

CITY OF SACRED HEART
CITY CODE
ORDINANCES

OFFICIAL COPY

(CODIFIED MAY 12, 2012)
(Revised January 8, 2018)
(Revised 12/08/25)

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ORDINANCE NO. 64

AN ORDINANCE ADOPTING A REVISION AND CODIFICATION OF ORDINANCES TO BE KNOWN AS THE SACRED HEART CODE.

THE CITY COUNCIL OF SACRED HEART ORDAINS:

Section 1. Code Adopted. There is hereby adopted that certain revision and codification of the ordinances of the City contained in a printed compilation entitled “Sacred Heart City Code”. A copy of such code shall be marked “Official Copy” and filed as part of the official records of the City in the office of the City Clerk.

Section 2. Repeals. The former Sacred Heart City Code, adopted in 1965 and in effect as amended until adoption of this code is hereby repealed excepted those ordinances which are special or limited in application, such as franchises and easements, or those which are otherwise retained in their original form and renumbered and made part of the Sacred Heart Code of May 2012 as specified:

- Chapter I - General Provisions
- Chapter II - Operations and Administration
- Chapter III - Street, Park, Public Property, & Improvements
- Chapter IV - Water and Sewer
- Chapter V - Municipal Regulations & Licensing
- Chapter VI - Liquor & Non-Intoxicating Malt Liquor
- Chapter VII - Traffic and Motor Vehicles
- Chapter VIII - Nuisances and Other Offenses
- Chapter IX - Building and Manufactured Homes
- Chapter X - Franchises
- Chapter XI - Zoning
- Chapter XII - Unsafe Buildings and Exterior Storage
- Chapter XIII - Sale of Cannabinoid Products

Section 3. Copies. The clerk shall provide a sufficient quantity of the Sacred Heart City Code for general distribution to the public and shall give notice in the official newspaper for at least two successive weeks that copies are available in the Clerk’s office for examination or purchase.

Section 4. Prima Facie Evidence. The Sacred Heart City Code shall be prima facie evidence of the law of the City.

Section 5. Effective Date. This ordinance becomes effective upon the passage and publication of this ordinance and a notice for two successive weeks stating that printed copies are available at the office of the City Clerk.

Passed by the Council this 12th day of May 2012.

Dan Agre
Mayor

Attest: Brenda A. Johnson
Clerk/Treasurer

CHAPTER I. GENERAL PROVISIONS

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101.00 CITY CODE

- 101.01 How Cited.** This code of ordinances shall be known as the Sacred Heart City Code and may be so cited.
- 101.02 Additions.** New ordinances proposing amendments or additions to the code shall be assigned appropriate code numbers and shall be incorporated into the code as of their effective date. Reference or citation to the code shall be deemed to include such amendments and additions. When an ordinance is integrated into the code, there may be omitted from the ordinance the title, enacting clause, section numbers, definitions of terms identical to those contained in this code, the clause indicating date of adoption and validating signatures and dates. In integrating ordinances into the code, the Clerk, in cooperation with the City Attorney, may correct obvious grammatical, punctuation and spelling errors; change reference numbers to conform to sections, articles, and chapters; substitute figures for written words and vice versa; substitute dates for the words “the effective date of this ordinance”; and perform like actions to ensure a uniform code of ordinances without, however, altering the meaning of the ordinances enacted.
- 101.03 Numbering.** Each section number of this code consists of two component parts by a decimal. The first digit of the number refers to the chapter number and the digits after the period refer to the position of the section within the chapter. If the chapter is divided into parts, the figure immediately to the left of the decimal corresponds to the part number.
- 101.04 Title Headings; Cross References.** Chapter, part, section, subdivision, and other titles shall not be considered part of the subject matter of this code but are intended for convenience only and not necessarily as comprehensive titles.
- 101.05 Copies.** Copies of this code shall be kept in the office of the clerk for public inspection or sale for a reasonable charge.

102.00 DEFINITIONS

- 102.01 General.** Unless the context clearly indicates otherwise, the following words and phrases have the meaning given to them in this section.
- 102.02 City.** “City” means city of Sacred Heart.
- 102.03 State.** “State” means state of Minnesota.
- 102.04 Council.** “Council” Means the city council.
- 102.05 Clerk.** “Clerk” means the city clerk.
- 102.06 Person.** “Person” means 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 offices, agents, or employees.

103.00 STATUTORY RULES ADOPTED

103.01 The definitions and rules of construction, presumptions, and miscellaneous provisions pertaining to construction contained in Minnesota Statutes, Chapter 645, are adopted by reference and made a part of this code. As so adopted, references in that chapter to laws and statutes mean provisions of this code and references to the legislature mean the council.

104.00 EXISTING RIGHTS AND LIABILITIES

104.01 The repeal of prior ordinances and adoption of this code are not to be construed to affect in any manner rights and liabilities existing at the time of repeal and the enactment of this code. Insofar as provisions in this code are substantially the same as pre-existing ordinances, they shall be considered as continuations thereof and not as new enactments. Any act done; offense committed; or right accruing; or liability, penalty, forfeiture, or punishment incurred or assessed prior to the effective date of this code is not affected by the enactment of the code.

105.00 HEARINGS

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

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

105.03 **Conduct of Hearing.** At the hearing, each party in interest shall have an opportunity to be heard and to present such evidence as is relevant to the proceeding. The council may adopt rules governing the conduct of hearings, records to be made, and such other matters as it deems necessary.

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

106.00 PENALTIES

106.01 **Petty Misdemeanor.** Whenever an act or omission is declared by this code to be a petty misdemeanor any person violating the provision shall, upon conviction, be subject to a fine set by the local authorities.

106.02 **Misdemeanors.** Unless another penalty is expressly provided in this code, any person violating any provision of this code, or any rule or regulation adopted in the pursuance thereof, or any other provision of any code adopted in this code by reference, including any provision declaring an act or omission to be a misdemeanor, shall, upon conviction, be subject to a fine as set by the local authorities plus, in either case, the

costs of prosecution.

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

106.04 **Application to City Personnel.** The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for violation unless a penalty is specifically provided for such failure.

107.00 **SEPARABILITY**

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

CHAPTER II.
OPERATIONS AND ADMINISTRATION

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201.00 MAYOR AND CITY COUNCIL

201.01 Salaries. The salary of the Mayor of the City of Sacred Heart shall be set by resolution.

201.02 Election Date. The regular city election shall be held on the first Tuesday after the first Monday in November in every even-numbered year.

201.03 Terms. The terms of the mayor and council members whose terms are scheduled to expire at the end of 2022 are hereby extended as follows:

1. The term of the mayor whose term is scheduled to expire on the first business day of January 2024 is extended to the first business day of January 2025; and
2. The terms of the council members whose terms are scheduled to expire on the first business day of January 2024 is extended to the first business day of January 2025; and
3. The terms of the council members whose terms are scheduled to expire on the first business day of January 2026 is extended to the first business day of January 2027; and
4. Thereafter, the usual term of the mayor shall be for two (2) years and the usual terms of the council members shall be for four (4) years.

202.00 CLERK/TREASURER, ANNUAL AUDIT

202.01 Pursuant to the authority granted by Laws 1961, Chapter 230 the offices of Clerk and Treasurer in the City of Sacred Heart, Renville County, Minnesota is hereby combined in the office of Clerk/Treasurer.

202.02 Beginning with the year in which this ordinance becomes effective and each year thereafter, there shall be an audit of the city's financial affairs by the State Auditor or a Public Accountant in accordance with minimum auditing procedures prescribed by the State Auditor.

203.00 URBAN/RURAL SERVICE DISTRICT

203.01 Purpose. The purpose of this ordinance is to divide the City of Sacred Heart into an urban service district and a rural service district, constituting separate taxing districts for the purpose of all municipal property taxes except those levied for the payment of bonds and judgements and interest thereon, in accordance with the Laws of Minnesota, 1965, chapter 712.

203.02 Rural Service District. The rural service district will include the following non-platted lands which are rural in character and are not developed for commercial, industrial, or urban residential purposes, and for these reasons are not benefited to the same degree as other lands by municipal.

Description	Parcel #	Sect	Twp	Range	Acres
SE4 of NE4 – Ex Lot & 1.2 A SE4	37-00005	7	115	37	38
SW4 of NW4 – Ex Bldg Site, Blk 25	37-00030	7	115	37	27.88
SW4 of SW4 & N2 of SW4 – Exs	37-00050	7	115	37	110.56
SE4 of SW4	37-00080	7	115	37	35
N2 of SE4 & SW4 of SE4 – Ex – Bldg Site & Exs	37-00095	7	115	37	118.56
SE4 of SE4 – Ex Cemetery	37-00110	7	115	37	38

203.03 Urban Service District. The urban service district will include all lands within the boundaries of the City of Sacred Heart which are not included in the rural service district.

203.04 Benefit Ratio. The approximate ratio which exists between the benefits resulting from tax supported municipal service to parcels of land situated in the rural service district to parcels of land of a like full and true value situated in the urban service district is 1 to 10 and a benefit ratio of 1 to 10 is hereby established.

204.00 CIVIL DEFENSE/PUBLIC SAFETY, HEALTH, AND WELFARE

204.01 The Minnesota Civil Defense Act, as amended, in so far as it relates to municipalities is adopted by reference as part of this chapter as fully as if set forth herein.

204.02 1. There is hereby created with the City a civil defense agency which shall be under the supervision and control of a director of civil defense. The director shall be appointed by the mayor for an indefinite term and may be removed by him at any time. He shall serve without salary but shall be paid his necessary expenses. The director shall have direct responsibility for the organization, administration, and operation of the civil defense agency, subject to the direction and control of the mayor. The civil defense agency shall be organized into such divisions, consistent with state and local civil defense plans, as the director deems necessary to provide for the efficient performance of civil defense functions during an emergency. The civil defense agency shall perform all defense functions within the City and in addition shall conduct functions outside the City as may be required pursuant to this chapter or the Minnesota Civil Defense Act, as amended.

2. There is hereby created within the civil defense agency an advisory committee. Members of the committee shall be appointed by the mayor representing City departments and other groups concerned with civil defense. The mayor shall be chairman and the director shall be secretary of the committee. The committee shall advise the City Council on all matters pertaining to civil defense. Each member shall serve without compensation and shall hold office at the pleasure of the mayor.

204.03 1. The director, with the consent of the mayor, shall represent the City at any regional or state organization for civil defense. He shall develop proposed mutual aid agreements with other political subdivisions within the state for reciprocal civil defense aid and assistance in a civil defense emergency too great to be dealt with unassisted, and he shall present such agreements to the council for its action. Such arrangements shall be consistent with the state civil defense plan and during a civil defense emergency, it shall be the duty of the civil defense agency and civil defense forces to render assistance in accordance with the provisions of such mutual aid arrangements.

2. The director shall make such studies and surveys of the manpower, industries resources, and facilities of the City as he deems necessary to determine their

adequacy for civil defense and to plan for their most efficient use in time of a civil defense emergency.

3. The director shall prepare a comprehensive general plan for the civil defense of the City and shall present such a plan to the council for its approval. When the council has approved the plan by resolution, it shall be the duty of all municipal agencies and all civil defense forces of the City to perform the duties and functions assigned by the plan as approved. The plan may be modified in a similar manner from time to time. The director shall coordinate the civil defense activities of the City to the end that they shall be consistent and fully integrated with the civil defense plan of the federal government and the state and correlated with the civil defense plans of other political subdivisions within the state.
4. In accordance with the state and City Civil defense plan, the director shall institute such training programs and public information programs and shall take all other preparatory steps, including the partial or full mobilization of civil defense forces in advance of actual disaster, as may be necessary to the prompt and effective operation of the City civil defense plan in time of a civil defense emergency. He may, from time to time, conduct such practice air-raid alerts or other civil defense exercises as he may deem necessary.
5. The director shall utilize the personnel, services, equipment, supplies and facilities of existing departments and agencies of the City to the maximum extent practicable. The officers and personnel of all such departments and agencies shall, to the maximum extent practicable, cooperate with and extend such services and facilities to the local civil defense agency and to the governor upon request. The head of each department and agency, in cooperation with and under the direction of the director, shall be responsible for the planning and programming of such civil defense activities as will involve the utilization of the facilities of his department or agency.
6. The director shall, in cooperation with existing City departments and agencies affected, organize, recruit, and train air-raid wardens, auxiliary police, auxiliary firemen, emergency medical personnel, and any other personnel that may be required on a volunteer basis to carry out the civil defense plans of the City and the state. To the extent that such emergency personnel are recruited to augment a regular City department or agency for civil defense emergencies, it shall be assigned to such department or agency for purposes of administration and command. The director may dismiss any civil defense volunteer at any time and require him to surrender any equipment and identification furnished by the city.
7. Consistent with the civil defense plan, the director shall provide and equip emergency hospitals, casualty stations, ambulances, canteens, evacuation centers, and other facilities, or conveyances for the care of injured or homeless persons.
8. The director shall carry out all orders, rules and regulations issued by the governor with reference to civil defense.
9. The director shall direct and coordinate the general operations of all local civil defense forces during a civil defense emergency in conformity with controlling regulations and instructions of state civil defense authorities. The heads of departments and agencies shall be governed by his orders in respect thereto.
10. Consistent with the civil defense plan, the director shall provide and equip at some suitable place in the City a control center and, if required by the state civil defense plan, an auxiliary control center to be used during a civil defense emergency as

headquarters for direction and coordination of civil defense forces. He shall arrange for representation at the control center by municipal departments and agencies, public utilities and other agencies authorized by federal or state authority to carry on civil defense activities during a civil defense emergency. He shall arrange for the installation at the control center of necessary facilities for communication with and between heads of civil defense divisions, the stations and operating units of municipal services and other agencies concerned with civil defense and for communications with other communities and control centers, within the surrounding area and with the federal and state agencies concerned.

11. During the first 30 days of a civil defense emergency, if the legislature is in session or the governor has coupled his declaration of the emergency with a call for a special session of the legislature, the director may, when necessary to save life or property, require any person, except members of the federal or state military forces and officers of the state or any other political subdivision, to perform services for civil defense purposes as he directs, and he may commandeer, for the time being, any motor vehicle, tools, appliances or any other property, subject to the owner's right to just compensation as provided by law.

204.04

1. No person shall be employed or associated in any capacity in the civil defense agency who advocates or has advocated a change by force or violence in the constitutional form of government of the United States or in this state or the overthrow of any government in the United States by force or violence, or who has been convicted of or is under indictment for information charging any subversive act against the United States. Each person who is appointed to serve in the civil defense agency shall, before entering upon his duties, take an oath in writing before a person authorized to administer oaths in this state, or before any officer of the state department of civil defense, the director, or ground observer corps supervisor. The oath shall be substantially in the form prescribed by Minnesota Statute, Section. 12.43.
2. Civil defense volunteers shall be called into service only in case of a civil defense emergency or a natural disaster for which the regular municipal forces are inadequate or for necessary training and preparation for such emergencies. All volunteers shall serve without compensation.
3. Each civil defense volunteer shall be provided with such suitable insignia or other identification as may be required by the director. Such identification shall be in a form and style approved by the federal government. No volunteer shall exercise any authority over the persons or property of others without his identification. No person except an authorized volunteer shall use the identification of a volunteer or otherwise represent himself to be an authorized volunteer.
4. No civil defense volunteer shall carry any firearm while on duty except on written order of the chief of the police department.

204.05

1. Whenever necessary to meet a civil defense emergency or prepare for such an emergency for which adequate regulations have not been adopted by the governor or the City council, the mayor may by proclamation promulgate regulations, consistent with applicable federal or state law or regulation respecting: protection against air-raids; the sounding of air-raid alarms; the conduct of persons and the use of property during alarms; the repair, maintenance, and safe-guarding of essential public services; emergency health, fire, and safety regulations, trial drills or practice periods required for preliminary training; and all other matters which are required to protect public safety, health and welfare in civil defense emergencies. No regulation governing observation of enemy aircraft, air attack,

alarms, or illumination during air attacks shall be adopted or take effect unless approved by the state director of civil defense.

2. Every proclamation of emergency regulations shall be in writing and signed by the mayor, shall be dated, shall refer to the civil defense emergency to which it pertains, if so limited, and shall be filed in the office of the City clerk, where a copy shall be kept posted and available for public inspection during business hours. Notice of the existence of such regulation and its availability for inspection at the clerk's office shall be conspicuously posted at the front of the City Hall or other headquarters of the City and at such other places in the affected area as the mayor shall designate in the proclamation. Thereupon the regulation shall take effect immediately or at such a later time as may be specified in the proclamation. By like proclamation the mayor may modify or rescind any such regulation.
3. The City council may rescind any such regulation by resolution at any time. If not sooner rescinded, every such regulation shall expire at the end of 30 days after its effective date or at the end of the civil defense emergency to which it relates, whichever occurs first. Any ordinance, rule, or regulation inconsistent with an emergency regulation promulgated by the mayor shall be suspended during the period of time and to the extent that such conflict exists.
4. During a civil defense emergency the City is, notwithstanding any statutory or charter provision to the contrary, empowered, through its governing body acting within or without the corporate limits of the City, to enter into contracts and incur obligations necessary to combat such disaster by protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster. The City may exercise such powers in the light of the exigencies of the disaster without compliance with time-consuming procedures and formalities, prescribed by law pertaining to the performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, limitations upon tax levies, and the appropriation and expenditures of public funds, for example, but not limited to, publication of ordinances and resolutions, publication of calls for bids, provisions of civil service laws and rules, provisions relating to low bids, and requirements for budgets.

204.06 The director shall, as soon as possible after the end of each fiscal year, prepare and present to the City council for the information of the council and the public, a comprehensive report of the activities, expenses, and disbursements of the civil defense agency during the year. All taxes levied for civil defense purposes, all gifts or other receipts of funds shall be deposited to the City's general account and all expenditures and disbursements for civil defense purposes shall be made from such fund.

204.07 Every officer and agency of the City shall cooperate with federal and state authorities and with authorized agencies fully engaged in civil defense and emergency measures consistent with the performance of their other duties. The provisions of this chapter and of all regulations made thereunder shall be subject to all applicable and controlling provisions of federal and state laws and of regulations and orders issued thereunder and shall be deemed to be suspended and inoperative so far as there is any conflict therewith. The mayor may appoint any qualified person holding a position in any agency created under federal or state authority for civil defense purposes as a special policeman of the City, with such police powers and duties within the City incident to the functions of his position, not exceeding those of a regular policeman of the City, as may be prescribed in the appointment. Every such special policeman shall be subject to the supervision and control of the chief of police and such other police officers of

the City as the chief may designate.

204.08 Any illumination within the City contrary to the provisions of this or any other ordinance pertaining to civil defense or of any regulation adopted thereunder or of any federal or state law, regulation, or order shall be deemed a public nuisance. Any regular or auxiliary policemen or air-raid warden may abate such nuisance summarily or may take any other action necessary to enforce such provisions, including entry on private property and the use of whatever reasonable force is necessary.

204.09 Any person who violates any provision of this chapter or of any regulation adopted thereunder relating to acts, omissions, or conduct other than official acts of City officers or employees shall be guilty of a misdemeanor, and upon conviction shall be punished to the fullest extent of the law.

205.00 ENHANCED 911 SYSTEM – HOUSE NUMBERING

205.01 House Numbers Required. It shall be the duty of the owner, agent, lessor or occupant of every house or other building, except private garages and other buildings which are a part of the same property with a numbered house or building, to place on every such house or building its proper house number, either by printing or by affixing such number in metal, glass or other form, so that the same shall be clearly visible from the public right-of-way at the front of the structure. Such number shall be placed on each house or building within thirty days from the time such owner, agent, lessor, or occupant is notified either by mail, publication, or telephone of the assignment of a number to such house or building as hereinafter provided.

1. The Clerk, in accordance with this ordinance, shall assign numbers to houses and buildings using the manner set forth in the city's addressing structure.

205.02 Specification of numbers. To comply with this chapter, building numbers shall be Arabic numerals, unless otherwise approved by the Zoning Administrator. Other types of numbers shall be approved unless they are so decorative as to be difficult to read. They shall further conform to the following requirements:

1. **Specification and Height.** Numbers shall have a minimum height of not less than three- and one-half inches and the body of the number shall have a minimum width of not less than one half inch. All new building numbers installed after the effective date of this ordinance shall be mounted at a height between four feet and ten feet above the ground. They shall be sufficiently legible as to contrasting background, arrangement, spacing, size and uniformity of integers so that the numbers may be read with ease during daylight hours by a person possessing at least 20/40 vision viewing the numbers from the centerline of the street.
2. **Location.** Numbers shall be mounted in a secure fashion to the building's front wall, in the general vicinity of the main entryway or main path of travel which leads to the main entrance from a public street. Alternatively, the numbers may be otherwise separately mounted in an approved manner upon the face of a wall or upon a post in the front yard of the premises. All numbers, whether affixed to a structure or post, shall be so placed that trees, shrubs, and other obstructions do not block the line of sight of the numbers from the center of the street to any appreciable degree. Where two or more nonresidential buildings back up to any public alley or private access way, the building number shall also be displayed at the rear of the buildings in the same manner as in the front.

**CHAPTER III.
STREET, PARK, PUBLIC PROPERTY, AND
IMPROVEMENTS**

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301.00

PUBLIC PARKS AND RECREATIONAL FACILITIES

301.01 Purpose. The purpose of this chapter is to provide rules and regulations for the use of, and conduct in, City parks, public property, and recreational facilities.

301.02 Definitions. For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein.

1. “**City**” is the City of Sacred Heart.
2. “**Park**” is a park, playground, recreation area or any area in the City, owned, leased, or used by the city, and devoted to active or passive recreation.
3. “**Person**” is any persons, firm, partnership, association, corporation, company, or organization of any kind.
4. “**Vehicle**” is any wheeled conveyance, whether motor powered, animal drawn, or self-propelled. The term shall include any trailer in tow of any size, kind of description. Exceptions are made for wheelchairs, baby carriages, and vehicles in the service of the City parks.
5. “**Careless**” means to operate a vehicle or bicycle heedlessly in disregard for the safety of the operator of others.
6. “**Applicant**” shall mean any person or organization seeking a permit to use or conduct an activity in a park.

301.03 General Provisions.

1. No person shall willfully mark, deface, disfigure, or injure any building, tables, benches, fireplaces, public utilities, signs, notices, whether temporary or permanent, stakes, posts or other boundary markers or other structures or equipment, facilities or park property or appurtenances whatsoever either real or personal.
2. No person shall fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition.
3. No person in a park shall take, remove, or damage any earth or trees, shrubs, plants or make any excavation by tool, equipment, blasting or other means.
4. No person shall construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public utility services into, upon, or across such lands, except on special written permission issued hereunder.
5. No person shall damage, cut, carve, transplant, or remove any tree or plant or injure the bark, or pick the flowers or seeds of any tree or plant. No person shall attach any rope, wire, or other contrivance to any tree or plant. A person shall not dig or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any area.
6. No person shall possess, display, consume or use intoxicating liquors or non-intoxicating malt liquors in any park or recreation area except as in accordance with a permit thereof.

7. No person shall cause any radio, stereo, musical instrument, or device used to amplify sound or music to be used in a manner that will disturb or cause alarm or anger others.
8. It shall be unlawful for any person in the public park or recreation area to offer items for sale, barter, or donation in any park unless pursuant to a permit. Nothing herein shall prohibit operation of concessions stands by the City, its designees, or concessionaires.
9. No dogs shall be allowed in any park at any time.

301.04 Traffic.

1. No person while on public park property shall fail to comply with all the applicable provisions of the state motor vehicle traffic laws regarding equipment and operation of vehicles together with such regulations as are contained and other ordinances.
2. No person shall fail to obey all traffic officers and park employees when carrying out their duties relative to the regulation and operation of the park facilities.
3. No person shall fail to carefully observe all traffic signs indicating speed, direction, caution, stopping, or parking, and all others posted for proper control and to safeguard life and property.
4. No person shall drive any motor vehicle in any park area, except the designated parking areas, or such other areas as may on occasion be specifically designated as temporary parking areas by the City council.
5. No person shall ride horseback in the park areas.

301.05 Use of Picnic Shelters and Facilities.

1. No charge shall be made for the use of the picnic shelters and facilities of the park; however, reservations must be made with the City Clerk reserving the use of said shelters. Said reservations shall be honored in the order they are made.
2. There shall be a curfew as determined by the City council on the use of the picnic shelters and use of the park facilities shall cease as of the hours determined.
3. It shall be the duty of the picnicker to completely extinguish all fires and to dispose of all trash by placing the same in disposal receptacles provided. If no such trash receptacles are available, then refuse and trash shall be carried away from the picnic area by the picnicker to be properly disposed of elsewhere.

301.06 Camping and Activities Prohibited. It shall be unlawful for any person in a park or recreational area to camp or stay overnight except in areas designated for camping or in areas designated for staying overnight in vehicles or trailers.

301.07 Penalty. Any person who violates the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished to the fullest extent of the law. Any act of vandalism to the above-described facilities shall be subject to a penalty to defray the cost of said vandalism. If vandalism as described in paragraph (1) of 301.03 is performed by a minor, the City may assess said charge of up to \$500.00 against the parent of minor.

301.08 Enforcement.

1. The police department and all authorized City personnel shall diligently enforce the provisions of this ordinance and shall have the authority to eject from the park or the recreational facilities any person acting in violation of this ordinance.
2. Any of the personnel mentioned in the preceding paragraph shall have the authority to seize and confiscate any property, thing, or device in the park, used in violation of this ordinance.
3. The provisions of this ordinance and each part thereof are independent and severable and if any provision or part thereof or section is held to be unconstitutional or invalid, no other provision or part thereof or section or part thereof shall be impaired thereby or rendered unconstitutional or invalid.

301.09 Permits. Permits for special events and use of the park and recreation areas shall be obtained by the application of the City Clerk.

302.00 ANNUAL CLEAN UP

302.01 Purpose. Each year prior to May 1, and at other times as needed, the City Council may publish notice requiring all persons and businesses within the City to clean their yards, vaults, sheds and barns and to cause all tin cans, trash, garbage, debris and manure to be removed from the City within two weeks of the notice. If such notice has not been complied with as to any building or tract of land within the City, individual orders to comply shall be issued by the Council directed to the necessary owners and occupants. The City shall provide actual notice of the order to the individual who it is directed to. It shall be unlawful for the owner or occupant to fail to comply with the individual clean-up orders from the Council.

302.02 Penalty. Any owner or occupant who shall fail to comply with the provisions of 302.01 shall be guilty of a misdemeanor, and upon conviction thereof shall be punished to the fullest extent of the law. The costs of prosecution may be added to the fine imposed, and in default of payment thereof, the convicted party shall be further imprisoned in the county jail, as determined by the Court. Each day or part thereof that the order referred to in 302.01 is not complied with, shall constitute a separate offense.

(Ord. 2017-01 passed 06-12-2017).

CHAPTER IV. WATER AND SEWER

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401.00 MUNICIPAL WATER SYSTEM

- 401.01** Each lot, piece, or parcel of property in the City of Sacred Heart on which is hereafter located any building, structure, trailer home or other appurtenance from whose location water is used, must be connected to the municipal water system. No water will be supplied to such premises without each such premises having a meter duly approved by the city council or its authorized agents.
- 401.02** An initial \$5.00 deposit is hereby required from all metered locations. The City Clerk shall collect and retain such deposits in a separate account. Such deposit may be applied to any delinquency in the payment of utility statements, or in payment of the charges for turning on and shutting off water service.
- 401.03** Charges for water shall be billed by the City Clerk monthly. In the event the bills are not paid in a timely matter, the City Council or its authorized agents are hereby authorized to enter upon any real estate within the City for the purpose of shutting off the water and discontinuing the supply. All bills are due within 20 days of the billing date. The service will not again be turned on until application is made therefore to the City Clerk on such forms as the City Council may require and be accompanied by payment in full for the delinquent statement plus a turn-on fee set by the council.
- 401.04** The monthly billing shall be in the name of the occupant of the premises or the water user. Notwithstanding, water charges are hereby made a primary obligation of the owner of the premises served. Upon failure to pay the water charges duly billed, the City Council may certify to the County Auditor of Renville County the sums due and owing for water service furnished to said premises, which premises shall be described in said certificate with directions for collection for the City with other taxes levied against said premises. Said water charges shall be payable in one annual installment with one year's interest at the rate of 6% per annum to be added to said water charges. Water charges shall be an obligation of the owner, lessee and occupant of the premises served and all of them. In the alternative, the city may, by its Council, bring an action in any court of competent jurisdiction against either the owner, the lessee or the occupant of the premises served or all of them for collection of delinquent sewer charges together with reasonable attorney fees. *(Revised 12/08/25)*
- 401.05** All persons using water shall keep their hydrants, taps, hoses, water closets, urinals, baths, or other fixtures closed, except when obtaining water for their own use, and shall be responsible for any damage or injury that may result to others from the improper use of water. All expenses relating to the introduction of water into buildings or onto private property shall be paid for by the property owner. All persons using water shall keep their own fixtures and equipment and apparatus in good repair and protected from frost or other damage and shall keep and protect the City meter and other equipment from frost or other damage at their own risk and expense.
- 401.06** Every person, company, or corporation using water shall permit the City council or its duly authorized agents at all reasonable hours to enter on their premises to examine the pipes and fixtures and the manner in which the water is used and answer all questions frankly and without concealment relative to water consumption.
- 401.07** No claim shall be made against the City by reason of breaking or freezing of any service pipes nor if, from any cause, the supply of water should fail, nor from damage arising from the shutting off water for the purposes of making repairs, connections, or extensions to the water system, nor for any other purpose that the City Council deems necessary. The City Council or its duly authorized agents shall, if practicable, give notice to each user within the area affected, of the time when the water supply will be shut off for the purposes of making repairs, connections, or extensions.

402.00 MUNICIPAL SEWER SYSTEM

402.01 Connection Requirements. Each lot, piece or parcel of property in the City of Sacred Heart on which is situated any building from which sewage or waste of any kind is disposed of is hereby required to be connected with the sanitary sewer system of the City within 6 months after the adoption of this chapter if sanitary sewer mains are within 100 feet of any boundary of said premises, or within 6 months after such mains are constructed to within 100 feet of said premises; and it shall be unlawful for any owner of any premises to suffer the construction, operation or maintenance of any cesspool, septic tank or privy on said premises after said time.

402.02 Failure to Connect, Council Action. Should the owner of any premises having access to the sanitary sewer system as provided in 402.01 hereof fail to connect said premises with the sanitary sewer system, the Council may cause the installation of a toilet in said premises and the connection thereto with the sanitary sewer system by an authorized representative of the City upon 30 days notice to the owner thereof and may cause the cost of said installation, together with the connection charges hereinafter provided, to be assessed against the owner of said premises, which assessment and connection fee shall be paid within 30 days after notification in writing to the owner of said premises and if not paid within 30 days may be certified to the County Auditor to be collected in the same time and manner as real estate taxes against said property. Said assessment and connection charge shall be payable in three equal annual installments with one year's interest at the rate of 6% per annum to be added to the first installment and one year's interest at the rate of 6% per annum to be added to each subsequent installment on the unpaid balance.

(a) Sump Pumps/Drainage Systems. No person shall discharge or cause to be discharged directly or indirectly any storm water, surface water, ground water, roof runoff, subsurface drainage, waste from on-site disposal systems, unpolluted cooling, or process water into the sanitary sewer collection system. No roof, sump pump, swimming pool discharge, or surface or subsurface water drainage system shall be connected to the sanitary sewer system, and no buildings shall be hereafter altered in such a manner to provide such connection with the sanitary sewer system, either inside or outside the building, except as herein provided.

1. Before April 1 of each and every year, any person having a roof drainage, sump pump, swimming pool discharge, or surface or subsurface drainage system now connected and/or discharging into the sanitary sewer, shall disconnect and/or remove the same. Any disconnects or openings in the sanitary sewer shall be closed and repaired in an effective, workmanlike manner, as approved by the City. Discharge into the sanitary sewer system will be allowed only from November 1 through March 30.
2. The owner of such property shall allow employees of the City or its agents to inspect the buildings to confirm compliance with the provisions hereof, or such owner may alternatively furnish a certificate from a licensed plumber certifying that their property is in compliance with the Subparagraph in lieu of a City inspection of the same. It is unlawful for any person to refuse to allow their property to be inspected or to refuse to provide a plumber's certificate of compliance within fourteen (14) days of the date a City employee or agent is denied admittance to inspect the property.

- 402.03 Application for Connections.** Except as provided in 402.01 and 402.02 hereof, no premises shall be connected with the municipal sewer system except upon approval by the City Council of an application therefor filed with the City Clerk by the owner, lessee or occupant of the premises to be connected, accompanied by an application fee of \$5.00, which deposit shall be retained by the City for deposit in the General Fund of the City to be used to defray the costs of inspection, tapping the sewer from the premises into the sewer system of the City and for supervision of the work. Said deposit shall be returned to the applicant if the application is refused.
- 402.04 Application Contents.** Said application for a permit to connect with the sewer system shall state an accurate description of the premises to be connected, the purposes to which the premises are to be put, the quantity and character of sewage to be disposed, a plat showing the location of the sewer services to be constructed, a description of the materials to be used, the name of the person or firm by whom the work is to be done and such other information as the Council may require.
- 402.05 Sewer Use Charge.** All previously established charges for sewer services and the availability thereof are hereby canceled. Effective at the time of the adoption of this chapter, the owner, lessee, or occupant of each such premises connected with the City sewer system shall pay a monthly charge for sewer use. Where it appears that sewage of unusual strength or quantity is being disposed of from any premises, the Council may cause an investigation to be made and upon the facts may determine equitable and reasonable sewer charges against the owner, lessee, or occupant of such premises.
- 402.06** Said charges for sewer use and the availability thereof shall be billed monthly as a separate charge on the utility bill submitted by the City to its patrons. Notwithstanding that the billing shall be in the name of the occupant or the user, sewer charges are hereby made a primary obligation of the owner of the premises served.
- 402.07 Collection of Sewer Charges.** The amounts duly billed for sewer service shall be payable on or before the 20th day of the month of billing. Upon failure to pay the sewer charges duly billed, the City Council may certify to the County Auditor of Renville County the sums due and owing for sewer service furnished to said premises, which premises shall be described in said certificate with directions for collection for the City with other taxes levied against said premises. Said sewer charges shall be payable in one annual installment with one year's interest at the rate of 6% per annum to be added to said sewer charges. Sewer charges shall be an obligation of the owner, lessee and occupant of the premises served and all of them. In the alternative, the city may, by its Council, bring an action in any court of competent jurisdiction against either the owner, the lessee or the occupant of the premises served or all of them for collection of delinquent sewer charges together with reasonable attorney's fees.
- 402.08 Persons Authorized to Make Connections.** No sewer service shall be constructed or tapped into the sewer system except by a plumber duly approved by the City of Sacred Heart under the supervision of a duly authorized representative of the City.
- 402.09 Penalties.** Any person making an unauthorized connection with the sanitary sewer system shall be guilty of a misdemeanor; and upon conviction thereof, shall be fined to the fullest extent of the law.

403.00 (RESERVED)

USE AND RATES FOR MUNICIPAL WASTEWATER TREATMENT FACILITIES

An ordinance regulating the use of and establishing a charge system for public and private sewers, establishing methods for a sewer service charge system, and providing penalties for violations of the regulations herein defined.

404.01 Definitions. Unless the context specifically indicates otherwise, the terms used in this Article shall have the meanings hereby designated:

1. **“Act”** – The Federal Water Pollution Control Act, also referred to as the Clean Water Act, as amended, 33. U.S.C. 1251 et seq.
2. **“BOD5” or “Biochemical Oxygen Demand”** – The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days at 20 degrees Centigrade and as expressed in terms of milligram per liter (mg/l).
3. **“Building Drain”** – That point of a building which conveys wastewater to the building sewer, beginning immediately outside the building wall.
4. **“City”** – The area within the corporate boundaries of the City of Sacred Heart, the City Council, its authorized representative.
5. **“Debt Service Charge”** – A charge to users of the wastewater treatment facility for the purpose of repaying capital costs.
6. **“Equivalent Residential Unit (ERU)”** – A unit of wastewater volume of 100 gallons per day at a strength not greater than NDSW.
7. **“Industrial User”** –
 - (a) Any entity as defined in the Standard Industrial Classification Manual (latest edition) as categorized, that discharge wastewater to the public sewer.
 - Division A: Agriculture, Forestry, and Fishing
 - Division B: Mining
 - Division D: Manufacturing
 - Division E: Transportation, Communications, Electric, Gas, and Sanitary Sewers
 - Division I: Services
 - (b) Any user whose discharges, single or by interaction with other wastes: contaminate the sludge of the wastewater treatment system, injure or interfere with the treatment process, create a public nuisance or hazard, have an adverse effect on the waters receiving wastewater treatment plant discharges, exceed DSW limitations, exceed normal residential unit volumes of wastewater.
8. **“Infiltration/Inflow (I/I)”** – Water other than wastewater that enters the sewer system from the ground or from surface runoff, as defined in Minnesota Rules.
9. **“MPCA”** – Minnesota Pollution Control Agency.

10. **“National Categorical Pretreatment Standards”** – Federal regulations establishing pretreatment standards for introduction of pollutants in publicly owned wastewater treatment facilities. Section 307(b) of the Act.
11. **“National Pollutant Discharge Elimination System (NPDES) Permit”** – A permit issued by the MPCA, setting limits on pollutants that a permittee may legally discharge pursuant to Sections 402 and 405 of the Act.
12. **“Natural Outlet”** – Any outlet, including storm sewers and combined sewers, which flows into a body of surface water or ground water.
13. **“Normal Domestic Strength Waste (NDSW)”** – Wastewater that is primarily introduced by residential users with BOD₃ concentrations not greater than 200 mg/l and total suspended solids (TSS) concentrations not greater than 240 mg/l.
14. **“Non-Residential User”** – A user of the treatment facility whose building is not used as a private residence, and discharges NDSW.
15. **“Operation, Maintenance, and Replacement Costs (OM&R)”** – Expenditures necessary to provide for the dependable, economical, and efficient functioning of the treatment facility throughout its design life, including operator training, and permit fees. Replacement refers to equipment replacement costs, not the cost of future replacement of the entire facility.
16. **“Residential User”** – A user of the treatment facility whose building is used primarily as a private residence and discharges NDSW.
17. **“Sewer”** – A pipe or conduit that carries wastewater or drainage water.
 - (a) **“Building Sewer”** – The extension from the building drain to the public sewer or other place of disposal, also referred to as a service connection.
 - (b) **“Sanitary Sewer”** – A sewer designed to carry only liquid and water-carried wastes from residential, non-residential, industrial sources together with minor quantities of I/I.
 - (c) **“Storm Sewer”** – A sewer intended to carry unpolluted surface and sub-surface water from any source.
18. **“Sewer Service Charge”** – The total of the User Charge and the Debt Service Charge.
19. **“Slug”** – A discharge of water or wastewater which in concentration or in quantity of flow exceeds for any period of duration longer than 15 minutes, more than 5 times the average 24-hour concentration of flows during normal operation.
20. **“State Disposal System (SDS) Permit”** – A permit issued by the MPCA pursuant to Minn. Stat. 115.07 for a disposal system as defined by Minn. Stat. 115.01, subd. 8.
21. **“Total Suspended Solids (TSS)”** – The total suspended matter that either floats on the surface of, or is in suspension in water, wastewater, or other liquids, and is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" (latest edition).
22. **“Unpolluted Water”** – Water of quality equal to or better than the effluent criteria

in effect, or water that would not cause violation of receiving water quality standards. An example could be non-contact cooling water.

23. **“User Charge”** – A charge to users of a treatment facility for the user’s proportionate share of the cost of operation and maintenance, including replacement.
24. **“Wastewater”** – Liquid and water-carried wastes from residential, non-residential, and industrial users, together with any ground water, surface water, and storm water that may be present.
25. **“Wastewater Treatment Facilities”** or **“Treatment Facilities”** – The land, devices, facilities, structures, equipment, and processes owned or used by the City for the purpose of the transmission, storage, treatment, recycling, and reclamation of municipal wastewater, and the disposal of residues resulting from such treatment.

404.02 Control by the Authorized Representative. The community's governing council shall appoint an Authorized Representative who shall have control and general supervision of all public sewers and service connections in the community or sewer district and shall be responsible for administering the provisions of this Ordinance to ensure that a proper and efficient public sewer is maintained. The authorized representative may delegate responsibilities to designated representatives.

404.03 Use of Public Sewers Required.

Within 30 days of receiving official notification, the owners of all properties within 500 feet of a sanitary sewer collection system shall install a suitable service connection, at their own expense, in accordance with the provisions of this ordinance.

In the event an owner shall fail to connect to a public sewer in compliance with a notice given under this Ordinance, the community or sewer district will have said connection made and shall assess the cost against the benefitted property.

Except as provided hereinafter, it shall be unlawful to construct or maintain any private facility intended or used for the disposal of wastewater.

404.04 Private Wastewater Disposal.

1. Where a public sewer is not available under the provisions of Article II, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this Article.
2. Before construction of a private wastewater disposal system, the owner(s) shall obtain a written permit signed by the authorized representative. The permit shall not become effective until the installation is completed to the representative's satisfaction. A designated representative shall be allowed to inspect any stage of construction. The applicant for the permit shall give notification when ready for the system's final inspection, and before any underground portions are covered. The inspection shall be made within 72 hours of receipt of the notice.
3. The type, capacities, location, and layout of a private wastewater disposal system shall comply with all requirements of Minnesota Rules Chapter 7080, and applicable local ordinances.
4. The owner(s) shall always operate and maintain the private wastewater disposal

facilities in a sanitary manner, at no expense to the community.

5. When the public sewer becomes available to a property serviced by a private wastewater disposal system, a direct connection shall be made to the public sewer within 30 days in compliance with this Ordinance, and within 30 days private wastewater disposal systems will be cleaned of all sludge. The bottom shall be broken to permit drainage, and the tank or pit filled with suitable material.
6. No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the MPCA, the State Department of Health, or other responsible federal, state, or local agencies.

404.05 Building Sewers and Connections Design.

1. No person(s) shall make any alterations to the public sewer or any appurtenances thereof without first obtaining a written permit from the City. No private building drain shall extend beyond the limits of the building or property for which the permit has been given.

Any new connection to the sanitary system shall be prohibited unless sufficient capacity is available in all downstream facilities including, but not limited to, capacity for flow, BOD5, and TSS as determined by the authorized representative.

2. A separate and independent building sewer shall be provided for each building. Old building sewers may be used to service new buildings only when they are found to meet all the requirements of this Ordinance.

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, wastewater shall be lifted by an approved means and discharged to the building sewer.

3. The construction and connection of the building sewer to the public sewer shall conform to the requirements of the State of Minnesota Building and Plumbing Code, applicable rules and regulations of the City and the materials and procedural specifications set forth in the American Society of Testing Materials (ASTM) and the Water Pollution Control Federation (WPCF) Manual of Practice No. 9. All such connections shall be made gas and watertight, and verified by proper testing to prevent I/I.
4. No unpolluted water sources shall be connected to the sanitary sewer.
5. The applicant for the building sewer permit shall notify the community or sewer district when the building sewer is ready for connection to the public sewer. The connection shall be made under the supervision of a designated representative.
6. An appropriate construction license is required to install a service connection. Any person desiring a license shall apply in writing to the community's or district's governing council, providing satisfactory evidence of the applicant's qualification. If approved by the Council, the license shall be issued by a designated representative upon the filing of a bond as hereinafter provided.
7. A license for sewer service connection installation shall not be issued until a \$2,000.00 bond or a \$300.00 cash bond to the community is filed and approved by the Council. The licensee will indemnify the community from all suits, accidents and damage that may arise by reason of any opening on any street, alley,

or public ground, made by the licensee or by those in the licensee's employment.

8. The cost of a license for making service connection is \$50.00. All licenses shall expire on December 31 of the license year unless the license is suspended or revoked by the Council for any reasonable cause.
9. The Council may suspend or revoke any license issued under this article for any of the following causes:
 - (a) Giving false information in connection with the application for a license.
 - (b) Incompetence of the licensee.
 - (c) Willful violation of any provisions of this Article or any rule or regulation pertaining to the making of service connections.
 - (d) Failure to adequately protect and indemnify the city and the user.

404.06 Use of Public Wastewater Treatment Facilities.

1. No unpolluted water or stormwater shall be discharged to the sanitary sewer. Such water shall be discharged only to storm sewers or to natural outlets approved by the City and other regulatory agencies.
2. No person(s) shall discharge any of the following substances to the public sewer.
 - (a) Liquids, solids, gases, or other substances which singly or by interaction with others may cause fire or explosion.
 - (b) Solid or viscous substances which may cause obstruction to the flow in a sewer.
 - (c) Wastewater having a pH of less than 5.0 or greater than 9.5 or having any other corrosive or caustic property capable of causing damage or hazard.
 - (d) Wastewater containing toxic pollutants, as defined in section 307(a) of the Water Pollution Control Act and Minn. Stat. 115.01 subd.14.
3. Discharges of the following substances shall be limited to concentrations or quantities which will not harm the wastewater facility, streams, soils, vegetation, ground water, and will not otherwise create a hazard or nuisance. The authorized representative may set limitations lower than the prohibition limits outlined below. Consideration will be given to such factors as the quantity of waste in relation to flows and velocities, materials of construction, the community's NPDES and SDS permits, capacity of the treatment plant, degree of treatability of wastes and other pertinent factors.
 - (a) Wastewater having a temperature greater than 150°F (65.6°C), or causing, individually or in combination with other wastewater, the influent at the treatment facilities to have a temperature exceeding 104°F (40°C) or having heat in amounts which will be detrimental to biological activity in the treatment facilities.
 - (b) Wastewater containing fats, wax, grease, or oils in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32°F and 150°F (0°C and 65.6°C).

- (c) A discharge of water or wastewater which in concentration or in quantity of flow exceeds for any period of duration longer than 15 minutes, more than 5 times the average 24-hour concentration of flows during normal operation.
 - (d) Food waste not properly shredded to such a degree that all particles will be carried freely under normal flow conditions with no particle greater than 1/2 inch in any dimension.
 - (e) Noxious or malodorous liquids, gases, or solids.
 - (f) Wastewater with objectionable color not removed in the treatment process.
 - (g) Wastewater containing inert suspended solids in such quantities that would cause disruption to the wastewater treatment facilities.
 - (h) Radioactive wastes or isotopes in concentrations that exceed limits established by applicable state and federal regulations.
 - (i) Wastewater with BOD5 or suspended solids levels that require additional treatment, except as may be permitted by specific written agreement with the city subject to Article V, Sec. 11 of this ordinance.
 - (j) Wastewater containing substances which cannot be treated to produce effluent quality required by the permit or causes a violation of any applicable local, state, or federal regulation.
4. In the event of discharges to the public sewers which contain substances or possess characteristics prohibited in Secs. 2 and 3 of this Article or which in the judgement of the Representative, may have a deleterious effect to the treatment facility, receiving water, soils, vegetation, or which create a hazard to nuisance, the Representative may:
- (a) Refuse to accept the waste.
 - (b) Require pretreatment to an acceptable condition for discharge to the public sewers, pursuant to Section 307(b) of the Act and all addenda thereof.
 - (c) Require control over the quantities and rates of discharge.
 - (d) Require payment to cover all the added costs of handling, treating, and disposing of waste not covered by existing taxes or sewer charges.

If the Representative permits the pretreatment or equalization of waste flows, the design, installation, maintenance and efficient operation of the facilities and equipment shall be at the owner's expense and shall be subject to review and approval by the City pursuant to the requirements of the MPCA.

- 5. No user shall increase the use of process water or in any manner attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in this Article, the National Categorical Pretreatment Standards, and any state or local requirement.
- 6. Grease, oil and sand interceptors shall be provided at the owner's expense when, in the opinion of the Representative, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, any flammable

wastes, sand or other harmful ingredients. All interceptors shall be readily and easily accessible for cleaning and inspection. The owner shall be responsible for the maintenance of interceptors, including proper removal and disposal of the captured materials by appropriate means, and shall maintain a record of dates and means of disposal which are subject to review by the Representative.

Any material removal and hauling must be performed by the owner's personnel or a currently licensed waste disposal firm and in compliance with all applicable laws and regulations.

7. Where required by the Representative, industrial users shall install and maintain at their own expense a suitable structure or control manhole with such necessary meters and other testing equipment needed to facilitate observation, sampling, and measurement of wastewater. The manhole will be always safe and accessible. The Council may require submission of laboratory analyses to illustrate compliance with this Ordinance and any special conditions for discharge established by the Council or responsible regulatory agency. All measurements, tests and analyses to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods of the Examination of Water and Wastewater", published by the American Public Health Association and kept for a period of one year.
8. Where required by the Representative, users shall provide protection from an accidental discharge of substances regulated by this Ordinance. Where necessary, facilities to prevent accidental discharges of prohibited materials shall be provided and maintained at the owner's expense. Detailed plans and operating procedures of said facilities shall be submitted to the Representative for review and approval prior to construction of the facility. Approval of such plans and operating procedures shall not relieve the user from the responsibility of modifying the facility as necessary to meet the requirements of this Ordinance.

Users shall notify the Representative immediately if a slug or accidental discharge of wastewater occurs in violation of this Ordinance. Notification will allow measures to be taken to minimize damage to the treatment facilities. Notification will not relieve users of liability for any expense, loss, or damage to the treatment facilities or for fines imposed on the community or sewer district by any state or federal agency as a result of their actions.

A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees of the emergency notification procedure in the event of a slug or accidental discharge.

9. No person shall permit any substance or matter which may form a deposit or obstruction of flow to be discharged into the public sewer. Whenever any service connection becomes clogged, obstructed, detrimental to the use of the public sewer, or unfit for the purpose of drainage, the owner shall make repairs as directed by the Representative.

Each day after 30 days that the owner neglects to make said repairs, shall constitute a separate violation of this Section. The Representative may then cause the work to be done and recover related expenses from the owner or agent by an action in the name of the community or sewer district.

10. In addition to penalties that may be imposed for violation of any provision of this Article, the City may assess against the user/owner the cost of repairing or restoring sewers and associated facilities damaged as a result of the discharge of

prohibited wastes and may collect the assessment as an additional charge for the use of the public sewer system.

11. No statement contained in this Article shall prevent any special agreement or arrangement between the community of Sacred Heart and any industrial user. Industrial waste of unusual strength or character may be accepted by the facility for treatment, subject to adequate payment by the industrial user, providing that National Categorical Pretreatment Standards and the City's NPDES and SDS permit limitations are not violated.

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

404.08 Powers of Authority of Inspectors. Duly authorized employee(s) of the community or sewer district, bearing proper credentials and identification, shall be permitted to enter all properties for inspection, observations, measurement, sampling, testing, repair, and maintenance in accordance with the provisions of this Ordinance.

Industrial users shall be required to provide information concerning industrial processes which have a direct bearing on the type and source of discharge to the collection system. An industry may withhold information considered confidential. However, the industry must establish that the information in question might result in an advantage to competitors and that the industrial process does not have deleterious results on the treatment process.

404.09 The Sewer Service Charge System.

1. The City of Sacred Heart hereby establishes a Sewer Service Charge System. All revenue collected from users of the wastewater treatment facilities will be used for annual operation, maintenance, replacement, and capital costs. Each user shall pay a proportionate share of operation, maintenance and replacement costs based on the user's proportionate contribution to the total wastewater loading.

Charges to users of the wastewater treatment facility shall be determined and fixed in a Sewer Service Charge System (SSCS) developed according to the provisions of this Ordinance. The SSCS adopted by resolution upon enactment of this Ordinance shall be published in the local newspaper and shall be effective upon publication. Subsequent changes in the sewer service rates and charges shall be adopted by Council resolution and published in the local paper.

Revenues collected through the SSCS shall be deposited in a separate fund known as the Sewer Service Fund (SSF).

2. The community of Sacred Heart hereby establishes a Sewer Service Fund as an income fund to receive all revenues generated by the SSCS and all other income dedicated to the wastewater treatment facility.

The SSF administered by a designated representative shall be separate and apart from all other accounts. Revenues received by the SSF shall be transferred to the following accounts established as income and expenditure accounts.

(a) Operation and Maintenance

(b) Equipment Replacement

(c) Debt Retirement for the Treatment Facility (if any)

3. **Administration of the Sewer Service Fund.** A designated representative shall maintain a proper system of accounts and records suitable for determining the operation, maintenance, replacement (OM&R) and debt retirement costs for the treatment facilities and shall furnish the Council with a report of such costs annually.

At that time the Council shall determine whether sufficient revenue is being generated for the effective management of the facilities and debt retirement. The Council will also determine whether the user charges are distributed proportionately. If necessary, the SSCS shall be revised to insure proportionality of user charges and sufficient funds.

In accordance with State requirements, each user will be notified annually in conjunction with a regular billing of that portion of the Sewer Service Charge attributable to OM&R.

Sewer Service Charges shall be billed on a monthly basis. Any bill not paid in full 60 days after the due date will be considered delinquent. At that time the user will be notified regarding the delinquent bill and subsequent penalty. The penalty shall be computed as 10% of the original bill and shall be increased by the same percent for every month the bill is outstanding.

404.10 Determination of Sewer Service Charges.

1. Users of the wastewater treatment facilities shall be permitted into one of the following classes:
 - (a) Residential
 - (b) Non-residential
 - (c) Industrial

Charges to users who discharge NDSW will be calculated on the basis of metered water use.

2. Each user shall pay operation, maintenance, and replacement costs in proportion to the user's contribution of wastewater flows and loadings to the treatment plant, with a minimum rate for loadings of BOD and TSS being the rate established for normal domestic strength waste (NDSW) concentrations.

Those industrial users discharging only segregated NDSW can be classified as non-residential users for the purposes of rate determination.

3. Charges for residential and non-residential users will be determined proportionately according to billable wastewater flow.

RESIDENTIAL USERS: Billable wastewater volume for residential users shall be calculated on the basis of metered water usage. The monthly billable wastewater volume will be equal to the monthly metered water usage. The city may require residential users to install water meters for the purpose of determining billable wastewater volume.

NON-RESIDENTIAL USERS: Billable wastewater volume of non-residential users may be determined in the same manner as for residential users. The City may require non-residential users to install such additional water meters or wastewater flow meters as may be necessary to determine billable wastewater volume.

4. The Sewer Service Charges established in this ordinance will not prevent the assessment of additional charges to users who discharge wastes in concentrations greater than NDSW or of unusual character (industrial users). Special contractual agreements can be made with such users, subject to the following conditions:

- (a) The user pays OM&R costs in proportion to the user’s contribution of wastewater flows and loadings to the treatment facility, and no user is charged at a rate inferior to the charge for normal domestic strength wastes.
- (b) The sampling of wastewater shall be conducted in accordance with the techniques established in “Standard Methods for the Examination of Water and Wastewater”, latest edition.

5. Determination of User Charges.

(a) For Producers of Normal Domestic Strength Wastes:

UOMR = OM&R / TBWV		
Where:	UOMR	= Unit cost of Operation, Maintenance, and Equipment Replacement in \$/Kgal.
	OM&R	= Total annual OM&R costs.
	TBWV	= Total annual Billable Wastewater Volume (Kgal).

(b) Calculation of User Charges:

UC = UOMR x BWV + BASE		
Where:	UC	= User Charge
	UOMR	= Unit cost of Operation, Maintenance, and Equipment Replacement in \$/Kgal.
	BWV	= Billable Wastewater Volume in Kgal.
	BASE	= Base charge for administration costs.

6. **Recovery of Local Construction Costs.** Local construction costs for the wastewater treatment facility will be recovered through a Debt Service Charge calculated in a manner consistent with the User Charge as follows:

(a) Calculation of Unit Cost for Debt Service.

UADS = ADS / TBWV		
Where:	UADS	= Unit cost for Annual Debt Service (\$/Kgal).
	ADS	= Cost of Annual Debt Service.
	TBWV	= Total annual Billable Wastewater Volume (Kgal).

(b) Calculation of Debt Service Charge.

DSC = UDS x BWV		
Where:	DSC	= Debt Service Charge
	UDS	= Unit Charge for Debt Service (\$/Kgal)
	BWV	= Billable Wastewater Volume in Kgal.

7. **Determination of Sewer Service Charges.** The sewer service charge for a particular connection shall be determined as follows:

SSC = UC + DSC		
Where:	SSC	= Sewer Service Charge
	UC	= User Charge
	DSC	= Debt Service Charge

404.11 Penalties.

1. Upon determination that a user has violated or is violating applicable provisions of this ordinance or related permits, the authorized representative may issue a Notice of Violation. Within 30 days of such notification, the violator shall submit to the authorized representative an adequate explanation for the violation and a plan for the correction and prevention of such occurrences, including specific actions required. Submission of such a plan in no way relieves the violator of liability of any violation occurring before or after the issuance of the Notice of Violation.
2. Any person found to be violating any provision of this Ordinance shall be guilty of a misdemeanor and shall be prosecuted accordingly. Each day, in which any such violation occurs shall be deemed as a separate offense. Such fines may be added to the user's next sewer service charge and will hence be subject to the same collection regulations as specified in Article IX, Sec. 3. of this Ordinance. Users desiring to dispute a fine must file a request for the authorized representative to reconsider within 30 days of the issuance of the fine. If the authorized representative believes that the request has merit, a hearing on the matter shall be convened within 30 days of the receipt of the request.
3. To collect delinquent sewer service charge accounts, the community or sewer district may file a civil action suit or levy a lien against the violator. Related attorney's fees fixed by court order shall also be collected. The violator shall be liable for interest on all balances at a rate of 18 percent annually.
4. Any person violating any of the provisions of this Ordinance shall become liable to the City for any expense, loss or damage occasioned by the community or sewer district be reason of such violation.

**CHAPTER V.
MUNICIPAL REGULATIONS & LICENSING**

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501.00 SLOT MACHINES AND OTHER GAMBLING DEVICES

- 501.01** It shall be unlawful for any person, whether acting for himself or as agent for others, to keep any slot machine or other gambling devices within the City of Sacred Heart.
- 501.02** Violation of this chapter shall be a misdemeanor, and upon conviction thereof, the violator shall be fined to the fullest extent of the law. The cost of prosecution may be added to the fine imposed, and in default of payment thereof, the violator shall be sentenced to imprisonment in the county jail for an additional five days.
- 501.03** Nothing in this chapter shall be construed as prohibiting the use of such machines or devices which return, for each coin deposited, its equivalent in merchandise or services.

502.00 HAWKERS, PEDDLERS, AND TRANSIENT MERCHANTS

- 502.01** It shall be unlawful for any person, whether acting for himself or as agent for others, to sell any goods, wares, or merchandise, either for present delivery, or by taking orders for future delivery, within the City of Sacred Heart without first having obtained a license from the City clerk. All license applications shall be secured from the office of the clerk, shall contain such information as the Council may require and shall be accompanied by a license application fee of \$25.00. The application shall be considered by the Council at its next regular meeting and if approved shall be issued forthwith, and if denied, the application fee shall be returned to the applicant. As to all licenses issued, the Council shall prescribe the terms and the conditions of its continuance, and when in the opinion of the Council, public order requires it, may revoke such license. All licenses issued shall automatically expire on December 31 of each year.
- 502.02** The \$25.00 license application fee shall be good only for an individual applicant. Two or more persons subject to licenses employed by the same employer shall each apply for a license and shall each pay the \$25.00 fee.
- 502.03** Violation of this chapter shall be a misdemeanor, and upon conviction thereof, the violator shall pay a fine to the fullest extent of the law. Costs of prosecution may be added to the fine imposed, and in default of payment thereof, the violator shall be further imprisoned in the county jail for five days.

503.00 SALES OF CIGARETTES AND TOBACCO

- 503.01** No person, partnership or corporation shall directly or indirectly or by means of any device or machine, keep for retail sale, sell at retail, or otherwise dispose of any cigarettes or tobaccos at any place in the City unless a license shall first have been obtained from the Renville County Board of Commissioners.
- 503.02** **Application and Issuance.** Application for such license shall be made to the Renville County Board of Commissioners.
- 503.03** **License shall be displayed.** Every such license shall be kept conspicuously posted about the place for which the license is issued and shall be exhibited to any person

upon request.

503.04 Restrictions. No license shall be issued to a minor. No license shall be issued except to a person of good moral character. No license shall be issued for the sale of cigarettes or tobacco at a place other than the applicant's established place of business. No cigarettes or tobacco should be sold to any person under the age of 18 years. No person shall keep for sale, sell, or dispose of any cigarette or tobacco containing opium, morphine, Jimson weed, bella donna, strychnine, cocaine, marijuana, or any other deleterious or poisonous drug except nicotine.

503.05 Revocation. Every such license may be revoked by the Renville County Board of Commissioners.

503.06 Penalty. Any person who shall violate any provision of this chapter shall be guilty of a misdemeanor and upon conviction hereof shall be punished to the fullest extent of the law.

504.00 ANIMAL CONTROL

504.01 Running at Large is Prohibited. No cat shall be permitted to run at large within the limits of this City.

504.02 Cats on Leash. All cats within the City shall be on a leash unless under supervision on the owner's property.

504.03 Cat License Required. No person shall keep any cat within the City without securing a license therefore from the City Clerk, who shall keep a record of all licenses issued and shall issue a metal tag for each license. The annual license fee shall be \$10.00. Annual licenses shall expire on the 31st day of December following their issuance. The lifetime license fee shall be \$30.00. Lifetime licenses shall expire when the cat has deceased. To obtain a license, the owner must show proof of a rabies shot. If the owner obtains a lifetime license, they must provide up-to-date rabies shot records when current records expire. The annual license must be obtained by March 1. If not obtained by March 1, there will be a penalty of \$5.00.

504.04 Impounding. The pound-master and every police officer shall impound any cat found unlicensed or running at large and shall give notice of the impounding to the owner of such cat if known. In the case the owner is unknown, such officer shall post notice at the pound and Community Center that if the cat is not claimed within three (3) regular business/working days of the posting of the notice, it will be disposed of. The pound-master shall house and feed in a humane manner any cat held at the pound. An impounding fee will be determined by the council. The address and telephone number of the pound-master may be obtained from the City Clerk. The owner shall remain subject to other penalties contained in this section.

504.05 Persons in Possession. Any person who feeds or houses a cat temporarily or permanently shall have all the duties and bear the responsibilities under provisions of this section.

504.06 Owning and Keeping of Dogs. Definitions.

1. **Owner.** Any person, firm partnership, or corporation owning, harboring, or keeping a dog or dogs.

2. **Kennel.** Any person, partnership, or corporation engaged in the business of breeding, buying, selling, or boarding dogs; provided that such person, partnership, or corporation customarily owns or boards more than three (3) dogs over six (6) months of age. Multiple Animal Permit required. (See Section 504.20).
3. **Pound.** Any premises designated by the City Council for the purpose of impounding and caring for dogs are held under the authority of this Section.
4. **Officer.** The City Dogcatcher, any police officer of the city or persons designated by the City Council to assist in the enforcement of this Section. Such persons shall have police powers insofar as it is necessary to enforce this Section, and no person shall interfere with, hinder, or molest them in the exercise of such powers.
5. **Restraint.** A dog shall be deemed to be under restraint if it is on the premises of its owner, or if accompanied by a responsible person, leashed and under that person's effective control.
6. **Vicious Dog.**
 - (a) Any dog with a propensity, tendency or disposition to attack, causes injury or otherwise endanger the safety of people or other domestic animals as evidenced by its habitual or repeated chasing, snapping, or barking.
 - (b) Any dog which attacks a human being or other domestic animal without provocation.
 - (c) Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting.
7. **Animal Limit.** No more than three (3) animals, which are required to be licensed, may be kept, harbored, or possessed per residence within the City.
 - (a) **Grandfather Clause.** Any residence keeping, harboring, or possessing more than three (3) licensed animals at the time of the effective date (10/18/2007) of this ordinance may continue to do so, provided such animals are otherwise duly licensed, until such time as the animal ceases, for any reason, to be kept harbored or possessed at the residence; at which time, no animal may be brought in until the number of animals at the residence is under three (3).

504.07 License Required. No person shall own, keep, harbor, or have custody of any dog over three (3) months of age without first obtaining a license therefore from the City Clerk, who shall keep a record of all licenses issued and shall issue a metal tag for each license. The annual license fee shall be \$10.00. Annual licenses shall expire on the 31st day of December following their issuance. The lifetime license fee shall be \$30.00. Lifetime licenses shall expire when the dog has deceased. To obtain a license, the owner must show proof of a rabies shot. If the owner obtains a lifetime license, they must provide up-to-date rabies shot records when current records expire. The annual license must be obtained by March 1. If not obtained by March 1, there will be a penalty of \$5.00. The owner shall affix the metal license tag by a permanent metal fastening to the collar of the dog so licensed in such a manner that the tag may be easily seen by the officers of the City. The owner shall see that the tag is constantly worn by licensed dog.

504.08 Owner Obligation for Proper Care. No owner shall fail to provide any animal with sufficient good and wholesome food and water, proper shelter and protection from the

weather, veterinary care when needed to prevent suffering, and with humane care and treatment. No person shall beat, treat cruelly, torment or otherwise abuse any animal, or cause or permit any dogfight. No owner shall abandon such animal.

504.09 Dogs Under Restraint. All dogs within the City limits of Sacred Heart shall be kept under restraint.

504.10 Obligation to Prevent Nuisances. It shall be the obligation and responsibility of the owner or custodian of any animal in the City, whether permanently or temporarily therein, to prevent such animal from committing any act which constitutes a nuisance. It shall be considered a nuisance for any animal habitually or frequently: bark or cry; to frequent school grounds, parks; to chase vehicles; to worry, chase or molest any persons, if such person is not on the property of the owner or custodian of such animal; to worry, chase or molest any persons traveling peaceably on the public road; or to molest defile or destroy any property public or private. Failure on the part of the owner or custodian to prevent his animals from committing an act of nuisance shall be subject to the penalty hereinafter provided.

504.11 Animal Waste. The owner of every animal shall be responsible for the removal of any excreta deposited by his animal(s) on public walks, recreation areas, or private property.

504.12 Impoundment. Unrestrained dogs may be taken by any officer and impounded in an animal shelter and there confined in a humane manner. Impounded dogs shall be kept for five (5) days unless reclaimed prior to that time by their owner as provided hereafter.

1. **Notice of Impoundment.** Upon taking up and impounding any dog, the Dogcatcher shall, within one day thereafter, post in three (3) or more conspicuous places in the City, a notice of impounding and mail a copy of these to the owner if the name and address of the owner is known.

2. **Redemption.** Any dog may be reclaimed from the dog pound by its owner within the time specified in the notice by the payment to the City Clerk of the license fee, if applicable, and a \$50.00 impounding fee (determined by the Council on an annual basis). Notwithstanding this Section, the owner shall remain subject to other penalties contained in this Section.

3. **Disposition of Unclaimed Dogs.** Any dog which is not claimed, as provided in Subdivision 2 of this Section, within five (5) days after impounding, shall be taken to the Human Society to be adopted or disposed of.

504.13 Permissible Return of Unrestrained Dogs. Notwithstanding the provisions of 504.12, if an animal is found unrestrained and its owner can be identified and located, such animal need not be impounded, but may, instead, be taken to the owner upon payment of fees as set by the City Council on an annual basis. In such a case, however, proceedings may be taken against the owner for violation of this Section.

504.14 Female Dogs. Every female dog in heat within the City of Sacred Heart shall be confined in a building or other secure enclosure, in such manner that such female animal cannot come in contact with another dog, except for planned breeding.

504.15 Quarantine of Certain Dogs. All dog bites shall be reported to the City Clerk and County Health Officer as being diseased or ferocious or vicious. Any dog that bites a person shall be quarantined for such time as may be directed by the County Health Officer. During quarantine the animal shall be securely confined and kept from contact

with any other animal. At the discretion of the Officer the quarantine may be on the premises of the owner; however, if the Officer requires other confinement, the owner shall surrender the animal for the quarantine period, directed by the Health Officer, to an animal shelter, or shall, at his own expense, place it in a veterinary hospital or the Office is authorized to take said dog to the pound.

504.16 Muzzling.

1. **Council Authority.** The City Council may, at any time, with just cause require any or all dogs within said City to be muzzled in a manner and for such length of time as the order may subscribe.
2. **Vicious Dog.**
 - (a) No person owning, harboring, or having the care of a vicious dog may suffer or permit such dog to go outside its kennel or pen unless the dog is securely leashed with a leash no longer than four (4) feet in length. No person may permit a vicious dog to be kept on a chain, rope, or other type of leash outside its kennel or pen unless a person is in physical control of the leash. The dog may not be leashed to inanimate objects such as trees, posts, and buildings. A vicious dog on a leash outside the dog's kennel shall be muzzled by a muzzling device sufficient to prevent the dog from biting persons or other animals. A vicious dog shall not be required to be muzzled when shown either in a sanctioned American Kennel Club Show or upon prior approval of the Health Department.
 - (b) All vicious dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided in Subdivision 2A of this section. The pen, kennel, or structure used to confine a vicious dog shall be locked with a key or combination lock when the dog is within the structure. The structure shall have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two (2) feet. All structures erected to house vicious dogs shall comply with all zoning and building regulations of the City. All structures shall be adequately lighted and ventilated and kept in a clean and sanitary condition.
 - (c) No vicious dog may be kept on a porch, patio, or in any part of a house or structure that would allow the dog to exit the building on its own volition. No vicious dog may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the dog from exiting the structure.
 - (d) No vicious dog may be kept within any portion of any multiple dwelling.
 - (e) All owners, keepers, or those harboring vicious dogs shall, within fifteen (15) days of the effective date of this Section, display in a prominent place on their premises a sign readable by the public using the words "Beware of Dog". A similar sign is required to be posted on the kennel or pen of the dog.

504.17 Insurance. All owners, keepers or those harboring vicious dogs shall, within thirty (30) days of the effective date of this Section, provide proof to the City Clerk of public liability insurance in a single incident amount of \$50,000.00 for bodily injury to or death of any person or for the damage to property owned by any person which may result from the ownership, keeping or maintenance of vicious dogs. The insurance policy shall provide that no cancellation of the policy will be made unless a ten (10)

day written notice is first given to the City Clerk. The owner or custodian of the dog shall produce evidence of the required insurance upon request of a law enforcement officer, animal control officer or public health officer. This Sub-section does not apply to dogs kept by law enforcement agencies.

504.18 Destruction of Certain Dogs. A dog may be destroyed by an officer if he has taken the dog into custody, given at least five (5) days prior written notice to the owner and one of the following facts exist:

1. **Attack.** A vicious dog attacks a human being or domestic animal or represents a continuing threat of serious harm to human beings or domestic animals or has destroyed property.
2. **Trespass.** A dog trespasses in a damaging manner on the property of persons other than the owner more than three (3) times; or is otherwise in repeated violation of this Section.
3. **Failure to Confine or Muzzle.** A dog has not been confined or muzzled as required by this Section.

504.19 Summary of Destruction of Certain Dogs. Whenever an officer or a person designated by the City Council has reasonable cause to believe that a particular dog presents a clear and immediate danger to residents of the City because it is infected with rabies (encephalomyelitis) or because of a clearly demonstrated vicious nature, the officer, after unsuccessfully attempting to catch such dog, may summarily destroy the dog.

504.20 Multiple Animal Permit Procedure (Kennel). No person, firm or corporation shall maintain a kennel in this City without first securing a permit thereof from the City Clerk. Application for a Multiple Animal Permit must be made to the City accompanied by the required license fees for each animal, or proof that license fees are current. There is no separate fee for the Multiple Animal Permit. The City Clerk shall notify all properties within 350 feet of the proposed kennel, who shall then each have fifteen (15) days from the date of such notification to file any comments in writing that they may desire. Notwithstanding the filing or not filing of such comments, the City shall retain sole discretion as to the issuance of a Multiple Animal Permit. The City will consider enclosure, nourishment, shelter, past complaints and any other measure deemed necessary for each situation in determining qualifications for a Multiple Animal Permit. Within thirty (30) days after the application has been submitted, the City shall issue its determination to either authorize a Multiple Animal Permit or deny the same. Any such permit issued shall be valid for one (1) calendar year beginning January 1st and ending December 31st and must be reviewed annually thereafter upon proper request being made to the City. If a permit holder fails to comply with any statements made in the application or with any reasonable conditions imposed on the permit, or violates any other provisions of the applicable ordinances, the Multiple Animal Permit is subject to summary revocation by the City of Sacred Heart.

504.21 Nonresidents. The Sections of this ordinance requiring a license shall not apply to nonresidents of the City, provided that dogs of such owners shall not be kept in the City longer than twenty (20) days without a license and shall be kept under constraint.

504.22 Penalty. The violation of any provision of this Chapter shall be punished to the fullest extent of the law. Each and every act of violation shall constitute a separate offense punishable by a fine described in Minnesota Statute 609.02 Subd.4a.

505.00 GARBAGE AND OTHER REFUSE

The monthly billing shall be in the name of the occupant of the premises or the garbage service user. Notwithstanding, garbage service charges are hereby made a primary obligation of the owner of the premises served. Upon failure to pay the garbage service charges duly billed, the City Council may certify to the County Auditor of Renville County the sums due and owing for garbage service furnished to said premises, which premises shall be described in said certificate with directions for collection for the City with other taxes levied against said premises. Said garbage charges shall be payable in one annual installment with one year's interest at the rate of 6% per annum to be added to said garbage charges. Garbage charges shall be an obligation of the owner, lessee and occupant of the premises served and all of them. In the alternative, the city may, by its Council, bring an action in any court of competent jurisdiction against either the owner, the lessee or the occupant of the premises served or all of them for collection of delinquent garbage service charges together with reasonable attorney fees. (*Revised 12/08/25*)

- 505.01 Deposit of Garbage and Refuse Restricted.** No person shall hereafter deposit or cause to be deposited any garbage, kitchen or table refuse, or any decayed animal or vegetable substance or any noxious or offensive substance or any substance injurious to life or health, upon any streets, avenue, vacant lot or vacant part of any lot or upon any yard, back yard or other ground or place appurtenant to any dwelling house, boarding house, lodging house, hotel, restaurant, store, saloon, factory, laundry, work shop or other inhabited building, in the City of Sacred Heart except in cans and in the manner in this chapter provided.
- 505.02 Garbage Containers Required.** Every owner or occupant or person in control or possession of any dwelling house, hotel, restaurant, boarding house, lodging house, store, laundry, factory or other inhabited building or structure shall provide at his own expense and put and keep on the grounds, back yard or other part of the lot appurtenant to any such specified premises and in a convenient place, easy of access for collection as provided in 505.03 of this chapter, a container of holding capacity of at least thirty-five, but not more than ninety-five gallons, with a cover and with handles on the sides; and every such person shall deposit or cause to be deposited in such container all garbage and other refuse and substances specified in 505.01 of this chapter which shall accrue on his or her premises or on premises in his or her control or possession and shall deposit in said container the same drained of water or other fluid, and wrapped in paper in parcels, and shall keep such container covered.
- 505.03 Collection by City Council.** The City Council of the City of Sacred Heart shall collect, from time to time as cans may fill, all garbage and other refuse and substances deposited in the can pursuant to 505.02 of this chapter and shall remove the same to such place as shall be provided by the City Council for that purpose. The City Council may employ men, vehicles and equipment or other means as may be necessary for such collection and removal of such garbage and other refuse, but all such employment or procuring of means shall be done in the name and for on behalf of said City and the expense thereof shall be paid out of the general funds of the City upon bills verified the same as other bills or claims. The City Council may adopt such reasonable rules and regulations for the deposit, collection and removal of such garbage and other refuse aforesaid as it may deem necessary or useful.
- 505.04 Penalty.** Any person, firm or corporation violating any provision of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished to the fullest

extent of the law.

505.05 Open burning. Except as provided in the sections below, all open burning is prohibited in the City of Sacred Heart.

505.06 Definitions.

1. **Open Fire/Open Burning.** A fire burning in matter, whether concentrated or dispersed, which is not contained within a fully enclosed firebox, structure, or vehicle, from which the products of combustion are emitted directly to the open atmosphere without passing through a stack, duct, or chimney.
2. **Person.** Any natural person acting either personally or in any representative capacity, a corporation, a firm, a co-partnership, or an association of any nature or kind.
3. **Starter Fuels.** Dry, untreated, unpainted wood or charcoal fire starter. paraffin candles and alcohol are permitted as starter fuels and as aids to ignition only. Propane gas torches or other clean gas burning devices causing minimal pollution may be used to start an open fire.
4. **Wood.** Dry, clean fuel only such as twigs, branches, limbs, “presto logs” charcoal, cord wood or untreated dimensional lumber. “Wood” does not include wood that is green, farm vegetation such as corn stalks, vines or other such matter, leaves or needles, rotten, wet, oil soaked or treated with paint, glue, or preservatives.
5. **Recreational Fire.** A fire set for cooking, warming or ceremonial purposes which is not more than three (3) feet in diameter by three (3) feet high and has had the ground five (5) feet from the base of the fire cleared of all combustible material. Recreational fires must be contained in an approved firebox.
6. **Firebox.** An enclosed box constructed of metal, stone, brick, or other approved noncombustible material. The side walls and roof may be made of metal mesh or grating with holes, or spacing, of no more than ½ inch. Fireboxes must fully encase the fire and persons must not allow a flame to expand more than six (6) inches beyond the walls, or roof, of the firebox.

505.07 Recreational Fires. Recreational fires are permitted. These regulations shall not apply to wood burning fireplaces or to fires used for the preparation of food by barbecuing. Indoor and outdoor fires may be used for cooking, warmth, or recreational purposes, provided, however, that such fires shall not be used for purposes of refuse disposal and shall not violate any other ordinances of the City. The following requirements shall apply to all recreational fires:

1. Must be in an enclosed approved firebox.
2. Minimum distance from the fire to a property line – 6 feet.
3. Minimum distance from the fire to a structure – 15 feet.
4. No combustible materials within a 5-foot radius of the fire.
5. The fire must be started with an approved Starter fuel.
6. All attempts to keep flames within the walls and roof of the firebox should be used, however flames must not expand past the walls or roof more than six (6)

inches.

7. Only clean wood or charcoal may be burned. No burning of trash or brush is allowed.
8. Burning shall occur between 9:00am - 12:00 midnight during any day of the week.
9. The fire must be constantly attended by a responsible adult and supervised until the fire has been totally extinguished.
10. A means of extinguishing the fire shall be present (such as a garden hose, fire extinguisher, pail of water or sand and a shovel).
11. Recreational fires shall be for cooking, social, or recreational purposes. They are not allowed for the disposing of trash, refuse, debris, grass, tree trimmings, farm waste or similar materials. No person shall dispose of refuse by open burning, burning in an approved firebox, or cause, suffer, allow, or permit open burning of refuse.

505.08 Burning Permits. Burning permits will not be issued, for any reason, within the city limits of Sacred Heart.

505.09 Permanent Firebox. Residents wishing to construct a permanent firebox on their property must submit a drawn plan with dimensions, materials to be used a location of building site to the City Council for approval. A Building Permit will be required for construction of a permanent firebox.

505.10 Burning Ban/Air Quality Alert. No recreational fire or open burn will be permitted when the City or the Minnesota Department of Natural Resources has officially declared a burning ban due to potentially hazardous fire conditions or when Minnesota Pollution Control Agency has declared an air quality alert.

505.11 Approved Burning. The following is a list of exceptions to this Ordinance with the approval of the City Council or City Clerk.

1. Ground thawing for utility repair, underground utility construction and preparation of burial grounds.
2. Bona-fide instruction and training of firefighting personnel and for the testing of fire extinguishing equipment.
3. Fires set for the elimination of a fire hazard, which cannot be abated by another practicable means.
4. The burning by City staff of trees, brush, grass, and other vegetative matter in the maintenance of municipal property.
5. Any burning conducted under this Section must have the approval of the City Council or the City Clerk prior to burning. Burns, under this Section, for emergency utility repair may be made without prior approval, providing that City Clerk is contacted by the next business day with the fact a burn was made, what it consisted of and its location.

505.12 Penalties. Any fires not complying with this Section are in violation of State Statute and local ordinances and deemed a Misdemeanor offense. Fires will be extinguished by the Fire Department at the homeowner's/renter's expense and a fine may be imposed. Fires in which refuse, or trash is being burned will be punished to the fullest

extent of the law.

505.13 Effective Date. This ordinance shall become effective upon its publication.

506.00 ADULT-ORIENTED BUSINESSES

506.01 Purpose and Intent.

1. **Findings of the City Council.** Studies conducted by the Minnesota Attorney General, the American Planning Association and cities such as St. Paul, Minnesota; Indianapolis, Indiana; Alexandria, Minnesota; Rochester, Minnesota; Phoenix, Arizona; Los Angeles, California; and Seattle, Washington have studied the impacts that adult oriented businesses have in those communities. These studies have concluded that adult oriented businesses have an adverse impact on the surrounding neighborhoods. Those impacts include increased crime rates, lower property values, increased transients, blight, and potential health risks. The Council of the City of Sacred Heart makes the following findings regarding the need to license adult oriented businesses. The findings are based upon the experiences of other cities where such businesses have located, as studied by City staff.
 - (a) Adult-oriented businesses have adverse secondary impacts of the types set forth above.
 - (b) The adverse impacts caused by adult-oriented businesses tend to diminish if adult-oriented businesses are governed by local requirements, licensing requirements, and health requirements.
 - (c) It is not the intent of the City Council to prohibit adult-oriented businesses from having a reasonable opportunity to locate in the City.
 - (d) Minnesota Statutes, Section 462.357, allows the City to adopt regulations to promote public health, safety, morals, and general welfare.
 - (e) Public health, safety, morals, and general welfare will be promoted by the City adopting regulations governing adult-oriented businesses.
 - (f) Adult-oriented businesses can contribute to an increase in criminal activity in the area in which such businesses are located, taxing City crime-prevention programs and law enforcement services.
 - (g) Adult-oriented business can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that the proper management and operation of such businesses can, however, minimize this risk, provided the owner and operators of such facilities are regulated by licensing or other procedures.
 - (h) Adult-oriented businesses can increase the risk of exposure to communicable diseases including, but not limited to, Acquired Immune Deficiency Syndrome (AIDS) for which currently there is no cure. Experiences of other cities indicate that such businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, thereby endangering, not only the patrons of such establishments, but also the general public.

- (i) Adult-oriented businesses can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.
 - (j) The risk of criminal activity and/or public health problems can be minimized through a licensing and regulatory scheme as prescribed herein.
2. **Purpose.** It is the purpose of this Ordinance to regulate Adult-Oriented Businesses to promote the health, safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to:
- (a) Prevent additional criminal activity within the City.
 - (b) Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood.
 - (c) To locate adult-oriented businesses away from residential areas, schools, churches, parks, and playgrounds.
 - (d) Prevent concentration of adult-oriented businesses within certain areas of the City.
3. **Provisions.** The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult-oriented entertainment to their intended market.

506.02 Definitions. For the purpose of this Section the terms defined in this Section have these meanings given to them:

- 1. **Adult-Oriented Business.**
 - (a) Any business that devotes a substantial or significant portion of its inventory, stock in trade, or publicly displayed merchandise, or devotes a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to, or derives a substantial or significant position of its gross revenues from items, merchandise, devices or tother materials distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing or relating to Specified Sexual Activities or Specified Anatomical Areas; or
 - (b) Any activity or business described below.
- 2. **Adult Book and/or Media Store.** An establishment which excludes minors, and which has a substantial portion of its stock in trade or stock on display (books, magazines, films, videotape, or other media) which are characterized by their emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.
- 3. **Adult Cabaret.** An establishment which provides dancing or other live entertainment, if such establishment excludes minors by virtue of age from all or part of the establishment and if such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, depiction or description of Specified Sexual Activities or Specified Anatomical Areas.
- 4. **Adult Establishment.** Any business which offers it patrons services, entertainment, or the sale of merchandise characterized by an emphasis on matter depicting, exposing, describing, discussing, or relating to Specified Sexual

Activities or Specified Anatomical Areas. Specifically included in the term, but without limitation, are adult book and media stores, adult cabarets, adult hotels or motels, adult mini-motion picture theaters, adult modeling studios, adult motion picture arcades, adult motion picture theaters, adult novelty businesses and other establishments of the kind.

5. **Adult Hotel or Motel.** Any hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.
6. **Adult Mini-Motion Picture Theater.** Includes the following:
 - (a) A theater in an enclosed building, from which minors are excluded from all or part of the establishment, with a capacity for less than fifty (50) persons used for presenting motions pictures, including, but not limited to, film and videotape, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.
 - (b) Any business which presents motion pictures, from which minors are excluded from all or part of the establishment, including films and videotapes, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or reliant on Specified Sexual Activities or Specified Anatomical Areas, for viewing on the premises, including, but not limited to private booths, viewing by means of coin operated or other mechanical devices, and the viewing of excerpts of motion pictures offered for sale or rent.
7. **Adult Modeling Studio.** An establishment, which excludes minors from all or part of the establishment, whose major business is the provision, to customers, or figure models who are so provided with the intent of providing sexual stimulation for sexual gratification to such customers and who engage in Specified Sexual Activities or display Specified Anatomical Areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.
8. **Adult Motion Picture Arcade.** Any place which excludes minors from all or part of the establishment wherein coin or token operated or electronically, electrically, or mechanically controlled or operated still or motor picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depiction or describing Specified Sexual Activities or Specified Anatomical Areas.
9. **Adult Motion Picture Theater.** A theater in an enclosed building, from which minors are excluded from all or part of the establishment, with a capacity of fifty (50) or more persons used regularly and routinely for presenting live entertainment or motion pictures, including, but not limited to, film and videotapes, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas for observation by patrons.
10. **Adult Novelty Business.** Includes any of the following:
 - (a) Less than completely and opaquely covered human genitals, pubic region,

pubic hair, buttock, anus, or female breast below a point immediately above the top of the areola; and

- (b) Human male genital in a discernible turgid state, completely and opaquely covered.

11. Specified Sexual Activities. Includes any of the following:

- (a) An act of sexual intercourse, normal or perverted, actual, or simulated, including genital-genital, or oral-genital intercourse or interaction, whether between human beings or between a human being(s) and an animal(s).
- (b) Sadomasochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a revealing costume or the condition of being fettered, bound, or otherwise physically restricted on the part of one so clothed.
- (c) Masturbation or lewd exhibitions of the genitals including any explicit, close-up representation of a human genital organ clothed or unclothed.
- (d) Physical contact or simulated physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female, or breast of a female, whether alone or between members of the same or opposite sex or between human(s) and animals(s) in an act of apparent sexual stimulation or gratification.

506.03 Application of this Ordinance.

1. Application in General.

- (a) Except as in the Ordinance specifically provided, no structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used, for any purpose nor in any manner which is not in conformity with the Ordinance.
 - (b) No Adult-Oriented Business shall engage in any activity or conduct or permit any other person to engage in any activity or conduct, in or about the establishment, which is prohibited by any Ordinance of the City of Sacred Heart, the laws of the State of Minnesota, or the laws of the United States of America. Nothing in this Ordinance shall be construed as authorizing or permitting conduct which are prohibited or regulated by other statutes or ordinances, including, but not limited to, statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene material generally, or the exhibition, sale, or distribution of specified materials to minors.
- 2. Existing Adult-Oriented Businesses.** Within twelve (12) months of the effective date of this Ordinance, any existing adult-oriented business shall be in compliance with all requirements of this Ordinance, as authorized pursuant to Minnesota Statute 462.357, Subdivision 1c.

506.04 Location.

- 1. Permitted Location.** Adult-Oriented Businesses are permitted only in the AG (Agricultural District) and M-1 (Manufacturing District), subject to the following requirements:

- (a) An Adult-Oriented Business shall not be allowed within five hundred (500) feet, measured in a straight line from the building or edge of leased building space to another existing adult use.
- (b) An Adult-Oriented Business shall not be located within five hundred (500) feet, measured in a straight line from the building or edge of leased building space to the property line of any residentially zoned property.
- (c) An Adult-Oriented Business shall not be located within five hundred (500) feet, measured in a straight line of any existing school, place of worship, library, daycare facility, park, or playground.
- (d) An Adult-Oriented Business shall not be located within five hundred (500) feet, measured in a straight line of any City-owned Park and/or recreational property.

506.05 Hours of operation. No adult-oriented business site shall be open to the public from the hours of 10:00 p.m. to 10:00 a.m.

506.06 Operation.

1. **Off-site Viewing.** An establishment operating as an Adult Oriented Business shall prevent off-site viewing of its merchandise, which, if viewed by a minor, would be in violation of Minnesota Statutes Chapter 617 or other applicable Federal or State Statutes or local Ordinances.
2. **Entrances.** All entrances to the business, with the exception of emergency fire exits, which are not useable by patrons to enter the business, shall be visible from a public right-of-way.
3. **Layout.** The layout of the display areas shall be designed so that the management of the establishment and any law enforcement personnel inside the establishment can observe all patrons while they have access to any merchandise offered for sale or viewing, including, but not limited to, books, magazines, photographs, video tapes, or any other material, or any live dancers or entertainers.
4. **Illumination.** Illumination of the premises exterior shall be adequate to observe the location and activities of all persons on the exterior premises.
5. **Signs.** Signs for Adult Oriented Businesses shall comply with the City' Ordinance for signs, and in addition, signs for Adult Oriented Businesses shall not contain representational depiction of an adult nature or graphic descriptions of the adult theme of the operation.
6. **Access by minors.** No minor shall be permitted on the licensed premises. Adult goods or materials may not be offered, sold, transferred, conveyed, given, or bartered to a minor, or displayed in a fashion that allows such goods or materials to be viewed by a minor, whether the minor is on the licensed premises or outside.
7. **Additional conditions for adult cabarets.** The following additional conditions apply to adult cabarets:
 - (a) No dancer, live entertainer, or performer shall be under eighteen (18) years of age.

- (b) All dancing or live entertainment shall occur on a platform for that purpose, and which is raised at least two (2) feet from the level of the floor.
- (c) No dancer or performer shall perform any dance of live entertainment closer than three (3) feet, measured in a direct line, to a patron.
- (d) No dancer or performer shall fondle or caress any patron and no patron shall fondle or caress any dancer or performer.
- (e) No patron shall pay or give any gratuity to any dancer or performer.
- (f) No dancer shall solicit, receive, or accept any pay or gratuity from any patron.

506.07 License required. On and after February 9, 2004, no person or entity shall own, lease, rent, manage, or operate an adult-oriented business, including any adult-oriented business operating at the time this Ordinance becomes effective, unless such person is currently licensed under this Ordinance. Any person or entity is in violation of the Ordinance if the person or entity operates an adult-oriented business without a valid license, issued by the City Council (“Issuing Authority”).

506.08 License application. The application for a license under this Ordinance shall be made on a form supplied by the Issuing Authority and shall require the following information:

1. **All Applicants.** For all applicants:

- (a) Where the applicant is a natural person, corporation, partnership, or other form of organization.
- (b) The legal description of the premises to be licensed, along with a floor plan of the Premises. The floor plan of the premises shall detail all internal operations and activities, including a statement of the total floor space occupied by the business. The floor plan need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
- (c) The name and street address of the business. If the business is to be conducted under a designated name, or style other than the name of the applicant, a certified copy of the certificate required by Minnesota Statutes, Section 333.01 shall be submitted to the Issuing Authority.

2. **Applicants Who Are Natural Persons.** If the applicant is a natural person:

- (a) The name, place, and date of birth, street and city address, and phone number of the applicant.
- (b) Where the applicant has ever used or has been known by a name other than the applicant’s name, and if so, the name or names used and information concerning dates and places where used.
- (c) The street and city address at which the applicant has lived during the preceding two (2) years.
- (d) The type, name, and location of every business or occupation in which the applicant has been engaged during the preceding two (2) years and name(s)

and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding two (2) years.

- (e) Whether the applicant has ever been convicted of a felony, crime, or violation of any ordinance other than a petty misdemeanor traffic ordinance. If so, the applicant shall furnish information as to the time, place and offense for which convictions occurred.

3. **Applicants That Are Partnerships.** If the applicant is a partnership:

- (a) The name(s) and address(es) of all general partners and all the information concerning each general partner that is required of applicants in subpart 2 of this Section.
- (b) The name(s) of the managing partner(s) and the interest of each partner in the business.
- (c) A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to trade name pursuant to Minnesota Statutes, Section 333.01, a certified copy of such certificate shall be attached to the application.

4. **Corporate or Other Applicants.** If the applicant is a corporation or other organization:

- (a) The name of the corporation or business form, and if incorporated, the state of incorporation.
- (b) A true copy of the Certificate of Incorporation, Articles of Incorporation or Association Agreement and By-laws shall be attached to the application. If the applicant is a foreign corporation, a Certification of Authority as required by Minnesota Statutes, Section 303.06, shall be attached to the application. If the entity is a limited liability company, then true and accurate copies of the Articles or Organization and any Membership Agreements shall be attached to the application.
- (c) The name of the manager(s), proprietor(s), or other agent(s) in charge of the business and all the information concerning each manager, proprietor, or agent that is required of applicants in subpart 2 of this Section. Accurate and complete business records showing the names, addresses, and dates of birth of all individuals having an interest in the business, including partners, officers, owners, managers, and creditors furnishing credit for the establishment, acquisition, maintenance, and furnishings of said business and, in the case of a corporation or limited liability company, the names, addresses, and dates of birth of all officers, members, general managers, members of the board of directors or board of governors.

5. **Disqualification.** The City will issue a license to an applicant within thirty (30) days of the application unless one or more of the following conditions exist:

- (a) The applicant is under age 21.
- (b) The applicant failed to supply all of the information requested on the license application.
- (c) The applicant gives any false, fraudulent, or otherwise untruthful information on the license application.

- (d) The applicant has been convicted of a misdemeanor, gross misdemeanor, or felony, if such conviction relates to sex offenses, obscenity offenses, or adult-oriented businesses.
 - (e) The adult-oriented business is not in full compliance with this Ordinance and all provisions of State and Federal law.
 - (f) The applicant has not paid the required license and investigative fees.
 - (g) The applicant has been denied a license by the City or other Minnesota municipal corporation to operate an adult-oriented business, or such license has been suspended or revoked within the preceding twelve (12) months.
 - (h) The applicant is not the proprietor of the business in the establishment for which the license was issued.
 - (i) The adult-oriented business premises hold an intoxicating liquor, beer, or wine license.
6. **Re-Qualification.** An applicant may qualify for an adult-oriented business license if:
- (a) After one (1) year has elapsed since the case of a prior license revocation.
 - (b) After two (2) years have elapsed since the date of conviction or the date of release from confinement in the case of a misdemeanor conviction.
 - (c) After five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is later, in the case of a felony offense.
7. **Posting.** The license, if granted, shall state on its face the name of the person or entity to whom it is granted, the expiration date, and the address of the Adult Oriented Business. The license shall be posted in a conspicuous place at or near the entrance to the Adult Oriented Business so that it may be easily read at any time.

506.09 License Application Execution. If the application is that of a natural person, the application shall be signed and sworn to by that person; if of a corporation, by an officer thereof; if of a partnership, by one of the general partners; if of an unincorporated association, by the manager or managing officer thereof.

506.10 License Procedures.

1. **Applications.** Applications of licenses under this Ordinance shall be submitted to the Issuing Authority. Within thirty (30) calendar days of receipt of a completed application and payment of all license application fees, agents and/or employees of the Issuing Authority shall verify any and all of the information requested of the applicant in the application, including the ordering of criminal background checks, and conduct any necessary investigation to assure compliance with this Ordinance.
2. **Applications for Renewal.** If the application is for renewal, the applicant will be allowed to continue business until the Issuing Authority has determined whether the applicant meets the criteria of the Ordinance for a renewal license.
3. **Issuance.** If, after the investigation, it appears that the applicant and the place proposed for the business are eligible for a license, the license must be issued by the Issuing Authority within thirty (30) days after the investigation is completed.

If the Issuing Authority fails to act within thirty (30) days after the investigation is completed, the application will be deemed approved.

4. **Recourse.** If the Issuing Authority does not grant a license to an applicant, then the applicant may commence an action in State or Federal court within fifteen (15) days for the purpose of determining whether the City acted properly. The applicant may not commence business unless the court action concludes in its favor.

506.11 License Fees.

1. Application Fee.

- (a) The annual license application fee shall be set by the City Council.
 - (b) The application license fee shall be paid in full before the application for a license is considered. All fees shall be paid to the Issuing Authority, for deposit into the general fund of the City, and shall be delivered to the City Clerk. Upon rejection of any application for a license or upon withdrawal of application before approval of the Issuing Authority, the license fee shall be refunded to the applicant.
 - (c) When the license is for premises where the building is not ready for occupancy, the time fixed for computation of the license fee of the initial license period shall be ninety (90) days after approval of the license by the Issuing Authority or upon the date an occupancy permit is issued for the building.
 - (d) Licenses will expire on December 31st of each year. Each license will be issued for a period of one year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year, based on a per diem, pro-rated fee based upon a 365-calendar day year.
 - (e) No part of any fee paid will be refunded, except that a pro rata portion of the fee shall be refunded upon application made to the City Council, in writing, within thirty (30) days from the happening of one of the following events:
 - (1) Destruction or damage of the licensed premises by fire or other catastrophe; or
 - (2) The licensee's death.
 - (f) Any change in information provided on the application or provided during the investigation must be brought to the attention of the City Council, in writing, and presented to the City Clerk/Treasurer by the applicant or licensee within five (5) calendar days of the damage.
2. **Investigation Fee.** An applicant for any license under this division shall deposit with the Issuing Authority, at the time an original application is submitted, \$500,000 to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this Ordinance. The investigation fee shall be non-refundable.

506.12 License Restrictions.

1. **Effect of License.** A license issued under this Ordinance is only effective for the

compact and contiguous space specified in the approved license application.

2. **Maintenance of Order.** A licensee under this Ordinance shall be responsible for the conduct of the business being operated and shall not allow any illegal activity to take place on or near the licensed premises including, but not limited to, prostitution, public indecency indecent exposure, disorderly conduct, or the sale or use of illegal drugs. Every act or omission by an employee or independent contractor of the licensee constituting a violation of the Ordinance shall be deemed the act or omission of the licensee if such act or omission occurs either with the authorization, knowledge, or approval of the licensee or as a result of the licensee's negligent failure to supervise the employee's or independent contractor's conduct.

506.13 Restrictions Regarding License Transfer.

1. **No Transfer Allowed.** The license granted under this Ordinance is for the person and the premises named on the approved license application. No transfer of a license shall be permitted from place to place or from person to person without complying with the requirements of an original application.
2. **Sale of Business.** When an Adult-Oriented Business licensed under this Ordinance is sold or transferred, the existing licensee shall immediately notify the Issuing Authority of the sale or transfer. If the new owner or operator is to continue operating the Adult Oriented Business, the new owner or operator must immediately apply for a license under this Ordinance. The business will remain closed until a new license is in place.

506.14 Inspection

1. **Access.** An applicant or licensee shall permit health officials, representatives of the police department, fire department, and building inspection division to inspect the premises of an Adult-Oriented Business, for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.
2. **Refusal to Permit Inspections.** A person who operates an Adult-Oriented Business or his/her agent or employee commits an offense if he or she refuses to permit a lawful inspection of the premises by health officials, representatives of the police department, fire department, and building inspection division at any time it is occupied or open for business. Refusal to permit inspections may result in the suspension or revocation of the license as provided in this Ordinance.
3. **Exceptions.** The provisions of this Section do not apply to areas of an adult motel, which are currently being rented by a customer for use as permanent or temporary habitation. Temporary habitation is defined as a period of time of at least twelve (12) hours.
4. **Records.** The licensee must keep itemized written records of all transactions involving the sale of all items or merchandise for at least one (1) calendar year after the transaction. At a minimum, those records must describe the date of the transaction, a description of the transaction, the purchase price or rental price, and a detailed description of the item or merchandise purchased or rented. Those written records must be made available to the City immediately upon request.

506.15 Expiration and Renewal.

1. **Expiration.** Each license shall expire at the end of the calendar year and may be renewed only by making applications as provided herein. Application for renewal

must be made at least sixty (60) days before the expiration date.

2. **Denial of Renewal.** When the City denies renewal of a license, the applicant shall not be issued a license for one (1) year from the date of denial. Subsequent to denial, if the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the denial became final.

506.16 Suspension.

1. **Causes of Suspension.** The City may suspend a license for a period not to exceed thirty (30) days if it determines that the licensee or an employee of a licensee has:
 - (a) Violated or is not in compliance with any provision of this Ordinance.
 - (b) Engaged in the use of alcoholic beverages while on the Adult-Oriented Business premises other than at an adult hotel or motel.
 - (c) Refused to allow an inspection of the Adult-Oriented Business premises as authorized by this Ordinance.
 - (d) Knowingly permitted gambling by any person on the Adult-Oriented Business premises.
 - (e) Demonstrated inability to operate or manage an Adult-Oriented Business in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.
2. **Notice.** A suspension by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten (10) days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, of by leaving the same at the licensed business premises with the person in charge thereof, or by mailing said notice by U.S. Mail to the last known address of the owner or agent authorized to receive legal notices for the business, as listed on its license application.

506.17 Revocation.

1. **Suspended Licenses.** The City may revoke a license if a cause of suspension in Section 506.16 occurs, and the license has been suspended within the preceding twelve (12) months.
2. **Causes of Revocation.** The City shall revoke a license if it determines that:
 - (a) A licensee gave false or misleading information in the material submitted to City during the application process.
 - (b) A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances or alcohol on the premises.
 - (c) A licensee or an employee has knowingly allowed prostitution on the premises.
 - (d) A licensee or an employee knowingly operated the Adult-Oriented Business during a period of time when the licensee's license was suspended.

- (e) A licensee has been convicted of an offense prohibited within this Ordinance as listed in 506.08:5 for which the period of time required by 506.08:6 has not elapsed.
 - (f) On two or more occasions within a twelve (12) month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in 506.08:5 for which a conviction has been obtained, and the person or persons were employees of the Adult-Oriented Business at the time the offenses were committed.
 - (g) A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, or masturbation to occur in or on the licensed premises.
3. **Appeals.** The fact that a conviction is being appealed shall have no effect on the revocation of the license.
 4. **Exceptions.** Section 506.172g does not apply to Adult Motels as grounds for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.
 5. **Granting a License After Revocation.** When the City revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued an Adult-Oriented Business license for one (1) year from the date the revocation became effective. Subsequent to revocation, if the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective. If the license was revoked under 506.17:2e, an applicant may not be granted another license until the appropriate number of years required have elapsed.
 6. **Notice.** A revocation by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten (10) days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed premises with the person in charge thereof or by mailing the notice to the last known address of the owner or agent authorized to receive legal notices for the business, as listed on its license application.

506.18 Procedures for Appeal.

1. **Provisions.** Suspensions, revocation, and non-renewals of Adult-Oriented Business licenses are governed by the following provisions:
 - (a) In the event that the City Council proposed not to renew, to revoke, or to suspend the license, the licensee must be notified in writing of the basis for such proposed revocation or suspension. The City Council will hold a hearing for the purpose of determining whether to revoke or suspend or not to renew the license. The hearing must be within thirty (30) days of the date of the notice. The City Council must determine whether to suspend or revoke a license within thirty (30) days after the close of the hearing or within sixty (60) days of the date of the notice, whichever is sooner. The City Council must notify the licensee, in writing, of its decision within that period.

- (b) If the City Council determines to suspend or revoke a license, the suspension or revocation is not effective until fifteen (15) days after written notice of the decision is given to the licensee. If, within those fifteen (15) days, the licensee files and serves an action in State or Federal court challenging the Council's decision, then the suspension or revocation is stayed, pending the conclusion of such court action.
- (c) If the City Council determines not to renew a license, the licensee may continue to operate its business for fifteen (15) days after receipt of the notice of non-renewal. If the licensee files and serves an action in State or Federal court within that fifteen (15) day period, the licensee may continue business pending the conclusion of such court action.

506.19 Severability. Every section, provision, or part of this Ordinance or any permit issued to this Ordinance is declared severable from every other section, provision, or part thereof, to the extent that if any section, provision, or part of this Ordinance or any permit issued pursuant to this Ordinance shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision, or part thereof.

506.20 Effective Date. This Ordinance shall become effective upon publication.

507.00 EMERGENCY PROTECTION FIRE SERVICE FEES

507.01 Purpose and Intent. This Ordinance is adopted for the purpose of authorizing the City of Sacred Heart to charge for fire service as authorized by Minn. Stat. 366.011, 366.012, and 415.01.

507.02 Definitions.

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

507.03 Parties Affected.

1. Owners of property who receive fire service within the City.

2. Anyone who receives fire service as a result of a motor vehicle accident or fire within the City.
3. Owners of property in townships or cities to which the City provides fire service pursuant to a fire protection contract.

507.04 Rates. Rates are determined by the Sacred Heart Fire Department and applied to the Fine and Fee Schedule.

507.05 Billing and Collection.

1. Parties requesting and receiving fire services may be billed directly by the City. Additionally, if the party receiving fire services did not request services but a fire or other situation exists which, at the discretion of the fire department personnel in charge requires fire service, the party will be charged and billed. All parties will be billed whether or not the fire service is covered by insurance. Any billed amount of the fire charge not covered by a party's insurance remains a debt of the party receiving the fire service.
2. Parties billed for fire service will have 60 days to pay. If the fire service charge is not paid by that time, it will be considered delinquent and the City will send a notice of delinquency.
3. If the fire service charge remains unpaid for 30 days after this notice of delinquency is sent, the City will use all practical and reasonable legal means to collect the fire service charge. The party receiving fire service shall be liable for all collection costs incurred by the City including, but not limited to, reasonable attorney fees and court costs.
4. If the fire service charge remains unpaid for 30 days after the notice of delinquency is sent, the City Council may also, on or before November 15th of each year, certify the unpaid fire service charge to the County Auditor in which the recipient of the services owns real property for collection with property taxes. The County Auditor is responsible for remitting to the City all charges collected on behalf of the City. The City must give the property owner notice of its intent to certify the unpaid fire service charge by September 15th.
5. False alarms will be billed as a fire call.

507.06 Mutual Aid Agreement. When the Sacred Heart Fire Department provides fire service to another fire department pursuant to a Mutual Aid Agreement, the billing will be determined pursuant to the Mutual Aid Agreement.

507.07 Application of Collections to Budget. All collected fire charges will be City funds and used to offset the expenses of the City fire Department in providing fire services.

507.08 Effective Date. This Ordinance shall become effective upon its publication.

CHAPTER VI.
LIQUOR & NON-INTOXICATING MALT LIQUOR

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601.00 NON-INTOXICATING MALT LIQUORS

601.01 Definitions.

1. **Person.** As used in this chapter the term “person” shall mean and include a natural person of either sex, persons, partnerships, corporations, and associations of persons; and shall include the agent or manager of any of the aforesaid. The singular number shall include the plural, and the masculine pronoun shall include the feminine and neuter.
2. **Non-Intoxicating Malt Liquor.** “Non-intoxicating malt liquor” shall mean any potable malt beverage with an alcohol content of more than one-half of one percent by volume and not more than three-and-two tenth percent by weight.
3. **Bona Fide Club.** A “bona fide club” as used herein shall be any club organized for social or business purposes, or for intellectual improvement, or for the promotion of sports, where the serving of such liquors is incidental to and not the major purpose of the club.
4. **Café or Restaurant.** “Café or restaurant” as used in this chapter shall mean any place where preparing and serving lunches or meals to the public to be consumed on the premises constitutes the main business thereof.

601.02 Licenses. Kinds and to whom issued. No person shall sell vend, deal in, or dispose of, by gift, sale or otherwise, or keep or offer for sale, any non-intoxicating malt liquor within this City without first having received a license therefore as hereinafter provided. Licenses shall be of two kinds: On Sale and Off Sale.

1. **On- Sale License.** On-sale licenses shall be granted only to cafes, restaurants, and hotels where food is prepared and served for consumption on the premises and in bona fide clubs and shall permit the sale of such liquor for consumption on the premises only.
2. **Off-Sale License.** Off-sale licenses shall be granted to permit the sale of retail and wholesale of such liquor in the original packages for removal from and consumption off the premises only.

- 601.03 Applications.** All applications for licenses to sell non-intoxicating malt liquor shall be made on forms supplied by the City, setting forth such information as the Council from time to time may, in its discretion, determine. It shall be unlawful to make any false statement in a license application, and the license, if previously granted, shall be immediately revoked without notice.
- 601.04 Application Fees.**
1. All applications for licenses shall be accompanied by a receipt from the City Clerk for the required annual fee for the respective license. All such fees shall be paid into the general fund of the municipality. Upon rejection of any application for a license, the clerk shall refund the amount paid.
 2. The annual fee for an on-sale license shall be set by resolution.
 3. The annual fee for an off-sale license shall be set by resolution.
 4. All licenses shall expire on the last day of December in each year. In the event that the application for license is made for a period less than twelve (12) months, the license fee shall be pro-rated on a monthly basis.
- 601.05 Investigation.** The City Council shall cause an investigation to be made of all facts set forth in the application. Opportunity shall be given to any person to be heard for or against the granting of any license. After such investigation of such application, license may be granted or refused at the council's discretion. All licensed premises shall have a license therefor and a copy of this Ordinance posted in a conspicuous place at all times.
- 601.06 Licenses.** All licenses granted hereunder shall be issued subject to the following conditions, and all other conditions of this Chapter, and subject to all other Ordinances of the City applicable thereto.
1. No license shall be granted to any minor.
 2. No license shall be granted to any person who has been convicted of a felony of violating any state or local law relating to manufacture, or sale of intoxicating liquor or to a person who has previously had a non-intoxicating liquor license revoked.
 3. Licenses shall not be transferred from one business location to another without the written approval of the City Council.
 4. No license shall be granted to a business location within three hundred (300) feet of any public school or church.
 5. All employees of the licensee must be 21 years of age.
- 601.07 Inspections.** Any peace officer shall have the unqualified right to enter, inspect and search the premises of a licensee hereunder, during business hours, without a search warrant, and seize all intoxicating liquors found on the premises of such licensee, unless such licensee has an intoxicating liquor license issued as provided by law.
- 601.08 Non-Licensed Intoxicating Liquor.** The presence of intoxicating liquors on the premises of a licensee hereunder, unless said licensee has an intoxicating liquor license issued as provided by law, shall be prima facie evidence of possession of intoxicating liquors for the purpose of sale, and the license granted to said licensee shall be

automatically forfeited without the necessity of formal action by the Council, and without notice.

601.09 Hours. No sales of non-intoxicating malt liquor shall be made other than on those hours and days as provided by Minn. Stat. §340.034.

601.10 Sales in Club. No club shall sell non-intoxicating malt liquor except to members and to guests in the company of members.

601.11 Penalty. Any person convicted of violating any of the provisions of 601.06, 601.08, 601.09 or 601.10, shall be guilty of a misdemeanor and shall be punished to the fullest extent of the law.

602.00 SET-UPS AND LICENSE

602.01 Purpose and Fee. Pursuant to Minn. Stat. §340.119, Subd. 3, there is hereby imposed upon those required to obtain a permit from the State of Minnesota under said statute a fee of \$30.00 per annum, or fractional time thereof pro rata, in addition to the fee required to be paid to the State of Minnesota by said statute, which fee should be paid to the City of Sacred Heart.

602.02 Permit. Upon payment of said fee, the City of Sacred Heart shall issue a City Permit to be known as a set-up license which shall expire on January 1 of the designated year in such permit.

602.03 No Permit and Revocation. No set-up license shall be issued to any person or corporation not having a permit under such statute from the Liquor Control Commissioner and the set-up license shall be revoked upon revocation of the permit granted by the said Liquor Control Commissioner and may be revoked for the violation of the laws of the State of Minnesota or the Ordinances of the City of Sacred Heart.

603.00 MUNICIPAL LIQUOR OPERATIONS

603.01 Purpose. A municipal liquor dispensary is hereby established to be operated within a municipality for the sale of liquor potable as a beverage and containing more than 3.2% of alcohol by weight, both for consumption at such dispensary and on such premises by the drink and in the sealed or closed receptacle or container for removal from the premises. No person shall sell, barter, or otherwise dispose of intoxicating liquor, nor shall a sale be made by anyone outside of said dispensary or not employed in and by said dispensary. It shall be unlawful for any person or persons to mix or prepare liquor for consumption in any public place or place of business or to consume liquor in such places outside of the dispensary. No liquor shall be sold or consumed on a public highway or in an automobile.

603.02 Location. The said dispensary shall be in such a place as the council shall determine by motion and may be either leased or owned by the municipality. It shall oversee a person known as the manager, who shall be selected by the City Council and who shall be paid such compensation as the council shall determine. Said manager shall have full charge of the operation of such dispensary and shall have the authority to purchase supplies as are necessary and employ such additional help as he may need at a rate of compensation to be approved by the council and under rules to be determined by the council. All employees including the manager shall hold their positions at the pleasure

of the council. No minor persons shall be employed in the municipal dispensary.

603.03 Revenues and Expenses. A liquor dispensary fund is hereby created into which all revenues received from the operation of the dispensary shall be paid, and from which all operating expenses shall be paid, provided that the initial costs of rent, fixtures and stock may be paid for out of the municipality, but such amounts shall be reimbursed to the said general fund of the first moneys coming into the liquor dispensary fund not needed for carrying on the said business. Any surplus accumulating in this fund may be transferred to the general fund by resolution of the council and expended for any municipal purpose.

603.04 Hours of Operation. The City Council shall set the hours and days of operation of the municipal liquor dispensary such hours and days not to be in excess of those provided by Minn. Stat. §304A.504 Subd. 1 & 2. The City Council shall set the hours of operation of the municipal liquor dispensary on Sundays not in excess of those provided by Minn. Stat. §340A.504, Subd. 3.

(Amendment to Ord. 603.04, passed 12-22-2016)

603.05 Prohibited Acts.

1. No pool or billiard table shall be kept in the dispensary or any rooms connecting therewith; nor shall any one on such premises keep, possess, or operate on such premises or in any rooms adjoining or connected therewith any slot machine, dice or any other gambling device or permit the same to be kept or used. No gambling shall be permitted on such premises, nor shall any person of a known immoral character or any disorderly person be permitted on such premises.
2. No other business than the sale of liquors shall be carried out by the dispensary or by any person employed therein during the time so employed and in conjunction therewith.
3. No liquor shall be sold either for consumption upon the premises or for removal therefrom to a person who is in an intoxicated condition.
4. No liquor shall be sold to a minor.
5. No person shall be permitted to loaf or loiter about the dispensary habitually.

603.06 Penalty. Any person violating any provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished to the fullest extent of the law. The cost of prosecution may be added to any fine imposed and in default of payment thereof, the convicted person shall be imprisoned for a further period of five days.

604.00 MUNICIPAL LIQUOR CONDUCT

604.01 Ejection of Persons from Municipal Liquor Store. The manager of the liquor store or any person who is in effective charge may require persons who have been excluded from the municipal liquor store pursuant to 604.02, or who are engaging in disorderly conduct on the premises, to leave the store. If necessary, the manager or person in charge may request the assistance of the local law enforcement officers.

604.02 Procedure for Exclusion of Persons from Municipal Liquor Store.

1. If in the opinion of the manager of the liquor store, a person has demonstrated the propensity in the past, to engage in disorderly conduct or conduct that threatens others safety on the premises, the manager may file a written complaint with the City Clerk reciting the facts which support the opinion.
2. In addition to the above procedure, the Council may act on its own motion and begin proceedings to exclude any person from the municipal liquor store. The motion shall state the complaint against the person.
3. Upon filing a complaint pursuant to the above, that person's privilege to consume any intoxicants in the liquor store will be provisionally terminated. The City Clerk will notify the person in writing, giving the facts as to why he or she has been prohibited from drinking in the municipal liquor store. The notice shall also inform the person that he or she has a right to request a hearing with the City Council concerning the complaint.
4. Any individual excluded from the liquor store may request a hearing before the City Council for such a hearing within 10 days after the day of service of the notice of exclusion from the municipal liquor store has been given. The request will be in writing. The City Clerk shall then notify the City Council of such a hearing and a time and date for the hearing shall be set. The hearing shall not be held less than 5 days, nor more than 20 days after notice has been received by the City Clerk. The time and date will be determined by the City Council. The liquor store manager and the person named in the complaint shall be present and either may call any person to testify at the hearing under oath. The council may, at its discretion, hear testimony from any other interested persons. The council shall determine if the person named in the complaint has demonstrated the propensity to engage in disorderly conduct or conduct that unreasonably annoys or endangers the safety of other people in the liquor store.
5. If the council determines the person named in the complaint has demonstrated the propensity to engage in disorderly conduct or if the individual fails to request a hearing, the council may order the person to be excluded from the liquor store for an indefinite period or a set time. The council may on its own motion rescind, amend, or modify its order.
6. After the council issues an exclusion order, the City Clerk shall notify the manager in writing and the person named in the complaint in writing, as to the length of time the person has been excluded from the liquor store, if any.

604.03 Penalty. Any person violating the provisions set forth by the City Council in this Ordinance shall be guilty of a misdemeanor and upon conviction thereof, shall be punished to the fullest extent of the law.

605.00 SOCIAL HOST ORIDINANCE

605.01 Title and Authority. The City of Sacred Hearts desires to protect the health, safety and welfare of all persons living in and visiting the City. The use of alcohol by persons under the age of twenty-one (21) is prohibited by State statute. This ordinance prohibits and establishes penalties for any person hosting an event or gathering where alcohol is present and being possessed or consumed by persons under twenty-one (21) years of age. This ordinance is enacted pursuant to Minn. Stat. § 145A.05, subdivision 1.

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

1. Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of twenty-one (21) are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.
2. Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.
3. Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.
4. Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and condone the activity, and in some circumstances provide the alcohol.
5. Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.
6. A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.

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

1. **Alcohol.** "alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.
2. **Alcoholic Beverage.** "alcoholic beverage" means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains on-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.
3. **Event or Gathering.** "event or gathering" means any group of three or more people who have assembled or gathered together for a social occasion or other activity.
4. **Host.** "host" means to aid, conduct, allow, entertain, organize, supervise, control, or permit a gathering or event, whether that host is present or not.
5. **Parent.** "parent" means any person having legal custody of a juvenile:

- (a) As natural, adoptive parent, or step-parent;

- (b) As a legal guardian; or
 - (c) As a person to whom legal custody has been given by order of the court
6. **Person.** "person" means any individual, partnership, co-partnership, corporation, or any association of one or more individuals.
 7. **Residence or Premises.** "residence or premises" means any home, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, or any other places of assembly, public or private, whether occupied as a dwelling or for any social function, and whether owned, leased, or rented.
 8. **Underage Person.** "underage person" is any individual under twenty-one (21) years of age.

605.04 Prohibited Acts.

1. It is unlawful for any person (s) to:
 - (a) Host or allow an event or gathering.
 - (b) At any residence, premises, or on any other private or public property.
 - (c) Where alcohol or alcoholic beverages are present.
 - (d) When the person knows or reasonably should know that an underage person will or does:
 - (1) Consume any alcohol or alcoholic beverage; or
 - (2) Possess any alcohol or alcoholic beverage with the intent to consumer it; and
 - (3) The person fails to take reasonable steps to prevent possession or consumption by the underage person(s).
2. A person is criminally responsible for violating Section 4 of this Ordinance if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.

605.05 Exceptions.

1. This Ordinance does not apply to conduct solely between an underage person and his/her parent(s) while present in the parent's household.
2. This Ordinance does not apply to legally protected religious observances.
3. This Ordinance does not apply to retail intoxicating liquor or 3.2 percent malt liquor licensees, municipal liquor stores, or bottle club permit holders who are regulated by Minn. Stat. §340A.503, subd.1(a)(1).
4. This Ordinance does not apply to situations where underage persons are lawfully

in possession of alcohol or alcoholic beverages during the course and scope of employment.

- 605.06** **Enforcement.** This ordinance can be enforced by any police officer, sheriff’s deputy, or certified peace officer in the county.
- 605.07** **Severability.** If any section, subsection, sentence, clause, phrase, word, or other portion of this ordinance is for any reason, held to be unconstitutional or invalid, in whole, or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue to in full force and effect.
- 605.08** **Penalty.** Violation of 605.04 of this Ordinance is a misdemeanor and is punishable to the fullest extent of the law.

CHAPTER VII. TRAFFIC AND MOTOR VEHICLES

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701.00 TRAFFIC REGULATION

701.01 The following sections of the Minnesota Motor Vehicle and Highway Traffic Regulation laws are hereby adopted, in so far as applicable to the regulation of traffic and motor vehicles in the City of Sacred Heart:

1. Minn. Stat. Chapter 169 and Chapter 169A.01, as amended.
2. Minn. Stat. Chapter 168, §168.041, §168.10 (subd. 3 and 4), §168.39, and §168.45; as amended.
3. Minn. Stat. Chapter 171, §171.01, §171.02, §171.03, §171.08, §171.22, §171.23, and §171.24; as amended.
4. Minn. Stat. Chapter 609, §609.55, §609.595, §609.60, and §609.605; as amended.

(a) All violations of the preceding sub-sections shall be punishable as a misdemeanor in so far as City prosecutions are concerned.

701.02 Wherever applicable, the words "Chief of Police" shall be substituted for "Commissioner" or "Commissioner of Highways" in the above adopted statutes.

701.03 Copies of the above adopted statutes shall be filed by the City Clerk in his office for the inspection and use of the public and shall be marked with the words "City of Sacred Heart - Official Copy."

702.00 PARKING

702.01 All vehicles parking on Maple Street, also known as U.S. Highway 212, shall be parked parallel to the curb. All parking is prohibited on Maple Street, also known as U.S. Highway 212, except from 3rd Avenue to Harrison Avenue.

702.02 All vehicles parking on 1st Avenue, 2nd Avenue, and 3rd Avenue, between the railroad right-of-way and Walnut Street shall be parked at an angle of 45 degrees to the curb. Where proper parking marks have been placed upon the curb, all vehicles

shall park between such marks.

702.03 No vehicle shall be parked where the curb is painted yellow, or nearer than 25 ft. to the corner of the block.

702.04 No vehicle shall be parked within 25 ft. of a fire hydrant.

702.05 No truck of a capacity of one ton or more shall hereafter be parked upon Maple Street, from 1st Avenue to 3rd Avenue, except for the purpose of and while receiving, buying, loading, delivering or unloading commodities in the regular course of business with the occupant of the abutting property, and no vehicle or machinery shall be permitted to stand upon any street for the purpose of sale or exchange, and any vehicle bearing a sign indicating that it is for sale or exchange, shall be deemed prima facie evidence of a violation of this chapter.

702.06 **Penalty.** Any person violating any provision of this chapter, shall be guilty of misdemeanor and upon conviction thereof, shall be punished to the fullest extent of the law.

703.00 PARKING PROHIBITED

703.01 It shall be unlawful for any person, partnership, corporation, owning, operating, or controlling any vehicle used for the purpose of selling, vending or distributing any goods, wares, merchandise, farm produce or other products offered for sale to the public at retail, to park the said vehicle for the purpose of such sale or distribution on any of the following streets within the City:

1. Maple Street, also known as U.S. Highway 212; Walnut Street, between Harrison Avenue and 4th Avenue; or on the railroad right-of-way between Harrison Avenue and 4th Avenue.
2. Harrison Avenue, 1st Avenue, 2nd Avenue, 3rd Avenue, and 4th Avenue between the railroad right-of-way and Walnut Street.

703.02 It shall be unlawful for any person, business, or other entity to park a commercial vehicle, truck-tractor, or semi-trailer on public property, including the streets of this City, in a residential district. The parking of a truck-tractor and/or semi-trailer, or other commercial type vehicle, excluding pickup trucks or vans, more than 15,000 pounds gross vehicle weight. "Truck-tractor" shall mean that term as defined in Minn. Stat. §168.011, Subd. 14. A commercial vehicle shall include but not limited to buses, dump trucks, tow trucks, truck-tractors, step vans, cube vans, delivery trucks and the like.

Exceptions. Commercial vehicles, truck-tractors and/or semi-trailers which are actively engaged in loading, unloading, or providing a service, truck-trailers and/or semi-trailers associated with public or private construction and parked within 500 feet of the construction location.

703.03 **Penalty.** Any person violating this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished to the fullest extent of the law.

704.00 SNOW EMERGENCIES

704.01 **Purpose.** That all motor vehicles shall not be parked on City streets during and after any snowfall or as conditions, such as drifting, warrant the plowing of streets as

determined by city maintenance personnel. Vehicles will be towed and/or fines issued. There will be NO WARNING TICKETS ISSUED.

- 704.02** **Penalty.** The owner shall be responsible for the costs of towing and storage; in addition, the violation of this ordinance shall constitute a petty misdemeanor and owner shall pay a fine of \$100.00 for the first offense, \$100.00 for second offense; and \$100.00 for each offense thereafter.

705.00 **UNREASONABLE ACCELERATION**

- 705.01** **Unreasonable Acceleration.** No person shall start or accelerate any motor vehicle with unnecessary exhibition of speed on any public or private way within the City of Sacred Heart. Prima Facie evidence of such unnecessary exhibition of speed shall be squealing or screeching sounds emitted by the tires or the throwing of sand or gravel by the tires of said vehicles; or the swerving of the rear of the vehicle from side to side.
- 705.02** **Penalty.** Any violation of this ordinance shall constitute a petty misdemeanor as defined in the Statutes of the State of Minnesota and shall provide for a sentence or a fine of not more than \$100.00.

706.00 **ALTERNATIVE TRANSPORTATION**

- 706.01** **Alternative Transportation.** Except as provided in the section below, all alternative transportation is prohibited in the City of Sacred Heart.
- 706.02** **Definitions.**
1. **Alternative Transportation.** Any vehicle, other than those that are legal to operate on the Streets and Highways within the State of Minnesota, including, but not limited to: Golf Carts, Go-Carts, Four Wheeled Vehicles, Lawn Tractors, Off Road Vehicles (ORV's) or any mode of conveyance that uses battery, wind power, gasoline, propane, another form of fuel or a combination of these to transport a person or persons from one location to another.
- 706.03** **Exclusions.** This Ordinance does not pertain to bicycles, skateboards, roller skates, roller blades or lawn tractors actively being operated for the sole purpose of lawn care, or authorized scooters unless the conveyance in question has been altered as to make it reliant in any way on battery, wind, or gasoline for its operation.
- 706.04** **Exceptions.** The Sacred Heart City Council, by unanimous vote, can authorize any person and alternative transportation to be used on the city streets of Sacred Heart excluding Maple Street.
- 706.05** **Transferability.** The authority granted to a citizen, by the Sacred Heart City Council, to use alternative transportation is for that individual and that mode of conveyance only. The authority is non-transferable to another party or any other alternative transportation.
- 706.06** **Operating Permits.** The Sacred Heart City Council may authorize any citizen of Sacred Heart to operate alternative transportation in the City Limits. Citizens must meet and maintain the following to be eligible for a permit:

1. Citizens who obtain and maintain a State Handicapped sticker, Handicapped license plate, or Handicapped placard are eligible to apply for a permit to operate an alternative motorized vehicle.
2. Citizens must present their request in writing or come before the City Council at an open meeting and request a permit to operate alternative transportation and approval of said alternative transportation.
3. A permit given to a person to use alternative transportation is not transferable to any other person or to any other alternative transportation unless that person and/or that alternative transportation is authorized by the Sacred Heart City Council.
4. An individuals' permit to operate alternative transportation can be rescinded by the City Council at any time.

706.07 Operation.

1. **Months of Operation.** Authorized alternative transportation may be operated between the dates of April 15 to October 15 of each calendar year.
2. **Hours of Operation.** Authorized alternative transportation may be operated from one (1) hour after sunrise to one (1) hour before sunset.
3. **Inclement Weather.** No alternative transportation may be used during or immediately after inclement weather. This includes but is not limited to, snow, sleet, rain, thunderstorms, fog, hail, high winds, lightning storms, tornados, or any other declared weather emergency by the state or local emergency personnel, County or City Emergency Managers, County Sheriff, or City Police. "Immediately after" is defined as a time limit of no less than one (1) hour since the inclement weather ceased or an end has been declared to any weather emergency.
4. **Right of Way.** Authorized alternative transportation must be operated with due regard to motorized traffic, which has the right of way. Alternative transportation should be operated to the far-right side of the road on which they are traveling. Alternative transportation must travel with the flow of traffic. Alternative transportation is required to give right of way to any recognized motor vehicle which carries a license plate issued by the Department of Vehicle Services. This includes, but is not limited to, trucks, cars, buses, motorcycles, vans, and motor homes (RV's). This does not include Off Road Vehicles (ORV), which are also licensed but not authorized for road use.
5. **Area of Operation.** Authorized alternative transportation may be operated on streets, avenues, or alley ways in the city limits of Sacred Heart except for Maple Street, also known as Highway 212. No alternative transportation is authorized for use on Maple Street at any time.

706.08 Loss of Privileges. The Sacred Heart City Council may, at any time, rescind, cancel, or suspend a person's permit to operate alternative transportation or the permit for the use of any alternative motorized vehicle.

1. **Reasons for Cancellation.** If, for any reason, the Sacred Heart City Council votes to cancel or suspend an approved permit to operate alternative transportation, the City must notify the canceled or suspended party in writing within ten (10) days of the City Council's decision to cancel or suspend the permit, the reason for the cancellation/suspension and the length of the cancellation/suspension. Reasons for

cancellation or suspension include, but are not limited to, the following:

- (a) Failure to maintain a handicapped sticker, license place, or placard.
- (b) Allowing unauthorized operators to operate approved alternative transportation.
- (c) Operating alternative transportation on Maple Street (Highway 212).
- (d) Operating alternative transportation that has not been approved.
- (e) Operating alternative transportation in such fashion as to endanger life or property.
- (f) Loss of a valid Minnesota Driver's License due to DWI, Careless Operation, Criminal Vehicular Operation, or due to Medical Cancellation from loss of sight.
- (g) Multiple violations of the Ordinance.
- (h) Any other reason the Sacred Heart City Council deems necessary.

706.09 **Lighting.** Alternative transportation is recommended, but not required, to have an external lighting source to either the front or the rear. If a person chooses to place lighting on alternative transportation, they may place no more than two white lights to the front, two amber turn signal lamps to the front and two red lights to the rear of the vehicle. No other color of lighting is authorized. No flashing or strobe lighting is authorized with the exception of a turn indicator, which flashes when illuminated immediately prior to and during a turn.

706.10 **Liability.** Any person requesting and obtaining a permit for operating alternative transportation is solely responsible for the alternative transportation's maintenance, operation, insurance and, if necessary, license and signage. The permitted party and alternative transportation waive the City from any liability in its use, care, and operation.

706.11 **Penalties.** Any violations of this section are in violation of local Ordinance and deemed a Petty Misdemeanor offense. A fine of no less the \$50.00 or more than \$100.00 and/or loss or suspension of permit may be imposed.

706.12 **Effective Date.** This Ordinance shall become effective upon its publication.

707.00 **ALL-TERRAIN VEHICLES**

707.01 **Purpose.** An Ordinance regulating the operation and use of all-terrain vehicles in the City of Sacred Heart.

707.02 **Statutes.** Minn. Stat. §84.92 through §84.928, and all sections amending and supplementing those sections, are hereby adopted by reference.

707.03 **Registration.** All-terrain vehicles operated within the City of Sacred Heart shall be registered as required by Minnesota Statute and must be registered with the Commissioner of Natural Resources.

707.04 Operation.

1. All-terrain vehicles shall not be operated on any sidewalk or boulevard, except that sidewalks and boulevards may be crossed at a 90-degree angle, after yielding to all persons using such sidewalks or boulevards, such crossings to be solely for the purpose of gaining access to a public street.
2. All-terrain vehicles shall not be operated on any private property without the previous consent of the property owner.
3. All-terrain vehicles shall not be operated on any cemetery land, city park or recreation area, or school property without the prior consent of the governing body of said property.
4. All-terrain vehicles shall always yield the right of way to pedestrians and oncoming traffic, and at intersections with restricted vision, all-terrain vehicles shall come to a complete stop before crossing.
5. All-terrain vehicles may operate on city streets, alleyways, and other public roadways within the City limits ONLY FOR THE PURPOSE OF ENTERING OR LEAVING TOWN BY THE MOST DIRECT ROUTE from place of origin, or when traveling to or from a repair shop for repairs. At all times, all-terrain vehicles shall be operated as far to the right side of a public street or roadway as possible, in single file, and at a speed not to exceed 15 miles per hour.

707.05 Youthful Operators.

1. A person under 12 years of age shall not operate an all-terrain vehicle on any city street.
2. A person 12-15 years of age shall not operate an all-terrain vehicle on any city street.
3. In order to operate an all-terrain vehicle on city streets, a person 16 years or older must have a valid Minnesota driver's license or a valid driver's license issued by another state.

CHAPTER VIII. NUISANCES AND OTHER OFFENSES

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801.00 PUBLIC NUISANCES

801.01 Public Nuisance – Defined. A nuisance is a thing, act, failure to act, occupation, or use of property which:

1. Shall annoy, injure, or endanger the safety, health, comfort, or repose of any considerable number of persons; or
2. Shall offend the public decency; or
3. Shall unlawfully interfere with, obstruct, tend to obstruct, or render dangerous for passage, a public drainage ditch, stream, public park, square, street, alley, highway, or sidewalk; or
4. Shall in any way render any considerable number of people insecure in life or in use of property.

801.02 Public Nuisance – Affecting Health. The following are hereby declared to be public nuisances affecting health:

1. All decayed or unwholesome food offered for sale to the public.
2. All diseased animals running at large.
3. All ponds, pools of water or vessels holding stagnant water in which mosquitos can breed.
4. Carcasses of animals not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
5. Accumulation of manure, rubbish, garbage, or debris, which may be breeding places for flies, mosquitos, or vermin.
6. Privy vaults and garbage cans, which are not fly-tight.
7. The pollution of any public well or cistern, drainage ditch by sewage, creamery,

or industrial wastes or other substances.

8. All noxious weeds and other rank growths of vegetation upon public or private property.
9. Dense smoke, noxious fumes, gas and soot, or cinders in such quantities as to render the occupancy of property uncomfortable to a person or ordinary sensibilities.
10. Offensive trades and businesses as defined by law not licensed by the City board of health as provided by law.
11. All public exposure of persons having contagious disease.
12. The use of a common public drinking cup or roller towel.
13. The distribution of samples of medicines or drugs unless such samples are placed in the hands of an adult person.
14. All other acts, omissions of acts, occupation and uses of property which are in fact a menace to public health.

801.03 Public Nuisance – Affecting Morals or Decency. The following are hereby declared to be public nuisances affecting public morals and decency:

1. All gambling devices, slot machines, and punch boards.
2. All houses kept for the purposes of prostitution or promiscuous sexual intercourse, gambling houses, or houses of ill fame, and bawdy houses.
3. All domestic animals in the act of copulation exposed to public view.
4. All places where intoxicating liquors are manufactured sold, bartered, or given away in violation of law or where persons are permitted to resort for the purposes of drinking intoxicating liquors as a beverage, or where intoxicating liquors are kept for sale, barter, or distribution in violation of law, and all liquors, bottles, kegs, pumps, bars, and other property kept at and used for maintaining such a place.
5. Any vehicle used for any immoral or illegal purpose.
6. All indecent or obscene pictures, books, pamphlets, magazines, and newspapers.
7. The public use of profane or obscene language.
8. Betting, bookmaking, prize fighting, and all apparatus used in such occupations.
9. Places used for the holding of public dances unless conducted as provided by ordinance or by law.

801.04 Public Nuisance – Disorderly Houses.

1. **Disorderly House.** Building, dwelling place, apartment, rental unit, or other premises in which actions or conduct habitually occur in violation of laws relating to:

- (a) The sale of intoxicating liquor or 3.2 percent malt liquor; or
 - (b) Gambling; or
 - (c) Prostitution or acts relating to prostitution; or
 - (d) The sale or possession of controlled substances as defined by Minnesota law;
or
 - (e) Assault as defined by Minnesota law; or
 - (f) Disorderly conduct as defined by Minnesota law; or
 - (g) Public nuisance as defined by Minnesota law.
2. **Habitually Occur.** Occurrence of three or more incidents relating to the matters set forth in Subd. 1 above within a 12-month period, provided that the owner, lessor, lessee, operator, manager, or occupant of the property had knowledge of the occurrence of such incident.
 3. **Lessee.** A person leasing or renting a disorderly house from its owner or another person having authority to lease said property.
 4. **Lessor.** A person leasing or renting a disorderly house to a lessee.
 5. **Manager/Operator.** A person who manages or operates a disorderly house.
 6. **Owner.** A Person shown to be the owner of the real estate whereon the alleged disorderly house is located according to the records of the Renville County Auditor's Office.
 7. **Person.** A natural person, corporation, partnership, or other entity or organization.
 8. **Prohibition of Owning and Operating a House.** No person may own, lease, operate, manage, maintain, or conduct a disorderly house as defined by this ordinance.
 9. **Penalty.** Any such owner, lessor, lessee, operator, manager, or occupant of a disorderly house shall be guilty of a misdemeanor with a fine of no less than \$250.00.

801.05 Public Nuisance – Affecting Peace and Safety. The following are declared to be public nuisances affecting public peace and safety.

1. All snow and ice not removed from public sidewalks twelve (12) hours after the snow or ice has ceased to fall thereon.
2. All trees, hedges, billboards, or other obstruction which prevent persons driving vehicles approaching an intersection of public highways from having a clean view of traffic approaching such intersection from cross streets for one hundred (100) feet from such intersection, measuring from the property line.
3. All limbs of trees which project over a public sidewalk or street are less than eight (8) feet above the surface of such public sidewalk and thirteen (13) feet above the surface of such street.

4. All wires which are strung less than fifteen (15) feet above the surface of the ground.
5. All buildings, walls, and other structures which have been damaged by fire, decayed, or otherwise, and which are so situated as to endanger the safety of the public.
6. All use or display of fireworks except as provided by ordinance.
7. All loud or unusual noises and annoying vibrations which offend the peace and quiet of persons of ordinary sensibilities.
8. All buildings and all alterations to buildings made or erected within the fire limits as established by ordinance in violation of the ordinance concerning manner and materials of construction.
9. Obstructions and excavations affecting the ordinary use by the public of streets, alleys, and sidewalks, or public grounds except under such conditions as are provided by ordinance.
10. Radio aerials strung or erected in any manner except that provided by ordinance.
11. Any use of the public streets or sidewalks which causes large crowds of people to gather, obstructing traffic and the free use of the streets or sidewalks.
12. All hanging signs, awnings, and other similar structures over the streets or sidewalks, so situated or constructed as to endanger public safety.
13. The allowing of rainwater, ice, or snow to fall from any building or structures upon any streets or sidewalk or to flow across my sidewalk.
14. All barbed wire fences which are located within three (3) feet of any public sidewalk.
15. All dangerous, unguarded machinery, in any public place, or so situated or operated on private property as to attract the public.
16. Accumulations of discarded or disused machinery, household appliances, motor vehicle parts and/or bodies to include wrecked, junked, and abandoned vehicles incapable of operation as a motor vehicle without alteration or repair and/or motor vehicles without valid and current licenses, in a manner which renders the premises or property to be unsightly, offensive, or in a manner conducive to the harboring of rats, mice, snakes or other vermin, or the growth of vegetation, or in a manner creating fire, health or other safety hazards. The prohibition contained herein relative to motor vehicles shall not apply to short-term storage, dismantling and/or repair of motor vehicles in commercial districts by persons engaged in motor vehicle repair.
17. Anyone in violation of Ordinance 801.05 (16), the vehicle and or personal property will be impounded by the City of Sacred Heart. Violators will be charged any towing fees and impound lot charges. Residents have fifteen (15) days from receipt of notice to make arrangements to either remove the vehicle and/or personal property or bring it into compliance with City Ordinance 801.05 (16). To avoid having the vehicle impounded, it must either be stored in a fully enclosed structure or brought into compliance with City Ordinance 801.05 (16).

801.06 **Penalty.** Any person, firm or corporation who shall knowingly cause to create any nuisance or permit any nuisance to be created or to be placed upon or to remain upon any premises owned or occupied by him or them shall upon conviction thereof be deemed guilty of a misdemeanor and shall be punished by a fine of not less than five dollars nor more than seven hundred dollars and costs or by imprisonment in the county jail for not less than five days nor more than ninety days. The costs of prosecution may be added to the fine imposed and in the event of default on the payment thereof, the convicted party may be imprisoned for five days. Nothing contained in this section shall prevent or limit the City or any private party from proceeding in a court of competent jurisdiction to abate any act, occupation, or use of property which is a nuisance in fact.

801.07 **Abatement.** If any nuisance described above exists causing a condition which is judged to be harmful or dangerous to the health, morals or safety of any considerable number of people, the Council by Resolution may describe the same and require either the owner or occupant of such premises, or both, to take reasonable steps within a reasonable time, which shall both be set out in the Resolution, to abate the nuisance. The Resolution shall also fix a time and place when the person or persons upon whom the Resolution is served may appear before the Council and be heard as to any objections concerning the proposed action of the Council. Such Resolution shall be served upon the person or persons therein required to abate the nuisance, in person or by registered mail; and if the premises are not occupied and the address of the owner is unknown, service on the owner may be had by posting a copy of the Resolution on the premises. Service may be proved by filing in the office of the Clerk setting forth the manner and the time thereof.

If, after such service of the Resolution, the party or parties served fails to abate the nuisance in accordance with the terms of the Resolution, and after having heard the objections thereto, if any, the Council does not determine otherwise, the Council may cause such nuisance to be abated at the expenses of the City and recover such expenditure, either by civil action against the person or persons served or, if service has been had upon the owner, by ordering the Clerk to extend such sum plus twenty-five percent (25%) thereof as a special tax against the property upon which the nuisance existed and to certify the same to the County Auditor for collection in the manner as taxes and special assessments are collected.

802.00 GREEN RIVER ORDINANCE

802.01 **Declaring a Public Nuisance.** The practice of going in and upon private residences in the City of Sacred Heart, Minnesota, by solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise, not having been requested or invited so to do by the owner or owners, occupant or occupants of said private residence, for the purpose of soliciting orders for the sale of goods, wares and merchandise and/or for the purpose of disposing of and/or peddling or hawking the same, is hereby declared to be a nuisance and punishable as such nuisance as a misdemeanor.

802.02 **Police Duties.** The city police of the City of Sacred Heart are hereby required and directed to suppress the same, and to abate any such nuisance as is described in the 802.01 of this chapter.

802.03 **Penalty.** Any person convicted of perpetrating a nuisance as described and prohibited in 802.01 of this chapter, upon conviction thereof shall be fined a sum not less than \$25.00, or not more than \$100.00, together with costs of prosecution, which said fine may be satisfied, if not paid in cash, by execution against the person of anyone

convicted of committing the misdemeanor herein prohibited.

803.00 SHADE TREE PROGRAM

- 803.01 Regulations Adopted by Reference.** Section 1.0109 through 1.0111 of 3 Minnesota Code of Agency Rules, Department of Agriculture, Shade Tree Program (1978 Edition) together with amendments thereof to date, are hereby adopted by reference and made a part of this ordinance as if set out here at in full, except as hereinafter provided. A copy of said agency rules incorporated herewith is on file in the City Clerk's office.
- 803.02** The stockpiling of bark bearing elm wood within the City limits of the City of Sacred Heart shall be permitted during the period from September 15 through April 1 of any given year. Any such wood not utilized by April 1 of any year must then be removed and disposed of as provided by this ordinance and the regulations incorporated thereby.
- 803.03** Where the provisions of this ordinance conflict or are inconsistent with any other ordinance of the City, the provisions of this ordinance shall supersede except in instances where one regulation is more restrictive than another in which case the more restrictive shall apply and control.
- 803.04** Any person who shall violate any provisions of ordinance shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be subject to a fine or not to exceed \$100, or to imprisonment of not to exceed 90 days, or both.

804.00 DUTCH ELM DISEASE

- 804.01 Declaration of Policy.** The City Council of Sacred Heart has determined that the health of the elm trees within the municipal limits is threatened by a fatal disease known as Dutch elm disease. It has further determined that the loss of elm 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 this disease and this ordinance is enacted for this purpose.
- 804.02 Forester – Position Created.**
1. The power and duties of the City forester as set forth in this ordinance are hereby conferred upon the Tree Inspector.
 2. **Duties of Forester.** It is the duty 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. He shall recommend to the council details of a program for the control of Dutch elm disease and perform the duties incident to such a program adopted by the council.
- 804.03 Dutch Elm Disease Program.** It is the intention of the council of Sacred Heart to conduct a program of plant pest control pursuant to all the powers of this municipal corporation including the authority granted by Minnesota Statutes 1961, Section 18.022, as amended. This program is directed specifically at the control and

elimination of Dutch elm disease fungus and elm bark beetles and is undertaken at the recommendation of the Commissioner of Agriculture. The City forester shall act as coordinator between the Commissioner of Agriculture and the council in the conduct of this program.

804.04 Nuisances Declared.

1. The following things are public nuisances whenever they may be found within the City of Sacred Heart.
 - (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 legs, 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. **Abatement.** It is unlawful for any person to permit any public nuisance as defined in #1 to remain on any premises owned or controlled by him within the City of Sacred Heart. Such nuisances may be abated in the manner prescribed by this ordinance.

804.05 Inspection and Investigation.

1. **Annual Inspection.** The forester shall inspect all premises and places within the City as often as practicable to determine whether any condition described in 804.04 of this Ordinance exists thereon. He shall investigate all reported incidents of infestation by Dutch elm fungus or elm bark beetles.
2. **Entry on Private Premises.** The forester or his duly authorized agents may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned him under this ordinance.
3. **Diagnosis.** The forester shall, upon finding conditions indicating Dutch elm infestation, immediately send appropriate specimens or samples to the Commissioner of Agriculture for analysis or take such other steps for diagnoses as may be recommended by the commissioner. Except as provided in 804.07 no action to remove infected trees or wood shall be taken until positive diagnosis of the disease has been made.

804.06 Abatement of Dutch Elm Disease Nuisances. In abating the nuisances defined in 804.04, the forester shall cause the infected tree or wood to be sprayed, removed, burned, or otherwise effectively treated to destroy and prevent as fully as possible the spread of Dutch elm disease fungus and elm bark beetles. 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.

804.07 Procedure for Removal of Infected Trees and Wood.

1. Whenever the forester finds with reasonable certainty that the infestation defined in 804.04 exists in any tree or wood in any public or private place in the City, he shall proceed as follows:

- (a) If the forester finds that the danger of infestation of other elm trees is not imminent because of elm dormancy, he shall make a written report of his finding to the council which shall proceed by: (1) abating the nuisance as a public improvement under Minn. Stat. Chapter 429; or (2) abating the nuisance as provided in #2 of this section.
 - (b) If the forester finds that danger of infestation of other elm trees is imminent, he shall notify the abutting property owner by certified mail that the nuisance will be abated within a specified time, not less than 5 days from the date of mailing of such notice. The forester shall immediately report such action to the council, and after the expiration of the time limited by the notice, he may abate the nuisance.
2. Upon receipt of the forester's report required by #1, part A, the council shall by resolution order the nuisance abated. Before action is taken on such a resolution, the council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to affected property owners and published once no less than 3 days prior to such meeting. The notice shall state the time and place of the meeting, the streets affected, action proposed, the estimated cost of the abatement, and the proposed bases of assessment, if any, of costs. At such hearing or adjournment thereof, the council shall hear property owners with reference to the scope and desirability of the proposed project. The council shall thereafter adopt a resolution confirming the original resolution with such modifications as it considers desirable and provide for the doing of the work by day labor or by contract.
 3. The forester shall keep a record of the costs of abatements done under this section and shall report monthly to the City Clerk all work done for which assessments are to be made stating and certifying the description of the land, lots, parcels involved and the amount chargeable to each.
 4. On or before September 1 of each year the clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this ordinance. The council may then spread the charges against the property involved as a special assessment under Minnesota Statutes Sec. 429.101 and other pertinent statutes for certification to the county auditor and collection the following year along with current taxes.

804.08 Spraying Elm Trees.

1. Whenever the forester determines that any elm tree or elm wood within City is infected with Dutch elm fungus, he 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 his agents whenever possible.
2. The notice provisions of 804.07 apply to spraying and treatment operations conducted under this section.

804.09 Transporting Elm Wood Prohibited. It is unlawful for any person to transport within the City any bark-bearing elm wood without having obtained a permit from the forester. The forester shall grant such permits only when the purposes of this ordinance will be served thereby.

804.10 Interference Prohibited. It is unlawful for any person to prevent, delay or interfere

with the forester or his agents while they are engaged in the performance of duties imposed by this ordinance.

804.11 Penalty. Any person, firm or corporation who violates 804.09 or 804.10 of this Ordinance is guilty of a misdemeanor and may be punished by a fine of not to exceed \$300 or imprisonment for 90 days or both.

805.00 CURFEW

805.01 Definitions. The following definitions shall apply to this Ordinance.

1. **Responsible Adult:** Parent, legal guardian, or adult person specifically pre-authorized by the parent or legal guardian to have care or custody of the juvenile person; or an adult chaperoning a supervised activity.
2. **Supervised Activity:** Includes social, musical, athletic, or events sponsored by schools, churches, civic groups, or athletic associations, at which a responsible adult is present to supervise juveniles.
3. **Public Place:** Any street, highway, sidewalk, alley, park, school grounds, public areas and public buildings, places of amusement or entertainment or refreshment, vacant or parking lot, or other area ordinarily used by or available to the public though not as a matter of right, or any private premises, other than the usual place of residence of the juvenile, where a juvenile is present, without the knowledge and consent of the owner or person in charge of those premises. Excluded under this section shall be the residence property of the juvenile's parent or guardian, and a residence where the juvenile has specific prior approval from the parent or guardian to stay, with the approval of the adult in charge of that residence.

805.02 Prohibited Acts. The following acts are prohibited within the City of Sacred Heart.

1. **Juvenile Under Age 18:** It is unlawful for any person under the age of eighteen (18) to be in or upon or loiter at any public place between the hours of 10:00 p.m. and 6:00 a.m. the following morning unless accompanied by a responsible adult.
2. **Responsibility of Parent or Guardian:** It is unlawful for any parent, guardian or other adult having the legal care of custody of any juvenile person to allow or permit the juvenile to violate #1 above provided, however, that such person may not be prosecuted under this section unless he has been notified in writing of a prior curfew violation committed by the juvenile. Such notification may be made by any law enforcement officer, probation officer, court services officer, or court administrator, and may be either personally served or mailed.

805.03 Not Applicable Circumstances. This Ordinance shall not apply to any of the following circumstances.

1. **Attendance at Supervised Activity:** Such curfew restriction shall not apply to juveniles lawfully attending a supervised activity, or while returning home on a direct route within one-half (1/2) hour of the completion of such supervised activity.
2. **Employment:** Such curfew restriction shall not apply when the juvenile is lawfully engaged in a legitimate business trade, occupation, or other employment, or when returning home from or going to such employment, on a direct route, within one-half (1/2) hour of the completion or start of work hours.

805.04 **Penalty.** The following penalties are established for violations of this Ordinance.

1. Juveniles

- (a) Any juvenile who violates any of the provisions of this Ordinance shall be referred to the appropriate courts for prosecution.

Upon detaining a juvenile for a curfew violation, a peace officer may:

- (a) Upon first offense only, notify the juvenile's parent or legal guardian by telephone and, if approved by the parent, allow the juvenile to proceed directly home; or
- (b) Deliver the juvenile into the hands of the parent, legal guardian, or other adult person authorized by the parent to have legal care of custody of the juvenile; or
- (c) Transport the child to the Police Department and notify the juvenile's parent or legal guardian to call for the juvenile; or
- (d) If the juvenile's parent or legal guardian cannot be located within a reasonable length of time, the juvenile shall be turned over to social services for placement in emergency foster care.

A second or subsequent curfew violation by the juvenile shall be dealt with in accordance with juvenile law and court procedure. Sentencing may be based on alternatives set forth in Minn. Stat. §260.165, Subd. 3, which are deemed appropriate for the juvenile in question, and may include:

- (a) Require the juvenile to pay a fine up to \$100.00;
- (b) Require the juvenile to participate in a community service project;
- (c) Require the juvenile to participate in a drug awareness program;
- (d) Place the juvenile on probation for up to six (6) months;
- (e) Require the juvenile to perform other activities or participate in other treatment programs deemed appropriate by the Court.

2. Parent or Legal Guardian

- (a) A parent or legal guardian convicted of a violation is guilty of a misdemeanor.
- (b) Sentence may include, but is not limited to:
 - (1) Require payment of a fine;
 - (2) Require participation in family counseling or education;
 - (3) Require participation in a community service project up to sixteen (16) hours.
- (c) Repeated violation by the parent may result in the parent being referred for investigation of child neglect by social services.

805.05 Parental Control shall not be impaired. This section is not to be construed to give juveniles the right to stay in public places until the maximum curfew hours as designated herein, but all juveniles are, at all times, subject to parental and other legal controls which may be more restrictive.

806.00 FIREARMS

806.01 It shall be unlawful for any person to fire or discharge any rifle, shotgun, pistol, revolver, air gun, or bow and arrow, or other weapons or firearms, or to discharge or set off any explosive material within the City of Sacred Heart, without having first secured written permission of the Mayor and the Chief of Police.

806.02 Violation of the provisions of 806.01 shall be punished to the fullest extent of the law.

807.00 LIVESTOCK

807.01 That no person shall keep or harbor any farm animals, including but not limited to horses, cattle, sheep, goats, swine, poultry, or waterfowl in any platted area of the City of Sacred Heart or permit the same to be kept on any premises occupied or owned by him or her. An exception shall be made to this section for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition, to a location in the Agricultural District as a permitted use, or in the Highway Commercial District or Manufacturing District with a conditional use permit.

(Ord. 2017-02, passed 06-12-2017)

807.02 Any person violating this chapter shall be guilty of a misdemeanor and upon conviction thereof, shall be punished to the fullest extent of the law. Nothing here contained shall prevent the council or any resident of the City from proceeding in a court of competent jurisdiction from enjoining the violation of this chapter.

808.00 LITTERING AND ILLEGAL DUMPING

808.01 Definitions.

1. **Garbage.** "Garbage" is putrescible animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food.
2. **Litter.** "Litter" is garbage, refuse, and rubbish as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety, and welfare.
3. **Public Place.** "Public place" is all streets, sidewalks, boulevards, alleys, or other public ways and any and all public parks, squares, spaces, grounds, and buildings.
4. **Refuse.** "Refuse" is all putrescible and non-putrescible solid wastes (except body wastes) including garbage, rubbish, trash, ashes, street cleanings, dead animals, junk, abandoned automobiles, and solid market and industrial wastes.

5. **Rubbish.** “Rubbish” is non-putrescible solid waste consisting of both combustible and non- combustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, wood, glass, bedding, crockery, and similar materials.

808.02 Prohibit Dumping.

1. No person shall deposit garbage, rubbish, or refuse in a vat or commercial dumpster, except the owner or authorized agent of the premises using said vat or dumpster. The owner of the premises using the vat or dumpster shall post, in a conspicuous manner, the prohibition as provided in this ordinance. Failure to do so shall bar prosecution under this section.
2. No person shall throw or deposit litter in any public place.
3. No person shall throw or deposit litter on any open or vacant private property.
4. No person shall throw or deposit litter on any occupied private property within the City, whether owned by such person or not, except that the owner or person in control of private property may place garbage, rubbish or refuse at the curbside for collection in such manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property. No other person shall throw or deposit litter on said private property without the prior permission of the owner or person in control.

808.03 Penalty. Any violation of this ordinance shall constitute a petty misdemeanor and punished by a fine of not less than twenty-five dollars (\$25.00).

CHAPTER IX.
BUILDING AND MANUFACTURED HOMES

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901.00 BUILDING CODE

901.01 Building Code. The Minnesota State Building Code, one copy of which is on file in the office of the City Clerk as adopted is a uniform building code applicable throughout the state. Such code is hereby confirmed as the building code of the City of Sacred Heart and incorporated in this ordinance as completely as if set out in full.

1. The 1978 Edition of the State Building Code adopts by reference the following codes:
 - (a) 1976 Edition of the Uniform Building Code identified as “UBC”.
 - (b) 1978 Edition of the National Electric Code identified as “NEC”.
 - (c) 1971 American National Standard Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks identified as ANSI A17.1 - 1971 and Supplements, ANSI A17.1a - 1972, ANSI A17.1b - 1973, ANSI A17.1c - 1974, ANSI A17.1d - 1975, ANSI A17.13 - 1975, ANSI A17.1f - 1975 and ANSI A17.1g - 1976.
 - (d) 1976 Minnesota Plumbing Code identified as MHD 120 through MHD 135.
 - (e) “Flood Proofing Regulations”, June 1972, Office of the Chief Engineers, U.S. Army.
 - (f) Minnesota Heating, Ventilating, Air Conditioning and Refrigeration Code identified as SBC 7101 through SBC 8505.
 - (g) "Design and Evaluation Criteria for Energy Conservation in New Building, Additions and Remodeled Elements of Buildings and Standards for Certain Existing Public Buildings", identified as 2MCAR Section 1.16001 through 2MCAR Section 1.16006. (SBC 6001-6006)
 - (h) State of Minnesota Mobile Home Installation Standards 1977 identified as 2MCAR 1.90450 installations and related definitions in 2MCAR 1.90103.

- (i) Standards of Performance for Solar Energy Systems and Subsystems Applied to Energy Need of Building, 1977 Edition, identified as 2MCAR 1.16101 through 2MCAR 1.16107.
2. In addition to those items listed above, certain Appendices, Standards and Supplemental Materials referenced in the Code are hereby adopted by reference as part of the Building Code of City of Sacred Heart and incorporated into this ordinance as completely as if set out in full, included but are not limited to the following:
 - (a) Technical Requirements for Fallout Shelters identified as SBC appendix “A”.
 - (b) Variations in Snow Loads identified as SBC Appendix “B”.
 - (c) 1976 Uniform Building Code Appendix Chapters 23, 35.
 - (d) Minnesota Plumbing Code Appendix “B”.
 3. The following Appendices, Standards and Supplemental Materials are not a mandatory part of the Code but are adopted by Reference for the City of Sacred Heart and are incorporated into this ordinance as completely as if set out in full.
 - (a) SBC Appendix “C”. Abbreviations and addresses of Technical Organizations.
 - (b) 1976 UBC Appendix, Chapters 13, 15, 38, 48, 49, 51, 57, & 70.
 - (c) Minnesota Plumbing Code Appendices A, C, D, E, and F.
 - (d) Flood Proofing Regulations, Sections 201.2 through 208.2.
 - (e) SBC Appendix “D” Building Security SBC 4101 – 4110.

901.02 Organization and Enforcement. The organization of the Building Department and enforcement of the code shall be conducted within the guidelines established by Chapter 2 of the Uniform Building Code 1976 Edition. (The Code shall be enforced within the incorporated limits of the City and any extraterritorial limits permitted by law.) (The code shall be enforced within the unincorporated area under a Joint- Powers Agreement entered into by the County of Renville and the City of Sacred Heart.

The City Clerk shall be the Building Code Department of the City of Sacred Heart. The administrative Authority shall be a State Certified "Building Official" so designated by the Appointing Authority.

The Appointing Authority shall be the Council of the City of Sacred Heart.

901.03 Permits, Inspections, and Fees. The issuance of permits, conduction of inspections, and collection of fees shall be as provided for in Chapter 3 of the Uniform Building Code.

1. **Surcharge.** In addition to the permit fees required by item 1 above, the applicant shall pay a surcharge in the amount fixed by law. The amount required by law shall be remitted quarterly to the Minnesota Department of Administration.

901.04 Violations and Penalties. The penalty described in the Uniform Building Code, 1976

Edition, Chapter 2, Section 205 shall be in keeping with Minn. Stat. §609.031. Any violations will be punished to the fullest extent of the law.

902.00 MOBILE AND MANUFACTURED HOMES

902.01 The City of Sacred Heart authorizes the placement of mobile homes and manufactured homes as permitted uses within those areas of the City of Sacred Heart which have the classification of R-1 provided such mobile homes and manufactured homes comply with the conditions and requirements of this ordinance.

902.02 Conditions and Requirements.

Subdivision 1: Mobile homes and manufactured homes shall comply with all zoning regulations in which they are located.

Subdivision 2: A building permit and all other required permits shall be obtained before a mobile home or manufactured home may be placed on any lot.

Subdivision 3: Mobile homes and manufactured homes shall have a ground floor space of at least 720 square feet.

Subdivision 4: Mobile homes and manufactured homes shall be at least 20 feet wide at the narrowest point of the structure.

Subdivision 5: Mobile homes and manufactured homes shall be placed on a permanent foundation.

Subdivision 6: Mobile homes and manufactured homes shall be constructed in compliance with Minnesota Statutes Sections 327.31 through 327.35.

902.03 Penalties. Any violation of this ordinance shall be a misdemeanor, and each day that a violation of this ordinance continues shall be a separate violation.

903.00 ANNEXATIONS

903.01 The following described non-platted property abutting upon the incorporated City of Sacred Heart is hereby annexed to the City of Sacred Heart and shall become a part of such city as effectual and for such purposes as if it had originally been a part thereof:

The tract of land in the Northwest Quarter of the Northwest Quarter of Section Eight (8), Township One Hundred Fifteen (115) North, Range Thirty-seven (37) West, which lies and is situated between the Chicago, Milwaukee, St. Paul and Pacific Railroad right-of-way and United States Highway #212 right-of-way, which is described as follows: Commencing at a point on the south right of way line of the Chicago, Milwaukee, St. Paul and Pacific Railroad which is 193 feet more or less south of the northeast corner of the Northwest Quarter of the Northwest Quarter, Section 8, Township 115, Range 37; thence southerly along the west line of said Northwest Quarter of the Northwest Quarter a distance of 71.8 feet more or less to the north right of way line of U.S. Highway 212; thence west-southwesterly along said northerly right of way line of U.S. Highway 212 a distance of 400 feet at an angle of 73 south 14' west; thence west-southwesterly along said northerly right of way line of U.S. Highway 212 a distance of 700

feet at an angle of 68 south 55' west; thence west- southwesterly along said northerly right of way line of U.S. Highway 212 a distance of 236.5 feet more or less at an angle of 71 south 47' west to the east right of way line of County State Aid Highway No. 9; thence north along said right of way line a distance of 411.6 feet more or less to the south right of way line of said railroad; and thence easterly along the south right of way line of said railroad a distance of 1320.5 feet more or less to the point of beginning, containing 7.3 acres, more or less.

CHAPTER X. FRANCHISES

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1001.00 CABLE TELEVISION

1001.01 Definitions.

1. “Franchiser” or “City” is the City of Sacred Heart, Minnesota.
2. “Franchisee” is Westel, Incorporated.
3. “FCC” is the Federal Communications Commission of the United States.
4. “Class IV Channel” means a signaling path provided by a cable communications system to transmit signals of any type from a subscriber terminal to another point in the cable communications system.
5. The word “shall” is always mandatory.
6. The word “may” allows discretion.

WHEREAS, the Franchiser has following reasonable notice conducted a full public hearing, affording all person’s reasonable opportunity to be heard, which proceeding was concerned with the analysis and consideration of the technical ability, financial conditions, legal qualifications, and general character of the Franchisee, and

WHEREAS, the Franchiser after such consideration, analysis, and deliberation, has approved and found sufficient the technical ability, financial condition, legal qualification, and character of said Franchisee, and

WHEREAS, the said Franchiser has at the said public hearing, also considered and analyzed the plans of the Franchisee for the construction and operation of the cable communication system and found the same to be adequate and feasible in view of the needs and requirements of the entire area to be served by the said system, and

WHEREAS, it is understood and agreed by the Franchiser and Franchisee that this franchise is non-exclusive.

NOW, THEREFORE, the Franchiser does ordain that there is hereby created,

granted, and established a full and complete franchise for a period of fifteen (15) years from and after the effective date this ordinance, a television signal service to the residents of Sacred Heart, Minnesota, in, under, over, and on the public ways of the City for the purpose of transmission and distribution of television, picture telephone, radio and related impulses, in accordance with the laws of the United States, the State of Minnesota, and the ordinances of the City of Sacred Heart.

1001.02 Grant of Non-Exclusive Authority.

1. The Franchisee shall have the right and privilege to construct, erect, operate and maintain, in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto in Sacred Heart, Minnesota, poles, wires, cables, underground conduits, man holes, and other television conductors and fixtures necessary for the maintenance and operation in the City of a cable communication system.
2. The right to use and occupy said streets, alleys, public places, and ways for the purpose herein set forth shall not be exclusive, and the City reserves the right to grant a similar use of said streets, alleys, public ways, and places to any person at any time during the period of this franchise.
3. The location of the transmission and distribution systems herein contemplated shall be first approved by the City, and one complete set of plans shall be placed on file with the Clerk of the City and kept current.

1001.03A Re-Negotiation of Franchise Terms. Any renewal of this franchise shall be for a period of not more than fifteen (15) years. Re-negotiation of any or all the terms of the franchise may occur at such times as may be mutually agreed upon by the Franchiser and Franchisee. Re-negotiation between Franchiser and Franchisee shall occur not less than one (1) year prior to the end of the franchise term. The Franchiser may determine not to reissue the franchise to the Franchisee or may consider additional applicants for a franchise.

1001.03B Extension of Franchise Term. The term of the Agreement granting Company permission to construct and operate a cable communications system in the City of Sacred Heart shall be extended ten (10) years from the end of the original term or a date of June 1, 2009.

1001.03C Extension of Franchise Term. The term of the Agreement granting Company permission to construct and operate a cable communication system in the City of Sacred Heart shall be extended ten (10) years from the end of the current expiration date of June 1, 2009. The new expiration date is June 1, 2019.

1001.04 Subscriber Privacy.

1. No signals of a Class IV cable communications channel shall be transmitted from a subscriber terminal for purposes of monitoring individual viewing patterns or practice without the express written permission of the subscriber. The request for such permission shall be contained in a separate document with a prominent statement that the subscriber is authorizing the permission with full knowledge of its provision. Such written permission shall be for a limited period of time not to exceed one (1) year, which shall be renewable at the option of the subscriber. No penalty shall be invoked for a subscriber's failure to provide or renew such an authorization. The authorization shall be revocable at any time by the subscriber without penalty of any kind whatsoever. Such authorization is required for each type of classification of Class IV cable communications activity planned for the purpose.

2. No information or data obtained by monitoring transmission of signal from a subscriber terminal, including but not limited to lists of the names and addresses of such subscribers or any lists that identify the viewing habits of subscribers shall be sold or otherwise made available to any party other than to the Franchisee and its employees for internal business use, and also to the subscriber subject of that information, unless the Franchisee has received specific written authorization from the subscriber to make such data available.
3. Written permission from the subscriber shall not be required for the systems conducting system wide or individually addressed electronic sweeps for the purpose of verifying system integrity or monitoring for the purpose of billing. Confidentiality of such information shall be subject to the provision set forth in 4 MCAR '4.202 W. 1.

1001.05 Subscriber Contracts. There may be subscriber contracts between the Franchisee and the customer or subscriber, provided that no term or condition in such contract shall violate or change any provision of this ordinance. The Franchisee shall always keep on file with the City Clerk a copy of any written subscriber contract being used by the Franchisee in the City. If, after 30 days of the filing of any subscriber contract with the City Clerk, the City does not object in writing to such proposed contract, the Franchisee may use such proposed subscriber contract. If, within 30 days of such filing, the City does object to such proposed subscriber contract or any provision therein, in writing to the Franchisee, a hearing shall be held on such proposed subscriber contract and the Franchisee shall be given an opportunity to present its views to the City. Within 30 days of such hearing, the City shall either approve or disapprove such proposed subscriber contract. If the City disapproves, such proposed subscriber contract shall not be used, and the Franchisee may submit another proposed subscriber contract to the City subject to the foregoing terms of this section.

1001.06 Rate Structure. Initial subscriber rates shall be as follows:

- Basic Service: \$9.95 plus tax/monthly
- Premium Channels: \$9.95 plus tax/monthly
- Home Theater Network: \$7.95 plus tax/monthly
- Installation Charges: First outlet installation - \$25.00
 - Each additional outlet - \$10.00
 - FM Radio outlet - \$10.00
 - Disconnect – no charge
 - Reconnect - \$5.00

Commercial Rates: As determined by Franchisee and commercial subscriber.

Basic service shall include the following program services: KTCA, WCCO, KSTP, ESPN, KMSP, Lifetime, WTCN, Nickelodeon/Arts, KLXI, Preview/Pay-per-view, WGN, WTBS, Nashville Network, MTV, CNN, CBN (or USA Network at Franchiser's option), TLC, two public access channels, Alpha-Numeric Weather and Time Information, FM Radio Reception Enhancement.

Premium services to be offered are Showtime, HBO, the Disney Channel, and HTN (Home Theater Network).

1001.07 Change in Rates or Programming. Initial rates shall be maintained for two (2) years from commencement of signal distribution. Thereafter, all proposed rate or programming changes shall be filed with the City Clerk. If, after thirty (30) days of such filing, the City does not object in writing to such proposed changes, the Franchisee may put into effect such changes. If, within thirty (30) days of such filing,

the City does object to such proposed changes in writing to the Franchisee, a hearing shall be held on such proposed changes and the Franchisee shall be given an opportunity to present its views to the City. Within 30 days of such a hearing, the City shall either approve or disapprove such proposed changes. If they disapprove, such proposed changes shall not be put into effect.

1001.08 Repairs and Complaints.

1. The Franchisee shall provide a toll-free telephone number for subscriber complaints and shall maintain a repair service capable of responding to subscriber complaints or requests for service within twenty-four (24) hours after receipt of the complaint or request. Any complaints not resolved to the satisfaction of the complaining party shall be communicated to the Franchiser. A record of unresolved complaints may be retained by the Franchiser and considered by the Franchiser in making any discretionary decisions relating to this franchise.
2. Whenever it is necessary to shut off or interrupt services for the purpose of making repairs, adjustments or installation, the Franchisee shall do so during the period of minimum use by subscribers. Unless such interruption is unforeseen, the Franchisee shall give reasonable notice thereof to the subscribers affected. All costs incurred in making such repairs, adjustments or installation shall be borne by the Franchisee unless otherwise provided for in this Ordinance or it can be clearly determined that the repair or adjustment was made necessary by abuse or intentional misuse of the system by the subscriber.

1001.09 Community Services. Franchisee agrees by acceptance of this Ordinance to provide the following other services:

1. Return line(s) from the following locations to the head end:

Renville-Sacred Heart High School

Renville-Sacred Heart Elementary School

2. FM radio service (increases reception quality of local and distant FM station frequencies).
3. Emergency alert system.

Provided, however, that the Franchisee shall not be obligated to provide a return line from the Renville-Sacred Heart High School until the later of twelve (12) months from the granting of this franchise or 120 days after the passage of the necessary resolution or ordinance by the City Council of the City of Renville, Minnesota, granting the Franchisee authority to construct such line within the City limits of the City of Renville. The Franchisee agrees to use its best efforts to secure passage of such resolution or ordinance.

1001.10 Channel Capacity. The Franchisee shall provide cable communications system having a minimum 400 MHZ of band with the equivalent of 54 television broadcast channels. The franchisee shall initially provide a minimum of 20 channels plus HBO, Showtime, The Disney Channel and Home Theater Network to be available immediately and any reductions must be approved only by prior written approval of Franchiser (or FCC regulations).

1001.11 Community Access Channel.

1. The Franchisee shall provide to each of its subscribers who receive all, or any part of, the total services offered on the system, reception on two specially designated access channels available for use by the general public on a first come, non-discriminatory basis. Channel time and playback of pre-recorded programming on these specially designated access channels shall be provided without charge to the general public, provided, however, that personnel, equipment, and production costs may be assessed for live studio presentations exceeding five (5) minutes in length. Charges for such production costs shall be consistent with the goal of affording the public a low cost means of television access. The VHF spectrum shall be used for the specially designated access channels.
2. The specially designated access channels may be used by local educational authorities and local government on a first come, non-discriminatory basis during those hours when the channels are not in use by the general public. During those hours when the channels are not being used by the public, local educational authorities or local government, the Franchisee shall lease time to commercial or non-commercial users on a first come, non-discriminatory basis if the demand for such time arises.
3. The Franchisee may also use these specially designated access channels for local origination during those hours when the channel is not in use by the general public, local educational authorities, local government, or commercial and non-commercial users who have leased time on these specially designated access channels.
4. The Franchisee shall establish rules pertaining to the administration of the specially designated access channels.

1001.12 Program Equipment. The Franchisee shall make readily available for public use on a first come, first served basis the following state-of-the-art equipment: a portable color TV camera with battery pack, VCR, and a character generator. This equipment will be available on a shared basis for educational and local access users in the Cities of Sacred Heart and Renville.

1001.13 Two-Way Capability. The Franchisee shall provide a cable communications system having the technical capacity for the incorporation of non-voice return communications capability which for the purposes of this requirement shall mean the provision of system design features suitable for subsequent insertion of necessary non-voice return communications components.

1001.14 Compliance with State and Federal Laws. The Franchisee and the franchising authority shall conform to all state laws and rules regarding cable communications not later than one (1) year after they become effective, unless otherwise stated and shall conform to all federal laws and regulations regarding cable as they become effective.

1001.15 Operating Standards.

1. The system shall deliver to the subscribers' terminal signal that can produce a black and white or colored picture without visual material degradation in quality within the limitations imposed by the technical state of the art.
2. The system shall transmit or distribute signals without causing objectionable cross-modulation in the cables or interfering with other electrical or electronic networks or with the reception of other television or radio receivers in the area not connected to the network.

1001.16 Indemnification and Liability Insurance. The Franchisee shall, concurrently with the filing of an acceptance of award of any franchise granted under this ordinance, furnish to the Franchiser and file with the City Clerk and at all times during the existence of any franchise granted hereunder, maintain in full force and effect, at its won cost and expense, a corporate surety bond or liability insurance policy evidenced by a certificate of insurance in the amount of One Million Dollars (\$1,000,000.00).

The Company shall save and keep harmless the City, the City Council and all City employees and commissions, from any suit, judgment, execution, claim or demand whatsoever which may be asserted or recovered against it based upon or arising out of the construction, maintenance or operation of the system or any part thereof. This shall be guaranteed to the City by a public liability and property damage policy naming the City, the City Council and all City employees and commissions, as co-insured, and approval by the City Council in the amount of:

\$75,000.00 for property damage to any one person; and
\$150,000.00 for property damage in any one occurrence; and
\$500,000.00 for bodily injury to any one person; and
\$1,000,000.00 for bodily injury in any one occurrence.

to be negotiated and paid for by the Franchisee. The insurance shall be obtained from a company acceptable to the City Council and such acceptance shall not be unreasonably withheld and a certificate of coverage shall be provided to the City.

The policy shall state that the City shall be notified in writing by the insurer thirty (30) days in advance of any cancellation or termination of such policy.

The City Council shall annually review the above insurance provisions and if it is determined that the insurance coverage is inadequate, additional insurance may be required by the City Council and shall be provided by the Franchisee.

Nothing contained in the franchise shall relieve any person from liability arising out of the failure to exercise reasonable care to avoid injury to the Franchisee's facilities while performing any work connected with grading, re-grading, or changing the line of any street or public place or with the construction or reconstruction of any sewer or water system.

1001.17 Property Relocation. Whenever it shall be reasonably necessary for the needs of the Franchiser, Franchisee shall at its own expense, upon notice from the Franchiser, relocate, replace, and change its property placed on City poles and property, provided that in cases of emergency as determined by the Franchiser, the Franchiser may relocate, replace, or change property placed on City poles and property by the Franchisee, transfer them to substituted poles or perform any other work in connection with the said property that may be reasonably required to further Franchiser needs, and the Franchisee shall on demand, reimburse the Franchiser for the expense thereby incurred.

1001.18 Access to Financial Records. The Franchiser shall have the authority to audit the Franchisee's accounting and financial records upon reasonable notice. The Franchisee shall file with the Franchiser annually reports of gross subscriber revenues and such other information as the Franchiser may deem appropriate.

1001.19 Municipal Right to Purchase. Upon expiration of the franchise term, revocation of the franchise, other termination of the franchise, or upon receipt of an application from the Franchisee for approval of any assignment or transfer of the franchise, the Franchiser shall have the non-exclusive right to purchase the system.

1001.20 Sale or Transfer. The Franchiser prohibits sale or transfer of the franchise or sale or transfer of assets which would have the effect of a transfer of the franchise, except with the approval of the Franchiser, which approval shall not be unreasonably withheld.

1001.21 Termination. The Franchiser may terminate and cancel the franchise and all rights and privileges of the Franchisee in the event that the Franchisee substantially violates any provision of the franchise ordinance or any rules, orders or determinations of the Franchiser or attempts to evade any of the provisions of the franchise ordinance or practices any fraud or deceit upon the Franchiser. Conditions or circumstances for the Franchiser's termination of the franchise shall include but not necessarily be limited to the following:

1. If the Franchisee should default in the performance of any of its obligations under the franchise, and shall fail to act on the default within thirty (30) days after receiving written notice of default;
2. If a petition is filed by the Franchisee under any Bankruptcy Act, or other insolvency or creditor's rights law, state or federal, or the Franchisee is adjudged a bankrupt or insolvent under any insolvency or creditor's rights law, state or federal:

The Franchiser shall provide the Franchisee with a written notice of the cause for termination and its intention to terminate the franchise and shall allow the Franchisee a minimum of thirty (30) days subsequent to receipt of the notice in which to correct the violation. The Franchisee shall be provided with an opportunity to be heard at a public hearing before the governing body of the Franchiser prior to termination of the franchise.

1001.22 Procedure Upon Termination. Upon termination or forfeiture of the franchise, Franchisee shall within twelve (12) months of such termination or forfeiture upon request of Franchiser, remove its cable, wires, and all other appliances relating to the cable communications system from the streets, alleys and other public places within the franchise area, and shall restore the same to their original condition or as reasonably as can be, and in the event or failure to do so, the following procedure shall be followed: The Franchiser may remove or have removed the cables, wires and all other appliances relating to the cable communications system, the cost of such removal to be charged to the Franchisee. The franchisee shall also pay to the Franchiser the cost of attorney's fees incurred in the cost of enforcement of this provision.

Failure to enforce or insist upon compliance with any terms or conditions hereof shall not constitute a general waiver or relinquishment of any such terms or conditions.

1001.23 Performance Bond. Prior to beginning construction and within two (2) months of the effective date of this franchise, Franchisee shall furnish a bond to the Franchiser in the amount of \$100,000.00, with acceptable surety, conditioned upon the faithful performance by the Franchisee according to the terms of the franchise and upon the further condition that in the event the Franchisee shall fail to comply with any law, ordinance or regulation governing this franchise, there shall be recoverable jointly and severally from the Franchisee and surety of the bond, any damages or loss suffered by the Franchiser, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the Franchisee plus a reasonable allowance for attorney's fees and costs, up to the full amount of the bond, and further guaranteeing payment by Franchisee of claims, liens, and taxes due to the Franchiser

which arise by reason of the construction, operation or maintenance of the system. The rights reserved by the Franchiser with respect to the bond are in addition to all other rights the Franchiser may have under the franchise or any other law. The Franchiser agrees to discontinue said performance bond upon completion of the construction of the system if the Franchiser is satisfied that the performance of the system meets all standards according to this franchise.

Franchisee understands that should it fail to complete its proposed construction within any of the applicable times fixed in this franchise, due allowance being made for contingencies provided for in the franchise document, the Franchisee shall be required to pay to the City of Sacred Heart \$200.00 for each day of such delay beyond the time stated for completion as liquidated damages that the City of Sacred Heart and the subscribers will suffer by the delay.

1001.24 Construction Schedule.

1. Within sixty (60) days of the granting of this franchise, the Franchisee shall apply for all necessary governmental permits, licenses, certificates, and authorizations.
2. Energized trunk cable shall be extended throughout the authorized area (being the corporate limits of the City of Sacred Heart) by the date which is six (6) months after the granting of this franchise. Persons along the route of the energized cable may have individual "drops" as subscribers during this same period of time.
3. The time limits required by this Section may be waived by Franchiser only upon occurrence of unforeseen events or acts of God.

1001.25 Authorization to Commence Construction. Permission by Franchiser for commencement of construction of the cable communications system authorized herein is granted herewith, subject to Franchisee giving Franchiser reasonable notice of the proposed construction thereof, so as to coordinate all work between Franchiser and Franchisee.

1001.26 Construction Standards.

1. The Franchisee shall not open or disturb the surface of any street, sidewalk, driveway, or public place without first obtaining a permit from the proper authority for which permit the Franchiser may impose a reasonable fee to be paid by the Franchisee. The lines, cables, conduits, and other property placed in the streets and public places pursuant to such permit shall be located in the streets or portions of the streets and public places as shall be determined by the proper authority. The Franchisee shall, upon completion of any work requiring the opening of any street or public place restore the same including the pavement and its foundations, to as good a condition as formerly, and in a manner and quality approved by the proper municipal authority and shall exercise reasonable care to maintain the same thereafter in good condition. Such work shall be performed with the due diligence and if the Franchisee shall fail to perform the work promptly, to remove all dirt and rubbish and to put the street or public place back into good condition, the Franchiser shall have the right to put the street or public place back into good condition at the expense of the Franchisee and the Franchisee shall, upon demand, pay to the Franchiser the cost of such work done or performed, together with an additional sum as liquidated damages to be determined by the Franchiser.
2. All wires, conduits, cable and other property and facilities of the Franchisee shall be so located, constructed, installed, and maintained as not to endanger or unnecessarily interfere with the usual and customary trade, traffic and travel upon

the streets and public places of the franchise area. The Franchisee shall keep and maintain all its property in good condition, order, and repair so that the same shall not menace or endanger the life or property of any person. The Franchiser shall have the right to inspect and examine at any reasonable time and upon reasonable notice the property owned or used, in part or in whole, by the Franchisee. The Franchisee shall keep accurate maps and records of all its facilities and furnish copies of such maps and records as requested by the Franchiser.

3. All wires, cables, amplifiers, and other property of the Franchisee shall be constructed and installed in an orderly and workmanlike manner. All cables and wires shall be installed, where possible, parallel with electric and telephone lines. Multiple cable configurations shall be arranged in parallel and bundled with dual respect for engineering consideration.
4. The franchisee shall always comply with all applicable codes. In any event, the system shall not endanger or interfere with the safety of persons or property in the franchise area or other areas where the Franchisee may have equipment located.

1001.27 Public Improvements. Whenever the Franchiser shall undertake any public improvement which effects cable communications equipment, it shall, with due respect to reasonable working conditions, direct the Franchisee to remove or relocate its wires, conduits, cables, and other property located in said streets, right-of-way, or public places. The Franchisee shall relocate or protect its facilities at its own expense. The Franchiser shall give the Franchisee reasonable notice of the undertaking of public improvements which affect the Franchisee's cable communications equipment.

1001.28 Line Extension Policy. Following the initial construction of the cable system as provided in Section 1001.24 of this franchise, future extension of the system shall be in accordance with the following rules:

1. Subscriber Installation from Existing System. Where a subscriber can be served from the Franchisee's existing system, without extension of trunk or distribution cable, the Franchisee shall serve the subscriber upon request on the following terms and conditions:
 - (a) The subscriber shall be connected to cable at the standard installation charge if the connection can be made with aerial drop and does not exceed two hundred (200) feet.
 - (b) If the aerial connection drop exceeds 200 feet, the subscriber may be charged the actual cost for the distance exceeding 200 feet plus the standard installation charge, and Franchisee may request advance payment for such installation.
 - (c) The subscriber shall be connected to cable at the standard installation charge if the connection is to be made by underground installation and does not exceed 100 feet.
 - (d) If the underground installation exceeds 100 feet, the subscriber may be charged the actual cost for the distance exceeding 100 feet plus the standard installation charge, and Franchisee may request advance payment for such installation.
2. Subscriber Installation Requiring Extension of System. Where a subscriber can be served by extension of Franchisee's energized distribution cable, the Franchisee shall serve the subscriber upon request on the following terms and conditions in addition to the requirements of Subsection 1 above:

- (a) If service is requested to any subscriber that can be served by aerial extension or underground extension and there are at least ten (10) homes located within a distance of 1,310 feet measured in extension length of Franchisee's cable required for service located within the public way or easement and shall not include length of necessary service drop to subscriber's home or premises, the Franchisee shall extend such distribution cable as is necessary to provide service to such homes at its own cost and any subscriber located in any of such homes shall be connected to cable at the standard installation charge, subject to the requirements of Subsection 1 above.
 - (b) If service is requested to any subscriber to be served by either aerial extension or underground extension and there are not at least 10 homes located within a distance of 1,310 feet, as measured in the manner set forth in paragraph A above, the Franchisee shall extend such distribution cable as necessary to serve such subscriber if such subscriber shall pay a portion of the actual cost of construction determined as follows: the Franchisee shall pay that fractional share of the actual cost of constructing and extending the cable to such subscriber where the numerator of such fraction is the actual number of homes located within said distance of 1,310 feet and the denominator of such fraction is 10. The subscriber shall pay the balance of the actual cost of construction of the cable necessary to serve such subscriber. Provided, that in the event the Franchisee extends service pursuant to this subparagraph and at a subsequent date additional homes are constructed that would have been within the said 1,310 feet of the home of the subscriber, the Franchisee shall make rebates to the subscriber or subscribers bearing a portion of the cost of such extension based on the difference between what such subscriber or subscribers actually paid and what they would have paid under this paragraph if such new home had been built at the time the cable was extended. The obligation on the part of the Franchisee to make such a rebate shall extend only for a period of 5 years from the date of payment by the subscriber.
3. Underground Installation in New Residential Developments. In the case of new residential developments requiring underground utility services, the Franchisee shall install either energized or non-energized cable, or conduits sufficient to permit future cable television service without undue disruption of streets or yards, the method to be at the Franchisee's option. Costs of trenching, enclosures, and laterals as well as easements required to bring service to the development shall be borne by the developer and/or landowner, upon reaching a satisfactory agreement with the Franchisee for such cost advances. Any installations or construction by developer and/or landowner shall be to the specifications of the Franchisee.

1001.29 Franchise Administration. The City Clerk shall be responsible for day-to-day administration of this franchise. The City Council may, by resolution, create a cable commission or cable advisory board and appoint members to this commission or board. The cable commission or advisory board shall have such duties and delegations as established by the City Council and shall serve the City Council in an advisory capacity. Members of the cable commission or advisory board shall receive no compensation and shall serve at the will of the Council. Establishment of and delegation of duties to the cable commission or advisory board shall be by resolution of the City Council. The City Council shall retain ultimate authority for the administration of this franchise. The company shall complete, on a semiannual basis, proof of performance testing in accordance with standards as specified by the Federal Communications Commission. The results of proof of performance testing shall be forwarded to the City of Sacred Heart in a timely fashion. The company shall perform proof of performance for the term of the franchise.

- 1001.30 Technical Standards.** This franchise shall incorporate by reference as a minimum the technical standards promulgated by the Federal Communications Commission relating to cable communications systems contained in Subpart K of Part 76 of the Federal Communications Commission Rules and Regulations relating to Cable Communications Systems. The results of any tests required by the Federal Communications Commission shall be filed within ten (10) days of the conducting of such tests with the Franchiser. In the event that special testing is required to determine the source of technical difficulties, the Franchisee shall be responsible for the costs of special testing.
- 1001.31 Abandonment.** The Franchisee may not abandon any portion of the cable communications service provided hereunder, without having given three (3) months prior written notice to the Franchiser. Further, Franchisee may not abandon any cable communications service or any portion thereof without compensating the Franchiser for damage resulting from the abandonment.
- 1001.32 Publications Cost.** The publication costs of this franchise ordinance shall be borne by the Franchisee and paid to the City within thirty (30) days after the City renders Franchisee a bill covering the same.
- 1001.33 Franchise Fee.** The Franchisee shall pay a franchise fee equal to three percent (3%) of its gross annual basic subscriber revenues. Said fee shall be payable to Franchiser annually. Gross annual basic subscriber revenues mean any and all compensation received directly or indirectly by the Franchisee from subscribers for basic CATV service. The term "basic CATV" service shall mean the basic service offered by the Franchisee to subscribers as described in Schedule A of this Agreement. Gross annual basic subscriber revenues shall not include revenue derived from premium channels, advertising revenues, installation charges, or any taxes on service furnished by the Franchisee imposed directly on any subscriber or user by any city, state or other governmental unit and collected by the Franchisee for such governmental unit.
- 1001.34 Lease of City Property.** Franchiser agrees to lease to Franchisee for the term of this franchise, a tract of City owned property, if available, for a rental of One Dollar per year. The franchisee shall use this tract for placement of its cable system head-end equipment. The tract to be leased to Franchisee shall be mutually agreed upon by Franchisee and Franchiser. If Franchisee determines not to use City property to locate its head-end equipment this provision and the lease herein created shall be void. Franchisee agrees to indemnify and hold the Franchiser harmless from any claims, actions, suits, demands, judgments, costs and expenses incident to this lease or the construction, maintenance, or operation of Franchisee's head-end equipment.
- 1001.35 Incorporation of Application.** This franchise shall be subject to all the terms and conditions contained in the application for franchise, which terms and conditions shall be incorporated by reference in this franchise and the terms and conditions of the application shall be filed with the City Clerk and maintained as a part of the franchise as an exhibit.

1002.00 NATURAL GAS – GREAT PLAINS NATURAL GAS

- 1002.01 Grant of Franchise.** The City hereby grants Company for a period of twenty (20) years from the date this Ordinance is passed and approved by the City, the right to import, manufacture, distribute and sell Gas for public and private use within and

through the limits of the City as its boundaries now exist or as they may be extended in the future. For these purposes, Company may construct, operate, repair, and maintain Gas Facilities, in, on, over, under and across the Public Ways and Public Grounds, subject to the provisions of this Ordinance. Company may do all reasonable things necessary or customary to accomplish these purposes, subject, however, to such reasonable regulations as may be imposed by the City pursuant to ordinance or permit requirements and to the further provisions of this franchise agreement.

- 1002.02 Effective Date, Written Acceptance.** This franchise shall be in force and effect from and after the passage of this Ordinance and publication as required by law and its acceptance by the Company. If Company does not file a written acceptance with the City within 60 days after the date the City Council adopts this Ordinance, or otherwise informs the City, at any time, that the Company does not accept this franchise, the City Council by resolution may revoke this franchise or seek its enforcement in a court of competent jurisdiction.
- 1002.03 Service and Gas Rates.** The service to be provided and the rates to be charged by Company for gas service in the City are subject to the jurisdiction of the Commission.
- 1002.04 Nonexclusive Franchise.** This Ordinance does not grant an exclusive franchise.
- 1002.05 Publication Expense.** The Company shall pay the expense of publication of this Ordinance.
- 1002.06 Dispute Resolution.** If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party must notify the other party of the default and the desired remedy. Notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within thirty (30) days of the written notice, the parties may jointly seek a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used or if the parties are unable to resolve the dispute within thirty (30) days after first meeting with the selected mediator, either party may commence an action in District Court to interpret and enforce this franchise or for such other relief as may be permitted by law or equity.
- 1002.07 Continuation of Franchise.** If the City and the Company are unable to agree on the terms of a new franchise by the time this franchise expires, this franchise will remain in effect until a new franchise is agreed upon, or until 90 days after the City or the Company serves written Notice to the other party of its intention to allow the franchise to expire. However, in no event shall this franchise continue for more than one year after expiration of the twenty-year term set forth in Section 1002.01.
- 1002.08 Location of Facilities.** Gas Facilities must be located, constructed, installed, and maintained so as not to interfere with the City Utility System or the safety and convenience of ordinary travel along, over and under Public Ways. The Company's construction, reconstruction, operation, repair, maintenance, location, and relocation of Gas Facilities is subject to other reasonable ordinances and regulations of the City consistent with authority granted to the City to manage its Public Ways and Public Grounds under state law and to the extent not inconsistent with a specific term of this franchise.
- 1002.09 Field Location.** Field locations for their respective facilities will be provided by the Company and City in accordance with Minnesota Statutes 216D, under the Gopher

State One Call system.

- 1002.10 Right-Of-Way Permit Required.** Except for the verification of Field location, the Company may not open or disturb the surface of any Public Way or Public Ground without first having obtained a Right-of-Way Permit from the City if required by a separate ordinance, for which the City may impose a reasonable fee. The permit conditions imposed on the Company may not be more burdensome than those imposed on other entities for similar facilities or work. The Company may, however, open and disturb the surface of any Public Way or Public Ground without a Right-of-Way Permit if (1) an emergency exists requiring the immediate repair of Gas Facilities and (2) the Company gives notice to the City before, if possible, commencement of the emergency repair. Within two business days after commencing the repair, the Company must apply for any required permits and pay the required fees.
- 1002.11 Restoration.** After undertaking any work requiring the opening of any Public Way, the Company shall restore the Public Way in accordance with Minnesota Administrative Rules, part 7819.1100 and applicable City ordinances consistent with law. Company shall restore a Public Ground to as good a condition as formerly existed. All work shall be completed as promptly as weather permits, and if Company shall not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and put the Public Way or Public Ground in the said condition, the City shall have, after demand to Company to cure and the passage of a reasonable period of time following the demand, but not to exceed five days, the right to make the restoration of the Public Way or Public Ground at the expense of Company.
- This remedy is in addition to any other remedies available to the City for noncompliance with this section, including, but not limited to, adherence to the requirements of the Right-of-Way Permit.
- 1002.12 Avoid Damage to Gas Facilities.** The Company must take reasonable measures to prevent the Gas Facilities from causing damage to persons or property. The Company must take reasonable measures to protect the Gas Facilities from damage that could be inflicted on the Gas Facilities by persons, property, or the elements. The Company must take protective measures when the City performs work near the Gas Facilities, if given reasonable notice by the City of such work prior to its commencement.
- 1002.13 Notice of Improvements.** The City must give the Company reasonable written Notice of plans for improvements to Public Ways or Public Grounds where the City has reason to believe that Gas Facilities may affect or be affected by the improvement. The notice will contain: (1) the nature and character of the improvements, (2) the Public Ways or Public Grounds upon which the improvements are to be made, (3) the extent of the improvements, (4) the time when the City will start the work, and (5) if more than one Public Way or Public Ground is involved, the order in which the work is to proceed. The Notice will be given to Company a sufficient length of time, considering seasonal working conditions, in advance of the actual commencement of the work to permit Company to make any additions, alterations or repairs to its Gas Facilities the Company deems necessary. The Company shall have the right to request additional time in advance of the actual commencement of the work if required to make any necessary additions, alterations, or repairs to its Gas Facilities.
- 1002.14 Mapping Information.** The City may require the Company to provide complete and accurate mapping information for any of its Gas Facilities in accordance with the requirements of Minnesota Rules 7819.4100. At the request of the Company, any information requested by the Engineer which qualifies as a "trade-secret" under Minn. Stat. §13.37(b) shall be treated as trade secret information as detailed therein.

SECTION 4. RELOCATIONS.

- 1002.15 Relocation of Gas Facilities in Public Ways.** The Company shall comply with Minnesota Rules, Part 7819.3100 and applicable City Ordinances consistent with law. The City must give reasonable written notice to the Company that a possible relocation of Gas Facilities is required. The Engineer and Company representatives will meet in an attempt to resolve facilities conflict. To the extent that an alternative to relocation of Gas Facilities which is reasonably acceptable to City cannot be developed, the Company must relocate its Gas Facilities at its own expense. The City must give the Company reasonable written notice of plans to vacate for a City improvement project, or to grade, regrade or change the alignment of any Public Way, or to construct or reconstruct any City Utility System.
- 1002.16 Relocation of Gas Facilities in Public Ground.** The City may require the Company to relocate Gas Facilities from Public Ground upon a finding by the City that the Gas Facilities have become or will become a substantial impairment of the public use to which the Public Ground is or will be put. The relocation or removal will be at the Company's expense and shall comply with applicable City Ordinances consistent with law. The provision of this Section 4.2 applies only to Gas Facilities constructed in reliance on this franchise and the Company does not waive its rights under an easement or prescriptive right in the Public Ground.
- 1002.17 Vacation of Public Ways.** The City must give the Company at least two weeks' Notice of a proposed vacation of a Public Way. The City and the Company shall comply with Minnesota Rules 7819.3200 and applicable ordinances consistent with the law. Except where required for a City street or other improvement project or as otherwise provided in Section 4.2, the vacation of a Public Way, after the installation of Gas Facilities, does not deprive the Company of its rights to operate and maintain the Gas Facilities until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to the Company by the City or the party requesting the vacation. The City is not liable to the Company for failure to specifically preserve a right-of-way in the manner permitted by law.
- 1002.18 Projects with Federal Funding.** Relocation, removal or rearrangement of any Gas Facilities made necessary because of the extension into or through the City of a federally aided highway project will be governed by the provisions of Minnesota Statutes §161.46.
- 1002.19 Indemnification of City.** Company shall indemnify and hold harmless the City from any and all liability on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, inspection of, the issuance of permits, or the operation of the Gas Facilities located in the Public Ways and Public Grounds. The City shall not be indemnified or held harmless for liability, losses, claims, proceedings or causes of action caused through its own negligence except for liability, losses, claims, proceedings, or actions arising out of or alleging the City's negligence as to the issuance of permits for, or inspection of, the Gas Facilities or Company's plans.
- 1002.20 Defense of City.** In the event a suit, action, claim or proceeding is brought against the City under circumstances where this agreement to indemnify applies, the Company shall, at its sole cost and expense, defend the City in such suit, action, claim or proceeding if written notice thereof is promptly given to the Company within a period of time wherein the Company is not prejudiced by lack of such notice. If the Company is required to indemnify and defend the City, the Company shall have control of the defense. The Company may not settle such suit, action, claim or proceed without the consent of the City, which consent shall not be unreasonably withheld. This section is not and shall not be interpreted or shall not constitute as to third parties, a waiver of any defense or immunity available to the City. The Company, in defending any suit,

action, claim or proceeding on behalf of the City, shall be entitled to assert in such suit, action, claim or proceeding every defense or immunity the City could assert on its own behalf. This franchise agreement shall not be interpreted to constitute a waiver by the City of any of its defenses of immunity or limitations on liability pursuant to Minnesota law or statute.

1002.21 Successors in Interest. This Ordinance and the rights and obligations conferred hereby, is binding on and inures to the benefit of the City and its successors and on the Company and its successors and permitted assigns. This Ordinance and the franchise it confers may not be assigned by the Company without the written consent of the City, said consent shall not be unreasonably withheld.

1002.22 Change in Form of Government. Any change in the form of government of the City shall not affect the validity of this Ordinance. Any governmental unit succeeding the City shall, without the consent of the Company, succeed to all of the rights and obligations of the City provided in this Ordinance.

1002.23 Franchise Fee.

- 1. Separate Ordinance.** The City hereby reserves the right to implement, by passage of a separate ordinance, a franchise fee to be collected and remitted by the Company to the City. Said franchise fee will be in accordance with state law and regulations. In the event such a franchise fee is implemented, the Company agrees to make available for inspection by the City at reasonable times all records necessary to audit the Company's determination of the franchise fee payments. The separate ordinance shall not be adopted until at least thirty (30) days after written notice enclosing such proposed ordinance has been served upon the Company. The fee shall become effective ten (10) days after written notice enclosing such adopted ordinance has been served upon the Company by certified mail.
- 2. Condition of Fee.** The separate ordinance imposing the fee shall not be effective against the Company unless it lawfully imposes a fee of the same or substantially similar amount on the sale of gas energy within the City by any other gas energy supplier, provided that, as to such supplier, the City has the authority or contractual right to require a franchise fee or similar fee through a previously agreed upon franchise.
- 3. Collection of Fee.** The franchise fee shall be payable not less than quarterly during complete billing months of the period for which payment is to be made. The franchise fee formula may be changed from time to time; however, the change shall meet the same notice requirements and the fee may not be changed more often than annually. Such fee shall not exceed any amount that the Company may legally charge to its customers prior to payment to the City. Such fee is subject to subsequent reductions to account for uncollectible and customer refunds incurred by the Company. The Company agrees to make available for inspection by the City at reasonable times all records necessary to audit the Company's determination of the franchise fee payments.
- 4. Continuation of Franchise Fee.** The franchise fee, if any, being imposed by the City at the time the most recent of any previous franchise granted to the Company by the City expired remains in effect until it is changed in the manner provided for implementation of such fee. If this franchise expires and City and the Company are unable to agree upon terms of a new franchise, the franchise fee, if any, being imposed by the City at the time this franchise expires, will remain in effect until a new franchise is agreed upon.

1002.24 Additions to City and Area Development Zones.

Additions of Territory. In case any additions of territory are made to the City, the Company shall serve all inhabitants of such additional territory in the same manner and on the same terms as those of the territory now within its limits. In the event that such additional service requires extension of the Gas Facilities, such extensions shall be subject to the provisions of the applicable rate schedules and general terms attached to the rate schedules as filed by the Company with the Minnesota Public Utilities Commission, all of which are by reference made part of this franchise. Should said extension of Gas Facilities be deemed by the Company as not economically feasible, Company shall allow a third party to make a contribution in aid of construction in the amount of the difference in cost between the total project cost and the amount that is determined to be financially feasible by the Company. This contribution in aid of construction shall not constitute an ownership position of the Gas Facilities by the contributing third party. Failure on the part of the Company to allow a third party to make such a contribution may be considered a default in the performance hereof, subject to Section 2.5.

1002.25 Abandoned Facilities. The Company shall comply with City ordinances, Minnesota Statutes, Section 2160.01 et seq., and Minnesota Rules Part 7819.3300, as they may be amended from time to time. The Company shall maintain records describing the exact location of all abandoned and retired Gas Facilities within the City, produce such records at the City's request and comply with the location requirements of Section 216D.04 with respect to all Gas Facilities, including abandoned and retired Gas Facilities.

1002.26 Previous Franchises Superseded. This franchise supersedes and replaces previous franchises granted to the Company or its predecessors.

1002.27 Amendments. This Ordinance may be amended at any time by mutual agreement between the City and the Company. Any amendatory Ordinance shall become effective upon the filing of the Company's written consent thereto.

1002.28 Severability. Every section, provision, or part of this Ordinance is declared separate from every other section, provision, or part; and if any section, provision, or part shall be held invalid, it shall not affect any other section, provision, or part. Where a provision of any other City ordinance conflicts with the provisions of this Ordinance, the provisions of this Ordinance shall prevail.

1002.29 Limitation On Applicability. This ordinance constitutes a franchise agreement between the City and Company as the only parties and no provision of this franchise shall in any way inure to the benefit of any third person (including the public at large) so as to constitute any such person as a third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

1003.00 ELECTRICITY – NORTHERN STATE POWER COMPANY FRANCHISE

1003.01 That there be and hereby is granted to Northern States Power Company, a Minnesota corporation, D/B/A Xcel Energy its successors and assigns, hereinafter referred to as Company, during the period of 20 years from August 9, 2010, the right and privilege of erecting, enlarging, operating, repairing, and maintaining, in, upon, and across the streets, alleys, and public grounds of said City electric transmission lines and an electric distributing system, including all necessary, usual, or convenient poles, pole

lines, masts, wires, lamps, transformers, and other fixtures and appurtenances usually, conveniently, or necessary used in connection therewith, for the purpose of transmitting and furnishing electric energy for light, heat, power, and other purposes for public and private use in and to said City and the inhabitants hereof, and others, and for the purpose of transmitting to and through said City such electric energy, provided that such pole and transmission lines shall be so located as in no way to interfere with the safety and convenience of ordinary travel along and over said streets and alleys, and provided that Company in the erection and maintenance of such poles, masts, wires, lamps, transformers, fixtures, and transmission lines, shall be subject to such reasonable regulations as may be imposed by the City Council.

- 1003.02** That the rates to be charged by the Company for the electric energy sold within the City, shall be reasonable and shall not exceed Company's standard schedule of rates and minimum charges effective for and in communities of like size in adjoining territory which are similarly served and situated.
- 1003.03** There is also granted to Company during the term hereof, permission and authority to trim all trees and shrubs in the streets, alleys, and public grounds of said City interfering with the proper erection and maintenance of any poles, cables, wires or any other fixtures installed in pursuance of the authority hereby granted, provided that Company shall save said City harmless from any liability in the premises.
- 1003.04** Nothing in this chapter contained shall be construed as giving to Company any exclusive privilege in, on, over, or across any of the streets, alleys, or public grounds of said City.
- 1003.05** Company shall have full right and authority to assign to any person, persons, firm, or corporation all the rights conferred upon it by this chapter, provided that the assignee of such rights, by accepting such assignment, shall become subject to the terms and provisions of this chapter.

CHAPTER XI. ZONING

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PREAMBLE

AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR THE CITY OF SACRED HEART, MINNESOTA AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF SECTIONS 462.351 TO 462.364, MINNESOTA STATUTES, AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH

WHEREAS Sections 462.351 to 462.364, Minnesota Statutes, empowers the City to enact a Zoning Ordinance and to provide for its administration, enforcement, and amendment, and

WHEREAS the City Council deems it necessary, for the purpose of promoting the health, safety, morals, or general welfare of the City to enact such an Ordinance, and

WHEREAS the City Council, pursuant to the provisions of Sections 462.351 to 462.364, Minnesota Statutes, has appointed a City Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and

WHEREAS the City Planning Commission has divided the City into districts and has prepared regulations pertaining to such districts in accordance with a comprehensive plan and designed to:

1. Lessen congestion in the streets;
2. Secure safety from fire, panic, and other dangers;
3. Promote health and the general welfare;
4. Provide adequate light and air;
5. Prevent the overcrowding of land;
6. Avoid undue concentration of population;
7. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other

public requirements, and

WHEREAS the City Planning Commission has given reasonable consideration, among other things, to the character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the municipality, and

WHEREAS the City Planning Commission has made preliminary report and held public hearings thereon, and submitted its final report to the City Council, and

WHEREAS the City Council has given due public notice of hearings relating to zoning districts, regulations, and restrictions, and has held such public hearings, and

WHEREAS these regulations are adopted under the authority granted by Sections 462.351 to 462.364 of the Minnesota Statutes. Therefore, the City Council of Sacred Heart, Minnesota ordains as follows:

This Ordinance which shall be known and cited as the City of Sacred Heart Zoning Ordinance, an Ordinance setting minimum and maximum standards for the height and size of buildings, the size of yards, courts and other open spaces, the density of population, the location and use of buildings and land for trade, commerce, industry, residence and other purposes; creating districts for said purposes and establishing the boundaries thereof; providing for changes in regulations, restrictions and boundaries of such districts; defining certain terms used herein; providing for enforcement and administration and imposing penalties for the violation of this Ordinance. The jurisdiction of this Ordinance shall include all lands within the corporate limits of the City of Sacred Heart, Minnesota.

1101.00 ZONING DISTRICTS AND OFFICIAL ZONING MAP

1101.01 Zoning Districts. The following zoning districts are provided in order to promote and encourage the efficient economic development of land, buildings and all usable structures. The incorporated area of the City is hereby divided into the following districts which shall be known by the following respective symbols and names:

1. AG District - Agricultural District
2. R-1 District - Residential District
3. B-1 District - Central Business District
4. B-2 District - Highway Commercial District
5. M-1 District - Manufacturing District

1101.02 Boundaries and Official Zoning Map. The boundaries of these districts are indicated and established as shown upon maps, designated as the Official Zoning Map which, with all their notations, designations, references, and other matters shown thereon, shall be as much a part of this Ordinance as if fully described and set forth herein. The Official Zoning Map shall be attested by the Mayor and the City Clerk under the following words:

"This is to certify that this is the Official Zoning Map referred to in the Zoning Ordinance _____ adopted on this 1st day of February 1982."

Changes. If in accordance with the provisions of this Ordinance changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, the resolution number and date of said change shall be recorded by the City Clerk on the Official Zoning Map. No amendment to this Ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change

and entry has been made on said Map.

Official Copy. Regardless of the existence of purported copies, the Official Zoning Map, which shall be located in the office of the City Clerk, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.

New Zoning Map. In the event that the Official Zoning Map becomes damaged, destroyed, or lost or difficult to interpret because of the nature or number of changes and additions, the City Council may, by resolution, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Ordinance or any subsequent amendment thereof. Unless the prior Official Zoning Map has been lost or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.

1101.03 Interpretation of District Boundaries. Where uncertainty exists as to boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, alleys, or other public rights-of-way shall be construed to follow such center lines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following section lines, quarter section lines, or quarter-quarter section lines shall be construed as following such lines.
4. Boundaries indicated as approximately following city limits shall be construed as following such city limits.
5. Boundaries indicated as following railroad lines shall be construed to be midway between the main set of tracks or at the center line of a single set of tracks.
6. Boundaries indicated as parallel to or extensions of features indicated in subsection 1-6 above shall be construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map or in other circumstances not covered by subsection 1-6 above, the Board of Adjustments shall interpret the district boundaries.
8. Where a district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, the Planning Commission may permit as a special consideration, the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the district line into the remaining portion of the lot.

1101.04 Property Not Included - Annexations. In every case where property has not been specifically included within a district, the same is hereby declared to be in the R-1 District. Territory annexed to or consolidated with the City subsequent to the effective date of such annexation or consolidation becomes a part of the R-1 District. Such

districting shall be temporary, and the Planning Commission shall recommend to the City Council within a period of one (1) year from such date of annexation or consolidation proposed Zoning Map changes for the annexed territory. Nothing shall prevent the commission from recommending such final Zoning Map changes at the time of annexation or consolidation.

1101.05 Rules. For the purposes of this Ordinance, certain terms or words used herein shall be interpreted as follows:

1. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
2. Words used in the present tense shall include the future; words used in the singular number shall include the plural number, and the plural the singular.
3. The word "shall" in mandatory and not discretionary and the word "may" is permissive.
4. The word "lot" shall include the words "piece", "parcel" and "plot".
5. The word "building" includes all other structures of every kind regardless of similarity to buildings.
6. The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for" and "occupied for".
7. The word "erected" includes built, constructed, reconstructed, or moved upon. Any physical excavation, fill, drainage, and the like shall be considered a part of erection.
8. Any words not defined herein shall be construed in their generally accepted meanings as defined in the most recent publication of Webster's Dictionary.

1102.00 GENERAL REGULATIONS

The following general regulations of this Section shall apply equally to all districts within this Ordinance except where special provisions provide otherwise. It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

1102.01 Accessory Buildings and Uses. Accessory buildings and uses customarily incidental to that of the main building may be erected or established upon a lot or tract of land, provided they comply with the following regulations.

1. Attached or Detached Accessory Buildings - Residential Districts

- (a) No accessory building shall be used for dwelling purposes.
- (b) All accessory buildings shall be sited on the same lot or on an adjacent or adjoining lot under the same ownership.
- (c) No accessory building shall contain more than thirty (30) feet of vehicle door

openings as measured horizontally and shall not occupy an area more than nine hundred (900) square feet.

- (d) Number of Accessory Structures Limited: A maximum of two (2) detached accessory buildings less than or equal to one-hundred twenty (120) square feet will be allowed per lot. In addition, a maximum of one (1) detached wood frame accessory structure greater than one-hundred twenty (120) square feet is allowed per lot.

2. Attached Accessory Buildings - Residential Districts

- (a) An accessory building including, but not limited to, garages, carports and breezeways attached to the principal building on a lot shall be made structurally a part thereof and shall comply in all respects with the height, yard, and area requirements of this Ordinance applicable to the principal building.

3. Detached Accessory Buildings - Residential Districts

- (a) No detached accessory buildings are permitted within the limits of a front yard.
- (b) When located within ten (10) feet of the side or rear wall of the principal building, detached accessory buildings shall comply with all yard requirements applicable to the principal building on the lot or tract.
- (c) No detached accessory building shall be erected or placed within five (5) feet of any property line, alley easement line, or principal building. In the presence of a fire break wall between said principal building and accessory building, there shall be no need to have the five (5) foot spacing between the principle building and accessory building.
- (d) No detached accessory building on a corner lot shall project beyond the front yard setback requirement of the principal building.
- (e) Detached accessory buildings in residential districts shall not exceed one (1) story or fourteen (14) feet in height.

4. Accessory Buildings and Uses - Business and Manufacturing Districts

- (a) In business and manufacturing districts, accessory buildings and uses may occupy any of the ground area which the principal building is permitted to occupy.
- (b) Accessory buildings such as buildings for parking attendants, guard shelters, gate houses and transformer buildings may be located in front or side yards in M-1 Districts.

1102.02 Approval of Plats. No proposed plat of a new subdivision shall be approved unless the lots within such plats equal or exceed the minimum requirements as delineated for the district in which the property is located. The plat shall further conform to all other statutes of the State of Minnesota and ordinances and regulations of the City.

1102.03 Building Access. Every building erected, moved or structurally altered, shall be on a lot or parcel having a frontage on a public street or road. All structures shall be located on lots so as to provide required off-street parking and safe and convenient access for fire protection.

- 1102.04 Building Area.** Outside stairways, fire escapes, enclosed porches, platforms, balconies and other similar and attached projections shall be considered as part of the building and not allowed as part of the required space for yards, courts, or unoccupied space. This provision shall not apply to:
1. One (1) fireplace or one (1) chimney not more than eight (8) feet in length and projecting not more than thirty (30) inches into the allowable yard space.
 2. Cornices not exceeding sixteen (16) inches in width.
 3. Platforms, terraces, steps below the first-floor level.
 4. Non-enclosed porches or other ground level non-enclosed projections not over one (1) story in height which may extend into a front or rear yard not more than ten (10) feet or into a side yard not more than eight (8) feet.
- 1102.05 Building Lot/Principal Structures.** Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one permitted principal building on one lot except that in commercial and industrial districts more than one (1) permitted principal building may be located on one (1) lot providing that all buildings shall meet all other requirements as set forth in this Ordinance as though it were on an individual lot.
- 1102.06 Buildings Under Construction.** Any building or structure for which a building permit has been issued and the construction of the whole or a part of which has been started prior to the effective date of this Ordinance may be completed and used in accordance with the plans and application of which said building permit was granted.
- 1102.07 Compliance Required.** No building or structure shall be erected, constructed, reconstructed, or maintained and no land shall be developed, used, or maintained in violation of any of the provisions of this Ordinance for the district in which the buildings or land is located.
- 1102.08 Dumping and Disposal of Excavated Materials.** The dumping of dirt, rock or other earthen material is permitted in any district not part of a drainage channel provided the surface of such material is graded within a reasonable period of time in a manner preventing the collection of stagnant water and that the ground surface is left in a condition suitable for growing of turf or for other land uses permitted in the district. This shall not prevent the development of the property for its best use when adequate facilities are provided to maintain the primary purpose of the drainage way or flood plain, i.e., the uninterrupted flow of surface water.
- 1102.09 Essential Services.** Essential services shall be allowed in all zoning districts.
- 1102.10 Front Yard Exceptions.** When the majority of residential or commercial buildings have been built in a block at a time before the adoption of this Ordinance, no building or structure hereafter erected or altered shall project beyond the average setback line established by existing structures, provided no building will be required to set back more than forty-five (45) feet.
- 1102.11 Height Requirement Exceptions.** The building height limitations of this Ordinance shall be modified as follows:
- Cooling towers, elevator bulk heads, fire towers, drive-in movie theater screens, grain elevators, silos, stacks, tanks, water towers, pumping towers, radio or television towers, monuments, cupolas, steeples, chimneys, and

mechanical accessories pertaining to and necessary to the permitted use in the district in which they are located shall not be included in calculating the height of principal structure.

1102.12 Home Occupations. In any zoning district where home occupations are authorized, the following regulations governing said home occupations shall be complied with as follows:

1. Said use shall not occupy an area of more than twenty-five (25) percent of the total floor area of the dwelling.
2. No such home occupation shall require substantial interior or exterior alterations of the dwelling which would vary the residential character of the building.
3. Said use shall not create odor, dust, noise, electrical disturbances, glare, or vibrations noticeable outside of the building which could render said building or premise objectionable or detrimental to the residential character of the neighborhood.
4. There shall be no outside storage of material or equipment or display of merchandise.
5. No sign shall be allowed other than one (1) non-illuminated name plate measuring not more than one and one-half (1 ½) square feet in area mounted flat against the wall of the principal building.
6. There shall be no sale of goods other than those produced on the site or as incidental to a service provided.
7. The occupation is to be conducted solely by the permanent occupants of the dwelling in which it is located except that one (1) accessory person necessary to the occupation may be employed.
8. The need for any additional parking generated by the conduct of the home occupation shall be met by off-street parking areas.

1102.13 Lot Area Requirement. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum required by this Ordinance, nor shall the number or area of dwelling units be increased in any manner except in conformity with the area regulations described herein. No part of a yard or other open space, or off-street parking or loading space provided about any building, structure or use for the purpose of complying with the provisions of this Ordinance shall be included as part of a yard, open space or off-street parking or loading space required under this Ordinance for another building, structure, or use.

1102.14 Lot - Corner. Corner lots shall maintain a yard on both streets conforming to the requirements for front yards on those streets.

1102.15 Lot - Double Frontage. Double frontage lots shall maintain a yard on both streets conforming to the requirements of front yards on those streets.

1102.16 Lot of Record. A parcel legally created and existing at the time of the passage of this Ordinance need not conform to the lot width or lot area requirements of the district in which it is located subject to all other provisions of this Ordinance.

1102.17 Loading Space. In any district in connection with every building, structure or part

thereof erected and occupied for manufacturing, storage, warehouse goods display, department store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly requiring receipt or distribution by vehicles, materials or merchandise, there shall be provided and maintained on the same lot adequate space for standing, loading and unloading services in order to avoid undue interference with public use of the streets or alleys. Such space shall be sufficient for the proposed use as determined by the Planning Commission and approved by the Planning Commission and the City Council. Such spaces may occupy all or any part of any required yard or open space except where adjoining a residential district, it shall be set back to allow sufficient and effective screen-planting.

1102.18 Minimum Requirements. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of public health, safety, morals, or general welfare. Whenever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

1102.19 Off-Street Parking Facilities. In all districts where off-street parking lots are permitted or required, such off-street parking lots shall be constructed and maintained subject to the following regulations:

1. Adequate ingress and egress shall be provided.
2. Such parking lots shall be maintained in usable dust-proof conditions and shall be kept graded and drained to dispose of surface water.
3. Whenever such parking lot boundary adjoins property zoned for residential use, a setback of eight (8) feet from said lot line shall be required.
4. Necessary curbs or other protection against damage to adjoining properties, streets and sidewalks shall be provided and maintained.
5. Plans for the construction of any such parking lot must be approved by the Planning Commission before construction is started. No such land shall be used for parking until approved by the Planning Commission.
6. Any lighting used to illuminate any off-street parking area shall be arranged to reflect the light away from adjoining premises in any "R" District.

1102.20 Off-Street Parking Requirements. In all districts except B-1 Central Business District and in connection with all uses, there shall be provided at the time any use or building is erected, enlarged, expanded, or increased, off-street parking spaces for vehicles of employees, residents and/or patrons in accordance with the following requirements. For the purpose of this Ordinance, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room may be estimated at three hundred (300) square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements below are provided and maintained, improved in a manner appropriate to the circumstances of the case and in accordance with all ordinances and regulations of the city.

1. Required off-street parking areas for three (3) or more automobiles shall have individual spaces marked and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk

or alley, and so designed that any automobile may be parked and moved without moving another.

2. Loading space shall not be construed as supplying off-street parking space.
3. When units or measurements used in determining the number of required parking spaces result in the requirement of a fractional space, one (1) additional space shall be required unless otherwise specified in this Ordinance.
4. Whenever a use requiring off-street parking is increased in floor area, and such use is located in a building existing on or before the effective date of this Ordinance, additional parking space for the additional floor area shall be provided and maintained in amounts hereafter specified for that use.
5. Floor area in the case of offices, merchandising or service types of uses shall mean the gross floor area used or intended to be used for services to the public as customers, patrons, clients, patients, or tenants including areas occupied for fixtures and equipment used for display or sale of merchandise.
6. Off-street parking facilities for dwellings shall be provided and located on the same lot or parcel of land as the building they are intended to serve or on a lot not more than three hundred (300) feet from the principal use.
7. The location of required off-street parking facilities for other than dwellings shall be within three hundred (300) feet of the building they are intended to serve, measured from the nearest point of the off-street parking facilities and the nearest point of the building or structure.
8. Nothing in this section shall be construed to prevent collective provisions of off-street parking facilities for two (2) or more buildings or uses, provided collectively, such facilities shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the table. Where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes, shall be properly drawn, and executed by the parties concerned, approved as to form and execution by the City Attorney and shall be filed with the Zoning Administrator.
9. Nothing in this section shall prevent the extension of, or an addition to a building or structure into an existing parking area which is required for the original building or structure when the same amount of space taken by the extension or addition is provided by an enlargement of the existing parking area or an additional area within three hundred (300) feet of such building.
10. Off-street parking space may be located within the required front yard of any "B" or "M" District, but no off-street parking shall be permitted in the required front yard of any "R" District except upon a driveway providing access to a garage, carport, or parking area for a dwelling.
11. The amount of required off-street parking space for new uses or building, additions thereto and additions to existing buildings as specified above, shall be determined in accordance with the following table and the space so required shall be irrevocably reserved for such use. In the case of any building, structure or premises, the use of which is not specifically mentioned herein, the provisions for a use which is so mentioned, and to which said use is similar shall apply as determined by the Planning Commission.

USE OF SPACE	REQUIRED PARKING
One- and two- family dwellings	Two (2) spaces per dwelling unit.
Mobile homes	Two (2) spaces per mobile home.
Multi-family dwellings	One and one-half (1 ½) spaces per dwelling unit.
Hotels, motels, boarding, and rooming houses	One (1) space for each dwelling or living unit plus one (1) space for owner and/or for each employee on duty at any one time.
Rest and nursing homes	One (1) space for each four (4) beds plus one (1) space for each two (2) employees.
Bowling alleys	Five (5) spaces per bowling lane.
Banks, clinics, business, governmental, and professional offices	Three (3) spaces plus one (1) additional space for every four hundred (400) square feet in excess of one thousand (1,000) square feet of gross floor area.
Restaurants, bars, places of entertainment, dance halls	One (1) space for each one hundred (100) square feet of floor area plus one (1) space for each two (2) employees.
Churches, theaters, auditoriums, community centers, or places of public assembly	One (1) space for each four (4) seats in the main assembly area.
Furniture and appliance stores, personal service shops (not including beauty or barber shops), household equipment or furniture repair shops, clothing, shoe repair or service shops, wholesale stores and machinery.	One (1) space for each five hundred (500) square feet of floor area.
Beauty parlors and barber shops	Two (2) spaces for each barber and/or beauty shop chair.
All retail stores, except as otherwise specified	One (1) space for each one hundred and fifty (150) square feet of floor area.
Schools: Elementary	One (1) space for each employee.
Secondary	One (1) space for each employee, plus one (1) space for each six (6) students, plus additional spaces to allow for adequate parking for events held in the auditorium and/or gymnasium.

Mortuaries or funeral homes	One (1) space for each fifty (50) square feet of floor space in the parlors or individual funeral service rooms.
Service garages, automobile salesrooms, automobile repair body shops, car wash	One (1) space for each two (2) of the maximum number of employees on duty at any one time plus one (1) space for each of the maximum number of salesmen on duty at any one time, one (1) space for each owner and/or manager on duty at any one time, two (2) spaces for each stall in a body shop, one (1) space for each stall or service area or wash rack in a servicing or repair shop, or three (3) spaces of the maximum capacity of the auto washing facility.
Industrial establishments, including manufacturing, research and testing labs, creameries, bottling works, printing and engraving shops, warehousing and storage buildings, feed mills and elevators, machine shops, and any similar productions processing, cleaning, servicing, testing, storage, and repair establishment.	Provide each establishment an improved area which shall be sufficient in size to provide adequate facilities for the parking of automobiles and other motor vehicles used by the firm or employees or persons doing business therein. Such space shall not be less than one (1) space for each two (2) employees computed based on the greatest number of persons to be employed during any one (1) period during the day or night.

1102.21 Parking and Storage of Certain Vehicles. Automobile vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings.

1102.22 Sewage Disposal and Water Supply. City sanitary sewer and water facilities shall be utilized wherever such facilities are available or can be made available by extensions which prove to be both feasible and economical and in the best interests of the city.

Where public facilities are unavailable, regardless of other provisions of this Ordinance, in all classifications and in all districts, there shall always be sufficient ground area left unoccupied by structures or paving for a proper system of sewage disposal and water supply conforming with the standards and requirements of the Minnesota Department of Health and Minnesota Pollution Control Agency. Plot plans accompanying building permit applications shall clearly show the proposed sewage disposal system and well location, if any. This provision shall not apply to temporary construction sites or portable units used in farming operations.

1102.23 Storage. Required storage areas for equipment, materials, stock, or sales items shall not be in the front yard setback area. Screening may be required where deemed necessary by the Zoning Administrator or the Planning Commission.

1102.24 Temporary Buildings. Subsequent to the adoption of the Ordinance:

1. It shall be unlawful for any person to erect or occupy a temporary dwelling on any lot or parcel of land in the city except that travel and motor homes and coaches can be used for such purposes for a period of not over four (4) weeks. Residing in

basement or foundation structures before the completion of the total structure shall not be permitted.

2. Temporary buildings including mobile homes or travel coaches used as an office, temporary residence or storage for security purposes shall be permitted at construction sites for other than one- or two-family residence.

1102.25 Visibility at Intersections. On a corner lot in any district except the B-1 Central Business District, no fence, wall, hedge, tree or other planting or structure that will obstruct vision forty-two (42) inches in height above the center line grade of the intersecting streets shall be erected, placed or maintained within the triangular area bounded by the lot lines and a line connecting points on each lot line forty (40) feet from the intersection of such lot lines.

1103.00 NON-CONFORMING LOTS, STRUCTURES, AND USES

1103.01 Perpetuation of Non-Conformities. Within the various districts established by this Ordinance or amendments that may later be adopted, there exists lots, structures and uses of land and structures which were lawful prior to the adoption of this Ordinance which would be prohibited, regulated, or restricted under the provisions of this Ordinance. It is the intent of this Ordinance to permit these non-conformities to continue until they are removed but not to encourage their survival. Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that such non-conformities shall not be enlarged upon, expanded, or extended.

1103.02 Non-Conforming Lots of Record or Substandard Lots. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance subject to the limitations imposed by other provisions of this Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width or both that are generally applicable in the district. However, yard dimensions and other requirements, not involving area or width or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of area, width and yard requirements shall be obtained only through action of the Board of Adjustments. If two or more lots of combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance and if all or part of the lots do not meet the requirements for lot width and area as established by this Ordinance, the land involved shall be considered to be an undivided parcel for the purpose of this Ordinance. No portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this Ordinance, nor shall any division of the parcel be made which leaves a remaining lot with width or area below the requirements stated in this Ordinance.

1103.03 Non-Conforming Uses of Land. Where, at the effective date of adoption or amendment of this Ordinance, there exists lawful use of land that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful subject to the following provisions:

1. No such non-conforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.

2. No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.
3. If any such non-conforming use of land ceases for any reason for a period of more than one (1) year, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.
4. When a non-conforming use is superseded by a conforming use, the non-conforming use shall not thereafter be resumed.

1103.04 Non-Conforming Structures. Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards 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.

1. No such structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
2. Should such structure be destroyed by any means to an extent of more than sixty (60) percent of its current appraised value, exclusive of the foundation, it shall not be reconstructed except in conformity with the provisions of this Ordinance. If less than sixty (60) percent damaged, exclusive of the foundation, it may be restored, reconstructed, or used as before, provided that it is done within twelve (12) months of such happening and that it be built of like or similar materials, or the architectural design and building materials are approved by the Planning Commission.
3. If the non-conforming structure is moved to another lot, it shall thereafter conform to the regulations for the district to which it is moved.

1103.05 Non-Conforming Uses of Structures. If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Ordinance that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:

1. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, 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.
2. Any non-conforming use may be extended throughout any part of a building which was originally arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
3. If no structural alterations are made, any non-conforming use of a structure and/or premises in combination may be changed to another non-conforming use provided that the Planning Commission, 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 than the existing non-conforming use. In permitting such a change, the Planning Commission may require appropriate conditions and safeguards in accordance with the provisions of this Ordinance.

4. Any structure or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall conform to the regulations for the district in which such structure is located and the non-conforming use may not be resumed.
5. When a non-conforming use of a structure or structure and premises in combination is discontinued for twelve (12) months, the structure and/or structure and premises shall not be used except in conformity with the regulations of the district in which it is located.
6. Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land. Destruction for the purpose of this subsection is defined as damage of any kind of more than sixty (60) percent, exclusive of the foundation, of its appraised value at the time of destruction.

1103.06 Uses Under Exception Provisions Not Non-Conforming Uses. Any use for which a special exception or conditional use is permitted as provided in this Ordinance shall not be deemed a non-conforming use, but shall, without further action, be deemed a conforming use in such district. This statement does not apply to changes as allowed by Planning Commission action from a non-conforming use to another use not generally permitted in the district (1103.05(3.)).

1103.07 Non-Conformities Created by Amendment. When a nonconformity in a structure or the use of land or a structure is created by an amendment to this Ordinance, the rights granted by this section to the continuance of non-conformities apply to non-conformities existing on the date of the amendment.

1103.08 Repairs and Maintenance. Any non-conforming structure or portion of a structure containing a non-conforming use may be maintained and improved by ordinary repairs or by repair or replacement of non-bearing walls, fixtures, wiring or plumbing if the cubic content existing when it became non-conforming is not increased. This Ordinance does not prevent the strengthening or restoring of any structure or part declared to be unsafe by order of an official charged with protecting the public safety.

1103.09 Registration of Non-Conforming Uses. The owner or operator of any use of land or use of a structure or use of land and structure in combination which shall become non-conforming on the effective date of this Ordinance shall complete and file with the Zoning Administrator, a non-conforming use registration form. This form shall include the following information:

1. Present use of property.
2. The nature or reasons for its nonconformity.
3. Present area of non-conforming structure.
4. Legal description of the parcel of land on which the nonconformity exists.
5. Owner of structure and property.

Such registration shall be done within thirty (30) days after notification by certified

mail by the Zoning Administrator.

1104.00 (RESERVED)

1105.00 CONDITIONAL USE PERMITS

1105.01 Conditional Uses. Any proposed conditional use permitted by the provisions of this Ordinance shall be submitted to the Planning Commission and the City Council for review and determination of its applicability to the district in which it is proposed.

1105.02 Procedure. The following procedure shall be followed for conditional use permit applications:

1. Application.

- (a) The applicant requests the proper form for a conditional use permit from the Zoning Administrator.
- (b) The application shall be filed with the Zoning Administrator accompanied by the fee as set by the City Council. The application shall contain the following information:
 - (1) The legal description and local address of the property.
 - (2) The names and addresses of the owners of all property within three hundred and fifty (350) feet of the property for which the conditional use permit is being applied.
 - (3) Detailed description of the proposed conditional use.
 - (4) Detailed plans of all buildings, roadways and any other structural or cultural improvements.
 - (5) A map showing the locations, dimensions, and use of all property within three hundred and fifty (350) feet of the applicant's property, including streets, alleys, railroads, and other physical and cultural features.
 - (6) A statement describing the reasons for the request of the conditional use permit.
 - (7) Other information or exhibits as required by the Planning Commission and City Council in making recommendations, determinations, and dispositions on the application.
 - (8) The legal description and local address of the property.
 - (9) The names and addresses of the owners of all property within three hundred and fifty (350) feet of the property for which the conditional use permit is being applied.
 - (10) Detailed description of the proposed conditional use.

- (11) Detailed plans of all buildings, roadways and any other structural or cultural improvements.
- (12) A map showing the locations, dimensions, and use of all property within three hundred and fifty (350) feet of the applicant's property, including streets, alleys, railroads, and other physical and cultural features.
- (13) A statement describing the reasons for the request of the conditional use permit.
- (14) Other information or exhibits as required by the Planning Commission and City Council in making recommendations, determinations, and dispositions on the application.

2. Application Processing.

- (a) Upon receipt of the application by the Zoning Administrator, a copy of the completed application and attachments shall be forwarded immediately to the Planning Commission.
- (b) The Planning Commission shall set the date for a public hearing for its next regular meeting and instruct the Zoning Administrator to give notice of time, place, and purpose of the public hearing in the following manner:
 - (1) Notify by mail all property owners within three hundred and fifty (350) feet of the property at least ten (10) days prior to the date of the public hearing.
 - (2) Give public notice in a newspaper of general circulation in the City at least ten (10) days prior to the public hearing.
 - (3) Notify the appropriate Township Board of Supervisors, County Planning Commission and other agencies as instructed or deemed necessary.
- (c) The Planning Commission or delegation thereof shall view the area being considered for a conditional use permit.

3. Public Hearing.

- (a) The Chairperson of the Planning Commission shall conduct the public hearing.
- (b) The applicant and/or his representative shall appear before the Planning Commission and answer any questions relative to the proposed conditional use permit.
- (c) An accurate record of all testimony shall be kept by the Secretary of the Planning Commission. This record shall include the names of all persons who participated in the meeting.

4. Recommendation.

- (a) The Planning Commission shall consider all possible adverse effects of the proposed conditional use permit and what, if any, additional requirements may be necessary to prevent such adverse effects.

- (b) The Planning Commission in considering an application for a conditional use permit, shall make findings on the following criteria and report these findings in its recommendation to the City Council:
 - (1) That the establishment, maintenance, or operation will not be detrimental to or endanger the public health, safety or general welfare and is not contrary to established standards, regulations, or ordinances of other governmental agencies.
 - (2) That each structure or improvement is so designed and constructed that it is not unsightly, undesirable or obnoxious in appearance to the extent that it will hinder the orderly and harmonious development of the City and of the district wherein proposed.
 - (3) That the use will not be substantially injurious to the permitted uses nor unduly restrict the enjoyment of other property in the immediate vicinity nor substantially diminish and impair property values within the area.
 - (4) That the establishment of the use will not impede the orderly and normal development and improvement of the surrounding property for uses permitted in the zoning district.
 - (5) That adequate water supply and sewage disposal facilities are provided and in accordance with applicable standards.
 - (6) That adequate access roads, on-site parking, on-site loading and unloading berths and drainage have been or will be provided.
 - (7) That adequate measures have been taken to provide ingress and egress so as to minimize traffic congestion on public roads.
 - (8) That the use will not be in major conflict with the Comprehensive City Plan.
 - (9) That the use will conform to all other applicable regulations as required in this Ordinance.
- (c) The Planning Commission shall make a decision and forward its report and recommendations to the City Council within forty-five (45) days from the date of the public hearing.

5. Decision.

- (a) Upon receipt of the report and recommendations from the Planning Commission, the City Council shall place the consideration of the application for a conditional use permit on the agenda for its next regular meeting.
- (b) The City Council shall make a decision on the application for a conditional use permit within forty-five (45) days after the regular Council meeting following the receipt of the report and recommendations from the Planning Commission.
- (c) The concurring vote of a majority of the full Council membership shall be necessary for the approval or denial of an application for a conditional use permit.
- (d) Decisions of the City Council shall immediately be filed and recorded with the City Clerk's office. Copies shall be sent to the applicant and/or their

representative.

- (1) The Council shall detail its reasons for denial or approval.
- (2) Upon approval of an application, the Council may impose any additional special conditions if considered necessary to protect the public health, safety, and welfare.

6. Issuance.

- (a) The Zoning Administrator shall issue a conditional use permit for a particular use on a particular tract of land.
- (b) The conditional use permit, if granted, shall also be recorded with the County Recorder, and become a part of the title to the property.
- (c) A conditional use permit shall become void one (1) year from the date of issuance if significant construction has not been undertaken or completed.

7. Appeal.

- (a) If the application for a conditional use permit is denied by the City Council, the decision may be appealed to the Board of Adjustments as provided for in this Ordinance.

1106.00 CHANGES AND AMENDMENTS

1106.01 Annual Review. The Planning Commission in cooperation with the Zoning Administrator shall at least once each year prepare and file with the City Council a report on the operations of the Zoning Ordinance as amended, including, when necessary, recommendations as to the enactment of amendments or supplements thereto. This report shall include, but need not be limited to, the study of the following:

1. Development of property uses.
2. Nature of population trends.
3. Commercial and industrial growth, both actual and prospective.
4. Affect upon the community as whole in view of the City's Comprehensive Plan and how the Ordinance has assisted in implementing the Plan.

1106.02 Changes and Amendments. The regulations, restrictions, districts, and boundaries set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed. No such action may be taken unless it shall have been proposed by or shall have been first submitted to the Planning Commission for review and recommendation.

1106.03 Procedure. The following procedure shall be followed by applicants for changes and amendments.

1. Application.

- (a) Applicant requests the proper form for the zoning amendment from the Zoning Administrator.
- (b) Application shall be filed with the Zoning Administrator accompanied by the

fee as set by the City Council. The application shall contain the following information:

- (1) The legal description and local address of the property.
- (2) The present zoning classification and the zoning classification requested for the property.
- (3) The existing use and proposed use of the property.
- (4) The names and addresses of the owners of all property within three hundred fifty (350) feet of the property for which the change is requested.
- (5) A statement of the reasons why the applicant believes the present zoning classification is no longer valid.
- (6) A map showing the locations, dimensions and use of the applicant's property and all property within three hundred fifty (350) feet thereof, including streets, alleys, railroads, and other physical features.
- (7) Other information or exhibits as required by the Planning Commission in making recommendations, determinations, and dispositions on the application.

2. Application Processing.

- (a) Upon receipt of the application by the Zoning Administrator, a copy of the completed application shall be forwarded immediately to the Planning Commission for study and recommendation.
- (b) The Planning Commission shall schedule a date for public hearing within forty-five (45) days of receipt of application and instruct the Zoning Administrator to give notice of time, place, and purpose of the public hearing in the following manner:
 - (1) Notify by mail all property owners within three hundred fifty (350) feet of the property at least ten (10) days prior to the date of the public hearing.
 - (2) Give public notice in a newspaper of general circulation in the City at least ten (10) days prior to the public hearing.
 - (3) Notify the appropriate Township Board of Supervisors, the County Planning Commission, and other agencies as instructed and deemed necessary.
- (c) The Planning Commission or delegation thereof shall view the area being considered by the application.

3. Public Hearing.

- (a) The Chairperson of the Planning Commission shall conduct the public hearing.
- (b) Any person with legitimate interest in the application may present his or her views to the Planning Commission either verbally or in writing.

- (c) An accurate record of all testimony shall be kept by the Secretary of the Planning Commission. This record shall include the names and addresses of all persons who participated in the meeting.

4. Recommendation.

- (a) The Planning Commission shall, prior to making a recommendation, consider the following:
 - (1) All relevant facts and findings brought out in public hearings.
 - (2) Physical inspection of property in question by all members or a delegation of members of the Planning Commission.
 - (3) The following items should be considered in reaching a decision:
 - Would the granting of the rezoning request conform to the presently accepted future land use plans for the City as well as present land uses?
 - Is it in the community's best interest for additional land space to be zoned to the class requested?
 - If it is the community's best interest for additional land to be zoned as requested, should the rezoning be done in areas requested or would the community's interest be better served if the rezoning were done in other areas of the City?
 - Would the granting of the rezoning request adversely affect property values of adjacent landowners to an unreasonable degree?
 - If the request was granted, what additional public services would be required.
 - Is the capacity of existing roads and sewer and water facilities sufficient to accommodate this proposal?
 - Was there an error or oversight in preparing the original zoning map which indicates that this zoning should have been included at that time?
 - Is this change beneficial to the community or is it merely a convenience to the applicant?
- (b) The Planning Commission shall make a decision and forward its report and recommendations to the City Council within forty-five (45) days from the date of the public hearing.

5. Decision.

- (a) Upon receipt of the report and recommendations of the Planning Commission, the City Council shall place consideration of the application for a zoning amendment or change on the agenda for its next regular meeting.
- (b) The City Council shall make a decision on the application for a zoning

amendment or change within forty-five (45) days after the regular Council meeting following the report and recommendations from the Planning Commission.

- (c) The concurring vote of a majority of the full Council membership shall be necessary for the approval or denial of an application for a zoning amendment or change.

6. Approval.

- (a) The City Council officially adopts the Ordinance change.
- (b) The Zoning Administrator shall forward a certified copy to the County Recorder and make map and/or Ordinance changes.

7. Denial.

- (a) If the application is denied by the City Council, a period of not less than one (1) year is required between presentation of the same petition for a change or amendment applying to a specific piece of property unless there has been a substantial change of facts.

8. Appeal.

- (a) If the application for amendment or change is denied by the City Council, the decision may be appealed to the Board of Adjustments as provided for in this Ordinance.

1107.00 ADMINISTRATION, PERMITS, AND FEES

1107.01 Zoning Administrator Duties. The City Council shall appoint a Zoning Administrator. It shall be the duty of the Zoning Administrator to:

1. Administer the requirements of this Ordinance for land use permits and issue or deny each application in accordance with the provisions of this Ordinance.
2. To publish and attend to the service of all notices required under the provisions of this Ordinance.
3. Receive, file and forward applications for appeals, variances, conditional use permits, amendments, or other action to the appropriate official bodies.
4. Maintain permanent and current records pertaining to this Ordinance including but not limited to maps, amendments, conditional uses, variances, appeals and applications.
5. Make recommendations to the City Council, Planning Commission and Board of Adjustments as necessitated by this Ordinance.

1107.02 Land Use Permits Required. No building or structure shall be erected, reconstructed, moved, or structurally altered to increase the exterior dimensions, height, or floor area;

or remodel to increase the number of dwellings or accommodate a change in use of the building and/or premises or part thereof without a land use permit issued by the Zoning Administrator or other authorized official. No land use permit shall be issued by the administrative official except in conformity with the provisions of this Ordinance unless he receives a written order from the Board of Adjustments, Planning Commission or City Council dependent on the form of administrative review, special exception, variance, or conditional use as provided by this Ordinance.

- 1107.03 Land Use Permit Application.** All applications for land use permits shall be accompanied by the fee as set by the City Council and shall be made in duplicate on forms furnished by the Zoning Administrator.
- 1107.04 Compliance Required.** The Zoning Administrator shall examine all applications for land use permits and the necessary site plan to determine whether the proposed construction, alteration, extension, repair, and proposed use shall comply with the provisions of this Ordinance. Upon examination, a land use permit shall be issued or denied.
- 1107.05 Approval or Denial of Land Use Permit.** Upon approval or denial, the Zoning Administrator shall attest to the same by his signature on the land use permit. If the land use permit is approved, one (1) copy shall be returned to the applicant and one (1) copy shall be retained by the Zoning Administrator. If the land use permit is denied, the Zoning Administrator shall, in addition to the above, notify the applicant with a memorandum stating the reason for denial of the land use permit.
- 1107.06 Expiration.** A land use permit shall become void if the work described therein has not begun within ninety (90) days from the date of issuance. If the work described in any land use permit has not been substantially completed within two (2) years of the date of issuance, said permit shall expire and be canceled by the Zoning Administrator. Further work shall not proceed unless and until a new land use permit has been obtained.
- 1107.07 Construction and Use to Be Same As Application and Plans.** Land use permits issued based on plans and applications approved by the Zoning Administrator authorize only that use, arrangement and construction set forth in such approved site plan and applications and for no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance and punishable as provided herein.
- 1107.08 Violations.** If it is found that any of the provisions of this Ordinance are being violated, it shall be the duty of the Zoning Administrator to take the following action:
1. Document the violation in writing, with photographs, historical records, and dates of information.
 2. Notify in writing the person responsible for such violations indicating the nature of the violation and outlining action necessary to correct it.
 3. Order the discontinuance of illegal use of land, buildings, or structures.
 4. Order the removal of illegal buildings or structures or of illegal additions, alterations, or structural changes.
 5. Order discontinuance of any illegal work being done.
 6. Take any other action authorized by this Ordinance to ensure compliance with or

to prevent violations of its provisions.

1107.09 Appeal. It is the intent of this Ordinance that all questions of interpretation and enforcement shall first be presented to the Zoning Administrator, and that such questions shall be presented to the Board of Adjustments only on appeal from the decision of the Zoning Administrator.

1107.10 Fees. The City Council shall establish a schedule of fees, charges and expenses and a collection procedure for land use permits, appeals, amendments, conditional uses, variances, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the Zoning Administrator and may be altered or amended only by the City Council. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

1108.00 CITY COUNCIL

1108.01 Powers and Duties. It is the intent of this Ordinance that the duties of the City Council shall include the following:

1. Review formulation and adoption of this Ordinance and applicable maps as empowered by the Minnesota Statutes 1974, 462.357, Subdivision 2 as amended.
2. Appoint members to and delegate certain powers and duties to the City Planning Commission, Board of Adjustments and Zoning Administrator for the purpose of implementing and enforcing the requirements of this Ordinance in a fair, conscientious, and intelligent manner.
3. Review all applications for changes and amendments and make disposition of applications as provided in this Ordinance.
4. Review all applications for conditional use permits, hear and make disposition of applications as provided in this Ordinance.
5. Establish a schedule of fees and charges relating to this Ordinance.
6. The duties of the City Council in connection with this Ordinance shall not include hearing and deciding questions of interpretation and enforcement which may arise.

1108.02 Decisions. All actions and recommendations of the City Council pertaining to this Ordinance shall require the vote of a majority of the members of the Full Council.

1109.00 CITY PLANNING COMMISSION

1109.01 Powers and Duties. It is the intent of this Ordinance that the duties of the City Planning Commission shall include the following:

1. Review all applications for appeals and variances to this Ordinance and report the findings and recommendations to the Board of Adjustments as provided in this Ordinance.
2. Review or initiate applications for amendments and changes to this Ordinance and report the findings and recommendations to the City Council as provided in this

Ordinance.

3. Review all applications for conditional use permits and report the findings and recommendations to the City Council as provided in this Ordinance.
4. Prepare, in cooperation with the Zoning Administrator, an annual review related to the effectiveness of this Ordinance as provided in this Ordinance.

1109.02 Decisions. All actions and recommendations of the City Planning Commission pertaining to this Ordinance shall require the vote of a majority of the members of the entire Commission.

1110.00 BOARD OF ADJUSTMENTS

1110.01 Establishment. A Board of Adjustments is hereby established for the purpose of hearing appeals and granting variances under the provisions of this Ordinance in harmony with the purpose and intent of this Ordinance.

1110.02 Membership and Organization. The Board of Adjustments shall consist of three (3) members appointed by the City Council for a term of three (3) years except that when the Board is first created one (1) member shall be appointed for a term of three (3) years, one (1) for a term of two (2) years and one (1) for a term of one (1) year. Vacancies for non-expired terms shall be filled by the City Council. Members shall serve at the pleasure of the City Council.

1. Membership shall consist of one (1) member of the Planning Commission and two (2) citizens-at-large.
2. Terms shall be for staggered three (3) year periods.
3. Members of the Board shall reside within the incorporated limits of the City.
4. A Chairperson shall be chosen by the Board and shall serve for a period of one (1) year. A Vice Chairperson shall also be chosen in the same manner, and for the same term, serving in the absence of the Chairperson.
5. The Zoning Administrator shall attend all meetings to provide technical assistance when requested and to serve as Secretary and record all proceedings.
6. The Secretary shall conduct all necessary correspondence of the Board and shall generally supervise all clerical work of the Board including minutes of the Board meetings.

1110.03 Rules. The Board of Adjustments shall conduct business in accordance with rules and procedures currently used by the City Council with regard to quorum and record keeping.

1110.04 Powers and Duties. The Board of Adjustments shall have the following powers and duties with regard to this Ordinance:

1. **Appeals** - To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator, Planning Commission or City Council in the enforcement and interpretation of this Ordinance.

2. **Variances** - To authorize upon appeal in specific cases such variances from the terms of this Ordinance as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship.

As used in this Ordinance, a variance is authorized only for height, area and size of structure or size of yards and open spaces. Under no circumstances shall a variance be granted to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district. The presence of non-conformities in the district or uses in an adjoining district shall not be considered as grounds for a variance.

1110.05 Procedure. The following procedure shall be followed for appeals and applications for variances:

1. **Application.**

- (c) **Appeal** - An appeal may be taken by any aggrieved person or by any City officer, department, board, or commission. Such an appeal shall be filed within thirty (30) calendar days after the date of the decision or determination of the Zoning Administrator, Planning Commission or City Council being appealed. The appeal shall be made in the following manner:

- (1) The applicant requests the proper form from the Zoning Administrator.
- (2) The applicant shall be filed with the Zoning Administrator accompanied by the fee as set by the City Council. The application shall contain the following information:
 - The applicant's name, address, and phone number.
 - The section of the Zoning Ordinance in question.
 - What is the nature of the difficulty encountered with the Zoning Ordinance?
 - In what manner is it believed that an error in action, determination, or decision has occurred?

- (d) **Variance** - A variance from the terms of this Ordinance shall not be granted by the Board of Adjustments unless and until a written application for a variance is submitted in the following manner:

- (1) The applicant requests the proper form for a variance from the Zoning Administrator.
- (2) The application shall be filed with the Zoning Administrator accompanied by the fee as set by the City Council. The application shall contain the following information:
 - Applicant's name and address.
 - Legal description and local address of the property.
 - A map showing the locations, dimensions, and use of the applicant's

property within three hundred fifty (350) feet thereof including streets, alleys, railroads, and other physical and cultural features.

- Statement of what is intended to be done on/or with the property which does not conform with this Ordinance.

(3) The following requirements shall be addressed within the application:

- That there are exceptional or extraordinary circumstances or conditions which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district.
- That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
- That the authorizing of such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this Ordinance or the public interest.
- That the condition or situation of the specific piece of property, or the intended use of said property for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situations.
- That the special conditions and circumstances do not result from the actions of the applicant.

2. Application Processing.

- (a) Upon receipt of the application by the Zoning Administrator, a copy of the completed application (appeal or variance) shall be forwarded immediately to the Board of Adjustments.
- (b) In the case of an application to the Board for the granting of a variance, the Board shall set the date for a public hearing within thirty (30) days from the submittal date of the application. The Zoning Administrator shall be instructed to give notice of time, place, and purpose of the public hearing in the following manner:
 - (1) Notify by mail all property owners within three hundred fifty (350) feet of the property at least ten (10) days prior to the date of the public hearing.
 - (2) Give public notice in a newspaper of general circulation at least ten (10) days prior to the public hearing.
 - (3) Notify the appropriate Township Board of Supervisors, County Planning Commission and other agencies as instructed or deemed necessary.
- (c) In the case of an appeal, all proceedings in furtherance of the action appealed are stayed, unless the Zoning Administrator certifies to the Board of Adjustments after the application for appeal is filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life and property.

3. Public Hearing.

- (a) The Chairperson of the Board of Adjustments shall conduct the public hearing.
- (b) The applicant and/or his representative shall appear before the Board of Adjustments and answer any question relative to the application for variance.
- (c) An accurate record of all testimony shall be kept by the Secretary of the Board of Adjustments. This record shall include the names of all persons who participated in the meeting.

4. Decision.

- (a) In the case of an appeal, the Board of Adjustments shall adopt a resolution stating its interpretation and determination of the provisions of this Ordinance being appealed through the application.
- (b) In the case of an application for a variance, the Board of Adjustments shall make a finding that the reasons set forth in the application justify the granting of the variance is the minimum variance that will make possible the reasonable use of the land, building or structure. The Board of Adjustment may further attach any conditions to the grant of the variance as it shall determine is necessary and desirable to bring it within the purpose and intent of this Ordinance. Violations of such conditions shall be deemed a violation of this Ordinance and punishable hereunder.
- (c) The Board of Adjustments shall make a decision on the application within one hundred (100) days of receipt of the application. Such decision shall show the reasons for the determination and may reverse or affirm, wholly or in part, or may modify the order or determination appealed from. Such decision shall also state in detail, in the case of variances, any exceptional difficulty or unusual hardships upon which the appeal was based and which the Board found present. The decision shall also state in detail what, if any, conditions, and safeguards are required.
- (d) The concurring vote of a majority of the members of the Board of Adjustments shall be necessary for the approval or denial of an application for appeal or variance.
- (e) Decisions of the Board of Adjustments shall immediately be filed and recorded with the City Clerk's office. Copies shall be sent to the applicant and/or his representative.

5. Issuance.

- (a) The Zoning Administrator shall issue a variance or modify the order or determination appealed from a particular person for a particular purpose.
- (b) Unless otherwise stated in the decision, any order or decision of the Board of Adjustments shall become void if significant construction has not been undertaken or completed within twelve (12) months.

6. Rehearing.

- (a) An application for a rehearing shall be made in the same manner as for an

original hearing. The application for a rehearing shall be denied by the Board if from the record it shall appear that there has been no substantial change in facts, evidence, or condition.

7. Appeal.

- (a) If the application for appeal or variance is denied by the Board of Adjustments, the decision may be appealed to a Court of Record in the manner provided by the laws of the State of Minnesota.

1111.00 VIOLATION, PENALTIES, CLAIMS, CONFLICTS OF LAW, AND SEVERABILITY

1111.01 Compliance Required. It shall be the duty of all architects, contractors, subcontractors, builders, and other persons having charge of the erecting, altering, changing, or remodeling of any building or structure including mobile homes, before beginning or undertaking any such work, to see that such work does not conflict with is not in violation of the terms of this Ordinance. Any such architect, builder, contractor, or other person doing or performing any such work of erecting, repairing, altering, changing or remodeling and in violation of, or in conflict with the terms of this Ordinance, shall be deemed guilty of a violation hereof in the manner and to the same extent as the owner of the premises or the person or persons for whom such buildings are erected, repaired, altered, changed or remodeled in violation hereof and shall be held accountable for such violation.

1111.02 Violations. Any building or structure being erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or site hereafter erected or maintained, or land use made or permitted in violation of this Ordinance, is hereby declared unlawful. In the event of violation or threatened violation of this Ordinance or other official control adopted under Minnesota Statutes 394.21 to 394.37, in addition to other remedies, the City Council or any member thereof may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violation or threatened violations and it is the duty of the City Attorney to institute such actions.

1111.03 Penalties. Any person, firm, corporation, or entity who violates any of the provisions of this Ordinance or any order of the Zoning Administrator issued in accordance with this Ordinance shall be guilty of a misdemeanor and upon conviction be punished by the fullest extent of the law plus the costs of prosecution. Each day that a violation is committed, or permitted to exist shall constitute a separate offense. The imposition of any fine or sentence shall not exempt the offender from compliance with the requirements of this Ordinance, and the City may pursue, by appropriate actions or proceedings, any or all additional remedies.

1111.04 Relief from Personal Responsibility. Any claim based upon an act or omission of an officer or employee exercising due care in the execution of any valid or invalid portions of this Ordinance and any claim based upon the performance of the failure to exercise or perform a discretionary function or duty whether or not the discretion is abused, are hereby enumerated as exceptions to Minnesota Statutes 1967, Section 466.01 and said Section does not apply. The City shall defend, save harmless and indemnify any of its officers or employees whether elective or appointed, against any tort claim or demand whether groundless or otherwise arising out of an alleged act or omission occurring in the performance of duty in the enforcement and administration of this Zoning Ordinance except as provided in Minnesota Statutes 1967, Section

466.07.

1111.05 Conflicts of Law. Whenever any provision of this Ordinance establishes higher standards than are imposed or required by existing provision of the laws of the State of Minnesota or any ordinance of regulation of the city, the provisions of this Ordinance shall apply. Where the provision of state law or other city regulations or ordinances set high standards than those of this Ordinance, the provisions of said laws and regulations shall apply.

1111.06 Severability. This Ordinance and the various articles, sections, paragraphs, sentences, and clauses herein are hereby declared to be severable. Should any of the contents or provisions of this Ordinance be declared by the courts to be unconstitutional or invalid, the decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than that part declared to be unconstitutional or invalid.

1112.00 SITE PLAN

1112.01 Exempt Uses. The following shall be exempt from use and shall not have to comply with the site plan requirements described herein.

1. Single or two-family dwellings except when included in planned unit developments.
2. Mobile homes where all other requirements of the Ordinance have been met.
3. Temporary uses (not to exceed six (6) months) of land different from its existing state.

1112.02 Site Plan Required. All planned buildings and/or structures or uses of land unless exempted, whether they be new, substantially changed, converted, or reconstructed, must secure approval of a site plan from the Planning Commission. No land use permit shall be issued prior to approval of the site plan.

1112.03 Procedure. The following procedure shall be followed in the preparation of site plans.

1. **Preparation.**

- (e) The person, developer, contractor, or builder shall be responsible for preparation of the site plan.
- (f) The site plan shall contain the following information as is pertinent to the proposed use of the land.
 - (1) Name and address of the developer and property owner.
 - (2) Small key (location) map.
 - (3) Zoning classification of the land and names of adjoining landowners and zoning classification of adjacent lands.
 - (4) Proposed buildings and/or land use.
 - (5) Area of land in square feet.

(6) Survey and engineering information including distances with angles, bearings, lengths and legal description of property involved shall be shown on drawings at a scale not to exceed one (1) inch equaling fifty (50) feet and including the following information:

- Proposed buildings with location dimensions, building area, and height.
- Distance on all sides between buildings and property lines and between buildings.
- Location, dimensions, and area of existing buildings not to be razed.
- Existing and proposed contours or spot grades at no more than two (2) foot intervals.
- Drainage design for roof areas, parking lots and driveways showing area for or method of disposal of surface run-off waters.
- Existing and proposed street curb cut radii and curb cut width.
- Limits and location of proposed or existing streets, cartways, curbs, curbs, sidewalks, easements, and right-of-way.
- Location, size, and elevation of proposed or existing sanitary sewerage facilities, storm sewers, catch basins and drywells.
- The location and approximate diameter of proposed or existing trees and other woody stemmed plantings together with the common names of the plantings.
- Limits and location of plantings or physical structures designed for screening.
- Limits, location, and size of retaining walls and the type of material to be used in construction.
- Limits and location of parking lots, driveways, parking bays, outside storage, burning rubbish and garbage areas, loading, and unloading areas and surfacing and screening thereof.
- Directions of vehicular traffic flow to, from and within the area, together with traffic control signs and markings.
- Locations, height, candle power and type of all outside lighting including street lighting and sign lighting.
- Locations, size, height, and overall dimensions of outside signs.
- Such other or different information as may be required by the design standards set forth hereinafter or as required elsewhere in this Ordinance.

(g) The following general principle of design shall be incorporated into the site plan.

(1) Landscaping.

- All front yards shall be landscaped to soften the effect the building creates at ground level.
- Existing trees shall be preserved where possible.
- Surface denuded of vegetation shall be seeded or sodded to prevent soil erosion.

(2) Light Glare from Vehicles.

- When a building, parking lot or driveway adjoins or is within two hundred (200) feet of a residential area, provision shall be made to screen all vehicle lights so as to curtail direct illumination of the residential area. Screening provided on the land may be provided by the use of closely spaced evergreen trees, shrubs or physical structures which will harmonize with the developed use of the land and with the residential area.
- Vehicle lights need not be screened on that portion of a site bounded by and parallel to a street.

(3) Surface Water, Sewage Disposal, and Erosion Control.

- Storm water and sanitary sewage systems shall be laid out by a professional engineer.
- Run-off water from parking lots, roofs and driveways shall not be allowed to cross sidewalks or to run onto private property that is not a part of the site unless easements have been obtained.
- Surface run-off waters shall be directed into municipal facilities where such facilities are available. Where municipal facilities are not available, a drywell or drainage area owned or controlled by the owner or developer shall be provided.
- Sanitary sewage shall be directed into municipal facilities where such facilities are available. Where municipal facilities are not available, other disposal methods approved by the Planning Commission may be used.
- Retaining walls shall be constructed where necessary for land stabilization.

(4) Parking Lots.

- Parking lots shall be designed to avoid creating large open expanses.
- Parking lots shall be designed to avoid the problem of vehicles backing onto streets, alleys, and sidewalks.
- Vehicular traffic flow to, from and within land containing a parking lot shall be controlled by appropriate traffic control signs and surface markings.

- Adequate provisions shall be made for vehicular ingress and egress.
- Provisions curb cut widths shall be kept to a minimum consistent with vehicular and pedestrian safety. Curb cut radii shall allow safe ingress and egress of vehicles from and to the proper lane of traffic on the street which they adjoin. Existing curb cuts and curb radii shall be used only if they comply with appropriate standards for proposed curb cuts and curb cut radii.

(5) Parking Lot Lighting.

- A parking lot shall be lit for vehicular and pedestrian safety.

2. Processing.

- (a) At least three (3) copies of the complete site plan shall be filed with the Zoning Administrator.
- (b) The Zoning Administrator shall forward the site plan to the Planning Commission and to applicable reviewing agencies as instructed by the Planning Commission.
- (c) The Planning Commission or a delegation thereof shall view the area being considered within the site plan.

3. Decision.

- (a) The Planning Commission shall review the site plan and any written comments from reviewing agencies and recommend notification as necessary within forty-five (45) days from the time it is filled.
- (b) Decisions and recommendations of the Planning Commission shall be filed and recorded with the City Clerk's office. Copies shall be sent to the applicant and/or his representative.

4. Issuance.

- (a) Subsequent to Planning Commission approval, the Zoning Administrator shall be instructed to issue a land use permit, providing that all other provisions of this Ordinance have been met.

5. Compliance Required.

- (a) It shall be the duty of the Zoning Administrator to ensure that the approved site plan is followed by the owner and/or developer.
- (b) The land area of a site developed pursuant to an approved site plan shall not thereafter be reduced in size, and no departure from the approved site plan shall be made without the express written permission of the Planning Commission. The procedure for review and approval or disapproval of changes shall be the same as for the initial application.
- (c) No building or site shall be used or occupied until all requirements and provisions of this Ordinance and any special conditions as provided by this

Article have been complied with.

6. **Appeal.**

- (a) If the site plan applicant is denied a land use permit by the Planning Commission, the decision may be appealed to the Board of Adjustments. The Board of Adjustments may grant a variance from the provisions of this Article only when all other requirements for the granting of a variance have been met.

1112.04 Bonds. The City may require performance bonds in amounts adequate to insure that the development proposed in the plan submitted is actually completed.

1113.00 MOBILE HOME PARKS

1113.01 Mobile Home Park Permit Required. It shall be unlawful for any person to establish, maintain or operate a mobile home park or the facilities therein unless such person shall first procure a permit from the City. Compliance with the provisions of this Ordinance is necessary to obtain said permit.

1113.02 Procedure. The following procedure shall be followed for mobile home park permit application.

1. Application.

- (a) An application for a mobile home park permit shall be filed with the Zoning Administrator and shall contain the following information:

(1) Name and address of developer and landowner.

(2) Location and legal description of the proposed park property.

(3) Survey and engineering information including distances with angles, bearings, lengths, and legal descriptions of property involved. This shall be shown on drawings not to exceed one (1) inch equally fifty (50) feet and including the following information:

- Location and size of the mobile home park.

- Location and size of each mobile home lot with dimensions and boundary lines.

- Limits and location of proposed or existing streets, cartways, curbs, driveways, sidewalks, easements, and rights-of-way.

- Location of off-street parking facilities.

- Plans for sanitary sewer collection, water systems, and storm water drainage system.

- Plans for electrical services, telephone services, fuel systems, and garbage collection.

- Detailed landscaping plans and specifications.
- Location and construction plans for park structures such as auxiliary sanitary facilities, laundries, and utility buildings.
- Location of required park and/or recreation site including type of equipment.
- Other information may be requested by the Zoning Administrator to enable him to determine if the proposed park will comply with all legal requirements including this Ordinance.

(b) The following general design requirements shall be incorporated into the mobile home park site plan.

(1) General Location and Size.

- Each mobile home park shall comply with applicable ordinances and codes of the City and the laws of the State of Minnesota. The developed shall provide evidence that the plans have been approved by the Minnesota Department of Health before the mobile home park permit will be issued.
- The park shall be located on a well-drained site suitable for the purpose.
- Each mobile home park shall have frontage to and access to a public street which is deemed adequate to serve the anticipated traffic needs of the park.

(2) Roads and Parking.

- Each mobile home park shall contain all-weather hard surfaced interior roadways free from dust and mud and includes adequate provisions for surface drainage. This requirement shall be applicable no later than one (1) year following the initial construction of said interior private roadways. Such streets shall be private streets.
- An adequate entrance road of twenty-four (24) foot pavement width constructed to the municipality's street or road specifications capable of handling heavy service vehicles such as fire and garbage trucks without injury to surface or base.
- Interior roads shall be not less than twenty-four (24) feet in width for two (2) lane roads where no parking is desired. Eight (8) feet of additional width shall be required per each side where roadside parking is desired.
- Off-street (or road) parking for the mobile home park shall be provided in the ration of two (2) spaces per mobile home unit with an all-weather, permanent, hard surfaced area for each home site.
- Provisions shall be made for each home site to have access on an approved roadway.

- Streets approved for dedication to the City shall be constructed in accordance with applicable City standards.

(3) Bulk and Space Requirements.

- Each mobile home space shall have a minimum area of forty-five hundred (4,500) square feet exclusive of roadways and common space.
- Each mobile home space shall have a minimum width of not less than forty-five (45) feet.
- No mobile home shall be placed closer than thirty (30) feet to any adjacent mobile home.
- No mobile home shall be located closer than twenty (20) feet to the traveled portion of an interior street.
- No mobile home shall be placed closer than five (5) feet from the side lot line, closer than five (5) feet from the rear lot line.
- No building or structure hereafter erected or altered in a mobile home park shall exceed twenty-five (25) feet or one and one-half (1 ½) stories in height.
- No mobile home shall be located nearer than twenty (20) feet to any property line of the mobile home park and adjacent properties.
- The occupied area of a home site shall not exceed seventy-five (75) percent of the total area of the site.

(4) Utilities and Essential Services.

- Each mobile home park shall be served by a sanitary sewer system as provided by this Ordinance.
- Each mobile home park shall be served by a central water supply system as provided by this Ordinance and shall include fire hydrants located in accordance with generally accepted practices.
- Each mobile home park shall be served by a central fuel source metered to the individual home sites.
- All electrical and telephone or any other cable service shall be underground facilities.

(5) Landscaping and Parks.

- A boundary of fifteen (15) feet around the entire park site shall be provided. This boundary area shall be landscaped and screened as may be required by the Planning Commission.
- The front yard of each site shall be landscaped except for driveways and parking needs.
- Landscaping shall provide for at least one (1) tree on each mobile

home site.

- At least five (5) percent, with a minimum of ten thousand (10,000) square feet and the land area within each mobile home park shall be designed for development into a park or recreational space. Such space shall be of appropriate design and provided with appropriate equipment and maintained by the owner of the owner of the mobile home park.
- Additional requirements as to screening, landscaping, and space reserved for recreation and playground may be required by the Planning Commission for proper development and protection of the mobile home park's occupants and that of the surrounding area.

2. Processing.

- (a) At least three (3) copies of the application and mobile home park site plan shall be filed with the Zoning Administrator.
- (b) The Zoning Administrator shall forward the application and mobile home site plan to the Planning Commission and to other agencies as deemed necessary.
- (c) The City Council shall consider the application in accordance with its procedures for acting on conditional use permits as provided in this Ordinance.

3. Permit Issuance.

- (a) Upon approval of the application by the City Council, the Zoning Administrator shall be instructed to issue a mobile home park permit.

1113.03 Additional Regulations. The following additional regulations shall apply to mobile homes and mobile home parks.

1. Except as may be authorized by general traffic and parking regulations or ordinances, no person shall park or occupy any mobile home on any premises in any district outside an approved mobile home park. The parking or storage of a recreational camping vehicle in an accessory private garage building or in a rear yard in any district shall be permitted provided no permanent living quarters shall be maintained or business is conducted in such vehicle while so parked or stored.
2. No commercial operation shall be conducted within the park other than those necessary to the operation thereof. A common laundering facility is an allowed use. Commercial sales lots for mobile homes are prohibited within the mobile home park.
3. Any enlargement or extension to any existing mobile home park shall require application for a permit as if it were a new establishment.
4. A request for transfer of the permit shall be treated in the same manner as an original application for a permit.
5. No additions, buildings or other structures shall be attached to a mobile home without a land use permit and approval of the park operator.
 - (a) Such additions shall not encroach upon the setbacks herein provided.

- (b) The City reserves the right to regulate such additions if the park fails to control this aspect of park management as concerns the general welfare of the park inhabitants and the City.
- 6. Each mobile home shall be properly anchored according to accepted standards to resist damaging movement by wind or storm.
- 7. Skirting for mobile homes is required and shall be in accordance with the decor of the mobile home and in good repair. Each mobile home shall be parked upon a jack or block approved by the mobile home park operator.
- 8. One accessory building not to exceed one hundred (100) square feet in floor area shall be allowed for each mobile home space. Accessory buildings shall be located within the rear yard five (5) feet from lot lines.
- 9. In addition to the foregoing, the Planning Commission may impose such other conditions, requirements or limitations concerning the design, development, and operation of each mobile home park as it may deem necessary for the protection of adjacent properties and the public interest.

1114.00 AG – AGRICULTURAL DISTRICT

1114.01 Purpose. The AG Agricultural District is intended to preserve for a limited time those lands devoted to agricultural enterprises located within the City where urban expansion is planned to take place. In this manner, conflicts between agricultural and nonagricultural land uses shall be minimized. Its effect is to restrict and control the infiltration of urban development into areas generally devoted to agriculture until the City Council determines that it is financially and economically feasible to provide public services and facilities, thereby promoting orderly urban development. It is intended that the status of all areas in this district be reviewed by the Planning Commission no less frequently than every five (5) years in order to determine whether, in light of current land development trends, there should be a transfer of all or any part of such areas to some other appropriate use district. Any such review shall be considered in relation to the land use plan in addition to the need for permitting other uses on such land, the nature of the use or uses to be permitted, the cost and availability of the public services and facilities which will be necessitated by such new use or uses.

1114.02 Permitted Uses. The following uses shall be permitted in the Ag Agricultural District.

- 1. Agricultural activity including:
 - (a) Field crops.
 - (b) Livestock.
 - (c) Nurseries and greenhouses.
 - (d) Orchards.
 - (e) Agricultural buildings.
- 2. Game refuge areas.

3. Publicly owned parks, playgrounds, and community buildings.
4. Single-family residence for resident landowners, their children and laborers engaged in permitted agricultural activity.
5. Home occupations.
6. Accessory buildings or structures and uses customarily incidental to any of the above listed uses when located on the same property.
7. Solar energy systems.

(Amended by Ord. 2018-02, passed 1-8-2018)

1114.03 Conditional Uses. The following uses may be permitted in the AG Agricultural District upon approval of the City Council.

1. Churches, chapels, and similar places of worship.
2. Public schools and similar private education institutions.
3. Nursing homes.
4. Public utility buildings such as substations, transformer stations and regulator stations without storage yards.
5. Cemeteries.
6. Day care or nursery school.
7. Temporary produce stands on premises used for agricultural purposes provided there is adequate off-street parking.
8. Commercial radio, television and telephone towers and transmitters.
9. Accessory buildings, structures, and uses customarily incidental to any of the above listed uses when located on the same property.

1114.04 Bulk Regulations. The following requirements shall be observed:

1. Lot Area, Width, and Yard Requirements.

Use	Lot Area (sq. ft.)	Lot Width	Yard		
			Front	Side	Rear
Single-Family Dwelling	30,000	150'	30'	25'	50'
Other Uses	100,000	300'	50'	50'	50'

2. **Height Restrictions.** The following height restrictions shall be observed.
 - (f) No residential building hereafter erected or altered shall exceed twenty-five (25) feet or two (2) stories in height.
 - (g) Public or semipublic buildings, churches, schools, nursing homes, and similar uses may be erected to a height of fifty-five (5) feet.

- (h) Agricultural uses and accessory buildings shall be exempted from height requirements.

1115.00 R-1 RESIDENTIAL DISTRICT

1115.01 Purpose. The R-1 District is intended to provide for low density residential development with a limited number of institutional and recreational uses permitted. The district is designed to protect residential areas now developed and to regulate the efficient use and orderly development of vacant land designated for residential uses. It is essential that areas be designated, and regulations imposed for various kinds of residential developments in order that the City can plan ahead for services, future schools, parks, streets and utilities. The regulations are designed to promote a suitable environment for family life. Recreational and institutional uses which are compatible with residential areas are also permitted on parcels of adequate size to allow required parking and building needs.

1115.02 Permitted Uses. The following uses shall be permitted in the R-1 Residential Districts:

1. Single-family detached buildings.
2. Attached duplex.
3. Publicly owned parks, playgrounds, and community buildings.
4. Home occupations.
5. Accessory buildings or structures and uses customarily incidental to any of the above listed uses when located on the same property.

1115.03 Conditional Uses. The following uses may be permitted in the R-1 Residential District upon approval of the City Council.

1. Multiple family dwellings of three (3) units or more.
2. Churches, chapels, and similar places of worship.
3. Public schools and similar private education institutions.
4. Hospitals, nursing, rest, or convalescent homes.
5. Public utility buildings such as substations, transformer stations and regular stations without storage yards.
6. Day care or nursery schools.
7. Boarding and rooming house for up to four (4) persons.
8. Funeral homes.
9. Accessory buildings, structures, and uses customarily incidental to any of the above listed uses when located on the same property.
10. Mobile home parks.

11. Solar energy systems.

(Amended by Ord. 2018-02, passed 1-8-2018)

1115.04 Bulk Regulations. The following minimum requirements shall be observed:

1. Lot Area, Width, and Yard Requirements.

Use	Lot Area (sq. ft.)	Lot Width		Yard		
		Front Yard	Building	Front	Side	Rear
<u>Dwellings:</u>						
Single Family	12,000	45'	90'	30'	8'	30'
Two Family	14,000	50'	100'	30'	8'	30'
Three Family	15,000	55'	110'	30'	10'	30'
Four Family	16,000	55'	110'	30'	10'	30'
Other Uses	16,000	110'	110'	30'	15'	45'

2. Height Restrictions.

(a) No residential building hereafter erected or altered shall exceed twenty-five (25) feet or two (2) stories in height.

(b) Public or semipublic buildings, churches, schools, hospitals, nursing homes, and other uses may be erected to a height of thirty-five (35) feet.

1116.00 (RESERVED)

1117.00 B-1 CENTRAL BUSINESS DISTRICT

1117.01 Purpose. The B-1 Central Business District is intended to provide a wide variety of retail activities and could act as a banking and financial center, entertainment, and hotel center, or as a center for business and professional offices. The district comprises the "downtown" section of the City. The use of land is intensive, this being one of the main determinants of its vitality. It is the purpose of these regulations to encourage such intensity of use and to exclude activities which have a negative effect upon the proper functioning of the Central Business District.

1117.02 Permitted Uses. The following uses shall be permitted in the B-1 Central Business District.

1. Retail and service establishments such as food and small clothing stores, beauty parlors, dry cleaners, etc., are needed to serve local shopping needs.
2. Community facilities.
3. Public buildings and utilities but not including storage or maintenance yards or buildings.
4. Dwelling units above a store or shop.
5. Accessory buildings or structures and uses customarily incidental to any of the above permitted uses which will not be detrimental to the surrounding neighborhood by reason of odor, smoke, noise, dust, or vibration.

1117.03 Conditional Uses. The following uses may be permitted in the B-1 Central Business

District upon approval of the City Council.

1. Commercial recreation businesses.
 - (a) Theaters.
 - (b) Bowling alleys.
 - (c) Pool and billiard rooms.
 - (d) Bars, cocktail lounges, and off-sale liquor stores.
 - (e) Night clubs.
2. Wholesale businesses.
3. Clubs and lodges.
4. Historic buildings and museums.
5. Motor vehicle sales and repair.
6. Any similar retail establishment or personal and professional service not specifically stated, implied, or regulated elsewhere in this Article, as determined by the Planning Commission.
7. Accessory buildings or structures and uses customarily incidental to any of the above permitted uses which will not be detrimental to the surrounding neighborhood by reason of odor, smoke, noise, dust, or vibration.
8. Solar energy systems.
(Amended by Ord. 2018-02, passed 1-8-2018)

1117.04 Central Business District Restrictions. All uses permitted in this Article, including those by special exception use permits, shall be subject to the following regulations:

1. All businesses, services, sales, storage, and display areas shall be confined within a building except that the City Council, by resolution, may allow for citywide promotions and activities thereby allowing otherwise for a specified period of time.
2. All public entrances to such businesses shall be from the principal street upon which the property abuts or within fifty (50) feet thereof. An additional rear entrance may be provided from a designated public parking area if it is within one hundred fifty (150) feet from the rear portion of the building and/or business.

1117.05 Bulk Regulations. The following requirements shall be observed:

1. **Lot Area, Width, and Yard Requirements.**
 - (a) For allowed uses in the Central Business District there shall be no requirements for lot area, width, and yards. For uses requiring special exception permits, lot area, width and yards may be determined by the Planning Commission.
2. **Height Restrictions.**

- (a) No building or structure hereafter erected or altered shall exceed thirty-five (35) feet in height.

2. **Loading Space.**

- (a) For allowed uses in the Central Business District there shall be no requirements for loading space. For uses requiring special exception, loading space requirements may be specified by the Planning Commission.
- (b) The City Council may designate times for loading and unloading in order to alleviate the walking hazards and traffic congestion resulting from loading and unloading.

1118.00 B-2 HIGHWAY BUSINESS DISTRICT

1118.01 Purpose. The purpose of the B-2 Highway Business District is established to encourage the functional grouping of those commercial enterprises which cater primarily to either "local" or "through" motorists. Typical uses offer accommodations and services to motorists, specialized outlets, and commercial amusement enterprises. The requirements of this district are developed to minimize traffic hazards and interference with other related uses in the vicinity.

1118.02 Permitted Uses. The following uses shall be permitted in the B-2 Highway Commercial District.

1. Retail and service establishments such as lumberyards, drive-in restaurants, motels, automobile sales lots, gas stations, farm implement dealers, etc., which are necessary to serve local community needs.
2. Public and semi-public facilities.
3. Public buildings and utilities but not including storage or maintenance yards or buildings.
4. Wholesale businesses with no outdoor storage.
5. Accessory buildings or structures and uses customarily incidental to any of the above permitted uses which will not be detrimental to the surrounding neighborhood by reason of odor, smoke, noise, dust, or vibration.

1118.03 Conditional Uses. The following uses may be permitted in the B-2 Highway Commercial District upon approval by the City Council.

1. Construction companies and contractor's storage yards.
2. Greenhouses, plant nurseries, and garden supplies.
3. Storage buildings and warehousing establishments.
4. Truck terminals.
5. Building materials and lumberyards establishments.
6. Junkyards, salvage yards or wrecking establishments offering new and/or used

merchandise at retail to the public.

- 7. Any similar retail establishment or personal and professional service, not specifically stated, implied, or regulated elsewhere in this article, as determined by the Planning Commission.
- 8. Accessory buildings or structures and uses customarily incidental to any of the above permitted uses which will not be detrimental to the surrounding neighborhood by reason of odor, smoke, noise, dust, or vibration.
- 9. Solar energy systems.
(Amended by Ord. 2018-02, passed 1-8-2018)

1118.04 Highway Business District Regulations.

- 1. Screening shall be provided at lot boundaries abutting a residential zoning district, and shall consist of solid fencing, or dense hedge or shrub to a minimum of six (6) feet in height.

1118.05 Bulk Regulations. The following requirements shall be observed:

1. Lot Area, Width, and Yard Requirements.

Lot Area (sq. ft.)	Lot Width	Yards		
		Front	Side *	Rear **
5,000'	50'	45'	10'	20'

* A minimum side yard of thirty (30) feet shall be required on that side of the property abutting any AG, R-1, or R-2 District.

** Where alleys exist, the measurements of the rear yard may include one-half (1/2) the width of the alley.

2. Height Restrictions.

- (b) No building or structure hereafter erected or altered shall exceed thirty-five (35) feet or two and one-half (2 ½) stories in height.

1119.00 M-1 MANUFACTURING DISTRICT

1119.01 Purpose. The regulations for the M-1 Manufacturing District are intended to provide for areas for manufacturing, warehousing, and related commercial operations. It is their intent to encourage industrial development which is compatible with surrounding uses and districts. All activities in the district shall be carried on in a manner not injurious or offensive to the occupants of adjacent premises due to odors, dust, smoke, noise, or vibrations.

1119.02 Permitted Uses. All uses in this district are conditional uses and must be approved in accordance with the procedures of this Ordinance.

1119.03 Conditional Uses. The following uses may be permitted upon approval of the City Council.

1. Any production, processing, assembly, manufacturing, cleaning service, repair, testing or storage of goods or products including those which may be injurious or offensive to the occupants of adjacent premise by reason of the emission of or creation of noise, vibration, smoke, dust, odors, or noxious materials.
2. Accessory buildings or structures and uses customarily necessary to any of the above permitted uses which will not be detrimental either by reason of odor, smoke, noise, or vibration to the surrounding neighborhood.

1119.04 Manufacturing District Special Requirements.

1. Storage, auxiliary to permitted use, if permitted in the open, but not within twenty (20) feet of the property lines.
2. Open storage of lumber, metals, machinery, junk, wrecked vehicles, or other materials shall be enclosed by an eight (8) foot metal or chain link fence.
3. Waste materials incidental to the principal operation shall be kept in neatly stored containers screened from public view and shall be removed and emptied periodically so no waste shall be piled on open grounds.
4. Screening shall be provided at lot boundaries abutting a residential district and may consist of solid fencing or dense hedge or shrub to a minimum of six (6) feet in height.

1119.05 Bulk Regulations. The following requirements shall be observed:

1. **Lot Area, Width, and Yard Requirements.**

Yards					
Lot Area		Side *		Side	
(sq. ft.)	Lot Width	Front	(interior)	(street)	Rear **
20,000'	100'	50'	20'	30'	50'

* A minimum side yard of one hundred (100) feet shall be required on that side of the property abutting any AG, R-1, or R-2 District.

** A minimum rear yard of one hundred (100) feet shall be required when the use backs up to any AG, R-1, or R-2 District.

2. **Height Restrictions.**

- (a) No building or structure hereafter erected or altered shall exceed forty-five (45) feet in height.

3. **Lot Coverage.**

- (a) No building or structure shall occupy more than seventy-five (75) percent of the total lot area.

1120.00 DEFINITIONS

- 1120.01 Accessory Building.** A subordinate building or structure on the same lot or a part of the principal building, occupied by or devoted exclusively to an accessory use.
- 1120.02 Accessory Use.** A use clearly and customarily subordinate and incidental to the principal permitted use of the premises.
- 1120.03 Alley.** A public or private right-of-way primarily designed to serve as secondary access to land or structures on a property whose principal frontage is on a street.
- 1120.04 Apartment.** A single room or set of rooms occupied as a dwelling unit which is part of a multiple-family dwelling.
- 1120.05 Basement.** That portion of a building which is one-half (1/2) or more below grade. If the height of the ceiling is five (5) feet or more above grade such basement shall be considered a story.
- 1120.06 Block.** A tract of land bounded by streets, or a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, municipal boundary lines, township lines or county lines.
- 1120.07 Board, Lodging or Rooming House.** Any residential building, or portion thereof, contains lodging rooms which accommodate persons who are not members of the keeper's family. Lodging or meals or both are provided as compensation on a weekly or monthly basis. Motels, hotels, or apartment hotels are not included in this category.
- 1120.08 Building Area.** The part of a lot not included within the yards required by this Ordinance.
- 1120.09 Building.** Any structure, permanently affixed to a lot, used for the support, shelter, protection or enclosure of persons, animals, equipment, machinery, materials, or property of any kind. When any portion of a building is completely separated from every other part by division walls from the ground up and is without openings, each portion of such building shall be deemed as a separate building. The connection of two (2) buildings by means of an open porch, breezeway, passageway, or other such open structure, with or without roof, shall not be deemed to make them one (1) building.
- 1120.10 Building, Detached.** A building surrounded by an open space on the same lot as another building.
- 1120.11 Building, Principal.** A non-accessory building in which a principal use of the lot on which it is located is conducted.
- 1120.12 Clinic.** A public or proprietary institution providing diagnostic or preventive treatment for ambulatory patients by a group of doctors or dentists, or both, who have their offices in the same building.
- 1120.13 Club or Lodge.** Structures and facilities owned and/or operated by an association of persons, for a social, educational, or recreational purpose but not primarily for profit and not primarily to render a service which is customarily carried on as a business. Said persons shall be bona fide members paying annual dues and the use of such premises is restricted to members and their guests. It shall be permissible to serve food, meals and beverages on such premises provided it is secondary and incidental to some other common objective of the organization and all applicable local and state laws are complied with.
- 1120.14 Conditional Use.** A use of such variable nature as to make control by rigid regulation impractical. After due consideration in each case, by the City Council, upon receiving

a report and recommendation of the Planning Commission relative to the requirements of this Ordinance, approval of a conditional use may or may not be granted by the City Council.

- 1120.15 Drive-In Restaurant.** Any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages in automobiles including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises.
- 1120.16 Dwelling.** Any building or portion thereof designed or used exclusively for residential occupancy but not including a tent, cabin, trailer, mobile home, hotel, or motel.
- 1120.17 Dwelling - Multiple Family.** A residence designed for or occupied by three (3) or more families, in separate dwelling units.
- 1120.18 Dwelling - Single Family.** A detached residence, other than a mobile home, designed for or occupied by one (1) family in a single dwelling unit.
- 1120.19 Dwelling - Two Family.** A residence designed for or occupied by two (2) families only, in separate dwelling units.
- 1120.20 Dwelling Unit.** One (1) or more rooms which are arranged, designed, or used as living quarters for one (1) family only. Independent cooking facilities, permanently installed and individual sanitary facilities shall always be included for each "dwelling unit".
- 1120.21 Essential Services.** Utilities such as underground or overhead gas, electrical, or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories reasonably necessary for the furnishing of adequate service by public utilities or governmental agencies or for the public health or safety or general welfare, but not including buildings.
- 1120.22 Family.** A family is any number of persons living together in a room or rooms comprising a single housekeeping unit and related by blood, marriage, adoption, or any unrelated person who resides thereon as though a member of the family including the domestic employees thereof. Any group or persons not so related but inhabiting a single house shall, for the purpose of this Ordinance, be considered to constitute one (1) family for each five (5) persons, exclusive of domestic employees, contained in each such group.
- 1120.23 Farming.** An area which is used for the growing of the usual farm products such as vegetables, fruits and grains and their storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term farming includes the operating of such area for one (1) or more of the above uses with the necessary accessory uses for treating or storing the produce, provided, however, that the operation of any such accessory uses shall be secondary to that of the normal farming activity.
- 1120.24 Garage - Community.** An accessory building or series of structures for the storage of motor vehicles by two (2) or more occupants of property or dwellings in the vicinity and having no public shop or service therein.
- 1120.25 Garage - Private.** An accessory building designed or used for the storage or shelter of vehicles by the occupants of the building to which it is accessory.
- 1120.26 Grade.** The average level of the finished surface of the ground adjacent to the exterior

walls of the building or structure.

- 1120.27 Greenbelt.** A planting strip of grass, trees or shrubs established and maintained for the purpose of screening or limiting the view of certain property uses from surrounding uses and the general public.
- 1120.28 Home Occupation.** An occupation which is customarily and traditionally conducted within a dwelling by its occupants and is clearly incidental and secondary to the principal use of the dwelling.
- 1120.29 Hotel.** A building in which lodging or boarding and lodging are provided and offered to the public for compensation and which is open to transient guests. Customary hotel services such as maid service, furnishing and laundering of linen, telephone and desk service, and the use and upkeep of furniture shall be provided.
- 1120.30 Incompatible Use.** A use or service which is unsuitable for direct association with other uses because it is contradictory, incongruous, or discordant with respect to sight, sound, odor, vibration or any other injurious or offensive variable.
- 1120.31 Institution.** A building or premises occupied by a nonprofit corporation or establishment for public use.
- 1120.32 Junkyard.** Any open area of any lot or parcel where waste, discarded or scrap materials are bought, sold, exchanged, baled, or packed, disassembled, kept, stored, or handled, including scrap metals or scrap materials, or the abandonment or dismantling of machinery, motor vehicles or other vehicles, or parts thereof. A "junkyard" does not include uses established entirely within enclosed buildings.
- 1120.33 Kennel.** Any lot or parcel of land where small animals are boarded for compensation or where dogs are bred or raised on a commercial scale.
- 1120.34 Livestock.** Cattle, horses, sheep, goats, poultry, or swine.
- 1120.35 Loading Space - Off-Street.** Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles when off-street parking spaces are filled.
- 1120.36 Lot.** A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yard and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of a single lot of record; a portion of a lot of record; a combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record; and a parcel of land described by metes and bounds provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Ordinance.
- 1120.37 Lot Area.** The area of horizontal plane bounded by the front, side, and rear lot lines, but not including any area occupied by the waters of a recorded lake or river.
- 1120.38 Lot - Corner.** A lot situated at the intersection of two (2) streets with two (2) adjacent sides abutting a street for their full length providing that the interior angle of such intersection shall not exceed one-hundred and thirty-five (135) degrees.
- 1120.39 Lot - Double Frontage.** A lot having two (2) opposite lot lines along two (2), more or less parallel, public streets, and which is not a corner lot. On a "double frontage lot"

both lot lines abutting the street shall be deemed front lot lines.

- 1120.40 Lot - Interior.** Any lot which is not a corner lot.
- 1120.41 Lot - Depth.** The distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rear most points of the side lot line in the rear.
- 1120.42 Lot - Width.** The distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard. Width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than eighty (80) percent of the required lot width except in the case of lots on the turning circle of cul-de-sacs, where the eighty (80) percent requirement shall not apply.
- 1120.43 Lot Line - Front.** Any lot line which is along an existing or dedicated public street.
- 1120.44 Lot Line - Rear.** A lot line which is most distant from, and is, or is most nearly, parallel to the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be that assumed line parallel to the front lot line, not less than ten (10) feet long, lying most distantly from the front lot line and wholly within the lot. With the exception of a double frontage lot, every lot shall have a rear lot line.
- 1120.45 Lot Line - Side.** Any lot line not a front or rear lot line.
- 1120.46 Lot of Record.** A lot which is part of a subdivision, the map of which has been recorded in the office of the County Recorder or a lot described by metes and bounds, the deed to which has been recorded in the office of the County Recorder.
- 1120.47 Lot of Record - Existing.** A lot which is part of a subdivision, or a lot described by meters and bounds, with the map and/or deed for such lot having been recorded in the office of the County Recorder prior to the adoption of this Ordinance.
- 1120.48 Mobile Home.** A dwelling unit designed to be transportable and suitable for year-round occupancy and containing the same water supply, waste disposal and electrical conveniences as immobile housing whether mounted on wheels, jacks, or permanent foundation.
- 1120.49 Mobile Home Park.** A lot, parcel, or tract of land upon which two (2) or more occupied mobile homes are sited either free of charge or for revenue purposes, including any building, structure, or enclosure used or intended for use as a part of the equipment of such mobile home park.
- 1120.50 Motel.** Any building or group of buildings containing guest rooms primarily for the temporary occupancy for use by transient guests. Such building or group of buildings may include quarters for the use of the operating personnel.
- 1120.51 Motor Vehicle.** Any passenger vehicle, truck, truck-trailer, trailer, or semi-trailer propelled or drawn by mechanical power.
- 1120.52 Non-conforming Building or Use.** Any building or use or building and use which does not comply with all the regulations of this Ordinance or of any amendment hereto for the zoning district in which it is located.
- 1120.53 Nursing Home.** A building or structure having accommodations and where care is provided for invalid, infirm, aged, convalescent or physically disabled or injured persons, in which three (3) or more persons not of the immediate family are received,

kept, and provided with food and shelter for compensation.

- 1120.54 Parking Lot.** A parcel of land devoted to non-enclosed parking spaces.
- 1120.55 Parking Space.** A graded and surfaced area of not less than two hundred (200) square feet plus necessary maneuvering space for the parking or storage of a motor vehicle, which affords satisfactory ingress and egress to a street or alley.
- 1120.56 Permitted Use.** A use which may be lawfully established in a particular zoning district provided it conforms with all applicable requirements and regulations of such district and this Ordinance.
- 1120.57 Principal Use.** The main use of land or structures as distinguished from an accessory use.
- 1120.58 Person.** An 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.
- 1120.59 Premises.** A tract of land together with all structures thereon.
- 1120.60 Porch - non-enclosed.** An entrance to a building which may include steps, a landing, railings, and a roof but not enclosed either partially or completely above the landing by windows, screens, or siding.
- 1120.61 Public Utility.** Any person, firm, corporation, municipal department, or board duly authorized to furnish and is furnishing to the public under governmental regulation electricity, gas, steam, water, sewage disposal, communication, or transportation facilities.
- 1120.62 Recreational Camping Vehicle.** The words "recreational camping vehicle" shall mean any of the following:
1. Travel trailer means a vehicular, portable structure built on a chassis designed to be used as a temporary dwelling for travel, recreational or vacation use.
 2. Pick-up coach means a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.
 3. Motor home means a portable temporary dwelling to be used for travel, recreation and vacation and constructed as an integral part of a self-propelled vehicle.
 4. Camping trailer means a folding structure mounted on wheels and designed for travel, recreation, and vacation use.
- 1120.63 Roadside Stand.** A temporary and non-enclosed structure for the display and sale of agricultural products, produced or grown on the premises.
- 1120.64 Setback - Building.** The horizontal distance between the front line of a building or structure and the front lot line.
- 1120.65 Special Exception Use.** A use permitted in a zoning district when such use meets the special requirements set forth and has been approved by the Planning Commission.
- 1120.66 Story.** That portion of a building included between the surface of any floor and the surface of the floor next, above it, or the space between such a floor and the ceiling

next above it. A basement shall be considered a story if its ceiling is over five (5) feet above the average established grade.

- 1120.67 Story - Half.** A half story is an upper most story lying under a sloping roof, the useable floor area of which does not exceed seventy-five (75) percent of the floor area of the story immediately below it and not used or designed, arranged, or intended to be used, in whole or in part, as an independent housekeeping unit or dwelling. A half story containing independent apartments or living quarters shall be deemed a full story.
- 1120.68 Street.** A public way which affords the principal access to abutting property excepting a public alley. The term street shall include road, avenue, highway, boulevard, drive, lane, circle, place, court, parkway, or other similar designation.
- 1120.69 Structure.** Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things structures include buildings, mobile homes, walks, fences, billboards, and poster panels.
- 1120.70 Structural Alteration.** Any replacement or changes in the type of construction or in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or exterior walls, beyond ordinary repairs and maintenance.
- 1120.71 Town House.** A building comprised of single-family dwelling units erected in a row as a single building on adjoining lots, each separated from the adjoining unit or units by a common wall or walls extending from the basement floor to the roof along the dividing lot line and having a yard space on the front, rear and both sides.
- 1120.72 Use.** The purpose for which land or buildings thereon are designed, arranged, or intended to be occupied or used or for which they are occupied or maintained.
- 1120.73 Variance.** A relaxation of the requirements of this Ordinance regarding height, area, size of structure or size of yards. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance. Variances are granted only through the Board of Adjustments.
- 1120.74 Yard.** A required open space not occupied by a building or buildings, open to the sky and on the same lot as the principal building. A "yard" extends along a lot line, and to a depth or width specified in the yard requirements for the applicable zoning district.
- 1120.75 Yard - Front.** A yard extending across the full width of the lot and lying between the front lot line and a line at a distance therefrom as specified by the regulations.
- 1120.76 Yard - Rear.** A yard extending across the full width of the lot and lying between the rear lot line and a line at a distance therefrom as specified by these regulations.
- 1120.77 Yard - Side.** A yard between the side lot line and a line at a distance therefrom as specified by the district regulations. The interior side yard is a side yard which is located adjacent to another lot. Street side yard is a side yard which adjoins a public street.
- 1120.78 Zoning Administrator.** The individual appointed by the City Council to administer and enforce the provisions of this Ordinance.
- 1120.79 Zoning Map.** The areas comprising these zoning districts and boundaries of said

districts as shown upon the map attached hereto and made a part of this Ordinance being designated as the Official Zoning Map for the City with all proper notations, references and other information shown thereon.

CHAPTER XII. UNSAFE BUILDINGS & EXTERIOR STORAGE

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1201.00 UNSAFE BUILDINGS

- 1201.01 Definition and Abatement.** All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety and health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, or abandonment, as specified in the State Building Code, another provision of the City Code, or any other law are, for the purpose of this Section unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal, in accordance with the procedure specified herein.
- 1201.02 Notice to Owner.** The City Council or a qualified person designated by the council shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building, the City Council shall give the owner of such building or structure written notice stating the defects therein. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof unless otherwise stipulated by the Council. If necessary, such notice also shall require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the Council. Proper service of such notice shall be by personal service upon the owner of record, if he or she shall, be found within the City. By mail or certified mail at his or her last known address as shown upon the records of the Renville County Auditor/Treasurer, provided, that if such notice is by registered mail or certified mail, the designated period within which said owner or person in charge is required to comply with the order of the clerk shall begin as of the date of delivery written on the return receipt.
- 1201.03 Posting of Signs.** The City Council shall cause to be posted at each entrance to such building a notice to read: **“DO NOT ENTER, UNSAFE TO OCCUPY. CITY OF SACRED HEART”**. Such notice shall remain posted until the required repairs,

demolition, or removal is completed. Such notice shall not be removed without written permission of the City Council and no person shall enter the building except for the purpose of making the required repairs or demolishing the building.

1201.04 Right to Demolish. If an owner fails, neglects, or refuses to comply with a notice to repair, rehabilitate, or demolish and remove a building or structure or a portion thereof, the Council may order the City Inspector or any other appropriate person to proceed with the work specified in such notice.

1201.05 Costs. Costs incurred under Subsection 1201.04 shall be paid by the City Treasurer. Such costs shall be charged to the owner of the premises, as shown by the records in the office of the County Auditor/Treasurer or the County Recorder, or the taxpayer of record as shown by the records in the office of the County Auditor/Treasurer. If the owner or taxpayer does not pay such costs, the City may collect same, together with reasonable attorney's fees and collection costs by suing the owner in a court of competent jurisdiction, or in the alternative, may assess said costs as a special assessment on the land on which the building or structure is located, and shall be collected in the manner provided for special assessments.

1201.06 Unlawful Act. It is unlawful for a person to suffer or permit an unsafe building, as defined herein, to remain on his or her property. If an owner has failed, neglected, or refused to comply with a notice to repair, rehabilitate, or demolish and remove a building or structure or a portion thereof, the Council may order the person prosecuted as a violator of the provision of this Section.

1201.07 Penalty. Any person violating the provisions of Chapter XII shall be guilty of a misdemeanor.

1201.08 Property Standards. The owner of any premises shall comply with the following requirements:

1. **Sanitation.** All exterior property areas shall be maintained free from any accumulation of garbage, animal feces, and refuse.
2. **Grading and Drainage.** All premises shall be graded and maintained to minimize the accumulation of water on said premises, except when required by the City for water retention.
3. **Ground Cover.** All sites shall be maintained in a condition to control erosion, dust, and mud by suitable landscaping with grass, trees, shrubs, or other planted ground cover or by paving with asphalt, or concrete, or by other suitable means as approved by the zoning administrator.
4. **Insect and Rodent Infestation.** It shall be the responsibility of the owner to exterminate any infestation of insects, rodents, vermin, or other pests in all exterior areas and accessory structures on the premises.
5. **Condition of Structures.** All structures including, but not limited to, primary structures, detached garages, sheds, and fences shall be maintained structurally sound and in good repair. All exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by paint or by other protective covering or treatment.
6. **Nuisance Characteristics.** No noise, odors, vibration, smoke, air pollution, liquid or solid wastes, heat, glare, dust, or other such adverse influences shall be permitted in any district that will in any way have an objectionable effect upon

adjacent or nearby property. All waste in all districts shall be disposed of in a manner that is not dangerous to public health and safety nor will damage public waste transmission or disposal facilities.

1202.00 BUILDING MAINTENANCE AND APPEARANCE

1202.01 Declaration of Nuisance. Buildings, fences, and other structures that have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood are declared to be public nuisances because they (a) are unsightly, (b) decrease adjoining landowners and occupants' enjoyment of their property and neighborhood, and (c) adversely affect property values and neighborhood patterns.

1202.02 Standards. A building, fence, or other structure is a public nuisance if it does not comply with the following requirements:

- (a) No part of any exterior surface may have deterioration, holes, breaks, gaps, loose, or rotting boards or timbers.
- (b) No glass, including windows and exterior light fixtures, may be broken, or cracked, and no screens may be torn or separated from moldings.
- (c) Exterior doors and shutters must be hung properly and have an operable mechanism to keep them securely shut or in place.
- (d) Cornices, moldings, lintels, sills, bay or dormer windows and similar projections must be kept in good repair and free from cracks and defects that make them hazardous and unsightly.
- (e) Roof surfaces must be tight and have no defects that admit water. All roof drainage systems must be secured and hung properly.
- (f) Chimneys, antennae, air vents, and other similar projections must be structurally sound and in good repair. These projections must be secured properly, where applicable, to an exterior wall or exterior roof.
- (g) Foundations must be structurally sound and in good repair.

1202.03 Penalty. See §1201.07
(Ord. 2017-04, passed 08-14-2017)

1203.00 EXTERIOR STORAGE

1203.01 Water, Refuse, and Garbage. All waste, refuse, and garbage must be kept in a building or properly contained in a closed manner.

1203.02 Non-Operating Vehicles and Equipment. All non-operating vehicles and equipment must be kept within a fully enclosed building.

1203.03 Front Yard. No exterior storage is allowed in the front yard, except parking of licensed and operable vehicles on a driveway.

1203.04 Accumulation Prohibited. It shall be unlawful to accumulate and store build

materials, lumber, boxes, cartons, or other containers, machinery, scrap metal, junk, raw materials, fabricated goods, and other items in such manner as to constitute a nuisance or rodent harbor.

1203.05 Recreational Vehicles and Equipment. All recreational vehicles, equipment, and motor vehicles parked or stored outside must be in a safe, operable condition and exhibit current license or registration plates or tags if the vehicle is one for which a license or registration plate is required by law for its operation.

1203.06 Parking and/or Storage Prohibited.

1. No person or property owner shall allow, on a single residential property, the parking or storage of more than a total of three (3) recreational vehicles and/or equipment, motor vehicles, or motorcycles, as defined by M.S. § 168.002 in the side or rear yard. The following conditions and restrictions shall also apply to those vehicles:
 - (a) All vehicles or equipment shall be licensed (if licensing is required by state authority for use) and operable; and
 - (b) The parking surface for the vehicles or equipment shall be an improved surface such as pavement, asphalt, or sufficient gravel to support the weight of the vehicle.
2. **Exceptions.** The restrictions in this section shall not apply to vehicles more than the numbers allowed above if:
 - (a) The vehicles are stored within a vented garage, or within a carport, which is totally sight-screened from abutting properties by solid board fencing or sight-obscuring landscaping at least six feet in height, or the parking is for periods of less than 48 hours within a one-week period.

(Ord. 2017-03, passed 08-14-2017)

CHAPTER XIII.
SALE OF CANNABINOID PRODUCTS
(Ord. 2023-03, passed 10-9-2023)

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1301.00 PURPOSE, FINDINGS, AND INTENT

1301.01 Purpose. The purpose of this section is to regulate the sale of legalized adult-use of any product that contains tetrahydrocannabinol and that meets the requirements to be sold for human or animal consumption under M.S. § 151.72 (“THC Products”) to ensure compliance among THC product retailers.

1302.00 DEFINITIONS

1302.01 Definitions. For the purpose of this subchapter, the following terms shall have the meanings ascribed to them in this section.

1. **Compliance Checks.** The system the City or county uses to investigate and ensure that those authorized to sell licensed products are following and complying with the requirements in the section and state statutes.
2. **Edible Cannabinoid Product.** Shall have the meaning given in M.S. § 151.72, subd. 1(c)
3. **Licensed Product or THC Product.** Any product that contained tetrahydrocannabinol and that meets the requirements to be sold for human and animal consumption under Minnesota Statutes.
4. **Moveable Place of Business.** Any form of business operated out of a kiosk, truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address storefront or other permanent type of structure authorized for sales transactions.
5. **Retail Establishment.** Any place of business where licensed products are available for sale to the general public, including, but not limited to, grocery stores,

tobacco shops, convenience stores, gasoline stations, bars, and restaurants.

6. **Sales.** Any transfer of goods for money, trade, barter, or other consideration.

1303.00 STATE LAW ADOPTED

1303.01 Except as further restricted or regulated by this subchapter, the provisions of M.S. § 151.72 relating to the definition of terms, licensing, and all other matters pertaining to the retail sale, distribution and consumption of cannabinoid products are adopted and made a part of this chapter as if set out in full. Whenever there is an inconsistency between the provisions of M.S. § 151.72, as amended, and the provisions of this section, the more restrictive provision shall govern.

1304.00 LICENSE

1304.01 License Required. No person shall sell or offer to sell, directly or indirectly, on any pretense or by any device, any licensed product as part of a retail commercial transaction within the corporate limits of the city without first having obtained a license to do so from the city.

1304.02 Application. An application for a license to sell licensed products shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant's residential and business addresses, telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the City Administrator shall forward the application to the City Council for action at its next regularly scheduled City Council meeting. If the City Administrator determines that an application is incomplete, they shall return the application to the applicant with notice of the information necessary to make the application complete.

1304.03 Business Information. A business applicant shall notify the city in writing of any change in ownership of the business. Any change in the ownership or control of the business shall be deemed equivalent to a transfer of the license, and any such license shall be revoked 30 days after any such change in ownership or control unless the licensee has notified the Council of the change in ownership by submitting a new license application for the new owners, and the Council has approved the transfer of the license by appropriate action. The City Council may either approve or deny the application for a license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant deems necessary. If the City Council approves the license, the City Administrator shall issue the license to the 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 City Council's decision.

1304.04 Application Denial. If a license application is denied, the earliest an applicant may reapply is 12 months from the date the license is denied.

1304.05 Term. All licenses issued under this subchapter shall be valid until December 31 of the year of issue.

1304.06 Revocation or Suspension. Any license issued under this subchapter may be revoked or suspended as provided in this subchapter.

- 1304.07** **Transfers.** All licenses issued under this subchapter shall be valid only on the premises for which the license was issued and only for the person or business to whom the license was issued. The transfer of any license to another location, business, or person is prohibited.
- 1304.08** **Display.** All licenses shall be posted and displayed in plain view of the general public on the licensed premises.
- 1304.09** **Renewals.** The renewal of a license issued under this subchapter shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days but no more than 60 days before the expiration of the current license.
- 1304.10** Issuance as privilege and not a right. The issuance of a license issued under this subchapter is a privilege and does not entitle the license holder to automatic renewal of the license.

1305.00 FEES

- 1305.01** No license shall be issued under this subchapter until the appropriate license fee is paid in full. The fee for a license under this subchapter shall be established by the City Council and adopted in the city fee schedule in an amount not to exceed any maximum allowed by state law and may be amended from time to time. The license fee shall be prorated for licenses issued for less than a full year. No part of any license fee will be refunded unless an application is withdrawn before any Council action is taken.

1306.00 REGULATIONS

- 1306.01** No person or entity may sell an edible cannabinoid product in the City of Sacred Heart except as follows:
1. Written application of the person or entity conducting the sale of the product(s) and the permanent location of the place of business at which such sales may be made, shall first be provided to the City Administrator.
 2. Sales may only be made to individuals who are 21 years of age or older.
 3. Consumption shall not be allowed on the premises of any retailer selling edible cannabinoid products.
 4. The manner of sale shall be such that the customer does not have access to the edible intoxicating cannabinoid products without having to request the item from the person or entity making the sale or an employee thereof and engaging in a physical exchange of the edible cannabinoid products between the person or entity making the sale or an employee thereof and the customer.

5. No sale shall be made from a moveable place of business. Only fixed-location businesses may engage in the sale of an edible cannabinoid product.
6. The sale of these products may only happen in a B-1 or M-1 zoning district.
7. In general. No person shall sell or offer to sell any licensed product by means of any type of vending machine, or by means of self-service merchandising.
8. Legal age; verification. No person shall sell any licensed product to any person under the age of 21. Licensees shall verify by means of government issued photographic identification that the purchaser is at least 21 years of age.
9. Legal age; sale. No person under the age of 18 shall be allowed to sell any licensed product.

1307.00 RESPONSIBILITY

- 1307.01** All licensees are responsible for the actions of their employees regarding the sale, offer to sell and furnishing of licensed products on the licensed premises.

1308.00 COMPLIANCE CHECKS AND INSPECTIONS

- 1308.01** All premises under this subchapter shall be open to inspection by the city or county during regular business hours from time to time. 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 laws.

1309.00 SUSPENSION OR REVOCATION OF LICENSE

- 1309.01** A license issued pursuant to this section may be suspended by a city official if the licensee has violated any section of this subchapter or is otherwise conducting business in such a manner as to constitute a breach of peace, fraudulent conduct, or any other conduct that is prohibited by local, state, or federal laws or regulations. Falsification of information required for a license is also grounds for denial, suspension, or revocation of a license. The license shall be automatically revoked if the licensee does not file an appeal pursuant to this subdivision. When acting on any license issued under this section, the city official shall provide the licensee with verbal or written notice of the violation. The notice shall inform the licensee of its right to be heard before the City Council. The notice shall also inform the licensee that the license shall be automatically revoked if no appeal is filed within 21 days of the date of the notice by the city official. The City Council shall not conduct a hearing on a suspension or revocation unless a request is made by the licensee in writing. If a request for a hearing is made, the City Council shall conduct the hearing at the next available City Council meeting.

1310.00 EXCEPTIONS AND DEFENSES

- 1310.01** Nothing in this subchapter shall prevent the providing of edible cannabinoid products to a person under the age of 21 as part of a lawfully recognized religious, spiritual, or

cultural ceremony. It shall be an affirmative defense to the violation of this subchapter for a person to have reasonably relied on proof of age as described by state law in M.S. § 340A.503, subd. 6.

1311.00 PENALTY

1311.01 Penalties.

1. In addition to or in lieu of any administrative or civil penalty, a licensee may be criminally charged for a violation of M.S. §§ 175.01 through 175.08 or any violation of local, state, or federal laws or regulations.
 - (a) Violations and penalty. Any person engaging in the public sale or distribution of edible cannabinoid products in violation of the regulations established in M.S. §§ 175.20 through 175.29 shall be guilty of a misdemeanor.
 - (b) Criminal penalty. In addition to or in lieu of any administrative or civil penalty, a licensee may be criminally charged for a violation of M.S. §§ 175.20 through 175.29 or any violation of local, state, or federal laws or regulations.

**APPENDIX I.
DISPOSITION OF OLD ORDINANCES**

<u>Title</u>	<u>Subject</u>	<u>Disposition</u>
Ordinance No. 30	Adopting the 1965 Code	Replaced by Ordinance No. 64
Chapter I	Fire Limits & Building Code	Replaced by Ordinance No. 41
Ordinance No. 41	Building Code	Chapter IX, Section 901
Chapter II	Slot Machines & Other Gambling Devices	Chapter V, Section 501
Chapter III	Hawkers, Peddlers, & Transient Merchants	Chapter V, Section 502
Chapter IV	Dogs	Replaced by Ordinance No. 56
Ordinance No. 56	Animal Control	Chapter V, Section 504
Chapter V	Annual Clean Up	Chapter III, Section 302
Chapter VI	Public Nuisances	As Amended, Chapter VIII, Sect. 801
Chapter VII	Non-Intoxicating Malt Liquors	Chapter VI, Section 601
Chapter VIII	Parking Prohibited	Chapter VII, Section 703
Chapter IX	Parking	Chapter VII, Section 702
Chapter X	Cigarettes & Tobacco	Chapter V, Section 503
Chapter XI	Municipal Liquor	As Amended by Ordinance No. 42, Chapter VI, Section 603

Chapter XII	NSP Franchise	Chapter X, Section 1003
Chapter XIII	Garbage & Other Refuse	Chapter V, Section 505
Chapter XIV	Livestock	Chapter VIII, Section 807
Chapter XV	Natural Gas Franchise	Replaced with Ordinance No. 51
Ordinance No. 51	Natural Gas Franchise	Chapter X, Section 1002
Chapter XVI	Milk Vending Machine	Repealed
Chapter XVII	Municipal Sewer System	Chapter IV, Section 402
Chapter XVIII	Municipal Water System	Chapter IV, Section 401
Chapter XIX	Green River Ordinance	Chapter VIII, Section 802
Chapter XX	Traffic Regulation	Chapter VII, Section 701
Chapter XXI	Civil Defense	Chapter II, Section 204
Chapter XXII	Mobile Homes	Replaced by Ordinance No. 58
Ordinance No. 58	Mobile (Manufactured) Homes	Chapter IX, Section 902
Chapter XXIII	Firearms	Chapter VIII, Section 806
Ordinance No. 31	Annexation	Chapter IX, Section 903
Ordinance No. 33A	Building Permits	Repealed
Ordinance No. 37	Clerk/Treasurer	Chapter II, Section 202
Ordinance No. 38	Dogs	Repealed
Ordinance No. 39	Unreasonable Acceleration	Chapter VII, Section 705
Ordinance No. 40	Dutch Elm Disease	Chapter VIII, Section 804
Ordinance No. 41	Building Code	Chapter IX, Section 901
Ordinance No. 42	Non-Intoxicating Malt Liquors	Chapter VI, Section 601
Ordinance No. 43	Set-Up License	Chapter VI, Section 602
Ordinance No. 44	Shade Tree Program	Chapter VIII, Section 803
Ordinance No. 45	Zoning	Chapter XI
Ordinance No. 46	Urban/Rural Service District	Chapter II, Section 203
Ordinance No. 47	CATV Franchise	Chapter X, Section 1001
Ordinance No. 48	Snow Emergencies	Chapter VII, Section 704

Ordinance No. 49	Cats	Repealed
Ordinance No. 50	Municipal Liquor, Conduct	Chapter VI, Section 604
Ordinance No. 51	Natural Gas Franchise	Chapter X, Section 1002
Ordinance No. 52	Parks & Rec. Facilities	Chapter III, Section 301
Ordinance No. 53	Mayor/Council Salaries	Chapter II, Section 201
Ordinance No. 55	Illegal Littering/Dumping	Chapter VIII, Section 808
Ordinance No. 56	Cats & Dogs (Animal Control)	Chapter V, Section 504
Ordinance No. 57	Curfew	Chapter VIII, Section 805
Ordinance No. 58	Mobile & Manufactured Homes	Chapter IX, Section 902
Ordinance No. 59	Prohibiting Adult Entertainment	Chapter V, Section 507
Ordinance No. 60	All-Terrain Vehicles	Chapter VII, Section 707
Ordinance No. 61	Municipal Wastewater Treatment Facility	Chapter IV, Section 404
Ordinance No. 62	Enhance 911 – House Numbering	Chapter II, Section 205
Ordinance No. 63	Social Host Ordinance	Chapter VI, Section 605
Ordinance No. 64	Adoption of Codified Ordinances	Page 1
Ordinance No. 65	Great Plains Franchise Contract	Chapter V, Section 1002