RELIEF**: It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Ordinance. If a person has violated or continues to violate the provisions of this ordinance, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

10-22-17: **COMPENSATORY ACTION:** In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

10-22-18: **VIOLATIONS DEEMED A PUBLIC NUISANCE**: In addition to the enforcement of processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

10-22-19: **CRIMINAL PROSECUTION:** Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law. The enforcement agency may recover all attorney's fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

10-22-20: **REMEDIES NOT EXCLUSIVE:** The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

CHAPTER 23

ENVIRONMENTALLY SENSITIVE AREAS ORDINANCE

10-23-1: Title
10-23-2: Definitions
10-23-3: Purpose
10-23-4: Designating Land as an Environmentally Sensitive Area
10-23-5: General Provisions
10-23-6: Environment and Development Process
10-23-7: Site Plan Process
10-23-8: Minimum Standards
10-23-9: Incentives
10-23-10: Administrative Regulations
10-23-11: Amendments to the Environmentally Sensitive Area Ordinance
10-23-12: Violations
10-23-13: Interpretation
10-23-14: Severability

10-23-1: **TITLE:** This Ordinance as amended from time to time shall be known as the "Environmentally Sensitive Areas Ordinance" of the City of Sartell, Minnesota, and shall be known, cited, and referred to herein as "this Ordinance."

This Ordinance as amended from time to time shall be known as the "Environmentally Sensitive Areas Ordinance" of the City of Sartell, Minnesota, and shall be known, cited and referred to herein as "this Ordinance."

10-23-2: **DEFINITIONS:**

Best Management Practices (BMP's): Standard, well-defined methods for managing lands in compliance with federal, state, and local regulations and/or recommendations regarding conservation of soil, water, plants, and animal habitats

Biodiversity: The variety of life forms that inhabit the earth. Biodiversity includes a) the number of different species of living things found in an area; b) the number of different ecosystems found in an area.

Buffers: Located within an impact zone. Buffers are areas of secondary protection established on a case-by-case basis for each environmentally sensitive area. The width of the buffer might, due to topography and species diversity, vary around the perimeter of each environmentally sensitive areas.

Clear Cutting: The substantial removal of trees or shrubs in a contiguous patch, strip, row, or block which is inconsistent with standard forest maintenance practices.

Cluster development: A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive areas.

Complex: Two or more environmentally sensitive areas adjacent to each other.

Concept Plan: A non-engineered plan for a property proposed for development. For properties containing

an Environmentally Sensitive Area, the Concept Plan is more than a Sketch Plat since it must include enough detail to analyze the proposed development and its relation to the environmentally sensitive areas located on the property.

Corridors: Are strips or blocks of land that form connections between two separated areas of similar habitat. These corridors allow plants and animals to disperse and travel from one "island" of suitable habitat to another.

Ditch: Open channel of water to conduct the flow of water as per Minnesota Statutes 103E.005.

Environmentally Sensitive Areas: An area that contains native vegetation, natural features and/or natural resources. These include surface water (rivers, lakes, streams and ditches); shoreland and floodplain areas, especially riparian and wildlife corridors; wetlands, sensitive groundwater (wellhead) projection areas and sensitive geological features; state or federally listed (endangered, threatened or special concern) plant and animal species and their habitat; natural plant communities, including forests, woodlands and prairies, particularly those of high species diversity and other unique and sensitive features. ESAs contain natural communities, i.e., naturally-occurring associations of plants and animals whose existence and extent are determined by factors such as soil composition, hydrology, climate, solar conditions and a site's unique history. ESAs are sensitive in that further fragmentation, disturbance and development will adversely affect and may destroy the natural processes operating within them, as well as the composition, structure and function of the natural communities they contain.

Equitable Economic Return: Return to landowner guaranteed by the takings clauses of the Minnesota and United States Constitutions.

Forests: Trees with their crowns overlapping (generally forming 60 - 100% cover)

Groundwater: The water beneath the land surface that fills the spaces in rock and sediment
Impact Zones -Zones assigned around the perimeter of environmentally sensitive areas. For purposes of this Ordinance impact zones shall extend the following distances outward from the ESA.

DNR Protected Waters, Riparian Corridors, Rock Outcrops and Native Prairies	100 Feet
Natural Heritage Sites, Most Important Natural Resource Sites, and all Wetlands	100 Feet
More Important or Important Natural Resource Sites	50 Feet

Native species/vegetation: A species that existed in an area prior to European settlement.

Native Prairie: A natural vegetative community primarily dominated by native grasses and herbaceous flowering plants with few or no trees, typically sustained by fire and/or grazing.

Natural community: A group of native plants and animals that interact with each other and their abiotic environment in ways not greatly altered by modern human activity or by introduced organisms. They are classified and described by considering vegetation, hydrology, landforms, soils, and natural disturbance regimes (such as wildfires, windstorms, normal flood cycles and normal infestation by native insects and microorganisms).

Natural Heritage Areas: Natural Heritage Areas, as designated in this Ordinance, are those environmentally sensitive areas that have been identified by the MN-DNR's Natural Heritage and Nongame Research Program and Minnesota County Biological Survey as having not only local, but state-wide significance. These areas are largely unaltered by modern human activity and have native vegetation distributed in

naturally occurring patterns. Natural Heritage Areas are the few remaining examples of native vegetative communities present prior to European settlement. As such, they are of unusually high quality, may contain rare or endangered species, and represent remnants of Sartell's history and heritage. Natural Heritage Areas are those areas of highest importance for protection.

Natural Resource Inventory: The systematic and scientific search and documentation of occurrences of natural resources and environmentally sensitive areas, which are then placed on one or more maps.

Natural Resource Areas: Natural Resource Areas, as designated in this ordinance, possess and/or protect important natural resources. These areas may contain rare species, important wildlife habitat and/or remnants of rare or uncommon natural communities. They may protect groundwater, rivers, lakes, streams and wetlands, or otherwise support natural resource functions. Natural Resource Areas are designated as most important, more important and important, based on the quality, rarity and interconnectedness of the resources.

> Most Important: Natural resource areas slightly disturbed by human activity; in a complex (adjacent to another environmentally sensitive area or areas); uncommon statewide; very rare or unique locally.
>
> More Important: Natural resource areas in a complex with moderate to severe human disturbance or not in a complex with only slight human disturbance. Although common statewide, many are experiencing widespread threats and are of poor quality while others are more secure.
>
> Important: Natural resource areas with moderate to severe human disturbances; not part of a complex.

Non-native Species: An organism (plant, animal, or fish species) introduced intentionally or accidentally from its native range into an area where the species did not previously exist.

Non-Woody upland vegetation/prairie: Refers to an area of land with low topographic relief that principally supports grasses and herbs, with few trees.

Open space: An area that is intended to provide light and air and is designed for environmental, scenic, or recreational purposes. Open space may include, but is not limited to, lawns, walkways, active and passive recreation areas, playgrounds, wooded areas and watercourses. Open space shall not be deemed to include driveways, parking lots, or other surfaces designed or intended for vehicular travel.

Overburden: The loose soil, silt, sand, gravel, or other unconsolidated material overlying bedrock, either transported or formed in place.

Rare species site: A documented historic location of a species that is listed on federal or state lists for endangered, threatened and or species of special concern.

Riparian corridors: The complex assemblages of organisms and their environment existing adjacent to and near flowing water. Such corridors have two essential characteristics: 1) laterally flowing water that rises and falls at least once within a growing season; 2) a high degree of connectedness with other ecosystems. As such, riparian corridors act as natural buffers between the flowing water and adjacent land uses, i.e. agriculture, urban areas, etc.

Rock outcrop: Bare exposure of bedrock without soil cover and regardless of plant association. These

outcrops may indicate presence of sensitive soils, sensitive hydrological features, sensitive geological features, and/or unique biotic communities.

Savannah: Natural plant communities with open woodlands in which large trees grow in park-like stands. The native vegetation is transitional between woodland and prairie. Oaks and native grasses are dominant.

Scientist: A person with a professional degree or training in one or more of the following areas: Natural History, Ecology, Geology, Hydrology, Wildlife Biology or Botany.
Sensitive geological features - Any geologic feature easily modified or destroyed by human activity. Examples include glacially polished bedrock, open fractures, and residual clays. Sensitive geological features are areas included within designated Natural Heritage and Natural Resource Areas, and/or the Stearns County Geologic Atlas.

Sensitive hydrological areas: A surface or groundwater feature where minor human disturbances will change water movement, water level or water quality. Sensitive hydrological features are areas included within designated Natural Heritage and Natural Resource Areas, and/or the Stearns County Geologic Atlas.

Sensitive soils: Soils that have a low capacity to maintain or recover specific soil functions after relatively minor disturbances. Examples of disturbances may include low levels of wind and/or water erosion, soil reworking or topsoil removal and compaction from equipment, human or livestock traffic. Examples of soil function may include vegetation maintenance or establishment (including crop rotation) and nutrient, pathogen and chemical treatment. A list of sensitive soils would include those that have a disproportionately higher loss of function than those other soils with the same degree of disturbance. Examples of sensitive soils might include thin soils underlain by shallow bedrock or hydric soils

Sketch Plat: A sketch preparatory to the concept plan and preliminary plat to enable the subdivider to save time and expense.

Steep slopes: Slopes that are unstable enough so that downslope movement is likely. An unstable condition can occur because of a combination of steepness, material, hydrologic conditions, and human disturbance. Where specific information from County soil surveys is not available steep slopes are lands having slopes over 12% as measured over horizontal distances of 50 feet. “Bluffs” have slopes over 18%.

Subdivision: Any land, vacant or improved, which is divided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots, tracts, or of contractual interest for the purpose of offer, sale, lease, or development whether immediate or future, either on the installment plan or upon any and all other plans, terms, and conditions. Subdivision includes the division or development of residential and nonresidential-zoned land, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat or other recorded instruments. Subdivision includes re-subdivision.

Sustainable Development: The development of land for various uses taking into consideration current ecosystem health and the implementation of best management practices and measures to enhance, protect, preserve and conserve existing fish and wildlife habitat and other habitat areas that are important for specific natural processes and functions. Best management practices may include but not be limited to rain gardens, wetland avoidance, minimizing wetland impacts, the implementation of narrower streets, utilizing pervious surfaces, installation of green roofs, etc.

Sustainability: Sustainability is a function of how natural and social resources are used over time to maintain a specific level of ecosystem health for future generations.

Watershed: entire physical area or basin drained by a distinct stream or riverine system, physically separated from other watersheds by ridgetop boundaries

Wildlife corridor (Eco-system connections) : Areas of shelterbelts, windbreaks, forests, woodlands, prairies or other natural areas that are interconnected and that provide habitat or specific ecosystem types for fish and wildlife species in urban, rural or other natural areas. Wildlife corridors in urban areas can be important for cover, food, brooding/breeding and general fish and wildlife habitat and movements. Such corridors can also be discrete linear or contiguous vegetated areas along rivers, river wetlands, and tributary streams (riparian corridors) and fence lines (hedge rows) or broad connected patches of vegetated land.

Wetlands: Wetlands means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this subpart, wetlands must:

1. Have a predominance of hydric soils.
2. Be inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation (i.e., plants that tolerate seasonal or permanent saturated soil conditions) typically adapted for life in saturated soil conditions.
3. Under normal circumstances, support a prevalence of hydrophytic vegetation.

Woodlands: Open stands of trees with crowns not usually touching (generally forming 25 - 60% cover).

10-23-3: **PURPOSE:** The intent of this Ordinance is to: Provide an opportunity for implementation of BMPs and equitable economic return in consideration of protection and preservation of Environmentally Sensitive Areas (ESAs) through a Development Agreement.

A. Goals for the Process Guiding Future Development: This Ordinance requires that all future development occurring in areas identified as environmentally sensitive be guided by a concern to protect, conserve and enhance those resources. To accomplish this goal, this Ordinance creates a process to aid, support and promote development that achieves these environmental goals. This process will:

    1. Identify and prioritize environmentally sensitive areas.
    2. Aid developers in the creation of their development plans.
    3. Aid City staff, the Planning Commission and City Council in their assessment of development plans in environmentally sensitive areas.
    4. Provide flexibility in the planning process when needed to balance environmental and economic goals.

B. Rationale for Protecting Environmentally Sensitive Areas: The City of Sartell has a right and responsibility to conserve, protect and enhance ESAs for the present and future health, safety, and general welfare of the population. The continued strength and well-being of our community and the health of our natural environment are interdependent. Sustainable development maintains the natural environment and enhances economic opportunity by contributing to Sartell's:

    1. Health (e.g. wetlands that function to filter and purify water).
    2. Safety (e.g. wetlands and riparian corridors contribute to flood control).
    3. Historical Preservation (e.g. examples of the pre-settlement environment).
    4. Wildlife Habitat and Natural Communities (e.g. indigenous plant or animal species).
    5. Recreation (e.g. walking, birding, skiing).

6. Aesthetics and Quality of Life (e.g. beauty, solitude, and quiet amidst the noise of modern life).
7. Education (e.g. children have local access to learn about their natural surroundings and history).

10-23-4: **DESIGNATING LAND AS AN ENVIRONMENTALLY SENSITIVE AREA (ESA):**

A. Designation Criteria: Environmentally Sensitive Areas (ESAs) shall be areas within the City of Sartell that have one or more of the following characteristics (See Natural Resource Priority Matrix): Surface waters: Areas designated by the State of Minnesota as a public water, including rivers, lakes, streams, shorelands; or a public drainage ditch.

1. Floodplains: Areas designated as floodplain under the Sartell Floodplain Ordinance.
2. Sensitive groundwater area: Land within the designated wellhead protection area for the City of Sartell; or designated as sensitive to groundwater.
3. Stormwater management: Areas with stormwater management structures; or areas designated for stormwater management by the Sartell Stormwater Management Plan
4. Wetlands: Protected wetlands as defined by the Minnesota Wetland Conservation Act.
5. Sensitive Geological Features: Areas with rock outcrops identified by the Sartell Natural Resources Inventory. Areas with significant potential for soil erosion, including highly-erodible soils.
6. Forests and wooded areas: Forested or wooded areas designated by the Sartell Natural Resources Inventory.
7. System connections: Wildlife and riparian corridors, which create ecological connections.
8. Habitat: Areas designated by the Sartell Natural Resources Inventory as containing habitat of state or federal listed endangered or threatened species, or species of special concern; or areas identified in the Stearns County Biological Survey.
9. Non-woody upland vegetation/prairie: Non-woody upland areas identified by the Sartell Natural Resources Inventory as containing native vegetation.

B. Prioritization of ESAs: All ESAs meeting the designation criteria in subsection A. of this Section are important to the City of Sartell. In balancing land use planning goals, however, some ESAs are more important than other ESAs. A Natural Resources Priority Map, based on the characteristics below, may be adopted by resolution of the Sartell City Council. The priority of importance among ESAs shall be determined based on the presence of one or more of the following characteristics:

1. Degree of disturbance: Quality of the area as determined by the degree of human disturbance to the ecosystem. ESAs with less disturbance will receive a higher importance rating.
2. Rarity: Local and/or state rarity. ESAs that are relatively rare will receive a higher importance rating.
3. Biodiversity: Biodiversity of native species. ESAs with a greater percentage of native species will receive a higher importance rating.
4. Interconnectedness: Corridors and complexes that form interconnected and contiguous areas and which allow for movement of species from one Environmentally Sensitive Area to another. Interconnected ESAs will receive a higher importance rating.
5. Size: Each type of Environmentally Sensitive Area has its own size requirements that contribute to continued viability for that natural community. ESAs will be prioritized based on a minimum viability size. ESAs that are smaller than the size needed to be viable will receive a lower importance rating.
6. Ecological sensitivity: The ability of the natural community to tolerate development and/or recover from human disturbance. ESAs, or buffers around ESAs, will be rated based on

tolerance for adjacent development, the lower the tolerance for adjacent development, the higher the rating.

C. Process for Designating ESAs: ESAs meeting the designation criteria in subsection A., and prioritized based on the characteristics in subsection B. shall be identified through one of the following processes:

1. Designation: Determination of the location of ESAs will be made by the Planning Office and Engineering Department using the maps as denoted in Sections 10-22-4-C. ESAs as denoted on the maps in Sections10-22-4-C and their impact zones shall be the only areas regulated by this Ordinance.

    a. Sartell Natural Resource Inventory.
    b. Sartell Natural Resource Importance Map.
    c. Stearns and Benton County Biological Survey.
    d. Sartell Floodplain Map.
    e. Sartell Wellhead Protection Area Map.
    f. Soils Survey of Stearns County.
    g. Sartell Zoning Map.

2. Additional Information may be Used in Review: The City may use other pertinent reference maps, reports and documents, etc. in their review of a property that contains an ESA such as the following:

    a. Aerial photos of the Sartell area.
    b. SCSU Earth Science Dept. work on Sensitive Geological and Hydrological areas.
    c. USGS topographic maps.
    d. Field notes of scientists who conducted the Sartell Natural Areas Inventory and Planning Framework.
    e. The USDA Soil Survey.
    f. The Minnesota Geological Survey Geologic Atlas.
    g. The U.S. Fish and Wildlife Service's National Wetlands Inventory.

    The use of other resources is only for reference and does not create new ESAs. The process for amending the designation of land as an ESA is described in subsection 4., immediately below.

3. Amendment of ESAs: An amendment to the designation criteria, prioritization criteria, or preliminary mapping for ESAs may occur through the amendment process described in Section 10-23-9 of this Ordinance.

10-23-5: **GENERAL PROVISIONS:** The following provisions are designated to encourage land and development planning which help insure that the function and value of sensitive areas are protected.

A. Regulated Activities: The following activities are subject to this Ordinance unless exempted under subsection B. of this Section.

1. Subdivision of land: The following land alterations within the boundaries of ESA and its impact zone:

a. Clear cutting.
b. Removal of native vegetation.
c. Fills and excavations.
d. Grading.
e. Modification of drainage patterns; or
f. Other activity having a negative impact on the viability, function or survival of the environmentally sensitive areas.

2. New roads, bridges, road expansion projects and/or public or private utilities above or below ground.

B. Exemptions: The following land areas and activities are exempt from the regulations of this Ordinance:

1. Otherwise regulated: That portion of property regulated by any of the following ordinances and statutes:

a. Sartell Flood Plain Management Ordinance.
b. Sartell Wetland Ordinance.
c. Minnesota Wetland Conservation Act.
d. Section 404 of the Clean Water Act, not including contiguous impact zones.
e. At the request of the owner/developer of property mentioned above in this subsection, the ESA portion of said property may be included in the site planning process.
f. NPDES Phase II Construction Site Permit Requirements.
g. Sartell Erosion and Sediment Control Ordinance.
h. Illicit Discharge and Connection Ordinance.

2. Prior approvals:

a. Property that has received preliminary or final plat approval prior to the effective date of this Ordinance.
b. Building projects for which a valid building permit exists that was issued prior to the effective date of this Ordinance.
c. Public street, bridge, trail and utility construction projects that have been approved for construction prior to the effective date of this Ordinance.

3. Public projects: Public right-of-way dedication and improvement projects that are subject to the National Environmental Policy Act (NEPA) of 1969 and/or the Minnesota Environmental Review Program (MERP) and comply with the Comprehensive Plan.
4. Maintenance:

a. Customary dredging and channel maintenance of existing drainage facilities. This includes vegetative maintenance for access and stormwater/flood control purposes within and adjacent to drainageways.
b. Activities associated with the repair, maintenance, or replacement of pipeline and utility lines within existing utility rights-of-way.
c. Activities associated with the repair, maintenance or replacement of public highways, roads, trails and bridges within existing street rights-of-way.

d. Activities associated with the routine maintenance of existing public road, utility and pipeline rights-of-way (this exemption is for the maintenance, but not the expansion, of rights-of-way in which roads and utilities are located).

5. Emergency: Temporary emergency procedures necessary for the safety or protection of property and people.
6. Utility poles: Single utility poles required providing service to the local area.
7. Agriculture: Ongoing customary agricultural operations.
8. Unplatted property: Unplatted property that is two acres or less in size, in its entirety, that is occupied by a single family residential dwelling unit prior to the effective date of this ordinance.

C. Hierarchy of Protection and Development Guidelines. In developing and/or reviewing plans for a property that has an Environmentally Sensitive Area, City staff, or approved governmental body shall take into account the following hierarchy of protection and development guidelines.

1. Hierarchy of Protection: The hierarchy of protection areas in subsections a through c below are listed in descending order from the highest to the lowest level of protection.

a. The preservation of rare species, riparian and wildlife corridors and complexes of the Environmentally Sensitive Areas will receive priority treatment in each category.
b. Natural Heritage Areas and Rare Species. The goal is that any development and alterations take place outside these areas.
c. Natural Resource Areas. In general, higher priority areas should receive more protection than lower priority areas in the site planning process

1. Most Important: The goal is to protect these areas and avoid any deterioration.
2. More Important: The goal is to conserve the quality of these areas while allowing minor encroachment or disturbance.
3. Important: The goal is that design, placement and construction techniques used in these areas will enhance the general function and value of the natural resource area.

2. Development Guidelines: The following guidelines are based on the hierarchy of protection in subsection 1., above, and shall be used in the site planning process to determine permitted site design and development activities:

a. Maximize the protection of the function and value of Environmentally Sensitive Areas.
b. Provide an opportunity for equitable economic return for the development.
c. Maintain viable riparian and wildlife corridors, rare species, and connections between Environmentally Sensitive Areas.
d. Keep undeveloped Environmentally Sensitive Areas large enough to maximize sustainability and minimize fragmentation.
e. Maintain a buffer adequate to the health and viability of the Environmentally Sensitive Area.
f. Minimize adverse construction impacts on the Environmentally Sensitive Areas.

10-23-6: **MINNIMUM STANDARDS:**

A. Setbacks from public water ways shall comply with MN DNR Rules.

10-23-7: **INCENTIVES:** To provide for an opportunity for equitable economic return in consideration of protection and preservation of Environmentally Sensitive Areas covered by this Ordinance, incentives

may be offered including, but not limited to (but subject to applicable local, state, and federal laws) the following:

A. Deviations from subdivision and zoning regulations, such as allowing narrower public right-of-way, reduced sidewalk requirements reduced street widths, reduced setback requirements,
B. Acceptance of donation of ESAs in lieu of park dedication
C. Preservation of an ESA through conservation easement or Natural Resource Management Plan in lieu of park dedication,
D. Assessment on storm drain to exclude the square footage that is in the protected area,
E. Allowance for wetlands. If incentives are given for a wetland on property that has other ESAs, development should occur outside said other ESAs.
F. Allowance of increased density and smaller lot size, .
G. Clustering of development outside the ESA
H. Variance from lot coverage regulations and Sartell's wetland regulations (consistent with existing laws and protective of the ecological function of the wetland),
I. Waiver of application fees,
J. Land swaps.
K. Land acquisitions of ESAs.
L. Low Impact Development (See Minnesota Stormwater Manual)
M. In commercial and industrial districts, additional incentives include, but are not limited to, the following:

    1. Reduction of the required area for paved parking.
    2. Waiver of standard height restrictions.
    3. Variance from standard setback requirements.
    4. Variance from landscaping requirements.
    5. Use of unpaved, dust free parking surfaces.

N. Incentives that increase impact pressures on other ESAs should be avoided.
O. Environmental Planned Unit Development
P. Perpetual Conservation Easement
Q. Locally-Enacted Preservation Overlay Zone
R. Transfer of Development Rights (TDR) and Purchase of Development Rights (PDR)

10-23-8: **ADMINISTRATIVE REGULATIONS:**

A. Administration: The Planning Director shall administer and enforce this Ordinance.
B. Permit Requirements: A building permit shall not be issued or any alterations to the property allowed unless it is in conformity with this Ordinance.
C. Appeals: The City Council shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Planning Director in the enforcement or administration of this Ordinance. The procedure for appeals shall follow the procedures as denoted in 10-16-1 of the Sartell Zoning Ordinance.
D. Variances: The City Council shall hear and decide request for variance from the literal provisions of this Ordinance in instances where strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration. The procedure for variances shall follow the procedures as denoted in 10-16-4 of the Sartell Zoning Ordinance.

10-23-9: **AMENDMENTS TO THE ENVIRONMENTALLY SENSITIVE AREA ORDINANCE:** Subject to the procedure as prescribed in the Zoning Ordinance, Title 10, Section 15, Amendments and

Rezonings, the Council may on its own motion, or at the request of the Planning Commission or on the petition or appeal of the affected property owner(s):

A. Remove land that has been designated on the maps if it is found that an error was made in that said property fails to meet the criteria as outlined in 10-22-4 of this Ordinance.
B. Add land to the maps if it is found that said land meets the criteria as outlined in 10-22-4 of this Ordinance to be classified as an environmentally sensitive area.
C. Change any of the regulations or requirements of this Ordinance by amendment to this Ordinance.
D. For purposes of a petition to change this Ordinance, map, etc., the word "owner" shall be deemed to include any person having a freehold interest or a contractual interest, which may become a freehold interest.

10-23-10: **VIOLATIONS:** Upon a determination that probable cause exists to indicate a violation of any of the provisions of this Ordinance has been committed or shall exist, the owner or lessee of the building or premises, or the owner or lessee of any part of the building or premises constituting the violation shall be served by certified mail, return receipt requested, with the appropriate written order to remove the violation, and if necessary, to restore the site to its status prior to the existence of the violation. If the violation continues to exist ten (10) days from receipt of such written order, the owner or lessee shall be guilty of a misdemeanor. After conviction for a violation becomes final, the continued violation of such provision shall constitute a separate offense for each day such violation shall continue to exist.

10-23-11: **INTERPRETATION:** In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of public safety, health, convenience, comfort, prosperity and general welfare. It is not the intent of this Ordinance to interfere with or abrogate or annul any easement, covenant, or other agreement between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of building or premises, the provisions of this Ordinance shall govern.

10-23-12: **SEVERABILITY:** Should any section, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

TITLE 11

SUBDIVISION REGULATIONS

Subject	Chapter
Purpose and Definitions	1
General Provisions	2
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CHAPTER 1

PURPOSE, INTERPRETATION AND DEFINITIONS

SECTION:

11-1-1: Short title
11-1-2: Purpose
11-1-3: Interpretation
11-1-4: Definitions

11-1-1: **SHORT TITLE:** This Title shall be known and may be cited as the “Subdivision Ordinance”, “this Title” and/or “this Ordinance”.

11-1-2: **PURPOSE:** Each new subdivision becomes a permanent and integral part of the physical structure of the Municipality, the design and the development of plats subdividing property establishes a pattern for the future development of the entire community and adherence to this pattern by future developers becomes mandatory. Planning in a piecemeal manner, without proper consideration being given to the overall development of a municipality would lead to a chaotic patchwork of community development, making future improvements difficult, if not impossible and certainly very costly. The lack of regulations and mismanagement of subdivision control would have a disastrous effect upon the distribution of population and would actually create areas contrasting so greatly in their environment as to provide for future so-called blighted areas from the start. To provide for the orderly and equitable development of the Municipality, all subdivisions hereafter, shall in all respects, fully comply with the regulations set forth herein, which shall be interpreted to:

A. Provide for and guide the orderly, economic, and safe development of land, urban services and facilities.
B. Encourage well-planned, efficient, and attractive subdivisions by establishing standards for design and construction of public improvements.
C. Provide for the health, safety, and welfare of residents by requiring the necessary services such as properly designed streets and adequate storm and sanitary sewer, water, electric, telephony and natural gas utility services.
D. Place the cost of improvements against those benefiting from their construction.
E. Secure the rights of the public with respect to public lands and waters.
F. Set the minimum requirements necessary to protect the public health, safety, comfort, convenience, and general welfare.
G. To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, trails, and other public facilities.

11-1-3: **INTERPRETATION:** The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

A. The singular includes the plural, and the plural the singular.
B. The present tense includes the past and the future tenses, and the future the present.
C. The word “shall” is mandatory while the word “may” is permissive.
D. All measured distances shall be expressed in feet and decimals of feet.

11-1-4: **DEFINITIONS:** For purposes of this Title, the following terms shall have the meaning given in this Section:

ACCESSORY USE OR ACCESSORY STRUCTURE:	A use or structure in the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
ALLEY:	A public right of way which affords a secondary means of access to abutting property.
APPLICANT:	The owner, their agent, or other person having legal control, ownership and/or interest in the land proposed to be subdivided.

AREA PLANNING ORGANIZATION:	The St. Cloud Area Planning Organization.
ARTERIAL STREET:	See “Street, Arterial”.
BASE FLOOD ELEVATION (BFE):	The elevation of surface water resulting from a flood that has a one (1) percent chance of equaling or exceeding that level in any given year.
BEST MANAGEMENT PRACTICES (BMP’S):	Best management practices as described in the current Minnesota Pollution Control Agency’s manual and other sources as approved by the City and County.
BIKEWAY:	A public right-of-way or easement across a block or within a block to provide access for bicyclists and in which a path or trail may be installed.
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 natural waterway.
BOULEVARD:	The portion of the street right-of-way between the curb line and the property line.
BUILDING:	Any structure built for the support, shelter or enclosure of persons, animals, chattel or movable property of any kind, and includes any structure.
BUILDING SETBACK LINE:	A line parallel to the street right-of-way line, and ordinary high water level, if applicable, at its closest point to any story level of a building and representing the minimum distance which all or part of the building is set back from said right-of-way line, or ordinary high water level.
CALIPER:	The diameter of replacement or new trees measured at a height of eighteen (18) inches above the ground level.
CERTIFICATE OF SURVEY:	A document prepared by a Registered Engineer or Registered Land Surveyor which precisely describes area, dimensions and location of a parcel or parcels of land.
CITY:	The City of Sartell.
CITY ENGINEER OR CONSULTING ENGINEER:	A professional engineer as designated by the governing body.
CLUSTER DEVELOPMENT:	The development pattern and technique whereby structures are arranged in closely related groups to make the most efficient use of the natural amenities of the land, while providing a unified network of open space and aesthetically pleasing areas and meeting the overall density regulations of this Ordinance and the Zoning Ordinance.
COLLECTOR STREET:	See “Street, Collector”.
COMMON INTEREST COMMUNITY:	A contiguous or noncontiguous real estate within Minnesota that is subject to an instrument which obligates persons owning a separately described parcel of the real estate, or occupying a part of the real estate pursuant to a proprietary lease, by reason of their ownership or occupancy, to pay for (i) real estate taxes levied against; (ii) insurance premiums payable with respect to; (iii) maintenance of; or (iv) construction, maintenance, repair or replacement of improvements located on one or more parcels or parts of the real estate other than the parcel or part that the person owns or occupies (MSA 515B.1-103).

COMPREHENSIVE PLAN:	A comprehensive plan prepared and approved by the City, including a compilation of policy statements, goals, standards, fiscal guidelines, and maps indicating the general locations recommended for the various functional classes of land use, places and structures, and for the general physical development of the City, including any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.
CONDITIONAL APPROVAL:	An affirmative action by the City indicating that approval will be forthcoming upon satisfaction of certain specified stipulations.
CONTOUR MAP:	A topographic map showing the irregularities in elevation of land surface through the use of lines connecting points of equal elevation. Contour interval is the vertical heights difference represented between the connecting lines on a contour map.
COPY:	A print or reproduction made from a tracing.
CONVEYANCE:	The sale, trading, donation, or offer of sale or other transfer of property.
COUNTY:	Stearns/Benton County, Minnesota.
COVENANTS:	Protective covenants are contracts made between private parties and constitute an agreement between these parties as to the manner in which land may be used, with a view to protecting and reserving the physical, social and economic integrity of any given area. This Ordinance shall not interfere with private restrictions placed upon property by deed, covenant or other private agreement, or with restrictive covenants running with the land to which the City is a party. The Owner shall enforce covenants; the City shall assume no responsibility for the enforcement thereof. Any restrictive covenant shall not conflict or invalidate city ordinances;
CROSSWALK OR PEDESTRIAN WAY:	A publicly owned right-of-way which crosses a block and furnishes pedestrian access to adjacent streets or properties.
CUL-DE-SAC:	A short minor street having one open end and being permanently terminated at the other end by a vehicular turnaround.
DESIGN STANDARD:	The specifications to landowners or those proposing to subdivide land for the preparation of plats, both preliminary and final indicating among other items the optimum, minimums and maximums in the dimensions, magnitude and capacity in such features as the layout of streets, lots, blocks, drainage and required improvements.
DEVELOPER:	Any individual, firm, association, syndicate, co-partnership, corporation, trust or other legal entity submitting an application for the purpose of land subdivision as defined herein. The developer may be the owner or authorized agent of the owner of the land to be subdivided.
DEVELOPMENT:	Acts relating to subdividing land, platting land, building structures and installing site improvements.
DOUBLE FRONTAGE LOTS:	Lots having a front line abutting on street and a back line abutting another street.
DRAINAGE COURSE:	A watercourse or surface area for the drainage or conveyance of surface water.

EASEMENT:	A grant by a property owner for the use of a strip of land by the public or any person for any specific purpose or purposes.
EQUAL DEGREE OF ENROACHMENT:	Method of determining the location of floodway boundaries so that the Flood plain lands on each side of a stream are capable of conveying a proportionate share of flood flows.
ENGINEER:	The registered engineer employed or retained by the City, unless otherwise stated.
ESCROW:	The deposition of funds in an account maintained by the City for the purpose of ensuring fulfillment of certain obligations pursuant to this Ordinance.
FEMA:	The U. S. Federal Emergency Management Agency.
FINAL APPROVAL:	Approval of the final plat by the City Council, as indicated by certification of the plat by the (acting) mayor of the city, constitutes authorization to record a plat.
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.
FLOOD:	A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in inundation of normally dry areas.
FLOOD FREQUENCY:	The average frequency, statistically determined, for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
FLOOD FRINGE:	That portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term “floodway fringe” used in the Flood Insurance Studies adopted in Title 12 Flood Control ordinance in section 12-1-5A.
FLOOD HAZARD AREAS:	The areas included in the floodway and flood fringe as indicated on the official zoning map and the Flood Insurance Study and Flood Insurance Rate Map which have been officially adopted by the City.
FLOOD INSURANCE RATE	The most recent Flood Insurance Rate Map prepared by FEMA for the City and as applicable and allowed by law, the Flood Insurance Rate Map prepared by FEMA for the County of Stearns/Benton, as may be amended.
FLOOD INSURANCE STUDY:	The most recent Flood Insurance Study prepared for the City by FEMA and, as applicable and allowed by law, the Flood Insurance Study prepared by FEMA for the County of Stearns/Benton, as may be amended.
FLOODPLAIN:	The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by a regional flood.
FLOODPROOFING:	A combination of structural provisions, changes or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damages to properties, water, storm and sanitary facilities, structures and contents of buildings in a flood hazard area in accordance with the Minnesota State Building Code.
FLOODWAY:	The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain, which are reasonably required to carry or store the regional flood.

FREEBOARD: An additional amount of height above a certain level used as a factor of safety in determining the level at which a structure should be elevated.

FRONTAGE: The width of a lot from property corner to property corner which abuts a public street or way.

GOVERNING BODY: A group of persons elected by voters of the Municipality to govern the public affairs thereof.

GRADE: See: Percentage of Grade

GROUND WATER ELEVATION: Documented historical elevations as determined by a qualified professional which determines the water level beneath the earth's surface, often between saturated soil and rock that supplies wells and springs.

HALF-STREET: See Street, Half.

HIGH WATER LEVEL: The water level in a watercourse which could be predicted to occur as a result of the critical 100-year runoff event using United States Department of Agriculture Soil Conservation Service methodology, as approved by the city.

HORIZONTAL CURVE: A curve by means of which a road can change direction to the right or left.

HYDRIC SOIL: For the purposes of this Ordinance, hydric soils shall include:

A. Hydric soils as shown on the Stearns/Benton County Geographic Information System (GIS); or

B. Land inside the 100 year floodplain area, as determined by the County, using two (2) foot contour surveys of relevant areas; or

C. A field delineation of the hydric soils by a Registered Soil Scientist following the criteria found in the United States Army Corps of Engineers Wetland Delineation Manual (1987 Manual) or the Natural Resource Conservation Service publication Field Indicators of Hydric Soils in the United States.

IMPROVEMENTS: Pavement, curbs, gutters, sidewalks, sewer and water facilities, drainage facilities, street signs, street lighting, plantings, berms, and other items for the welfare of property owners and/or the general public.

KEY MAP: A small-scale map that definitively shows the area proposed to be platted in relation to known geographical features (e. g. regional feature, community centers, lakes, and streets).

LAND DISTURBANCE: Any area in which movement of earth, alteration in topography, soil compaction, disruption of vegetation, change in soil chemistry, or any other change in the natural character of the land occurs as a result of the site preparation, grading, building construction or other construction activity.

LOCAL STREET: See "Street, Local".

LOT: A portion of the subdivision intended for building development or for transfer of ownership.

LOT, CORNER: A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding one hundred thirty-five (135) degrees.

LOT, DEPTH:	The horizontal distance between the street right-of-way line and the opposite rear line of a lot measured in the general direction of the side lot lines.
LOT IMPROVEMENT:	Any building, structure, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property.
LOT LINE:	The property line bounding a lot, except that where any portion of a lot extends into the public right-of-way or a proposed public right-of-way wherein the lot line shall be the public right of way line.
LOT LINE, FRONT:	That boundary of a lot which abuts an existing or dedicated public street; and, in the case of a corner lot, the front lot line shall be the lot with the shortest dimension on a public right-of-way.
LOT LINE, REAR:	That boundary of a lot which is opposite the front lot line. If the rear lot line is less than ten feet in length or if the lot forms a point in the rear, the rear lot line shall be a line ten feet in length within the lot, parallel to the front lot line.
LOT LINE, SIDE:	Any boundary of a lot that is not a front lot line or a rear lot line.
LOT OF RECORD:	A parcel of land, whether subdivided or otherwise legally described, as of the effective date of this Ordinance, or approved by the City Council as a lot subsequent to such date, and which is occupied by or intended for occupancy by one (1) principal use, together with any accessory buildings or such open spaces as required by this Ordinance and having its principal frontage on a street, or a proposed street approved by the council.
LOT, WIDTH:	The horizontal distance between the side lots lines of a lot measured at the building setback line, location of the principal building and, if applicable, ordinary high water level. For corner lots, lot width shall be determined by measuring the horizontal distance between a side lot line and the applicable opposite front lot line.
MARGINAL ACCESS STREET:	Minor streets parallel to and adjacent to arterial streets and highways to provide access to abutting properties and protection to through traffic.
METES AND BOUNDS:	A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineating a fractional portion of a section, lot or area by described lines or portions thereof.
METROPOLITAN TRANSIT COMMISSION:	The St. Cloud Metropolitan Transit Commission.
MINOR STREET:	A street that provides for direct access to abutting property and for local traffic movement, distinguished by its being completely local in character.
MINOR SUBDIVISION:	The division of a single parcel, lot, or tract, into two separate parcels, lots, or tracts.
MUNICIPALITY:	The governmental unit or area described in and governed by the provisions of this Title.
NATURAL WATERWAY:	A natural passageway in the surface of the earth so situated and having such a topographical nature that surface water flows through it from other areas before reaching a final ponding area. The term also includes all drainage structures placed in lieu of natural waterway in order to facilitate the continuity of the natural

waterway.

NORMAL WATER LEVEL: A level of water in a watercourse when the watercourse is not in the process of receiving or discharging storm water runoff. The normal water level will typically be the outlet elevation of a pond, lake or other standing water body.

OBSTRUCTION: Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, wire, fence, stockpile, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse or regulatory flood hazard area which may impede, retard or change the direction of the flow of water, either by itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.

OFFICIAL MAP: The map adopted by the City Council showing the streets, highways, blocks and lots theretofore laid out and adopted by the City Council resulting from the approval of subdivision plats and the subsequent filing of such approved plats.

ORDINARY HIGH WATER LEVEL: The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which as 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 flowage, the ordinary high water level is the operating elevation of the normal summer pool.

OUTLOT: A parcel of land shown on a subdivision plat as an outlot, and designated alphanumerically, (for example – Outlot A). Outlots are used to designate one of the following: land that is to be used for a specific purpose as designated in a developer's agreement or other agreement between the City and the developer; or land that is to be used for a public purpose and for which no building permit shall be issued.

OWNER: An individual, association, syndicate, partnership, corporation, trust or any other legal entity holding an equitable or legal ownership interest in the land sought to be subdivided.

PARCEL: An individual lot or tract of land.

PARKS, PLAYGROUNDS: Public land and open space in the City dedicated or reserved for recreational purposes.

PEDESTRIAN WAY: A public right-of-way or easement across a block or within a block to provide access for pedestrians and which may be used for the installation of paths or trails.

PERCENTAGE OF GRADE: The slope of a road, street, or other public way, specified in percentage terms. The rise or fall of a street in feet and tenths of a foot for each one hundred (100) feet of horizontal distance measured at the centerline of the street.

PERSON: Any individual or legal entity.

PLANNED UNIT DEVELOPMENT: A tract of land planned and developed to encourage a more creative and efficient development of land, while at the same time meeting the standards and purposes of the Comprehensive Plan for preserving the health, safety and welfare of Sartell, to allow for a mixture of residential units or residential and commercial units in an integrated and well-planned area and to ensure the concentration of open space into more usable areas and preservation

	of natural resources of the site including wetlands, steep slopes, vegetation, and scenic areas.
PLANNING COMMISSION:	The Planning Commission of the City of Sartell.
PLAT:	The drawing or map of a subdivision prepared for filing of record pursuant to Minnesota Statutes chapter 505 and containing all elements and requirements set forth in applicable local regulations adopted pursuant to Minnesota Statutes section 462.358 and chapter 505.
PRELIMINARY APPROVAL:	Official action taken by the City on an application to create a subdivision which establishes the rights and obligations set forth in Minnesota Statutes section 462.358 and the applicable subdivision regulation. In accordance with Minnesota Statutes section 462.358, and unless otherwise specified in the applicable subdivision regulation, preliminary approval may be granted only following the review and approval of a preliminary plat of other map or drawing establishing without limitation the number; layout and location of lots, tracts, blocks and parcels to be created, location of streets, roads, utilities and facilities, park and drainage facilities and lands to be dedicated for public use.
PRELIMINARY PLAT:	A detailed drawing or map of a proposed subdivision meeting the requirements herein enumerated submitted to the Planning Commission and governing bodies for their consideration, in compliance with the Comprehensive Plan, along with the required supporting data.
PROTECTIVE COVENANTS:	Contracts entered into between all owners and holders of mortgage constituting a restriction on the use of property within a subdivision for the benefit of the property owners. The City shall not be responsible for enforcing protective covenants.
PUBLIC IMPROVEMENT:	Any drainage ditch, roadway, parkway, street, sanitary sewer, storm sewer, water system, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement or other facility for which the City may ultimately assume ownership, responsibility for maintenance and operation, or which may affect an improvement, for which local government responsibility is or may be established.
PUBLICATION:	An official notice as prescribed by Minnesota Statutes.
QUADRAMINIUMS:	Single structures which contain four (4) subdivided dwelling units, all of which have individually separate entrances from the exterior of the structure.
REACH:	A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or manmade obstruction. In an urban area, the segment of a stream or river between two (2) consecutive bridge crossings would be typical of a reach.
REGIONAL FLOOD:	Regional flood is synonymous with the term "base flood elevation."
REGULATORY FLOOD PROTECTION ELEVATION:	An elevation no lower than one (1) foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.
RESERVE STRIPS:	A narrow strip of land between lot lines and streets to control access.
RIGHT OF WAY:	The land dedicated for public use as a street or way or private use such as a power line or railroad.
ROADWAY:	The portion of street right-of-way improved for vehicular travel.

SETBACK:	The distance between a building and the property line nearest thereto.
SINGLE FAMILY ATTACHED DWELLING:	A one-unit structure which has one or more walls extending from ground to roof separating it from adjoining structures. In townhomes or twin homes each house is a separate, attached structure if the dividing or common wall goes from the ground to the roof.
SINGLE FAMILY DETACHED DWELLING:	A one-unit structure designed, constructed for and occupied by not more than one (1) family and which is not attached to any other dwelling by any means, that is with open space on all four sides, such structures are considered detached even if they have an adjoining shed or garage.
SKETCH/CONCEPT PLAN:	A sketch drawing or map which depicts a proposed subdivision by showing proposed lots, streets, uses, relationship to surrounding area, generalized natural features, easements, and any requested zoning change and other information required by this ordinance for review by the City. This plan shall be drawn to scale and dimensioned; however, exact accuracy is not a requirement.
STREET:	A way for vehicular traffic, whether designated as streets, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, drive, court or similar names.
STREET, ARTERIAL PRINCIPAL:	The functional classification of streets that places the highest emphasis on mobility as opposed to land access. Although various sections of roadway may vary in functional classification and characteristics, principal arterials generally carry large volumes of traffic. Principal arterials in general have highly managed intersection spacing and control criteria, do not provide direct land access and do not allow for on–street parking. Principal arterial streets in the City of Sartell are identified in the Comprehensive.
STREET, ARTERIAL-MINOR:	The functional classification of streets that places high emphasis on mobility as opposed to land access. Although various sections of roadway may vary in functional classification and characteristics, minor arterials generally carry a moderate volume of traffic. Minor arterials in general have managed intersection spacing and control criteria, highly restrict direct land access and highly restrict on–street parking. Minor arterial streets in the City of Sartell are identified in the Comprehensive Plan.
STREET, COLLECTOR:	The functional classification of streets that places moderate emphasis on mobility and moderate emphasis on land access, may be major or minor collector. Although various sections of roadway may vary in functional classification and characteristics, collectors generally carry a modest volume of traffic. Collector streets in general have managed intersection spacing, may employ traffic control measures, may somewhat restrict direct land access and may somewhat restrict on–street parking. Collector streets in the City of Sartell are identified in the Comprehensive Plan.
STREET, CUL-DE-SAC:	A local street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.
STREET, DEAD END:	A street, or a portion thereof, with only one vehicular traffic outlet.
STREET, HALF:	A street having only one-half of its intended roadway width developed to accommodate traffic.
STREET, LOCAL:	The functional classification of streets that places low emphasis on mobility and high emphasis on land access. Although various sections of roadway may vary

	in functional classification and characteristics, local streets generally carry a small volume of traffic. Local streets in general have limited on-street parking restrictions, permit driveway access and restrict large truck traffic.
STREET, MARGINAL ACCESS (Frontage Road):	Those local streets which are parallel and adjacent to high volume arterial streets and highways; and which provide access to abutting properties and protection from through traffic.
STREET WIDTH:	The width of the improved surface of the street as measured at right angles or radially to the centerline of the street from curb face to curb face, or on a street without curbs from the outside edge of the improved shoulder to outside edge of improved shoulder.
STRUCTURE:	Anything erected with a fixed location on the ground or attached to something having a fixed location on the ground or in the ground in the case of earth sheltered buildings. Among other things, structures include buildings, factories, sheds, detached garages, cabins, manufactured homes, walls, fences, billboards, poster panels and other similar items.
SUBDIVIDING:	The creation of a subdivision, lot, parcel, or tract of land by dividing a lot, parcel, or tract into two or more parcels, or resulting from court order, or the adjustment of a lot line by the relocation of a common boundary.
SUBDIVISION:	A described tract of land which is to be or has been divided into two or more lots, outlots, or parcels for the purpose of transfer of ownership, or building development, or if a new street is involved, any division of land. The term includes re-subdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.
SURVEYOR:	A land surveyor registered under Minnesota State Statutes.
TANGENT:	A straight line (roadway) that touches a curve at a point on the curve.
TOWNHOUSES:	Structure housing three (3) or more dwelling units contiguous to each other only by the sharing of one (1) common wall, such structures to be of the town or row house type as contrasted to multiple apartment structures. Each unit shall have a separate ingress/egress.
TRACT:	A defined area of land, similar to a lot or parcel, that is occupied or will be occupied by a building and its accessory buildings, together with such open spaces as are required under the provisions of the current City zoning regulations, having not less than the minimum area required by said zoning regulations for a building site in the district in which such lot is situated and having its principal frontage on a street.
TRAIL:	A linear component of the community's park system.
TWO-FAMILY DWELLING:	A dwelling designed exclusively for occupancy by two (2) families living independently of each other.
UTILITIES:	Public or Private systems for the distribution or collection of water; gas; sewer (wastewater); storm water; electricity including all transformers, streetlights, telephone; and cable television service, etc.
VARIANCE:	A relaxation of the terms of this Ordinance where such deviation will not be contrary to the spirit and intent of the Comprehensive Plan and this Ordinance, the public interest and where owning to physical conditions unique to the

	individual property and not the result of the actions of the applicant, a literal enforcement of the Ordinance would result in practical difficulties.
VERTICAL CURVE:	The surface curvature on a street centerline located between lines of different percentage of grades.
VICINITY MAP:	A small map drawn to a comparatively small scale which definitely shows the area proposed to be platted and the vicinity surrounding it.
WATERCOURSE:	Any natural or man-made passageway on the surface of the earth so situated and having a topographical nature that surface water stands or flows through it from other areas. The term includes ponding areas, drainage channels, sales, waterways, creeks, rivers, lakes, streams, wetland areas, and any other open surface water flow which is the result of storm water or ground water discharge. This term does not include man-made piping systems commonly referred to as storm sewers.
ZONING:	The reservation of certain specified areas within the Municipality for buildings and structures for certain purposes with other limitations such as height and lot coverage. (See Title 10 of this Code.)
ZONING DISTRICT:	An area as described by the official zoning ordinance of the City of Sartell.
ZONING ORDINANCE:	The Ordinance or resolution controlling the use of land as adopted by the City.

CHAPTER 2

GENERAL PROVISIONS

SECTION:

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11-2-1: **APPLICATION/AUTHORITY:**

A. Except as hereinafter provided, no land shall be subdivided, rearranged, developed or improved in any way which is not in conformity with the regulations and terms herein specified. The rules and regulations governing plats and subdivision of land contained herein shall apply within the boundaries of the City of Sartell. Every division of land for the purpose of lease or sale into two or more lots, parcels or tracts within the incorporated area of the City of Sartell or any combination of two or more lots shall proceed in compliance with this ordinance. It is the purpose of this Title to make certain regulations and requirements for the platting of land within the City pursuant to the authority contained in Minnesota Statutes chapters 412, 429, 471, and 505, which regulations the City Council deems necessary for the health, safety, general welfare, convenience, and good order of this community.
B. The City of Sartell has adopted a comprehensive plan for the future physical development and improvement of the City and finds it necessary to regulate the division of land for future development and use. The City finds that the public health, safety and general welfare require that the division of land into two or more parcels requires regulation to assure adequate space, light and air; to provide proper ingress and egress to property; to facilitate adequate provision for water, waste disposal, fire protection, open space, schools, public uses and adequate streets and highways; and to assure uniform monumenting, legal description and conveyance of subdivided land. The Minnesota Statutes authorize municipalities to regulate the subdivision and platting of land pursuant to MSA 412.221 Subdivision 32; and 462.358.
C. In addition to the authority otherwise provided under this Title, the City Council is empowered to exercise its full statutory authority under Minnesota Statues 462.358, Subdivisions 1a and 2a to establish standards, requirements and procedures for the review and approval of subdivisions. The authority possessed by the City Council under this Title specifically includes the authority to condition subdivision approval on compliance with other requirements reasonably related to the provisions of this Title and the authority to execute development agreements embodying the terms and conditions of such approval. For purposes of this Title, these powers specifically include the power to impose conditions upon subdivision approval necessary for the subdivision to comply with resolutions previously adopted and remaining effect in whole or in part at the time of adoption of this Title.

11-2-2: **ADMINISTRATION:** This Title shall be administered and enforced by the governing body and/or its assigns of the Municipality and all final decisions pertaining to the proposed subdivision or development of any tract of land shall be made by the governing body and/or its assigns.

11-2-3: **JURISDICTION:** The regulations herein governing plats in the subdivision of land shall apply within the corporate limits of the Municipality and the governing body shall exercise the right to review all proposed plats within two (2) miles outside the City limits if the adjacent unincorporated area has not adopted subdivision regulations. Any additional extension of these subdivision regulations outside the abovementioned review area shall require the creation of a joint City-Council-Township Board as set forth in Minnesota Statutes section 462.3585.

11-2-4: **COUNTY AND STATE RULES:** It is not the intent of this Title to replace or conflict with existing County or State laws, rules or regulations. This Title is designed and intended to provide additional protection to the public. Specifically, this Title is intended to be in compliance with Minnesota Statutes chapters 462.358 and 505.

11-2-5: **PROTECTION OF NATURAL FEATURES:** The governing body reserves the right to deny approval of a plat if due regard is not shown for the preservation of all natural features such as large trees, watercourses, scenic points, historical spots and similar community assets which, if preserved, will add attractiveness, stability and value to the property.

11-2-6: **LAND SUITABILITY FOR SUBDIVISION:** The City Council, following consultation with the Planning Commission, must find each lot created through subdivision suitable for land subdivision in its normal state for the proposed use with minimal alteration. Suitability analysis by the City shall consider flooding, existence of wetlands, inadequate drainage, steep slopes, rock formations or other features with severe limitations for development, severe erosion potential, steep topography, important fish and wildlife habitat, near-shore aquatic conditions unsuitable for water-based recreation, presence of significant historic sites or any other feature of the natural land likely to be harmful to the safety, welfare or general health of future residents, or land which could not be adequately served by utilities or other public facilities or public access; such land shall not be subdivided unless adequate methods are provided for overcoming such conditions; or the land is platted as outlots.

11-2-7: **FLOOD PRONE LANDS:**

A. Warning and Disclaimer of Liability for Flooding: This Ordinance does not imply that areas outside flood plain areas or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Sartell or any officer or employee thereof for any flood damages that result from reliance on this Ordinance, or any administrative decisions lawfully made hereunder. No responsibility or liability shall arise from the design or operation of subdivision drainage facilities dedicated to the City of Sartell until the City has accepted such dedication.
B. Subdivision Flooding and Flood Control:

    1. Regulatory Flood:

        a. No land shall be subdivided if the City Council finds the land unsuitable for subdividing due to flooding and/or inadequate drainage in accordance with the Ordinance and the Zoning Ordinance. Any buildings on lots within the flood plain district shall be at least one foot above the regulatory flood protection elevation in accordance with this Ordinance and the Zoning Ordinance. All subdivisions shall have road access both to the subdivision and to the individual building sites no lower than one (1) foot above the regulatory flood protection elevation. Each of the above requirements shall take into consideration the 100-year flood profile and other supporting material data in the Flood Insurance Study and the Flood Insurance Rate Map.

C. Public Utilities: All public utilities and facilities such as gas, electrical, telephone, sewer, and water supply systems to be located in the flood plain shall be elevated or flood proofed in accordance with the Minnesota State Building Code to an elevation no lower than the regulatory flood protection elevation, in accordance with state and federal agency regulations and the City's Floodplain Ordinance, as applicable.
D. Public Transportation Facilities: Railroad tracks, roads, and bridges to be located within the Floodway District shall comply with this Ordinance and the Zoning Ordinance. Elevation to the regulatory flood protection elevation shall be provided where failure and interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning

of the area. Minor or auxiliary railroad tracks, roads, or bridges may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety and as long as such construction is in accordance with the rules and regulations of the Minnesota Department of Natural Resources or other state agencies; the Federal Emergency Management Agency or other federal agencies; and/or the City Floodplain Ordinance.

11-2-8: **DEDICATIONS FOR PUBLIC USE:** Where deemed essential by the City, upon consideration of the type of development and especially in large scale unit developments not anticipated in a master plan, the City may discuss a dedication or reservation of such other sites or area of a character, extent, or location suitable to the needs created by such developments for parks and other neighborhood purposes.

11-2-9: **PRESENT ORDINANCES PROTECTED:** The provisions of this Title are in addition to and not in replacement of the provisions of the Building Code and Title 10 of this Code. Any provisions of the Building Code, Fire Code or Title 10 relating to platting shall remain in full force and effect except as they may be less restrictive or contradictory to the provisions hereof, in which case this Title shall prevail.

11-2-10: **EXCEPTIONS:** The provisions of this ordinance shall not apply to:

A. A cemetery or burial plot while used for that purpose.
B. Any division of land made by testamentary provision, the laws of descent, or upon court order.
C. A parcel which was the subject of a written agreement to convey (such as a purchase agreement), entered into prior to the effective date of this Ordinance.
D. Land which the City finds to be unsuitable for land subdivision due to flooding, inadequate drainage, steep slopes, rock formations or other features likely to be harmful to the safety and general health of future residents, or land which could not be adequately served by utilities or other public facilities or public access; such land shall not be subdivided unless adequate methods are provided for overcoming such conditions; or the land is platted as outlots;
E. Divisions of land where the division is to permit the adding of a parcel of land to an abutting lot or to create two (2) lots and the newly created property line will not cause the land or any structure to be in violation of this Ordinance or the Zoning Ordinance, provided Minor Subdivision Platting Requirements of Section 11-3-2 are followed.

11-2-11: **APPROVALS NECESSARY FOR ACCEPTANCE AND RECORDING OF SUBDIVISION PLATS:** Before any plat or subdivision of land shall be recorded or be of any validity, it shall be referred to the Planning Commission and approved by the City Council of Sartell as having fulfilled the requirements of this Ordinance. No plat or subdivision shall be entitled to be recorded in the Stearns/Benton County Recorder's Office or have any validity until the plat thereof has been prepared, approved, and acknowledged in the manner prescribed by this Ordinance.

11-2-12: **BUILDING PERMITS:** No building permits shall be issued by the City of Sartell, or the City's designee, 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. The City may allow the installation of foundations after the aggregate base course is applied to streets. The City may allow the placement of structural members following the installation of the first lift of bituminous surfacing providing fire hydrants are charged and street signs have been placed. Except otherwise provided by this Section all electric and gas distribution lines or piping, roadways, curbs, walks and other similar improvements shall be constructed only on a street, alley or other public way or easement which is designated on an approved plat, or properly indicated on the Official Map of the City, or which has otherwise been approved by the City Council. Upon adoption of an official map, no permit for the erection of any building shall be issued unless the building is to be located upon a parcel of land abutting on a street or highway which has been designated upon an approved plat or on the Official Map or which has been otherwise approved by the City Council and unless the buildings conform to the established building line. This limitation on issuing permits shall not apply to planned developments approved by the City Council pursuant to Title 10 of this Code. No permit shall be issued for the construction of a building on any lot or parcel conveyed in violation of the provisions of this Section.

11-2-13: **SEVERABILITY:** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason found to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. This Ordinance is not intended to repeal, annul, or in any way impair or interfere with existing

provisions of other laws, ordinances or with restrictive covenants running with the land except those specifically repealed by or in conflict with this Ordinance. Where this Ordinance imposes a greater restriction upon land than is imposed or required by such existing provisions of the law, ordinance, code, statute, resolution or regulation, the regulations which are more restrictive or impose higher standards or requirements shall prevail.

11-2-14: **ESTABLISHED MONUMENTS:** All federal, state, county and other official monuments, bench marks, triangulation points, and stations shall be preserved in their precise location; and it shall be the responsibility of the Developer to insure that these markers are maintained in good condition during construction and development. All section, quarter section, and sixteenth section covers shall be duly described and tied.

11-2-15: **COMMON INTEREST COMMUNITIES:**

A. Approval: A Common Interest Community shall be evaluated and considered for approval in the same manner as a standard plat and shall be subject to the site coverage standards contained within the City of Sartell Zoning Ordinance.
B. Requirements: Common Interest Communities shall be subject to all use, residential density, setback and height requirements of the applicable zoning district and any other applicable standard contained in the City of Sartell Zoning Ordinance.
C. Conversions of CIC's: The conversion of existing common interest communities, resorts, manufactured home parks or other similar types of developments from privately owned structures on leased or rented land, or the division of several commonly owned structures on a single parcel of land to individually owned parcels containing separate structures, shall be by a standard plat pursuant to the requirements of this Ordinance and the applicable requirements of Minnesota Statutes, Chapter 515A and Chapter 515B, or successor statutes, and shall be further subject to the following:

    1. Sewage Treatment: When considering approval of conversions, the City shall consider the development as a whole, relative to the provision for sewer and on-site sewage treatment systems, and shall require connection to the municipal system where they are available. In areas where municipal services are not available, design plans shall be presented and approved for a community wastewater treatment system as an integral element of the Common Interest Community approval. A timeline to implement the approved wastewater treatment plan and/or eliminate all identified failing sewage treatment systems shall be established by a subdivision or development agreement.
    2. Conformity: The developer shall make every effort to minimize the degree of nonconformity with existing lot and area requirements and setback requirements. Lot lines shall be arranged to provide the largest possible setbacks between structures that will become the principal structures on the newly created lots. Accessory buildings shall be moved or removed when and where possible to create the lowest, most uniform density possible.
    3. Density: The conversion shall not result in an increase in residential density unless the residential density requirements of the applicable zoning district are met.

D. Unified and Efficient Use of Space. To the extent possible, the common open space, individual properties and other elements of the common interest community shall be so planned that they will achieve a unified scheme of planning and efficient distribution of uses.
E. Special Conditions for Shoreland Areas.

    1. Inconsistencies between existing features of development and those required by this Title and Title 10 (Zoning Ordinance) shall be identified: However, existing dwelling unit or dwelling site densities that exceed standards of Title 10 (Zoning Ordinance) may be allowed to continue but must not be allowed to be increased either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems or by other means.
    2. Deficiencies involving structures, setbacks, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion.
    3. Shore and bluff impact zone deficiencies must be evaluated, and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:

a. Removal of extraneous buildings, docks or other facilities that no longer need to be located in shore or bluff impact zones.
b. Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water.
c. If existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

11-2-16: **RESTRICTIONS ON FILING AND RECORDING CONVEYANCES:** No conveyance of land to which these regulations apply shall be filed or recorded with the County Recorder's Office if the land is described by metes and bounds, by reference to an unapproved registered land survey made after April 21, 1961, or to an unapproved plat made after the regulations became effective. The foregoing provision does not apply to a conveyance if the land described:

A. Is a separate parcel of record on the date of adoption of City subdivision regulations under Minnesota Statutes.
B. Was a separate parcel of not less than five (5) acres in area and having a width of not less than three hundred thirty (330) feet on July 1, 1980, or
C. Was a separate parcel of not less than two and one-half acres in area and 150 feet in width on January 1, 1955, or
D. Was the subject of a written agreement to convey entered into prior to the adoption of subdivision regulations, or
E. Is a single parcel of commercial or industrial land of not less than five acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five acres in area or 300 feet in width, or
F. Is a single parcel of residential or agricultural land of not less than 20 acres and having a width of not less than 500 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than 20 acres in area or 500 feet in width.
G. Building permits shall be withheld for buildings on tracts which have been subdivided and conveyed by the metes and bounds method, except as set out in elsewhere in Section 11-2-10 above.
H. The City may refuse to take over tracts as streets or roads or to improve, repair or maintain any such tracts. Past City repair or maintenance of any such tracts does not obligate the City to continue the same in the future.
I. In any case where compliance with the foregoing restrictions will create an unnecessary hardship and failure to comply does not interfere with the purposes of the subdivision regulations, the City Council may waive such compliance under the provisions of this Ordinance and the conveyance may then be filed or recorded.
J. Any owner or agent of the owner of land who conveys a lot or parcel in violation of the provisions of this Title shall forfeit and pay to the City a penalty of not less than $100 for each lot or parcel so conveyed.
K. The City may enjoin such conveyance or may recover such penalty by a civil action in any court of competent jurisdiction.

11-2-17: **EFFECT OF SUBDIVISION APPROVAL:** For one year following preliminary approval and for two (2) years following final approval, unless the subdivider and the City agree otherwise, no amendment to a comprehensive plan or official control shall apply to or affect the use, development density, lot size, lot layout or dedication or platting required or permitted by the approved application. Thereafter, pursuant to its regulations, the City may extend the period by agreement with the subdivider subject to all applicable performance conditions and requirements, or it may require submission of a new application unless substantial physical activity and investment has occurred in reasonable reliance on the approved application and the subdivider will suffer substantial financial damage as a consequence of a requirement to submit a new application. In connection with a subdivision involving planned staged development, the City may by resolution or agreement grant the rights referred to herein for such periods of time longer than two (2) years which it determines to be reasonable and appropriate.

11-2-18: **PLANNED UNIT DEVELOPMENTS:** Required conformance with the regulations established within this Title shall not be interpreted as limiting the City Council's authority to allow flexibility as part of a planned unit development approved in accordance with the provisions of the City of Sartell Zoning Ordinance.

CHAPTER 3

PLATTING PROCEDURE

SECTION:

11-3-1: Applicability
11-3-2: Preliminary Information Available
11-3-3: Minor/Administrative Subdivisions/Consolidations
11-3-4: Required Procedure
11-3-5: Concept Plan/Pre-Application Meeting
11-3-6: Concept Plan Data Requirements
11-3-7: Build Out Plan Requirement
11-3-8: Preliminary Plat Process
11-3-9: Preliminary Plat Data Requirements
11-3-10: Final Plat Process
11-3-11: Final Plat Data Requirements

11-3-1: **APPLICIAPLITY:** The platting procedures in this chapter apply to subdivisions of land, as well as development and redevelopment of parcels within the City with metes and bounds legal descriptions.

11-3-2: **PRELIMINARY INFORMATION AVAILABLE:** Prior to the preparation of a preliminary plat, the developer is invited to obtain available information as to the general feasibility of the plan which is to be proposed. Such an owner or developer may receive a copy of the Subdivision Ordinance and is urged to discuss the provisions of this Title with Municipal officials before submitting his/her plan.

11-3-3: **MINOR/ADMINISTRATIVE SUBDIVISIONS/CONSOLIDATIONS:**

A. Applicability/Purpose: This section is established to provide for administrative approval of subdivisions that meet specified criteria and for the waiver of standard platting requirements specified elsewhere in this Title. It is intended largely to facilitate the further division of previously platted lots, the combination of previously platted lots into fewer lots, or for the adjustment of a lot line by relocation of a common boundary.
B. Application: Any person having a legal or equitable interest in a property may file an application for administrative subdivision. An application for minor subdivision shall be filed with the Community Development Director or his/her designee, on an approved form, and shall be accompanied by an assessment search, proof of ownership of the subject property, the submittal of required fee(s) and the submittal of a current certificate of survey, prepared and signed by a Minnesota registered land surveyor, depicting the following:

1. Scale, one (1) inch equals fifty (50) feet or less and North point.
2. Existing zoning district, existing site improvements and existing boundaries with lot dimension and area.
3. All encroachments.
4. Easements of record.
5. Legal description of property.
6. Ponds, lakes, springs, rivers, wetlands, floodplains, or other waterways bordering on or running through the subject property.
7. The boundary(ies) and legal description(s) of the lots as they are proposed to be subdivided along with proposed zoning.
8. The boundary and legal description of any proposed easements on the property. A drainage and utility easement at least six (6) feet in width for interior lots, twelve (12) feet in width for corner lots must be provided along all property lines. A drainage and utility easement may also be required over wetland, ponds, lakes and drainage channels and tributaries. Dedication of roadway easements consistent with city, county and regional plans may also be required.
9. Additional information determined necessary by the Planning and Community Development Department to ensure compliance with city requirements**.**

C. Review of Administrative Subdivision: The Community Development Director shall review all applications for administrative subdivision to determine compliance with the standards identified in this Title and all other pertinent requirements of this Title. Upon written approval of the request, the developer shall be responsible for filing the subdivision survey with the County Recorder's office. Should the request be denied, the Planning and Community Development Director shall notify the developer, in writing, of the reasons for such denial.

D. Findings Required for Approval. In order for the Planning and Community Development Director to grant approval for a proposed administrative subdivision, each of the provisions shown below must be met:

1. The proposed subdivision of land will not result in more than two (2) lots.
2. All necessary utility and drainage requirements are fulfilled, and easements are provided for.
3. All lots to be created by the subdivision conform to lot area and width requirements.
4. City of Sartell Zoning Ordinance including all requirements established for the zoning district in which the property is located.
5. The proposed administrative subdivision is in compliance with the Comprehensive Plan.
6. Lots created have direct access onto a public street.
7. The property has not been divided through the provisions of this section within the previous five (5) years.
8. The subdivision meets all design and dedication standards as specified elsewhere in this Title.
9. All basic improvements required by this Title are installed in accordance with City standards.
10. No parcel of land or portion thereof shall result in buildings and/or uses becoming non-conforming.

E. The City may impose such conditions on any proposed administrative subdivision that are deemed reasonable and necessary to protect the public interest and to ensure compliance with the provisions of this ordinance including, but not limited to, the following:

1. The developer shall provide required utility and drainage easements for all newly created lots and be responsible for the cost of filing and recording written easements with the County Recorder's Office.
2. The developer shall pay parkland dedication fees for each lot created beyond the original number of lots existing prior to subdivision, except when such fees have been applied to the property as part of a previous subdivision.
3. That there will be no more than one (1) principal structure on a base lot in all residential districts. The principal structure on the unit lots created in a two-family, townhouse or quadraminium subdivision will be the portion of the attached dwelling existing or constructed on the platted unit lots.
4. In the case of the subdivision of base lots containing two-family, townhouse or quadraminium lots, wherein the purpose is to permit individual private ownership of a single dwelling within such a structure, a property maintenance and party wall agreement be provided by the applicant and submitted to the City Attorney for review and comment, ensuring the maintenance and upkeep of the structure and the lots to meet minimum City standards with the agreement filed as a deed restriction against the title of each unit lot.
5. Separate public sewer and water services shall be provided to each subdivided unit and shall be subject to the review and approval of the City Engineer.
6. In the case of the subdivision of base lots containing two-family, townhouse or quadraminium lots, wherein the purpose is to permit individual private ownership of a single dwelling within such a structure, verification of fire walls in compliance with the building code provided by a certified building inspector at the expense of the applicant.

F. All other Minor Subdivision requests shall be approved by resolution of the City Council following consultation with the Planning Commission.

G. Recording: If the minor subdivision is approved by the Planning Department, the applicant shall record the Certificate of Survey with the Benton/Stearns County Recorder's office within sixty (60) days after the date of approval, otherwise the approval of the administrative subdivision shall be considered void. The applicant shall provide a copy of the recorded Certificate of Compliance to the City within thirty (30) days of the recording date.

11-3-4: **REQUIRED PROCEDURE SUBDIVISION OF PROPERTY:** To facilitate the handling of plats and to establish a definite procedure for the consideration of the problems involved in preparing and recording a plat, the following procedure is approved by the governing body and includes a concept plan, build out plan,

preliminary plat and final plat as defined below.

11-3-5: **CONCEPT PLAN – PRE-APPLICATION MEETING:**

A. Pre-application/concept plan meeting: Prior to the preparation of a preliminary plat, the applicant shall meet with the Community Development Department in order to be made aware of all applicable ordinances, regulations and plans in the area to be subdivided or the parcel to be developed or redeveloped. Review of the concept plan further provides City staff the opportunity to determine whether the proposed subdivision or parcel is premature, based on criteria established in section 11-7-1-D of this Title. At the time of the initial meeting or at subsequent meetings, the applicant shall submit one (1) electronic copy of a concept plan of the proposed subdivision to include future phases and an estimated timetable for development.
B. Submission of a concept plan shall not constitute formal filing of a plat with the City: The Community Development Director or his/her designee shall arrange a pre-application meeting with the developer, the City Engineer, Public Works Staff and other departments are deemed necessary in order to provide the developer with input on the proposed concept plan. The Community Development Director or his/her designee and/or the Developer may refer the concept plan to the Planning Commission for informal review and informal comment. Such referral shall not constitute formal filing of a plan with the City, but rather shall allow for a non-binding review of the proposal to ensure compliance with design standards and to identify possible modifications necessary to secure approval. Any advice, comments or recommendations for modification made by the Planning Commission are advisory only and shall not constitute approval or a commitment to approve.
C. As far as may be practical on the basis of a concept plan, the City will informally advise the developer as promptly as possible of the extent to which the proposed subdivision or parcel development or redevelopment conforms to the design standards of this Ordinance and will discuss possible plan modifications necessary to secure conformance.

11-3-6: **CONCEPT PLAN CONTENTS:** The concept plan shall contain, at a minimum, the following information:

A. Plat boundary.
B. North arrow and scale of plan (engineering scale only – one inch equals 100 feet).
C. Street names and the layout on and adjacent to the proposed plat.
D. Designation of land use, current and proposed zoning and current land cover (cultivated areas, paved areas and the like), all buildings and structures on the land and all encumbrances, such as easements or covenants.
E. Significant topographical or physical features.
F. General lot locations and layout.
G. Proposed playgrounds and parks.
H. Potential ponding sites.
I. Soil type locations and identification of soil type characteristic such as hydric soils and depth to bedrock as determined by the Natural Resource Conservation Service (NRCS).
J. Preliminary evaluation by the applicant that the subdivision is not classified as premature based upon criteria established in Title 11-7-1-D of this Ordinance.
K. Additional written data shall include approximate number of lots, typical lot width and depth, and what zoning changes would be required.
L. All information shall be submitted in electronic format.

11-3-7: **PLATTING REQUIREMENTS**:

A. Prior to development or redevelopment of any parcel within the City, all properties with meets and bounds legal descriptions must follow the City's concept plan and preliminary and final platting procedures.

11-3-8: **PRELIMINARY PLAT PROCESS:**

A. Purpose: The preliminary plat is intended to illustrate proposed subdivision or parcel development or redevelopment of properties within the City. Such approval shall be required for all subdivisions of land not specifically exempted within this Title.

B. Following the pre-application meeting and following review of the concept plan, the applicant shall prepare a request for approval of the preliminary plat for the subdivision or the development or redevelopment of a parcel, as provided within this Ordinance. The request shall be filed with the City on an official application form. A fee as provided for by City Council Ordinance shall accompany such application. Such application shall also be accompanied by one (1) electronic copy of the preliminary plat and supportive information in conformity with the requirements of this Ordinance. If, in the opinion of the Community Development Director or his/her designee drawings are determined to be illegible, the submission of larger scale materials shall be required. The scale of such materials shall be the minimum necessary to ensure legibility.

C. The applicant shall also supply proof of title and the legal description of the property for which the subdivision or development or redevelopment of a parcel is requested, consisting of an abstract of title or registered property abstract currently certified together with any unrecorded documents whereby the petitioners acquire a legal ownership or equitable ownership interest and as applicable, supply documented authorization from the owner(s) of the property in question to proceed with the requested subdivision. The applicant shall also submit any necessary applications for variances from the provisions of this Ordinance, as set out in Section 11.7.3 of Title 11 and necessary variances from the provisions of the City of Sartell Zoning Ordinance (Title 10).

D. The Community Development Director or his/her designee shall review the application to determine whether or not the application and required material submissions are complete. The preliminary plat shall be considered as being officially submitted only when all of the information requirements are complied with and the appropriate fees paid. If the Community Development Director or his/her designee determines the application is incomplete, the applicant shall be notified of all deficiencies in the application, in writing within fifteen (15) calendar days of receipt of the application. The Council shall approve or disapprove the preliminary plat within sixty (60) days following the receipt of a completed application in compliance with this Ordinance unless an extension of the review period has been approved.

E. Upon receipt of the completed application, preliminary plat, together with any necessary supplementary information, the Community Development Director or his/her designee shall set a public hearing for public review of the preliminary plat by the City Council with notice provided pursuant to any requirements of Minnesota Statutes.

F. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Section provided a bona fide attempt has been made to comply with the notice requirements of this Section.

G. The Community Development Director or his/her designee shall instruct the staff as appropriate to prepare technical reports and provide general assistance in preparing a recommendation on the action to the Planning Commission. This may include the City Engineer, Building Official, City Attorney, and public or private utility departments, among others. The presence of any of the above, which may be considered an employee of the City, will not preclude the City from obtaining a recommendation from an independent contractor performing similar duties and responsibilities if, in the opinion of the Planning and Community Development Director or his/her designee, the independent contractor possesses a set of skills and abilities required for a fair evaluation of the request.

H. The Community Development Director or his/her designee shall also refer copies of the plat map to the following individuals or bodies:

1. City Engineer.
2. City Attorney.
3. School District; if applicable.
4. Commissioner of Transportation if the proposed subdivision includes land abutting an established or proposed trunk highway.
5. County Engineer if the proposed subdivision includes land abutting a County or County State-Aid Highway.
6. State Commissioner of Natural Resources if the proposed subdivision adjoins a public body of water.
7. The Watershed District Board, if applicable.
8. Other City department heads as appropriate.
9. Park Commission.
10. Planning Commission.

I. The Planning Commission, City Council, and City staff shall have the authority to request additional information from the applicant concerning the proposed subdivision or parcel development or redevelopment and its operational factors or impact, or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors or impacts, when said information is to be declared necessary to establish performance conditions in relation to all pertinent sections of this Ordinance. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.

J. The Planning Commission shall take one of the courses of action identified in Section 11-3-8 below. The following guidelines should be followed when findings of facts are issued:

1. The proposed preliminary plat conforms to the requirements of this Title and the applicable zoning district regulations.
2. The proposed subdivision or parcel development or redevelopment is consistent with the City's Comprehensive Plan and any other adopted land use studies and is compatible with the platting or approved preliminary plat on adjoining lands.
3. The proposed plat does not constitute a 'premature subdivision' under section 11-7-1-D of this Title.
4. The physical characteristics of the site, including but not limited to topography, vegetation, wetlands, ground water elevations, susceptibility to erosion and siltation, susceptibility to flooding, water storage and retention, are such that the site is suitable for the type of development or use contemplated.
5. The design, development, redevelopment, or improvement of the proposed subdivision or parcel complies with applicable plans of the County and the state of Minnesota.
6. The design, development, redevelopment, or improvement of the proposed subdivision or parcel is not likely to cause environmental damage or health problems.
7. The completion of the proposed development or redevelopment can be achieved in a timely manner so as not to cause an undue economic burden upon the City for maintenance, repayment of bonds or similar burden.
8. That permits applicable to the site/project as required by local, state and federal law have been applied for and/or have been approved. The Applicant is required to prove compliance with all local, state and federal law. The City and/or its assigns may determine if whether an application for approval is sufficient or if approval a permit application is acceptable.

K. The Planning Commission shall recommend to the City Council one of the following courses of action and the applicant notified in writing of the Planning Commission's decision:

1. Approval of the preliminary plat: as presented – with approved findings of fact.
2. Conditional approval of the preliminary plat: conditions for approval and findings of fact itemized.
3. Denial of the preliminary plat, with findings of fact.
4. The Planning Commission may, at its discretion and with the approval of the applicant, table the matter pending further information from the applicant that will help it render a recommendation to the City Council. An extension of the review preliminary plat review period may be necessary.

L. The Community Development Director or his/her designee shall notify the applicant of the Planning Commission's recommended action together with the reason for such recommended action and what requirements, if any, will be necessary for the Planning Commission to recommend approval of the Plat. The recommended approval of the Preliminary Plat does not constitute an acceptance of the subdivision or parcel development or redevelopment.

M. Following review by the Planning Commission, the request shall be scheduled for review by the City Council following or in conjunction with a public hearing by the Council. The applicant or a designated representative thereof shall appear before the Council at the public hearing in order to answer questions concerning the proposed request.

N. City Council Action:

1. The reports and recommendations of City staff and the Planning Commission shall be entered in and made part of the permanent written record of the City Council meeting.
2. The Council shall approve or disapprove the preliminary plat within sixty (60) days following delivery of an application completed in compliance with this Ordinance unless an extension of the review period has been agreed upon by the applicant and the City.

3. When the preliminary plat is approved, conditionally approved, or denied by the City Council, the reasons for such action shall be recorded in the proceedings of the Council and shall be transmitted in writing to the applicant. If the preliminary plat is approved or conditionally approved, such approval shall not constitute acceptance of the final design and layout. Subsequent approval will be required of the engineering proposals and other features and requirements as specified by this Ordinance to be indicated on the final plat. The City Council may impose such conditions and restrictions as it deems appropriate or require such revisions or modifications in the preliminary plat or final plat as it deems necessary to protect the health, safety, comfort, general welfare and convenience of the City.

O. Required findings for preliminary plat: The Planning Commission and City Council shall make each of the following findings before recommending (Planning Commission) or granting (City Council) preliminary plat approval:

1. The proposed preliminary plat conforms to the requirements of this Title and the applicable zoning district regulations.
2. The proposed subdivision or parcel development or redevelopment is consistent with the City's Comprehensive Plan and any other adopted land use studies and is compatible with the platting or approved preliminary plat on adjoining lands.
3. The proposed plat does not constitute a 'premature subdivision' under section 11-7-1-D of this Title.
4. The physical characteristics of the site, including but not limited to topography, vegetation, wetlands, ground water elevation**,** susceptibility to erosion and siltation, susceptibility to flooding, water storage and retention, are such that the site is suitable for the type of development or use contemplated.
5. The design, development, redevelopment or improvement of the proposed subdivision or parcel complies with applicable plans of the County and the state of Minnesota.
6. The design or improvement of the proposed subdivision or parcel is not likely to cause environmental damage or health problems.
7. The completion of the proposed development or redevelopment of the subdivision or parcel can be achieved in a timely manner so as not to cause an undue economic burden upon the City for maintenance, repayment of bonds or similar burden.
8. That permits applicable to the site/project as required by local, state and federal laws have been applied for and/or have been approved. The Applicant is required to prove compliance with all local, state and federal law. The City and/or its assigns may determine if whether an application for approval is sufficient or if approval a permit application is acceptable.

P. The Applicant shall be notified by the City of the City Council's action together with the reason for such action and what requirements will be necessary to meet approval of the City Council. The approval of the Preliminary Plat does not constitute an acceptance of the subdivision but is deemed to be an authorization to proceed with the preparation of the final plat.

Q. Following City Council approval of a preliminary plat, the applicant must submit a final plat to the City within one year of preliminary approval unless otherwise specified as part of a Development Agreement. If this procedure is not followed, then approval of the preliminary plat shall be considered void, unless the applicant submits a request for time extension in writing thirty (30) days prior to the lapse of approval and subsequently approved by the City Council.

R. Should the applicant desire to amend a preliminary plat as approved, an amended preliminary plat may be submitted. The City may require the applicant to follow the same procedure as a new preliminary plat. No public hearing will be required unless the amendment, in the opinion of the City Council, is of such scope as to constitute a new preliminary plat. A filing fee as established by the City shall be charged for the amendment processing.

S. Preliminary plats that have been denied shall not be reintroduced for a period of one year unless substantial changes have been made.

11-3-9: **PRELIMINARY PLAT DATA REQUIREMENTS:** As outlined in Title 11-3-8 (Preliminary Plat Process), the applicant shall prepare and submit a preliminary plat, together with any necessary supplementary information. The preliminary plat shall contain the information set forth in the subsections that follow. Upon specific request, the Planning and Community Development Director or his/her designee may exempt an applicant from the submission of data which is not considered relevant to the application.

A. Proposed Conditions:

1. The proposed name of the subdivision; names shall not duplicate or be alike in pronunciation to the name of any plat theretofore recorded in Stearns/Benton County. If the plat is not for a subdivision, he proposed name is not required. Platting is required to obtain a street address.
2. Location of boundary lines in relation to a known section, quarter section or quarter-quarter section lines comprising a legal description of the property.
3. Name, address, phone number and where applicable license number of the record owner(s), any agent having control of the land, the applicant, land surveyor, engineer and designer of the plan.
4. Graphic scale of one (1) inch to one hundred (100) feet, except as specifically approved by the Planning and Community Development Director or his/her designee.
5. North point and key map of the area, showing well-known geographical points for orientation including streets within a one-half (1/2) mile radius.
6. Date of preparation.
7. The legal description of the land contained within the subdivision including the total acreage of the proposed subdivision. The legal description shall also be provided in an electronic form at the time of the application.
8. An indication as to which lands are registered torrens property or abstract property. If land is registered property, a registered land survey shall be required.
9. A list of any liens or encumbrances.
10. Elevation benchmarks used for the topographic survey and datum on which they are based.
11. Reference to the coordinate system use for the survey.
12. Results of site evaluation, including percolation tests and soil borings.

B. Existing Conditions:

1. Boundary lines to include bearings, distances, curve data, and total acreage of proposed plat, clearly indicated.
2. Existing zoning classifications for land in and abutting the subdivision.
3. Total area of the proposed plat.
4. Location, right-of-way width and names of existing or platted streets or other public ways, parks and other public lands, permanent buildings and structures, easements and section, corporate and school district lines within the plan, to a distance of one hundred fifty (150) feet beyond the plat.
5. Location, size, and elevations of existing sewers, water mains, culverts, or other underground facilities within the preliminary plat area and to a distance of one hundred fifty (150) feet beyond. Such data as top grades and locations of catch basins, manholes, elevations, invert elevations, hydrants and the street pavement width and type also shall be shown.
6. Boundary lines of adjoining un-subdivided or subdivided land, within one hundred fifty (150) feet of the plat, identified by name and ownership, including all contiguous land owned or controlled by the applicant.
7. Topographic data, including contours at vertical intervals of not more than one (1) foot shown on a contour/topographic map. Watercourses, marshes, wooded areas, rock outcrops, power transmission poles and lines, and other significant features also shall be shown. U. S. G. S. datum shall be used for all topographic mapping.
8. Base flood elevations, the regulatory flood protection, and boundaries of floodway and flood fringe areas, if known, taking into consideration the Flood Insurance Study and Flood Insurance Rate Map.
9. A statement certifying the environmental condition of the site including the presence of any hazardous substance as defined in Minnesota Statutes 115B.02, Subd. 8. Such statement may be required to be based upon an environmental assessment of the site by an environmental engineering firm acceptable to the City.
10. Geotechnical data prepared by a qualified soils engineer showing surface and subsurface soils and groundwater elevations in sufficient detail to show the site to be suitable for the development proposed.
11. A vicinity map at, at least 4” x 4” in size on the full size plans, to the Planning Commission showing the relationship of the proposed subdivision to adjacent properties, roads, right-of-ways, and other property and subdivision within three hundred-fifty feet (350) of the proposed subdivision, and the relation of the plat to the surrounding zoning districts.
12. All existing survey monuments that have been found.

13. Areas in the plat which have been designated as shoreland, delineated wetlands and/or floodplains by the Department of Natural Resources, including the high water level of all wetlands.

C. Proposed Design Features:

1. Layout of proposed streets showing the right-of-way widths, centerline gradients, roadway widths, typical cross-sections, and proposed names of streets in conformance with City of Sartell street identification policies. The name of any street heretofore used in the City or its vicinity shall not be used unless the proposed street is a logical extension of an already named street, in which event the same name shall be used.
2. Locations and widths of proposed alleys and pedestrian ways.
3. A utility plan shall be prepared and signed by a licensed engineer showing the Locations and size of proposed street lighting, storm sewer, sanitary sewer lines, water mains, culverts and other stormwater facilities or underground facilities within the subject property and to a distance of one hundred fifty (150) feet beyond the outside boundary of the proposed plat. Data such as grades, invert elevations and location of catch basins, manholes and hydrants shall also be shown. If the development is proposed in a Large Lot Residential zone and utilizes well and septic's, applicant will provide such other information as the City deems necessary, including but not limited to identification of a primary and secondary septic site for each lot, well study reports, and fire protection well/hydrant plans.
4. Alignment and profile of proposed streets, storm sewer, sanitary sewer lines and water mains.
5. Location, dimension, and purpose of all easements.
6. Layout, numbers, lot areas and preliminary dimensions of lots and blocks, and outlots. The total number of proposed lots, their minimum, maximum and average size in square footage.
7. Minimum front and side street building setback lines.
8. When lots are located on a curve, the width of the lot at the building setback line.
9. Building pads intended for construction, including the type of structure and low floor, low opening and garage floor elevations and driveway slope percentage.
10. Areas, other than streets, alleys, bikeways, pedestrian ways and utility easements, intended to be dedicated or reserved for public use, including the size of such an area or areas in acres.
11. The proposed location and sizing of public water system mains and service connections.
12. The proposed location and routing of public sewer mains and service connections
13. Preliminary grading plan prepared and signed by a licensed engineer with minimum one (1) foot contours which shall include the proposed grading and drainage of the site: prior to, during and post-construction. The preliminary grading plan shall include, but not be limited to, the illustration of provisions for erosion control, hydrology calculations and drainage. Also, to be stipulated are the garage floor, first floor, lowest opening and lowest floor elevations of all structures. The grading plan must meet the following criteria:

    a. Any new development (preliminary or final) or redevelopment will maintain minimum building opening elevations of at least three (3) feet above the calculated wetland and/or pond 100-year high water elevation.
    b. Buildings must have a minimum basement floor elevation of either four (4) feet above the currently observed groundwater elevation in the area (FHA policy) or one (1) foot above the calculated wetland and/or pond 100-year high water level.
    c. Requirements Section 11-6-7 of this Code.

14. The location, size, and proposed improvements for proposed parks, playgrounds, and public open spaces; churches or school sites or other special uses of land to be considered for dedication to public use or to be reserved by deed of covenant for the use of all property owners in the subdivision and any conditions of such dedication or reservation.
15. Proposed pedestrian ways, sidewalks, trails, drainage easements and utility easements.
16. Drainage calculations for 2, 10 and 100-year storm events and 10-day snow melt events in a HydroCad format. Also see Section 11-6-7 of this Code.
17. Proposed plan for surface water management, ponding, drainage, and flood control, including normal water level and high water level of all ponds and watercourses. Also see Section 11-6-7 of this Code.
18. Emergency overflow elevations and overland overflow routes.

19. A plan for soil erosion and sediment control both during construction and after development has been completed. The plan shall include gradients of waterways, design of velocity and erosion control measures, design of sediment control measures, and landscaping of the erosion and sediment control system. Such plans are to be in accordance with the technical standards and specifications of the following:

    a. Section 11-6-7 of this Code.
    b. The current version of the Minnesota Stormwater Manual.
    c. The Minimum Control Measure (MCM) 4 of the Minnesota Pollution Control Agency's NPDES/SDS Small Municipal Separate Storm Sewer System General Permit MNR040000 (MS4 Permit) as now constituted and from time to time amended.
    d. The City of Sartell's Design Standards and Standard Details.

20. The items listed in this section shall be in conformance with all other applicable sections of this Ordinance (Title 11) and the Sartell Zoning Ordinance (Title 10).
21. The items listed in this section shall be in conformance with the current City of Sartell Design Standards and Standard details. All information shall be submitted in electronic format. All drawings shall be provided in AutoCAD or MicroStation format and a scalable PDF format. Paper copies may be requested by the City.

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D. Supplementary Information: Any or all of the supplementary information requirements set forth in this subsection shall be submitted when deemed necessary by the City staff, consultants, advisory bodies and/or the City Council to adequately address the application and site in question.

1. If the developer is contemplating financing under Mn. Stat. Chapter 429, an official request to the City Council for the uses of said financing and the Council's approval of the drafting of a feasibility report.
2. A build-out plan as defined by the City and/or its assigns.
3. Proposed protective covenants or private restrictions.
4. Proposed phasing/staging plan for any project involving more than one construction season which sets forth the chronological order of construction and relates the proposed uses and structures to the construction of various service facilities and gives estimated completion dates.
5. A listing of all required federal, state and City permits and status of applications. This includes a wetland permit if there are proposed impacts to wetlands on the property being platted.
6. A plat overlay on an aerial photo, illustrating the relationship of the proposed subdivision to the surrounding area.
7. An analysis prepared by a qualified person identifying tree coverage in the proposed subdivision in terms of type, weakness, maturity, potential hazard, infestation, vigor, density and spacing. A vegetation preservation and protection plan that shows those trees proposed to be removed, those to remain, the types and locations of trees and other vegetation that are to be planted may also be required.
8. Statement of the proposed use of lots stating type of buildings with number of proposed dwelling units or type of business or industry, so as to reveal the effect of the development on traffic, fire hazards, and congestion of population. The City may require the applicant to have formal traffic or other studies performed to the City's satisfaction which show the effect of the proposed development on traffic, fire hazards, congestion, or other matters of public concern.
9. If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions, shall be shown. Such proposed zoning plan shall be for information only and shall not vest any rights in the applicant.
10. A plan for soil erosion and sediment control both during construction and after development has been completed. The plan shall include gradients of waterways, design of velocity and erosion control measures, design of sediment control measures, and landscaping of the erosion and sediment control system. Such plans are to be in accordance with the technical standards and specifications of the Soil Conservation Service, as provided by Stearns/Benton County Soil and Water Conservation District Office.
11. An environmental review shall be submitted if the City, City consultants or other groups or agencies determine that one is required by law or if it is determined that a discretionary review is appropriate.
12. Applications, statements and supporting documentation and plans for rezoning, variances, conditional use permits or planned unit development approvals being sought for the subdivision.

13. Such other applicable information as may be required by the City.

11-3-10: **FINAL PLAT PROCESS:**

A. Purpose: A final plat is a drawing representing the proposed subdivision of land or parcel development or redevelopment within the City and serves as the document for recording purposes, as required by the County Recorder's Office. Once a preliminary plat has been approved by the City Council, the developer may submit a request for final plat approval. In certain cases, the City may allow a final plat to be submitted concurrent with a request for preliminary plat approval.

B. After the preliminary plat has been approved, and the final design has been completed, a final plat shall be submitted for review as set forth in the subsections, which follow. The applicant shall prepare a request for approval of the final plat for the subdivision or parcel, as provided within this Ordinance. The request shall be filed with the City on an official application form. A fee as provided for by City Council Ordinance shall accompany such application. Such application shall also be accompanied one (1) electronic copy of the final plat and supportive information in conformity with the requirements of this Ordinance. If, in the opinion of the Community Development Director or his/her designee, drawings are determined to be illegible, the submission of larger scale materials shall be required. The scale of such materials shall be the minimum necessary to ensure legibility. The final plat shall incorporate all changes, modifications and revisions required by the City, otherwise, it shall strictly conform to the approved preliminary plat.

C. All final plats shall comply with the provisions of Minnesota State Statutes and requirements of this Ordinance.

D. An applicant shall submit with the final plat a current Abstract of Title or Registered Property Certificate, along with any unrecorded documents, and a Certificate of Title.

E. When the City has agreed to install improvements in a development, the developer may be required to furnish a financial statement satisfactory to the City indicating the developer's ability to develop the plat.

F. The Community Development Director or his/her designee shall review the application to determine whether or not the application and required material submissions are complete. The final plat shall be considered as being officially submitted only when all of the information requirements are complied with, and the appropriate fees paid. If the Community Development Director or his/her designee determines the application is incomplete, the applicant shall be notified of all deficiencies in the application, in writing within fifteen (15) calendar days of receipt of the application. The Council shall approve or disapprove the final plat within sixty (60) days following the receipt of a completed application in compliance with this Ordinance unless an extension of the review period has been approved.

G. Upon receipt of a final plat, copies shall be referred to the Planning Commission, appropriate City staff and to all applicable utility companies, County and State agencies.

H. The Community Development Director or his/her designee receiving final plat copies shall, submit reports to the Planning Commission documenting their recommendation on the final plat. The Community Development Director or his/her designee may instruct the staff as appropriate to prepare technical reports and provide general assistance in preparing a recommendation on the action to the Planning Commission. This may include the City Engineer, Building Official, City Attorney, and public or private utility departments, among others. The presence of any of the above, which may be considered an employee of the City, will not preclude the City from obtaining a recommendation from an independent contractor performing similar duties and responsibilities if, in the opinion of the Community Development Director or his/her designee, the independent contractor possesses a set of skills and abilities required for a fair evaluation of the request.

I. The Planning Commission, at their meeting, shall render one of the following final plat recommendations to the City Council and the applicant shall be notified in writing of the Planning Commission's recommendation.

1. Approval of the final plat, as presented, with findings of fact.
2. Approval of the final plat, with conditions for approval and findings of fact itemized.
3. Denial of the final plat, with findings of fact.
4. The Planning Commission may, at its discretion and with the approval of the applicant, table the matter pending further information from the applicant that will help it render a recommendation to the City Council. An extension of the review of the final plat may be necessary.

J. Recommended findings of fact for approval:

1. The final plat conforms to the approved preliminary plat and any/all conditions for approval of the preliminary plat.
2. All submission requirements have been satisfied.
3. The plat conforms to all applicable requirements of this Title, subject only to approved rule exceptions.

K. The Community Development Director or his/her designee shall notify the applicant of the Planning Commission's recommended action together with the reason for such recommended action and what requirements, if any, will be necessary for the Planning Commission to recommend approval of the Plat.

L. Prior to approval of a final plat, the applicant shall have executed a Development Agreement with the City, which controls the installation of all required improvements and assures compliance with all conditions of approval unless determined unnecessary by the Community Development Director and/or City Engineer. Said agreement will require all improvements and approval conditions to comply with approved engineering standards and applicable regulations.

M. The City Council shall take action on a final plat not more than sixty (60) days after the final plat is filed with the City. If the final plat is not approved, the reasons for such action shall be recorded in the official proceedings of the City and shall be transmitted to the applicant.

N. Required findings for final plat. The Planning Commission and City Council shall make each of the following findings before recommending (Planning Commission) or granting (City Council) final plat approval:

1. The final plat conforms to the approved preliminary plat and any/all conditions for approval of the preliminary plat.
2. All submission requirements have been satisfied.
3. The plat conforms to all applicable requirements of this Title, subject only to approved rule exceptions.

O. The applicant shall be notified by the City of the reason for such actions taken.

P. Upon receiving an approved final plat in conformance with the requirements of the City, the designated representatives of the City shall sign the plat, and the applicant, as a condition of approval, shall record the approved and signed final plat with the County Recorder within one hundred and eighty (180) days unless otherwise determined and indicated within the executed development agreement.

Q. Release of plat for recording. The final plat shall not be released by the City for recording with the County Recorder's Office until the following have been completed:

1. The recording of signatures upon the plat as specified in Section 11-2-11 of this Title.
2. The recording of signatures upon the developer's agreement.
3. The submittal of necessary financial guarantees and development fees to the City.
4. The provision of easements or deeds as may be required by the City for trailways, ponding, parks, utilities or similar purposes in a form prescribed by the City Attorney.
5. Final evidence of Title ownership.

R. Recording of Final Plat and supporting documents. At the discretion of City Staff, it shall be the responsibility of the City to file the plat and supporting documents with the County Recorder's Office. Developer will be responsible for all recording related costs.

S. The applicant shall, within thirty (30) days of recording, furnish the City one mylar of the final plat showing evidence of the recording. The applicant shall provide an electronic copy of the approved final plat in a format acceptable to the City and consistent with the Stearns or Benton County coordinate system. Failure to furnish such copies shall be grounds for refusal to issue building permits for lots within a plat.

T. Upon receiving approval of a final plat for a portion of an approved preliminary plat, a continuation or the recognition of the preliminary plat is not required to maintain its approval. In the event a Zoning Ordinance amendment is adopted which requires a larger minimum lot size for land not yet platted and recorded, the larger minimum lot size may be required for any additional platting. If the applicant is unable to file a final plat application within the required one year, such person shall file a written request for an extension of the final plat such person shall file a written request for an extension of the final plat approval with the Planning and Community Development Director or his/her designee and receive City Council approval thirty (30) days prior to the lapse of approval. Said applicant's request shall specify and the City Council shall, if approved, determine the length of time for filing and for the preliminary plat to remain in full force and effect.

11-3-11: **FINAL PLAT DATA REQUIREMENTS:** As required by Section 11-3-10 of this Title, the applicant shall submit a final plat together with any necessary supplementary information. The final plat, prepared for recording purposes, shall be prepared in accordance with provisions of Minnesota State Statutes and Stearns/Benton County regulations, and such final plat or accompanying submittals shall contain the following information:

A. Name of the subdivision, which shall not duplicate or too closely approximate the name of any existing plat theretofore recorded in the City of Sartell or its vicinity and which shall be subject to City Council approval, or the address of the developed parcel.
B. Location by section, township, range, county, and state, and including descriptive boundaries of the subdivision.
C. The location of monuments shall be shown and described on the final plat. Locations of such monuments shall be shown in reference to existing official monuments on the nearest established street lines, including true angles and distances to such reference points or monuments. The applicant shall provide coordinating data on all subdivision monumentation in a format approved by the City Engineer.
D. Location of lots, outlots, streets, public highways, alleys, and parks and other features, with accurate dimensions in feet and decimals of feet, with the length of radii and/or arcs of all curves, and with all other information necessary to reproduce the plat on the ground shall be shown. Dimensions shall be shown from all angle points of curve to lot lines.
E. Lots shall be numbered clearly, blocks are to be numbered, with numbers shown clearly in the center of the block.
F. A drawing or listing of total square footage per lot, acreage per block, square footage or acreage of each land use proposed (where applicable) and total acres in the plat.
G. The exact locations, widths and names of all streets to be dedicated.
H. Location, purpose and width of all easements to be dedicated.
I. Name, address and phone number of surveyor making the plat.
J. Scale of the plat to be one inch to one hundred feet (1"=100'—the scale to be shown graphically on a bar scale), date and north arrow.
K. A current abstract of title or a registered property certificate along with any unrecorded documents that are subject to review and approval by the City Council.
L. Copies of any protective or restrictive covenants affecting the subdivision or any part thereof.
M. Statement dedicating all easements as follows: Easements for installation and maintenance of utilities and drainage facilities are reserved over, under and along the designated areas marked "drainage and utility easements".
N. Statement dedicating all streets, alleys and other public areas not previously dedicated as follows: Streets, alleys and other public areas shown on this plat and not heretofore dedicated to public use hereby so dedicated.
O. Other data: Such other information that shall be required by the City following final plat approval, including but not limited to:

    1. A signed Development Agreement approved by the City which includes provisions for a financial guarantee of cash escrow or letter of credit, as provided for in Section 11-6-16 of this Ordinance.
    2. A complete set of construction plans and specifications, prepared by the City's engineer, to construct the required public improvements and to make the subdivision suitable for development, which conform to the City requirements (11-3-9). These documents will be prepared by the City Engineer for all projects aspects that will be owned and/or maintained by the City.
    3. A complete set of construction plans and specifications, prepared by the developers engineer, for the complete grading and stabilization of the project and all improvements that will be privately owned and/or maintained by the developer, property owner, or association.
    4. As-built construction drawings for any public improvements constructed in the subdivision shall be furnished to the City for the City files and City Engineer, within one hundred and twenty (120) days after the construction is complete and approved by the City. In addition, one digital GIS formatted copy and one scanned copy for imaging may be required to be submitted to the City.
    5. Upon adoption and filing of a final plat, the City shall prepare a street address map and distribute it to the applicant, utility companies, police department, ambulance, fire department, post office and County.

P. Certification Required:

1. Certification by a registered surveyor in the form required by Minnesota Statutes 505.03, as amended.
2. Execution by all owners of any interest in the land and holders of a mortgage thereon of the certificates required by Minnesota Statutes 505.03, as amended, and which certificate shall include a dedication of the utility easements and other public areas in such form as approved by the City Council.
3. Space for certificate of approval and review to be filled in by the signatures of the Mayor and City Administrator in the following form:

FOR APPROVAL OF THE CITY OF SARTELL:

*This plat of **(name of plat)** was approved and accepted by the City of Sartell. Minnesota, at a regular meeting thereof held this _____ day of _____, . _____.*

CITY COUNCIL OF SARTELL, MINNESOTA

By_____, Mayor

By_____, Administrator

CHAPTER 4

PARKS AND RECREATION

SECTION:

11-4- 1: Findings and Purpose
11-4- 2: Standards for Accepting Land for Public Dedication
11-4- 3: Required Improvements

11-4-1: **FINDINGS AND PURPOSE:**

A. The City Council finds that the preservation and development of parks, playgrounds, and open space areas within the City are essential to maintaining a healthy and desirable environment for residents and persons employed within the City, and it also finds that the value and attractiveness of residential, commercial and industrial developments to landowners, developers, purchasers, employers and employees is significantly enhanced by the presence of such park and open space amenities.
B. Minnesota Statutes Section 462.358 Subd. 2b provides that municipal subdivision regulations may require that a reasonable portion of any proposed subdivision be dedicated to the public or preserved for conservation purposes or for public use as parks, playgrounds, trails, wetlands, or open space, and that the municipality may alternatively accept an equivalent amount in cash.
C. The City Council finds that it is appropriate that each development within the City contribute toward the City's park system in proportion to the benefit provided and the burden it will place upon that system. Therefore, these park dedication regulations are established to require new developments at the time of subdivision to contribute toward the City's park system in rough proportion to the relative burden they will place upon that system.
D. The City recognizes that parks also assist commercial and industrial development in our community. Quality of life, including open space, park, and recreational facilities available in a community, consistently ranks as important in business location decisions. There is a growing demand for such amenities for employee use, and business customers will also be attracted to the community by park and recreational facilities. The Council finds that a 5% land dedication requirement for commercial/industrial properties (which equates to 2,178 square feet per acre) is reasonable and proportionate based upon maintaining the current employee to parkland ratio in the City as well as having adequate capital to add park amenities roughly proportional to the development's impact on the City's park system.

11-4-2: **STANDARDS FOR ACCEPTING DEDICATION OF LAND FOR PUBLIC PURPOSES:** In consideration of accepting the dedication of land for public purposes the following special provisions shall apply:

A. Essential Nexus: There must be an essential nexus between the fees or dedication imposed under this Section and the municipal purpose sought to be achieved by the required fee and/or dedication. The fee and/or dedication shall bear a rough proportionality to the need created by the proposed subdivision or development.
B. Land Dedication. Formulas for land dedication shall be as follows:

    1. Single Family – A land dedication of 1,150 square feet per unit.
    2. R-2 to R-4 – A land dedication of 1,150 square feet per unit.
    3. R-5 (PUD) – A land dedication based on the actual land usage (commercial and/or residential).
    4. Commercial – A land dedication of 5% of net land area (net land area as defined as the gross land area, minus delineated wetlands, easements and rights of way).
    5. Industrial –A land dedication of 5% of net land area (net land area as defined as the gross land area, minus delineated wetlands, easements and rights of way).

    To be eligible for park dedication credit, land dedication is to be located outside of the drainways, flood plains or ponding areas after the site has been developed. Absent unusual conditions, stormwater drainage areas and holding areas or ponds shall not be considered wetlands. Where

wetlands have been determined to have a park function by the City Council, credit may be given at a rate of up to twenty-five (25) percent of the wetland area and adjoining land areas below the high water level.

C. Payment in Lieu of Dedication: The City shall have the option of requiring a cash contribution in lieu of part or all of the land dedication set forth above. The in lieu amount shall be as established in the City's fee schedule, as amended.
D. Partial Dedication and Partial Payment. The City may permit or require the developer to provide a partial dedication and a partial payment in accordance with the requirements set forth above.
E. All park equipment and landscaping provided by the developer must be approved by the City.
F. Prior Dedication: In those cased where a subdivision of a parcel on which dedication of land or cash has previously been made in connection with a prior subdivision, but on which an additional cash dedication is required under the subdivision, credit shall be given for the prior dedication.
G. Any cash payment received shall be placed in a special account and used only for the acquisition of public open space, landscaping, signage, playgrounds, development, and improvement of new or existing park and playground sites.
H. In establishing the reasonable portion to be dedicated, the City may consider the open space, park, recreational or common areas and facilities which the developer proposes to reserve for the subdivision.

11-4-3: **REQUIRED IMPROVEMENTS:** Developers shall be responsible for making certain improvements to their developments for park, playground and public open space purposes:

A. Areas to be dedicated for public park, trail or ponding shall be brought to a suitable condition by the developer prior to acceptance by the City. All dead trees, trash, junk, unwanted structures, or other similar undesirable elements shall be removed at the developer's expense.
B. The developer shall provide finished grading and a cover of at least six (6) inches or more of topsoil on the park site. In addition, the developer shall be responsible for seeding the park with a seed mixture approved by the Public Work Director. No additional park dedication credit will be given for this work.
C. Sidewalks or trails shall be constructed in certain street rights-of-way within the development, as required by the City. This improvement shall be the responsibility of the developer and shall not be utilized toward park dedication requirements.
D. Trails as part of the recreational system, outside of the right of way and public properties, may, in the City's sole discretion, be utilized toward park dedication, as long as the trail is dedicated to the City where possible, a trail easement document shall be drawn and recorded prior to the approval of the final plat, so that the trail easement may show up on the final plat as an existing trail easement.
E. Where a proposed park, trail, ponding, or open space is located within a subdivision, such area or areas shall be shown on the preliminary plat. Such area or areas may also be dedicated to the City by the developer if the City Council requests such dedication under the provisions listed above.
F. If any public amenities (shelters, etc) are proposed by the developer, those items may also be eligible for a park dedication credit, subject to approval by the City.

CHAPTER 5

DESIGN STANDARDS

SECTION:

11-5- 1: General Requirements
11-5- 2: Street Design
11-5- 3: Alleys
11-5- 4: Pedestrian Ways
11-5- 5: Easements
11-5- 6: Blocks
11-5- 7: Lots

11-5-1: **GENERAL REQUIREMENTS:**

A. Design standards shall assure that the layout of the subdivision is in harmony with the existing adopted plans affecting the development and its surroundings and shall be in conformity with the City's development objectives for the entire area. All concept plans and preliminary and final plats shall provide as a minimum the following data and shall conform to the standards set forth in this section, and the current City of Sartell Design Standards, except where deviations are approved by the City Council or where a specific variance is granted in accordance with the provisions of Section 11-7-3 of this Title.
B. Land which the City finds to be unsuitable for a subdivision or a development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features which will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas, shall not be subdivided or developed unless adequate methods are formulated by the subdivider or developer and recommended by the Planning Commission and approved by the City Council to solve the problems created by the unsuitable land conditions. Such land shall be set aside for uses as shall not involve such a danger.
C. In subdivision of land, due regard shall be shown for all natural features which, if preserved, will add attractiveness and stability to the proposed development and which shall alter normal lot planning. Due regard shall be shown for existing wetlands and their protection.
D. All subdivisions shall further meet all applicable floodplain, stormwater, wetland, and tree preservation standards as defined by the City or other applicable law.

11-5-2: **STREET DESIGN:** The following standards are to be followed unless the City Council shall permit a variance in accordance with Section 11-7-3 of this Title.

A. The arrangement, character, extent, width, grade and location of all streets shall conform to the Comprehensive Plan or any other city adopted plan or policy and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety and in their appropriate relation to the proposed uses of the land to be served by the streets.
B. Where not specifically illustrated in the Comprehensive Plan, the arrangement of streets in the subdivision shall either:

    1. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas, and/or;
    2. Conform to a plan for the neighborhood approved or adopted by the City Council to meet a particular situation where topography or other conditions make continuance or conformance to existing streets impractical.

C. Local streets shall be so laid out that their use by through traffic will be discouraged and so that they will not tend to function as collector streets.
D. Where a subdivision abuts or contains an existing or proposed arterial street, the City Council may require marginal access streets, reverse frontage with screen plantings contained in a non-access reservation along the rear property line, deep lots with rear service alleys or other treatment as may be necessary for

adequate protection of residential property and to afford separation of through and local traffic. There shall be no direct vehicular access from residential lots to arterial streets and such direct access to collector streets shall be avoided.

E. Reserve strips controlling access to streets shall be prohibited except where their control is placed under specific conditions approved by the City Council.

F. Street intersections:

1. Streets shall be laid out so as to intersect, 90 degree right angles.
2. No street shall intersect any other street at less than sixty (60) degrees.
3. Intersections with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided.
4. In general, provisions shall be made at intervals not exceeding one-half (1/2) mile for through streets (streets running through the subdivision in a fairly direct manner).
5. Local streets in the urban core and urbanizing areas shall generally have a minimum of one-sixteen of a mile (330 feet) between intersections.
6. Maximum slope of approach grades at street intersections shall be five (5) percent for the first one hundred (100) feet approaching the intersection.
7. Roadways of street intersections shall be rounded by a radius of not less than twenty-five (25) feet. Roadways of alley-street intersections shall be rounded by a radius of not less than fifteen (15) feet. Corners at the entrances to the turnaround portions of cul-de-sacs shall be rounded by a inside radius of not less than thirty-five (35) feet.

   Centerline Curvature: The minimum horizontal curvature of streets shall be in accordance with the current Facility Design Guide/Road Design Manual for the type of street and design speed. The minimum radius of curvature shall be two hundred (200) feet.

Deleted: MN/DOT Highway Design Manual

G. When connecting street lines of the same street deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to ensure a sight distance of not less than one hundred fifty (150) feet for minor arterials and collector streets, and of the greater radii as the City Engineer shall determine for special cases.

H. Vertical Curves: Different connecting street gradients shall be connected with vertical curves. Minimum length, in feet, of these curves shall be twenty (20) times the algebraic difference in the percent of grade of the two (2) adjacent slopes. Centerline vertical curves of less than 50 feet shall be prohibited.

I. A tangent at least one hundred (100) feet in length shall be introduced between curves of reverse direction on arterial major and collector streets and fifty (50) feet on lesser streets.

J. Right-of-way and pavement widths, grades, and load bearing capacity may be as shown in the following chart. It is noted that the Planning and Community Development Department and City Council may require the minimum or additional right-of-way and street width, above the minimum standards, in consideration of such factors as area land use density patterns, on-street parking needs, and other similar factors.

Street Type	Minimum Right-of-Way/Easement Width	Minimum Pavement Width	Maximum Grade	Minimum Strength
Minor Arterial	100 feet	44 feet	4%	9 tons
Collector	80 feet	38 feet	6%	9 tons
Local	66 feet	36 feet	6%	7 tons
Frontage	66 feet	36 feet	6%	9 tons
Trail	12 feet	8 feet	ADA Specs	N/A
Sidewalk	12 feet	6 feet	ADA Specs	N/A
Alley Residential	20 feet	15 feet	6%	7 tons
Alley Commercial	24 feet	16 feet	6%	9 tons

K. No street grade shall be less than one-half (0.5%) percent.

L. Half streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformance with the other requirements of these regulations and where the City Council finds it will

be practicable to require the dedication of the remaining half when the adjoining property is subdivided. In such event, access to the half street shall be prohibited until such time that the adjoining property is subdivided.

M. Cul-de-sacs shall be designed to meet the MN Fire Code and the following standards:

1. Only be developed where justified by irregular topography or where adjacent to limited access streets.
2. The maximum length shall not exceed six hundred fifty (650) feet, as measured from the centerline of the connecting street to the center of the cul-de-sac.
3. The closed end shall include a turnaround having an outside roadway diameter of at least ninety-six (96) feet and street property line diameter of at least one hundred twenty six (126) feet.
4. Cul-de-sac and/or entrance islands are prohibited, unless required for public safety reasons.

N. Proposed streets obviously in alignment with existing and named streets shall bear the names of such existing streets. All streets shall be named in accordance with the City and County policies.

O. Where a subdivision abuts or contains an existing street of inadequate width, sufficient additional width shall be provided to meet the standards of this Ordinance.

P. Where a proposed plat fronts or is adjacent to an arterial or collector roadway as designated by the Comprehensive Plan and/or regional transportation plan(s), minimum spacing between access points to such thoroughfares shall be as follows except where impractical or impossible due to existing property divisions or topography:

Street Type	Distance: Urban Core	Distance: Urbanizing Area
Principal Arterial	**330**	**1,760 feet (1/3 mile)**
Minor Arterial	**330**	**1,320 feet (1/4 mile)**
Collector	**330**	**660 feet (1/8 mile)**

Q. Streets in Floodplain Overlay Areas. No street shall be approved if its final surface is lower than one (1) foot above the regulatory flood protection elevation. The City Council may require profiles and elevations of finished streets for areas subject to flooding. Fill may be used for streets, provided such fill does not unduly increase flood heights and provided any such fill would not result in a stage increase violating the requirements of Minnesota Statutes Chapters 104 and 105, as such chapters may be amended, supplemented, or replaced from time to time, and any applicable requirements imposed by FEMA pursuant to its rules and regulations. Drainage openings shall not restrict the flow of water so as to unduly increase flood heights and provided any such drainage opening would not violate the requirements of Minnesota Statutes Chapters 104 and 105, as such chapters may be amended, supplemented, or replaced from time to time, and any applicable requirements imposed by FEMA pursuant to its rules and regulations.

11-5-3: **ALLEYS:**

A. Residential Districts: Alleys shall not be permitted in residential areas unless it can be shown that their use is essential to a proper plan.

B. Business and Industrial Districts: Where alleys are used in a proposed business of industrial area, they shall not be less than twenty four (24) feet in width.

C. Dead end alleys shall be avoided wherever possible, but if unavoidable, such dead end alleys may be approved if adequate turn-around facilities are provided at the closed end as determined by the Fire Code.

D. All alleys shall include approved curb and gutter sufficient to meet City standards.

11-5-4: **PEDESTRIAN WAYS:**

A. The City Council following a recommendation from the Planning Commission shall require the provision of sidewalks, trails and/or pathways in proximity to public service areas such as parks, schools, shopping facilities or in other appropriate locations of a similar nature. All such facilities shall conform to city design standards and ADA guidelines and shall be constructed at the sole expense of the developer.

B. The location of all trails and sidewalks shall conform to existing City plans and shall be considered in their relation to existing and planned walkways, to topographical conditions, to public convenience and safety and in their appropriate relation to the proposed uses of the land.
C. Where not specifically illustrated in the Comprehensive Plan, or similar city-approved trail/sidewalk plan, the arrangement of walkways in the subdivision shall either:

1. Provide for the continuation or appropriate projection of existing walkways in surrounding areas; or
2. Conform to a specific pedestrian plan for the neighborhood approved or adopted by the City Council to meet a particular situation.
3. Provide a sidewalk/trail on at least one side of every public or private street.

11-5-5: **EASEMENTS:**

A. Drainage and utility easements at least twelve (12) feet wide and centered on rear and side lot lines (six feet on each side of the property line) and twelve (12) feet wide abutting street right-of-way shall be provided and shall be dedicated by appropriate language. Such easements shall further connect with easements established on adjoining properties to ensure continuity. If necessary for the extension of water or sewer lines or similar utilities, easements of greater width may be required along lot lines or across lots.
B. Where a subdivision is traversed by a ponding area, watercourse, wetland, drainage way, channel, or stream there shall be provided a storm water easement and/or drainage right-of-way conforming substantially with the lines of the water course, and with such further width or construction as will be adequate for the purpose as determined by the City. The drainage or ponding easements shall be laid out and located in such a manner as to provide reasonable access for maintenance and dredging purposes without undue infringement upon the property over which access is taken.
C. Trails or pedestrian ways shall be shown as a separate easement(s) as the City may direct.
D. All easements shall be kept free of structures and any improvements that would substantially interfere with the free movement of maintenance vehicles or impair the intended use of the easement.

11-5-6: **BLOCKS:**

A. The length, width and shape of blocks shall be determined with due regard to:

1. Provisions of adequate building sites suitable to the needs of the type of use contemplated.
2. Zoning Ordinance requirements as to lot sizes and dimensions.
3. Blocks shall normally be sufficient to accommodate two (2) tiers of lots of appropriate depths.
4. Needs for convenient access, circulation control and safety of street traffic.
5. Limitations and opportunities of topography.

B. The maximum length of blocks shall be one thousand three hundred twenty feet (1,320'), the minimum length shall not be less than four-hundred (400) feet. In blocks longer than eight hundred (800) feet, pedestrian ways and/or easements through the block may be required near the center of the block.

11-5-7: **LOTS:** All lots shall conform to the requirements of Title 10 of this Code.

A. The lot size, width, depth, shape and orientation and the minimum setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated and in accordance with the Zoning Ordinance.
B. Side lines of lots shall be at substantially right angles to the right-of-way line of the abutting street or radial to curved streets or to wetland, lake or stream shores unless topographic conditions necessitate a different arrangement or the City Engineer and/or City Council finds such deviation acceptable.
C. Frontage: Every lot must have the minimum frontage on and be accessible to a City approved public street other than an alley, except if the lot is designated as an outlot intended for use as public open space, for ponding purposes and will be accessible by easement, or as part of an approved planned unit development.
D. Rear Lot Width: Every lot must have a minimum width of ten (10) feet at the rear lot line.
E. Watercourses: Lots abutting a watercourse, wetland, ponding area, drainageway, channel, or stream shall have additional depth and width, as required to comply with the approved drainage plan for the subdivision

and to meet the provisions of the Zoning Ordinance to assure building sites that are not subject to flooding or the degradation to water quality.

F. Drainage: All developments and lots shall be mass graded and graded so as to provide drainage away from building locations, subject to the approval of the City Engineer. A development plan shall be submitted at the time of final plat and the building permit review, showing all lot grading and drainage provisions.
G. Lot Remnants: All remnants of lots below minimum size for the respective zoning district in which they are located must be added to abutting lots or lots immediately adjoining. For remnants separated by a public right-of-way, the lot remnants shall be designated as an outlot.
H. Lot boundaries: No lot shall be divided by a boundary line between registered land and abstract property.
I. Lot corners at street intersections shall be subject to approval by the City Engineer.
J. Building Locations:

    1. Lot pads: It is recommended that the slope from the top of the foundation and the garage floor of all structures to the crown of the street upon which the property fronts shall be seven (7) percent. The Building Inspector may require a certificate of survey prior to building permit issuance to assure compliance with this section if lot pads are not installed as part of the subdivision process.
    2. Buildings shall be located on each lot in conformance with the minimum required setbacks established for the zoning district in which the parcel is located or to the setbacks as specifically allowed under a Planned Unit Development.
    3. Buildings shall not be permitted on publicly dedicated easements.
    4. In the subdividing of any land which, through the establishment of new lot lines, has the effect of splitting a lot with an existing structure, the following criteria shall be satisfied:

        a. Each lot, with its portion of the original structure, shall have a separate sanitary sewer and water service with curb box.
        b. Each portion of the original structure to be associated with a separate lot shall meet the applicable building codes for occupancy and separation as stipulated and approved by the Building Official.

K. Re-Subdivision of lots: When a tract is subdivided into larger than normal building lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and openings of future streets and appropriate re-subdivision, with provision for adequate utility connections for such re-subdivision.
L. Political Boundaries: No singular plat or components of the plat shall extend over minor civil division jurisdictional boundaries.
M. Double-frontage, or lots with frontage on two (2) parallel or non-intersecting streets shall not be permitted except as follows:

    1. Such double frontage lots shall have an additional depth of at least twenty (20) feet or a strip shall be created in order to allow space for screen planting along the rear lot line, or
    2. Where rear yards abut principal or minor arterial streets; or,
    3. Where topographic or other conditions render subdividing otherwise unreasonable.

N. Turn-Around Access: Where proposed residential lots abut a collector street, they shall be platted in such a manner as to encourage turn-around access and egress on each lot and discourage direct access onto such streets.
O. Outlots: In such cases where outlots are created or exist, their area shall not be utilized in calculating minimums for buildable lot area requirements. Said outlots are also prohibited from qualifying for building permits, until re-subdivided.

CHAPTER 6

REQUIRED IMPROVEMENTS

SECTION:

11-6-1: Required Improvements
11-6-2 Monument
11-6-3 Street
11-6-4 Sanitary Sewer
11-6-5 Water
11-6-6 Fire Hydrants
11-6-7 Drainage/Erosion Control
11-6-8 Electric/Telephony Plant
11-6-9 Sidewalks
11-6-10 Driveways
11-6-11 Streetlights
11-6-12 Identification
11-6-13 Plantings
11-6-14 Specifications
11-6-15 Inspections
11-6-16 Payment – City/Developer Agreement; Financing

11-6-1: **REQUIRED IMPROVEMENTS:** The Developer shall be required to provide the following improvements for subdivisions unless the City elects to do so under terms of the Developer's Agreement. Unless otherwise stated, all of the required improvements shall be installed in accordance with the engineering policy, standards and specifications that have been or may in the future be adopted by the City Council. Where standards and specifications have not been adopted, the improvements shall be made in accordance with good engineering practices.

11-6-2: **MONUMENTS:** Monuments shall be placed at all block and lot corners, angle points, points of curves in streets and at intermediate points as shall be required by the City. The monuments shall be of a material, size and length as may be approved by the City. It shall be the developer's responsibility to ensure that monuments are maintained in good order during construction and development.

11-6-3: **STREETS:**

A. Streets shall be graded to the full width of the right-of-way in accordance with street grades submitted to and approved by the City Engineer. Grading shall be complete prior to installation of applicable underground utilities, either private or public in nature. Gravel base construction shall be undertaken after installation of underground utilities in those instances where utilities shall be required as part of the project.
B. Following the City Engineer's recommendation and City Council's approval of street grading and after utility installation, in those projects then requiring such, street surfaces shall be brought up to standards and provided with curbs and gutters in accordance with the latest standards and specifications as approved by the City Council. Type B curbing will be used.
C. Sodding/seeding shall be required in all street boulevard areas and on lot areas.
D. All developments increase the need for additional collector streets to provide access to their development, and therefore are responsible for construction of, or contribution toward construction of collector streets in the City of Sartell.
E. The streets shall meet the requirements of Section 5 of this Code, City Design Standards and Standard Details.

11-6-4: **SANITARY SEWER SYSTEMS:**

A. Sanitary Sewer Systems shall be designed and installed in accordance with this Code, recommended Standards for Sewage Works latest edition by the Great Lakes-Upper Mississippi River Board of State Sanitary Engineers (i.e. The "Ten State Standards"), the City Engineers Association of Minnesota

standard utilities specification for sanitary sewer, and the current City of Sartell Design Standards and Standard Details.

B. When connection to the municipal sanitary sewer system is available, such connection shall be made and sanitary sewer facilities adequate to serve the subdivision and as approved by the City Engineer shall be installed. Minimum size sanitary sewer main in any street or easement shall be eight (8) inches in diameter and of a material approved for use in the City by the City Engineer. The developer shall pay the total cost of sanitary sewer through ten (10) inches diameter size if required by the City Engineer.
C. Trunk sanitary sewer facilities larger than ten (10) inches in diameter, when required, may be at the discretion of the City Council assessed over the area benefited that may include land outside of the subdivision under consideration or construction.
D. Each lot shall be served by an individual service or as directed by the City Engineer. Each service, as approved by the City Engineer, shall be run from the main to the property line. Sanitary sewer service lines to end-users shall be a minimum of four (4) inches and shall be installed in accordance with the City's standard. Service lines longer than seventy-five (75) feet shall be furnished with a clean out extending to the surface of the ground.
E. Commercial and/or industrial services shall include a sanitary manhole the connection with a public sanitary sewer main or at the property line with a connection to a private sewer main.
F. A minimum 40-foot easement shall be provided for all public sewer mains located on private property. The easement shall be centered on the sewer main alignment. A larger easement may be required depending on the size and depth of the sewer main.

11-6-5: **WATER SYSTEMS:**

A. Water Systems shall be designed and installed in accordance with the Minnesota Department of Health, this Code and the current City of Sartell Design Standards.
B. When connection to the municipal water supply system is available, such connection shall be made and water distribution facilities adequate to serve the subdivision (including pipe, fittings, hydrants, and valves) and as approved by the City Engineer shall be installed. Minimum size water main in any street or easement shall be eight (8) inches in diameter. The developer shall pay the total cost of water main through ten (10) inches diameter size if required by the City Engineer.
C. Trunk water supply facilities larger than ten (10) inches in diameter, when required, may at the discretion of the City Council be assessed over the area benefited that may include land outside of the subdivision under construction or consideration.
D. The minimum depth of cover over water mains shall be eight and one-half (8.5) feet as measured from the top of the main to the lowest elevation of the ground surface covering said main.
E. Each lot shall be provided with an individual service and shut-off and/or as directed by the City Engineer. Each house service, as approved by the City Engineer, shall be run from the main to the property line, where a curb stop and box shall be placed until the service is extended to the structure. The minimum size of house services in residential areas shall be one (1) inch.
F. Mains shall be valved at intervals determined by the City Engineer. Valves shall also be installed at street intersection and branches in the distribution system or in locations as determined by the City Engineer.
G. "Dead end" mains shall be looped unless otherwise approved by the City Engineer.
H. A minimum 30-foot easement shall be provided for all public watermains located on private property. The easement shall be centered on the water main alignment. A larger easement may be required depending on the size and depth the water main.

11-6-6: **FIRE HYDRANTS:** Installation shall be pursuant to plans approved by the City Engineer and the Sartell fire inspector and shall be located in accordance with Insurance Service Office (ISO) standards and the Minnesota State Fire Code (MSFC). Hydrants shall be placed in residential neighborhoods so that all buildings are within 250 feet of a hydrant measured by an approved route. Spacing for buildings requiring additional hydrants will be based on the Minnesota State Fire Code. All hydrants shall be easily accessible to firefighting personnel and equipment and bagged until charged and ready for use. Fire hydrants shall be charged prior to framing of structures within the subdivision.

11-6-7: **DRAINAGE, GRADING AND EROSION CONTROL:**

A. Statutory Authorization: Statutory authority. Minn. Stat. ch. (citation to either county enabling stat. 394 or municipal enabling stat. 462 and 467) authorizes The City of Sartell to adopt land use regulations

B. Most restrictive law applies. In the event of any conflict between provisions of this chapter or other regulations adopted by The City of Sartell, the State of Minnesota, or Federal authorities, watershed district or watershed management organization, the more restrictive standard shall prevail.

C. Stormwater Systems shall be designed and installed in accordance with the Minnesota Stormwater Manual, MN DOT Drainage Manual, this Code and the current City of Sartell Design Standards.

D. Purpose/Scope/Applicability:

1. Purpose. The purpose of this chapter is established to promote, preserve, and enhance natural resources and human health and safety within the City of Sartell by protecting them from the adverse impacts of uncontrolled stormwater runoff during and after construction projects.
2. Scope. This chapter sets requirements for stormwater conveyance systems and management practices within the City of Sartell. This chapter also regulates land disturbing or development activities that would have a negative and potentially irreversible impact on water quality.
3. Applicability. The requirements of this chapter apply to all construction activity as defined below.

E. Definitions. See Title 10, Chapter 20 of this Code.

F. Construction Site Stormwater Runoff Control:

1. The City of Sartell hereby adopts and incorporates by reference the erosion, sediment, and waste control standards established by the Minnesota Pollution Control Agency's NPDES/SDS Construction Stormwater General Permit MNR100001 (CSW Permit) as now constituted and from time to time amended.
2. Land disturbance of 0.1 acres (4,356 square feet) or more is required to obtain a Land Disturbance Permit and meet the requirements of Title 10, Chapter 20 of this Code, and the current City of Sartell Design Standards.

G. Post-Construction Stormwater Management:

1. Submittal of Site Plans consisting of Post-Construction Plans:

   a. Site plans for Post-Construction Stormwater Management must be submitted for review and confirmation that requirements have been met, prior to start of construction activity. Post construction stormwater management shall at a minimum meet the following requirements:

      1. This section of the City Code.
      2. All other applicable Chapters and Sections of the City Code.
      3. The erosion, sediment, and waste control standards established by the Minnesota Pollution Control Agency's NPDES/SDS Construction Stormwater General Permit MNR100001 (CSW Permit) as now constituted and amended.
      4. The standards established for Minimum Control Measure (MCM) 4 and MCM 5 of the Minnesota Pollution Control Agency's NPDES/SDS Small Municipal Separate Storm Sewer System General Permit MNR040000 (MS4 Permit) as now constituted and amended.
      5. The current City of Sartell Design Standards.

2. Site plan submittals shall consist of:

   a. Grading plans, utility plans and other plans necessary to illustrate compliance with requirements.
   b. All calculations for the permanent stormwater treatment systems and convenance systems.
   c. The water quality volume that will be treated through volume reduction practices and/or permanent stormwater treatment facilities as approved.
   d. All legal mechanisms related to Long-term Maintenance Requirements.
   e. Drainage and utility easements to protect and access stormwater management facilities.
   f. Other items as requested by the City to show compliance with requirements.

H. Rate Control and Flood Control Requirements:

1. Projects where the sum of the new impervious surface and the fully reconstructed impervious surface equals one-half (0.5) acre or more must meet the following rate control requirements.

    a. Rate control shall be designed for and provided so that post-development peak flow rates at each discharge point from the project area / site shall not exceed pre-development peak flow rates for the 2, 10, and 100-year, 24-hour storm events, and 10-day snowmelt event (7.2 inches) with saturated or frozen soil conditions.

2. Projects where the sum of the new impervious surface and the fully reconstructed impervious surface equals one-half (0.5) acre or more and the project is located within the Bakers Lake and North Central Watab Drainage Area, as identified with the City's 2018 Surface water Management Plan, shall meet the following rate control requirements:

    a. Reduce the 100-year 24-hour event post development peak flow rates to less than the 10-year 24-hour event existing or pre-development peak flow rate at each discharge point.
    b. Reduce the 10-year 24-hour event post development peak flow rates to less than the 2-year 24-hour event existing or pre-development peak flow rate at each discharge point.
    c. The post-development peak flow rates at each discharge point from the project area / site shall not exceed pre-development peak flow rates for the 2-year, 24-hour storm event and 10-day snowmelt event (7.2 inches) with saturated or frozen soil conditions.

3. Projects which require a Land Disturbance Permit shall meet the following vertical separation requirements for New buildings and Structures:

    a. All structures must have a minimum basement floor elevation not less than two (2) feet above the FEMA 100-year flood elevation. Also See Section 10-18-10 of the City Code.
    b. Any buildings on lots within the flood plain district shall be at least one foot above the regulatory flood protection elevation in accordance with this Ordinance and the Zoning Ordinance. Also see Section 11-2-7-b of the City Code.
    c. All subdivisions shall have road access both to the subdivision and to the individual building sites no lower than one (1) foot above the regulatory flood protection elevation. Also see Section 11-2-7 of the City Code.
    d. Buildings shall maintain a minimum building opening elevation of not less than three (3) feet above the calculated wetland and/or pond 100-year high water level. Also see Section 11-3-7.C.13.a of the City Code.
    e. Buildings must have a minimum lowest opening elevation not less than two (2) feet above the Emergency Overflow Elevation.
    f. Buildings must have a minimum basement floor elevation of either four (4) feet above the currently observed groundwater elevations in the area or one (1) foot above the calculated wetland and/or pond 100-year high water level.

G. Permanent Stormwater Treatment:

1. Projects where the sum of the new impervious surface and the fully reconstructed impervious surface equals one (1.0) acre or more must treat the Water Quality Volume, calculated as an instantaneous volume, as described below:

    a. For non-linear projects, the Water Quality Volume shall be calculated as one (1.0) inch times the sum of the new and reconstructed impervious surface.
    b. For linear projects, the Water Quality Volume shall be calculated as the larger of one (1) inch times the new impervious surface or one-half (0.5) inch times the new and reconstructed impervious surface.

2. Volume reduction practices (e.g., infiltration or other) to retain the water quality volume on-site must be considered first when designing the permanent stormwater treatment system. Wet sedimentation basins and filtration systems are not considered volume reduction practices. If infiltration is prohibited, filtration systems shall be considered second with wet sedimentation being considered last.

3. Permanent Stormwater Treatment Systems must be designed with accepted engineering practices and meet the following design specifications and criteria:

    a. The requirements of this Code.
    b. The standards within the current version of the Minnesota Stormwater Manual.
    c. The standards established for Minimum Control Measure (MCM) 5 of the Minnesota Pollution Control Agency's NPDES/SDS Small Municipal Separate Storm Sewer System General Permit MNR040000 (MS4 Permit) as now constituted and from time to time amended.
    d. The standards outlined within the current City of Sartell Design Standards.

H. Stormwater Convenance:

1. Stormwater convenance systems (storm sewer, culverts, etc.) shall meet:

    a. The Minnesota Department of Transportation Drainage Manual.
    b. Applicable Chapters and Sections of the City Code.
    c. Current version of the Minnesota Stormwater Manual.
    d. The current City of Sartell Design Standards.

2. A minimum 20-foot easement shall be provided for all public conveyance and storm sewers located on private property. The easement shall be centered on the convenance and storm sewer alignment. A larger easement may be required depending on the size and depth of conveyance.

I. Long-term Maintenance:

1. The Owner must enter into a long-term maintenance agreement with the City of Sartell that documents all responsibilities for long-term operation and maintenance of stormwater treatment practices that are not owned or operated by The City. At a minimum, the long-term maintenance agreement must include provisions that:

    a. Allow The City to conduct inspections of structural stormwater BMPs not owned or operated by The City, perform necessary maintenance, and assess costs for those structural stormwater BMPs when The City determines the owner of that structural stormwater BMP has not ensured proper function.
    b. Are designed to preserve The City's right to ensure maintenance responsibility, for structural stormwater BMPs not owned or operated by The City, when those responsibilities are legally transferred to another party; and
    c. Are designed to protect/preserve structural stormwater BMPs. If structural stormwater BMPs change, causing decreased effectiveness, new, repaired, or improved structural stormwater BMPs must be implemented to provide equivalent treatment to the original BMP.

J. Right of Entry:

1. The Owner must allow The City and their authorized representatives to enter all properties at any reasonable time for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to the MS4 as often as may be reasonably necessary to determine compliance. These activities include, but are not limited to, the following:

    a. Conducting investigations or surveys.
    b. Examining and copying any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of the permitted activity.
    c. Inspecting the requirements of this Code.
    d. Sampling and monitoring any items or activities pertaining to this ordinance.

K. Violations/Penalty/Enforcement:

1. Enforcement powers: When an Owner fails to conform to any provision of this Code within the time stipulated, The City may take the following actions:

a. Issue a stop work order, withhold the scheduling of inspections, and/or withhold the issuance of a Certificate of Occupancy.
b. Suspend or revoke any permit issued by The City to the owner/operator for the site in question or any other of the owner/operator' sites within the City's jurisdiction.
c. If circumstances exist such that noncompliance with this ordinance poses an immediate danger to the public health, safety and welfare, as determined by The City, The City may take emergency preventative action to correct the deficiency or hire an independent contractor to correct the deficiency. The issuance of a permit constitutes a right-of-entry for The City to enter upon the site for the purpose of correcting deficiencies.
d. Require reimbursement to The City of Sartell for all costs incurred in correcting storm water pollution control deficiencies. If payment is not made within 30 days after costs are incurred by The City, then The City may assess the remaining amount against the property. As a condition of the permit, the Owner shall waive notice of any assessment hearing to be conducted by The City, agree that the benefit to the property exceeds the amount of the proposed assessment, and waive all rights by virtue of Minnesota Statute 429.081 to challenge the amount or validity of such assessment costs related to cleanup or corrective actions taken by The City.

11-6-8: **OTHER UTILITY SERVICE PROVIDERS:** Electric, gas, telephone and cable distribution facilities and service lines shall be installed underground so as to enhance the visual appearance of the area. Service lines shall be installed at the property owner's or developer's expense.

11-6-9: **SIDEWALKS**: Sidewalks, where provided or required, shall be at least six (6) feet in width, with greater widths as may be required by the City Council. Driveways shall be constructed from the curb and gutter or pavement edge to the property line or property side of the sidewalk. In cases where driveways are constructed after curbing and sidewalk are in place, the sidewalk shall be reconstructed in accordance with driveway specifications for the width of the driveway and meet ADA Standards. Concrete driveway entrances, as approved by the City, shall be constructed.

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11-6-10: **DRIVEWAYS:** All properties shall be entitled to at least one (1) curb cut. All driveways are required to have a concrete apron. A permit and inspection is required for the installation of all driveway aprons. All platted lots on paved streets shall provide driveways (either asphalt or concrete) within one (1) year from the date the building permit is issued. No curb cut access shall be located less than twenty (20) feet from the intersection of two (2) or more street rights-of-ways for residential uses, and thirty (30) feet for commercial and industrial areas. This distance shall be measured from the intersection of lot lines. Curb cut openings shall be a minimum of five (5) feet from the side property line. Single-family uses shall be limited to one (1) curb cut access per property measuring no more than twenty-four (24) feet in width, except that single-family lots measuring 125 feet or more at the building line may be allowed two curb cuts.

11-6-11: **STREETLIGHTS:** Any person, firm, corporation, subdivider, developer or owner who is responsible for any new public street construction within the City shall also be responsible for the procurement and installation of street lighting. Street lighting shall be installed as approved by the City Engineer and Sartell street lighting standards. Also see Chapter 10, Sectio 17 of this Code.

11-6-12: **IDENTIFICATION:** Every buildable lot shall be identified by a sign that indicates the lot and block number and address, if available, which is approved by City staff prior to issuing any building permits. These signs can be removed as lots are developed.

11-6-13: **PLANTINGS:** Trees may be required, as stated within the approved Development Agreement, to be planted within the front yard of the property outside of the public right-of-way for each newly created single-family, two-family and townhome lot. No invasive trees species shall be planted. Trees may be planted within the boulevard but shall not be planted within thirty (30) feet of street intersections, in utility easements, within three (3) feet of private utility hook-ups, utility mains and concrete drives or walks. Property owner and/or permit applicant will be responsible for the planting and ongoing maintenance.

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11-6-14: **SPECIFICATIONS:** Unless otherwise stated, all the required improvements shall conform to engineering standards and specifications as required by the City Council and City Engineer. Such improvements

shall be subject to inspection and approval of the City Engineer.

11-6-15: **INSPECTIONS:** The Developer shall pay for all costs incurred by the City for subdivision review and inspection. This would include preparation and review of plans and specifications by technical assistants and costs incurred by the Attorney, as well as other costs of similar nature.

11-6-16: **PAYMENT CITY/DEVELOPER AGREEMENT, FINANCIAL GUARANTEE:**

A. Payment – The required improvements to be furnished and installed by the Developer are to be furnished and installed at the sole expense of the Developer and at no expense to the public. If any improvement installed within the subdivision will be of substantial benefit to lands beyond the boundaries of the subdivision, the City Council may make a provision for causing a portion of the cost of the improvement, representing the benefit to such lands, to be assessed against the same, or the City Council may choose to pay the increased cost and assess for improvements when future development takes place. In such case the Developer will be required only to pay for such portions of the whole cost of said improvements as it will represent the benefit to the property within the subdivision, however when such improvements are made at the request of a developer and are not determined to be a benefit to the City due to the timing and/or location of the improvements, the City may opt not to provide for any 'City cost' and the development will be 100% responsible for such costs without reimbursement, regardless of potential future benefit to the City or other property owners.
B. As an alternative to paragraph (A) above, the owner of the property included in a preliminary plat may petition the City to install certain improvements required within and/or to the Plat. Said petition shall be in accordance with Minnesota Statutes Chapter 429. The City Council reserves the right to reject any/all petition(s) and refuse to order the project improvements through the City. Any petitioner for improvements to the City is required to petition the City Council for said improvements by January 1st each year for improvements requested during the year. Otherwise, the City may refuse to construct said improvements until the following year.
C. City/Developer Agreement: Prior to the installation of required improvements and prior to approval of the Final Plat, the Developer shall enter into a contract with the City requiring that the Developer furnish and construct said improvements at his or her expense and in accordance with plans and specifications to be completed by the City Engineer. The City/Developer contract shall stipulate at a minimum the type and extent of the improvements to be constructed, the cost of construction, the construction time schedule, the City's authority to inspect the construction and the amount of the escrow deposit performance bond, warranty bond and labor and material bond to be furnished
D. Financial Guarantees: With the execution of the City/Developer Agreement, providing that the developer will construct the required improvements for the Plat at his expense, the owner or developer, as the case may require, shall furnish a corporate completion bond, with good and sufficient sureties thereon, or a cashier's check, escrow account or irrevocable letter of credit in favor of the City in an amount up to or equal to one hundred twenty-five (125) percent of all costs, to include construction, engineering, legal, fiscal and administrative, as estimated by the City, of providing and installing all required improvements. Such bond, escrow, or letter of credit shall be in the form approved by the City Attorney, shall be conditioned upon the approval of the Final Plat and shall be further conditioned as to guarantee the actual completion and installation of such required improvements within a specified period of time from the date of Final Plat approval. In order to guarantee and secure the correction of any defect in material or workmanship furnished for such improvements, latent in character, and not discernible at the time of final inspection or acceptance by the City or any damage to such improvements by reason of a settling of the ground, base or foundation thereof, the City will require that for a period of twelve (12) months after final acceptance of the required improvements by the City, the proponent shall maintain a bond, escrow account or irrevocable letter of credit, in the amount of one hundred percent (100) percent of the construction costs of the in-place improvements which will be owned and maintained by the City. If during that twelve (12) month period any such defects develop, the deposit in escrow, bond, or letter of credit may be applied by the City for any amounts incurred to correct such defects.

CHAPTER 7

ADMINISTRATION

SECTION:

11-7-1: Findings of Fact
11-7-2: Conditional Approval
11-7-3: Variances, City Council Approval, Standards
11-7-4: Fees
11-7-5: Violation/Enforcement

11-7-1: **FINDINGS OF FACT:**

A. Planning Commission Recommendation: The Planning Commission upon making its formal recommendation to the City Council under this Title and pertaining specifically to the request for subdivision of land shall make said recommendation through resolution of the Commission. The recommending resolution shall contain findings of fact pursuant to the following and as outlined in Section 11-3-7 of this Title.
B. City Council Action: The City Council upon taking a formal action under this Title and pertaining specifically to the request for subdivision of land shall do so by resolution of the City Council. The resolution shall contain findings of fact pursuant to the following and as outlined in in this Title.
C. Recommendation/official action pertaining to requests for variance from this Title shall include findings of fact pursuant to those identified in this Title.
D. Premature Subdivisions: Any preliminary plat of a proposed subdivision deemed premature for development shall be denied by the City Council. A subdivision may be deemed premature should any one or more of the conditions set forth in the following provisions exist. The burden shall be upon the applicant to show that the proposed subdivision is not premature.

1. Lack of adequate drainage: A condition of inadequate drainage shall be deemed to exist if:

    a. Surface or subsurface water retention/detention and runoff is such that it constitutes a danger to the structural security of the proposed development or flood of the subdivision or downstream property.
    b. The proposed subdivision will cause pollution of water sources or damage from erosion and siltation on downhill or downstream land.
    c. The proposed site grading and development will cause siltation on downstream land.
    d. Factors to be considered in making these determinations shall include, but shall not be limited to: average rainfall for the area; the relation of the land to flood plains; the nature of soils and subsoils and their ability to adequately support surface water runoff and waste disposal systems; the slope of the land and its effect on effluents; and the presence of streams as related to effluent disposal.

2. Lack of Adequate Water Supply: A proposed subdivision shall be deemed to lack an adequate water supply if:

    a. There is inadequate capacity in the present system to support the subdivision if developed to its maximum permissible density indicated in the Sartell Comprehensive Plan, as may be amended.
    b. The orderly extension of municipal drinking water is not feasible, and the City does not find installation of private wells to be appropriate for the particular area or development.

3. Lack of Adequate Roads or Highways to Serve the Subdivision: A proposed subdivision shall be deemed to lack adequate roads or highways to serve the subdivision when:

    a. Roads which serve the proposed subdivision are of such a width, grade, stability, vertical and horizontal alignment, site distance and surface condition that an increase in traffic volume generated by the proposed subdivision would create a hazard to public safety and general welfare, or aggravate an already hazardous condition, and when, with due regard to the advice

of the City Engineer, Stearns/Benton County Highway Engineer, St. Cloud Area Planning Organization and/or the Minnesota Department of Transportation, said roads are inadequate for the intended use; or

b. The traffic volume generated by the proposed subdivision would create unreasonable traffic congestion or unsafe conditions on roadways existing at the time of the application or proposed for completion.

4. Lack of Adequate Waste Disposal Systems: A proposed subdivision shall be deemed to lack adequate waste disposal systems if:

   a. There is inadequate sewer capacity in the present system to support the subdivision if developed to its maximum permissible density indicated in the Sartell Comprehensive Plan, as may be amended.
   b. The orderly extension of municipal sanitary sewer is not feasible, and the City does not find installation of private septic systems to be appropriate for the particular area or development.

5. Provision of Public Improvements/Services: If public improvements, such as recreational facilities, streets, and utilities and/or public administration and/or public protection services such as police and fire service reasonably necessitated by the subdivision and which must be provided at public expense, cannot be reasonably provided within the next two (2) fiscal years the proposed subdivision shall be deemed premature.
6. Threat to Environmentally Essential Areas: The proposed subdivision is inconsistent with policies and standards of the City, the County, the State, or Federal Government relating to environmentally sensitive areas and protections thereof.
7. Inconsistency with Comprehensive Plan: The proposed subdivision is inconsistent with the purposes, objectives, and recommendations of the duly adopted Comprehensive Plan of Sartell, as may be amended.
8. Inconsistent with Capital Improvement Plans. A proposed subdivision shall be deemed inconsistent with capital improvement plans when improvements and/or services necessary to accommodate the proposed subdivision have not been programmed in the City, County, or other regional capital improvement plans. The City Council may waive this criterion when it can be demonstrated that a revision to capital improvement programs can be accommodated.

E. Disqualification/Denial of Plats: The City Council may deny the subdivision if it makes any one or more of the following findings:

1. That the proposed subdivision qualifies as a premature subdivision under Section 11-7-1-D of this Title. If deemed a 'premature subdivision' the proposed subdivision shall be denied.
2. That the proposed subdivision is in direct conflict with adopted applicable local control (Zoning Ordinance; Subdivision Ordinance) and/or general or specific official plans of the City, County or Region.
3. That the physical characteristics of the site, including but not limited to, topography, percolation rate, soil conditions, susceptibility to erosion and siltation, susceptibility to flooding, water storage, groundwater elevations, drainage and retention, are such that the site is not suitable for the type of development, design, or use contemplated.
4. That the site is not physically suitable for the proposed density of development.
5. That the design of the subdivision or the type of improvements are likely to cause serious public health concerns.
6. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage.
7. That the design of the subdivision or the type of improvements will conflict with easements of record or with easements established by judgment of a court.
8. That the proposed subdivision, its site, or its design adversely affects the flood-carrying capacity of the floodway, increases flood stages and velocities, or increases flood hazards within the floodway fringe or within other areas of the City.
9. That the proposed subdivision is inconsistent with the policies and standards for defined wetland, floodplain and/or environmental sensitive areas.

11-7-2: **CONDITIONAL APPROVAL:**

A. The City may condition approval on the construction and installation of sewers, streets, electric, gas, drainage and water facilities, and similar utilities and improvements or, in lieu thereof, on the receipt by the municipality of a cash deposit, certified check, irrevocable letter of credit, or bond in an amount and with surety and conditions sufficient to assure the municipality that the utilities and improvements will be constructed or installed according to the specifications of the municipality. The City may also condition approval on compliance with other requirements reasonably related to the provisions of the regulations and to execute development contracts embodying the terms and conditions of approval.
B. The City may not condition the approval of any proposed subdivision or development on an agreement to waive the right to challenge the validity of a fee.
C. This paragraph must not be construed to preclude the municipality from conditioning approval of any proposed subdivision or development on an agreement to waive a challenge to the cost associated with City installed improvements of the type described in Mn. Statute 429.

11-7-3: **VARIANCES, CITY COUNCIL APPROVAL, STANDARDS:**

A. Findings: The City Council may approve a variance from the minimum standards of this Ordinance (not procedure provisions) in the manner provided for variances in Title 10, Chapter 16.

11-7-4: **FEES:**

A. Fees and charges, as well as expenses incurred by the City for engineering, planning, legal, and other services related to the processing of applications under this Ordinance shall be established via ordinance approved by the Council and collected by the City Administrator for deposit in the City's accounts. Fees shall be established for the processing of requests for platting, major and minor subdivisions, review of plans, and such other subdivision-related procedures as the Council may from time to time establish. The Council may also establish charges for public hearings, special meetings, or other such Council actions as are necessary to process applications.
B. Such fees, charges, and estimated expenses (as well as a deposit, if so, required by the Community Development Director or his/her designee shall be collected prior to City action on any application. All such applications shall be accompanied by a written statement between the City and the applicant/landowner (when the applicant is not the same person or entity as the landowner, both the landowner and the applicant must sign the agreement) whereby the applicant/landowner agrees to pay all applicable fees, charges and expenses as set by Council resolution as provided above, and which allows the City to assess the above fees, charges and expenses against the landowner if such monies are not paid within thirty (30) days after a bill is sent to the applicant/landowner.
C. These fees shall be in addition to building permit fees, inspection fees, trunk storm water facility costs, zoning fees, charges, expenses and other such fees, charges and expenses currently required by the City, or which may be established in the future.

11-7-5: **VIOLATION/ENFORCEMENT**:

A. Any person violating any provision of this Title shall be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment not exceeding ninety (90) days, or by administrative citation or both. Each day a violation is allowed to continue, it shall be construed as a separate offense. Compliance with the terms of this ordinance may be obtained by injunctive relief in proceedings instituted by the City in a court of competent jurisdiction.
B. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation, including but not limited to, the issuance of administrative citations as authorized by the City of Sartell.

TITLE 12

FLOOD CONTROL

Subject	Chapter
General Provisions	1
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Conditional Uses	8
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CHAPTER 1

GENERAL PROVISIONS

SECTION:

12-1-1: Statutory Authorization
12-1-2: Findings Of Fact
12-1-3: Purpose
12-1-4: General Provisions
12-1-5: Establishment of Zoning Map
12-1-6: Interpretation
12-1-7: Amendments
12-1-8: Abrogation And Greater Restrictions
12-1-9: Warning And Disclaimer Of Liability
12-1-10: Severability

12-1-1: **STATUTORY AUTHORIZATION**: The legislature of the State of Minnesota has, in Minnesota Statutes chapter 103F and 462, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses, Therefore the City of Sartell does ordain as follows:

12-1-2: **FINDINGS OF FACT:**

A. Results Of Inundation: The flood hazard areas of the City are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
B. Analytical Methods: This Title is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.
C. National Flood Insurance Program Compliance. This Ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 4-1 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program

12-1-3: **PURPOSE:** It is the purpose of this Title to promote the public health, safety and general welfare and to minimize those losses described in subsection 12-1-2A of this Chapter by the provisions contained herein.

12-1-4: **GENERAL PROVISIONS:** This Title shall apply to all land within the jurisdiction of the City shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway or Flood Fringe Districts or general Flood Districts.

12-1-5: **OFFICIAL ZONING MAP ADOPTED**:

A. Establishment of Official Zoning Map: The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Ordinance. The attached material shall include: 1) Flood Insurance Study, Benton County, Minnesota and Incorporated Areas, Flood Insurance Rate Map Index for Benton County, Minnesota and Incorporated Areas with a map number of 27009CINDOB and Flood Insurance Rate Map panels therein for Benton County, Minnesota and Incorporated Areas with map numbers 27009C0165C, 27009C0252C, and 27009C0256C; all of these documents being dated August 16, 2011, 2) Stearns County Flood Insurance Study text and Flood Insurance Rate Map panels numbered 27145C0395E, 27145C0415E, 27145C0610E, 27145C0626E, 27145C0627E, 27145C0628E, 27145C0629E, 27145C0631E and 27145C0633E, all dated February 16, 2012

B. Regulatory Flood Protection Elevation: The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

12-1-6: **INTERPRETATION**:

A. Minimum Requirements: In their interpretation and application, the provisions of this Title 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 the State.
B. Statute: The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the Community adopted its initial floodplain ordinance or on the date of the first National Flood Insurance Program map showing the area within the 100-year floodplain if earlier, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence.

12-1-7: **AMENDMENTS**:

A. Removal Of Flood Plain Designation: The flood plain designation on the Official Zoning Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.
B. Amendment Of Title: All amendments to this Title, including amendments to the Official Zoning Map, must be submitted to and approved by the Commission of Natural Resources prior to adoption.
C. Amendment Of Official Zoning Map: Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) technical conditions and criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given ten (10) days' written notice of all hearings, to consider an amendment to this Title, and said notice shall include a draft of the ordinance amendment or technical study under consideration.

12-1-8: **ABROGATION AND GREATER RESTRICTIONS**: It is not intended by this Title to repeal, abrogate or impair any existing easements, covenants or deed restrictions; however, where this Title imposes greater restrictions, the provisions of this Title shall prevail. All other ordinances inconsistent with this Title are hereby repealed to the extent of the inconsistency only.

12-1-9: **WARNING AND DISCLAIMER OF LIABILITY**: This Title does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Title shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this Title or any administrative decision lawfully made there under.

12-1-10: **SEVERABILITY**: If any section, clause, provision or portion of this Title is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Title shall not be affected thereby.

12-1-11: **ANNEXATIONS:** The Flood Insurance Rate Map panels adopted by reference into Section 12-1-5 above may include floodplain areas that lie outside of the corporate boundaries of the City of Sartell

at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into the City of Sartell after the date of adoption of this ordinance, the newly annexed floodplain lands shall be subject to the provisions of this ordinance immediately upon the date of annexation into the City of Sartell.

CHAPTER 2

DEFINITIONS

SECTION:

12-2-1: Definitions

12-2-1: **DEFINITIONS:** Unless specifically defined below, words or phrases used in this Title shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Title its most reasonable application:

ACCESSORY USE OR STRUCTURE:	A subordinate or secondary use or structure that is incidental to the main or principal use of the property.
BASEMENT:	Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four (4) sides, regardless of the depth of excavation below ground level.
CONDITIONAL USE:	A specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or Building Codes and upon a finding that: A. Certain conditions as detailed in Title 10 of this Code exist; and B. The structure and/or land use conform to the Comprehensive Land Use Plan if one exists and are compatible with the existing neighborhood.
EQUAL DEGREE OF ENCROACHMENT:	A method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.
FLOOD:	A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.
FLOOD FREQUENCY:	The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
FLOOD FRINGE:	That portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the flood insurance Studies adopted of this ordinance in section 12-1-5A
FLOOD PLAIN:	The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.
FLOODPROOFING:	A combination of structural provisions, changes or adjustments to properties and structures subject to flooding, primarily for the

	reduction or elimination of flood damages.
FLOODWAY:	The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood.
LOWEST FLOOR:	The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor.
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."
OBSTRUCTION:	Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse or regulatory flood plain 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.
PRINCIPAL USE OR STRUCTURE:	All uses or structures that are not accessory uses or structures
REACH:	A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or manmade obstruction. In an urban area, the segment of a stream or river between two (2) consecutive bridge crossings would most typically constitute a reach.
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 shall be synonymous with the term travel trailer/travel vehicle.
REGIONAL FLOOD:	A flood which is representative of Large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.
REGULATORY FLOOD PROTECTION ELEVATION:	The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot (1') above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

SUBSTANTIAL DAMAGE: Means damage of any origin sustained by a structure where the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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 an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure." For the purpose of this Ordinance, "historic structure" shall be as defined in 44 Code of Federal Regulations, Part 59.1.

STRUCTURE: Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in subsection 12-7-3B of this Title and other similar items.

VARIANCE: A modification of a specific permitted development standard required in an official control including this Title to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of "alleviating a hardship", "practical difficulty" or "unique circumstance" as defined and elaborated upon in a community's respective planning and zoning enabling legislation.

CHAPTER 3

ADMINISTRATION

SECTION:

12-3-1: Zoning Administrator
12-3-2: Permit And Certificate Requirements
12-3-3: Board Of Adjustment

12-3-1: **ZONING ADMINISTRATOR**: A Zoning Administrator or other official designated by the governing body shall administer and enforce this Title. If the Zoning Administrator finds a violation of the provisions of this Title, the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures in Chapter 10 of this Title.

12-3-2: **PERMIT AND CERTIFICATE REQUIREMENTS**:

A. Permit Required: A permit issued by the Zoning Administrator in conformity with the provisions of this Title shall be secured prior to the erection, addition , modification, rehabilitation (including normal maintenance and repair) or alteration of any building, structure or portion thereof; prior to the construction of a dam, fence, or on-site septic system; prior to the use or change of use of a building, structure or land; prior to the change or extension of a nonconforming use; prior to the placement of fill, excavation or materials, or the storage of materials or equipment within the flood plain, and prior to the repair of a structure that has been damaged by flood, fire, tornado.
B. Application For Permit: Application for a permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill or storage of materials; and the location of the foregoing in relation to the stream channel.
C. State And Federal Permits: Prior to granting a permit or processing an application for a conditional use permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal permits.
D. Certificate Of Zoning Compliance: it shall be unlawful to use, occupy or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Title.
E. Construction And Use: Permits, conditional use permits or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement and construction set forth in such approved plans and applications and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Title and punishable as provided by Chapter 10 of this Title.
F. Certification: The applicant shall be required to submit certification by a registered professional engineer, registered architect or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Title. Flood proofing measures shall be certified by a registered professional engineer or registered architect.
G. First Floor Elevation Record: The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures and alterations or additions to structures are flood proofed.

Watercourse Alterations. The Zoning Administrator shall notify, in writing situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall

also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

I. Notification to FEMA when physical changes increase or decrease the 100-year flood elevation. As soon as practicable, but not later than six (6) months after the date of such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said data.

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12-3-3: **BOARD OF ADJUSTMENT**:

A. Rules; Powers: The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such boards by State law.

B. Administrative Review: The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision,or determination made by an administrative official in the enforcement or administration of this Title.

C. Variances: The Board may authorize upon appeal in specific cases such relief or variance from the terms of this Title as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties, or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify, in writing, the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district; permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area or permit standards lower than those required by State law. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

   1. Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
   2. Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
   3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

D. Hearings; Notice: Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator or an application for a variance, the Board shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.

E. Decisions: The Board shall arrive at a decision on such appeal or variance within thirty (30) days. In passing upon an appeal, the Board may, so long as such action is in conformity with the provisions of this Title, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the Board may prescribe appropriate conditions and safeguards such as those specified in Section 12-8-7, which are in conformity with the purposes of this Title. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Title punishable under Chapter 10. A copy of all decisions granting variances shall be forwarded by mail to the Commission of Natural Resources within ten (10) days of such action.

F. Appeals: Appeals from any decision of the Board may be made as specified in this community's official controls and also Minnesota Statutes.

G. Flood Insurance Notice; Record Keeping:

1. Notification: The City shall notify the variance applicant that:

   a. The issuance of a variance to construct a structure below the base flood level **may** result in increased premium rates for flood insurance up to amounts; and
   b. Such construction below the 100-year or regional flood level may increase the risks to life and property.

2. Maintenance Of Records: Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the administrator of the National Flood Insurance Program.

CHAPTER 4

FLOOD PLAIN ZONING DISTRICTS

SECTION:

12-4-1: Districts Established
12-4-2: Compliance

12-4-1: **DISTRICTS ESTABLISHED**:

A. Floodway District (FW): The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map Panels adopted in Section 12-1-5 of this Title.
B. Flood Fringe District (FF): The Flood Fringe District shall include those areas designated as floodway fringe. The Flood Fringe District shall include those areas shown as floodway fringe on the panels adopted in Section 12-1-5 and those Zone AE areas located outside of the floodway on the Flood Insurance Rate Map panels adopted in Section 12-1-5 of this Ordinance.

12-4-2: **COMPLIANCE**: No new structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms constructed of this Title and other applicable regulations which apply to uses within the jurisdiction of this Title. Within the Floodway and Flood Fringe Districts, all uses not listed as permitted uses or conditional uses in Articles A and B of this Chapter, respectively, shall be prohibited. In addition, a caution is provided here that:

A. Manufactured Homes; Recreational Vehicles: New manufactured homes, replacement manufactured homes and certain recreational trailers and travel vehicles are subject to the general provisions of this Title and specifically Chapter 7 of this Title.
B. Nonconforming Structures Or Uses: Modifications, additions, structural alteration, normal maintenance and repair or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Title and specifically Chapter 9 of this Title; and
C. As-Built Elevations: As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designated and certified by a registered professional engineer or architect as specified in the general provisions of this Title and specifically as stated in Chapter 3 of this Title.

CHAPTER 4A

FLOOD PLAIN ZONING DISTRICTS

ARTICLE A. FLOODWAY DISTRICT (FW)

SECTION:

12-4A-1: Permitted Uses
12-4A-2: Standards For Permitted Uses
12-4A-3: Conditional Uses
12-4A-4: Standards For Conditional Uses

12-4A-1: PERMITTED USES:

A. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting.
B. Industrial/commercial loading areas, parking areas and airport landing strips.
C. Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting, and fishing areas, and single or multiple purpose recreational trails
D. Residential lawns, gardens, parking areas and play areas,

12-4A-2: STANDARDS FOR PERMITTED USES:

A. The use shall have a low flood damage potential.
B. The use shall be permissible in the underlying zoning district.
C. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavation or storage of materials or equipment.

12-4A-3: CONDITIONAL USES:

A. Structures accessory to the uses listed in Section 12-4A-1 of this Article and the uses listed in subsections B through H of this Section below.
B. Extraction and storage of sand, gravel and other materials.
C. Marinas, boat rentals, docks, piers, wharves and water control structures.
D. Railroads, streets, bridges, utility transmission lines and pipelines.
E. Storage yards for equipment, machinery or materials.
F. Placement of fill or the construction of fences.
G. Recreational vehicles, travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Section 12-7-3 of this Title.
H. Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

12-4A-4: STANDARDS FOR CONDITIONAL USES:

A. All Uses: No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.
B. Procedures And Standards: All floodway conditional uses shall be subject to the procedures and standards contained in Chapter 8 of this Title.

C. Underlying Zoning District: The conditional use shall be permissible in the underlying zoning district.
D. Fill:

1. Fill, dredge spoil and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.
2. Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.
3. As an alternative, and consistent with subsection D2 immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the governing body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the office of the proper County Recorder.

E. Accessory Structures:

1. Accessory structures shall not be designed for human habitation.
2. Accessory structures, if permitted, shall be constructed, and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.

    a. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and
    b. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

3. Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed five hundred (500) square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards:

    a. The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and
    b. Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed.
    c. To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

F. Storage Of Materials And Equipment:

1. The storage or processing or materials that are, in time of flooding, flammable, explosive or potentially injurious to human, animal or plant life is prohibited.
2. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.

G. Flood Control Structural Works: Structural works for flood control that will change the course,

current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statutes chapter 105. Community wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

H. Levee, Dike Or Floodwall: A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream. (Ord. 89-2, 9-11-1989)

CHAPTER 4B
FLOOD PLAIN ZONING DISTRICTS

ARTICLE B. FLOOD FRINGE DISTRICT (FF)

SECTION:

12-4B-1: Permitted Uses
12-4B-2: Standards For Permitted Uses
12-4B-3: Conditional Uses
12-4B-4: Standards For Conditional Uses
12-4B-5: Standards For All Uses

12-4B-1: **PERMITTED USES**: Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use districts. If no preexisting, underlying zoning use districts exist, then any residential or nonresidential structure or use of a structure or land shall be a permitted use in the flood fringe provided such use does not constitute a public nuisance. All permitted uses shall comply with the standards for flood fringe permitted uses listed in Section 12-4B-2 of this Article and the standards for all flood fringe permitted and conditional uses listed in Section 12-4B-5 of this Article.

12-4B-2: **STANDARDS FOR PERMITTED USES:**

A. All structures, including accessory structures, 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 (1') below the regulatory flood elevation and the fill shall extend at such elevation at least fifteen feet (15') beyond the outside limits of the structure erected thereon.
B. As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed five hundred (500) square feet for the largest horizontal extension may be internally flood proofed in accordance with subsection 12-4A-4E3 of this Chapter.
C. The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.
D. The provisions of Section 12-4B-5 of this Article shall apply.

12-4B-3: **CONDITIONAL USES:** Any structure that is not elevated on fill or flood proofed in accordance with subsection 12-4B-2A of this Article or any use of land that does not comply with the standards in subsections 12-4B-2C and D of this Article shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in Sections 12-4B-4 and 12-4B-5 of this Article and Chapter 8 of this Title.

12-4B-4: **STANDARDS FOR CONDITIONAL USES:**

A. Alternative Elevation Methods: Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck-under garages. The base or floor of an area shall be considered above-grade and not a structure's basement or lowest floor if the enclosed area: 1) is above-grade on at least one side of the structure; 2) is designed to, internally flood and is constructed with flood resistant materials; and 3) is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

    1. Design and Certification: The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation,

plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

2. Specific Standards For Above-Grade, Enclosed Areas: Above grade, fully enclosed areas such as crawl spaces or tuck-under garages must be designed to internally flood, and the design plans must stipulate:

    a. The minimum area of automatic openings in the walls where internal flooding is to be used as a flood proofing technique. When openings are placed in a structure's wall to provide for entry of flood waters to equalize pressures, the bottom of all openings shall be no higher than one foot (1') above grade. Openings may be equipped with screens, louvers, valves or other coverings or devises provided that they permit the automatic entry and exit of flood water without any form of human intervention.
    b. That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

B. Basements: “Basements", as defined in Section 12-2-1 of this Title, shall be subject to the following:

1. Residential basement construction shall not be allowed below the regulatory flood protection elevation.
2. Nonresidential basements may be allowed below the regulatory flood protection elevation provided that the basement is structurally dry, and flood proofed in accordance with this Chapter.

C. Flood proofing: All areas of nonresidential structures including basements to be placed below the regulatory flood protection elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code. Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the State Building Code and this shall require making the structure is watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.

D. Fill: When at any one time more than one thousand (1,000) cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a State approved shoreland management ordinance. In the absence of a State approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the gover ning body. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

E. Storage of Materials and Equipment:

1. The storage or processing of materials that are, in time of flooding, flammable, explosive or potentially injurious to human, animal or plant life is prohibited.
2. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.

F. Additional Provisions Apply: "The provisions of Section 12o4B-5 of this Article shall also apply.

12-4B-5: **STANDARDS FOR ALL USES:**

A. Vehicular Access: All new principal structures must have vehicular access at or above an elevation

not more than two feet (2') below the regulatory flood protection elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

B. Commercial Uses: Accessory land uses, such as yards, railroad tracks and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than two feet (2') or be subject to flood velocities greater than four feet (4') per second upon occurrence of the regional flood.

C. Manufacturing And Industrial Uses: Measures shall be taken to minimize interference with normal plant operations, especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in subsection B above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.

D. Fill: Fill shall be properly compacted, and the slopes shall be properly protected by the use of riprap, vegetative cover, or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

E. Hydraulic Capacity: Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.

F. Recreational Vehicles: Standards for recreational trailers and travel vehicles are contained in Section 12-7-3 of this Title.

G. Manufactured Homes: 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.

CHAPTER 5

SUBDIVISIONS AND DEVELOPMENTS

SECTION:

12-5-1 : Intent
12-5-2: Review Criteria
12-5-3: Removal Of Special Flood Hazard Area Designation

12-5-1: **INTENT:** This Chapter is not intended as a substitute for a comprehensive City or County subdivision ordinance. It can, however, be used as an interim control until the comprehensive subdivision ordinance can be amended to include necessary flood plain management provisions. (Ord. 89-2, 9-11-1989)

12-5-2: **REVIEW CRITERIA**: No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall contain a building site at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Title and have road access both to the subdivision and to the individual building sites no lower than two feet (2') below the regulatory flood protection elevation. For all subdivisions in the flood plain, the floodway and flood fringe boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents. (Oral. 89-2, 9-11-1989)

12-5-3: **REMOVAL OF SPECIAL FLOOD HAZARD AREA DESIGNATION:** The Federal Emergency Management Agency (FEMA) has established criteria for removing special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested. (Ord. 89-2, 9-11-1989)

CHAPTER 6

PUBLIC UTILITIES, RAILROADS, ROADS AND BRIDGES

SECTION:

12-6-1: Public Utilities
12-6-2: Public Transportation Facilities
12-6-3: On-Site Sewage Treatment And Water Supply Systems

12-6-1: **PUBLIC UTILITIES**: All public utilities and facilities such as gas, electrical, sewer and water supply systems to be located In the flood plain shall be flood proofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation. (Ord. 89-2, 9-11-1989)

12-6-2: **PUBLIC TRANSPORTATION FACILITIES**: Railroad tracks, roads and bridges to be located within the flood plain shall comply with Articles A and B of Chapter 4 of this Title. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety. (Ord. 89-2, 9-11-1989)

12-6-3: **ON-SITE SEWAGE TREATMENT AND WATER SUPPLY SYSTEMS:**

A. Infiltration Of Flood Waters: Where public utilities are not provided:

1. Water Supply Systems: On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and
2. Sewage Treatment Systems: 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,

B. Compliance: Any sewage treatment system designed in accordance with the State's current standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

CHAPTER 7

MANUFACTURED HOMES,
AND RECREATIONAL VEHICLES

SECTION:

12-7-1: Manufactured Home Parks
12-7-2: Manufactured Homes
12-7-3: Recreational Vehicles

12-7-1: **MANUFACTURED HOME PARKS**: New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Chapter 5 of this Title.

12-7-2: **MANUFACTURED HOMES**:

A. Placement: The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with Article B of Chapter 4 of this Title. If vehicular road access for preexisting manufactured home parks is not provided in accordance with subsection 12-4B-5A of this Title, then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the governing body.
B. Anchoring: All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State or local anchoring requirements for resisting wind forces.

12-7-3: **RECREATIONAL VEHICLES:**

A. Applicability: Recreational vehicles that do not meet the exemption criteria specified in subsection B below shall be subject to the provisions of this Title and as specifically spelled out in subsections D and E of this Section.
B. Exemption: Recreational vehicles are exempt from the provisions of this Title if they are placed in any of the areas listed in subsection C below and further, they meet the following criteria:

    1. Have current licenses required for highway use.
    2. Are highway ready, meaning on wheels or the internal jacking system; are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks; and the travel trailer/travel vehicle has no permanent structural type additions attached to it.
    3. The recreational vehicle and associated use must be permissible in any preexisting, underlying zoning district.

C. Areas Exempted For Placement:

    1. Individual lots or parcels of record.
    2. Existing commercial recreational vehicle parks or campgrounds.
    3. Existing condominium type associations.

D. Loss Of Exemption: Recreational vehicles exempted in subsection B of this Section lose this exemption when development occurs on the parcel exceeding $500 for a structural addition to the recreational vehicle or an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new

structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in Articles A and B of Chapter 4 of this Title. There shall be no development or improvement of the parcel or attachment to the creational vehicles that hinders the removal of the recreational vehicle to a flood free location should flooding occur.

E. Restrictions: New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:

1. Any new or replacement recreational vehicle will be allowed in the floodway or flood fringe districts provided said recreational vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with subsection 12-4B-5A of this Title. Any fill placed in a floodway for the purpose of elevating a travel trailer shall be subject to the requirements of Article A, Chapter 4 of this Title.
2. All new or replacement recreational vehicles not meeting the criteria of subsection E1 of this Section may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of Chapter 8 of this Title. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 12-6-3 of this Title. (Ord. 89-2, 9-11-1989)

CHAPTER 12

CONDITIONAL USES

SECTION:

12-8-1: Application For Permit
12-8-2: Hearing; Notice
12-8-3: Decisions
12-8-4: Procedure Of Governing Body
12-8-5: Factors Considered
12-8-6: Time For Acting On Application
12-8-7: Additional Conditions

12-8-1: **APPLICATION FOR PERMIT**: The governing body shall hear and decide applications for conditional uses permissible under this Title. Applications shall be submitted to the Zoning Administrator who shall forward the application to the governing body for consideration.

12-8-2 **HEARING; NOTICE**: Upon filing with the governing body an application for a conditional use permit, the governing body shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional use sufficiently in advance so that the Commissioner will receive at least ten (10) days' notice of the hearing.

12-8-3: **DECISIONS:** The governing body shall arrive at a decision on a conditional use within thirty (30) days. In granting a conditional use permit the governing body shall prescribe appropriate conditions and safeguards, in addition to those specified in Section 12-8-7, which are in conformity with the purposes of this Title. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this Title punishable under Chapter 10 of this Title. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

12-8-4: **PROCEDURE OF GOVERNING BODY**: The following procedure shall be followed by the governing body in passing on conditional use permit applications within all flood plain districts:

A. Required Information: The applicant is required to furnish such of the following information and additional information as deemed necessary by the governing body for determining the suitability of the particular site for the proposed use:

    1. Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures and the relationship of the above to the location of the stream channel.
    2. Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

B. Refer Copy For Technical Review: Transmit one copy of the information described in subsection A to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use,the adequacy of the plans for protection and other technical matters.

C. Governing Body Determination: Based upon the technical evaluation of the designated engineer or expert, the governing body shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

12-8-5: **FACTORS CONSIDERED**: In passing upon conditional use applications, the governing body shall consider all relevant factors specified in other sections of this Title, and:

A. The danger to life and property due to increased flood heights or velocities caused by encroachments.
B. The danger that materials may be swept onto other lands or downstream to the injury of others, or they may block bridges, culverts, or other hydraulic structures.
C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
E. The importance of the services provided by the proposed facility to the community.
F. The requirements of the facility for a waterfront location.
G. The availability of alternative locations not subject to flooding for the proposed use.
H. The compatibility of the proposed use with existing development anticipated in the foreseeable future.
I. The relationship of the proposed use to the Comprehensive Plan and flood plain management program for the area.
J. The safety of access to the property in times of flood for ordinary and emergency vehicles.
K. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
L. Such other factors which are relevant to the purposes of this Title.

12-8-6: **TIME FOR ACTING ON APPLICATION**: The governing body shall act on an application in the manner described above within thirty (30) days from receiving the application, except that where additional information is required pursuant to Section 12-8-4 of this Title. The governing body shall render a written decision at the earliest possible date upon receiving such additional information.

12-8-7: **ADDITIONAL CONDITIONS:** Upon consideration of the factors listed above and the purpose of this Title, the governing body shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Title. Such conditions may include, but are not limited to, the following:

A. Modification of waste treatment and water supply facilities.
B. Limitations on period of use, occupancy, and operation.
C. Imposition of operational controls, sureties, and deed restrictions.
D. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
E. Flood proofing measures in accordance with the State Building Code and this Title. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

CHAPTER 9

NONCONFORMING USES

SECTION:

12-9-1: Nonconforming Structure Or Use

12-9-1: **NONCONFORMING STRUCTURE OR USE**: A structure or the use of a structure or premises which was lawful before the passage or amendment of this Title but which is not in conformity with the provision of this Title may be continued subject to the following conditions:

A. Increase In Nonconformity: No such use shall be expanded, changed, enlarged or altered in a way which increases its nonconformity.
B. Alteration Or Addition: Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 through FP-4 flood proofing classifications) allowable in the State Building Code, except as further restricted in subsection E and C below.
C. Cost Of Structural Alterations: The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed fifty percent (50%) of the market value of the structure unless the conditions of this Section are satisfied, The cost of all structural alterations and additions constructed since the adoption of the community's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds fifty percent (50%) of the current market value of the structure, then. the structure must meet the standards of Articles A and B, Chapter 4 of this Title, for new structures depending upon whether the structure is in the floodway or flood fringe, respectively.
D. Discontinued Use: If any nonconforming use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this Title. The proper assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses which have been discontinued for a period of twelve (12) months.
E. Destruction: If any nonconforming use or structure is substantially damaged, it shall not be reconstructed except in conformity with the provisions of this Title. The applicable provisions for establishing new uses or new structures in Chapter 4, Articles A or B of this Title, will apply depending upon whether the use or structure is in the Floodway or Flood Fringe District, respectively.
F. If a substantial improvement occurs, as defined in this Ordinance, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of this Ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

CHAPTER 10

VIOLATION; PENALTY

SECTION:

12-10-1: Violation
12-10-2: Additional Remedies

12-10-1: **VIOLATION:** Violation of the provisions of this Title or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law.

12-10-2: **ADDITIONAL REMEDIES**: Nothing herein contained shall prevent the governing body from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

A. Actions Available: In responding to a suspected ordinance violation, the Zoning Administrator and local government may utilize the full array of enforcement actions available to it, including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood insurance Program.
B. Investigation; Transmit Information To State And Federal Agencies: When an ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources and Federal Emergency Management Agency regional office along with the community's plan of action to correct the violation to the degree possible.
C. Action By Zoning Administrator: The Zoning Administrator shall notify the suspected party of the requirements of this Title and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the community. If the construction or development is already completed, then the Zoning Administrator may either:

    1. Issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or
    2. Notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed thirty (30) days.

D. Failure To Respond: If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Title and shall be prosecuted accordingly. The Zoning Administrator shall also, upon the lapse of the specified response period, notify the landowner to restore the land to the condition which existed prior to the violation of this Title.

STAFF MEMO

Lead Department and Contact: Community Development – Kari Theisen	**Meeting Date:** March 4, 2024	**Agenda Item No.** **04b**
Agenda Section: New Business	**Goal Area:** Livable City	**Item:** Vacation – Whippoorwill Way & Easement

PREVIOUS COUNCIL REVIEW OR ACTION: N/A.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION: The Planning Commission will review the Vacation request on March 4, 2024.

BACKGROUND:

Applicant Information:	Richard Poplinksi
Current Zoning:	R-1 Single Family Residential
Requested Plan:	Vacate a portion of Whippoorwill Way and a drainage and utility easement
Location:	92.56570.0394 / Arbor Village Outlot A

The applicant has requested to vacate a portion of Whippoorwill Way and a drainage and utility easement. The applicant submitted this vacation to be create a buildable lot. The applicant submitted the same request in 2021 which staff recommended to approve; however, the applicant did not complete the process. Once the Vacation request is approved the applicant will submit the necessary documents to complete the platting process for the outlot.

RECURRING REQUEST: No.

PROPOSED BUDGET/FISCAL IMPACT: None.

OPPORTUNITY COST IF APPROVED: None.

ACTIONS REQUESTED: Motion and 2nd to recommend approval of the Vacation Request.

ATTACHMENTS: Vacation Resolution, Vacation Application, and Supporting Documents.

RESOLUTION NO. _____

RESOLUTION VACATING A PORTION OF WHIPPOORWILL WAY AND A DRAINAGE AND UTILITY EASEMENT

WHEREAS, the City Council of the City of Sartell upon its own motion, set a public hearing for the purpose of hearing those present regarding the proposed vacation of a portion of Whippoorwill Way and a drainage and utility easement; and

WHEREAS, in conformity with provided notice, a hearing thereon was duly held on April 8, 2024, at which time all those present were given an opportunity to be heard; and

WHEREAS, the Council finds it in the interest of the public to vacate a portion of the road right-of-way and the drainage and utility easement because the property it is not needed for roadway purposes, and the vacation is in the best interests of the public; and

WHEREAS, the Council finds it in the interest of the public to vacate a portion of Whippoorwill Way; and

WHEREAS, the Council finds it in the interest of the public to vacate a drainage and utility easement.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SARTELL, MINNESOTA, that the following described is hereby vacated:

VACATION OF DRAINAGE AND UTILITY EASEMENT:

That part of Outlot A, ARBOR VILLAGE, according to the recorded plat thereof, lying within a 66.00 foot strip dedicated as a drainage and utility easement in SANDSTONE VILLAGE, according to the recorded plat thereof, lying 33.00 ft. northeasterly and 33.00 ft. southwesterly, contiguous to and parallel with the following described line: Commencing at the East corner of said Outlot A; thence South 67 degrees 24 minutes 55 seconds West, plat bearing, along the southeast line of said Outlot A, a distance of 24.60 ft. to the point of beginning of said described line; thence 51.62 feet northwesterly, along a non-tangential curve, concave to the northeast, having a radius of 200.00, a central angle of 14 degrees 50 minutes 43 seconds, a chord bearing of North 65 degrees 49 minutes 04 seconds West and a chord distance of 51.82 feet and said described line there terminating. The Sidelines of said easement shall be prolonged or shortened to terminate on the west by a line drawn radially and its southwesterly extension to the last described curve, and on the southeast by the said southeast line of Outlot A.

VACATION OF RIGHT OF WAY (WHIPPOORWILL WAY:

That part of Whippoorwill Way as dedicated in SANDSTONE VILLAGE, according to the recorded plat thereof,
lying westerly of a line drawn from the East corner of Outlot A, ARBOR VILLAGE, according to the recorded plat thereof, Stearns County, Minnesota, southwesterly to a the Northeast corner of Lot 1, Block 2, SANDSTONE VILLAGE 2, according to the recorded plat thereof.

ADOPTED BY THE SARTELL CITY COUNCIL THIS 8TH DAY OF APRIL 2024.

_____
Mayor

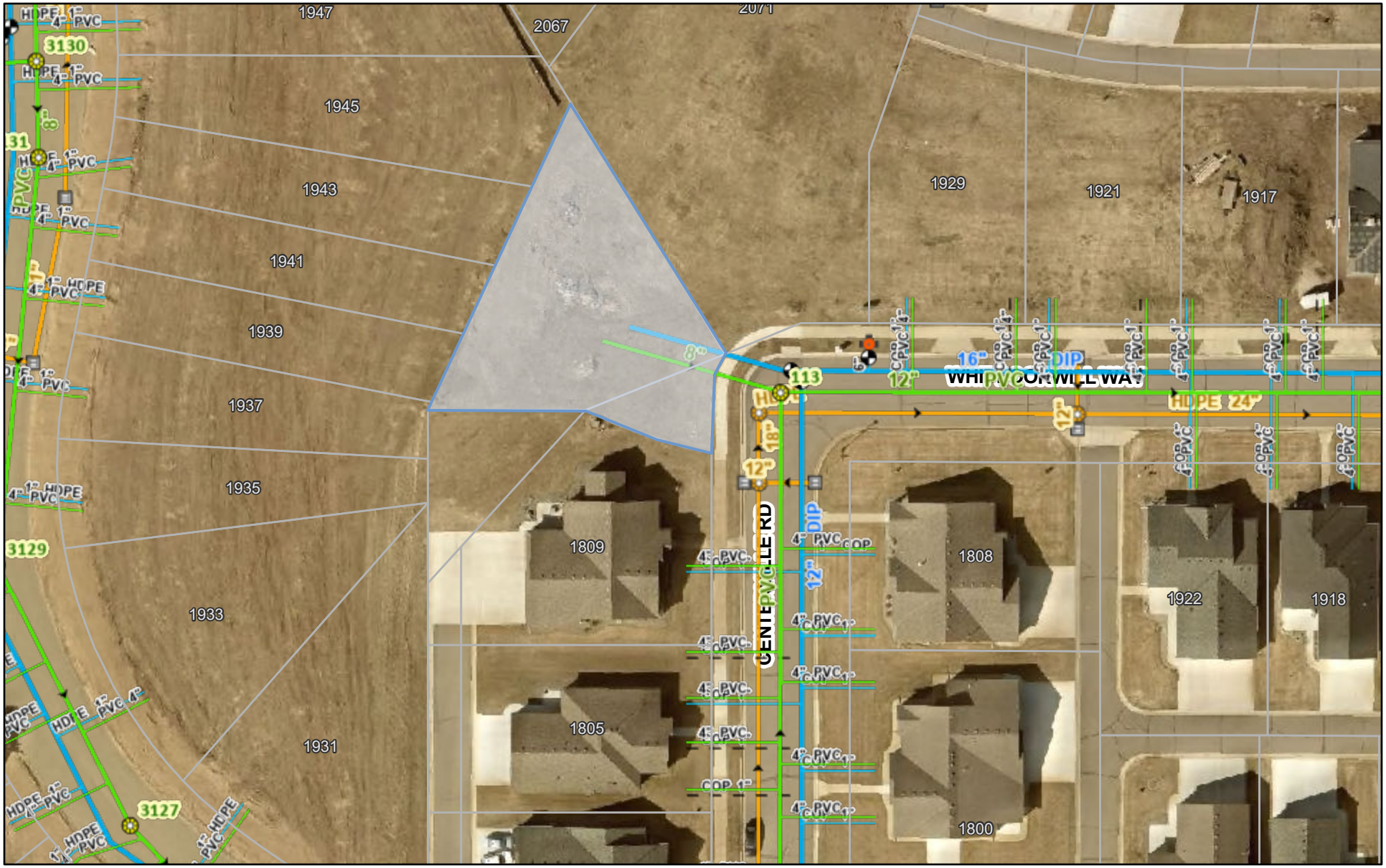
ATTEST:

_____
City Administrator

CITY SEAL

THIS INSTRUMENT DRAFTED BY:
City of Sartell
125 Pinecone Road North
Sartell, MN 56377
(320) 253-2171

ROW & Easement Vacation



2/14/2024, 11:36:30 AM

1:1,128

0 0.01 0.01 0.02 mi

0 0.01 0.02 0.04 km

- Sewer System Valves
- Sewer Control Valves
- Sewer Manholes
- Sewer Clean Outs

Sewer Network Structures

- Lift Station
- Flushing Station
- Valve Pit

Sewer Lateral Lines

- Active
- Abandoned

Sewer Pressurized Mains

- Abandoned Sewer Pressurized Mains
- Sewer Pressurized Mains

Sewer Gravity Mains

- Active
- Abandoned
- Water Curb Stop Valves
- Water System Valves
- Water Control Valves
- Water Hydrants

Water Network Structures

- Enclosed Storage Facility
- Water Production Well
- Water Treatment Plant

Water Lateral Lines

- Active
- Abandoned
- Water Mains
- Rain Gardens
- Storm Inlets
- Storm Manholes
- Storm Discharge Points
- MS4 Outfalls

Storm Network Structures

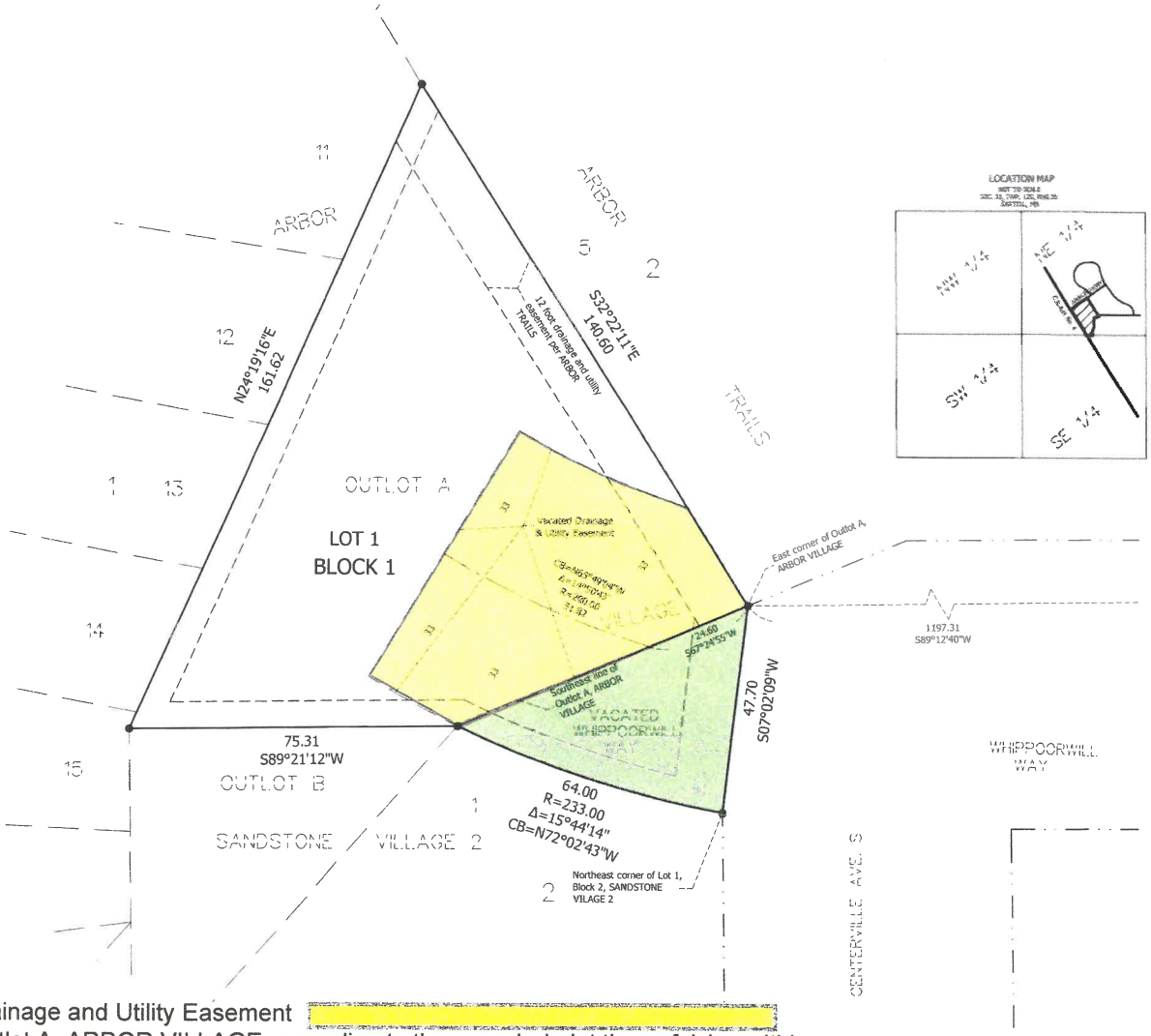
- SED Structure
- SWTS
- Storm Pond Inspection
- Storm Gravity Mains

Storm Drainage Misc

- Draintile
- Trench Drain
- Storm Detention Areas
- Stearns County Parcels

Web AppBuilder for ArcGIS

Exhibit for Vacation of
Drainage and Utility Easement
And Roadway Easement



Vacation of Drainage and Utility Easement

That part of Outlot A, ARBOR VILLAGE, according to the recorded plat thereof, lying within a 66.00 foot strip dedicated as a drainage and utility easement in SANDSTONE VILLAGE, according to the recorded plat thereof, lying 33.00 ft. northeasterly and 33.00 ft. southwesterly, contiguous to and parallel with the following described line: Commencing at the East corner of said Outlot A; thence South 67 degrees 24 minutes 55 seconds West, plat bearing, along the southeast line of said Outlot A, a distance of 24.60 ft. to the point of beginning of said described line; thence 51.62 feet northwesterly, along a non-tangential curve, concave to the northeast, having a radius of 200.00, a central angle of 14 degrees 50 minutes 43 seconds, a chord bearing of North 65 degrees 49 minutes 04 seconds West and a chord distance of 51.82 feet and said described line there terminating. The Sidelines of said easement shall be prolonged or shortened to terminate on the west by a line drawn radially and its southwesterly extension to the last described curve, and on the southeast by the said southeast line of Outlot A.

Vacation of Roadway (Whippoorwill Way)

That part of Whippoorwill Way as dedicated in SANDSTONE VILLAGE, according to the recorded plat thereof, lying westerly of a line drawn from the East corner of Outlot A, ARBOR VILLAGE, according to the recorded plat thereof, Stearns County, Minnesota, southwesterly to a the Northeast corner of Lot 1, Block 2, SANDSTONE VILLAGE 2, according to the recorded plat thereof.

Vacation

Print

Submitted by: Richard Poplinski

Submitted On: 2024-02-15 18:03:20

Submission IP: (98.59.98.65)
proxy-IP (raw-IP)

Status: Open

Priority: Normal

Assigned To: Kari Theisen

Due Date: Open

Attachments

- ARBOR_VILLAGE_PLAT_2_DRAFT_092721.pdf - 2024-02-15 06:03:22 pm
- ARBOR_VILLAGE_PLAT_2_DRAFT_092721.pdf - 2024-02-15 06:03:21 pm

Vacation Application

Fee: $525

Variances shall be submitted no less than twelve (12) days prior to the next Planning Commission meeting!

*** Application Date**

02/16/2024

Format: MM/DD/YYYY

*** Applicant First Name**

Richard

*** Applicant Last Name**

Poplinski

Phone

320-333-2391

*** Email**

rpoplinski@gmail.com

*** Address**

18311 Bearpath Trail

*** City**

Eden Prairie

*** State**

Minnesota

*** Zip Code**

55347

Fee Owner (If different than the applicant)

Poplinski Land Development

Project/Development Name

Arbor Village Plat 2

Property Identification Number (PID)

*** Project Location**

Whippoorwill Way

*** Legal Description of Property (attach as a word document)**

Choose File No file chosen

The Legal Description of Property (attach as a word document) field is required

*** Certificate of Survey**

Choose File No file chosen

The Certificate of Survey field is required

Please submit a Certificate of Survey for the property.

*** Vacation Type Requested**

- [x] **PUBLIC STREET/ALLEY**
- [x] **EASEMENT - UTILITY**
- [x] **EASEMENT - DRAINAGE**

*** Justification for Requested Vacation**

Roadway previously expected to extend to the West has been revised and there will be no extension.

IN PLACE UTILITY AGENCIES

If you answer "YES" to any the below utilities, please provide documentation of Approval of the Vacation in the form of a company representative.

*** Xcel Gas**

- ○ **YES**
- ◉ **NO**

*** Xcel Electric**

- ○ **YES**
- ◉ **NO**

*** Arvig**

- ○ **YES**
- ◉ **NO**

*** Stearns Electric**

- ○ **YES**
- ◉ **NO**

*** Charter**

- ○ **YES**
- ◉ **NO**

*** City of Sartell**

- ◉ **YES**
- ○ **NO**

VACATION PROCEDURE

The City of Sartell strongly recommends that you review the Title 10 - Zoning Regulations and Title 11 - Subdivision Regulations prior to the submittal of the Vacation Application.

PUBLIC HEARING NOTICE: The City Council upon receipt of an application for a Variance, and upon receiving the recommendation of the Planning Commission, shall set a time and place for a Public Hearing.

The Notice of Public Hearing shall be mailed at least ten (10) days prior to each property owner within three hundred fifty feet (350) of the parcel included in the request. Notice of Public Hearing will also be posted in the official paper at least ten (10) days prior to such hearing.

This application must be signed by all owners of the subject property or an explanation given why this is not the case.

We, the undersigned, have read and understand the above.

*** E-Signature of Applicant**

Richard Poplinski

"I understand that I am signing the Vacation Application and I agree to all the terms and conditions of the form."

E-Signature of Owner(s)

Richard Poplinski

If different than the applicant.