

CHAPTER I

Section 100-How to use the Code, Separability & Penalties

Section 100:00. Name and Citation of Codification. This codification of the ordinances of the City of St. Cloud will be known as "The 2007 Code of Ordinances of the City of St. Cloud" and may be referred to by that name in all proceedings and actions and may be referred to within the Code or by other users as "this Code", or "the Code", or "the Ordinance Code". Any reference to a portion name and citation may be by chapter, section, subsection, or subdivision by using the following symbols:

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| For Chapter: | Chap. I - by use of Roman Numerals. |
| For Section: | Sec. 100 - by use of Arabic Numerals. |
| For Subsection: | Sec. 100:01 - by use of Arabic Numerals for the section number and Arabic Numerals after the colon to indicate subsection. |
| For subdivision: | Sec. 100:01, Subd. 1. |

References or citations made in form other than the foregoing will not defeat the legislative intent of the Council nor the clear intent of other users of this Code. Use of Arabic Numerals for Roman, or use of Roman for Arabic, will not invalidate any reference or citation to this code or portions thereof if the intent of the user is otherwise clear. Use of the word "section" will not expand the meaning of the citation if the meaning clearly refers to one or more subsections.

Section 100:10. Chapter, Section and Subdivision Headings. All chapter, section, subsection and subdivision headings of this code are to be construed as not a part of the subject matter of the code, but are intended for convenience only and not as comprehensive titles.

Section 100:20. Legislative History. The legislative history is written at the end of each subsection, which specifies the year and the ordinance that amended or repealed the subsection.

Section 100:30. Separability. Every section, provision or part of the 2007 Code of Ordinances of the City of St. Cloud is declared separable from every other section, provision or part, and if any section, provision or part of said code will be held invalid, it will not affect any other section, provision or part thereof.

Section 100:40. Penalty for Violations. Any person violating any of the provisions of this Code will be guilty of a misdemeanor and upon conviction may be punished by a fine of not more than One Thousand Dollars (\$1,000.00), or by imprisonment for not to exceed 90 days, or both; provided, however, that if a petty misdemeanor or other different punishment be prescribed for violation of a specific portion of this code, such provisions will govern the punishment for such violations.

Section 100:50. Revocation of Licenses. Violation by a licensee of any provision of this code prescribing conditions or requirements relative to licenses held by such a licensee will be grounds for revocation of such license.

Section 101 – Definitions of this Code

Section 101:00. "Person(s)" means and includes a natural person of either sex, persons, partnerships, corporations, and associations of persons, and shall include the manager or agent of the aforesaid. The singular shall include the plural and all pronouns shall include the masculine, feminine and neuter.

Section 101:10. "City" and "Municipality", unless otherwise specified herein, means the City of St. Cloud, whose City Hall is located in the City of St. Cloud, County of Stearns, State of Minnesota.

Section 101:20. "Ordinance" used in this Code shall refer to the chapter or section in which it appears and related sections, subsections and subdivisions under the same chapter or section.

Section 101:30. "Penal Offense" means the violation of an ordinance, code, or other legislative action of the Council for which either fines or imprisonment, or both, are prescribed and shall include misdemeanors and petty misdemeanors.

Section 101:40. "Misdemeanor" is defined in accordance with Minn.Stat. § 609.02 Subd. 3.

Section 101:50. "Petty misdemeanor" is defined in accordance with Minn.Stat. § 609.02 Subd. 4(a).

Section 101:55. "Council or City Council" is the City Council of the City of St. Cloud.

Section 101:60. The term "et seq." following a section or subsection shall mean the sections or subsections designated together with such sections or subsections following thereafter as shall pertain to the same subject matter or otherwise shall be so related that they shall be considered together for a proper expression of intent or purpose.

Section 105 - Administrative Code

Section 105:00. Purpose. The purpose of this section is to clearly define the authority and responsibilities of all officers and employees, to provide for the proper coordination and control of activities, and to create proper lines of communication within the administrative service of the City.

Section 105:03. Office of City Administrator, Established Duties.

Subd. 1. In accordance with Sections 2.40 and 3.50 of the City Charter, there will be the office of "City Administrator" of the City of St. Cloud. The City Administrator will be appointed by the Mayor with approval of a majority of the City Council and will have the duties stated in this section.

Subd. 2. Under direction of the Mayor, the City Administrator will exercise control and supervision over all administrative affairs of the City government and to that end may investigate, examine, or inquire into the affairs or operation of any department, division, office or other units of the city administration.

Subd. 3. The City Administrator will issue administrative manuals, orders, rules, directives and regulations not inconsistent with the Charter, the ordinances of the City and State law, when approved by the Mayor. Such rules, manuals, orders, directives, and regulations will outline the general and specific procedures for the administration of the City's activities.

Subd. 4. The City Administrator will recommend to the Mayor such measures and policies as the Administrator may determine necessary or expedient for the best interests of the City.

Subd. 5. The City Administrator will keep the Mayor advised of the financial condition and needs of the City and prepare and submit annually to the Mayor an administrative budget which will be compiled from the various departmental budget requests.

Subd. 6. The City Administrator may temporarily reassign personnel.

Subd. 7. The City Administrator will perform such additional duties as may be assigned by the Mayor or by ordinance.

Subd. 8. The City Administrator may assign work projects to a department or departments.

Section 105:06. Departments Enumerated.

Subd. 1. In order to provide for the economic, efficient and prompt discharge of the administrative functions of the City, the administrative service of the City government will be divided into four major administrative departments and eleven operating departments or agencies.

Subd. 2. The Department of General Services will consist of the Departments of Administration and Finance.

Subd. 3. The Department of Public Services will consist of the Departments of Public Works, Parks, Department of Public Utilities and the Department of Airports.

Subd. 4. The Department of Public Safety will consist of the Department of Police Services, the Department of Fire Services, Health and Inspections Department and the Department of Emergency Services.

Subd. 5. The Department of Community and Leisure Services will consist of the Department of Community Services, Department of Civic Facilities and the Department of Recreation.

Section 105:09. Officers Enumerated. Those filling the following offices within the administrative service will be officers of the City: Mayor, City Administrator, all department heads, City Attorney, City Clerk, City Treasurer, City Assessor, City Engineer, and such others as the Council may designate by ordinance or resolution.

Section 105:12. Oath of Office.

Subd. 1. The following officers and employees in the administrative service will be required to take an oath of office before entering upon the discharge of their duties, which oath will be subscribed by the person taking it and will be filed and preserved in the Office of the City Clerk.

Subd. 2. The Mayor and all other officers of the City within the administrative service;

Subd. 3. Every member of the Police Department including private, special, temporary or substitute police officer;

Subd. 4. Every member of the Fire Department;

Subd. 5. Such other officers or employees who may be designated by resolution of the City Council.

Section 105:15. Duties and Supervision of Officers, General. Each officer will perform all duties required by their office by State law, the City Charter, this code, and ordinances of the City. Additionally each officer will perform such other duties as may be requested by the City Administrator subject to the direction of the Mayor and may from time to time serve as the head of one or more departments or divisions of the administrative service.

Section 105:18. Duties of Certain Officers, Specific.

Subd. 1. At the direction of the Mayor, the heads of departments will have the following duties;

Subd. 2. Be immediately responsible to the City Administrator for the effective administration of their respective departments. Department heads have the power to establish work rules and to initiate disciplinary proceedings in accordance with established Civil Service rules.

Subd. 3. Keep informed as to the latest practices in their particular field and will implement, with the approval of the Mayor, such new practices as appear to be of benefit to the service and to the public.

Subd. 4. Submit reports of the activities of their departments to the City Administrator as requested.

Subd. 5. Establish and maintain a system of records and reports in sufficient detail to furnish all information necessary for proper control of departmental activities and to form a basis for the periodic reports to the City Administrator.

Subd. 6. Be responsible for the proper maintenance of all City property and equipment used in their departments.

Subd. 7. Cooperate with each other and furnish, upon the request of the City Administrator or the Mayor, any other department such service, labor and materials as may be requisitioned by the head of such department, and as its own facilities permit through the same procedure and subject to the same audit and control as other expenditures are incurred.

Subd. 8. Be responsible for recommending to the Mayor and City Administrator changes in codes, ordinances, and internal departmental organizations which will improve the operations of their departments.

Subd. 9. Be responsible for submitting an annual budget request to the City Administrator which will include proposed additions or deletions in staff, adjustments in salary schedules and additions to plant and equipment.

Subd. 10. Have responsibility for keeping the City Administration advised as to the programs and policies of other governmental agencies which might affect the City's operations within their area of responsibility.

Subd. 11. Have authority to hire subject to the approval of the Mayor and established Civil Service rules all part-time and temporary employees for their departments.

Subd. 12. Have the authority to recommend subject to the approval of the Mayor the heads of all divisions within their departments where such appointments are not provided for in this code or elsewhere.

Section 105:21. Department of General Services. The Department of General Services will have supervisory responsibility over the Departments of Administration and Finance. This department will be headed by a Director who will be responsible to the City Administrator and the Mayor for the efficient operation of the departments under the Director's jurisdiction. In addition to the Director, there will be a Deputy Director appointed by the Mayor who will perform the duties of the Director in cases of the Director's absence or disability and such other duties as may be properly assigned.

Section 105:24. Department of Administration. The Department of Administration will be headed by the Director of Administration and will have responsibilities for planning, personnel activities, legal services, budget preparation, supplying necessary staff and clerical assistance to all officers of the City, the City Council, and various City boards and commissions as required and such additional duties as may be properly assigned. There will be an Assistant Director appointed by the Mayor who will perform the duties of the Director in cases of the Director's absence or disability and such other duties as may be properly assigned. The Department of Administration will consist of the following divisions:

Subd. 1. The Legal Division will be headed by the City Attorney with responsibilities for:

- (a) Appearing for the city in all cases or hearings in which it is a party;
- (b) Advising the Council, its committees, or any City officer on all legal questions arising in the conduct of the City's business;
- (c) Preparing or revising ordinances when so requested by the Council, its committees, or by the City Administrator;
- (d) Prosecuting all penal offenses committed within the City;
- (e) Reviewing the Police Training Program in cooperation with the Police Chief;
- (f) Performing such additional legal duties as may be necessary upon request by the Council, its committees, the Mayor, or the City Administrator.

Subd. 2. The Planning Division will be headed by the Planning Director with responsibilities for:

- (a) Enforcing compliance with subdivision and zoning ordinances and the comprehensive master plan;
- (b) Reviewing and recommending revisions of the above;
- (c) May serve as secretary to the Planning Commission and Zoning Board of Appeals;
- (d) Preparing reports and plans for the development of the City relative to growth, subdivisions, zoning, capital improvements, annexations and other related problems;
- (e) Performing such additional duties as may be properly assigned.

Subd. 3. The Human Resources Division will be headed by the Human Resources Director with the following duties and responsibilities:

- (a) May serve as secretary to the Civil Service Board and perform such duties as may be assigned by the Board;
- (b) Perform various personnel management duties under direction of the City Administrator including such matters as pay and fringe benefit studies, employee grievance procedures and job classification studies;
- (c) Perform related work as required.

Section 105:27. Department of Finance. The Department of Finance will be headed by the Director of Finance who will have responsibilities for financial planning and management, budgeting preparation and debt management, staff services to the Mayor and City Administrator and such additional duties as assigned. The Director of Finance also has the responsibility of investment of City funds as City Treasurer. There will be an Assistant Director appointed by the Mayor who will perform the duties of the Director of the Director's absence or disability and other duties as assigned. The Department of Finance will consist of the following divisions:

Subd. 1. The City Clerk's Division will be headed by the City Clerk with responsibilities for the proper accounting of all City funds, issuance of licenses and permits, recording and custody of official documents, legal publication, the administration of elections, insurance, and such additional duties as may be properly assigned. There will be an Assistant City Clerk appointed by the Mayor who will perform the duties of the City Clerk in cases of the City Clerk's absence or disability and such other duties as may be properly assigned.

Subd. 2. The Assessor's Division will be headed by the City Assessor with responsibilities for the valuation and classification of real and personal property in the City and the management of the City's assessment records.

Subd. 3. The Accounting/Budgeting Division will be headed by the Accounting Supervisor with responsibilities for the control of receipts, accounts payable, fixed assets, special assessments, budgeting, and financial reporting of all City funds.

Subd. 4. The Information Technology Division will be headed by the Information Technology Director with responsibility for the hardware, software, operating systems and network for all City facilities. In addition, the IT Division is responsible for the maintenance and governance of the City's telecommunication and wireless networks.

Section 105:29. Department of Community and Leisure Services. The Department of Community and Leisure Services will have supervisory responsibility over the Departments of Community Services, Civic Facilities and Recreation. This department will be headed by a Director who will be responsible to the City Administrator and the Mayor for the efficient operation of the departments under the Director's jurisdiction. In addition to the Director, there will be a Assistant Director appointed by the Mayor who will perform the duties of the Director in the Director's absence or disability and such other duties as assigned.

Section 105:30. Department of Civic Facilities. The Department of Civic Facilities will be headed by the Civic Facilities Director with responsibilities for: the operation of the Municipal Athletic Complex and the Civic/Convention Center Complex; scheduling the use of the facilities; preparing reports and plans for utilization and promotion of the facilities; perform related work as required.

Section 105:31. Department of Community Services. The Department of Community Services will be headed by the Director of Community Services and will have responsibilities for facilitating initiatives, identifying resources and coordinating services that strengthen neighborhoods, invite citizen participation, and address people's basic human needs. The Department of Community Services will consist of the following divisions.

Subd. 1. The Aging Services Division will be headed by the Director of Aging Services with responsibilities for program operations at Whitney Senior Center and in partnership with other city services and community agencies addressing the needs of the city's aging population through advocacy, programming and education.

Subd. 2. The Volunteer Services Division will be headed by the Retired and Senior Volunteer Program Director with responsibilities for engaging older citizens in community service and helping to mobilize other volunteer resources to address human needs.

Subd. 3. The Human Rights Division will be headed by the Human Rights Director with responsibilities for promoting human rights, diversity, and fair treatment of all persons through education, individual assessment, information and referral.

Section 105:32. Department of Recreation. The Department of Recreation will be headed by the Recreation Director with responsibilities: to plan, promote, organize and supervise a comprehensive recreation program for the benefits of the residents of the City of St. Cloud; to supervise the use of all City recreational facilities; to conduct and supervise any form of recreation, cultural or social activity which will employ the leisure time of the citizens in a wholesomely constructive manner.

Section 105:33. Department of Public Services. The Department of Public Services will have supervisory responsibility over the Departments of Public Works, Parks Public Utilities and Airports. This department will be headed by a Director who will be responsible to the City Administrator and the Mayor for the efficient operation of the departments under the Director's jurisdiction. The Director will also regulate and control the purchase and use of goods and equipment and the hiring and assignment of personnel in such a manner as to achieve the maximum economy. In addition to the Director, there will be a Deputy Director appointed by the Mayor who will perform the duties of the Director in cases of the Director's absence or disability and such other duties as assigned.

Section 105:36. Department of Public Works. The Department of Public Works will be headed by the Director of Public Works/City Engineer who will be a registered engineer under the laws of Minnesota with responsibilities for all matters relating to construction, maintenance, management, and operation of the physical property of the City assigned to that department. The Department of Public Works will consist of the following divisions: Engineering, Central Maintenance, Streets, Electrical Services, Sanitation, Parking, Traffic Control and Equipment, Maintenance.

Section 105:39. Department of Parks. The Department of Parks will be headed by the Parks Director who will have responsibilities for the acquisition and development of the City's park system, maintenance of all City-owned or leased land and buildings not assigned to some other department, and the care of trees on street right-of-ways and on park property. There will be an

Assistant Director appointed by the Mayor who will perform the duties of the Director in case of the Director's absence or disability and such other duties assigned.

Section 105:40. Department of Airports. The Department of Airports will be headed by the Director of Airports with responsibilities for planning, organizing, and directing the activities of the St. Cloud Regional Airport. There will be an Assistant Director appointed by the Mayor who will perform the duties of the Director in cases of the Director's absence or disability and such other duties as may be properly assigned.

Section 105:42. Department of Public Utilities. The Department of Public Utilities will be headed by the Director of Public Utilities with responsibilities for planning, organizing, and directing the activities of the St. Cloud Public Utility System, including sewerage collection, sewerage treatment, water distribution, water treatment, electrical generation, electrical distribution and related operations. There will be an Assistant Director appointed by the Mayor who will perform the duties of the Director in cases of the Director's absence or disability and such other duties as assigned. The Department of Utilities will consist of the following divisions:

Subd. 1. Wastewater Treatment Services will be headed by the Wastewater Services Manager with responsibilities for the wastewater treatment systems.

Subd. 2. Water Treatment Services will be headed by the Water Services Manager with responsibilities for the water supply and treatment systems.

Subd. 3. Water Distribution and Wastewater Collection Services will be headed by the Utility Services Manager with responsibilities for the sewerage collection and water distribution systems.

Subd. 3. Hydroelectric Production will be headed by the Hydroelectric Production Manager with responsibilities for the hydroelectric facility.

Section 105:45. Department of Public Safety. The Department of Public Safety will have supervisory responsibility over the Department of Police Services, the Department of Fire Services, the Department of Health & Inspections and the Department of Emergency Management. This department will be headed by a director who will be responsible to the City Administrator and the Mayor for the efficient operation of those. In addition to the Director, there will be a Deputy Director appointed by the Mayor who will perform the duties of the Director in cases of the Director's absence or disability and such other duties as assigned.

Section 105:48. Department of Police Services. The Department of Police Services will be headed by the Police Chief with responsibilities for assuring the efficient operation of the Police Department, seeing that order is maintained, that laws and ordinances are enforced and taking the necessary measures to prevent crime and to protect lives and property. The Chief of Police will be responsible for training, assignment, supervision, and discipline of all department personnel.

Section 105:51. Department of Fire Services. The Department of Fire Services will be headed by the Fire Chief with responsibilities for assuring the efficient operation of the Fire Department, efforts towards the prevention of fires and the protection of life and property against fires. The Fire Chief will be responsible for training, assignment, supervision, and discipline, of all department personnel.

Section 105:54. Department of Emergency Management. Department of Emergency Management will be headed by the Emergency Management Director with responsibilities for the health, safety, and welfare of the citizens of the City in emergency situations resulting from manmade or natural disasters.

Section 105:55. Health and Inspections Department. The Health and Inspections Department will be headed by the Health Director who will have current Minnesota Department of Health, Environmental Health/Sanitarian Registration responsibility for the enforcement of all laws and

ordinances relating to the protection and preservation of the public health. The Department of Health will consist of the following divisions: Environmental Health, Building Inspection, Animal Control, and Housing Inspection.

Section 110 - Fees and Compensation of
City Officers and Employees

Section 110:00. Compensation. The compensation of officers and employees of the City will be a fixed and definite sum, as now or hereafter may be fixed by the proper authority.

Section 110:05. Fees. All fees collected by any officer or employee will become the property of the City and will be turned over to the City Treasurer immediately, but in no event after the 5th day of the next succeeding calendar month.

Section 115 - Workers Compensation
for Elected Officials and Appointed Officers

Section 115:00. Workers Compensation for Elected Officials and Appointed Officers. Pursuant to Minnesota Statutes 176.011, Subd. 9, clause 6, the elected officials of the City and those municipal officers appointed for regular term of office are included in the coverage of the Minnesota Workers Compensation Act.

Section 120 – Compensation of the Mayor

Section 120:00. Compensation of the Mayor. Pursuant to Section 310 of the Home Rule Charter of the City of St. Cloud, and Minnesota Statutes 415.11, the salary of the Mayor of the City of St. Cloud shall be \$45,000 per year for which the Mayor shall devote his or her skills to the management of the Office of the Mayor and shall not engage in any other occupation, employment, business or activity that shall in any way interfere with the performance of his or her duties as Mayor.

Section 120:10. Insurance Benefits. The Mayor shall be permitted to select from the same health, dental, and life insurance options that are made available to unclassified employees of the City. The City shall contribute toward the cost of the premiums for the plan selected by the Mayor, the same percent of the total cost of premiums paid on behalf of unclassified employees for health insurance, life and dental insurance. The Mayor shall be responsible for all costs for insurance in excess of the City's contribution. That amount shall be directly deducted from the Mayor's compensation.

Section 120:20. Automobile Allowance. The Mayor shall be given an automobile allowance in the amount of \$420.00 per month.

Section 120:30. Periodic Review. A non-biased panel of experts, appointed by the mayor, shall meet every four years to make recommendations regarding the salary of the mayor beginning in 2008. The City Council shall review and act on the recommendations of this panel during the month of September prior to each mayoral election. Any adjustments to the mayor's salary will be implemented immediately following the November election.

Section 125 – Compensation of Council Members

Section 125:00. Compensation of Council Members. Pursuant to Minnesota Statutes 415.11, the salary of a Council member of the City of St. Cloud will be as follows:

Council President	\$10,100 per year
All other members of the Council	\$ 8,600 per year

Section 125:10. Insurance Benefits. Members of the City Council will be permitted to select from the same health, dental and life insurance options that are made available to unclassified employees of the City. The City will contribute toward the cost of the premiums for the plan selected by the Council member, the same percent of the total cost of premiums paid on behalf of unclassified employees for health insurance, life and dental insurance. The Council member will be responsible for all costs for insurance in excess of the City's contribution. That amount will be directly deducted from the Council member's compensation.

Section 125:20. Annual Adjustments. The City Council shall receive the same percentage adjustment to salary that is provided to the heads of the operating departments.

Section 130 - Use of Motor Vehicles
on Public Property Prohibited

Section 130:00. Definitions.

Subd. 1. The word "vehicle" as used in this ordinance means every device in, upon or by which any person or property is or may be transported or drawn, except devices moved by human power.

Subd. 2. Publicly owned land will include all lands owned or leased by the City of St. Cloud or by any other public agency within the City limits, including parks, playgrounds, and golf courses.

Section 130:05. Prohibited Operation; Exceptions. It will be unlawful and a penal offense for any person to use, operate or park any vehicle on publicly owned land in the City of St. Cloud, except:

- (1) Upon streets, highways or alleys designated as such for the purpose of vehicular travel or parking; or
- (2) Upon any land designated by the Mayor for vehicular use for special events or programs recommended by the Park and Recreation Board.
- (3) Upon public parking lots or parking structures designated as such by the Director of Public Works or the City Council.

Section 130:10. Towing Cars in Violation. The City may tow away or cause to be towed away by its employees or any other person, any vehicle found upon publicly owned land in violation of this ordinance. The vehicle will be impounded in accordance with this ordinance.

Section 130:15. Procedure for Impounding Cars in Violation. If any vehicle is found unlawfully parked, or left parked, such vehicle may be towed away or caused to be towed away by the City and impounded until the owner pays the towing costs, and the required fees for storage and other expense (in accordance with M.S. §169.041 and §168B.04). Any person removing or tampering with an impounded vehicle without the permission of the City or of the employee of the City in charge of the impounded vehicle will be guilty of a penal offense. Any person desiring to release any impounded vehicle must produce evidence showing him to be the owner of the impounded vehicle.

Section 130:20. Owner Identification. Upon the impounding of any vehicle hereunder, the person in charge of such vehicle will immediately notify the Chief of Police of the impoundment, who will make every reasonable effort to ascertain the name and address of the person owning the vehicle, and, if ascertained, the Chief will immediately advise the owner by letter, duly addressed to the owner, and deposited in the United States Post Office of St. Cloud. In the letter, the Chief will:

- (1) Give the general description of the vehicle, and the license number thereon if there be one.
- (2) Give the approximate time of its removal and the reason therefor, and the place where it is stored.
- (3) State the towing charge and the daily storage charge in those instances where the vehicle has been towed and impounded by the City or its employees.
- (4) Advise the owner that to release the vehicle, the owner must produce reasonably satisfactory evidence showing that person to be the owner of the vehicle.

Section 130:25. Money to be Delivered to Treasurer. Any employee receiving any money for the release of an impounded vehicle will within 24 hours deliver such money to the City Treasurer, together with a statement identifying the released vehicle and the amount of money required.

Section 145 - Unclassified Service, Certain Designations

145:00. Unclassified positions of employment. The following positions of employment with the City of St. Cloud are hereby placed in the unclassified service, pursuant to Section 7.30 of the Home Rule Charter:

Administrative Secretary
Purchasing Officer
Administrative Aide
Administrative Assistant-Air Service Project
Air Service Project Manager
Municipal Athletic Complex Manager
Assistant City Engineer
Plant Superintendent/Chemist
Traffic Engineer
City Clerk
City Attorney
Parks Director
Assistant Parks Director
Recreation Director
Assistant Recreation Director
Emergency Management Director
Director of Public Utilities
Director of Public Works/City Engineer
Human Resources Director
Planning and Community Development Director
Assistant Public Utilities Director
City Administrator
Assistant City Attorney I & II
Health Director
Finance Director
Paralegal
Human Rights Director
Aging Services Program Coordinator
Aging Services Director
Assistant Director of Operations & Maintenance
Assistant to Finance Director
Civic Facilities Director
Civic Center Operations Manager
Retired and Senior Volunteer Program (RSVP) Director
Retired Senior Volunteer Program (RSVP) Coordinator
Marketing and Events Coordinator
Utilities Water Quality Coordinator
Water Services Manager
Wastewater Services Manager
Building Inspection Program Coordinator
Civil Engineer
Director of Airports
Information Technology Director
Administrative Assistant - Mayor's Office
Accounting Supervisor
Community Services Director

Director of Public Services
Traffic Signal Manager
Assistant City Attorney
Traffic System Manager
Senior Planner
Information Technology Coordinator
Senior Registered Civil Engineer

CHAPTER II

Section 200 - Airports

Section 200:00. Definitions.

Subd. 1. St. Cloud Regional Airport. The St. Cloud Regional Airport means all land and rights thereto including water, improvements, and personal property thereon which is designated as the St. Cloud Regional Airport located at 1550 - 45th Avenue Southeast, St. Cloud, Minnesota.

Subd. 2. Director. The Director is the Director of Public Works with responsibilities for the following divisions: Engineer, Central Maintenance, Street and Sanitation, Parking, Traffic Control, Equipment Maintenance and Airport.

Subd. 3. Airport Manager. The Airport Manager is the manager of the St. Cloud Regional Airport for the City of St. Cloud.

Subd. 4. Business use. Business use for aeronautical purposes means the use of the airport facilities in such a way that the airport is indispensable to the user's usual and customary business operation, such as, but not necessarily limited to: flight instruction, aircraft sales, airframe and/or power plant repair, aircraft rental, hanger rental, aircraft fuel, and all dispensing service, air taxi service, aerial applications, flying clubs, and air freight service. The use of the airport by businesses and individuals when the use is not indispensably related to an aeronautical industry shall be deemed a private use.

Section 200:05. Event Scheduling. The Director shall have discretionary authority to schedule events and all other uses of the St. Cloud Regional Airport. Priority will be given to aeronautical events.

Section 200:10. Rental Fees. Rental fees and charges for use of the St. Cloud Regional Airport are stated in Sections 570:00 of this code. A rental fee and deposit shall be paid prior to receipt of the permit and obtained pursuant to this section.

Section 200:15. Permits Required. Any use of the St. Cloud Regional Airport which is not authorized by a permit as provided herein shall be a violation of this ordinance.

Section 200:20. Permits. The City Clerk is authorized to issue permits for the business use of the St. Cloud Regional Airport when the intended use conforms to standards adopted by the City Council; the airport manager shall prepare suitable forms for applications; the required annual license fee shall be paid at the time of filing the application; all permits shall be for a period of one year, shall not be transferable or refundable; a permit shall be cancelled if the permit holder fails to conform to the standards.

Section 200:25. Standards. The Airport Manager is authorized and directed to develop minimum standards for use of the St. Cloud Regional Airport and to present such standards to the Council within a reasonable time after November 9, 1970; such standards shall include mandatory lease clauses, standards of conduct, insurance requirements, and any other pertinent material deemed essential to the operation of the airport; such standards shall be considered by the Council, and when adopted, shall provide the basis by which the City Clerk shall issue permits.

Section 200:30. Application.

Subd. 1. A person seeking issuance of a permit shall file an application with designated

staff at the Airport Administration Offices. The application shall state the information as follows:

Subd. 2. Name and address of applicant.

Subd. 3. Name and address of the person(s) sponsoring the activity.

Subd. 4. The day and hour for which the permit is desired.

Subd. 5. An estimate of attendance.

Subd. 6. What type of activities are going to be conducted.

Subd. 7. Any other information which the Airport Manager shall find reasonably necessary for fair determination as to whether a permit should be issued.

Section 200:35. Standards of Issuance. The Airport Manager shall issue a permit when all of the requirements of the following subdivisions have been met:

Subd. 1. The proposed activity or use of the St. Cloud Regional Airport will not unreasonably interfere with or detract from the normal daily activities of the airport.

Subd. 2. The proposed activity or use is not reasonably anticipated to invite violence, crime or disorderly conduct.

Subd. 3. The proposed activity will not entail unusual, extraordinary or burdensome expenses or police operation by the City.

Subd. 4. The area desired has not been reserved for other use at the day and hour requested in the application.

Subd. 5. The application is refused, the Airport Manager shall make known in writing to the applicant the reason or reasons for refusal.

Subd. 6. No permit shall be issued for a period of time in excess of five consecutive days.

Section 200:40. Effect of Permit. The permit holder is bound by all St. Cloud Regional Airport rules and regulations and all applicable ordinances of the City.

Section 200:45. Hold Harmless. Any person(s) to whom the permit is issued shall indemnify and hold harmless the City and any of its officers, employees or agents for any loss, damage, injury or death from any act or omission of the person(s) to whom the permit is issued, said persons, invitees, licensees, employees or agents, while on or near the Airport premises.

Section 200:50. Revocation. The Airport Manager the authority to revoke a permit for good cause or upon a violation of any rule or ordinance.

Section 200:60. Private Use. Private use of the St. Cloud Regional Airport by the public is authorized and encouraged so long as that use is not in conflict with the public interest. Private use shall not require a permit.

Section 200:65. Business Use. Business use of the St. Cloud Regional Airport for aeronautical purposes is authorized and encouraged, but only by the permit holder.

Section 201 - Airport Advisory Board

Section 201:00. Purpose. The Airport Advisory Board will act in an advisory and review capacity to the Mayor regarding operation and construction on the airport.

Section 201:10. Membership.

Subd. 1. The Airport Advisory Board must consist of seven voting members and a minimum of six ex-officio non-voting members. Appointments of the Board must be made by the Mayor and must represent a cross-section of aviation interest.

Subd. 2. The fixed base operator(s) or designated representative must serve in an ex-officio capacity. The remaining ex-officio non-voting members must be appointed one each by the Benton County Board, the Sherburne County Board, the Stearns County Board, the Haven Township Board of Supervisors, and one for each Commuter Service Company.

Section 201:15. Terms and Appointment. The original appointments of voting members must be for the following terms: Two members appointed for one year terms; two members appointed for two year terms; one member appointed for a three year term. Thereafter, appointments of voting members will be made each year for three year terms. At the first meeting of each calendar year, the Board must select a Chair, a Vice-Chair, and a Secretary, each to serve throughout the year and until a successor is chosen. Vacancies must be filled for the remaining term in the same manner as original appointments.

Section 201:20. The Chair. The Board must meet at the call of the Chair with a minimum of four meetings per year. Additionally, the Chair must arrange meetings with interested citizens who are seeking assistance from the Board, assign duties to Board members, communicate with officials of the Public Works Department, report pertinent information and provide leadership to the Board. In the absence, or at the request of the Chair, any or all of these duties will be performed by the Vice-Chair.

Section 201:25. The Secretary. The Secretary will maintain permanent records of the proceedings of the Board meetings and must read the minutes of those proceedings at each successive meeting at the request of the Chairman. The Secretary will serve as the Board's correspondent.

Section 201:30. Quorum. A quorum, of at least four voting members, is necessary for the transaction of business at any meeting.

Section 201:35. Compensation. Members of the Board will serve without compensation.

Section 201:40. Procedure. The committee's final action on any proposal must be in the form of a recommendation of approval or disapproval directed to the Mayor.

Section 205 – Health and Inspections Department

Section 205:00. Health and Housing Advisory and Appeals Committee.

Subd. 1. Composition: A Health and Housing Advisory and Appeals Committee of the City of St. Cloud is established and will consist of eleven members as follows: The Health Director; a member of the City Council to be designated by the President of the Council; a doctor of veterinary medicine licensed to practice in Minnesota; a representative of the St. Cloud Hospital, of administrative level; a resident doctor of dentistry licensed to practice in Minnesota; a resident pharmacist licensed to practice in Minnesota; a registered nurse; an individual who owns apartment buildings to the extent that it could be considered his/her part-time employment; an individual who owns or is employed by a company who is engaged full time in the professional management of rental property; a taxpayer who is not engaged in rental property, but owns real estate within the city; and a taxpayer who is not a real estate owner.

Subd. 2. Appointment: All members except the Health Director and the representative of the City Council, will be appointed by the Mayor, with the approval of the City Council. The Health Director and the City Council member will be ex-officio non-voting members.

Subd. 3. Terms: The terms of the appointive members will be five years, except that the terms of the appointees required to be of an administrative level will terminate if they will cease to hold such a position. No person will serve more than two consecutive terms.

Subd. 4. Unexpired Terms: Any vacancy in the unexpired term of a member will be filled by the Mayor, with the approval of the Council, for the balance of the term in which the vacancy occurred.

Subd. 5. The Mayor may remove any member of the Committee.

Subd. 6. Members of the Committee will serve without compensation.

Subd. 7. Meetings: The Committee will meet monthly at the call of the Chairperson or of any two members

Subd. 8. Officers: The Committee will, at its first meeting in January of each year, elect a Chairperson and Vice Chairperson. No person will serve more than two consecutive terms as Chairperson or Vice Chairperson.

- (a) Chairperson: The Chairperson will preside and maintain order at all Committee meetings in accordance with Subd. 10 of this section and will make such reports as required by law and as deemed necessary by the Committee to the Mayor and City Council.
- (b) Vice Chairperson: The Vice Chairperson will fulfill the duties of the Chairperson in the absence of the Chair, including the calling of Committee meetings and will assist the Chairperson with administrative duties.
- (c) Secretary: The Secretary will assist the Chairperson and Vice Chairperson in the administrative duties of the Commission. The Recording Secretary will be responsible for the preparation of the minutes of all meetings of the Committee.

Subd. 9. Reporting: The Committee, with the assistance of the staff, will make a regular report of its activities to the Mayor and the Council each year, and will submit the report in

writing annually before June 1. The report will include the number of Committee meetings held, the names of those in attendance; the activities sub-committees; and such other information as the Committee deems appropriate.

Subd. 10. Procedure: Committee business will be conducted in accordance with Robert's Rules of Parliamentary Procedure except as Robert's Rules may be in conflict with this ordinance, in which case this ordinance will govern.

Subd. 11. Public: All meetings of the Committee, records and minutes will be open to the public except as otherwise may be provided by applicable law.

Section 205:05. Duties of Health and Housing Advisory and Appeals Committee. The Health and Housing Advisory and Appeals Committee will serve in an advisory capacity to the Health Director in making recommendations concerning the general public health and housing program. Any proposed changes or adoptions of new ordinances, recommendations or codes involving environmental sanitation, food and beverage establishment inspection, public housing facilities, pollution control, or any other field of public health must be referred by the City Council to the Committee for its consideration and recommendations. It will be the duty of the Committee to study city ordinances and codes concerning public health and housing. The committee will make recommendations for new ordinances whenever the Committee determines that changes or adoptions of new ordinances would improve health and housing services and to conform with State Board of Health laws, rules and regulations. The Committee will also fulfill the functions of the Advisory and Appeals Board as required in the Uniform Housing Code.

Section 210 Emergency Services

210:00. Policy and Purpose. Because of the existing possibility of the occurrence of disasters of unprecedented size and destruction resulting from fire, flood, tornado, blizzard, winds or other natural causes, or from sabotage, hostile action, terrorism or from hazardous material mishaps of catastrophic measure or other major incidents, and in order to insure that preparations of the City will be adequate to deal with such disasters and generally, to provide for the common defense and to protect the public peace, health and safety, and to preserve the lives and property of the people of St. Cloud, it is necessary to accomplish the following:

Subd. 1. Establish a City emergency management organization responsible for City planning and preparation for emergency government operations in time of disasters;

Subd. 2. Provide for the exercise of necessary powers during emergencies and disasters;

Subd. 3. Provide for the rendering of mutual aid between the City and other political subdivisions with respect to the carrying out of emergency preparedness functions;

Subd. 4. Comply with the provisions of Minn.Stat. § 12, known as the Minnesota Emergency Management Act of 1996.

210:03. Definitions.

Subd. 1. Emergency Management. Emergency Management means the preparation for and the carrying out of all emergency functions to prevent, minimize and repair injury and damage resulting from disasters caused by fire, flood, tornado and other acts of nature, or from sabotage, hostile action, terrorism or from industrial hazardous material mishaps or other major incidents. These functions include, without limitation, fire-fighters services, police services, emergency medical services, engineering, warning services, communications, radiological, and chemical, evacuation, congregate care, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to civil protection together with all other activities necessary or incidental for carrying out of the foregoing functions. Emergency management includes those activities sometimes referred to as "civil defense" or "emergency preparedness" functions.

Subd. 2. Disaster. Disaster means a situation which creates an immediate and serious impairment to the health and safety of any person, or a situation which has resulted in or is likely to result in major loss to property, and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss.

Subd. 3. Emergency. Emergency means an unforeseen combination of circumstances which calls for immediate action to respond, or prevent from developing or occurring.

Subd. 4. Emergency Management Forces. Emergency Management Forces means the total personnel resources engaged in City-level emergency management functions in accordance with the provision of this ordinance or any rule or order thereunder. This includes personnel from City departments, authorized volunteers, and private organizations and agencies.

Subd. 5. Emergency Management Organization. Emergency Management Organization means the staff element responsible for coordinating City-level planning and preparation for disaster response. This organization provides City liaison and coordination with federal, state and local jurisdictions relative to disaster preparedness activities, major incidents, mutual aid, and other projects consistent with this ordinance and assures implementation of federal, state, county and other program requirements.

Subd. 6. Major Incident. Major Incident means any incident which exhausts local resources.

Subd. 7. Emergency Management Mutual Aid. Emergency Management Mutual Aid means any disaster or major incident which requires the dispatching of City personnel, equipment or other necessary resources within or without the City limits.

210:05. Establishment of an Emergency Management Organization. There is hereby created within the City government an emergency management organization which will be under the supervision and control of the Emergency Management Director, hereinafter called the "Director". The Director will be appointed by the Mayor. The Director will have direct responsibility for the organization, administration and operation of the emergency preparedness organization.

210:07. Powers and Duties of the Director.

Subd. 1. The Director will represent the City of any regional or state conference for emergency management. The Director may develop additional mutual aid agreements with other political subdivisions of the state for reciprocal emergency management aid and assistance in an emergency too great to be dealt with unassisted, and will present the agreements to the City Council for its consideration. The arrangements will be consistent with the Emergency Plan.

Subd. 2. The Director will make assessments of personnel, businesses and industries, resources and facilities of the City as deemed necessary to determine their adequacy for emergency management and to plan for their most efficient use in time of an emergency, major incident or disaster.

Subd. 3. The Director will prepare a comprehensive emergency plan for the emergency preparedness of the City and will present such plan to the City Council for its approval. When the City Council has approved the plan by resolution, it will be the duty of all City agencies and all emergency preparedness forces of the City to perform the duties and functions assigned by the plan as approved. The plan may be modified in like manner

from time to time. The Director will coordinate the basic emergency management activities of the City to the end that they will be consistent and fully integrated with the basic emergency plan of the Lake Minnetonka Regional Emergency Management Preparedness Planning and Review Committee, and federal and state governments.

Subd. 4. In accordance with the emergency plan, the Director will institute such training programs, public information programs and conduct practice warning alerts and emergency exercises as may be necessary to assure prompt and effective operation of the emergency plan when a disaster, major incident or mutual aid occurs.

Subd. 5. The Director, during an emergency, major incident or mutual aid, will 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 the departments and agencies will be, to the maximum extent practicable, cooperative with and extend such services and facilities to the emergency management organization. The head of each department or agency in cooperation with the Director will be responsible for the planning and programming of emergency activities as will involve the utilization of the resources of the department or agency.

Subd. 6. The Director will, in cooperation with the existing departments and agencies affected, assist in the organizing, recruiting and training of such emergency management personnel, as may be required on a volunteer basis to carry out the emergency plans. To the extent that such emergency personnel are recruited to augment a regular department or agency for emergencies, they will be assigned to such departments or agencies and will be under the administration and control of the department or agency.

Subd. 7. The Director will carry out all orders, rules and regulations issued by the City Council with reference to emergency management.

Subd. 8. The Director will prepare and submit such reports on emergency preparedness activities as may be requested by the City Council.

210:09. Local Emergencies.

Subd. 1. A local emergency, including a disaster, major incident or mutual aid response, may be declared by the mayor. It will not be continued for a period in excess of three days except by or with the consent of the City Council. Any order or proclamation declaring, continuing, or terminating a local emergency will be given prompt and general publicity and will be filed promptly by the City Clerk.

Subd. 2. A declaration of a local emergency will invoke necessary portions of the response and recovery aspects of applicable plans, including fiscal expenditures, which are consistent with this ordinance.

Subd. 3. No other City agency or official may declare a local emergency unless expressly authorized by the agreement under which the agency functions.

210:11. Emergency Regulations.

Subd. 1. Whenever necessary to meet a declared emergency or to prepare for such an emergency for which adequate regulations have not been adopted by the governor of the State of Minnesota or the City, the City Council may by resolution promulgate emergency regulations, consistent with the applicable Federal or State law or regulation, respecting the conduct of persons and the use of property during emergencies; the repair, maintenance, and safeguarding of essential public services; emergency health, fire, and safety regulation; drills or practice periods required for preliminary training; and all other matters which are required to protect public safety, health, and welfare in declared emergencies.

Subd. 2. Every resolution of emergency regulations will be in writing, dated, refer to the particular emergency to which it pertains, if so limited, and be filed with the City Clerk. A copy will 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 office of the City Clerk will be conspicuously posted at the front of the city hall or at such other places in the affected area as the City Council will designate in the resolution. By like resolution, the City Council may modify or rescind any such regulation.

Subd. 3. The City Council may rescind any emergency regulation by resolution at any time. If not sooner rescinded, every such regulation will expire at the end of 30 days after its effective date or at the end of the emergency to which it relates, whichever comes first, unless the regulation is renewed by the City Council. Any renewal is terminated automatically after 30 days unless again renewed by the City Council. Any resolution, rule or regulation inconsistent with an emergency regulation promulgated by the City Council will be suspended during the period of time and to the extent such conflict exists.

Subd. 4. During a declared emergency, the Director is, notwithstanding any statutory provision to the contrary, empowered through the City Council 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 Director may exercise such powers in the light of the exigencies of the disaster without compliance with the time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering rental equipment agreements, purchase of supplies and materials, limitations upon tax levies, and the appropriation and expenditure of public funds including, but not limited to, publication of resolutions, publication of call for bids, provisions of personnel laws and rules, provisions relating to low bids, and requirements for budgets.

210:13. Emergency Management A Governmental Function. All functions and activities relating to emergency management are declared to be governmental functions. The provisions of this section will not affect the right of any person to receive benefits to which he or she would otherwise be entitled under this ordinance or under the workers' compensation law, or under any

pension law, nor the right of any such person to receive any benefits or compensation under any act of Congress.

210:15. Participation in Labor Dispute or Politics. The emergency management organization will not participate in any form of political activity, nor will it be employed directly or indirectly for political purposes, nor will it become involved in a labor dispute. The Director may express professional opinions on legislative or other legal regulations consistent with the areas found in Minn.Stat. § 12.

210:17. Authorizing Dispatch and Use of City Equipment and Services by the Director in Emergency Situations.

Subd. 1. The City finds it desirable and necessary to authorize the Director to dispatch City equipment and personnel to local communities who request aid to combat their emergency, disaster, or major incident consistent with this ordinance and sections 210:07 and 210:09.

Subd. 2. The Director will evaluate the internal needs of the City, and dispatch appropriate available aid. The Director will immediately recall, order and terminate the use of any dispatched equipment and personnel when the need for their use no longer exists, or earlier when it appears in the best interest of the City.

Subd. 3. The Director's acts will be fully authorized as acts of the City, and all provisions for compensation of personnel, rental of equipment, liability insurance coverage, workers' compensation insurance and all other safeguards and matters pertaining to the City, its equipment and personnel, will apply in each case as if specifically authorized and directed at such time, whether or not the City Council has previously requested and provided for assistance and the use of equipment and personnel under a mutual protection agreement or other type protection agreement within the City.

Section 220 – Health & Inspections Department

Section 220:00. Health Director. The Health Director will be a person suitably trained or experienced in public health administration. The Director will have current Minnesota Department of Health, Environmental Health Specialist/Sanitarian Registration.

Section 220:05. Duties of the Health Director.

Subd. 1. The Health Director will execute and enforce all statutes, ordinances, and regulations for the protection and promotion of the public health, and will take other action as is necessary for the public health. The Director will direct the inspection of food establishments and other such places where food is prepared for public sale in raw or processed form; will direct the inspection of all public housing facilities, such as hotels, boarding homes, motels, boarding care homes, and other such places, in order to protect public health and to prevent the spread of disease; will direct sanitation activities; will direct all other environmental health activities; will direct the humane activities of the City in regard to catching, housing and disposing of dogs, cats, and other animals that pose a potential hazard to the general health, safety, and welfare of the people; will keep the records necessary for the operation of the department; will supervise the Building Inspection Division and Housing Inspection Division.

Subd. 2. Inspection and Notice. The Health Director will have the power, in person or by authorized agent, to inspect any premises within the City to ascertain whether the conditions are Sanitary. If any unsanitary or offensive condition are found to exist, the Health Director will give written notice to the occupant or owner of the premises of the existence of unsanitary or offensive conditions. The occupant or owner will immediately remove such conditions. No person will prevent or hinder the Health Director or his authorized agent from entering upon any premises for the purpose of or performing any of his duties. If within the time specified in such notice, which will be not less than five days, the owner or occupant will fail to remove such condition, the Health Director will report such fact to the City Council and the City Council may authorize the condition to be removed and may assess the costs against such property. Such assessment, if levied, will bear interest at the rate of 6% per annum and will be certified to the auditor of the county in which the land assessed is situated and will be collected and remitted to the City in the same manner as assessments for local improvements. If such premises are rented or leased and the owner fails to remove the condition specified in notice, the Council may condemn the premises as unsanitary and close the same against tenants and it will be unlawful for the owner thereof to collect any rent for the period during which such specified condition continues to exist.

Section 220:10. Citations for Certain Violations. Pursuant to Minn. Statute §626.862, the Health Director or representatives who are limited to the Building Inspection Program Coordinator, Environmental Health Specialist, Environmental Health Technician, Building Inspector, Plumbing Inspector, Electrical Inspector and Heating Inspector is authorized to issue a citation for ordinance violations. A citation may be issued to any person, firm or entity for any alleged violation of any of the following enumerated sections of the 2007 Code of Ordinances of the City of St. Cloud:

Section 240 - Refuse and Garbage Collection and Disposal; Section 240:35. Responsibilities of Owners and Occupants.

Section 300 - State Building Code Adopted by Reference; International Residential Code, Chapter 3, Section R317 entitled Smoke Detectors and the International Building Code, Chapter 9 entitled Fire Protection Systems.

Section 300:30 - Electrical Code, Section 3. Permits and Licenses Generally, 3.020. Permit Required.

Section 300:20 - Minnesota Uniform Mechanical Code Adopted by Reference; Heating Contractor's License Required, Section 300:20 Subd. 2; Certificates of Competency for Heating Installers, Section 300:20 Subd. 6; Permits Required, and Section 300:20 Subd. 16; Permit Will be Obtained Before Work is Started, Section 300:20 Subd. 19.

Section 300:40 - The Uniform Housing Code, 1994 Edition Adopted by Reference, Chapter 8, Exits, Sec. 801; and Chapter 10 Substandard Buildings; Section 1001.2, 12. Infestations of insects and 15. Lack of adequate garbage and rubbish storage and removal facilities; 1001.4 Nuisances and 1001.11 Hazardous or Unsanitary Premises;

Section 300:10 - Minnesota State Plumbing Code, Adopted by Reference: Section 1.2, Licenses for Plumbing Contractors; and Section 3.1, Permits Required.

Section 355 - Zoning Ordinance: Article 6, Off Street Parking and Loading; Article 7, Sign Regulations, Section 7 - Licenses and Permit Fees; and Article 32, - Administration and Enforcement, Section 2 - Building Permits and Section 3 - Certificate of Occupancy.

Section 465 - Rental Dwelling Licensing.

Section 1000 - Nuisances Generally, Defined, Enumerated and Made Unlawful: Section 1000:15, Nuisances Affecting Peace and Safety Enumerated, Subdivision 7, Special Provisions - Outside Parking and Storage.

Section 1005 - Public Nuisances Affecting Health and Safety; Section 1005:40, Nuisances Affecting Health and Safety Enumerated, Subdivisions 1 through 12 and Section 1005:50, Property Owner Negligence, Subdivisions 1 through 6.

Section 1040-Animal Control Ordinance, Section 1040:20, Animals at Large.

Section 1040:25, Permit Required for Animals other than Dogs, Cats or Ferrets.

Section 1040:30, Restriction of Certain Dogs Section, 1040:40, Damage to Property by Dogs, Cats or other Animals Prohibited, Section 1040:90, License Required; Fee.

Section 225 - Medical Consultant

Section 225:00. Medical Consultant, Appointment. The Health Officer will be appointed by the Mayor, with the approval of the Council, and will be subject to removal by the Mayor. The Health and Housing Advisory and Appeals Committee may submit recommendations ~~in~~ with respect to the appointment of the Health Officer.

Section 225:05. Duties of Health Officer. The Health Officer will serve in an advisory capacity to the Health and Housing Advisory and Appeals Committee and the Health Director. The Health Officer will see that all health laws and regulations are obeyed, but the actual enforcement of these laws and regulations will be the duty and responsibility of the Health Director. The Health Officer will take such legal steps as are necessary to control communicable disease, and the Health Officer will advise the Health and Housing Advisory and Appeals Committee and the City Council of any health regulations or directions of the State Board of Health that are not being carried out by the Department of Public Health. The Health Officer will advise the Health Director in a medical way as to diagnosis for the purpose of quarantine, release of quarantine, details of necessary control methods, and other technical preventive measures. Health Officer will be responsible for the duties placed upon local health officers by Minn.Stat. § 145A.

Section 230 - St. Cloud Human Rights Ordinance

Section 230:00. Findings, Declaration of Policy and Purposes.

Subd. 1. Findings. The Council finds that discrimination defined by Minnesota Statute, Chapter 363A entitled the "Human Rights Act" adversely affects the health, welfare, peace and safety of the community. Such discrimination demeans the dignity of human persons, threatens the rights and privileges of the inhabitants of this City, and menaces the institutions and foundations of democracy. Discriminatory practices that threaten the rights, privileges, and opportunities of any City resident or non-resident are declared to be unlawful, and the adoption of this ordinance is an exercise of the police power of the City to protect such rights.

Subd. 2. Declaration of Policy and Purpose. It is the public policy of the City of St. Cloud and the purpose of this ordinance:

- (a) To encourage all citizens, whether individual or corporate, to join in establishing and preserving full and true equality among all residents and visitors;
- (b) To declare as civil rights the rights of all persons to equal opportunities defined by State and Federal Law;
- (c) To prevent and prohibit any and all discriminatory practices defined by State and Federal Law;
- (d) To protect all persons from unfounded charges of discrimination; and
- (e) To effectuate the foregoing policy by means of public information, ~~and~~ education, mediation, conciliation, and enforcement.

Section 230:30. St. Cloud Human Rights Commission.

Subd. 1. Purpose. The purpose of the Human Rights Commission is to secure for all citizens and visitors equal opportunity in education, employment, housing, public accommodations, and public services, and full participation for all its citizens in the affairs of this community.

Subd. 2. Composition and Qualifications, Appointment and Removal, Compensation.

- (a) The Commission will consist of eleven members. Six of the eleven Commission members must be persons having protected status with at least three of the six members representing different protected categories. No more than six members may be of the same gender. In addition to the eleven Commission members, one City Council member will be appointed by the Council to the Commission as an ex-officio, non-voting member of the Commission.

- (b) All members will be appointed by the Mayor with the advice and consent of the Council and with due regard to their fitness to fulfill the functions, powers, and duties vested in and imposed upon the Commission.
- (c) The Mayor may remove any member of the Commission in the best interests of the City.
- (d) Members of the Commission will serve without compensation.

Subd. 3. Terms of Members, Vacancies, Participation.

- (a) Appointment: At the time of the initial, members of the Commission will be appointed to a terms of three years, except that any person appointed to fill an unexpired term will serve only until the expiration of that term. No person will serve more than two consecutive terms.
- (b) Meetings: The Commission will meet monthly, and may meet additionally at the call of the Chairperson or of any two members.
- (c) Officers: The Commission will at its first meeting in January of each year, elect a Chairperson and Vice-Chairperson. No person will serve more than two consecutive terms as Chairperson or Vice Chairperson. The Staff Assistant for Human Rights will serve as the Recording Secretary for the Commission.
 - (i) Chairperson: The Chairperson will preside and maintain order at all Commission meetings in accordance with subd. 4(e) of this ordinance and will make such reports as required by law and as ordered by the Commission to the Mayor and City Council.
 - (ii) Vice Chairperson: The Vice Chairperson will fulfill the duties of the Chairperson in the absence of the Chair including the calling of Commission meetings and assist the Chairperson with administrative duties, and monitor the expenditure of funds allocated for human rights through the Commission.
- (d) Procedure: All business of the Commission will be conducted in an orderly and lawful manner, and the Commission will at all times be vigilant to preserve and protect the rights and privacy of both persons having human rights complaints and persons against whom human rights complaints have been made. Specific human rights complaints made against named individuals will not be heard by the Commission. However, the Commission may be addressed by individuals regarding problems and issues generally with due regard for the privacy of all persons. Persons having specific human rights complaints will be referred to the Human Rights Director. Such persons will also be advised of their opportunity to participate in no-fault mediation. Generally, Commission business will be conducted in accordance with Robert's Rules of Parliamentary Procedure except as Robert's Rules may be in conflict with this ordinance in which case this ordinance will govern. The Commission may also enact bylaws, with the approval of the City Council, to govern its own affairs, provided that the bylaws are not in conflict with Robert's Rules or this ordinance. The bylaws of the Commission, and any amendments, will be submitted for approval to the City Council upon their adoption by the Commission. The bylaws and any amendments will be deemed to be approved by the City Council unless the City Council takes action to modify the bylaws or amendments within 30 days after

submission to the City Council. The bylaws will not provide for the removal of Commission members by the Commission, but may provide a procedure by which the Commission may recommend removal of a Commission member to the Mayor. The bylaws may include recommendations for the training of Commission members as deemed appropriate by the Commission.

- (e) Public: All meetings of the Commission, records and minutes will be open to the public except as otherwise may be provided by applicable law. Applicable law will govern access to documents for no-fault mediation.

Subd. 5. Duties and Responsibilities.

- (a) The Commission will foster, through education, conferences and public information, general awareness and understanding of human rights issues and laws in the community. The Commission may make recommendations to the Mayor and City Council on legislation and policy changes at any level of government. Except for their advice to the Mayor and City Council, the Commission will not attempt to directly influence the legislation or policy changes the Commission recommends. Individual Commission members may, as individuals or representatives of other organizations, advocate before other legislative or executive bodies as individuals or representatives of other organizations, but they will not represent that they are representing the City of St. Cloud unless so authorized by the Mayor and City Council. The Commission will not participate ~~in~~, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of (or in opposition to) any candidate for public office. The Commission will limit its efforts to human rights issues as defined by the declared policy and purpose of this ordinance.
- (b) The Commission will enlist the cooperation of agencies, organizations, and individuals in the community, and will cooperate with the human and civil rights agencies of other communities, in an active program directed to create equal opportunities and equal rights for all persons.
- (c) The Commission will advise the Mayor, the City Council and other agencies of the City government on human relations and civil rights issues. The Commission will act in an advisory capacity with respect to planning or operation of any City department on issues of civil and human rights and recommend the adoption of such specific policies or actions as are needed to provide for full and equal opportunity in the community.

Section 235 Park and Recreation Advisory Board

Section 235:00. Membership. The Park and Recreation Advisory Board will consist of ten members. Five members will be appointed by the Mayor of the City of St. Cloud, with the consent of the City Council. Additionally there will be four representative members, including the Mayor of the City of St. Cloud, or designee, one member of the City Council, to be designated by said Council, one member of the St. Cloud Planning Commission to be designated by the Commission and the School District 742 Superintendent or designee.

Section 235:10. Residency. No person will be appointed to the Park and Recreation Advisory Board unless that person at the time of the appointments is a full-time resident of the City of St. Cloud. The residency requirement does not apply to the School District 742 Superintendent or designee. If a member's residency no longer meets these requirements, then the member's position on the Board will be considered vacant.

Section 235:20. Term. The terms of the three voting members appointed by the Mayor will be for a period of three years. A maximum of two consecutive terms may be served per member. Upon completion of the terms, a member may be eligible for reappointment after one year of non-membership. An appointed member will continue to serve until a successor is appointed. Terms for the ex-officio members or designees are determined by the group they represent and are not limited by this ordinance.

Section 235:30. Attendance. A member appointed by the Mayor missing three meetings within a one-year time frame may be removed from the Board by the Mayor.

Section 235:40. Vacancy. Any vacancy in the appointive membership will be filled by appointment by the Mayor with the consent of the City Council, and such appointee will serve for the remaining term. Said appointee may serve two additional three year terms pursuant to Section 235:20.

Section 235:50. Board Officers. The Board will elect at its September meeting from its membership a Chair, and Vice-Chair, who will serve pursuant to the Board's rules. Secretarial duties and the taking of minutes will be designated to Park and Recreation clerical staff.

Section 235:60. Meetings. The Park and Recreation Advisory Board will give notice of its meeting schedule at the last regular meeting of each calendar year. The Board will approve schedule that states regular dates, times and places of each meeting for the next year. The President or any two Board members will have the authority to call special meetings of the Park and Recreation Advisory Board.

Section 235:70. Quorum. A quorum is necessary for the transaction of business at any meeting. A quorum consists of at least four voting members.

Section 235:80. Duties. The Park and Recreation Advisory Board will study and determine the park and recreational needs of the City, and make recommendations to the Mayor regarding Park & Recreation programs and policies.

Section 235:90. Expenses. The members of the Board will serve without compensation, but reasonable expenses, incurred in the performance of his or her official duties will be paid by the City.

Section 236 - Park and Recreation Conduct and Use Regulations

(Note: 236:00 section number omitted)

Section 236:05. Definitions.

Subd. 1. "Parks Director" is the Parks Director for the City of St. Cloud.

Subd. 2. "Recreation Director" is the Recreation Director for the City of St. Cloud.

Subd. 3. "Land adjacent to a park" means all public alleys, streets, highways, or any other public lands which border on a park.

Subd. 4. "Park" is a park, reservation, trail, greenway, playground, swimming pool, beach, recreation center, shelter house, or any other area in the City, owned or used by the City and devoted to active or passive recreation.

Subd. 5. "Parkway" is any roadway in or leading into a park area.

Subd. 6. "Vehicle" is any conveyance on wheels or tracks, whether motor powered, animal drawn or self-propelled. The term will include any trailer of any kind or description. Exception is made for baby carriages.

Subd. 7. "Resident" is any person who lives within the corporate limits of the City of St. Cloud.

Subd. 8. "Trail" is an off road area that may be used for walking, bicycling, running, inline skating, skateboarding and other generally recreational or leisure activities. Trails may be constructed of a variety of surfacing material.

Subd. 9. "Board" means the St. Cloud Park and Recreation Board.

Subd. 10. "Special Event" means any event at which 50 or more persons are involved or any event for which a permit is required.

Subd. 11. "Keg" means a container designed for and capable of holding intoxicating or 3.2 malt liquor to be dispensed from a tapper.

Section 236:10. Park Hours and Open Dates.

Subd. 1. Wilson Park, Riverside Park, Pineview Park, Lions Park, and Knights of Columbus Park will be open from 6:00 A.M. to 10:00 P.M. during the following months:

Riverside Park	April 1-October 31
Wilson Park	May 1-September 30
Pineview Park	May 1-September 30
Knights of Columbus	May 1-September 30
Lions Park	May 1-September 30

Subd. 2. All Other Developed Parks. The opening times and closing times for all parks other than those stated above and those parks designated as undeveloped will be from 6:00 a.m. to 10:00 p.m. for the entire calendar year.

Subd. 3. Changes in Regular Park Hours. The Parks Director may establish temporary park operation hours.

Subd. 4. Special Events. A written permit must be obtained from the Parks Director for all special events that extend beyond normal opening and closing times. A written permit must be obtained from the Recreation Director for recreational events not organized by the Recreation Department that extend beyond normal opening and closing times at a park.

Subd. 5. Undeveloped Parks. Parks designated as undeveloped are not open to the public.

Section 236:14. Rules and Regulations. The Recreation Director and/or the Parks Director may establish reasonable rules and regulations for the use of park and recreation facilities and for obtaining permits. Such rules and regulations will be based on a due regard for the purpose for which the facility is established, the safety of those using the facility, the need for supervisory personnel and the maximum number of persons who can safely use the facilities at one time. Park and recreation facilities may be used by members of the general public for recreational and athletic purposes consistent with the nature of the facility and the safety of the public and property, subject to permit requirements.

Section 236:15. Permits. No person will, without a permit:

Subd. 1. Conduct a public assembly, parade, picnic or other event involving more than fifty people.

Subd. 2. Circulate or distribute any leaflets, handbills, notices, pamphlets, books, documents or papers of any kind in any indoor recreational facility, fieldhouse, garden or other special facility.

Subd. 3. Conduct any exhibit, music or dramatic performance, fair, circus, concert, play, radio or television broadcast, other than a news transmission.

Subd. 4. Exhibit or display any motion picture, television program, light or laser light display or similar event.

Subd. 5. Operate a vehicle, except upon a publicly dedicated street, alley, parkway, parking lot or other roadway which may abut or traverse a park.

Subd. 6. Create or emit any amplified sound, except from a radio, recorder or other device possessed and used by an individual and operated in such a manner so as not to interfere with the use and enjoyment by another person.

Subd. 7. Station or erect any building, tent, canopy, stand, bandstand, stage, tower, scaffold, sound stage, platform, rostrum or other structure.

Subd. 8. Station or use any electrical or electronic device or equipment that would require outdoor auxiliary power.

Subd. 9. Sell or offer for sale any goods or services.

Subd. 10. Display, post or distribute any placard, handbill, pamphlet, circular, book or other writing containing commercial advertising matter within a park.

Subd. 11. Bring, land or cause to ascend or descend or alight any airplane, helicopter, flying machine, balloon, parachute or other apparatus for aviation.

Subd. 12. Conduct any organized sporting event.

Subd. 13. Ride any horse on any parkway, path or trail.

Subd. 14. Bring onto park property a tame, non-domestic supervised and controlled or restrained animal for limited non-commercial or promotional purposes.

Subd. 15. Provide the professional catering of food, pop and/or beer.

Subd. 16. Transport or carry into Wilson or Riverside Parks one or more kegs of beer. Keg permits will be issued during the period of June 1 through October 15 only.

Subd. 17. Consume, possess, dispense, transport or carry in Whitney Park, any alcoholic beverage, including 3.2 beer, that was not purchased from a park concession stand.

Subd. 18. Utilize any park shelter at Riverside, Wilson, Knights of Columbus, Whitney or Heritage Parks. Lions Park.

Subd. 19. Conduct any wedding ceremony or wedding photography session at Munsinger Gardens or any other City park.

Subd. 20. Place or operate any watercraft in Lake George or on any waters within any city park.

Subd. 21. Utilize any off leash dog park areas located in the fenced and posted areas of Wilson Park on Riverside Drive S.E., Jaycees Park on 37th Avenue North and the northern fenced and posted portion of Whitney Park on Northway Drive and adjacent land north of the Sauk River that is accessible only by the foot bridge.

Section 236:20. Application. A person seeking a permit pursuant to Section 236:15 will file an application with the Parks Director or the Recreation Director. The application will state the information required in the following subdivisions:

Subd. 1. Name and address of applicant.

Subd. 2. Name and address of the person(s), corporation or association sponsoring the activity.

Subd. 3. Day, hour and year for which the permit is desired.

Subd. 4. Park or portion of park for which the permit is desired.

Subd. 5. Estimate of anticipated attendance.

Subd. 6. Types of beverages to be served.

Subd. 7. Detailed description of the proposed activity.

Subd. 8. Other information requested by the Parks or Recreation Director that is reasonably necessary to determine whether or not a permit will be issued.

Section 236.21. Application Fee. No permit application will be considered unless the applicant has the required application fee.

Section 236.22. Indemnification and Reimbursement Agreement. No application for permit will be granted unless the applicant will have executed an agreement with the City, on a form to be prescribed by the Parks Director, in which the applicant will promise and covenant to bear all costs of policing, cleaning up and restoring the park upon conclusion of the event or activity; to reimburse the City for any such costs incurred by the City; and to indemnify the City and hold the City harmless from any liability to any person resulting from any damage or injury occurring in connection with the permitted event proximately caused by the action of the permittee, the sponsoring organization, its officers, employees or agents or any person under their control insofar as permitted by law.

Section 236.23. Security Deposit. No permit application will be granted unless the applicant has paid, within the time prescribed by the Parks Director or the Recreation Director, a security deposit in an amount in accordance with the schedule of fees set by the Parks Director and the Recreation Director and approved by the City Council. The amount of the security deposit will be equal to the estimated cost of policing, cleaning up, and restoring the park upon the conclusion of the use or activity. The security deposit will be deposited by the City into an escrow account. Promptly after the conclusion of a permit activity, the City will inspect the premises and equipment used by the permit holder.

Subd. 1. If it is determined that there has been no damage to City Property or equipment, the security deposit will be refunded in full within 30 days of the conclusion of the permitted event.

Subd. 2. The City will give written notice of the assessment of damages and retention of the security deposit to the permit holder by personal delivery or by deposit in the United States mail, with proper postage prepaid to the name and address provided in the application for permit. Any assessment of damages in excess of the security deposit will be paid to the City within ten days after notice of such assessment of damages. Retention of all or a portion of a security deposit will be subject to the appeal procedures contained in Section 236:29.

Section 236.24. Designation of Park Facilities.

Subd. 1. Proposed Designation. The Parks Director will classify all park property under a uniform system of classification and designate for each such classification the use or uses which, in his/her judgment, should be permitted therein. Categories of classifications which the Parks Director will designate may include, but are not limited to, parks, playgrounds, and recreation areas. The Parks Director will classify all park property under the following classification system:

- (a) public forums;
- (b) limited use areas;
- (c) areas or facilities not designated for public assembly; or
- (d) special facilities.

The Parks Director will then record the designations for each park and will transmit the same promptly to the Park and Recreation Board. The Park and Recreation Board will

review the designations and forward them with its recommendations to the City Council. The City Council, will then approve, amend or reject the designations. The Parks Director may, from time to time amend or revise the designations and will promptly transmit in writing the amendments or revisions in the same manner used for the original designations. All designations, amendments and revisions thereof, will be in full force and effect from the time that they are approved or amended by the City Council.

Section 236.25. Fees for Use of Park Facilities. No permit will be issued unless the applicant has paid, within the time prescribed by the Parks Director or the Recreation Director, the permit fee and any other required fee approved by the City Council.

Section 236.26. Insurance. The amounts and type of insurance required for using the park property will be determined by the City based upon the nature and risk of the activity. The permit applicant is required to obtain the required insurance coverage. The insurance contract must state that the City is an additional insured party and that the City will receive advanced notice of the insurer's intent to cancel coverage. Prior to the applicant's use of the park property and within the time prescribed by the Parks Director or the Recreation Director, the applicant will provide the City with a certificate from the insurer evidencing the insurance coverage.

Section 236.27 Permits Not Transferable. No permit or preliminarily approved permit application may be transferred.

Section 236.28. Processing of Permit Applications.

Subd. 1. Order. Applications for permits will be processed in order of receipt; and the use of a particular Park will be allocated in order of receipt of fully executed applications accompanied by the application fee.

Subd. 2. Denial. Notice of denial will be in writing and will be served on the applicant by personal delivery, or by deposit in United States mail, with proper postage prepaid, to the name and address provided in the permit application.

Subd. 3. Contents of Notice; Grounds for Denial. Notice of denial of a permit application will clearly state the grounds upon which the permit was denied and, where feasible, will contain a proposal by the Parks Director or the Recreation Director for measures by which the applicant may cure any defects in the permit application or otherwise obtain a permit. Where an application or permit has been denied because a fully executed prior application for the same time and place has been received, and a permit has been or will be granted to the prior applicant authorizing uses or activities which do not reasonably permit multiple occupancy of the particular area, the Parks Director or the Recreation Director will propose an alternative place, if available for the same time, or an alternative time, if available for the same place.

Subd. 4. To the extent permitted by law, the City may deny a permit application if the applicant or the person on whose behalf the application for permit was made has on prior occasions made material misrepresentations regarding the nature or scope of an event or activity previously permitted or has violated the terms of prior permits issued to or on behalf of the applicant. The City may also deny a permit application on any of the following grounds:

(a) the permit application (including any required attachments and submissions) is not fully completed and executed;

- (b) the applicant has not tendered the required application fee with the application or has not tendered the required user fee, indemnification agreement, insurance certificate, or security deposit within the times prescribed by the City;
- (c) the permit application contains a material falsehood or misrepresentation;
- (d) the applicant is legally incompetent to contract or to sue and be sued;
- (e) the applicant or the person on whose behalf the application for permit was made has on prior occasions damaged park property and has not paid in full for such damage, or has other outstanding and unpaid debts to the City;
- (f) a fully executed prior application for permit for the same time and place has been received, and a permit has been or will be granted to a prior applicant authorizing uses or activities which do not reasonably permit multiple occupancy of the particular park or part thereof;
- (g) the use or activity intended by the applicant would conflict with previously planned programs organized and conducted by the City and previously scheduled for the same time and place;
- (h) the proposed use or activity is prohibited by or inconsistent with the classifications and uses of the park;
- (i) the use or activity intended by the applicant would present an unreasonable danger to the health or safety of the applicant, or other users of the park, of City employees or of the public;
- (j) the applicant has not complied or cannot comply with applicable licensure requirements, ordinances or regulations of the City concerning the sale or offering for sale of any goods or services;
- (k) The use or activity intended by the applicant is prohibited by law or by the regulations of the Parks Director or the Recreation Director.

Section 236.29. Procedures for Appeal; Waivers.

Subd. 1. Review by Director of Public Services or Director of Community and Leisure Services.

- (a) Any applicant who is denied a permit or denied a request for a waiver of user fee, security deposit, or certificate of insurance, or a permit holder who has had all or a portion of its security deposit retained because it was assessed damages may, within seven days of the service of notice of such determination, file a written appeal from such determination with the Director indicated on the notice of determination.
- (b) The Director will have seven days to serve upon the applicant a notice that he/she has affirmed, modified or reversed the denial or retention of the security deposit within seven days from the date of receiving the appeal.
- (c) The notice will be deemed served upon the applicant or permit holder when it is personally delivered or when it is sent by United States mail, with proper postage prepaid, to the name and address stated in the permit application.

- (d) If the notice is not served upon the applicant or permit holder within seven days of the date the appeal was filed, then the denial or retention of the security deposit will be deemed reversed.

Subd. 2. Form of Appeals.

Any appeals filed pursuant to this ordinance will state the grounds upon which the determination should be modified or reversed and will be accompanied by copies of the permit application, the written notice of the determination of the Parks Director or the Recreation Director, and any other papers material to the determination.

Subd. 3. Waiver of Requirements.

Any requirements for a user fee, security deposits, or certificate of insurance will be waived by the City Attorney, if the activity is protected by the First Amendment of the United States Constitution and the requirement would be so financially burdensome that it would preclude the applicant from using park property for the proposed activity. Fees for equipment and services will not be waived. Application for a waiver of a user fee, security deposit, or certificate of insurance will be made on a form prescribed by the City Attorney and must include an affidavit by the applicant and sufficient financial information about the applicant to enable the City Attorney to determine whether the requirement(s) would be so financially burdensome that it would preclude the applicant from using park property for the proposed activity. If it appears that the applicant does not have sufficient funds to satisfy the user fee requirement prior to the proposed event, but that the applicant intends to raise sufficient funds at the event, the City Attorney will require the applicant to pay such user fee out of the proceeds of the proposed event. If no written denial is issued within fourteen days from the date of receiving a fully completed application for waiver is executed and filed with the City Attorney, the waiver application will be deemed approved, contingent upon the applicant complying with all other permit requirements. Denials of requests for such waivers will be subject to the appeal procedures contained in Section 236.29.

Section 236:30. Effect of Permit. A permit holder will be bound by all park rules and regulations and all applicable ordinances. All permits must be made available for inspection(s) during the activity for which it was issued.

Section 236:40. Revocation. The Parks Director and the Recreation Director will have the authority to revoke any permit upon a violation of any rule or ordinance or good cause.

Section 236:50. Prohibited Activities and/or Destruction of park property. No person will do any of the following acts in a park:

Subd. 1. Destroy, cut, break, deface, mutilate, injure, disturb, sever from the ground or remove any sod, earth or growing thing including, but not limited to, any plant, flower, flower bed, shrub, tree, growth, or any branch, stem, fruit, or leaf; or bring into or have in his/her possession in any park any tool or instrument intended to be used for cutting thereof, or any garden or agricultural implements or tools, which could be used-for the removal thereof, except as approved and allowed by permit.

Subd. 2. Set fire to any trees, shrubs, plants, flowers, grass, plant growth or living timber, or suffer any fire upon land to extend into park lands.

Subd. 3. Go upon any lawn, grass plot, planted area, tree, shrub, monument, fountain, sculpture or structure where access is prohibited by signs or symbols which are posted or otherwise displayed or where access is restricted by fence or other physical barrier.

Subd. 4. Cut, break, or in any way injure, deface, destroy or alter any building, fence, monument, sculpture, bridge, or other structure or property contained therein.

Subd. 5. Operate or drive any motor car, automobile or vehicle of any kind in a park in such a manner as to cause the same to collide with, run against, strike or cause to strike, injure, deface, or damage any park property or appurtenance of any kind.

Subd. 6. Fasten any animal or attach any rope, sign, handbill, or other things to any tree, shrub or to any protective device around any tree or shrub growing in any park.

Subd. 7. Allow any animal to injure any tree, plant, shrub, lawn or grass plot in any manner whatsoever.

Subd. 8. Fasten any bicycle, motorcycle, moped, or other vehicle to or leave the same standing so as to injure any tree, shrub, lawn or grass plot.

Subd. 9. Deface, destroy, cover or otherwise make unreadable any warning or prohibitory sign or symbol on park property.

Subd. 10. Intentionally make dirty or unsanitary the restrooms, washrooms and shower rooms. No person over the age of seven years will enter the restrooms, shower rooms or other rooms designated for the opposite sex without the proper adult supervision.

Subd. 11. Construct, erect, or place any building or structure, including tents, of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon, or across such lands, except on special written permit issued hereunder.

Subd. 12. Give or offer to any animal or bird any type of food or poisonous or otherwise harmful substance in any city park.

Subd. 13. Light or make use of any fire in any park except that fires for cooking purposes may be made in portable metal containers or grills under such regulations as may be prescribed.

Subd. 14. Engage in any organized athletic game or sport in any park except such portions thereof as may be designated for that purpose and then only under such rules and guidelines as may be prescribed.

Subd. 15. Skate, skateboard, sled, or ski in any part of any park in a reckless manner or at a speed greater than is reasonable and proper, having due regard to the number of people.

Subd. 16. Skating of all types, including, but not limited to, roller-skating, skateboarding, and cycling will be prohibited at all times within the confines of Munsinger and Clemens gardens.

Subd. 17. Stack or arrange picnic tables in such a manner as to disrupt overall park use.

Subd. 18. Place or cause to be placed in the waters of any body of water or fountain in or adjacent to any park or any tributary, stream, storm sewer or drain flowing into such waters, any substance which will or may result in the pollution of said waters.

Subd. 19. Dump, deposit, or leave refuse or other trash, not generated by a permitted use within the park. All waste generated by use of the park will be placed in the proper receptacles if provided. Where no waste receptacle is available all waste will be packed out and properly disposed of by the park user.

Subd. 20. Transport or carry in or possess glass beverage containers in any City park.

Subd. 21. Domestic Animals. Having been responsible for the entry of a dog or other domestic animals into the park area, permit that animal to do any of the following acts:

- (a) Except in areas designated as “dog friendly”, a domestic animal may be brought into a park so long as such animal is continuously restrained by a leash not to exceed six feet in length. No dogs, other than those designated as “service dogs” are allowed in Munsinger or Clemens Gardens.
- (b) Animals, other than service dogs, may not enter or remain in any building, playground, swimming pool, spray pool, garden, athletic field or other areas that may be designated as prohibited areas.

Subd. 22. Ice Rinks.

- (a) Go onto ice on any area designated and posted as being unsafe.
- (b) Operate a, snowmobile, sled, bicycle, toboggan, or any other Vehicle on any ice rink.

Subd. 23. Entering Unfinished, Undeveloped or Closed Areas.

- (a) Enter upon any part of any Park, which is in an unfinished state or under construction.
- (b) Enter or attempt to enter any building or area in any Park when its is closed to the public.

(c) Enter upon any part of any Park, which is designated as undeveloped.

Subd. 24. Use of Playground Equipment. Being a person over 12 years of age, use playground equipment designated for use by persons under 12 years of age.

Subd. 25. Pay Fees. Participate in any activity or utilize any facility for which a fee is required without paying the required fee.

Subd. 26. Exhibit Permits. Fail to produce or exhibit any permit issued by the Parks Director or the Recreation Director upon request from any Park and Recreation attendant or police officer who will desire to inspect the same for the purpose of enforcing compliance with an ordinance or rule.

Subd. 27. Interference with Permit Holders. Disturb or interfere unreasonably with any person or party occupying any area or participating in any activity under the authority of a permit issued pursuant to this ordinance.

Section 236:55. Alcohol in Parks. No person in a Park will consume, possess, dispense, transport or carry any alcoholic beverage, including 3.2 beer, in or into any City park, except as permitted below:

Subd. 1. Wilson and Riverside Parks. Except during designated alcohol free days, beer packaged only in its original container other than a keg, will be allowed in Wilson and Riverside Parks. Kegs of beer are allowed when permitted by Section 236:15 Subd. 16.

Subd. 2. Whitney Park. Except during designated alcohol free days, alcoholic beverages may be consumed at Whitney Park if they were first purchased from the vendors located at that facility or when permitted by Section 236:15, Subd. 17.

Subd. 3. Alcohol free days. The Parks Director may designate any day as alcohol free in Wilson or Riverside Park. The Recreation Director may designate any day as alcohol free in Whitney or Heritage Park. When an alcohol free day is designated in a park, that park will be posted at the entrance and on principal shelter facilities with a notice indicating that alcohol possession and consumption is prohibited.

Subd. 4. Beer Kegs. Beer kegs are allowed by permit only and will be issued in conjunction with shelter rental at Wilson and/or Riverside parks. Keg permits are only issued during the summer and fall shelter seasons of June 1 through October 15 for each calendar year. Kegs must be kept inside the picnic shelter at all times. Keg permits will not be granted for any type of fundraising activity or incidental to a fundraising activity.

Section 236:60. Traffic. No person in a park will do any of the following prohibited acts:

Subd. 1. Traffic Signs. No person will fail to obey the directions of all traffic and parking control signs in any park.

Subd. 2. Speed of Vehicles. No person will ride or drive a vehicle at a speed greater than 15 miles per hour on parkways open to regular traffic.

Subd. 3. Areas of Vehicle Operation. No person will drive a vehicle on any area of a park except on a parkway, parking lot, or other roadway designated for vehicles.

Subd. 4. Bicycles.

- (a) Persons may operate a bicycle only on paths, trails, Parkways or other areas designated for bicycle use.
- (b) Persons operating bicycles must ride on the right hand side of such path, trail, Parkway, or other area designated for bicycle use.
- (c) No person may operate a bicycle in a reckless manner so as to endanger pedestrians.
- (d) No person will cling or attach himself/herself or his/her bicycle to any other moving vehicle.
- (e) The operator of the bicycle will yield the right-of-way to all pedestrians on walkways and will walk the bicycle in all areas where riding is prohibited.
- (f) No person will leave a bicycle in a place other than a bicycle rack when one is provided and space is available, or leave a bicycle in a place where other persons may be injured by the bicycle.

Section 236:65. Recreation Activities. No person in a park will do any of the following prohibited acts:

Subd. 1. Bathing and Swimming.

- (a) Designated Areas. Swim, bathe, or wade in any water or waterways in or adjacent to any park, except in such waters and at such places as are provided therefor, and in compliance with such regulations as are herein set forth.
- (b) Hours. Swim, bathe, or wade in any water or waterways in or adjacent to any park, except during the hours posted at each designated swimming area.
- (c) Apparel. Swim, wade or bathe nude in any Park. For purposes of this section nudity is defined as less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae.

Subd. 2. Fishing.

- (a) General Prohibition. Fish in any waters, whether by the use of hook and line, net, trap or other device, except in waters designated for that use.
- (b) Ice Fishing. Fish through the ice on any part of Lake George. No fish house will be placed on Lake George nor will any person drill or chop holes in its ice.

Subd. 3. Hunting and Firearms. Hunt, trap, pursue or endanger any animal life. No person will, except in a designated area, use, carry, or possess firearms of any description, or air rifles, spring guns, bow or arrows, slings, or any other forms of weapons potentially inimical to life or dangerous to human safety or any instrument which can be loaded with and fire black cartridges, or any kind of trapping device. Shooting into park areas from beyond park boundaries is forbidden.

Subd. 4. Picnic Areas and Use. Leave the picnic area before the fire is completely extinguished and before all refuse or other trash is placed in the disposal receptacles where provided.

Subd. 5. Camping. No persons will set up tents, shacks, or any other temporary shelter for the purpose of overnight camping nor will any person leave in the park after closing hours any movable structure or any special vehicle to be used or that could be used for such purposes, such as house trailer, camp trailer, camp wagon, or the like, except in designated camping areas.

Subd. 6. Games. Take part in or abet the playing of any games involving throwing or otherwise propelling objects such as baseballs, golfballs, stones, arrows, javelins, model airplanes, snow and ice chunks or snowballs, except in the areas set apart for such forms of recreation. The playing or practicing of rough or comparatively dangerous games such as football, baseball, adult softball, and golf is not permitted, except on the fields, courts, or areas provided therefor. Use of ballfields will be governed by the rule of first come, first served, except where prior reservations are made.

Subd. 7. Horseback Riding. Where permitted, horses will be thoroughly trained and under complete control, and ridden with due care, and will not be allowed to graze or go unattended.

Section 236:75. Merchandising, and Advertising. No person in or on land adjacent to a park will do any of the following prohibited acts:

Subd. 1. Vending and Peddling. Expose or offer for sale any article or thing, or station or place any stand, cart, or vehicle for the transportation, sale or display of any article or thing. Exception is hereby made as to any regularly licensed concessionaire acting by and under the authority of the Health Department with the approval of the Parks Director for all Parks other than Whitney or Heritage or the Recreation Director for Whitney or Heritage Park.

Subd. 2. Advertising. Announce, advertise or call the public attention in any way to any article or service for sale or hire.

Section 236:76. Signs. No person in a Park, post, erect, or cause to be posted or erected by any means any sign, placard, advertisement or inscription whatsoever. City of St. Cloud Park or Recreation signs and postings are exempted from this prohibition.

Section 236:85. Recreational Fees. Fees for basketball or volleyball court time, gym space, adult and youth leagues, swimming lessons and fees, pool-passes, paddleboat rides, skating lessons, park sporting events and activities, youth program fees and clinics, and other activities are set forth in Chapter 500 of this Code.

Section 236:86. Recreational Financial Assistance. Individuals in need of financial assistance for youth recreation programming and activities may be eligible for assistance through the scholarship program. Assistance is based upon household family income, as adopted by City Council resolution.

Section 236:90. Recreation Department Cancellation Policy. Letter of credit for 100 percent of fees paid will be refunded for cancellations which occur prior to the first day of class. Letter of credit for 50 percent of fees paid for cancellations, which occur on the first or second day of class. No credit will be given for cancellations, which occur after the second day of class.

Section 236.95. Park Fees. Fees for park shelter rental, weed removal, picnic table and bench rentals, and snowmobile rentals are set forth in Section 590 of this Code.

Section 236:100. Exceptions for Emergency Vehicles, City Vehicles and City Activities. The provisions of Section 236 do not apply to the following:

Subd. 1. Emergency, police or fire department vehicles or watercraft or any vehicle or watercraft owned by the City or a City employee displaying proper identification where the employee is duly authorized to operate such vehicle or watercraft at such location.

Subd. 2. City employees authorized to perform duties in a park.

Subd. 3. Events or activities organized and supervised by the City and its employees.

Section 237 - Civic Facilities Conduct and Use Regulations

Section 237.00. Definitions.

Subd. 1. "Civic Facilities" include the St. Cloud Municipal Athletic Complex, including its parking areas, the St. Cloud Civic Center, including its parking areas and adjacent exterior common areas, and the Paramount Theater.

Subd. 2. "Civic Center" includes all land and rights including water, improvements and personal property which is designated as the St. Cloud Civic Center.

Subd. 3. "Municipal Athletic Complex" includes all land and rights including water, improvements and personal property which is designated as the St. Cloud Municipal Athletic Complex-Ice Arena, Stadium and Veterans Golf Course.

Subd. 4. "Director" is the Director of Civic Facilities for the City of St. Cloud.

Subd. 5. "Civic Center Manager" is the manager of the Civic Center for the City of St. Cloud.

Subd. 6. "Municipal Athletic Complex Manager" is the manager of the Municipal Athletic Complex for the City of St. Cloud.

Subd. 7. "Vehicle" is any conveyance on wheels or tracks, whether motor-powered, animal-drawn or self-propelled. The term will include any trailer of any kind or description. Exception is made for baby carriages.

Subd. 8. "Pedestrian Walkway" is that portion of the downtown skyway, including stair tower, elevator tower and ground level walkway that is located on Civic Center property.

Subd. 9. "Event" means a theater performance or show, athletic contest or other entertainment or amusement, or a public gathering to which the general public is admitted.

Subd. 10. "Catering" means the dispensing and/or sale of food, beverage or novelty items by a permitted caterer/vendor acting with the expressed permission of the appropriate building manager.

Subd. 11. "Decorating" means all activities relating to the provision of furnishings (i.e. pipes, drapes, tables, chairs) for an event including but not limited to the setup and takedown of those furnishings and clean up following the event.

Section 237:10. Event Scheduling. The Civic Facilities Director will have discretionary authority to schedule events and all other uses of the Civic Center or the Municipal Athletic Complex in accordance with the following policy:

Subd. 1. Every effort will be made to accommodate each and every potential user.

Subd. 2. When more than one potential user requests a similar date, generally speaking, events producing the greatest revenue to the City of St. Cloud, either short or long term, will be given the greatest consideration.

a. Consideration will include repeat or steady customers.

- b. Consideration may also be extended to those events with the greater potential for spin-off commerce to the St. Cloud retail market.
- c. The City Administration may, from time to time, develop more explicit guidelines/policies to accommodate changing market conditions and community-use standards.

Section 237:15. Rental Fees. Rental fees and charges for use of the Municipal Athletic Complex and Civic Center will be set forth in Sections 540:00 and 545:00 of this Code.

Section 237:20. Civic Facilities Catering and Decorating Permits. No person will perform catering or decorating services in any civic facility without having obtained a permit from the Director.

Subd. 1. Catering Permit Application. Catering permits will be issued by the Director to all persons holding a current Food Catering License issued by the St. Cloud Health Department who comply with the requirements set forth below. Failure of any caterer to conform to all requirements set forth below may result in immediate revocation of a Civic Facilities Catering permit.

- a. Application will be made annually on or before November 15 to the Director on the forms provided by the Director. Approved permits will remain in force for a calendar year (January 1 to December 31). Any person making application for a catering permit will pay an annual fee in an amount established from time to time by resolution of the City Council.
- b. At the time of filing the permit application, proof of financial responsibility with regard to liability must be furnished to the City. Proof of financial responsibility will include as a minimum a certificate that there is in effect for the permit period an insurance policy in an amount of not less than \$300,000 combined single limit coverage. Any insurance policy will name the City of St. Cloud as an additional insured under the policy. Any insurance policy will include a provision that the coverage provided will not be cancelled until a minimum of ten days prior written notice has been given to the City. Liability insurance policies will be approved as to form by the City Attorney.
- c. Each applicant will provide verification which in the discretion of the Director is sufficient to show the ability to serve meals in the quantities and at the intervals requested in the application.
- d. Each caterer will abide by the Civic Facilities Caterers Rules and Regulations.

Subd. 2. Catering Fee. Any person performing catering services in the Civic Facilities will be required to pay a fee set forth in Section 580:00 of this Code.

Subd. 3. Decorating Permit Application. Decorating permits will be issued by the Director to all persons who comply with the requirements set forth below. Failure of any decorator to conform to all requirements set forth below may result in immediate revocation of a Civic Facilities Decorating Permit.

- a. Application will be made prior to providing services to the Director on the forms provided by the Director.

- b. Each decorator will abide by the Civic Facilities' Decorator's rules and regulations.

Subd. 4. Decorating Fee. Any person performing decorating services in the Civic Facilities will be required to pay a fee set forth in Section 580:00 of this Code.

Section 237:25. Licensee's Liability. Any person using or occupying the Civic Facilities will be liable for any damage or injury to the Civic Facilities or to its personnel occasioned by the activities or occupancy of that person regardless of whether that occupancy occurs by formal lease or by use of the Civic Facilities as a public place.

Section 237:30. General Standards of Conduct. It will be a violation of this ordinance for any person, while on or about Civic Facilities:

Subd. 1. To gain access to or make use of any facilities without obtaining a ticket or paying a fee in situations where the obtaining of a ticket or the paying of a fee is required.

Subd. 2. To dispose of refuse or litter, except in receptacles provided for that purpose.

Subd. 3. To bring onto and dispose of refuse or litter not created as part of a Civic Facilities event.

Subd. 4. To deface, damage or alter the appearance of any structure, property, sign or equipment.

Subd. 5. To hunt, snare, trap or otherwise disturb any animals, birds or other wildlife.

Subd. 6. To dig or remove any sod, trees, shrubs, flowers or foliage of any kind.

Subd. 7. To wash animals except at times and in locations specifically designated for the purpose.

Subd. 8. To ride or lead any animal except in such areas as designated as exercise rings or specially designated as a posted area.

Subd. 9. To smoke in any area where "No Smoking" signs are posted.

Subd. 10. For any person except a police officer in the performance of duty upon any Civic Facility to carry any gun or firearm of any description, other than a pistol permitted by state law, unless it is dismounted or broken apart or carried in a case in a manner that it cannot be discharged.

Subd. 11. To use, discharge or shoot any air rifle, air pistol, BB gun, sling shot or arrows from bows.

Subd. 12. To enter or remain in any building at the Civic Facilities with bare feet except in locker/shower areas of Civic Facilities. To enter or remain in any building common areas without a shirt/blouse or to remove shirt/blouse while in any building at the Civic Facilities. Exception is made for any entertainment, exhibit or display that is part of a scheduled event at the Civic Center Municipal Athletic Complex.

Subd. 13. To intentionally make dirty or unsanitary restrooms, washrooms and shower

rooms in Civic Facilities. No person over the age of six years will enter the restrooms, shower rooms or other room designated for the opposite sex.

Subd. 14. To climb, walk, stand or set upon any trees, monuments, fountains, railings, fences or upon any other property not designed or customarily so used.

Subd. 15. To disturb or interfere unreasonably with any person or party occupying any area or participating in any activity under the authority of a lease issued pursuant to this ordinance.

Subd. 16. To take part in or abet the playing of any games involving or otherwise propelling objects such as baseballs, golf balls, stones, arrows, javelins, model airplanes, snow and ice chunks or snowballs, except in the areas set apart for such forms of recreation.

Subd. 17. To fail to obey the directions of all traffic and parking control signs in outside parking lot and/or parking ramp.

Subd. 18. To ride or propel rollerblades, rollerskates or skateboards anywhere upon Civic Facilities.

Subd. 19. To ride a bicycle upon any interior portions of the Civic Facilities or to lock or chain a bicycle to any object other than a bike rack.

Subd. 20. To operate a snowmobile upon the Civic Facilities.

Subd. 21. To use profane, vulgar or indecent language so as to be audible and offensive.

Subd. 22. To engage in brawling or fighting or in conduct tending to reasonably arouse alarm, anger or resentment in others.

Subd. 23. To intentionally throw any object, thing or article onto a stage, playing field, audience or seating area, or area where an event is conducted which may be likely to endanger any person or property or interfere with the orderly play or conduct of the event.

Subd. 24. To intentionally run on or go onto a stage, playing field or area where an event is conducted.

Subd. 25. To obstruct an aisle, block a properly marked exit or take or obstruct the seat of another.

Section 237:35. Conduct Requiring Manager's Approval. Unless the prior written approval of the Manager is obtained, it will be a violation of this ordinance for any person, while on or about Civic Facilities:

Subd. 1. To make use of the Civic Facilities or any part thereof while part of an organized group.

Subd. 2. To post any sign or notice.

Subd. 3. To bring upon the Civic Facilities or possess any intoxicating beverages or non-intoxicating malt beverages as defined in Minnesota Statutes Chapter 340A other than those furnished by the City directly or through its vendors.

Subd. 4. To use a mobile livestock trailer or other conveyance on paved areas of the Civic Facilities.

Subd. 5. To clean a mobile livestock trailer or other conveyance on paved areas of the Civic Facilities.

Subd. 6. To build fires at any location.

Subd. 7. To bring onto the Civic Facilities any animal. This rule will not prohibit a blind, physically handicapped or deaf person from taking a service dog onto the Civic Facilities, if the service dog can be properly identified as being from a recognized school for seeing eye, hearing ear, service, or guide dogs and if the dog is properly harnessed or leashed so that the blind, physically handicapped, or deaf person may maintain control of the dog.

Subd. 8. To be in the Civic Facilities during times when the Civic Facilities are closed, as posted.

Subd. 9. To bring into the Civic Facilities any food, beverage, bottle or other breakable, disposable container designed to hold food, beverage or other consumable commodity.

Subd. 10. To promote, solicit, sell, barter or trade any commodity or item of monetary value, including but not limited to any admission ticket, on any part of the Civic Facilities premises, provided that the sale of an admission ticket for its face value or less than its face value will not be a violation of this ordinance. For purposes of this ordinance, a complimentary ticket will be deemed to have a face value of zero.

Subd. 11. To construct, erect or place any building or structure, including tents, of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across the Civic Facilities.

Subd. 12. To announce, advertise or call the public attention in any way to any article or service for sale or hire.

Subd. 13. No person will set up tents, shacks or any temporary shelter for the purpose of overnight camping nor will any person leave in the Civic Facilities after closing hours any movable structure or any special vehicle to be used or that could be used for such purposes, such as house trailer, camp trailer, camp wagon, or the like.

Section 237:40. Vehicle and Parking Regulations. It will be a violation of this ordinance for any person, while on the Civic Facilities property:

Subd. 1. To operate a vehicle in such a manner as would, if done on a public street, constitute a violation of Minnesota Statutes § 169.

Subd. 2. To park any vehicle at any location except such locations as are specifically designated as parking stalls, except with the express prior approval of the Manager.

Subd. 3. Where lines or marks are drawn to indicate parking stalls, to park a vehicle in such a manner that the vehicle is not completely within a stall bordered by such line or markers.

Subd. 4. To park in any area posted as a fire lane.

Subd. 5. To park in the vicinity of a loading or dock area except for vehicles which are actually in the process of loading or unloading supplies, equipment or other merchandise.

Subd. 6. To drive a vehicle in any area except on a parkway, parking lot, path or other roadway designated for the vehicle.

Subd. 7. To provide driver's training except with the express prior approval of the Manager.

Section 238 - Whitney Senior Center Conduct and Use Regulations

Section 238:00. Definitions.

Subd. 1. “Senior Citizens Organization” means any group where at least 75 percent of the members are 55 years of age or older.

Subd. 2. “Aging Services Director” means the Aging Services Director or that person's designated appointee responsible for the operation of the Whitney Senior Center for the City of St. Cloud.

Subd. 3. “Senior Center” means the Whitney Senior Center, located at 1527 Northway Drive in the City of St. Cloud, Minnesota.

Subd. 4. “Sectarian Instruction” is any activity that can be construed as education and/or promotional that is either offered or sponsored by a religious sect.

Subd. 5. “St. Cloud Area” means any location within ten miles of Whitney Senior Center.

Subd. 6. “Non Profit Organizations” means any fraternal, religious, veterans or other non-profit organizations covered by the following:

- a) Any corporation, fund, foundation, trust or association organized for exclusively scientific, literary, religious, charitable, educational or artistic purposes, or for the purpose of making contributions to or for the use of the United States of America, the State of Minnesota, or any of its political subdivisions for exclusively public purposes, if no part of the net income of any such corporation, fund, foundation, trust or association inures to the benefit of any private member, stockholder or individual;
- b) Clubs organized and operated exclusively for pleasure, recreation, or other non-profitable purposes, no part of the net income of which inures to the benefit of any private member, stockholder or individual.

Section 238:05. Permits. Unless otherwise authorized by contract with the City, a permit will be obtained from the Aging Services Director before participating in any senior center activity or event not sponsored or held under the auspices of the City of St. Cloud.

Section 238:10. Application.

Subd. 1. A person seeking issuance of a permit will file an application in person with the Aging Services Director at the Whitney Senior Center. The application will state the information required in the subdivisions which follow:

Subd. 2. Name and address of applicant.

Subd. 3. Name and address of the person(s) sponsoring the activity.

Subd. 4. The day and hour for which the permit is desired.

Subd. 5. An estimate of attendance.

Subd. 6. What type of activities are going to be conducted.

Subd. 7. Any other information which the Aging Services Director will find necessary for fair determination as to whether a permit should be issued.

Section 238:15. Standards of Issuance.

Subd. 1. The Aging Services Director will issue a permit when it is found that all of the requirements of the subdivisions which follow have been met.

Subd. 2. The proposed activity or use of the Whitney Senior Center will not unreasonably interfere with or detract from the normal daily activities of the center.

Subd. 3. The proposed activity or use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation.

Subd. 4. The proposed activity or use is not reasonably anticipated to incite violence, crime or disorderly conduct.

Subd. 5. The proposed activity will not entail unusual, extraordinary or burdensome expenses or police operation.

Subd. 6. The facility has not been reserved for other use at the day and hour requested in the application.

Subd. 7. If the application is refused, the Aging Services Director will make known in writing to the applicant the reason for refusal.

Subd. 8. No permit will be issued for more than five consecutive days.

Section 238:20. Effect of Permit. The permit holder will be bound by all Whitney Senior Center rules and regulations and City Ordinances.

Section 238:25. Hold Harmless. Any person(s) to whom the permit is issued will indemnify and hold harmless the City together with any of its officers, employees or agents for any loss, damage, injury or death from any act or omission of the person(s) to whom the permit is issued, said persons, invitees, licensees, employees or agents, while on or near the Senior Center premises.

Section 238:30. Revocation. The Aging Services Director will have the authority to revoke any permit for a violation of any rule or ordinance or for good cause.

Section 238:35. Rental Fee. A rental fee will be paid prior to receipt of the permit. The rental fee will be set forth in Section 522:00 of this Code.

Section 238:40. Reservation. Application for reservation by Groups B and C will be made within 60 days prior to, but no later than 15 days prior to the day(s) for which the permit is desired.

Applications for reservation by Group A will be made no later than 5 days prior to the day(s) for which the permit is desired. Groups A, B, and C are defined as follows:

1. Group A: Senior organizations, senior advocate and senior support groups; Nutrition Centers Program/United Way of St. Cloud Area; City of St. Cloud Employee Bargaining Units/City of St. Cloud Departments; City authorized activities and committees.
2. Group B: District 742 Schools; St. Cloud area non-profit organizations; private parties for honoring only persons age 55 years of age or older sponsored by St. Cloud area individuals (i.e., anniversaries, birthdays and retirements).
3. Group C: Non-St. Cloud area organizations; commercial group rentals.

Section 238:45. Whitney Senior Center Use.

Subd. 1. No person will use Whitney Senior Center facilities or property in any manner prohibited in the subdivisions.

Subd. 2. Persons in groups falling under the B & C rental categories will not be allowed to rent the Whitney Senior Center for fundraising events.

Subd. 3. Whitney Senior Center will be closed promptly at 10:00 PM unless prior arrangements are made with Whitney Senior Center staff.

Subd. 4. Whitney Senior Center will be closed to all rental groups on legal holidays designated by the City of St. Cloud.

Subd. 5. Only persons in groups falling under Categories A & B will be permitted to rent the Whitney Senior Center kitchen facilities. Prior arrangements must be made with nutrition staff.

Subd. 6. No alcoholic beverages, including 3.2 beer, will be consumed, possessed or dispensed in the senior center or on senior center grounds.

Subd. 7. The senior center will not be used for sectarian instruction or as a place for religious worship.

Subd. 8. Whitney Senior Center is a smoke free facility.

Section 238:50. Activity Fees. The Winter Senior Center will collect and assess activity fees set forth by the City Council. No person will participate in any activity for which a fee is required without paying the required fee.

Section 239 - Whitney Senior Center Advisory Board

Section 239:00. Composition and Qualifications, Appointment and Removal, Compensation.

Subd. 1. The Board will consist of not less than ten nor more than twenty-five voting members. Membership will consist of representation from senior groups, public service agencies, professionals and other citizens of the City of St. Cloud concerned with the best interests of older adults.

Subd. 2. All members will be appointed by the Mayor with the advise and consent of the Council. At least 50% of the voting membership will be persons age 55 and over and will include older adults who participate in programs at Whitney Senior Center.

Subd. 3. The Mayor may remove any member of the Board.

Subd. 4. Members of the Board will serve without compensation.

Section 239:10. Term. The term of membership will rotate with one-third of the membership being appointed or re-appointed each year. A full term will consist of three years. A member may not serve more than six consecutive years, unless serving as an elected officer in which case he or she may serve one additional term.

Section 239:15. Vacancy. Any vacancy in the appointive membership will be filled by appointment by the Mayor with the consent of the City Council, and the appointee will serve the remaining term. The appointee may serve no more than two additional terms.

Section 239:20. Board Officers. The Board will elect from its membership a Chair, a Vice-Chair and a Secretary, who will serve the terms and will have the powers and perform duties as may be prescribed in the rules of the Board. Secretarial duties and the taking of minutes will be assigned to the Whitney Senior Center staff.

Section 239:25. Meetings. An annual meeting of the Advisory Board will be held each year. The Advisory Board will also hold regular meetings during the year. The date, time and place of the meetings will be determined by the membership of the Board. Additional meetings may be called by the Advisory Board Chair or the Aging Services Director.

Section 239:30. Quorum. A simple majority of voting members will constitute a quorum and must be present at a meeting of the Board for the transaction of business.

Section 239:35. Duties of the Board.

Subd. 1. Serves in an advisory capacity to the Mayor and Aging Services Director, and makes recommendations regarding matters of policies and programs.

Subd. 2. Communicates with the Mayor, the Aging Services Director, community residents and program participants.

Subd. 3. Promotes the Whitney Senior Center Program through their work and contacts with the community.

Section 242 - Retired And Senior Volunteer Program Advisory Council

Section 242:00. Composition and Qualifications, Appointment and Removal, Compensation.

Subd. 1. The Advisory Council will consist of not less than ten nor more than 21 voting members. Membership will consist of representation from volunteer stations, local funding sources, senior groups, public service agencies, professionals and other citizens of the City of St. Cloud area concerned with the best interests of older adults.

Subd. 2. All members will be appointed by the Mayor with the advise and consent of the City Council. At least 25% of the voting membership will be persons age 55 and over and will include RSVP volunteers.

Subd. 3. The Mayor may remove any member of the Advisory Council.

Subd. 4. Members of the Advisory Council will serve without compensation.

Section 242:10. Term. The term of membership will rotate with one-third of the membership being appointed or re-appointed each year. A full term will consist of three years. A member may not serve more than two full consecutive terms.

Section 242:15. Vacancy. Any vacancy in the appointive membership will be filled by appointment by the Mayor, with the consent of the City Council. The appointee will serve the remaining term and may serve not more than two additional terms.

Section 242:20. Advisory Council Officers. The Advisory Council will elect from its membership a Chair, a Vice-Chair and a Secretary, who will serve the terms and will have the powers and perform the duties as may be prescribed in the rules of the Council. Secretarial duties and the taking of minutes will be assigned to the RSVP staff.

Section 242:25. Meetings. An annual meeting of the Advisory Council will be held each year. The Advisory Council will also hold regular meetings during the year. The date, time, and place of said meetings will be determined by the membership of the Advisory Council.

Section 242:30. Quorum. A simple majority of voting members will constitute a quorum and must be present at a meeting of the Advisory Council for the transaction of business.

Section 242:35. Duties.

- (a) Serves in an advisory capacity and makes recommendations regarding general and specific matters of policies and programs to the Mayor and RSVP Director.

- (b) Assists RSVP staff in recommending benefits to RSVP volunteers in the greater St. Cloud area which includes St. Cloud, Sartell, Sauk Rapids, Waite Park, St. Joseph, Stearns, Benton and Sherburne Counties.
- (c) Promotes RSVP through their work and contacts with the community.

Section 243 - Whitney Recreation Center Conduct and Use Regulations

Section 243:00. Definitions.

Subd. 1. “Whitney Recreation Center” will mean all land and rights thereto including water, parking areas and adjacent exterior commons and improvements and personal property thereon which is designated as the Whitney Recreation Center, 1529 Northway Drive, St. Cloud, Minnesota 56303.

Subd. 2. “Director” is the Director of Recreation for the City of St. Cloud.

Subd. 3. “Assistant Director” is the assistant director of the Whitney Recreation Center for the City of St. Cloud.

Subd. 4. “Vehicle” is any conveyance on wheels or tracks, whether motor powered, animal drawn or self propelled. The term will include any trailer of any kind or description, except for baby carriages.

Subd. 5. “Event” means any athletic contest or a public gathering to which the general public is admitted.

Subd. 6. “Catering” means the dispensing or sale of food, beverage or novelty items by a permitted caterer/vendor acting with the express permission of the appropriate building manager.

Subd.7. “Decorating” means all activities relating to the provision of furnishings (i.e. pipes, drapes, tables, chairs) for an event including but not limited to the setup and takedown of those furnishings and clean up following the event.

Section 243:10. Event Scheduling. The Recreation Director will have discretionary authority to schedule events and all other uses of the Whitney Recreation Center in accordance with the following policy:

Subd. 1. Every effort will be made to accommodate each and every potential user.

Subd. 2. When more than one potential user requests a similar date, generally speaking, events producing the greatest revenue to the City of St. Cloud, either short or long term, will be given the greatest consideration.

a. Consideration will include repeat or steady customers.

b. Consideration may also be extended to those events with the greater potential for spin-off commerce to the St. Cloud retail market.

- c. The City Administration may, from time to time, develop more explicit guidelines/policies to accommodate changing market conditions and community-use standards.

Section 243:15. Rental Fees. Rental fees and charges for use of the Whitney Recreation Center will be set forth in Section 541:00 of this code.

Section 243:20. Licensee's Liability. Any person using or occupying the Whitney Recreation Center will be liable for any damage or injury to the Whitney Recreation Center or to its personnel caused by the activities or occupancy of that person regardless of whether that occupancy occurs by formal lease or by use of the Whitney Recreation Center as a public place.

Section 243:25. General Standards of Conduct. It will be a violation of this ordinance for any person, while on or about Whitney Recreation Center Facilities:

Subd. 1. To gain access to or make use of any facilities without obtaining a ticket or paying a fee in situations where a ticket or fee is required.

Subd. 2. To dispose of refuse or litter, except in receptacles provided for that purposes.

Subd. 3. To dispose of refuse or litter not created as part of a Whitney Recreation Center event.

Subd. 4. To deface, damage or alter the appearance of any structure, property, sign or equipment.

Subd. 5. To hunt, snare, trap or otherwise disturb any animals, birds or other wildlife.

Subd. 6. To dig or remove any sod, trees, shrubs, flowers or foliage of any kind.

Subd. 7. To smoke in any area where "No Smoking" signs are posted.

Subd. 8. For any person, other than a police officer in the performance of duty to carry any gun or firearm of any description, except for a pistol permitted by State law, or firearms that are dismounted, broken apart or carried in a case in a manner that it cannot be discharged.

Subd. 9. To use, discharge or shoot any air rifle, air pistol, BB gun, sling shot or arrows from bows.

Subd. 10. To enter or remain in any building at the Whitney Recreation Center with bare feet except in locker/shower areas of Whitney Recreation Center. To enter or remain in any building common areas without a shirt/blouse or to remove shirt/blouse while in any building at the Whitney Recreation Center. Exception is made for any athletic activity, entertainment, exhibit or display that is part of a scheduled event at the Whitney Recreation Center.

Subd. 11. To intentionally make, washrooms and shower rooms in Whitney Recreation Center dirty or unsanitary. No person over the age of six years will enter the restrooms, shower rooms or other room designated for the opposite sex.

Subd. 12. To climb, walk, stand or set upon any trees, monuments, fountains, railings, fences or upon any other property not designed or customarily used for such purpose.

Subd. 13. To unreasonably disturb or interfere with any person or party occupying any area or participating in any activity under the authority of a lease issued pursuant to this ordinance.

Subd. 14. To participate in or abet the playing of any games involving or otherwise propelling objects such as baseballs, golf balls, stones, arrows, javelins, model airplanes, snow and ice chunks or snowballs, except in the areas set apart for such forms of recreation.

Subd. 15. To fail to obey the directions of all traffic and parking control signs.

Subd. 16. To rollerskates, rollerblade or skateboards anywhere upon Whitney Recreation Center.

Subd. 17. To ride a bicycle upon any interior portions of the Whitney Recreation Center or to lock or chain a bicycle to any object other than a bike rack.

Subd. 18. To operate a snowmobile upon the Whitney Recreation Center.

Subd. 19. To use profane, vulgar or indecent language so as to be audible and offensive.

Subd. 20. To engage in brawling or fighting or in conduct tending to reasonably arouse alarm, anger or resentment in others.

Subd. 21. To intentionally throw any object, thing or article onto a stage, playing field, audience or seating area, or area where an event is conducted which may be likely to endanger any person or property or interfere with the orderly play or conduct of the event.

Subd. 22. To intentionally run on or go onto a stage, playing field or area where an event is conducted.

Subd. 23. To obstruct an aisle, block a properly marked exit or take or obstruct the seat of another.

Section 243:26. Identification Required. Individuals wishing to use the Whitney Recreation Center must provide proof of identity in the form of a driver's license or identification card. Upon proof of identity, a Whitney Recreation Center picture identification card will be issued. All users of the Whitney Recreation Center will be required to display the Whitney Recreation Center picture identification card before being allowed access to the facility. Individuals under legal age and

without identification described herein will be required to provide a signed parental permission form prior to issuance of a Whitney Recreation Center picture identification card.

Section 243:30. Conduct Requiring Director's Approval. Unless the prior written approval of the manager is obtained, it will be a violation of this ordinance for any person, while on or about Whitney Recreation Center:

Subd. 1. To make use of the Whitney Recreation Center while part of an organized group.

Subd. 2. To post any sign or notice.

Subd. 3. To possess any intoxicating beverages or non-intoxicating malt beverages as defined in Minnesota Statutes Chapter 340A other than those furnished by the City directly or through its vendors.

Subd. 4. To build fires at any location.

Subd. 5. To bring onto the Whitney Recreation Center any animal. This rule will not prohibit a blind, physically handicapped or deaf person from taking a service dog onto the Whitney Recreation Center, if the service dog can be properly identified as being from a recognized school for seeing eye, hearing ear, service or guide dogs and if the dog is properly harnessed or leashed so that the blind, physically disabled or hearing impaired person may maintain control of the dog.

Subd. 6. To be in the Whitney Recreation Center during times when the Whitney Recreation Center is closed.

Subd. 7. To bring onto the Whitney Recreation Center any food, beverage, bottle or other breakable, disposable container designed to hold food, beverage or other consumable commodity, except an athlete or athletic team participating in an organized sponsored athletic event may do so upon obtaining the Director's approval.

Subd. 8. To promote, solicit, sell, barter or trade any commodity or item of monetary value, including but not limited to any admission ticket, on any part of the Whitney Recreation Center premises, provided that the sale of an admission ticket for its face value or less than its face value will not be a violation of this ordinance. For purposes of this ordinance, a complimentary ticket will be deemed to have a face value of zero.

Subd. 9. To construct, erect or place any building or structure, including tents, of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across the Whitney Recreation Center.

Subd. 10. To announce, advertise or call the public attention in any way to any article or service for sale or hire.

Subd. 11. No person will set up tents, shacks or any temporary shelter for the purpose of

overnight camping nor will any person leave in the Whitney Recreation Center after closing hours any movable structure or any special vehicle to be used or that could be used for such purposes, such as house trailer, camp trailer, camp wagon, or the like.

Section 243:35. Vehicle and Parking Regulations. It will be a violation of this ordinance for any person, while on the Whitney Recreation Center property:

Subd. 1. To operate a vehicle in such a manner as would, if done on a public street, constitute a violation of Minnesota Statutes Chapter 169.

Subd. 2. To park any vehicle at any location except such locations as are specifically designated as parking stalls, except with the express prior approval of the Director.

Subd. 3. Where lines or marks are drawn to indicate parking stalls, to park a vehicle in such a manner that the vehicle is not completely within a stall bordered by such line or markers.

Subd. 4. To park in any area posted as a fire lane.

Subd. 5. To park in the vicinity of a loading or dock area except for vehicles which are actually in the process of loading or unloading supplies, equipment or other merchandise.

Subd. 6. To drive a vehicle in any area except on a parkway, parking lot, path or other roadway designated for the vehicle.

Subd. 7. To provide driver's training except with the express prior approval of the Director.

Section 244 – Refuse, Rubbish and Recycling Collection and Disposal

Subd. 1. “Ashes” means residues from fires used for cooking or for heating buildings.

Subd. 2. “Contaminated” means not in its pure state, tainted, putrefied, or polluted.

Subd. 3. “Dumpster” means a metal container used for the disposal of refuse and rubbish, which container has a minimum capacity of one cubic yard of material.

Subd. 4. “Dwelling” means a building or portion thereof, designed or used exclusively for residential occupancy, including single family, two family, and multiple family dwelling units, but not including hotels and motels.

Subd. 5. A “detached dwelling” means a dwelling entirely surrounded by open space, said open space being on the same zoning lot as a dwelling.

Subd. 6. A “multiple family dwelling” means a dwelling containing four or more dwelling units, designed with more than one (4) dwelling unit connecting to a common corridor or entranceway, originally constructed for said purpose, and not including converted dwellings or attached row dwellings (party-wall type) as defined herein.

Subd. 7. A “single family dwelling” means a detached dwelling containing accommodations for occupancy by one family only.

Subd. 8. An “attached townhouse dwelling” means an independent dwelling unit which is attached on one or both sides or ceiling or floor to another independent dwelling unit(s) and with more than one principal structure.

Subd. 19. A “Municipal Collection Service” means the refuse collection service provided by the City of St. Cloud.

Subd. 20. “Premise” means land occupied or to be occupied by a building and its accessory buildings together with such open spaces as are required under this ordinance and having its principal frontage upon a street or officially approved place.

Subd. 21. “Recycling” means those materials required to be separated for disposal.

Subd. 22. “Refuse” means garbage, household rubbish, ashes and any organic wastes normally produced from the handling and use of foods, except dishwasher and wastewater.

Subd. 23. “Rubbish” means any wastes which are not garbage and will include the following yard waste, “tree branches and brush rubbish”, and “household rubbish”, which includes wood products, metals, glass, crockery, packaging and other mineral objects.

Subd. 24. “Sleeping room” means a room in a structure rented for sleeping with access to a bathroom, with or without access to a kitchen but not including motels and hotels open to transients.

Subd. 25. “Source separation” means to divide or separate out from the main body, to make distinguishable from, to isolate, to seclude.

Subd. 26. “Yard waste” is grass clippings, leaves, pinecones, pine needles, pumpkins, acorns, apples, sod, and garden vegetation.

Section 244:05. Temporary Exception. Newly merged areas of the Town of St. Cloud are shown

on the map attached to this section of the Code as Exhibit A. Newly annexed areas of the Town of St. Augusta are shown on the map attached to his section of the Code as Exhibit B. Exhibit A and B are incorporated as part of this ordinance. Section 244 will apply to all areas of the newly merged or annexed areas of the Towns to which City sewer and water service has been extended and is available.

Section 244:10. Municipal Collection Service. The municipal collection services of the City of St. Cloud provide regular collection and disposal of refuse, rubbish and recycling within the City from the following dwellings:

- Subd. 1. Single family dwellings.
- Subd. 2. Townhouse detached dwellings.
- Subd. 3. Townhouse attached dwellings (Group or Row Houses).
- Subd. 4. Two family dwellings (Duplexes).
- Subd. 5. Three family dwellings (Triplexes).
- Subd. 6. Lodging houses.

The service will be supervised by the Director of Public Works and will be operated according to the methods, schedules, and rates as will be set forth in Section 530:00 of this Code.

Section 244:15. Normal Service. The "normal service" provided will consist of the collection and disposal, from each dwelling unit, of refuse contained in a single 90-gallon cart or in any number of City refuse bags, once per week together with recycled materials placed in the container provided by the City. Normal service will require the use of City refuse bags unless a single 90-gallon cart is requested by the owner or occupant of a dwelling unit. Requests must be made to the Department of Finance on a form provided by the City.

The owner or occupant of every dwelling unit will dispose of refuse and recycling by the municipal collection service and will comply with the following conditions:

- Subd. 1. Size and Type of Containers. Each dwelling unit will provide a cart or City refuse bags for the storage of refuse to be collected as part of the City's normal service. The content weight of any cart will not exceed 138 pounds and the content weight of any City refuse bag will not exceed 25 pounds. In addition, the total volume of any cart will not exceed 90 gallons. Trash, which has been compacted by a household trash compactor, may be placed in the cart or City refuse bags. Only one bundle of compacted trash not exceeding 25 pounds may be placed in each City refuse bag. A maximum of three bundles of compacted trash not exceeding 138 pounds may be placed in the cart.
- Subd. 2. Provision and Maintenance of Refuse Carts. Refuse carts will be supplied by the City. Carts will remain the property of the City and will be returned to the City upon termination of refuse cart service. The City logo will be stamped on the sides of refuse carts, and a serial number assigned by the City will be visible on the rear of the cart. The

first cart delivered to a dwelling unit will be provided by the City without charge. The cost of replacement carts will be charged to the owner or occupant of the dwelling unit. The city will assume responsibility for maintenance of lids, wheels and axles; however, the owner or occupant of the dwelling unit must notify the City to initiate maintenance.

Subd. 3. Contents Secured. All garbage will be placed in fully enclosed containers so as to prevent animals from preying on and scattering the garbage and so as to prevent seepage out of the container. Containers for household rubbish only will be enclosed or tied to the extent necessary to prevent scattering of the contents by wind and to allow the containers to be picked up without special handling.

Subd. 4. Limitations on Materials. The refuse and recycling to be picked up as part of the "normal service" will consist only of those materials resulting from a normally operating residential unit, and will not contain hazardous wastes, wasted construction materials, large furniture or appliances, rocks, dirt, sod, trees, acids, explosives, hot ashes or other potentially dangerous or corrosive materials.

Subd. 5. Placement for Collection. The Director of Public Works will designate the collection point for the "normal service." The containers and City refuse bags will be placed as near the designated alley or public street as is reasonably possible so that they will be easily accessible for the collector, by 6:00 a.m. on the scheduled days for collection. The front side of each refuse cart must face the street or alley on collection day. Carts will not be dumped on collection day if not properly set for collection. After the collection, any reusable containers will be promptly removed from the street or alley.

Section 244:20. Yard Waste Service. Yard waste service will consist of the collection and disposal of approved yard waste contained in any number of City yard waste bags from each dwelling unit. Yard waste collection will occur once per week, April to November, weather permitting. The Director of Public Works will designate the point of collection and the day of the week for yard waste service.

Section 244:25. Special Rubbish Collection. Two types of rubbish will be collected only upon request in accordance with the following regulations stated in the subsequent subdivisions:

1. Tree Branches and Brush Rubbish: Collection will be made only by request.
2. Household Rubbish: Collection will be made only by request.

Subd. 1. Rubbish Only. Material to be collected must consist of rubbish only. Material containing garbage will not be collected. Household rubbish cannot be mixed with yard waste. Materials to be collected will not contain acids, explosives, hot ashes, other potentially dangerous or corrosive material, or any hazardous wastes.

Subd. 2. Type of Containers. All loose materials for household rubbish collection will be contained in trash bags, heavy cardboard boxes or in wooden or metal containers. Trash bags and cardboard boxes will be taken with the household rubbish collection. Wooden and metal containers will be emptied and left. Material contained in refuse carts will not be picked up during special collection.

Subd. 3. Size of Containers. The total weight of each container and its contents will not exceed 75 pounds and the contents will not weigh more than 46 pounds. The total volume of any trash bag, cardboard box or other container will not exceed 30 gallons.

Subd. 4. Tree Branches. Tree branches, not exceeding 4 inches in diameter, will be accepted without being contained if they are securely bundled and tied. Tied bundles will not exceed 4 feet in length, nor more than 12 inches in diameter.

Subd. 5. Requests for Service. Special rubbish collection requests will be made to the Department of Public Works no later than two days prior to collection day.

Subd. 6. Placement for Collection. All rubbish to be collected must be placed in the same location where refuse is normally collected.

Section 244:30. Recycling.

Subd. 1. Purpose. The purpose of this section is to provide for the mandatory separation of recyclable items from refuse within the City of St. Cloud.

Subd. 2. Separation Required for the Municipal Collection Service. All refuse set out for disposal by the owner or occupant of every dwelling unit within a dwelling listed in Section 244:05 of this Code will be set out for disposal so that the following materials are separated from the refuse for recycling except if employed in the disposal of other refuse or if the material has been contaminated.

- (a) Newsprint, magazines telephone books, catalogs, junk mail and boxboard.
- (b) Rinsed glass bottles and jars, no broken glass.
- (c) Aluminum cans and aluminum scrap.
- (d) Rinsed bi-metal (tin) cans.
- (e) Rinsed plastic containers with a recycling symbol of #1 and #2; motor oil containers, will be drained.
- (f) Corrugated cardboard.

Additionally, the following materials may be separated from the refuse and set out for recycling collection:

- (g) Junk mail, including paper, envelopes (with plastic windows removed), greeting cards, and computer printouts. Unacceptable materials include wrapping paper, paper towels, construction paper, carbon paper, brown craft envelopes, blueprints and books.
- (h) Boxboard (also called fiberboard) including such items as beverage boxes, cereal boxes, and egg cartons. Unacceptable items include styrofoam, waxed cardboard and cardboard contaminated with grease or other food products.

The Director of Public Works may establish other rules as reasonably necessary for the separation of recycling materials from refuse and the preparation and suitability of recyclable materials for collection.

Subd. 3. Collection of Materials Under City's Normal Service. Collection of recyclable materials will be once per week and will be set out for disposal street side or at other locations as directed by the Director of Public Works and placed only in the containers approved by the City.

Subd. 4. Rates. Payment of the fees, rates and charges set forth in Section 570 of the 2007 Code of Ordinances will entitle each resident to the service provided for herein.

Subd. 5. Anti-scavenging Clause. Ownership of the recyclable materials set out for collection by the City will be vested in the City of St. Cloud. It will be unlawful and an offense against this ordinance for any person, firm, or corporation other than the owner,

lessee, or occupant of a residential dwelling, to pick up recyclable materials for their own use.

Subd. 6. Ownership of Recycling Containers. The containers provided to each dwelling by the City for the collection of recyclable materials are and will remain the property of the City of St. Cloud.

Subd. 7. Separation Required for Dwellings Collected by Licensed Commercial Haulers. All refuse set out for disposal by the owner or occupant of every dwelling that is not part of the municipal collection service will have the following materials separated from the refuse except if employed in a disposal of other refuse or if contaminated:

- (a) Newsprint, magazines telephone books, catalogs, junk mail and boxboard
- (b) Rinsed glass bottles and jars, no broken glass
- (c) Aluminum cans and aluminum scrap
- (d) Rinsed bi-metal (tin) cans
- (e) Rinsed plastic containers with a recycling symbol of #1 and #2; motor oil containers will be drained
- (f) Corrugated cardboard.

This subdivision applies to the entire City of St. Cloud.

Section 244:35. Responsibilities of Owners and Occupants. It will be unlawful for any person owning or occupying any premises in this City to fail to dispose of refuse, rubbish or recycling in a sanitary manner or to allow refuse, rubbish or recycling to accumulate on premises, owned or occupied by such person, or to fail to keep said premises in an orderly and sanitary condition.

Section 244:40. Exceptions to Residential Service. The following are exceptions to the requirements for residential refuse, rubbish and recycling service.

Subd. 1. The owner and occupant of a residence located on a tract of land ten acres or larger may request in writing that municipal refuse, rubbish and recycling service be terminated until further notice provided:

- (a) The owner and occupant sign an agreement with the City whereby the owner and occupant agree to dispose of the refuse and rubbish generated on the premises at their own expense, pursuant to Section 244:45; and
- (b) The owner and occupant sign an agreement with City whereby the owner and occupant agree to provide for the separation of all recyclable materials from the refuse and rubbish in the dwelling and provide for the collection and delivery of these materials to a recycling facility through a licensed commercial hauler. The materials separated for recycling will be, at a minimum those listed in Section 244:30, Subd. 7 of this Code

Subd. 2. The owner or occupant of a residence which is situated more than 100 feet from the public roadway may be provided refuse, rubbish and recycling service to a readily accessible location within 100 feet of the residence, provided the owner and occupant signs an agreement with the City which:

- (a) Allows the City to utilize the private driveway for refuse, rubbish and recycling collection.
- (b) Provides that such service will only be provided so long as the driveway is maintained in serviceable condition and provides adequate opportunity to allow the collection trucks to turn around.

- (c) Holds the City harmless from any property damage, which occurs, in the normal provisions of refuse, rubbish and recycling service.

Subd. 3. The owner or occupant of a residence which had primary access to a road having a posted speed limit in excess of 35 miles per hour may either place the owner or occupant's refuse, rubbish and recycling for collection on said property immediately adjacent to the road right of way or place the materials at a readily accessible location on the owner or occupant's driveway, provided the owner and occupant signs an agreement with the City which:

- (a) Allows the City to utilize the private driveway for refuse, rubbish and recycling pickup.
- (b) Provides that such service will only be provided so long as the driveway is maintained in serviceable condition and provides adequate opportunity to allow the collection trucks to turn around.
- (c) Hold the City harmless from any property damage, which occurs, in the normal provisions of refuse, rubbish and recycling service.

Subd. 4. Manufactured homes located in a manufactured home park, provided that the owner of the manufactured home park signs an agreement with the City that:

- (a) Garbage cans with tight fitting lids or "dumpsters" or adequate size to contain the volume of refuse and rubbish generated prior to disposal will be provided on the premises.
- (b) The owner will dispose of the refuse, rubbish and recycling at their own expense, pursuant to Section 244:45.
- (c) The owner will provide for the separation of all recyclable materials form the refuse and rubbish generated and provided for the collection and delivery of these materials to a recycling facility through a licensed commercial hauler. The materials separated for recycling will be, at a minimum those listed in Section 244:30, Subd. 7 of this Code.
- (d) The owner signs an agreement with the City whereby the owner agrees to distribute written information to tenants, at the time of leasing and at least annually thereafter, regarding the established recycling program.

Subd. 5. The Public Works Director is authorized to order the discontinuance of municipal refuse, rubbish and recycling service for dwellings located throughout the City. The Public Works Director's order will be based upon a finding that:

- (a) The volume of refuse and rubbish generated by the dwelling is at a level which indicates that a "dumpster" may be better used to store refuse and rubbish for collection on the premises as opposed to 90-gallon carts or City refuse bags. Thereafter the owner and occupant will provide a "dumpster" on the premises of adequate size to contain the volume of refuse and rubbish generated prior to disposal, and further will dispose of the refuse and rubbish at their own expense, pursuant to Section 244:45.

- (b) The owner and occupant signs an agreement with the City whereby the owner and occupant agrees to place a "dumpster" on the premises of adequate size to contain the volume of refuse and rubbish generated on the premises prior to disposal, and further agrees to dispose of the refuse, rubbish and recycling at their own expense, pursuant to Section 244:45.
- (c) The owner and occupant sign an agreement with the City whereby the owner and occupant agree to provide for the separation of all recyclable materials from the refuse and rubbish in the dwelling and provide for the collection and delivery of these materials to a recycling facility through a licensed commercial hauler. The materials separated for recycling will be a minimum those listed in Section 244:30, Subd. 7 of this Code.
- (d) For lease properties, the owner signs an agreement with the City whereby the owner agrees to distribute written information to building tenants, at the time of leasing and at least annually thereafter, regarding the established recycling program.

Section 244:45. Payment for Private Disposal. Non-residential premises and dwellings not included or otherwise exempted from the municipal collection service provided in Sections 244:10 and 244:40, will dispose of refuse, rubbish and recycling entirely at their own expense. The owner or occupant will employ a commercial hauler licensed by the City to dispose of refuse, rubbish and recycling.

Section 244:50. City to Collect and Dispose of Unsanitary Accumulations of Material. When in the discretion of the Health Director, it appears that upon any premises within the City of St. Cloud refuse, rubbish and recyclables are not being disposed of in a sanitary manner, or rubbish and recyclables are being allowed to accumulate, the Health Director will take the following action:

- (a) Give written notice to the recorded owner or occupant of said premises by personal service or first-class mail that rubbish and recyclables are being allowed to accumulate upon the premises, or are not being disposed of in a sanitary manner, in violation of Section 244:35, and that unless the violation is abated during a time period stated in the notice, the Health Director will cause collection of said rubbish and recyclables by City employees, and said collection charges will be billed against the owner or occupant.
- (b) Cause the collection charges for such services to be billed in accordance with Section 244:75.

Section 244:55. Commercial Haulers Licensed. The St. Cloud City Council may issue licenses for the collecting and hauling of refuse, rubbish and recycling for hire from dwellings located within the corporate limits of the City of St. Cloud, upon compliance with the following requirements:

- Subd. 1. Certification by the applicant that billing for refuse and rubbish collection services is based on volume.
- Subd. 2. Certification by the applicant that recycling collection services are provided to all its customers.
- Subd. 3. Submission of specifications of all vehicles to be used for refuse, rubbish and recycling collection and transportation.

Subd. 4. Submission of the address for all dwelling located within the corporate limits of the City of St. Cloud for which refuse, rubbish and recycling collection services are provided.

Subd. 5. Filing with the City a copy of any license required by Stearns, Benton or Sherburne Counties to collect and transport refuse, rubbish and recycling in their respective jurisdictions.

Subd. 6. Payment of license fee established in Section 510 of this Code.

Section 244:60. Hauling Requirements. When hauling refuse, rubbish and recycling within the City, any person hauling such refuse, rubbish and recycling, whether privately or as a commercial service, will comply with the following provisions.

Subd. 1. All garbage, ashes, and wet rubbish will be hauled in covered cans as required by this ordinance or in covered vehicles having metal, water-tight bodies to prevent scattering or dripping of contents.

Subd. 2. Dry rubbish may be hauled in any type vehicle, provided, however, that the necessary steps will be taken, including tying or covering of the rubbish, to prevent scattering of such rubbish during transit.

Section 244:65. Establishment of Service Charges. The City Council will make and establish a schedule of service charges, including minimum charges for the removal and disposal of refuse, yard waste, rubbish and recycling by the municipal collection service from all dwellings for which normal municipal collection service is provided.

Section 244:70. Cancellation or Refund. The service charges for normal service under Section 244:15 of this ordinance so established will be imposed upon the owner or occupant of each and every residence whether or not the municipal collection service is actually used by any such person or residence. Any owner upon whom a service charge is imposed may apply for and receive a credit or refund if the charge has been paid for any regular two-month period, for the full amount of said charge, if the owner or tenant established by sworn affidavit filed with the City Treasurer that the owned or leased residence was vacant and unoccupied for no less than 60 continuous days during the two-month period for which the credit or refund is requested, and that no refuse, rubbish or recycling was accumulated or collected on the premises on which such residence was located during such 60 continuous days. Any application for credit or refund will be made within 30 days following the billing date of the service charge by the Treasurer. The City Treasurer may prescribe and provide a form for the affidavit and the City Treasurer's determination to grant or deny the application will be based on the Treasurer's sound discretion in the best interest of the City and will be final. Any person who submits a false affidavit in support of an application for credit or refund provided herein, will be guilty of a misdemeanor.

Section 244:75. Billing and Payment of Service Charges. The service charge for refuse, yard waste, rubbish and recycling collection and disposal for a residence will be entered, shown and placed on the City utility bill for such residence and will be indicated thereon as for refuse, rubbish and recycling collection and disposal service charges. All such charges will be due and payable at the office of the City Treasurer and will be deemed to be for the same period in which the utility bill is incurred. Provided, however, that in initiating this service charge, the City Council will provide for pro-rating the first charge in one-month increments, depending on the month in which utility charges are made.

Section 244:80. Delinquent Accounts.

Subd. 1. All City utility bills will be due and payable upon the date of billing and will be considered delinquent, if not paid within 30 days. A finance charge may be added to

delinquent accounts. The finance charge will be established from time to time by resolution of the Council.

Subd. 2. On September 1st of each year, the City Clerk will cause an assessment to be levied against each residence for unpaid service charges that were due and payable on or before August 1st of that year. The assessment will be in an amount equal to the unpaid service charges. Interest on said assessment will be charged at the same rate as is the charge for assessment rolls for improvement projects adopted in the same year as the assessment for the delinquent refuse accounts. Interest will accrue from the date the assessment roll was adopted by the City Council. The owner of any property so assessed may, at any time prior to certification of the assessment to the County Auditor, pay to the City Treasurer the whole of the assessment covering the property with interest at the same rate as established above accrued to the date of payment. Upon adoption by the City Council, the City Clerk will transmit a certified duplicate of such special assessments to the County Auditor to be extended on the property tax list of the county of such assessment. The assessment will be collected and paid over a one year period with municipal taxes.

Section 244: 85. Refuse Service Fund. There is established a "Refuse Service Fund" into which all monies collected by the City under this ordinance will be deposited. This fund will be used to protect public health and to promote and improve sanitary and attractive conditions, and to provide for more efficient and regular collection of refuse, rubbish and recycling and to establish an equitable and economic means to pay the costs of refuse collection, and to provide for just compensation and conditions to City employees, and to provide for the repair and replacement of refuse collection equipment, and in anticipation of the need to acquire additional or replacement areas for sanitary landfill or other methods of refuse disposal.

Section 244:90. Saving Clause. The invalidity of any section, subsection, sentence, clause, definition, phrase or portion of this ordinance will not invalidate any remaining portion.

Section 244:95. Sales of Yard Waste and Garbage Bags.

Subd. 1. Yard waste and refuse bags required by this ordinance will be offered for sale by the City of St. Cloud and by authorized distributors exclusively. Parties who desire to become authorized distributors will contact the Public Works Department.

Subd. 2. No party will offer for sale any City yard waste or refuse bags unless said party has entered into a written agreement with the City of St. Cloud and has been identified as an authorized distributor.

Subd. 3. No party will offer for sale any yard waste or refuse bags at a rate different from that rate set by the City of St. Cloud.

Section 245 - Public Utilities Department

Section 245:00. Sewer, Water and Electric Departments Constituted A Single Utility. The sewer, water and storm water systems of the are made, constituted, and declared to be a single municipal utility and public convenience, and will be operated, administered, and treated as single utility and convenience, and will be known as the "St. Cloud Public Utility System."

Section 245:05. Public Utility Charges, Collection Procedures. The owner of any tract or parcel of real property connected by pipes with the water works system, the sewer system, or the electrical system or any or all of those will be liable to the City for the payment of any rents, rates, or charges for water, sewage or electrical service, to such piece or parcel of real property, as well as any lessee or occupant using such services. The rents, rates, or charges for water, sewage or electrical service furnished or provided by the City to a particular tract or parcel of real property will constitute a lien until paid.

Such rents, rates, or charges may be recovered through legal action against any one or more of the persons liable, or by the foreclosure of the lien as provided by law. Water or sewer may be shut off at any time that payments of such rents, rates, or charges become and remain in default for 30 days, and will not be restored until they have been paid, together with the sum required to be paid for shutting off and restoring service.

It will be illegal to use water from an unmetered source connected to the public water system without the prior written permission of the Director of the St. Cloud Public Utility System.

Section 245:10. Public Utility Delinquent Accounts, Special Assessments. Every public utility service account will constitute a lien enforceable by special assessment against the lands and premises served. Each account and tract of land or premises included is found and declared to be benefited by the furnishing of such service in the amount of the gross charge or charges and of the special assessment levied against it. All public utility rental accounts and charges which are delinquent on August 15 of any year may be certified by the City Clerk who will prepare and file in his office an assessment roll not later than September 1 of each year providing for the special assessment of all such delinquent accounts against the respective lands, tracts, or parcels served. A copy of the assessment roll will be delivered to the City Council for adoption on or before October 10 of any such year. Notice of the proposed special assessment will be given not later than 14 days before the date of the first council meeting in October will hear such special assessments. Notice will be made by mailing a copy of an appropriate notice stating, among other information, the amount of the assessment, the description of the property sought to be assessed, and the date and place of the council's special assessment hearing, to the person at his last known address who appears as owner of the premises in the files of the County Recorder or by service of such notice as provided in the case of civil actions.

Each assessment will be payable on or before the first Monday of the following January. Interest on the assessment will be charged at the same rate as is the charge for assessment rolls for improvement projects adopted in the same year as the assessments for such delinquent public utility charges. Interest will accrue from the due date of each account or accounts. The owner of any property so assessed may, at any time prior to certification of the assessment to the County Auditor, pay to the City Treasurer the whole of the assessment covering the property with interest at the same rate as established above accrued to the date of payment.

Upon adoption by the City Council, the City Clerk will transmit a certified duplicate of such special assessments to the County Auditor to be extended on the property tax list of the county of such assessment. It will be collected and paid over in the same manner as other municipal taxes.

Section 245:15. Director's Authority to Ban Water Use. The Director of St. Cloud Public Utilities may impose a ban on nonessential uses of water.

Section 245:20. Penalty Imposed for Noncompliance. Water service to any utility account will be turned off for noncompliance of the watering ban. Service will be reinstated only upon payment of a turn-on fee.

Section 245:30. Property Owners Responsibility for Service Lines. It is the responsibility of the property owner(s) to maintain the service lines from the structure to the City water and sewer mains. Upon notification of a service line failure, the owner(s) have 72 hours to repair the line. In the event that the owner does not repair the line, the City will repair the line and bill the owner its expenses.

Section 245:35. Testing of Private Water Wells Required. It will be the responsibility of all property owners not connected to City water service and using private water wells to test the water well annually for coliform bacteria and nitrates. Verification of testing and the testing results will be provided to the Public Utilities Director by the 30th day of September each year. Testing required by this ordinance will be done by a laboratory certified by the Minnesota Department of Health.

Section 255:00 - St. Cloud Public Arts Commission

Section 255:00. Definitions.

Subd. 1. "Arts" means activities involving music, theater, dance, performance, cinema, documentation, sculpture, painting, poetry, literature, folk traditions or fine crafts that involve a quality of aesthetic judgment and execution that will best contribute to the quality of life for citizens of the St. Cloud community.

Subd. 2. "St. Cloud Public Arts Fund" is a non-profit corporation acting in conjunction with the City of St. Cloud and the Commission in furtherance of funding arts projects.

Subd. 3. "Commission" is the St. Cloud Public Arts Commission.

Subd. 4. "Commissioner(s)" is the person or those persons appointed as members of the Commission.

Subd. 5. "Conflict of Interest" is the existence of any of the following conditions, which apply to a Commission member:

(a) A Commissioner has a material or financial interest in a proposal or the proposal materially affects the Commissioner's business, profession or occupation.

(b) A Commissioner is a director, trustee, officer, regular or contracted employee or agent of an institution directly involved in the issue or proposal.

(c) A Commissioner is related as a spouse, child, parent or has some other significant relationship to an individual directly affected by the issue or proposal.

Section 255:05. Purpose. The purpose of the St. Cloud Public Arts Commission is to promote public appreciation, accessibility and patronage of the arts in the St. Cloud community.

Section 255:10. Composition and Qualifications, Appointment and Removal and Compensation.

Subd. 1. The membership of the Commission shall consist of seven Commissioners appointed by the Mayor with Council approval.

Subd. 2. Commissioners shall be residents of the City of St. Cloud.

(a) Commissioners will serve without compensation. The original term of two Commissioners shall be for one year, the original term for two Commissioners shall be for two years, and the original term for three Commissioners shall be three years until their respective successors are appointed. Subsequent terms of Commissioners shall be for three years, and all terms will expire on September 30 of the appropriate year. No Commissioner shall serve more than two consecutive terms. When a vacancy occurs in the Commission, by means of resignation, death, removal from the community or removal for failure to perform the duties of a Commissioner, the vacancy will be filled for the remaining term.

- (b) The Central Minnesota Arts Board, the St. Cloud Community Arts Council, and the United Arts Board shall each have the authority to appoint one non-voting member to the Commission. City of St. Cloud residency is not required for non-voting members.
- (c) The Mayor may remove any member of the best interests of the City.
- (d) The Commission shall meet at a regularly scheduled monthly meeting. The Chairperson or of any two members may schedule additional meetings to effectuate the purposes and policies of this ordinance.
- (e) The Commission shall, at its first meeting in January of each year, elect a Chairperson and Vice-Chairperson. No person shall serve more than two consecutive terms as Chairperson or Vice Chairperson. The Commission shall also elect a person, who may or may not be a member of the Commission, to serve as the Recording Secretary for the Commission.
 1. Chairperson: The Chairperson will preside and maintain order at all Commission meetings. The Chairperson will submit reports as required by law and as requested by the Commission, to the Mayor and/or City Council.
 2. Vice Chairperson: The Vice Chairperson will fulfill the duties of the Chairperson in the absence of the Chair, including the calling of Commission meetings and assisting the Chairperson with administrative duties.
 3. Secretary: The Secretary will assist the Chairperson and Vice Chairperson in the administrative duties of the Commission. The Secretary will prepare the minutes of all Commission meetings.

Subd. 3. Commission Authority.

- (a) To recommend to the Mayor and City Council a Public Arts Plan for the City. The Commission will develop a Public Arts Plan for the entire City. The plan shall be subject to the approval of the Mayor and City Council. The plan shall be updated periodically, at least annually. The plan shall include, but not be limited to the following: a listing of long term objectives of the Commission in carrying out its purpose; criteria for the selection of artists and works of art; a list of locations throughout the City for the placement of works of art; and a current list of priorities for the funding of various arts organizations and projects throughout the City.
- (b) The Commission will recommend to the Mayor and City Council methods of location and selection of artisans, performance and artful activity, funded directly or indirectly by the City.
- (c) The Commission will recommend to the Mayor and City Council arts organizations or projects to be funded in whole or in part by the City.
- (d) The Commission will recommend to the Mayor and City Council criteria for the selection of artful activity.
- (e) The Commission will serve as a consultant on art projects for the City of St. Cloud.
- (f) The Commission will assist the City in raising money from public and private sources to fund arts projects in the City.

- (g) The Commission will report annually to the Mayor and City Council regarding the activities of the Commission and recommended projects.
- (h) If a member of the Public Arts Commission has a conflict of interest with regard to any applicant or proposal, that conflict is to be declared when the applicant or proposal is first discussed. When a conflict of interest occurs, the Commissioner shall refrain from ranking or voting on the applicant or proposal and shall refrain from advocating for the applicant or proposal in any discussion by the Commission.

Section 255:15. Arts Fund. A special fund shall be established by the City for the purpose of collecting and retaining funds from public and private sources for arts projects. The general tax levy of the City of St. Cloud shall not be a revenue source for this special fund.

Section 260 - St. Cloud Police Citizens' Review Board

Section 260:00. Definitions.

Subd. 1. "Charter" is the Home Rule Charter of the City of St. Cloud, Minnesota, adopted November 28, 1911, and as amended.

Subd. 2. "Board" is the St. Cloud Police Citizens' Review Board.

Subd. 3. "Member" is a person appointed by the Mayor, approved by the City Council, to serve on the Board.

Subd. 4. "Conflict of interest" is the existence of any of the following conditions, which apply to a Board member:

- (a) A Board member has a material or financial interest in any issue before the Board that materially affects the Board member's business, profession, occupation, or membership in a fraternal or special organization.
- (b) A Board member is a director, trustee, officer, regular member, ~~or~~ contracted employee, ~~or~~ employee or agent of an institution or organization directly involved in the issue to be addressed by the Board.
- (c) A Board member is a spouse, child, parent or has a significant relationship to an individual directly affected by the issue.

Section 260:10. Purpose and Scope of the Board.

Subd. 1. The Board assists the Mayor and Police Chief in providing lawful and nondiscriminatory peacekeeping services to the public.

Subd. 2. The Board provides participatory oversight of the police in the processing and adjudication of citizens' complaints. Citizen review, in conjunction with the police, of complaints against police officers, will assure that complaints are dealt with fairly and with regard for officers and citizens alike.

Subd. 3. The Board makes annual reports to the Mayor and the Police Chief. The report shall include, at a minimum, information concerning case dispositions, case reviews, and initiatives taken by the Board with regard to policy and procedural recommendations.

Section 260:20. Composition, Qualifications, Appointment and Removal.

Subd. 1. The membership of the Board shall consist of nine voting members to be appointed by the Mayor and approved by the Council.

- (a) All non-police officer members shall be residents of the City of St. Cloud.
- (b) Six members of the Board shall be non-police officers and three members shall be police officers of the St. Cloud Police Department.
- (c) The Police Chief shall recommend the three police officer members to the Mayor for appointment. At least two of the members shall be affiliated with Law Enforcement Labor Services or such other labor organization as is then representing two separate units, i.e., the patrol officers and separately the sergeants, at that time.
- (d) Members shall, to the extent reasonably possible, be representative of the City's diversity of neighborhoods, races, cultures, abilities and incomes.

Subd. 2. The original appointments to the Board by the Mayor of the six non-police officer members shall be for the terms of one, two, three, four, five and six years respectively as designated by the Mayor. Thereafter, non-police officer members shall be appointed for a three year term. No member shall serve more than two consecutive terms.

Subd. 3. The original appointments to the Board by the Mayor of police officers shall be as recommended by the Police Chief and for terms of one, two and three years as designated by the Mayor. Thereafter, these members may be appointed for a three year term. No officer shall serve more than two terms. No officer affiliated with the Law Enforcement Labor Services, nor their immediate family, shall be eligible to serve as a non-police officer member.

Subd. 4. The Board shall meet a minimum of quarterly and up to twice a month as determined by a majority of the Board. The Board shall annually elect a chairperson and a vice chairperson to preside over its proceedings, and shall also elect a secretary who will be responsible for the minutes of the Board's meetings. The Board chair shall be elected from among the citizen members. Members of the Board shall not be paid.

Subd. 5. The Mayor may remove any member of the Board whenever, in his or her discretion, he best interest of the City will be served thereby.

Subd. 6. When a vacancy occurs in the Board by means of removal, resignation, death, removal from the community or removal for failure to perform the duties of a Board member, the vacancy will be filled by the Mayor for the unexpired term.

Subd. 7. The Board shall at its first meeting in January of each year elect a chairperson and a Vice Chairperson. No person shall serve more than two consecutive terms as chairperson or vice chairperson.

- (a) Chairperson. The Chairperson will preside and maintain order at all Board meetings and will make such reports as required by law and as may be deemed necessary by the Board to the Mayor and the Police Chief.

- (b) Vice Chairperson. The Vice Chairperson will fulfill the duties of the chairperson in the absence of the chairperson, including the calling of Board meetings and assist the chairperson with administrative duties.
- (c) Secretary. The Secretary will assist the chairperson and vice chairperson in the administrative duties of the Board. The Secretary will be responsible for the preparation of the minutes of all meetings of the Board.

Subd. 8. Generally, Board business will be conducted in accordance with Robert's Rules of Parliamentary Procedure except as Robert's Rules may be in conflict with this ordinance, in which case this ordinance shall govern. The Board may also enact, with the approval of the Mayor, such bylaws as it deems necessary to govern its own affairs, provided that those bylaws are not in conflict with Robert's Rules or this ordinance.

Section 260:30. Board Authority.

Subd.1. The Board shall conduct all of its meetings consistent with and subject to all City ordinances and published policy directives. Further, the Board shall be subject to all provisions of the Home Rule Charter, City ordinances and State laws including those statutes and government data practices, open meetings, peace officers' bill of rights and related law.

Subd. 2. Each Board member shall, prior to assuming official duties, participate in a training program that includes topics related to police work, investigation, relevant law, cultural diversity, gender, sexual orientation, disability, and emotional impact of abuse. The training program shall be designed and administered by the Police Chief or his/her designee. The Board shall ~~also~~ participate in ride-alongs with an officer on active patrol. Failure to complete the training program shall constitute cause to terminate a member's appointment by the Mayor as recommended by the Police Chief. Additionally, a violation of law regarding government data practice or non-attendance at more than three meetings in a year by a member shall also constitute cause to terminate a member's appointment by the Mayor as recommended by the Chief of Police.

Subd. 3. The Board may review all complaint investigations concerning members of the police department who are certified by the Minnesota Board of Peace Officer Standards and Training and have completed their probationary period as employees of the City of St. Cloud by the internal affairs unit of the police department and subsequent investigations thereof related to alleged acts of:

- (a) Excessive force.
- (b) Inappropriate use of firearms. (Exception: In any case where the incident involves a pending criminal investigation, the Board has no authority to act.) Upon conclusion of the criminal investigation and consideration by the prosecuting authority, the case may then be reviewed by the Board.

- (c) Discrimination as defined within this code of ordinances and Minnesota statutes.
- (d) These complaints categorized as formal infractions, major violations and policy/procedural complaints as described within the policies and procedures of the St. Cloud Police Department complaint procedure. See General Order 131.0.
- (e) Other cases and issues presented to the Board at the discretion of the Chief of Police.

Subd. 4. The meeting of the Board on such matters will be closed pursuant to Minnesota Statutes 471.705, Subd. 1d(b) (2), excepting members of the Board, complaint review administrator, investigators, the Police Chief or his designee, and the Mayor.

Subd. 5. The Board's review coordinator shall be in attendance at Board meetings to facilitate Board review, serve as custodian of the Board files and record proceedings of the Board on audio tape. Internal affairs may be present at all Board meetings.

Subd. 6. The Board after review and deliberation of an investigation shall, by majority vote, make its recommendation on the case. Such recommendation by the Board shall be upon a finding that the complaint be unfounded, not sustained, sustained, sustained with qualifications, or that the matter does not involve guilt or lack thereof but rather a failure of a departmental policy to address the situation. The Board shall also by majority vote make a recommendation as to any action to be taken concerning the involved officer.

Subd. 7. Failure of the Board to reach a majority decision shall cause the investigation to proceed directly to the Police Chief for determination and disposition.

Subd. 8. If a majority decision is obtained, the chair of the Board will inform the Chief of Police in writing of the recommendation and rationale for the recommendation.

Subd. 9. In the event the Chief of Police disagrees with the action recommended by the Board, the Chief shall notify the chairperson of the Board in writing within seven days of receipt of the Board recommendation, the action the Chief intends to impose.

The Board chair and the Chief of Police shall have five working days from the date of the Chief's written communication to the Board chair of the Chief's intent to act, to discuss any concerns they may have before any action is finalized. This provision does not prohibit the Chief of Police from taking immediate action in any case.

Subd. 10. The Chief of Police shall appoint a review coordinator to serve as staff to the Board and manage as needed the complaint process. The review coordinator will serve at the pleasure of the Chief of Police.

Section 260:40. Board Authority Limited.

Subd. 1. The Board has no direct disciplinary powers but effectively recommends such actions to the Chief of Police.

Subd. 2. The Board has no subpoena powers.

Subd. 3. The Board does not hold hearings.

Section 270 – Convention and Visitor’s Advisory Board

Section 270.00. Purpose. The purpose of the Convention and Visitors Advisory Board is to advise the city on attracting non-resident spending to the City by having conventions, meetings, and other group activities in the City. The increased non-resident spending will improve employment opportunities, increase business activity, and improve the number of entertainment opportunities available to the citizens.

Section 270.10. Duties. The Convention and Visitor’s Advisory Board will:

Subd. 1. Study and determine the convention and visitor needs of the City, and to make recommendations to the Mayor in respect to policies, programs and facilities.

Subd. 3. Review and make recommendations to the Mayor and City Council on the City’s Convention and Visitor Strategic Work Plan and Marketing Plan.

Section 270.15. Board Recommendations. Board recommendations that requires action by the Planning Commission or City Council shall be submitted to Mayor.

Section 270.20. Expenses. Board members will serve without compensation. However, the City will pay reasonable expenses of Board members incurred in the performance of their official duties.

Section 270.25. Membership. The Board shall consist of seven voting members appointed by the Mayor with consent of the City Council. Membership on the Board shall represent the lodging, hospitality, and retail industries in the City. The Mayor may appoint a representative of the City Council and representative(s) at large. In addition to the seven voting members, the Mayor shall assign a member of the Administration and a representative of the Contract Vendor as ex-official non-voting members of the Board.

Section 270.30. Residency Requirements. All voting members of the Board shall live or have a business in the City of St. Cloud.

Section 270.35. Term. The terms of the seven members shall be as follows: the original term of two members shall be for one year; the original term of two members shall be for two years; the original term of three members shall be for three years; subsequent terms of Board members shall be for three years; no voting member of the Board shall serve more than two consecutive terms.

When a vacancy occurs on the Board by means of resignation, death, and removal for failure to perform the duties of a Board member, the vacancy will be filled for the remaining term. The Mayor may remove any member of the Board whenever, in his or her judgement, the best interest of the will be served.

Section 270.36. Board Officers. The Board shall elect from its membership a Chair and Vice Chair who shall serve terms, have powers, and perform duties prescribed in the rules of the Board. The Mayor shall assign clerical support duties to the City's contract vendor or to a City employee.

Section 270.37 Meetings. Meetings of the Board shall be held at a regular time and place as may be prescribed in the rules of the Board. However, at least one meeting shall be held quarterly. All meetings of the Board, records and minutes will be open to the public except as otherwise may be provided by law.

Section 270.38. Quorum. Four or more voting members of the Board present at a meeting shall constitute a quorum for the purpose of transacting business.

CHAPTER III BUILDING AND HOUSING CODES

(Note: Formerly 300, 305, 315, 325, 330, 335, 336, 337, 421, 445)

Section 300:00. Minnesota State Building Code. The Minnesota State Building Code, established pursuant to Minnesota Statutes § 16B.59 through § 16B.75, and § 326.37 through § 326.45 is adopted as the Building Code of the City of St. Cloud. A copy of the Minnesota State Building Code is available for use and inspection by the public in the Office of the City Clerk.

Subd. 1. The Minnesota State Building Code includes the following chapters of Minnesota Rules:

- (a) 1300, Minnesota Building Code Administration;
- (b) 1301, Building Official Certification;
- (c) 1302, State Building Code Construction Approvals;
- (d) 1303, Special Provisions;
- (e) 1305, Adoption of the International Building Code;
- (f) 1306, Special Fire Protection Systems;
- (g) 1307, Elevators and Related Devices;
- (h) 1309, Adoption of the International Residential Code;
- (i) 1311, Minnesota Conservation Code for Existing Buildings;
- (j) 1315, Adoption of the National Electrical Code;
- (k) 1325, Solar Energy Systems;
- (l) 1330, Fallout Shelters;
- (m) 1335, Floodproofing Regulations;
- (n) 1341, Minnesota Accessibility Code;
- (o) 1346, Minnesota Mechanical Code;
- (p) 1350, Manufactured Homes;
- (q) 1360, Prefabricated Structures;
- (r) 1361, Industrialized/Modular Buildings;
- (s) 1370, Storm Shelters (Manufactured Home Parks);
- (t) 4715, Minnesota Plumbing Code; and
- (u) 7670, 7672, 7674, 7676, and 7678, Minnesota Energy Code.

Subd. 2. Organization and Enforcement. The organization of the Building Inspections Division of the Department of Health and Inspections, application, administration, and enforcement of the Code will be consistent with by Minnesota Rule Chapter 1300. The Code will be enforced within the incorporated limits of the City of St. Cloud and extraterritorial limits permitted by Minnesota Statute § 16B.62. The Administrative Authority will designate a State certified "Building Official" pursuant to Minnesota Statute § 16B.65.

Subd. 3. Fees

- (a) Building Permits, Inspections and Fees. The schedule of fees for building permits, inspections, and collection of fees will be set forth in **Section 555 of this Code**.

- (b) Plan Check Fees. The plan check fees will be set forth in **Section 555 of this Code**.
- (c) Surcharge. In addition to the permit fee required, the applicant will pay a surcharge to be remitted to the Minnesota Department of Administration as prescribed by Minnesota Statute § 16B.70.
- (d) Occupancy During Construction or Reconstruction. Building permits issued to construct or reconstruct areas in buildings open to the public will provide safe and proper ingress, egress and occupancy to the public using the facility. The City of St. Cloud Chief Building Official will inspect and determine if continued occupancy or business activity would constitute a health hazard. If a health hazard is determined to exist, the Chief Building Official will inform the permit holder of the hazard and any possible means to mitigate or eliminate hazard. If no means of hazard elimination can be found, continued occupancy or business activity will be discontinued. Failure to comply with this section will result in immediate suspension of the building permit.

Subd. 4. Building Advisory Board.

- (a) Purpose. The Building Advisory Board will be concerned with methods of construction, suitability of alternate materials, and establishment of fee schedules.
- (b) Organization.
 - 1. Membership. The Building Advisory Board will consist of five voting members and one ex-officio member. Appointments to the Board will be made by the Mayor and will represent the following groups:
 - a. A general contractor licensed in the City of St. Cloud whose business is primarily concerned with commercial building construction.
 - b. A general contractor licensed in the City of St. Cloud whose business is primarily concerned with residential building construction.
 - c. A licensed realtor whose business is principally located in the City of St. Cloud.
 - d. A professional architect whose business is principally located in the City of St. Cloud.
 - e. A professional engineer specializing in structural or civil engineering whose business is principally located in the City of St. Cloud.
 - f. The Building Inspection Program Coordinator or designated representative will serve in an ex-officio capacity.
 - g. The mayor has the discretion to remove any member.

2. Terms and Appointment. At the first meeting of each calendar year, the Board will select a Chairperson, Vice Chairperson and a Secretary, each to serve throughout the year and until a successor is chosen. Members will be appointed by the Mayor subject to the approval of the Council. Vacancies will be filled for the remaining term in the same manner as original appointments.
 3. The Chairperson. The Board will meet at the call of the Chairperson with a minimum of one meeting per year. Additionally, the Chairperson will arrange meetings with interested citizens who are seeking assistance from the Board, assign duties to Board members, communicate with officials of the Building Inspection Department, report pertinent information and provide leadership to the board. In the absence, or at the request of the Chairperson, any or all of these duties will be performed by the Vice Chairperson.
 4. The Secretary. The secretary will keep charge of permanent records and proceedings of every meeting of the Board and will read the minutes of those proceedings at each successive meeting at the request of the Chairperson. The Secretary will serve as correspondent of the Board and as Treasurer of any funds in the custody of the Board.
 5. Quorum. For transaction of business at any meeting, three members will constitute a quorum.
 6. Compensation. Members of the Board will serve without compensation.
- (c) Procedure. The Building Advisory Board will act in an advisory and review capacity to and for the Mayor on all proposed new building code changes, and will specifically be concerned with methods of construction, suitability of alternate materials and establishment of fee schedules. The committee's final action on any proposal will be in the form of a recommendation of approval or disapproval directed to the Mayor.

BUILDING AND HOUSE MOVERS

Subd. 5. Building and House Movers.

(a) Definitions.

1. For purposes of this subdivision, "building" means and includes any structure having a roof and walls, and designed, used or proposed to be used for residential, commercial, industrial, storage, institutional, assemblage of persons or animals purposes, or any other lawful purposes generally comparable to the

foregoing expressed purposes. A structure of less than 100 square feet will not fall within this definition.

2. "Inspector" means the duly appointed, qualified and acting Building Inspector of the City.

(b) Moving Permit. No building will be moved within the corporate limits of the City unless the licensed building mover has first applied for and received a permit to move the building and paid the required fee for the permit.

(c) Application for Permit. The application for a permit to move a particular building will be in writing, on a form prepared by the Inspector, and filed with the Inspector.

(d) Contents of Application. The application will:

1. Furnish information that will readily enable the inspector to locate the building proposed to be moved.
2. Give a general description of the building, including the nature of the construction materials, its dimensions, including height, the number of rooms, and the purpose for which it is to be used when relocated.
3. If the building is to be relocated in a platted area of the City or within two miles of the City, it will give the lot and block numbers and the name of the subdivision where it is to be located. If it is to be moved into an unplatted area of the City or within two miles of the City, it will give a legal description of the tract or parcel of land on which it is to be relocated.
4. Provide a map that shows where the building will be located on the new site.
5. If the building is to be relocated in a zoned area under a zoning ordinance, it will show the zone classification of the new site.
6. Give the proposed date and hour for the commencement of moving the building.
7. Furnish written plans and specifications for improvements necessary to comply with requirements of the Building Code.
8. Provide a map that shows a proposed route of the moving.
9. Show information that will be required to enable the Parks Director to protect trees in the city as provided in Section 670:55 of this code.
10. Provide additional information as the inspector may require.

(e) Accompanying Documents. The application will be accompanied by the following documents:

1. A receipt of the City Treasurer showing payment of the fee currently prescribed by a resolution of the Council for the permit.
2. Certificates of the County Treasurer and of the County Auditor, of the County wherein the building proposed to be moved is situated, showing that all current and delinquent taxes on the real estate from which the building is proposed to be moved are paid.
3. A certificate of the City Treasurer showing that there are no City charges of any

kind, including any special assessments for local improvements, upon or against the real estate from which the building is to be moved remaining unpaid.

4. An application for a building permit for improvements to the building after moving.
5. The tax statements from the County Treasurer for the current year for both the site from which the building is to be moved and to which the building is to be moved.
6. If the proposed route passes along or across any state or county highway or road, the applicant will obtain appropriate permits from the state or county road authorities and will attach a copy of the same to the permit application.

(f) Standards for Issuing a Moving Permit. The Inspector will inspect the building proposed to be moved, to ascertain whether it meets the standards prescribed in this section for the issuance of a moving permit. The Inspector will not issue a permit if he finds that any of the following conditions exist:

1. Shows deterioration, dry rot, or decay to the degree that the building should not be moved because of the risk or hazard of collapse in the moving process.
2. Is to be relocated within the fire limits of the City, unless the building will meet the requirements for the erection of a new building within the limits when moving and renovation are completed.
3. Is to be moved to a zoned area, unless the building will meet and comply with all requirements for the erection of a new building in the zone classification when moving and renovation are completed.
4. The City Engineer or Building Inspector determines that the building is too large or too heavy to be moved over the route proposed, or any other route, without causing substantial damage to the streets, alleys, and public grounds over, along, or across which it is to be moved.
5. The building is so deteriorated, in a state of disrepair or otherwise so structurally unsound as to be unsafe for the use proposed to be made thereof on relocation.
6. The applicant's equipment is inadequate to move the building without endangering persons or property.
7. The building is to be relocated within the fire limits of the City and it does not meet the requirements specified for the erection of a new building within the fire limits.
8. The building is not compatible with the houses in the neighborhood to which the applicant wishes to move the house or building, with respect to height, age, style, condition, or design and as a result thereof would substantially reduce the values of existing structures in the new location.
9. The Inspector, in determining whether the building should be moved, will compare the market value of the building to be moved with the cost of necessary improvements. The market value of the building to be moved will be determined by deducting the value of the lot from the total market value of the building and lot. The records of the County Treasurer and County Assessor will be used to determine values.

In the event of any disagreement between the mover or owner and the Inspector over the suitability of the building to be moved, the Inspector will, for review and recommendation, refer the matter to the Building Advisory Board.

(g) Hearing. At the hearing, the City and the applicant or owner may produce any competent evidence in respect of the ground or grounds upon which the denial was based. Upon the conclusion of the hearing, or at any time thereafter within 15 days, the Council will take the action in respect of said denial as it deems proper under the evidence produced.

(h) Alternate Route; Property Damage. If the route over which the applicant proposes to move the building is found by the City Engineer to be so inadequate that the building cannot be moved over it without causing substantial damage to the streets and alleys, traffic signals or street lights, or if the Chief of Police finds that the use of the route would be hazardous to the traffic thereon, or the Parks Director finds that the moving of the building over the proposed route would substantially damage the trees along the route, the City Engineer, the Chief of Police, and the Parks Director will specify another route, if one can be found over which the building may be moved without substantial damage to the streets and alleys, without creating dangerous traffic hazards, and without substantial damage to trees. If no route can be found, no permit will be issued.

(i) Duties of the Permit Holder. When a moving permit is issued, the permit holder is required to fulfill the following duties:

1. Move the building only over the route approved or designated in the permit.
2. Notify the inspector in writing of any change in the date or hour proposed for the commencing of the moving of the building.
3. Promptly notify the inspector in writing of any injury or damage to persons or property, private or public, incurred in the moving of the building.
4. Cause adequate warnings to be given to the public of the presence of the building in the street or alley, and, without limiting the foregoing prescribed duty, will cause at least three (3) lighted flashers to be displayed at night on the front and rear ends of the building in the direction it is being moved along the street or alley, one to be approximately in the center of said respective ends, and one on each side of said center flare, near the outer edge of the building. He will also keep and maintain, day and night, proper barricades at each end of the block in which the building is then present, which barricades will be so lighted at night so as to adequately warn the public of their presence in the street.
5. The permit holder will not permit the building to stand in one place on a state trunk highway or county highway for more than the time allotted under the State or County permits, on a municipal state aid street for more than four hours, or on any other street or alley for more than 24 hours, unless the inspector for good cause shown, will have granted an extension of said period.
6. Notify the Fire Department when the building is left standing in any street or alley and identify the location.
7. Leave the site from which the building is moved in a clean, safe, and sanitary

condition. If the applicant fails to do so, the City may do whatever is needed to render the site clean, safe, and sanitary, and the permit holder will pay to the City all expenses so incurred.

8. Exercise due, proper and reasonable care, at all times during the process of moving the building, to prevent and avoid injury to persons or damage to property, private or public.
9. Before the building is moved from its original site, obtain a Utility Disconnect Permit from the Plumbing Inspector and shut off the water and sewer lines that serve the premises. Water service lines are to be shut off at the corporation on the City water main. Sewer service lines are to be capped at the City sewer main in a manner that will prevent infiltration into the City sewer system. The abandonment of water and sewer service lines must be inspected and approved by the City Plumbing Inspector. Remove and return to the City any meters on the premises belonging to it and notify the gas, electric and telephone companies to discontinue their service, if any, to the premises, which notice will be given at the time as will give the companies reasonable time to remove any of their equipment from the premises.
10. Make arrangements with all public utility companies to temporarily remove any lines, wires, and cables along the route which will be necessary to permit the passage of the building along the same.
11. Make arrangements with the Director of Public Works to temporarily remove or protect any City-owned or maintained traffic signals, street light poles, mast arms, signs, wires or cables along the route as necessary to permit the passage of the building and make payment to the City for all expenses so incurred.
12. Make arrangements with the Parks Director to trim or protect any boulevard trees or other publicly owned trees along the route as necessary to permit the passage of the building, and make payment to the City for all expenses so incurred.

(j) Enforcement of Ordinance. The Inspector will be responsible for the enforcement of the provisions of this subdivision.

(k) Violations. If an applicant, licensee, or permit holder commits any of the following acts, he/she is guilty of a misdemeanor:

1. Willfully provides false or misleading information in the application.
2. Moves a building without obtaining a permit to move the building, as required by this subdivision.
3. Moves the building over any state trunk highway, county road, street, alley or public ground not approved or designated as a route therefore.
4. Moves the building without complying with the requirements of this subdivision.
5. Leaves the building standing on a state trunk highway, county road, public street or alley in violation of this subdivision.

COMMERCIAL CONTRACTORS

Subd. 6. Commercial Contractors. A commercial contractor will be any building contractor engaging in work other than work performed under a license from the State of Minnesota as a residential building contractor, remodelor or specialty contractor in the business of contracting or offering to contract to improve residential real estate, all terms as defined by Minnesota Statute, Chapter 326.83.

- (a) Licenses Required. No person, firm or corporation will engage in a business of commercial contracting in the City of St. Cloud without first securing an annual license on application made to the Building Official showing qualifications, which application will then be reviewed by the Building Official, and if approved, the Chief Building Official will issue the annual license. The licenses will expire on December 31 of each year.
- (b) Classification and License Fees. Commercial contractors, upon making application for licenses as required, will declare which class of license they elect, subject to the following scale and will pay the required fee charges:
 - Class "A". Commercial contractors whose annual gross and total building operations exceed a sum of \$50,000.
 - Class "B". Commercial contractors whose annual gross and total building operations exceed a sum of \$25,000 and not more than \$50,000.
 - Class "C". Commercial contractors whose annual gross and total building operations are less than \$25,000.
- (c) Adjustments. After a Class "B" or Class "C" license has been issued, and it is established that a commercial contractor's gross and total building operations in any year will exceed the limits provided for in the license, as set forth in Subd. 6 (b) above, the licensee will at once pay the difference in license fees, which action will automatically revoke the former license, and a new license in the higher class will be issued to the licensee.
- (c) Records. For the purpose of enforcing this provision, the Building Official will keep an account of the work done by each contractor, which account will be open to inspection at all times.
- (d) License and Permit Requirements
 - 1. It is declared to be illegal to agree to contract for, or engage in commercial construction or commercial reconstruction or repair of any project coming within the scope and intent of this section without having a license.
 - 2. No person engaged in the construction, reconstruction, repair or demolition of any building or structure, will obstruct or encroach upon any street, alley, sidewalk or public grounds of the City, wholly or in part, without first having obtained a permit to do so, obtained in the manner prescribed for obtaining a license as a commercial contractor, except that no additional bond need be given.

(e) Bond and Insurance Requirements

1. Every Commercial Contractor, before being granted a license, will file with the Building Official a bond, executed by the contractor, as principal, and by a corporate surety duly authorized under the laws of the State of Minnesota to execute the bond, as surety, in the sum of \$25,000. The bond shall be payable to and for the benefit of the City and the consumer and will be subject to approval by the City Attorney. The bond shall serve the following purposes:
 - a. To keep and save the City from, and indemnified against, all claims of every kind which may arise, directly or indirectly, out of the performance of any work done by the commercial contractor within the City, including all costs and expenses incurred in defending any actions that may be brought against it;
 - b. To ensure compliance with all ordinances, rules or regulations of the City applicable to the work;
 - c. To ensure performance of the work in conformity with all the plans and specifications, if any;
 - d. And to ensure the repair all damage to any public property caused in the performance the work.
2. In addition to the surety bond, the applicant for a license will furnish a general policy of liability and property damage insurance, including products and completed operation coverage which will have minimum limits of coverage of \$100,000 for injuries to or death of one person and not less than \$500,000 on account of one accident and not less than \$250,000 for property damage.
3. The bond will be effective for the period of January 1 through December 31 of the license year. The bonds and insurance will further provide that no cancellation of said bond for any cause may be made by the principal or the surety or insurance company, for any cause, without first giving ten days notice to the City, in writing, of the intention to cancel. The notice will be addressed to the Building Official by registered mail, or will be delivered to the Building Official personally.
4. A license issued under this ordinance will become invalid at any time when the person to whom it was issued ceases to maintain, in full force and effect, the bond and insurance required by this ordinance.

PLUMBING CODE

Section 300:10. Plumbing Code.

Subd. 1. Definitions. All technical terminology and abbreviations used in this ordinance will have the meanings ascribed in the "Minnesota Plumbing Code", but if not defined therein, will have the normal meanings ascribed in the plumbing trade.

- (a) "Inspector" means that person designated by the City Council to inspect plumbing systems and to enforce compliance with the provisions of the ordinance.
- (c) "Plumber" means any person doing any work on a plumbing system subject to the provisions of this ordinance.
- (d) "Engage in Business" means entering into agreement or contract with another person for the installation of a plumbing system, or any portion of a plumbing system, or for the doing of any work on any plumbing system such as are subject to the provisions of this ordinance.
- (e) "Plumbing Code" means the Minnesota Plumbing Code, including the appendices and amendments as adopted by reference by the City of St. Cloud in Section 300 of the Building Code.
- (f) "Sewer and Water Contractor" means any person that installs or repairs building sewer and/or water service piping to new or existing properties and has the required State issued pipe layers card for all workers.

Subd. 2. Licenses for Plumbing Contractors.

- (a) Any person desiring to engage in business within the City, will first obtain a Master Plumbing Contractor License, a Sewer and Water Contractor License, or a Sewer Cleaning Contractor License from the Chief Building Official.
- (b) A Master Plumbing Contractor License will entitle the license holder to engage in the business of installing, altering, repairing, and servicing any plumbing system within the City without limits as to requirements of the system or scope of work.
- (c) A Sewer Cleaning Contractor License will entitle the license holder only to engage in the business of cleaning out existing sewer systems when such cleaning operations can be conducted by obtaining access to the sewer through existing clean outs, vents, drains or manholes.
- (d) The license fee for Master Plumbing Contractor and for Sewer Cleaning Contractor will be set forth in Section 500 of this Code.

Subd. 3. Application Procedures and Requirements for Obtaining Licenses.

- (a) Any person desiring to obtain a license will make written application to the Chief Building Official for such license, stating the name and date of birth of the person desiring such license, place of business, and stating the type of license for which the applicant is applying. If the applicant is an individual person, such application will also state that he is not less than 21 years of age.

(b) Upon the presentation to the Chief Building Official of an application for Master Plumbing Contractor and a valid and current Master Plumber License issued by the State of Minnesota in accordance with the provisions of the Minnesota Plumbing Code, the Chief Building Official will issue the license to the applicant upon the applicant (a) filing with the Chief Building Official the bond and insurance policies and (b) paying the license fee.

(c) Master Plumbing Contractor Licenses will be issued in the following manner:

1. Only to an individual that holds a valid State Master Plumber License.
2. To a partnership or association of individual persons, only if such partnership or association of individual persons has a member holding a valid State Master Plumber License. In this event, the license will be issued in the name of the individual holding the certificate and in the name of the partnership or association of persons.
3. To a corporation, only if such corporation has an executive or administrative officer holding a valid State Master Plumber License. In this event, the license will be issued in the name of the individual holding the license and in the name of the corporation.
4. When a Master Plumbing Contractor qualifies to receive a license by virtue of a member or an officer holding a State Master Plumber License, such member or officer will be in active charge of the work of installation, with authority and power to direct such work, all to the end that when the job is completed it will comply to all technical requirements of this ordinance. In all cases, the person holding the permit for the particular job will be primarily responsible for such compliance.
5. Upon the presentation to the Chief Building Official of an application for Sewer Cleaning Contractor's License, the Chief Building Official will issue the license to the applicant upon the applicant (a) filing with him the bond and insurance policies and (b) paying the license fee.

Subd. 4. Expiration of Licenses. Any license will expire on the 31st day of December of the year for which it was issued.

Subd. 5. Use of Licenses.

- (a) No person licensed under this ordinance who holds a permit for a particular job, will sublet or assign any work contemplated by such permit to any person not licensed under this ordinance and such attempted subletting or assignment will be void.
- (b) In the event the person holding such permit sublets any portion of the work to be done under the permit to any other person holding a Master Plumbing Contractor's License,

the person holding the permit will remain responsible for the completion of all work under said permit in accordance with the provisions of this ordinance. Both the permit holder and the person so doing the work will both be subject to prosecution for the violation of any provision of this ordinance.

Subd. 6. Suspension and Invalidation of Licenses.

- (a) When a Master Plumbing Contractor has qualified to receive a license only by reason of a member or an officer holding a State Master Plumber License, then if the member or officer ceases to hold their status as a member or officer, the license is suspended, all work in progress under any existing permit will be suspended, and no additional permits will be issued until the contractor has a valid State Master Plumber license.

Subd. 7. Bond and Insurance Requirements.

- (a) Every Master Plumbing Contractor and Sewer Cleaning Contractor, before being granted a license, will file with the Building Official a bond, executed by the contractor, as principal, and by a corporate surety duly authorized under the laws of the State of Minnesota to execute the bond, as surety. Master Plumbing Contractors shall provide a bond in the sum of \$10,000 and Sewer Cleaning Contractors shall provide a bond in the amount of \$5,000. The bond shall be payable to and for the benefit of the City and the consumer and will be subject to approval by the City Attorney. The bond shall serve the following purposes:
 - 1. To keep and save the City from, and indemnified against, all claims of every kind which may arise, directly or indirectly, out of the performance of any work done by the commercial contractor within the City, including all costs and expenses incurred in defending any actions that may be brought against it.
 - 2. To ensure compliance with all ordinances, rules or regulations of the City applicable to the work.
 - 3. To ensure performance of the work in conformity with all the plans and specifications, if any.
 - 4. To ensure that any damage to public property is properly repaired.
- (b) In addition to the surety bond, the applicant for a license will furnish a general policy of liability and property damage insurance, including products and completed operation coverage which will have minimum limits of coverage of \$100,000 for injuries to or death of one person and not less than \$500,000 on account of one accident and not less than \$250,000 for property damage.
- (c) The bond will be effective for the period of January 1 through December 31 of the license year. The bonds and insurance will further provide that no cancellation of said bond for any cause may be made by the principal or the surety or insurance company,

for any cause, without first giving ten days notice to the City, in writing, of the intention to cancel. The notice will be addressed to the Building Official by registered mail, or will be delivered to the Building Official personally.

- (d) A license issued under this ordinance will become invalid at any time when the person to whom it was issued ceases to maintain, in full force and effect, the bond and insurance required by this ordinance.

Subd. 10. Registration of Journeyman Plumbers and Plumbers' Apprentices.

- (a) Any journeyman plumber or plumber's apprentice working on any plumbing system within the City will register their names with the Plumbing Inspector. Possession of a State Journeyman's License will be accepted as prima facie evidence of a journeyman's eligibility for registration. Proof of registration with the Minnesota Department of Health will be accepted as prima facie evidence of an apprentice's eligibility for registration.
- (b) The fee for registration as either a journeyman or as an apprentice will be set forth in Section 551 of this Code. Upon receipt of the proper credentials and of the fee, the Plumbing Inspector will issue a certificate of registration to the registrant.
- (c) No person other than an individual holding a State Master Plumber's License and licensed as a Master Plumbing Contractor in accordance with the provisions of this ordinance will do any work on any plumbing system unless the licensee is registered as above described.

Subd. 11. Plumbing Code Board.

- (a) The "Plumbing Code Board" consists of six members. One member of the Board will be the Chief Plumbing Inspector who will serve ex-officio, without voting privileges. The Director of Health and the Director of Public Utilities will be ex-officio members of the Board with full voting privileges. The other three members of the Board will be appointed by the Mayor of the City subject to the approval of each appointee by the City Council. One of these appointees will be a person holding a Master Plumbing Contractor License as provided by this ordinance. Another appointee will be a registered Journeyman Plumber, as provided by this ordinance. The third appointee will be any person chosen without pre-qualification by this ordinance. All members will be appointed for terms of three years, except that an appointee to fill a vacancy will serve the remaining term of the member in respect to whom the vacancy occurred.
- (b) The appointed members of the Board will not be subject to the Civil Service Rules of the City, and will serve without compensation, but will be paid for all expenses reasonably incurred by them in the performance of their duties as members of the Board.

- (c) The Board will organize within 30 days after its approval by the City Council and will elect a Chairperson. The Plumbing Inspector will serve as Secretary, and keep minutes of the proceedings of the Board.
- (d) Regular meetings of the Board will be held on the second Wednesday in January and on the second Wednesday in July of each year.
- (e) Special meetings of the Board will be called by the Secretary, upon the written request of the Chairperson, or upon the written request of two or more members of the Board. Such request will state the time, place and purpose of such meeting. The time so stated will be such that the Secretary can give, by mail, all members at least five days notice of such date, unless all members agree to meet upon shorter notice.
- (f) The primary duty of the Board will be to review this ordinance and to recommend to the City Council any additions or changes which it deems desirable and proper to ensure adequate control and safety of plumbing systems and plumbing work in the City.

Subd. 12. Appeals.

- (a) In the event any person wishes to dispute any interpretation of the technical provisions of this ordinance by the Plumbing Inspector or any order of the Plumbing Inspector, they will file a written appeal within 45 days of the ruling or order with the Plumbing Inspector, stating the exact nature of the item being disputed, and giving the applicable section and subsection of the code and other information which the person considers to be relative to the issue.
- (b) Upon receipt of such written appeal, the Plumbing Inspector will call a meeting of the Plumbing Code Board within fifteen 15 days, and will notify the appellant of the time and location when such meeting will be held.
- (c) At the meeting, the Board will hear and consider all relative information presented and as soon as practicable, the Board will issue a written statement of its findings, one copy to be filed with the City Clerk and one copy to be sent to the appellant.

Subd. 13. Permits and Licenses Generally.

- (a) It will be unlawful for any person to install, alter or repair any plumbing system that is subject to regulation by the provisions of this ordinance, without first making written application to and obtaining a permit from the City Health and Inspection Department. Providing, however, that no permit will be required for minor repair work such as the repair of leaks in pipes, traps and faucets and the opening of exposed waste and supply pipes. However, where waste pipes and supply pipes are replaced or where fixtures are to be changed, a permit will be required and the City notified to inspect the work before it is covered up.

(b) Unless otherwise exempted, separate electrical, building and mechanical permits will be required for the above-exempted items.

(c) Exemption from the permit requirement of this code will not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

(d) Suspension and Revocation of Licenses.

1. Upon notice to the Plumbing Code Board that a person holding a license has been convicted of a violation of this ordinance. The Plumbing Code Board may suspend license for the period of time as the Council may deem proper under the circumstances, or the Council may revoke the license and order that no new license be granted for a period not to exceed six months from the date that the action is ordered by the Council.

2. Before the Plumbing Code Board will revoke any license, the licensee will be entitled to a hearing by the City Council upon ten days written notice by regular mail addressed to the licensee at their place of business or by serving notice upon the licensee in the manner prescribed by statute for serving summons.

Subd. 14. Permits to be Issued to Licensed Contractors Only. No permit for the construction, alteration or repair of any plumbing system will be issued to any person unless he has a valid Master Plumbing Contractor License as provided by this ordinance.

(a) Homeowner Exempted. Notwithstanding any other provision of this code of ordinances to the contrary, and where permitted by state law, permits may be issued to make repairs, additions, replacements, and alterations of any plumbing system of any single-family dwelling structure used exclusively for living purposes or any accessory buildings provided there is no change in the required capacity of the systems involved and that all the work in connection with the structures will be performed only by the person who is the bona fide owner and occupant of such dwelling as his residence or a member of said owner-occupant's immediate family. "Immediate family" includes only a parent, children by birth or adoption, or said children's spouse.

Subd. 15. Plans and Specifications Required.

(a) When application is made for a permit to install a plumbing system that serves the public or serves more than four families, or any plumbing system that will affect the public health in any manner, plans and specifications, together with additional information that the Plumbing Inspector may reasonably require in order to evaluate the adequacy of the proposed system, will be submitted to the Plumbing Inspector in duplicate. The appraisal of the Plumbing Inspector will reflect the degree to which the plans and specifications affect the public health and conform to the requirements of this ordinance, and no permit will be issued until the plans and specifications are found to conform to the requirements of this ordinance. Upon approval of the plans and

specifications, the Plumbing Inspector will indicate approval and will return one approved set to the applicant and retain the other for the City's records.

- (b) Where plans and specifications are required to be submitted, no construction will proceed except in accordance with approved plans and specifications.
- (c) Any material alteration or extension of an existing system will also be subject to the provisions of this section.

Subd. 16. Permit Fees. The Plumbing Inspector will, before issuing any permit for the installation of any plumbing system, require the applicant to pay the permit fees as set forth in **Section 545** of this Code.

Subd. 17. Issuance of Permit. Upon approval of the application and receipt of the permit fee, the Plumbing Inspector will issue a permit to the Master Plumbing Contractor, stating the name of the owner, agent, or occupant of the premises where the work is to be done, the address and/or legal description of the premises, the description of the work to be done and the name of the permit holder.

Subd. 18. Display of Permit. It will be the duty of the permit holder to keep the permit on the premises where the work is being performed until the work is completed, tested and accepted by the Plumbing Inspector, and to display the permit in a conspicuous place on the premises.

Subd. 19. Term of Permit.

- (a) All work to be performed under a permit will be completed within six months from the date of issuance of the permit, or within a longer period of time as the Plumbing Inspector may specify on the permit. Upon the expiration of the time period, if the contractor has not already requested final inspection, the Plumbing Inspector will inspect the work. If the work is not completed, the Plumbing Inspector will notify the contractor to complete the work within 15 days or the inspector may extend the time period if the cause of delay is beyond the control of the contractor. Thereafter, no additional work will be done on the plumbing system unless and until a new permit has been applied for and issued. In the event any changes have been made to this ordinance, prior to the issuance of the second permit, the permit will be deemed to be issued subject to compliance with the ordinance as revised.
- (b) If upon expiration of the term of the permit, the Plumbing Inspector finds the work to be in violation of the provisions of this ordinance, the contractor will be ordered to correct the deficiencies. If the deficiencies are not completed within 15 days, the contractor will be required to obtain a new permit as provided above. In addition, the contractor will be subject to the penal provisions of this ordinance.

Subd. 20. Supervision of Plumbing Systems. The Plumbing Inspector will have general supervision over all plumbing systems in the City. The Plumbing Inspector will have authority to inspect and re-inspect all such plumbing systems to the extent required to protect the public health.

Subd. 21. Inspector May Enter Buildings. The Plumbing Inspector is vested with full authority to enter any building or premises in the discharge of his duties for the purpose of enforcing compliance with the provisions of this ordinance.

Subd. 22. Condemning of Defective Plumbing Systems.

- (a) Any plumbing system which at any time becomes so defective as to endanger the public health or be detrimental to the public water supply system or the public sewer system, will be condemned by the Plumbing Inspector. When in the Plumbing Inspectors opinion it is necessary to prevent such endangering of the public health or detrimental effects to the public water supply or public sewer system, the Inspector is authorized to disconnect the system from the public supply and/or to order discontinuance of the plumbing system. Upon the condemnation, the person or persons owning the plumbing system will immediately take such steps as are necessary to eliminate dangers to the public health or to the public water supply or sewer system. The taking of such steps will not abrogate the right of the owner to utilize the appeal procedures provided for in this ordinance.
- (a) When any plumbing system has been condemned and has been disconnected or discontinued by order of the Plumbing Inspector, no person will in any manner reconnect or reactivate the plumbing system until it has been put in safe condition and a certificate of acceptance has been issued by the Inspector.

Subd. 23. Disturbing Plumbing System. No person will disturb, alter or change any plumbing system in such a manner as to render any portion of the system inoperative, defective or not in accordance with the provisions of this ordinance.

Subd. 24. Inspections Required. No plumbing system will be put to use until inspected and approved by the Plumbing Inspector.

- (a) When any plumbing system is found to have been installed without a proper permit or not in accordance with the provisions of this ordinance, the Plumbing Inspector is authorized to shut off the water supply, plug the building drain, or by other means prevent utilization of the system until a proper permit has been secured from the Inspector and the plumbing system has been re-inspected and approved.
- (b) Requests for inspections will be submitted to the Plumbing Inspector by the Master Plumbing Contractor, and inspections will be conducted in accordance with the provisions of the Minnesota Plumbing Code.

WATER SPRINKLING SYSTEMS

Subd. 25. Water Sprinkling Systems.

- (a) “Water Sprinkling Systems” defined. For purposes of this ordinance, water sprinkling systems will be defined as follows: any automatic or manually operated water system

which provides for the irrigation of lawns, landscaping, gardens or yards on any commercial, residential or industrial property within the City. A water sprinkling system will include any automatically timed or manually started surface or underground system connected to any City water utility or private water supply.

- (b) Permits Required. No person will begin work on the installation, alteration or repair of any back flow prevention device on any sprinkling system within the City until proper application has been made and approved by the Plumbing Inspector and a permit has been issued. A permit will not be required for sprinkling systems which have river water as the sole source of supply.
- (c) Permits for the Installation and Operation of Back Flow Prevention to be Issued to Licensed Contractors Only. Permits for the installation and operation of back flow prevention device will be issued only to an individual with a valid Master Plumbing Contractor License as provided by this ordinance, provided, however, anyone not so licensed may be issued a permit to do plumbing work which complies with the provisions of the minimum standard prescribed by the State Board of Health on premises or that part of premises owned and actually occupied by the owner as the owner's residence. Resident owners may designate any individual to install sprinkling hoses and pipes.
- (d) Plan and Specifications Required. At the time application is made to install, alter or repair any sprinkling system, plans and specifications together with such additional information that the Plumbing Inspector may require will be submitted to the Plumbing Inspector. Plans and specifications for the proposed work must be filed with the Plumbing Inspector before the permit is granted, and during the progress of the work, if major changes are instituted which are not shown on the initial plan, specifications or permit application. No permit will be issued until the plans and specifications are found to conform with the Minnesota Plumbing Code, Section 4715.2000 through Section 4715.2160 which require back flow prevention devices for all sprinkling systems installed on any public or private water supply system within the City of St. Cloud.
- (e) Permit Fees. The Plumbing Inspector will, before issuing any permit for the installation, alteration or repair of any sprinkling system, require payment by the applicant for the permit of a fee in the amount set forth in Section 551 of the Code of Ordinances.
- (f) Issuance of Permit. Upon approval of the application and receipt of the permit fee, the Plumbing Inspector will issue a permit stating the name of the owner, agent or occupant of the premises where the work is to be done, the address and/or legal description of the premises, the description of the work to be done and the name of the permit holder.
- (g) Display of Permit. It will be the duty of the permit holder to keep the permit on the premises where the work is being performed until the work is completed, tested and accepted by the Plumbing Inspector, and to display the permit in a conspicuous place on the premises.
- (h) Term of Permit.
 - 1. All work to be performed under a permit will be completed within six months from the date of issuance of the permit, or within such longer period of time as the Plumbing Inspector may specify on the permit. Upon the expiration of said period if the contractor has not already requested final inspection, the Plumbing Inspector will inspect the work. If the Plumbing Inspector finds that

the work is not completed, he will notify the contractor to complete the work within 15 days or he may extend the period if the cause of delay is beyond the control of the contractor. Thereafter no additional work will be done on the sprinkling system unless and until a new permit has been applied for and issued. In the event any changes have been made to this ordinance prior to the issuance of the second permit, said permit will be deemed to be issued subject to compliance with the ordinance as revised.

2. If upon expiration of the term of the permit the Plumbing Inspector finds the work to be in violation of the provisions of this ordinance, he will order the contractor to correct the deficiencies. If the deficiencies are not completed within 15 days, the contractor will be required to obtain a new permit as provided above. In addition the contractor will be subject to the penal provisions of this ordinance.
- (i) Inspector May Enter Building. The Plumbing Inspector is vested with full authority to enter any building or premises in discharge of his duties for the purpose of enforcing the provisions of this ordinance.
 - (j) Inspections Required.
 1. No water sprinkling systems will be put to use until inspected and approved by the Plumbing Inspector.
 2. When any water sprinkling system is found to have been installed without a proper permit or not in accordance with the provisions of this ordinance, the plumbing inspector is authorized to shut off, disconnect or by any other means prevent utilization of the water sprinkling system until a proper permit has been secured and the system has been re-inspected and approved.

WATER CONDITIONING INSTALLATIONS

Subd. 26. Water Conditioning Installations.

- (a) Permits Required. No person, firm or corporation will install water conditioning equipment other than the exchange of portable equipment in the City of St. Cloud until application has been approved by the plumbing inspector and a permit has been issued.
- (b) Permits to be Issued to Licensed Contractors Only. Permits will be issued only to persons licensed as Water Conditioning Contractors by the Minnesota State Board of Health or as Master Plumbers by the City of St. Cloud. Any person not so licensed may obtain a permit to perform water conditioning work which complies with the provisions of the minimum standards prescribed by the State Board of Health on the premises or that part of the premises owned and actually occupied by him as his residence.
- (c) Purpose of Permit. Permits will be issued only for the purpose of connecting water softening and water filtering equipment to private residence water distribution systems, provided that the connections so made comply with the minimum standards prescribed by the Minnesota State Board of Health.

- (d) Permit Fees. The Plumbing Inspector will, before issuing any permit for the installation of any water conditioning equipment, require payment by the applicant for the permit of a fee in the amount set forth in Section 551 of the Code of Ordinances.
- (e) Issuance of Permit. Upon approval of the application and the receipt of the permit fee, the Plumbing Inspector will issue a permit stating the name of the owner, agent or occupant of the premises where the work is to be done, the address and/or legal description of the premises, the description of the work to be done, and the name of the permit holder.
- (f) Display Permit. It will be the duty of the permit holder to keep the permit on the premises where the work is being performed until the work is completed, tested, and accepted by the Plumbing Inspector, and to display the permit in a conspicuous place on the premises.
- (g) Term of Permit.
1. All work performed under a permit will be completed within 90 days from the date of issuance of the permit or within such period of time as the Plumbing Inspector may specify on the permit. Upon the expiration of said period, if the installer has not already requested final inspection, the Plumbing Inspector will inspect the work. If the Plumbing Inspector finds that the work is not complete, the Plumbing Inspector will notify the installer to complete the work within five days or the Plumbing Inspector may extend the completion period if the cause of delay is beyond the control of the permit holder. Thereafter, no additional work will be done unless and until a new permit has been applied for and issued. In the event any changes have been made to this ordinance prior to the issuance of the second permit, the permit will be deemed to be issued subject to compliance with the ordinances as revised.
 2. If, upon expiration of the term of the permit, the Plumbing Inspector finds the work to be in violation of the provisions of this ordinance, he/she will order the installer to correct the deficiencies. If the deficiencies are not completed within five days, the installer will be required to obtain a new permit as provided above. In addition, the installer will be subject to the penal provisions of this ordinance.
- (h) Inspector May Enter Building. The Plumbing Inspector is vested with full authority to enter any building or premises in discharge of his duties for the purpose of enforcing the provisions of this ordinance.
- (i) Inspections Required.
3. No water conditioning system will be put to use until inspected and approved by the Plumbing Inspector.
 4. When any water conditioning system is found to have been installed without a proper permit or not in accordance with the provisions of this ordinance, the

plumbing inspector is authorized to shut off, disconnect or by any other means prevent utilization of the water conditioning system until a proper permit has been secured and the system has been reinspected and approved.

MECHANICAL CODE

Section 300:20. Mechanical Code.

Subd. 1. Definitions.

- (a) "Inspector" means those persons designated by the City Council to inspect equipment and devices and to enforce compliance with the provisions of the State of Minnesota Mechanical Code.
- (b) "Installer" means any person doing any work on any equipment subject to the provisions of this ordinance.
- (c) "Master Installer" means the installer who holds a permit for a particular job.
- (d) "Mechanical Contractor" means a person engaged in the business of doing any work on equipment subject to the provisions of this ordinance.
- (e) "Code" means the Minnesota Mechanical Code, including the appendices and amendments as adopted by the reference by the City of St. Cloud in Section 300:00, Building Code.
- (f) "Engage in Business" means entering into agreement or contract with another person for the furnishing or installation of materials, apparatus or equipment or for the doing of any work on any equipment, such as are subject to the provisions of the code.
- (g) "Equipment" means any equipment as defined in the code.
- (h) "Process Piping" is piping or tubing which conveys gas, liquid, or fluidized solids and which is used directly in research, laboratory, or production processes.
- (i) "Board" is the Board of Examiners for Mechanical Installers as described in provisions of this ordinance.

Subd. 2. Contractor's License Required. No person will engage in or carry on the business of erecting, installing, constructing, altering, repairing, relocating, adding to the use of or servicing equipment as defined in the Minnesota Mechanical Code in the City of St. Cloud, without first having secured a Contractor's License from the City authorizing them to do so. All work to be performed and all material to be installed under a permit issued by this ordinance will meet the requirements as set forth in the Code. The licensed mechanical contractor shall hold sole responsibility for all work performed by themselves or their employees on mechanical systems they work on.

Subd. 3. Board of Examiners for Heating Installers.

- (a) The "Board of Examiners for Heating Installers" will consist of six members. One member of the Board will be the Heating Inspector who will serve ex-officio, without voting privileges. The other members of the Board will be appointed by the Mayor subject to the approval of the City Council. In the appointment of the Board, care will be taken that at least two of the members of the Board will have technical knowledge,

- training and experience in each of the following fields: Master A Installations, so as to qualify them to pass on the fitness of applicants for Certificates of Competency. No action of the Board will be held invalid because there were not such members when the action was taken. No more than one member of the Board will be an officer or an employee of a public utility company. The member of the Board will not be subject to the Civil Service Rules of the City.
- (b) All successor members will be appointed to fill a vacancy will serve the remaining term of the member irrespective of when the vacancy occurred.
 - (c) All members will serve without compensation, but will be paid for all expenses reasonably incurred by them in the performance of their duties as members of the Board. The Heating Inspector will serve as its Secretary and will keep records of all applications, examinations, the issuance of Certificates of Competency and renewals, minutes of the proceedings and other activities of the Board.
 - (d) Regular meetings of the Board will be held on the second Tuesday in June and the Fourth Tuesday in January.
 - (e) The Mayor has the discretion to remove any member of the Board

Subd. 4. Special meetings of the Board will be called by the Secretary upon the written request of the Chairperson or the Secretary, or upon the written request of any two or more members of the Board. The written request will state the time, place and purpose of such meeting. The time so stated will be such that the Secretary can give, by mail, the respective members at least three days notice of such date.

Subd. 5. Duties of the Board. Such Board will pass upon the qualifications and fitness of all applicants for Certificates of Competency, both Master and Journeyman. The Board will subject each applicant for a Certificate of Competency to such examination, both written and oral, and to such investigation as it deems necessary to determine whether the applicant possesses sufficient knowledge, skill, training, and experience as to enable the applicant to properly carry on the business, or to work at the trade of installing, altering, repairing or servicing combustion equipment. In the performance of this duty, the Board may engage such legal and technical assistance as it deems necessary.

Subd. 6. Certificates of Competency for Installers.

- (a) For the purpose of controlling the quality and workmanship in the installation, alteration, repair and servicing of equipment within the limits of the City, and by so doing to safeguard life, limb, and property, there are created "Certificates of Competency" for Installers.
- (b) No person will do any work on any mechanical system unless that person holds the appropriate Certificate of Competency with the exception of those individuals who are Apprentices or Learners and who comply with Subd. 6(e). Nor will any mechanical permits be issued except to Master Class A or B Installers as defined.

- (c) The Class A Master Mechanical Installer's Certificate of Competency shows that the holder has been examined by the "Board of Examiners for Mechanical Installers" and found qualified to properly plan, lay out, and supervise the installation, alteration, repair and servicing of any mechanical equipment within the City, without limits as to B.T.U. input capacity of the system.

The Class B Master Gas Installer's Certificate of Competency shows that the holder has been examined by the "Board of Examiners for Heating Installers" and found qualified to properly plan, lay out, and supervise the installation, alteration, repair and servicing of any gas combustion equipment within the City which has an input capacity of less than 1,000,000 B.T.U. per hour which uses one type of fuel only.

- (d) The Class B Master Mechanical Installer's Certificate of Competency shows that the holder has been examined by the "Board of Examiners for Mechanical Installers" and found qualified to properly plan, lay out, and supervise the installation, alteration, repair, and servicing of oil combustion equipment within the City which has an input capacity of less than 1,000,000 B.T.U. per hour.
- (e) The Journeyman Mechanical Installer's Certificate of Competency will be required of any person, not holding any of the above described Installer's Certificates of Competency, desiring to work at the occupation of installing, altering, repairing and servicing of mechanical equipment of all types. The Journeyman Gas Installer's Certificate of Competency shows that the holder has been examined by the "Board of Examiners for Mechanical Installers" and found qualified to install, alter, repair or service mechanical combustion equipment within the City, provided work is done under the supervision and control of a person holding the appropriate type of Master Mechanical Installer's Certificate.
- (f) Master Appliance Certificate of Competency shows that the holder has been examined by the "Board of Examiners for Mechanical Installers" and found qualified to properly plan, lay out, and supervise the installation, alteration, repair and servicing of gas burning domestic appliances, and with the exception of fuel gas or fuel oil incinerators, appliances used for space heating purposes and ventilation equipment, and that the holder has been found qualified to install not more than five feet of fuel piping in connection with any installation.
- (g) Apprentices or learners. Any person not holding a Certificate of Competency that is working at the occupation of installing, altering, repairing or servicing of mechanical equipment of any type, and must: (1) register with the City of St. Cloud as an apprentice, and (2) work under the direct and immediate supervision of a Master or Journeyman Certificate of Competency holder. For purposes of this section direct and immediate supervision is meant to be on the work site at all times while work is being completed.

Subd. 7. Exemptions for Certain Plumbing Work. Notwithstanding any other provisions of this ordinance, a person who has in his possession a current plumbing license, either Master or Journeyman, may do piping without benefit of any other Certificate of Competency as set forth in the subdivisions which follow:

- (a) In the case of gas installations from the meter or source of supply to the shutoff valve of the gas burning equipment, also the gas regulator vent if such is required. In the case of oil burner installation from the fuel tank to the fuel burning equipment, also the fuel tank vent and filler pipe.
- (b) Provided further, that such work be done under the direction of a Class A or B Installer who holds a permit for such installation.

Subd. 8. Method of Obtaining Original Certificates of Competency.

- (a) Each person desiring a Certificate of Competency, whether for Master or Journeyman, will file a formal application with the Secretary of the Board of Examiners for Heating Installers, in which application the applicant will provide the following information:
 - 1. Name, address, and date of birth;
 - 2. Time and place of schools attended and studies completed;
 - 3. A chronological record of his employment together with complete information as to duties and type of work performed;
 - 4. The classification of Certificate of Competency for which he is applying.
- (b) Application for Certificates; Examination Fees. Each person desiring a Certificate of Competency such as provided, whether for Master or Journeyman, will file with such Examining Board at least 60 days prior to the date of examination, in order to allow the Board ample time to investigate the applicant's record and qualifications, an application for the certificate and notice of intent to take the required examination, and upon so filing such notice of intent to take examination, will pay to the City an examination fee in the amount duly established by the City Council from time to time. Each examination fee will be in addition to the fee to be paid by an applicant for a Certificate of Competency in the original issuance or the annual renewal thereof, in the amount duly established by the Council from time to time.

Subd. 9. Renewal of License Applications. The Board will annually review all Certificates of Competency and all Mechanical Contractor license applications. The Board may recommend to the City Council that a Certificate of Competency or Mechanical Contractor License be suspended or revoked if two or more violations of the following sections of this ordinance have occurred within the previous licensing year:

- (a) Subd. 2. Contractor's License Required.
- (b) Subd. 14. Uses of Licenses.
- (c) Subd. 16. Permits Required.

Subd. 10. Application Procedures and Requirements for Obtaining a Mechanical Contractor License.

- (a) Any individual person, corporation, partnership or association of individual persons desiring to engage in business as herein defined, within the City, will first obtain a Mechanical Contractor's License for doing so from the City.

- (b) A person desiring to obtain a Mechanical Contractor's License will make written application to the City for such license, stating the name of the individual person, corporation, partnership, or association of individual persons desiring such license and his, its or their place of business.
- (c) Upon the presentation to the City of the foregoing application and upon approval, the City will issue to the applicant the Mechanical Contractor's License to the applicant:
- (d) Filing with him the bond and insurance policy, or showing proof of State bond and insurance as described in Subd. 11; and
- (e) Paying the required license fee.
- (f) When a Mechanical Contractor qualifies to receive a permit only by reason of a member, an officer, or an employee holding a Certificate of Competency, such member, officer, or employee will be in active charge of work of installation, with authority and power to direct such work, all to the end that when the job is completed, it will comply with such technical requirements as required by this ordinance. In all cases, however, the person holding the permit for the particular job will be primarily responsible for such compliance.
- (g) Place of Business. Every licensee must maintain a place of business in the State of Minnesota. A place of business will consist of a bona fide location where the business for which the license is issued is transacted. A change of location of the place of business shall be recorded with the City within 10 days.

Subd. 11. Bond and Insurance Requirements

- (a) Every Mechanical Contractor, before being granted a license, will file with the Building Official a bond, executed by the contractor, as principal, and by a corporate surety duly authorized under the laws of the State of Minnesota to execute the bond, as surety, in the sum of \$25,000. The bond shall be payable to and for the benefit of the City and the consumer and will be subject to approval by the City Attorney. The bond shall serve the following purposes:
 - 1. To keep and save the City from, and indemnified against, all claims of every kind which may arise, directly or indirectly, out of the performance of any work done by the commercial contractor within the City, including all costs and expenses incurred in defending any actions that may be brought against it;
 - 2. To ensure compliance with all ordinances, rules or regulations of the City applicable to the work;
 - 3. To ensure performance of the work in conformity with all the plans and specifications, if any;
 - 4. And to ensure the repair all damage to any public property caused in the performance the work.

(b) In addition to the surety bond, the applicant for a license will furnish a general policy of liability and property damage insurance, including products and completed operation coverage which will have minimum limits of coverage of \$100,000 for injuries to or death of one person and not less than \$500,000 on account of one accident and not less than \$250,000 for property damage. The bond will be effective for the period of January 1 through December 31 of the license year. The bonds and insurance will further provide that no cancellation of said bond for any cause may be made by the principal or the surety or insurance company, for any cause, without first giving ten days notice to the City, in writing, of the intention to cancel. The notice will be addressed to the Building Official by registered mail, or will be delivered to the Building Official personally.

(c) A license issued under this ordinance will become invalid at any time when the person to whom it was issued ceases to maintain, in full force and effect, the bond and insurance required by this ordinance.

Subd. 12. License Fees. The annual license fee will be in an amount duly established by the City Council.

Subd. 13. Expiration of Licenses. Any such license will expire on the 31st of December of the year for which it was issued.

Subd. 14. Uses of Licenses.

(a) Any ductwork on sheet metal work to be used in any heating or ventilating system or any steam or hot water radiation to be installed with any system which requires a permit under this ordinance will be done only by a licensed contractor and/or persons in his employ and provided with proper supervision.

(b) A Ventilation Contractor's License may be issued to do the radiation, ductwork or duct cleaning for any mechanical system within the City to a person not holding a Certificate of Competency, provided such license is approved by the Board of Examiners for Mechanical Installers. This license will not allow the holder to set clean, service or install gas piping for fuel burning equipment or install flues, chimneys or other fuel venting equipment.

(c) No person licensed under this ordinance, who holds a permit for a particular job, will sublet or assign any work contemplated to any person not licensed under this ordinance and any attempted sublet to any person not licensed under this ordinance will be void.

(d) A Ventilation Contractor desiring a permit for an installation which has fuel burning equipment must have a Class A or B Certificate of Competency or will sublet the combustion equipment to a Class A or B license holder. In this event, the Class A or B license holder will be responsible for the fuel burning equipment only. The Ventilation Contractor will be responsible for the balance of the system.

Subd. 15. Homeowner Exempted. Notwithstanding any other provision of this code of ordinances to the contrary, and where permitted by state law, permits may be issued to make repairs, additions, replacements, and alterations of any steam or hot water boiler, warm air furnace, air conditioning or

ventilating equipment of any single-family dwelling structure used exclusively for living purposes or any accessory buildings provided there is no change in the required capacity of the systems involved and that all related work will be performed only by the person who is the bona fide owner and occupant of the dwelling as his residence or a member of said owner-occupant's immediate family as herein defined. "Immediate family" includes only a parent, children by birth or adoption, brother or sister, brother or sister-in-law or said children's spouse. The intent of this section is that any work done by a non-occupant is not done for financial remuneration.

Subd. 16. Permits Required. It will be unlawful for any person to install, alter or repair any heating or ventilating system such as is subject to regulation by the provisions of this ordinance, without first making written application to, and obtaining, a permit from the City Health and Inspection Department, or to fail or neglect to comply with the provisions of this ordinance and of the permit so issued. However, no permit will be required for the following:

- (a) In the case of service work or repairs to any heating and ventilating system where such service work or repairs will involve minor work and no change in type of fuel to be used, or in the existing combustion or temperature control equipment type and which will not add to the capacity or B.T.U. input of such systems. A replacement heat exchanger is considered minor work.
- (b) Unless otherwise exempted, separate building, electrical and plumbing permits will be required for the above-exempted items.
- (c) Exemption from the permit requirement of this code will not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Exemption from a permit requirement specifically does not exempt any person from proper license requirements.

Subd. 17. License Required to Obtain Permit. No permit for the construction, installation, alteration or repair of any heating system will be issued by the City Health and Inspection Department to any person, unless they are duly licensed by the City as required by this ordinance to do such work.

Subd. 18. Time of Permit. Each installation will be completed within 90 days unless otherwise stated from the date of permit. Upon the expiration of said period, if the installer has not already requested final inspection, the heating inspector will inspect the installation. If the Inspector finds (a) that the work of installation is not completed, the Inspector will notify the permit holder to complete the work within 15 days, or (b) if he finds that it does not comply with the provisions of this ordinance, the Inspector will notify him in writing, specifying in what respects it does not comply, and direct him to correct the deficiencies within 15 days. Upon the expiration of the 15 days, the Inspector will again inspect the installation, and if the Inspector finds that the work is not completed or that it does not comply with the ordinance, the installer will not be eligible to receive a permit for any new installation until the work is completed in conformity with the ordinance and for a period of six months thereafter; provided, however, that the inspector may, for just cause shown, extend the period of 15 days for such further period as he deems proper, but the cause must be for something beyond the control of the permit holder.

Subd. 19. Permit Will be Obtained Before Work is Started. Should any person begin work of any kind on any heating or ventilating systems for which a permit is required by this ordinance without first having secured the necessary permit, the person will upon subsequently securing the permit for such work, be required to pay double the fees herein provided for such permit, and additionally will be subject to all penal provisions of this ordinance.

Subd. 20. Application of Ordinance. When any installation is made in such a manner that the same could be used for heating or ventilating a building, it will be deemed that the installation is to be used for such purposes, and a permit will be required and inspections made as provided.

Subd. 21. Report Test Results and Request Inspection. When all work to be performed under a permit is completed and all tests required by the code have been made by the installer, the results of such tests will be submitted to the Inspector for his review, and an inspection of the work will be requested by the person holding the permit.

Subd. 22. Inspector May Enter Building. The inspector or authorized assistant, if any, are authorized to enter any building or upon any premises in the City in the performance of their duties, to inspect or re-inspect existing or new heating or ventilating systems. The inspector is further authorized to order and compel, so far as it may be necessary, elimination or prevention of unsafe conditions, the repair, alteration or reconstruction of a heating or ventilating system in order to conform with the provisions of this ordinance and to prohibit the use of any material which is in violation of the provisions of this ordinance.

Subd. 23. Test Data Required.

- (a) When the installer has submitted the test results as required by the code and has submitted a request for inspection, then the Inspector will make an inspection as may be reasonably necessary to determine whether the materials furnished and the work performed in installing, altering, repairing, or servicing of any heating or ventilating system conforms with the requirements of this ordinance.
- (b) The Inspector is authorized to make such tests as may be necessary to determine the validity of the test results reported by the installer. If the test results reported by the installer are verified by the Inspector, the cost of such testing will be borne by the City. However, if substantial variation is found between the test results reported by the Master Installer and the test results determined by the Inspector, and the results found by the Inspector do not fall within the tolerance required by this ordinance, the Master Installer will pay to the City the cost of performing the tests, plus an additional 100%, and the Master Installer will take such action as may be necessary to correct the heating or ventilating system so as to meet the requirements of this ordinance.

Subd. 24. Inspection Procedures. It will be the duty of the Inspector or an authorized assistant, to enforce or cause to be enforced the provisions of this ordinance and to supervise all necessary tests and make all necessary inspections of heating or ventilating systems that have been installed, altered or repaired. The Inspector will require such tests to be made as may be necessary to determine the tightness of any portion of a gas system and will require the immediate removal of

any material of construction found to have been installed as to conceal or cover up, before its inspection and approval by the inspector, any newly installed portion of any gas system.

Subd. 25. Work Not To Be Covered Up. In any new building, and in any new addition to an older building, immediately upon the completion of those portions of the heating and ventilating system which are to be concealed or covered up, the person holding the permit will notify the inspector that those portions of the installation are ready for inspection.

Subd. 26. Permit Fee Required. The Inspector will, before issuing any permit for the construction, installation, alteration, or repair of any heating system, require payment by the applicant for the permit of a fee in the amount set forth in Section 534 of the Code of Ordinances.

Subd. 27. Duplicate Permit Exempted or Required.

- (a) No additional permits are required for replacement only of domestic-type gas storage hot water heaters for which a permit has been issued under Section 335:00 et seq adopting the State Plumbing Code.
- (b) For the installation of combustion equipment in connection with pollution control equipment, the permit and fee will be set forth as in Section 560:10, "Gas Oil or Dual Fuel Burners".

Subd. 28. Suspension and Revocation of Licenses. Upon notice to the City Council that a person holding a Mechanical Contractor's License has been convicted of a violation of this ordinance, the City Council may suspend the Mechanical Contractor's License for a period of time and order that no new license be granted for a period not to exceed six months from the date that the action is ordered by the Council. The City Council will give ten days written notice by regular mail addressed to their place of business or by serving the notice personally upon them in the manner prescribed by statute for serving summons.

ELECTRICAL CODE

300:30. Electrical Code

Subd. 1. Definitions.

- (a) "Inspector" means the Chief Building Official, or his/her assign authorized as an Electrical Inspector by the St. Cloud City Council.
- (b) "Electrical Code" means the State Electrical Code, including the appendices and amendments as adopted by reference by the City of St. Cloud in Section 300, the Building Code.

Subd. 2. Enforcement.

- (a) Supervision of Electrical Systems. The Chief Electrical Inspector and Electrical Inspectors shall regulate, determine and have general supervision over all electrical apparatus and machinery, and the placing and attaching of electric light and power, telephone, telegraph and all other electric wires of any other nature, now or hereafter

placed, in or in any manner directly attached to, any building, or any tent or other temporary structure. They shall inspect and re-inspect all such electrical apparatus, machinery and wires so as to prevent fires, accidents or injuries to persons or property, and shall cause all electrical apparatus, machinery and wires to be so constructed, placed, supported and guarded as not to cause fire or accident or endanger life or property. Any and all electrical apparatus, machinery and wires now existing or to be constructed and placed shall be subject to such supervision and inspection.

- (b) Electrical Inspectors. The Electrical Inspectors, are vested with full authority to enter any building or premises and any manhole or subway at any reasonable time in the discharge of their duties, and to enforce compliance with the terms of this ordinance.
- (c) Inspections Required. No electrical work or wiring for which a permit is issued or required shall be considered complete until inspected and approved by the Inspector.
- (d) Improper Installation. And when such electrical work or wiring is found to have been installed without a proper permit and not in accordance with the provisions of the Electrical Code, the Electrical Inspectors are authorized and empowered to remove the fuses, cut the wires, or otherwise render the system inoperative until such permit has been secured, and the work or wiring is re-inspected and approved.
- (e) Requests for Inspection. The electrical contractor shall file a request for inspection with the Electrical Inspectors before any electrical work performed is covered up or concealed and shall file a request for final approval within 48 hours after the completion of any electrical work done by said electrical contractor.
- (f) Installations to be Complete. The electric work or wiring performed under permits must be complete before it is approved or any certificate of acceptance is granted.
- (g) Remodeling, Occupancy, Moved Building, Etc. When a building is altered by substantial remodeling, a change in the type of occupancy, an increase in the number of dwelling units, by moving the building, or by extensive fire repairs, the wiring system shall also be remodeled to conform to the provisions of the Electrical Code. Permanent service connection will not be released to the local utility on moved buildings until wiring is completed and passes inspection, unless a separate temporary permit is filed, in which case temporary service will be released after inspection of service installation.
- (h) Temporary Permits. The Electrical Inspectors may, in their discretion, issue a temporary permit for a period not to exceed 90 days for the temporary use of electric wiring that is not in full compliance with the requirements of the Electrical Code. The temporary permit shall state the methods and materials to be employed and the date upon which the temporary permit shall expire and the wiring be removed.
- (i) Unauthorized Concealment. No person having charge of the construction, alteration or repair of any building, nor any other person, shall cover or conceal or cause to be so covered or concealed, any wiring for which a permit has been issued or required, before wiring has been inspected and approved, without having officially notified the Electrical Inspectors at least 48 hours previously.
- (j) Disturbing Wiring, Etc. No unauthorized person shall cut, disturb, alter, change or cause to be cut, disturbed, altered or changed any electric wire cutout, fuse, apparatus, machinery or material in such a manner as to render it inoperative, defective or not in accordance with the provisions of the Electrical Code.
- (k) Condemning Defective Wires, Etc. Any and all generators, motors, wires or other machinery apparatus, or material used for electrical purposes which may at any time

become so defective as to be likely, in the opinion of the Inspector, to cause potential fires or accidents, or to endanger persons or property, shall be condemned by the Inspector. When, in the Inspector's opinion, it is deemed necessary, in order to prevent such accident or danger, the Inspector is authorized to disconnect such wires or apparatus or to cause the same to be disconnected, from service. Upon condemnation, the person or persons owning or using the same shall immediately cause the same to be put in safe condition.

- (l) Reconnecting Condemned Wiring, Etc. In case of person or persons owning or using any electrical wires, generators, motors, or any other electrical apparatus or material of any other nature, which have been condemned by the Inspector shall fail to have the same put in safe condition and accepted by the Inspector within 48 hours after the same have been condemned, or within such other reasonable length of time as shall be prescribed by the Inspector, then the Inspector shall remove the fuses, cut the wires, or by other means completely disconnect or cause to be disconnected, the condemned wires, apparatus, or material from the source of electrical energy.
- (m) Acceptance Before Reconnection. When any electric wires, generators, motors, or electrical apparatus or material of any nature have been in any manner disconnected or rendered inoperative by the Inspector, as set forth in the foregoing sections, no person shall in any manner reconnect the same or cause the same to be reconnected to any source of electrical energy, or use the same as a part of any electrical system, until they have been put in safe condition and a certificate of acceptance has been issued by the Inspector.

Subd. 3. Permits and Licenses.

- (a) Permits Required. It shall be unlawful for any person to install, alter or repair any electrical installation, work or wiring without first making written application to, and obtaining a permit from the City, or to fail or neglect to comply with the provisions of this ordinance and of the permit so issued. Provided, however, that no permit shall be required for the following:
 - 1. Installations operated and maintained by public utilities in the exercise of their utility function.
 - 2. Minor repair work which shall mean the adjustment or repair and replacement of worn or defective parts of electrical fixtures, switches and receptacles, provided that such minor repairs are made in compliance with accepted standards of construction for safety to life and property, and do not require replacement of wiring to them.

Unless otherwise exempted, separate building, plumbing and mechanical permits will be required for the above-exempted items.

Exemption from the permit requirement of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

- (b) Exceptions for Public Utilities. No permit shall be required for installations operated and maintained by public utilities in the exercise of their utility function or for minor repair work which shall mean the adjustment or repair and replacement of worn or defective parts of electrical fixtures, switches and receptacles, provided that such minor repairs are made in compliance with accepted standards of construction for safety to life and property, and do not require replacement of wiring to them.

- (c) Life of Permit. If authorized work under a permit is not commenced within 12 months after the issuance of the permit, or if after partial completion the work is discontinued for a period of one year, the permit shall become void and no work shall be done until a new permit is secured.
- (d) Permits to Licensee Only. No permit for the erection, construction, alteration or change of any electrical work or wiring shall be issued to any person unless he has a valid and subsisting bonded Class "A" Master and Contractor Electrician's License issued by the Minnesota State Board of Electricity. No holder of any such license shall allow his name to be used by any other party for the purpose of doing work or obtaining a permit.
- (e) Homeowner Exempted. Notwithstanding any other provision of this code of ordinances to the contrary, and where permitted by state law, permits may be issued to make repairs, additions, replacements, and alterations of the electrical system of any single-family dwelling structure used exclusively for living purposes or any accessory buildings, provided there is no change in the required capacity of the systems involved and that all such work shall be performed only by the person who is the bona fide owner and occupant of such dwelling as his residence.

Subd. 4. Electrical Permit Fees.

- (a) Fee Procedure. The fees established as set forth in Section 550 of this Code, shall be collected by the Chief Electrical Inspector before the issuance of any permits for which fees are required. Every person, at the time of applying for any permit for which a fee is required, except in the case of street permits, shall make a statement in writing, upon blanks and forms to be furnished by the Inspector for that purpose. The statement shall contain a declaration that the facts and representations therein made are true and correct, which statement shall be subscribed to by the person or persons, or officer or agent of the corporation applying for said permit. The statement form shall contain information as to the location, nature, extent and cost of the proposed structure, work installation or other purpose, as well as all other information which the Chief Electrical Inspector shall have the right to require under the St. Cloud Electrical Code. Upon such statement being filed as above required and upon the payment to the Inspector by the application for said permit of the required fee for said permit, said Inspector shall issue such permit.
- (b) Minimum Fee. Minimum fee for each separate inspection of an installation, replacement, alteration, or repair limited to one inspection only shall be set forth in Section 550 of this Code.
- (c) Investigation Fees. Should any person begin work of any kind for which a permit is required by the St. Cloud Code, without having secured the necessary permit, either previous to or during the day of commencement of such work, or on the next succeeding business day where such work is commenced on a Saturday or on a Sunday or a holiday, when subsequently securing such permit, the investigation fee shall be equal to the amount of the fee required in Section 540 of this Code. The payment of the investigation fee does not exempt any person from compliance with all other provisions of the ordinance or statutes nor from any penalty prescribed by law.
- (d) False Statements. No person shall make any false statements in connection with the securing of any permit from the Inspector.
- (e) Services. Services, change of services, temporary services, additions, alterations, or repairs of either primary or secondary services shall be computed separately.

RENTAL DWELLING LICENSING

Section 300:40. Rental Dwelling Licensing.

Subd. 1. Definitions.

- (a) Dwelling Unit. A "dwelling unit" consists of one or more rooms which are arranged, designed, or used as living quarters for one family only. Individual bathrooms and complete kitchen facilities, permanently installed, will always be included for each dwelling unit.
- (b) Person. The term "person" will mean any natural person, his the person's heirs, executors, administrators, or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.
- (c) Rental Property. A dwelling unit, rooming house or sleeping room occupied by a person or persons in the status of resident.
- (d) Rooming House. A building or structure providing a room or rooms intended for living and sleeping to persons in the status of resident. This term will include boarding houses, lodging houses, fraternity houses and sorority houses, but does not include hotels or motels licensed under the provisions of Section 441 of the Ordinance Code of the City of St. Cloud, or hospitals approved by the State of Minnesota.
- (e) Sleeping Room. A room or enclosed floor space in a rooming house or dwelling unit, as defined in this ordinance, used or intended to be used primarily for sleeping purposes.
- (f) Resident. One who has their place of abode a dwelling unit, rooming house or sleeping room furnished that person for payment of a rental charge to another.
- (g) Rental Charge. Any compensation, either monetary or "in lieu of" payments, such as but not limited to utilities, upkeep or repair.

Subd. 2. License Required.

- (a) Requirement. No person will occupy, allow to be occupied, or let to another for occupancy any rental property in the City of St. Cloud without first having obtained a rental dwelling license for such rental property from the City. The payment of fees set forth in this Code will be a prerequisite to this required licensing. There will be two types of licenses : regular and provisional. The application for a license must be made and filed on a form furnished by the City for such purpose and must set forth the following information:
 - (1) Name, residence address and phone number of the owner of the dwelling. In cases where the owner of the dwelling lives outside of Stearns, Benton, or Sherburne counties and more than 45 miles from the City of St. Cloud, the owner must also provide the name, residence address and phone number of an agent authorized by the owner to accept service of process and to receive and give receipt for notices.
 - (2) If applicant is a corporation, the state of incorporation. Corporations must list principal officers together with their residence address and phone number.
 - (3) If applicant is a partnership, the names and addresses of all partners.

- (4) Name, address and phone number of any agent actively managing said rental property.
- (5) Street address of the rental property.
- (6) Number and kind of units within the rental property (dwelling units or sleeping rooms).
- (7) Name, phone number, and address of the person authorized to make or order made repairs and/or service to the building, to provide required services necessary to protect the health, safety and welfare of the occupants or is able to contact the person so authorized.
- (8) Maximum number of people permitted per dwelling unit or sleeping room.
- (9) Certification that the applicant has received the fair housing materials provided by the City of St. Cloud and that the applicant has given those materials and discussed that information with the property owner and resident manager and caretaker of each building.

(b) Manner of Licensing. The license application must be made by the owner if such owner is a natural person; if the owner is a corporation, by an officer thereof, if a partnership, by one of the partners; and if an unincorporated association, by the manager, or managing officer thereof.

(c) Preliminary Inspection. No rental dwelling will be issued a license by the City unless it complies with provisions of the ordinances of the City of St. Cloud and statutes of the State of Minnesota which pertain to such properties.

(d) License Expiration. Each license issued pursuant to this section will expire on midnight on the 14th of January ~~one~~ in the year following the year in which the license was issued. All rental property required to be licensed pursuant to the provisions of this article, will be licensed prior to occupancy or the letting to another for occupancy of any unit therein, and thereafter all licenses of such rental property will be applied for not later than the 15th of January of each year.

(e) Transfers. Every new owner of a rental property (whether as fee owner, contract purchaser, lessee subletting the entire dwelling, or otherwise entitled to possession) will apply for transfer of the license before taking possession. No fee will be required of the new owner in the year of the purchase provided the previous owner has paid the license fee, and further provided the new owner does not change the type of occupancy as originally registered.

(f) License Fee. The fee for each dwelling unit or sleeping room will be paid on or before the 15th day of January of each year. Fees will be set forth in Section 555 of this Code. If the fee required hereunder is paid after January 15 a penalty will be imposed as set forth in Section 500 of this Code.

Subd. 3. Provisional Licenses.

(a) Licensed rental properties that have generated more than three violations of ordinances specified below, in any 12 month period are eligible only for provisional licenses.

- (1) Section 244 – Refuse and Garbage Collection and Disposal
- (2) Section 300:41 – International Property Maintenance Code of St. Cloud

- (3) Section 355 – Ordinance No. 634, as amended, The Zoning Ordinance
- (4) Section 300:40 – Rental Dwelling License
- (5) Section 1000 – Nuisances Generally defined, enumerated and made unlawful
- (6) Section 1005 – Public Nuisances Affecting Health and Safety
- (7) Section 1040 – Animal Control Ordinance
- (8) Section 1050 – Noise Control Regulations

(b) The initial period of time used to determine whether a provisional license is required is the 12 month period before the commencement of the license term (January 14).

(c) Provisional licenses will only be issued for facilities having a manager or managers certified under the provisions of the Crime Free Multi-Housing Program established in Section 1055 of this Code. Managers must be resident managers or on site managers who are on site or available 24 hours a day.

(d) The applicant for a provisional license must submit a mitigation plan for the license period. The mitigation plan will describe steps proposed by the applicant to reduce the number of violations described in this subdivision to a level that qualifies for a regular license. The mitigation plan may include such steps as: changes in tenant screening procedures, changes in lease terms, security measures, rules and regulations for tenant conduct, and security personnel.

(e) The application with a proposed mitigation plan will be presented to the Health Director. The Health Director will approve, disapprove, or approve with conditions the application and the mitigation plan. If the Health Director disapproves an application and mitigation plan or approves it with conditions, it will state its reasons for doing so in writing.

(f) The licensee must comply with the mitigation plan as approved or modified by the Health Director. No later than the tenth day after each calendar month, the licensee must mail or deliver to the Health Director a written report describing all steps taken in furtherance of the mitigation plan during the preceding month.

(g) Provisional License Application Fee. An application for a provisional license must be accompanied by a provisional license application fee. Fees will be set forth in Section 555 of this Code. An application will not be processed or considered by the City Council until the application fee is paid.

Subd. 4. Manager Certification.

(a) To qualify for a provisional license, the applicant must provide and maintain at least one resident manager or on site managers who are on site or available 24 hours a day and who are certified under this section.

- (b) Persons may be certified as resident or on site managers who successfully complete the training program provided in Section 1055 of this Code.
- (c) Licenses may be granted to applicants who are not currently providing a certified resident or on site manager, and licenses may continue in effect on the departure of a certified resident manager, on condition that a resident manager or on site manager register for and complete the training program as promptly as is reasonably possible but not more than 120 days.

History: Ord. 2339 2-26-07.

Subd. 5. Posting. Every licensee of a rental property must post the current license, containing the information required by Subd. 2 with the exception of telephone numbers and certification that the applicant has received the fair housing materials provided by the City of St. Cloud and that the applicant has given and discussed that information with the property owner and resident manager and caretaker of each building. This item must be conspicuously posted, in a frame with transparent cover, by the licensee in a public corridor, hallway or front entrance of the rental property for which it is issued.

Subd. 6. Language Required on License. Each license must include the following language in conspicuous type “If you believe that you have been treated unfairly regarding housing opportunities contact: The City of St. Cloud Human Rights Office – 320-650-3133.”

Subd. 7. Enforcement.

- (a) In order to compel the compliance with the licensing requirements, the Health Director or designated staff will have the authority to enter any building, at reasonable times and upon five days written notice to the property owner(s), to determine if said building is operated as a rental property as defined in Subd. 1 or to enforce the International Property Maintenance Code of St. Cloud, or both. The Health Director or designated staff will have the authority to enter any building at any time by the request of the St. Cloud Police Department or the St. Cloud Fire Department to enforce any provisions of this ordinance.
- (b) Rental Dwelling licensees and their employees or agents who are found to be in violation of fair housing audits will be required to attend a minimum of two hours of fair housing training as approved by the City of St. Cloud Human Rights Office. The names and addresses of persons found in violation of fair housing laws will be provided to the St. Cloud City Council during a regularly scheduled meeting.

Subd. 8. Background Checks.

- (a) Purpose. The St. Cloud City Council has determined that the preservation of city neighborhoods is essential to the public health, safety and welfare of its citizens. Rental properties provide housing for approximately 50% of the citizens of St. Cloud. Rental housing is the most densely populated of the city’s neighborhoods. Consequently, persons residing in rental properties and engaging in criminal activity and disorderly conduct create a hostile environment for law-abiding residents of rental properties and adjacent neighborhoods. Therefore, it is the declared purpose and intent of this section to protect the health and safety of our citizens by providing a system at the local level for criminal history/background checks of prospective residents of rental property.
- (b) Prospective Residents. The St. Cloud Police Department may conduct local, Minnesota and/or out of state criminal history/background checks on prospective residents in rental

property in the City of St. Cloud upon request by the owner or manager of the rental property. Such request will be on a form approved and provided by the St. Cloud Police Department. The applicant will pay a fee established in Section 520 of this Code. No such background check using the State Criminal Justice Information Systems Network (CJIS) and no information obtained from the CJIS will be disseminated unless the landlord presents an Informed Consent/Waiver form signed by the prospective residents. The Informed Consent/Waiver form must meet the requirements of Minn. Stat. Section 13.05, Subd. 4(d).

- (c) Volunteers and Personnel. The St. Cloud Police Department may conduct local, Minnesota and/or out of state criminal history/background checks on those persons applying for positions as staff employed by rental property owners and for positions in similar programs for which the Chief of Police determines the check is appropriate. Applicants for these positions will provide such information as the Police Chief deems necessary to complete the check. No such check will be conducted using the State Criminal Justice Network and no information obtained from the check will be disseminated unless the applicant presents an Informed Consent/Waiver form signed by the applicant that meets the requirements of Minn. Stat. 13.05, Subd. 4(d).

Subd. 9. Applicable Laws. Licensees will be subject to all of the ordinances of the City of St. Cloud and the State of Minnesota relating to dwellings; and this ordinance will not be construed or interpreted to supersede any other such applicable ordinance or law.

Subd. 10. License Suspension, Revocation, Denial and Non-Renewal

- (a) The Council may revoke, suspend, deny or decline to renew any license issued under this section upon any of the following grounds:
 - (1) false statements on any application or other information or report required by this Section to be given by the applicant or licensee.
 - (2) failure to pay any application, penalty, reinspection or reinstatement fee required by this Section and City Council resolution.
 - (3) failure to correct deficiencies noted in notices of violation in the time specified in the notice.
 - (4) failure to comply with the provisions of an approved mitigation plan in the case of provisional licenses.
 - (5) any other violation of this Section.
- (b). Regular licenses will be revoked, if at mid term, or not renewed, if at the end of a term, upon a finding that the premises are only eligible for a provisional license.
- (c) A decision to revoke, suspend, deny or not renew a license will be preceded by written notice to the applicant or licensee of the alleged grounds therefore and the applicant or licensee will be given an opportunity for a hearing before the City Council before final action to revoke, suspend, deny or not renew a license. The Council will give due regard to the frequency and seriousness of violations, the ease with which such violations could have been cured or avoided and good faith efforts to comply and will issue a decision to deny, not renew, suspend or revoke a license only upon written findings.
- (d) The Council may suspend or revoke a license or not renew a license for part or all of a facility.

(e) Upon a decision to revoke, deny or not renew a license, no new application for the same facility will be accepted for a period of time specified in the Council's written decision, not exceeding one year. Such new applications must be accompanied by a reinstatement fee, in addition to all other fees required by this section.

(f) A written decision to revoke, suspend, deny or not renew a license or application will specify the part or parts of the facility to which it applies. Thereafter, and until a license is reissued or reinstated, no rental units becoming vacant in such part or parts of the facility may be relet or occupied. Revocation, suspension or non-renewal of a license will not excuse the owner from compliance with all terms of this section for as long as any units in the facility are occupied. Failure to comply with all terms of this section during the term of revocation, suspension or non-renewal is a misdemeanor and grounds for extension of the term of such revocation or suspension or continuation of non-renewal, or for a decision not to reinstate the license, notwithstanding any limitations on the period of suspension, revocation or non-renewal specified in the City Council's written decision or the provisions of paragraph (e) of this subdivision.

Subd. 11. Penalty. Any person, firm, corporation, or partnership who will violate any of the provisions of this ordinance will be guilty of a misdemeanor. Each violation of this ordinance will constitute a separate offense.

Subd. 12. No Retaliation. No licensee will evict, threaten to evict or take any other punitive action against any tenant by reason of good faith calls made by such tenant to enforcement agencies relating to criminal activity, suspected criminal activity, suspicious occurrences or public safety concerns. This section will not prohibit the eviction of tenants from a dwelling unit for unlawful conduct of a tenant or invitee or violation of any rules, regulations or lease terms other than a prohibition against contacting enforcement agencies.

History: Ord. 2338 2-26-07 repealed the Uniform Housing Code, Section 300:40 Subd. 1-see International Property Maintenance Code (IPMC), Section 300:41; Ord. 2339 2-26-07 amended and enacted new Rental Dwelling Licensing provisions, renumbered as Section 300:40.

Section 300:41 - International Property Maintenance Code

(Shown for reference and information only and not included as a part of this Ordinance Code.
This Section is available online and at the Health and Inspections Department.)

FIRE CODE

300:50. Fire Code. The 2003 *Minnesota State Fire Code*, which adopts the 2000 *International Fire Code* including Appendix Chapters B,C,D,H, and I, is adopted as the Fire Code for the City of St. Cloud, Minnesota, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, except such portions as are modified or amended by Subd. 9 of this ordinance:

APPENDIX B – FIRE-FLOW REQUIREMENTS FOR BUILDINGS.

APPENDIX C – FIRE HYDRANT LOCATIONS AND DISTRIBUTION.

APPENDIX D – FIRE APPARATUS ACCESS ROADS.

APPENDIX H – OPEN FLAME AND FUEL STORAGE PROHIBITED ON
BALCONIES OR PATIOS

APPENDIX I - SPECIAL LOCKING ARRANGEMENTS FOR GROUP I
OCCUPANCIES

Subd. 1. Enforcement.

- (a) The Chief of the Fire Department serving the City of St. Cloud, Minnesota, or authorized representative will enforce the provisions of this ordinance.
- (b) The Chief of the Fire Department may detail members of the Fire Department as inspectors as necessary. The Chief of the Fire Department may recommend the employment of technical inspectors, who, when such authorization is made, will be selected in accordance with the applicable employment policies of the City of St. Cloud.

Subd. 2. Definitions.

- (a) “Jurisdiction” means the City of St. Cloud.

Subd. 3. Open Burning. An operational permit is required for the kindling or maintaining of an open fire or fire on any public street, alley, road, or other public or private ground. The permit holder must adhere to all permit instructions and stipulations.

A permit is not required for recreational fires.

Subd. 4. Prohibited open burning. Open burning that will be offensive or objectionable due to smoke or odor emissions when atmospheric conditions or local circumstances make such fires hazardous will be prohibited. The Fire Chief or his designee is authorized to order the extinguishment by the permit holder or the fire department of open burning when it creates or

adds to a hazardous or objectionable situation. Open burning of debris piles, leaves, yard waste and burning in barrels is prohibited.

Exception: Permitted burning within areas zoned Agricultural.

Subd. 5. Open-flame Cooking Devices. Charcoal burners and other open-flame cooking devices will not be operated on combustible balconies or within 15 feet of combustible construction.

Exception: One and two family dwellings.

Subd. 6. Liquefied-petroleum-gas-fueled cooking devices. LP gas burners will not be located on combustible balconies or within 15 feet of combustible construction.

Exception: One and two family dwellings.

Subd. 7. Recreational fires. Recreational fires will not be conducted within 25 feet of a structure or combustible material unless the fire is contained in an approved device or method, such as a fireplace, charcoal grill, etc. located at least 15 feet from any buildings, fences or structures.

Subd. 8. Stop Work Order. Any person who will continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, will be guilty of a misdemeanor.

Subd. 9. Amendments to the 2003 Minnesota State Fire Code and 2000 International Fire Code.

- (a) Section 314.5, 2000 International Fire Code. Main Aisle Width in Covered Malls. Main aisles will be a minimum of 10 feet in width or the minimum required means of egress width, whichever is greater, and will be maintained clear from any obstructions.
- (b) Section 314.6, 2000 International Fire Code. Cross Aisle Width in Covered Malls. Cross aisles will be a minimum of 15 feet in width or the required means of egress width, whichever is greater, and will be maintained clear from any obstructions.
- (c) Section 314.7, 2000 International Fire Code. Fixtures in Covered Malls. Fixtures will not be located in main aisles or cross aisles.
- (d) Section 314.8, 2000 International Fire Code. Sprinkler Obstructions in Covered Malls. Roofs or coverings for kiosks, display booths, concession equipment or similar structures will not exceed 4 feet in dimension unless the area beneath the roofs or coverings is protected by an approved automatic fire-extinguishing system.
- (e) Section 314.9, 2000 International Fire Code. Solid Fuel Burning Appliances in Exhibit Halls and Assembly Occupancies. Use of solid fuel burning appliances for display purposes will not be allowed in assembly occupancies other than cooking fuel as described in NFPA 101, 2000 Edition, Section 12.7.1.4. Solid fuel burning

appliances may be defined as any appliance that uses decomposition of cellulose material, hydrocarbon solids, animal fat or proteins to produce heat or leaves an ash residue. This would include plant products or materials, wood, coal, mesquite, etc.

- (f) Section 314.10, 2000 International Fire Code. Compressed flammable gas cylinders and flammable or combustible liquids used for display purposes will be prohibited within exhibit hall and assembly occupancies.
- (g) Section 314.11, 2000 International Fire Code. Overcrowding and admittance of persons beyond the approved capacity of a place of assembly are prohibited. The Fire Official or a designated agent, upon finding overcrowding conditions or obstructions in aisles, passageways, or other means of egress, or upon finding a condition which constitutes a threat to life, is authorized to cause the performance, presentation, spectacle or entertainment to be stopped until such condition or obstruction is corrected.
- (h) Section 314.13, 2000 International Fire Code. Standby Personnel. When, in the opinion of the Fire Official or their designated agent, it is essential for public safety in a place of assembly or any other place where people congregate, due to the number of persons, or the nature of the performance, exhibition, display, contest, or activity, the owner, agent or lessee will employ one or more qualified persons, as required and approved, to be on duty at such place. Such individuals will be subject to the Fire Officials orders at all times when so employed and will be in uniform and remain on duty during the times such places are open to the public, or when such activity is being conducted. Before each performance or the start of such activity, such individuals will inspect the required fire appliances provided to see that they are in proper place and in good working order, and will keep diligent watch for fires during the time such place is open to the public or such activity is being conducted and take prompt measures for extinguishment of fires that may occur. Such individuals will not be required or permitted, while on duty, to perform any other duties than those specified above.
- (i) Amendments to Chapter 5 – Fire Service Features
 - 1. Section 503.4, 2000 International Fire Code – Obstruction of fire apparatus access roads is amended to add the following language:

Parking of motor vehicles in, or otherwise obstructing fire lanes will be prohibited at all times. Any vehicle so parked is the act of a registered owner as well as the act of the person actually parking the vehicle. For purposes of this section, registered owner is defined to include motor vehicle leasing agencies and corporate owners. It will be a defense to any violation if the registered owner shows that on the date of the offense, title has been transferred to another.

(j) Amendments to Appendix D, 2000 International Fire Code – Fire Apparatus Access Roads

1. Figure D103.1 – DEAD-END FIRE APPARATUS ACCESS ROAD TURNAROUND is amended as follows:

A Cul-de-sac will have the minimum diameter of 90 feet with posted no parking lane or will have a minimum diameter of 120 feet where parking is provided.

Fire Escapes

Subd. 10. Fire Escapes Required. That every building within the City of St. Cloud, excepting private dwellings, three (3) stories or more in height, if not of fireproof construction, will be provided with stair fire escapes in the following ratio:

All buildings of the warehouse or factory class will have at least one fire escape, and will be provided with one additional fire escape for every one hundred persons employed above the second story. Every public hall located above the second story will have one fire escape for every thousand superficial feet of area or fraction thereof contained in said hall. Every hotel, lodging house, flat building and tenement house three or more stories in height and containing one or more families in each story, will be equipped with fire escapes.

Provided, however, that if such apartment house, tenement house or hotel has two distinct stairways, one of them entering from the street and the other from the extreme opposite side or rear of the building, or on the outside in the rear, the same will not be required a fire escape, unless they are four stories or more in height, in which case, they will be provided with fire escapes as heretofore described.

All fire escapes must be kept in good repair at all times and free from snow and ice, obstructions or incumbrances of any kind whatsoever.

- (a) Construction Requirements of Platforms and Stairs. The platforms and stairs of fire escapes herein provided for will be constructed of iron or steel of perforated pattern and in no case will there be less than four slats used to a tread. The stairways must be designed, constructed and erected to safely sustain in all their parts one hundred pounds per square foot. Treads will not be less than six (6) inches wide and the rise not more than ten (10) inches. The stairs in all cases must not be less than twenty-four inches in width. One platform on each floor is required. The platform will consist of iron balconies not less than two feet in width from the face of the wall and four feet in length, connected with the iron stairways and provided with drop-ladder from the lowest balcony, where the distance from the ground will not exceed ten feet. Stairways must extend from the balcony to the roof where it will be securely fastened.
- (b) Railings. The Railings of the balconies and stairs must be properly secured to the walls, balconies and stairs with bolts, nuts, and washers, and will consist of at least two rails. The outside top railing to extend around the entire length of the platform and through the wall at each end, and will be properly secured by bolts, nuts, and washers or otherwise equally well-braced and bolted. The top rail of the balcony must not be less than one and one-half inch pipe iron, and materially equally as strong. The bottom rail must not be less than one inch pipe iron, or material equally as strong, bolted through the wall.

(c) Brackets. The brackets supporting the fire escapes must go clear through the wall and be bolted on the inside. Brackets must be furnished with washers, bolts and nuts complete.

300:55. Investigation Fees. Investigation fees may be applied if work is started or continues without obtaining required inspections.

International Property Maintenance Code of St. Cloud
Section 300:41

CHAPTER 1

ADMINISTRATION

SECTION 101

GENERAL

101.1 Title. These regulations shall be known as the International Property Maintenance Code of St. Cloud, hereinafter referred to as “this code.”

101.2 Scope. The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

101.3 Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare in so far as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

101.4 Severability. If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 102
APPLICABILITY

102.1 General. The provisions of this code shall apply to all matters affecting or relating to structures and premises, as set forth in Section 101. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

102.2 Maintenance. Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this section to be removed from or shut off from or discontinued for any occupied dwelling, except

for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner’s designated agent shall be responsible for the maintenance of buildings, structures and premises.

102.3 Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the Minnesota State Building Code and the Minnesota State Fire Code. Nothing in this code shall be construed to cancel, modify or set aside any provision of the City of St. Cloud Zoning Ordinance.

102.4 Existing remedies. The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and insanitary.

102.5 Workmanship. Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer’s installation instructions.

102.6 Historic buildings. The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings when such buildings or structures are judged by the code official to be safe and in the public interest of health, safety and welfare.

102.7 Referenced codes and standards. All references to other codes and standards within this code shall mean the applicable provisions of the City of St. Cloud Code of Ordinances, the City of St. Cloud Zoning Ordinance, the Minnesota State Fire Code or the Minnesota State Building Code, whichever is the most restrictive requirement permitted under statute.

102.8 Requirements not covered by code. Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically

covered by this code, shall be determined by the code official.

SECTION 103 DEPARTMENT OF PROPERTY MAINTENANCE INSPECTION

103.1 deleted

103.2 deleted

103.3 deleted

103.4 Liability. The code official, officer or employee charged with the enforcement of this code, while acting for the jurisdiction, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of official duties.

Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code; and any officer of the department of property maintenance inspection, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

103.5 deleted

SECTION 104 DUTIES AND POWERS OF THE CODE OFFICIAL

104.1 General. The code official shall enforce the provisions of this code.

104.2 Rule-making authority. The code official shall have authority as necessary in the interest of public health, safety and general welfare, to adopt and promulgate rules and procedures; to interpret and implement the provisions of this code; to secure the intent thereof; and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this code, or of

violating accepted engineering methods involving public safety.

104.3 Inspections. The code official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

104.4 Right of entry. The code official is authorized to enter the structure or premises at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the code official is authorized to pursue recourse as provided by law.

104.5 Identification. The code official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

104.6 Notices and orders. The code official shall issue all necessary notices or orders to ensure compliance with this code.

104.7 Department records. The code official shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records as long as the building or structure to which such records relate remains in existence, unless otherwise provided for by other regulations.

SECTION 105 APPROVAL

105.1 Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the code official shall have the authority to grant modifications for individual cases, provided the code official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

105.2 Alternative materials, methods and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An

alternative material or method of construction shall be approved where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

105.3 Required testing. Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the code official shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

105.3.1 Test methods. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the code official shall be permitted to approve appropriate testing procedures performed by an approved agency.

105.3.2 Test reports. Reports of tests shall be retained by the code official for the period required for retention of public records.

105.4 Material and equipment reuse. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and approved.

SECTION 106 VIOLATIONS

106.1 Unlawful acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

106.2 Notice of violation. The code official shall serve a notice of violation or order in accordance with Section 107.

106.3 Prosecution of violation. Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a misdemeanor or civil infraction as determined by the local municipality, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made

pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

106.4 Violation penalties. Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

106.5 Abatement of violation. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

SECTION 107 NOTICES AND ORDERS

107.1 Notice to person responsible. Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 107.2 and 107.3 to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with Section 108.3.

107.2 Form. Such notice prescribed in Section 107.1 shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code.
5. Inform the property owner of the right to appeal.
6. Include a statement of the right to file a lien in accordance with Section 106.3.

107.3 Method of service. Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first-class mail addressed to the last known address; or
3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

107.4 Penalties. Penalties for noncompliance with orders and notices shall be as set forth in Section 106.4.

deleted

SECTION 108 UNSAFE STRUCTURES AND EQUIPMENT

108.1 General. When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

108.1.1 Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

108.1.2 Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

108.1.3 Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

108.1.4 Unlawful structure. An unlawful structure is one found in whole or in part to be erected, altered or occupied contrary to law.

108.2 Closing of vacant structures. If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost

thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

108.3 Notice. Whenever the code official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with Section 107.3. If the notice pertains to equipment, it shall also be placed on the condemned equipment. The notice shall be in the form prescribed in Section 107.2.

108.4 Placarding. Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the code official shall post on the premises or on defective equipment a condemnation placard and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

108.4.1 Placard removal. The code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this code.

108.5 Prohibited occupancy. Any occupied structure condemned and placarded by the code official shall be vacated as ordered by the code official. Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this code.

SECTION 109 EMERGENCY MEASURES

109.1 Imminent danger. When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is

Unsafe and Its Occupancy Has Been Prohibited by the Code Official.” It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

109.2 Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.

109.3 deleted

109.4 Emergency repairs. For the purposes of this section, the code official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

109.5 Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

109.6 Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this code.

SECTION 110 DEMOLITION

110.1 General. The code official may order the owner of any premises upon which is located any structure, which in the code official’s judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner’s option; or where there has been a cessation of normal construction of any structure for a period of more than two years, to demolish and remove such structure.

110.2 Notices and orders. All notices and orders shall comply with Section 107.

110.3 Failure to comply. If the owner of a premises fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

110.4 Salvage materials. When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

SECTION 111 MEANS OF APPEAL

111.1 Application for appeal. Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the board of appeals or through the provisions of Section 1150 of the City of St. Cloud Code of Ordinances, whichever is applicable, provided that a written application for appeal is filed within 25 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

When someone files an appeal, does that automatically stop the enforcement of the order? For example, a yard full of junk, or an appeal that has no merit. Legal?

111.2 Membership of board. The membership of the board of appeals, known as the Health and Housing Advisory and Appeals Committee, shall be as set forth in Section 205 of the City of St. Cloud Code of Ordinances.

111.2.1 deleted

111.2.2 deleted

111.2.3 deleted

111.2.4 deleted

111.2.5 deleted

111.3 deleted

111.4 Open hearing. All hearings before the board shall be open to the public.

111.4.1 Procedure. The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

111.5 Postponed hearing. When the full board is not present to hear an appeal, either the appellant or the appellant’s representative shall have the right to request a postponement of the hearing.

111.6 Board decision. The board shall modify or reverse the decision of the code official only by a concurring vote of a majority of the total number of appointed board members.

111.6.1 Records and copies. The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the code official.

111.6.2 Administration. The code official shall take immediate action in accordance with the decision of the board.

111.7 Court review. Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.

111.8 Stays of enforcement. Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the appeals board.

CHAPTER 2

DEFINITIONS

SECTION 201

GENERAL

201.1 Scope. Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.

201.2 Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the City of St. Cloud Code of Ordinances, City of St. Cloud Zoning Ordinance, the Minnesota State Fire Code or the Minnesota State Building Code, such terms shall have the meanings ascribed to them as stated in those codes.

201.4 Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

201.5 Parts. Whenever the words “dwelling unit,” “dwelling,” “premises,” “building,” “rooming house,” “rooming unit” “housekeeping unit” or “story” are stated in this code, they shall be construed as though they were followed by the words “or any part thereof.”

SECTION 202

GENERAL DEFINITIONS

APPROVED. Approved by the code official.

BASEMENT. That portion of a building which is partly or completely below grade.

BATHROOM. A room containing plumbing fixtures including a bathtub or shower.

BEDROOM. Any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.

CODE OFFICIAL. The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

CONDEMN. To adjudge unfit for occupancy.
[B] DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EASEMENT. That portion of land or property reserved for present or future use by a person or agency other than the

legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above a said lot or lots.

EXTERIOR PROPERTY. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

EXTERMINATION. The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

GARBAGE. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

GUARD. A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

HABITABLE SPACE. Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

HOUSEKEEPING UNIT. A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

IMMINENT DANGER. A condition which could cause serious or life-threatening injury or death at any time.

INFESTATION. The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

INOPERABLE MOTOR VEHICLE. A vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

LABELED. Devices, equipment, appliances, or materials to which has been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and by whose label the manufacturer attests to compliance with applicable nationally recognized standards.

LET FOR OCCUPANCY OR LET. To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person

who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

OCCUPANCY. The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANT. Any individual living or sleeping in a building, or having possession of a space within a building.

OPENABLE AREA. That part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

OPERATOR. Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

OWNER. Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON. An individual, corporation, partnership or any other group acting as a unit.

PREMISES. A lot, plot or parcel of land, easement or public way, including any structures thereon.

PUBLIC WAY. Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

ROOMING HOUSE. A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

RUBBISH. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

[B] SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

STRICT LIABILITY OFFENSE. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

STRUCTURE. That which is built or constructed or a portion thereof.

TENANT. A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

TOILET ROOM. A room containing a water closet or urinal but not a bathtub or shower.

VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

WORKMANLIKE. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

YARD. An open space on the same lot with a structure.

CHAPTER 3

GENERAL REQUIREMENTS

SECTION 301 GENERAL

301.1 Scope. The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

301.2 Responsibility. The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises which they occupy and control.

301.3 Vacant structures and land. All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

SECTION 302 EXTERIOR PROPERTY AREAS

302.1 Sanitation. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The owner shall keep the exterior property in a clean and sanitary condition.

302.2 Grading and drainage. All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

Exception: Approved retention areas and reservoirs.

302.3 Sidewalks and driveways. All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

302.4 deleted

302.5 Rodent harborage. All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

302.6 Exhaust vents. Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

302.7 Accessory structures. All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

302.8 Motor vehicles. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall

be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled.

302.9 deleted

SECTION 303 SWIMMING POOLS, SPAS AND HOT TUBS

303.1 Swimming pools. Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

303.2 Enclosures. Private swimming pools, hot tubs and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded as set forth in the City of St. Cloud Zoning Ordinance. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches (152 mm) from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Exception: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

SECTION 304 EXTERIOR STRUCTURE

304.1 General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

304.2 Protective treatment. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or

corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

[F] **304.3** deleted

304.4 Structural members. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

304.5 Foundation walls. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

304.6 Exterior walls. All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

304.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

304.8 Decorative features. All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

304.9 Overhang extensions. All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

304.10 Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

304.11 Chimneys and towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic

application of weather-coating materials, such as paint or similar surface treatment.

304.12 Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

304.13 Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

304.13.1 Glazing. All glazing materials shall be maintained free from cracks and holes.

304.13.2 Openable windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

304.14 Insect screens. During the period from April 15 to October 15, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, and all openable windows in residential structures shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

304.15 Doors. All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

304.16 Basement hatchways. Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

304.17 Guards for basement windows. Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.

304.18 Building security. Doors, windows or hatchways for dwelling units, room units or housekeeping units shall be provided with devices designed to provide security for the occupants and property within.

304.18.1 Doors. Doors providing access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or

let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a lock throw of not less than 1 inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.

304.18.2 Windows. Operable windows located in whole or in part within 6 feet (1828 mm) above ground level or a walking surface below that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a window sash locking device.

304.18.3 Basement hatchways. Basement hatchways that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

SECTION 305 INTERIOR STRUCTURE

305.1 General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

305.2 Structural members. All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

305.3 Interior surfaces. All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

305.4 Stairs and walking surfaces. Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

305.5 Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

305.6 Interior doors. Every interior door shall fit reasonably well within its frame and shall be capable of

being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

SECTION 306 HANDRAILS AND GUARDRAILS

306.1 General. Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 30 inches (762 mm) above the floor or grade below shall have guards. Handrails shall not be less than 34 inches high or more than 38 inches high measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than 34 inches high above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

Exception: Guards shall not be required where exempted by the adopted building code.

SECTION 307 RUBBISH AND GARBAGE

307.1 Accumulation of rubbish or garbage. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

307.2 Disposal of rubbish. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

307.2.1 Rubbish storage facilities. The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

307.2.2 Refrigerators. Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on premises without first removing the doors.

CHAPTER 4

SECTION 401 GENERAL

401.1 Scope. The provisions of this chapter shall govern the minimum conditions and standards for light, ventilation and space for occupying a structure.

401.2 Responsibility. The owner of the structure shall provide and maintain light, ventilation and space conditions

307.3 Disposal of garbage. Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.

307.3.1 Deleted

307.3.2 Containers. The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leakproof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal.

SECTION 308 EXTERMINATION

308.1 Infestation. All structures shall be kept free from insect and rodent infestation by the owner. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

308.2 Owner. The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.

308.3 deleted

308.4 Multiple occupancy. The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for extermination in the public or shared areas of the structure and exterior property.

308.5 deleted

LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS

in compliance with these requirements. A person shall not occupy as owner-occupant, or permit another person to occupy, any premises that do not comply with the requirements of this chapter.

401.3 Alternative devices. In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the International Building Code shall be permitted.

SECTION 402 LIGHT

402.1 Habitable spaces. Every habitable space shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total glazed area for every habitable space shall be 8 percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

Exception: Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m²). The exterior glazing area shall be based on the total floor area being served.

402.2 Common halls and stairways. Every common hall and stairway in residential occupancies, other than in one- and two-family dwellings, shall be lighted at all times with at least a 60-watt standard incandescent light bulb for each 200 square feet (19 m²) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet (9144 mm). In other than residential occupancies, means of egress, including exterior means of egress, stairways shall be illuminated at all times the building space served by the means of egress is occupied with a minimum of 1 footcandle (11 lux) at floors, landings and treads.

402.3 Other spaces. All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment and fixtures.

SECTION 403 VENTILATION

403.1 Habitable spaces. Every habitable space shall have at least one openable window. The total openable area of the window in every room shall be equal to at least 45 percent of the minimum glazed area required in Section 402.1.

Exception: Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but

not less than 25 square feet (2.33 m²). The ventilation openings to the outdoors shall be based on a total floor area being ventilated.

403.2 Bathrooms and toilet rooms. Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by Section 403.1, except that a window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge to the outdoors and shall not be recirculated.

403.3 Cooking facilities. Unless approved through the certificate of occupancy, cooking shall not be permitted in any rooming unit or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in the rooming unit or dormitory unit.

Exceptions:

1. Where specifically approved in writing by the code official.
2. Devices such as coffee pots and microwave ovens shall not be considered cooking appliances.

403.4 Process ventilation. Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust ventilation system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.

403.5 Clothes dryer exhaust. Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted in accordance with the manufacturer's instructions. Exhaust systems shall comply with the provisions in the Minnesota State Building Code.

SECTION 404 OCCUPANCY LIMITATIONS

404.1 Privacy. Dwelling units, hotel units, housekeeping units, rooming units and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

404.2 Minimum room widths. A habitable room, other than a kitchen, shall not be less than 7 feet (2134 mm) in any plan dimension. Kitchens shall have a clear passageway of not less than 3 feet (914 mm) between counterfronts and appliances or counterfronts and walls.

404.3 Minimum ceiling heights. Habitable spaces shall have a clear ceiling height of not less than 7 feet 6 inches (2286 mm). Hallways, corridors, bathrooms, toilet rooms, kitchens, storage rooms, and laundry rooms shall be

permitted to have a ceiling height of not less than 7 feet (2134 mm).

Exceptions:

1. Basement rooms in one- and two-family dwellings having a ceiling height of not less than 6 feet 8 inches (2033 mm) with not less than 6 feet 4 inches (1932 mm) of clear height under beams, girders, ducts and similar obstructions.

2. If any room in a building has a sloping ceiling, the prescribed ceiling height for the room is required in one-half the area thereof. In calculating the floor area of such rooms, only those portions of the floor area with a clear ceiling height of 5 feet (1524 mm) or more shall be included.

404.4 Bedroom and living room requirements. Every bedroom and living room shall comply with the requirements of Sections 404.4.1 through 404.4.5.

404.4.1 Room area. Every living room shall contain at least 120 square feet (11.2 m²) and every bedroom shall contain at least 70 square feet (6.5 m²).

404.4.2 Access from bedrooms. Bedrooms shall not constitute the only means of access to other bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces.

Exception: Units that contain fewer than two bedrooms.

404.4.3 Water closet accessibility. Every bedroom shall have access to at least one water closet and one lavatory

without passing through another bedroom. Every bedroom in a dwelling unit shall have access to at least one water closet and lavatory located in the same story as the bedroom or an adjacent story.

404.4.4 Prohibited occupancy. Kitchens and nonhabitable spaces shall not be used for sleeping purposes.

404.4.5 Other requirements. Bedrooms shall comply with the applicable provisions of this code including, but not limited to, the light, ventilation, room area, ceiling height and room width requirements of this chapter; the plumbing facilities and water-heating facilities requirements of Chapter 5; the heating facilities and electrical receptacle requirements of Chapter 6; and the smoke detector and emergency escape requirements of Chapter 7.

404.5 Overcrowding. The number of persons occupying a dwelling unit shall not create conditions that, in the opinion of the code official, endanger the life, health, safety or welfare of the occupants.

404.6 deleted

404.7 Food preparation. All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

CHAPTER 5

**PLUMBING FACILITIES AND
FIXTURE REQUIREMENTS**

**SECTION 501
GENERAL**

501.1 Scope. The provisions of this chapter shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.

501.2 Responsibility. The owner of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any structure or premises which does not comply with the requirements of this chapter.

**[P] SECTION 502
REQUIRED FACILITIES**

502.1 Dwelling units. Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen

sink which shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

502.2 Rooming houses. At least one water closet, lavatory and bathtub or shower shall be supplied for each four rooming units.

502.3 Hotels. Where private water closets, lavatories and baths are not provided, one water closet, one lavatory and one bathtub or shower having access from a public hallway shall be provided for each ten occupants.

502.4 Employees' facilities. A minimum of one water closet, one lavatory and one drinking facility shall be available to employees.

502.4.1 Drinking facilities. Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler or disposable cups next to a sink or water dispenser. Drinking facilities shall not be located in toilet rooms or bathrooms.

[P] SECTION 503 TOILET ROOMS

503.1 Privacy. Toilet rooms and bathrooms shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior locking device shall be provided for all common or shared bathrooms and toilet rooms in a multiple dwelling.

503.2 Location. Toilet rooms and bathrooms serving hotel units, rooming units or dormitory units or housekeeping units, shall have access by traversing not more than one flight of stairs and shall have access from a common hall or passageway.

503.3 deleted

503.4 Floor surface. In other than dwelling units, every toilet room floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

[P] SECTION 504 PLUMBING SYSTEMS AND FIXTURES

504.1 General. All plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

504.2 Fixture clearances. Plumbing fixtures shall have adequate clearances for usage and cleaning.

504.3 Plumbing system hazards. Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, backsiphonage, improper installation, deterioration or damage or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

SECTION 505 WATER SYSTEM

CHAPTER 6

505.1 General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the Minnesota Building Code.

[P] **505.2 Contamination.** The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sink faucets and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

505.3 Supply. The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

505.4 Water heating facilities. Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less than 110°F (43°C). A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

[P] SECTION 506 SANITARY DRAINAGE SYSTEM

506.1 General. All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

506.2 Maintenance. Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

[P] SECTION 507 STORM DRAINAGE

507.1 General. Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall not be discharged in a manner that creates a public nuisance.

MECHANICAL AND ELECTRICAL REQUIREMENTS

SECTION 601 GENERAL

601.1 Scope. The provisions of this chapter shall govern the minimum mechanical and electrical facilities and equipment to be provided.

601.2 Responsibility. The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises which does not comply with the requirements of this chapter.

SECTION 602 HEATING FACILITIES

602.1 Facilities required. Heating facilities shall be provided in structures as required by this section.

602.2 Residential occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

602.3 Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from October 15 to April 15 to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms, and toilet rooms.

Exception: When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in the Minnesota State Building Code.

602.4 deleted

602.5 Room temperature measurement. The required room temperatures shall be measured 3 feet (914 mm) above the floor near the center of the room and 2 feet (610 mm) inward from the center of each exterior wall.

SECTION 603 MECHANICAL EQUIPMENT

603.1 Mechanical appliances. All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

603.2 Removal of combustion products. All fuel-burning equipment and appliances shall be connected to an approved chimney or vent.

603.3 Clearances. All required clearances to combustible materials shall be maintained.

603.4 Safety controls. All safety controls for fuel-burning equipment shall be maintained in effective operation.

603.5 Combustion air. A supply of air for complete combustion of the fuel and for ventilation of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.

603.6 Energy conservation devices. Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom, shall not be installed unless labeled for such purpose and the installation is specifically approved.

SECTION 604 ELECTRICAL FACILITIES

604.1 Facilities required. Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and Section 605.

604.2 Service. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the Minnesota Building Code.

604.3 Electrical system hazards. Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

SECTION 605 ELECTRICAL EQUIPMENT

605.1 Installation. All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.

605.2 Receptacles. Every habitable space in a dwelling shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain at least one receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection. All new and replacement receptacles shall conform to the requirements of the Minnesota State Building Code.

605.3 Luminaires. Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain at least one electric luminaire.

SECTION 606 ELEVATORS, ESCALATORS AND DUMBWAITERS

606.1 General. Elevators, dumbwaiters and escalators shall be maintained in compliance with ASME A17.1. The most current certification of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter, or the certificate shall be available for public

CHAPTER 7

FIRE SAFETY REQUIREMENTS

SECTION 701 GENERAL

701.1 Scope. The provisions of this chapter shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided.

701.2 Responsibility. The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises that do not comply with the requirements of this chapter.

[F] SECTION 702 MEANS OF EGRESS

702.1 General. A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the Minnesota State Fire Code.

702.2 Aisles. The required width of aisles in accordance with the Minnesota State Fire Code shall be unobstructed.

inspection in the office of the building operator. The inspection and tests shall be performed at not less than the periodical intervals listed in ASME A17.1, Appendix N, except where otherwise specified by the authority having jurisdiction.

606.2 Elevators. In buildings equipped with passenger elevators, at least one elevator shall be maintained in operation at all times when the building is occupied.

Exception: Buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

SECTION 607 DUCT SYSTEMS

607.1 General. Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

702.3 Locked doors. All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the Minnesota State Building Code.

702.4 Emergency escape openings. Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction, and the following. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.

[F] SECTION 703 FIRE-RESISTANCE RATINGS

703.1 Fire-resistance-rated assemblies. The required fire-resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.

703.2 Opening protectives. Required opening protectives shall be maintained in an operative condition. All fire and smokestop doors shall be maintained in operable condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.

[F] SECTION 704 FIRE PROTECTION SYSTEMS

704.1 General. All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the Minnesota State Fire Code.

704.2 Smoke alarms. Single or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and in dwellings not regulated in Group R occupancies, regardless of occupant load at all of the following locations:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
2. In each room used for sleeping purposes.
3. In each story within a dwelling unit, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

Single or multiple-station smoke alarms shall be installed in other groups in accordance with the Minnesota State Fire Code.

704.3 Power source. In Group R occupancies and in dwellings not regulated as Group R occupancies, single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection. Battery backup is also required in all cases where arc fault protection is used.

Exception: Smoke alarms are permitted to be solely battery operated in buildings where no construction is taking place, buildings that are not served from a commercial power source and in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available

which could provide access for building wiring without the removal of interior finishes.

The Minnesota State Fire Code also does not require battery backup in sprinkled Group R2 occupancies.

704.4 Interconnection. Where more than one smoke alarm is required to be installed within an individual dwelling unit in Group R-2, R-3, R-4 and in dwellings not regulated as Group R occupancies, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

Exceptions:

1. Interconnection is not required in buildings which are not undergoing alterations, repairs, or construction of any kind.
2. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes.

CHAPTER 8

REFERENCED STANDARDS

This chapter lists the standards that are referenced in various sections of this document. The standards are listed herein by the promulgating agency of the standard, the standard identification, the effective date and title and the section or sections of this document that reference the standard. The application of the referenced standards shall be as specified in Section 102.7. Whenever this code refers to the International Codes, such references shall be deemed to be the comparable, applicable code as adopted by the State of Minnesota. Whenever this code shall refer to the International Zoning Code, such references shall be deemed to be the City of St. Cloud Zoning Ordinance.

ASME American Society of Mechanical Engineers

Three Park Avenue

New York, NY 10016-5990

Standard

Reference

Referenced in code

<u>Number</u>	<u>Title</u>	<u>section</u>
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number

A17.1—2000 606.1	Safety Code for Elevators and Escalators with A17.1a 2002 Addenda	
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ASTM ASTM International

100 Barr Harbor Drive

West Conshohocken, PA 19428-2959

Standard

Reference

Referenced in code

<u>Number</u>	<u>Title</u>	<u>section</u>
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number

F1346—91 (2003)	Performance Specifications for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs	303.2
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ICC International Code Council

5203 Leesburg Pike, Suite 600

Falls Church, VA 22041

Standard

Reference

Referenced in code

<u>Number</u>	<u>Title</u>	<u>section</u>
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number

ICC EC—06	ICC Electrical Code® — Administrative Provisions	
201.3, 604.2		
IBC—06	International Building Code®	102.3, 201.3,
401.3, 702.3		
IFC—06	International Fire Code®	201.3, 702.1, 702.2,
704.1, 704.2		
IFGC—06	International Fuel Gas Code®	
102.3		
IMC—06	International Mechanical Code®	
102.3, 201.3		

IPC—06	International Plumbing Code®	201.3,	505.1,
602.2, 602.3			
IZC—06	International Zoning Code®		
102.3, 201.3			

History: Ord. 2338 2-26-07.

Section 302 - Cable Television Regulatory Ordinance

(Shown for reference and information only
and not included as a part of this Ordinance Code)

Ordinance No. 1881, as amended, is published as a pamphlet and is available from the Office of the City Clerk.

Section 355 - Zoning Ordinance

(Shown for reference and information only
and not included as a part of this Ordinance Code)

Ordinance No. 634, as amended, is published as a pamphlet and is available from the Office of the City Clerk. A list of tracts of land which have been rezoned since the passage of Ordinance 634 is to be found in Appendix I of this Code, Chronological List of Ordinances.

Section 360 - Sewer Use Code

Section 360:00. Purpose and Policy. This Sewer Use Ordinance sets forth uniform requirements for discharges into the St. Cloud Wastewater Treatment System (SCWWTS), a publicly owned system of interceptors and a Wastewater Treatment Facility (WWTF), for the conveyance, treatment and disposal of domestic waste, industrial waste and other waste from residential, commercial, institutional and industrial users in the SCWWTS service area. The SUO enables the City of St. Cloud (City) to comply with all State (Minnesota Pollution Control Agency) and Federal (U.S. Environmental Protection Agency) laws.

The objectives of this ordinance are:

- a) To prevent the introduction of pollutants to the SCWWTS that will interfere with the operation of the treatment process or the beneficial reuse or disposal of the biosolids;
- b) To prevent the introduction of pollutants into the SCWWTS that will pass through the system inadequately treated, into receiving waters, atmosphere or otherwise be incompatible with the system;
- c) To comply with the Federal (EPA) and State (MPCA) rules and regulations in to maintain eligibility for federal and state grants and loans for construction for improvements or upgrades; and
- d) To improve the ability to recycle and reclaim wastewater and biosolids from the system.

The ordinance provides for the regulation of discharges to the SCWWTS through; the issuance of permits to specific users and through enforcement of the general requirements for all users, authorizes monitoring and enforcement activities, provides for penalty relief, requires user reporting, and provides for the method of setting fees necessary to carry out the program established herein.

The ordinance shall apply to the City of St. Cloud and to persons outside the City who are, by contract or agreement with the City, users of the SCWWTS. Except as otherwise provided herein, the Director shall administer, implement, and enforce the provisions of this ordinance.

Section 360:05. Definitions.

Subd. 1. Unless the context specifically indicates otherwise, the following terms, as used in this ordinance, shall have the meanings hereinafter designated.

Subd. 2. "Act" means the Federal Water Pollution Control Act, as amended, commonly referred as the Clean Water Act, United States Code, Title 33, Sections 1251, et.seq.

Subd. 3. "Biosolids" means the nutrient rich organic, treated and tested residuals from the wastewater treatment process that meet federal and state standards for beneficial reuse as a fertilizers and as a soil conditioner.

Subd. 4. "Best Management Practices" (BMP's) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 403.5. BMP's also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Subd. 5. "Building Drain" means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

Subd. 6. "Building Sewer" means the extension from the building drain to the public sewer or other place of disposal.

Subd. 7. "Carbonaceous Biochemical Oxygen Demand (CBOD₅)" means the quantity of oxygen utilized in the biochemical oxidation of organic matter, in the presence of a nitrification inhibitor, under standard laboratory procedures in five (5) days at 20 degrees Centigrade expressed in terms of weight and concentration (milligrams per liter-mg/l).

Subd. 8. "CFR" – The Code of Federal Regulations, which is the codification of general and permanent rules of departments and agencies of the federal government.

Subd. 9. "Chemical Oxygen Demand" means the quantity of oxygen utilized in the chemical oxidation of organic matter, expressed in milligrams per liter, as determined in accordance with standard laboratory procedure as set out in the latest edition of Standard Methods of the Examination of Water and Wastewater.

Subd. 10. "City" means the City of St. Cloud or the City Council of St. Cloud or the Public Utility.

Subd. 11. "Cooling Water" means the water discharged from any use such as air conditioning, cooling or refrigeration, or during which the only pollutant added to the water is heat.

Subd. 12. "Control Authority" means the City of St. Cloud.

Subd. 13. "Director" means the City of St. Cloud's Public Utilities Director or authorized agent.

Subd. 14. "Domestic Waste" means wastes from residential users and from the sanitary conveniences of multiple dwellings, commercial buildings, institutions and industrial facilities.

Subd. 15. "EPA" means the United States Environmental Protection Agency.

Subd. 16. "Flow" means the quantity of wastewater expressed in gallons or cubic feet per twenty-four (24) hours.

Subd. 17. "General Pretreatment Regulations" means the general pretreatment regulations for existing and new sources of pollution promulgated by the EPA under Section 307(b) and (c) of the Act and found at 40 CFR Part 403.

Subd. 18. "Indirect Discharge" means the introduction of pollutants or wastes into the SCWWTS from any nondomestic source regulated under Section 301 (b), (c), or (d) of the Act.

Subd. 19. "Individual Sewage Treatment System Permits" means the permit required of a person to construct a private wastewater disposal system.

Subd. 20. "Industrial Discharge Permit or Permit" means a permit issued by the City of St. Cloud to an Industrial User authorizing them to use the SCWWTS as established herein.

Subd. 21. "Industrial Waste" means solid, liquid, or gaseous wastes, excluding domestic waste, resulting from any industrial, manufacturing, commercial, institutional or business activity, or from the development, recovery, or processing of a natural resource.

Subd. 22. "Industrial User" means any person who discharges industrial waste into the SCWWTS.

Subd. 23. "Interference" means a discharge which alone or in conjunction with a discharge or discharges from other sources inhibits or disrupts the WWTF, its treatment processes, operations or solids processes, use or disposal and, therefore, is a cause of a violation of any requirement of the St. Cloud WWTF's NPDES Permit or of the prevention of biosolids use or disposal with statutory provisions and regulations or permits.

Subd. 24. "Leachate" means wastewater resulting from the percolation of rain water and/or internal liquids through the deposited material in a solid waste disposal facility.

Subd. 25. "Liquid Waste" means wastewater that is collected from residential units, commercial/industrial buildings and institutions within the community.

Subd. 26. "Liquid Waste Hauler" means a user that transports waste for the purpose of discharge to the WWTF.

Subd. 27. "Local Limits" means discharge limitations established by the City to protect the wastewater treatment process, infrastructure and the beneficial reuse of biosolids.

Subd. 28. "MPCA" means the Minnesota Pollution Control Agency

Subd. 29. "MRP" means a Mercury Reduction Plan to ensure the maximum allowable mercury loading to the WWTF is not exceeded.

Subd. 30. National Pollutant Discharge Elimination System (NPDES) Permit" means any permit or requirements issued by the Minnesota Pollution Control Agency (MPCA) pursuant to the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq); for the purpose of regulating the discharge of wastewater, industrial wastes, or other wastes under the authority of Section 402 of the Act.

Subd. 31. "Non-Domestic Nutrient Contributor (NDNC)" means any non-domestic (as defined by subd. 12 Domestic Waste) wastewater source which is determined to contribute nutrients (as defined by subd. 32 Nutrients).

Subd. 32. "Nutrients" means elements and substances which are required to support living plants and organisms, including carbon, hydrogen, nitrogen, oxygen, and phosphorus.

Subd. 33. "Ordinance" means the set of rules contained herein governing the discharge of wastewater to the SCWWTS.

Subd. 34. "Permit holder" means an Industrial User authorized to discharge industrial waste into the SCWWTS pursuant to an Industrial Discharge Permit.

Subd. 35. "pH" means the logarithm of the reciprocal of the concentration of hydrogen ions in moles per liter of a solution. It is a measure of the acidity or basicity of a waste.

Subd. 36. "Phosphorus Management Plan" means the strategy used by the City, including pretreatment and operational procedures, to reduce the amount of phosphorus discharged to the environment.

Subd. 37. "Phosphorus Reduction Strategy (PRS)" means the process of reporting, evaluating and reducing the amount of phosphorus discharged to the WWTF.

Subd. 38. "Pretreatment" means the process of reducing the amount of pollutants, eliminating pollutants, or altering the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the SCWWTS. The reduction, elimination, or alteration may be obtained by physical, chemical or biological processes, process changes or other means, except as prohibited by this ordinance.

Subd. 39. "Pretreatment Standards" means standards for industrial groups (categories) promulgated by the EPA pursuant to the Act which regulates the quality of effluent discharge to publicly owned treatment works and must be met by all users subject to such standards.

Subd. 40. "Public Utility" means the unit of municipal government and its people responsible for the operation of the SCWWTS and this ordinance.

Subd. 41. "Sanitary Sewer" means a sewer which carries wastewater, and to which storm, surface and groundwater are not intentionally admitted.

Subd. 42. St. Cloud Area Wastewater Advisory Committee (SCAWAC)" is an advisory group whose objectives are to share information, improve understanding of regional wastewater issues and to improve the level of cooperation in the resolution of regional wastewater issues.

Subd. 43. St. Cloud Wastewater Treatment System (SCWWTS)" means POTW (Publicly Owned Treatment Works)" which is the treatment system as defined by Section 212 of the Act, which is owned by the municipality (as defined by Section 502(4) of the Act). This includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal solids residuals or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to the WWTF. The term also means the municipality as defined in Section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment system.

Subd. 44. "Residuals Solids" means solids and associated liquids in municipal wastewater which are encountered and concentrated by a municipal wastewater treatment facility.

Subd. 45. "Sewer" means a pipe or conduit for carrying wastewater, industrial waste, or other waste liquids.

Subd. 46. "Sewer System" means pipelines or conduits, pumping stations, force mains, and all other devices and appliances appurtenant thereto, used for collecting or conducting wastewater.

Subd. 47. "Significant Industrial User" or "SIU" means all Industrial Users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N and any other Industrial User that discharges an average of 25,000 gallons per day or more of process wastewater to the WWTF (excluding sanitary, noncontact cooling and boiler blow down wastewater), contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the WWTF, or is designated as such by the control authority as defined in 40 CFR 403.12 (a) on the basis that the Industrial User has a reasonable potential for adversely affecting the WWTF operation or for violating any pretreatment standard or requirement in accordance with 40 CFR 403.8 (f)(6). If, upon finding that an Industrial User meeting the criteria of this subdivision has no reasonable potential for adversely affecting the WWTF's operation or for violating any pretreatment standard or requirement, the control authority, as defined in 40 CFR 403.12 (a), may, at any time, on its own initiative or in response to a petition received from an Industrial User or WWTF and in accordance with 40 CFR 403.8 (f)(6) determine that such Industrial User is not a Significant Industrial

User. The City may determine that an Industrial User subject to categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter 1, subchapter N is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling water and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the conditions are met stated in 40 CFR 403.3 (v)(2) (i,ii,iii).

Subd. 48. "Slug" means any waste discharge which, in concentration of any given constituent or in quantity of flow, exceeds four (4) times the average twenty-four (24) hour concentration or flow during normal operation which may by itself or in combination with other wastes cause an interference within the WWTF.

Subd. 49. "Storm Water" means any flow occurring during or following any form of natural precipitation and resulting there from.

Subd. 50. "Storm Sewer" (sometimes termed "storm drain") means a sewer which carries storm and surface water and drainage, but excludes wastewater and industrial wastes, other than unpolluted cooling or process water.

Subd. 51. "Sump Pump" means a pump which removes storm or ground water from a sump well.

Subd. 52. "Total Suspended Solids (TSS)" means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by a standard glass fiber filter.

Subd. 53. "Total Toxic Organics" means the summation of all values greater than 0.01 mg/l of toxic organics listed in Section 307 (A) of the Act.

Subd. 54. "Unpolluted Water" means clean water uncontaminated by industrial wastes, other wastes, or any substance which renders such water unclean, or noxious, or impure so as to be actually or potentially harmful or detrimental or injurious to public health, safety, or welfare, to domestic, commercial, industrial, or recreational use, or to livestock, wild animals, bird, fish, or other aquatic life.

Subd. 55. "User" means any person who discharges, causes, or permits the discharge of wastewater into the SCWWTS.

Subd. 56. "Wastewater" means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which is discharged into or permitted to enter the City's wastewater disposal system.

Section 360:10. Individual Sewage Treatment System.

Subd. 1. Where a public sanitary sewer is not available under the provision of Section 360:30, the building sewer shall be connected to an individual sewage treatment system complying with the provisions of this Section 365:00, Sewage Treatment Systems, and Minnesota Pollution Control Agency Rules, Chapter 7080. The provisions of this subsection shall be in addition to any requirements established by applicable federal, state or local laws and regulations and shall not be construed to relieve any liability or obligation imposed by such laws and regulations.

Subd. 2. Any person operating a private wastewater disposal system who wishes to discharge waste products to the SCWWTS resulting from the treatment of domestic wastewater only shall by obtaining permission from the Director prior to the discharge occurring.

Section 360:15. Building Sewers and Connections.

Subd. 1. No person, unless authorized, shall uncover, make any connections with, or disturb any public sewer or appurtenance thereof, except in accordance with the applicable provisions of Section 355 and Section 610 of the 1977 Ordinance Code of the City of St. Cloud, as amended.

Subd. 2. All costs incurred in the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify and hold harmless the City from any loss or damage to the public sewer that may directly or indirectly be occasioned by the installation of the building sewer.

Subd. 3. A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, provided that the City shall require a written agreement between the property owners as to the share of the costs of construction and maintenance which each will contribute.

Subd. 4. Old building sewers may be used in connections with new buildings only when they are found, on examination and test by the City, to meet all requirements of this ordinance.

Subd. 5. The size, slope, alignment, materials of construction of a building sewer, and the method to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in Practice No. 9 and applicable American Society of Testing and Materials (ASTM) standards shall apply.

Subd. 6. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, such building drain shall be provided with a lifting device approved by the Plumbing Inspector and discharged to the building sewer.

Subd. 7. No persons shall make connection of roof downspouts, sump pump, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

Subd. 8. The construction of the building sewer and its connection into the public sewer shall conform to the requirements of the building and plumbing code, the sewer specifications included herein, or other applicable rules and regulations and the procedures set forth in appropriate specifications of the Water Pollution Control Federation Manual (ASTM). All such construction shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Plumbing Inspector before installation.

Subd. 9. Employees of the City shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the connection shall notify the Plumbing Inspector and City Engineer when the work is ready for final inspection and no underground portions shall be covered before the final inspection is completed. The connection shall be made under the supervision of the Building Inspector Program Coordinator or his/her representative.

Subd. 10. Any new connections to the sanitary sewer system shall be prohibited unless sufficient capacity is available in all downstream facilities including, but not limited to capacity for flow, CBOD, nutrients, and suspended solids, as determined by the Director.

Section 360:20. Main and Lateral Sewers.

Subd. 1. No person, unless authorized, shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Director.

Subd. 2. No sanitary or storm sewers shall be constructed in the City (except house or building service sewers) except by the City or others and subject to inspection during construction by engineers and employees of the City. No such sewers shall be considered to be a part of the public sewer system unless accepted by the City.

Subd. 3. The size, slope, alignment, material of construction, methods to be used in excavation, placing of pipe, jointing, testing, backfilling and other work connected with the construction of sewers shall conform to the requirements of the City.

Section 360:25. Protection from Damage. No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is a part of the SCWWTS.

Section 360:30. Use of Public Sewers.

Subd. 1. It shall be unlawful to discharge to any natural outlet within the City or in any area under the jurisdiction of the City any wastewater or other polluted water, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.

Subd. 2. As set forth in Section 360:10, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

Subd. 3. The owner of any building or property which is located within the City, or in any area under the jurisdiction of the City, and from which wastewater is discharged, shall be required to connect to a public sewer at the owner's expense within one year after service of official notice to do so, provided that said public sewer is available for connection. Additionally, if the building or property is used for human occupancy, employment or recreation, the owner shall be required to install at the same time toilet facilities in accordance with the Minnesota Building Code and other ordinances of the City.

Subd. 4. In the event an owner shall fail to connect to a public sewer in compliance with a notice given under Section 360:30, Subd. 3 of this ordinance, the City may undertake to have said connection made and shall assess the cost thereof against the benefited property and said assessment shall be a lien against said property. Such assessment, when levied, shall bear interest at the rate of eight percent (8%) per annum and shall be certified to the auditor of the county in which the land is situated and shall be collected and remitted to the City in the same manner as assessments for local improvements. The rights of the City under this subdivision shall be in addition to any other remedial or enforcement provisions of this ordinance.

Subd. 5. No person shall discharge or cause to be discharged directly or indirectly any storm water, surface water, groundwater, roof runoff, sub-surface drainage, unpolluted cooling or process water to any sanitary sewer unless there is no prudent and feasible alternative and unless as approved by the Director.

Subd. 6. Storm water and all other unpolluted water shall be discharged to a storm sewer, except that unpolluted cooling or process water shall only be so discharged upon approval by the Director and the user may be required to obtain a NPDES Permit by the MPCA.

Section 360:35. Phosphorus Management

Subd. 1. Any non-domestic, i.e. commercial or industrial, source may be included as part of the Phosphorus Management Plan (PMP) and required to evaluate their phosphorus discharge to the SCWWTS.

Subd. 2. Any significant non-domestic nutrient contributor (NDNC) of phosphorus, as determined by the Director, will be required to develop a Phosphorus Reduction Strategy (PRS). The NDNC will evaluate and/or update the PRS to include methods and/or steps taken to eliminate or reduce phosphorus loading to the SCWWTS.

Section 360:36. Mercury Management.

Subd. 1. Mercury levels shall not be detectable above 0.2 micrograms per liter in the wastewater discharged to the SCWWTS. Mercury sampling procedures, preservation and handling and analytical protocol for compliance monitoring shall be in accordance with EPA Method 245.1 or another method approved or required by the Director. The level of detection developed in accordance with the procedure specified in 40 CFR 136, shall not exceed 0.2 micrograms per liter for mercury, unless higher levels are appropriate due to matrix interference.

Subd. 2. To ensure that the maximum allowable mercury loading to the WWTF is not exceeded, the WWTF may require non-domestic users with a reasonable potential to discharge mercury to develop, submit for approval and implement a Mercury Reduction Plan (MRP). At a minimum, an approved MRP shall contain the following:

- (a) A written commitment by the non-domestic user to reduce all non-domestic discharges of mercury to levels below the level of detection within 36 months of the MRP's original approval date;
- (b) Within 60 days of notification by the WWTF that a MRP is required, the non-domestic user shall supply an initial identification of all potential sources of mercury which could be discharged to the WWTF;
- (c) Specific strategies for mercury reduction with reasonable time frames for implementation, capable of ensuring that mercury discharges will be below the specified level of detection within 36 months;
- (d) A program for quarterly sampling and analysis of the non-domestic discharge for mercury in accordance with EPA method 245.1;
- (e) A demonstration of specific, measurable and/or otherwise quantifiable mercury reductions consistent with the goal of reducing mercury discharges below the specified level of detection. Where such reductions cannot be demonstrated through normal effluent monitoring (e.g. mercury discharges are already near level of detection), the demonstration should incorporate the following;
- (f) Internal process monitoring, documenting the results of mercury reduction strategies at sampling locations within the facility (e.g., a program of regular monitoring of sink traps where mercury containing reagents had previously been disposed of, but have since been substituted by non-mercury containing compounds);
- (g) Internal and/or effluent sampling utilizing clean and/or ultra-clean sampling and analytical methods as referenced by the EPA Federal Register. The results of such monitoring will not be used for compliance purposes unless performed in accordance with EPA Method 245.1 and collected at the appropriate compliance measurement location; and

- (h) Loading calculations wherein the non-domestic user calculates the total mass of mercury reduced from the sanitary sewer discharge through reagent substitutions, changes in disposal practices and/or other approved MRP strategies implemented.
- (i) A semi-annual report on the status of the mercury reduction efforts. At a minimum, these reports shall: identify compliance or noncompliance with specific reduction commitments in the MRP; summarize the analytical, mass-based or quantifiable demonstration of mercury reductions performed to date; provide all applicable analytical data; provide an evaluation of effectiveness of actions taken to date; provide updates to the initial list of mercury containing compounds discharged to the sanitary sewer and propose for approval new strategies and/or modifications to the current MRP to continue and improve mercury reduction efforts;
- (j) Failure to submit an approvable MRP within 30 days of the required due date shall constitute significant non-compliance in accordance with this Section, and will result in publication as a significant violator;
- (k) A non-domestic user may request a variance from MRP requirements if all samples of the discharge for a period of one year are less than the specified level of detection; the non-domestic user has complied with the minimum monitoring frequency of quarterly sampling events; and the Director deems that the MRP commitments have been fulfilled sufficiently to ensure continued compliance with the mercury limitation. Notice of approval or disapproval of the variance from MRP requirements will be made in writing from the Director.
- (l) If a MRP variance is issued, the non-domestic user remains subject to the local limitation for mercury.

Section 360:40. Industrial Discharge Permit.

Subd. 1. Permit Requirement. Industrial users discharging wastewater to the SCWWTS shall apply for an industrial discharge permit in accordance with these rules unless the Director determines that the wastewater has an insignificant impact to the collection system or the WWTF. No industrial user requiring a permit shall discharge to the SCWWTS until the industrial user has been issued a permit. Issuance of an industrial discharge permit shall not relieve the industrial user from any obligation to obtain any hazardous waste license required by other authorities or to comply with any other local, state, or federal requirements regarding waste disposal.

The criteria to be utilized by the Director to determine if an Industrial Discharge Permit will be required include:

- (1) An average flow loading greater than 25,000 gallons per operating day or
- (2) A pollutant concentration of greater than 50% for one or more regulated pollutants (see 360:50, Subd. 6) at the point of discharge or
- (3) Has properties in the discharge for it to be constituted a prohibited discharge or
- (4) Has been pretreated or passed through an equalization tank before discharge or

- (5) A hydraulic or organic loading greater than 5% of the average dry weather capacity of the WWTF or;
- (6) An industrial process regulated by EPA categorical standards or
- (7) Others as so designated by the WWTF as defined in 40 CFR 403.12 (a).

Subd. 2. Permit Application.

- (a) Existing Significant Industrial User. An existing Significant Industrial User or other person who is required to obtain an Industrial Discharge Permit shall complete and file a permit application with the WWTF within (ninety) 90 days of notification. The appropriate permit fee as provided by Section 597 shall accompany the permit application form at the time of application. A user shall have one year from the date of notification by the City to obtain an Industrial Discharge Permit.
- (b) New Significant Industrial Users. New Significant Industrial Users proposing to connect or to commence a new discharge to the wastewater disposal system shall apply for an Industrial Discharge Permit prior to connection to or discharging into the SCWWTS. No discharge into the WWTF can commence until an Industrial Discharge Permit is received unless the Director has ruled that:
 - (1) an Industrial Discharge Permit is not required or
 - (2) a discharge waiver is granted to commence discharge pending final action by the Director.

Subd. 3. Incomplete or Deficient Application. If the permit application is incomplete or otherwise deficient, the Director will advise the applicant of such incompleteness or deficiency. An Industrial Discharge Permit shall not be issued until an application is complete.

Subd. 4. Issuance of Industrial Discharge Permit. Within sixty (60) days after receipt of a completed application form from the industrial user, the Director shall, upon a determination that the applicant is capable of compliance with the Industrial Discharge Permit conditions and these rules, issue an Industrial Discharge Permit subject to the terms and conditions provided herein.

Types of Industrial Discharge Permits:

- (a) A Standard Permit, with requirements for a specific facility, will be issued to an industrial user with a direct discharge connection to a public sewer. A Standard Permit will be issued to each Significant Industrial User, and other industrial users determined by the Director;
- (b) A Liquid Waste Hauler Permit will be issued to an industrial user who transports and discharges industrial waste to the collection system and the WWTF; and

- (c) Special Discharge Permit will be issued to an industrial user who discharges leachate, groundwater or other waste to the collection system or the WWTF for which other permit forms are not applicable.

Subd. 5. Permit Conditions. Industrial Discharge Permits shall be expressly subject to all provisions of this ordinance and all other applicable regulations, user charges, and fees established by the City Council. Permits shall contain the following:

- (a) A summary of the penalties and charges applicable for violations of the terms of of permit as provided in Section 360:85 of this ordinance.
- (b) The unit charge or schedule of user charges and fees for the wastewater to be discharged to the WWTF;
- (c) Limits on the average and maximum wastewater constituents and characteristics, either in terms of concentrations, mass limitations, or other appropriate limits;
- (d) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;
- (e) Requirements for installation and maintenance on inspection and sampling facilities;
- (f) Requirements for access to the permit holder's premises and records;
- (g) Requirements for installation, operation, and maintenance of pretreatment facilities; (see Section 360:65 on Pretreatment);
- (h) Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number, types and standards for tests and self reporting schedule;
- (i) Compliance schedules;
- (j) Requirements for maintaining and retaining records relating to wastewater discharge as specified by the Director, and affording the Director access thereto;
- (k) Requirements for notification to the Director of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the SCWWTS;
- (l) Requirements for notification of slug discharges as provided in Section 360:55 of this ordinance;
- (m) Requirements for the specific location, time, and volume of discharge to the WWTF for Liquid Waste Haulers;
- (n) The requirement for Industrial Discharge Permit transfer as stated herein; and
- (o) Other conditions as deemed appropriate by the City to ensure compliance with this ordinance.

Subd. 6. Permit Modification, Suspension, and Revocation. An Industrial Discharge Permit may be modified, suspended or revoked, in whole or in part, by the Director or City during its term for cause, including:

- (a) Violation of these rules;
- (b) Violation of any terms or conditions of the Industrial Discharge Permit;

- (c) Obtaining an Industrial Discharge Permit by misrepresentation or failure to disclose fully all relevant facts;
- (d) Amendment of these rules;
- (e) A change in the wastewater treatment process which results in the permit holder's discharge having a significantly different and negative impact on the process;
- (f) A change in the permit holder's industrial waste volume or characteristics which the permit holder knows or has reason to know will or is likely to have, either by itself or by interaction with other wastes, a negative impact on the treatment process; and
- (g) A change in the WWTF's NPDES or SDS permits Requirements, any other changes made by Local, State and/or Federal rules.
- (h) A determination by the Director that the permit holder's discharge reasonably appears to present an imminent endangerment to the health or welfare of persons, present an endangerment to the environment, or threaten interference with the operation of the SCWWTF.

Subd. 7. Time Schedule for Compliance. Any modifications in the Industrial Discharge Permit shall specify a reasonable time schedule for compliance.

Subd. 8. Refund of Permit Fee on Surrender or Revocation. A permit holder may surrender an Industrial Discharge Permit to the City prior to the permit's scheduled termination. In the event that a permit is surrendered or revoked, the permit holder shall be refunded a pro rata portion of the permit fee paid.

Subd. 9. Permit Duration. Permits shall be issued for a specified time period, not to exceed five (5) years. The user shall apply for permit reissuance a minimum of 180 days prior to the permit's expiration date by filing with the City a permit reissuance application. The terms and conditions of the permit may be subject to modification by the Director during the term of the permit as limitations or requirements as identified in Section 360:45 are modified or other just cause exists. The user shall be informed prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

Subd. 10. Permit Transfer. Industrial Discharge Permits are issued to a specific user at a specific location, for a specific operation, except in the case of Liquid Waste Haulers. An Industrial Discharge Permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the Director. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. In the event of a change in the entity owning the industrial discharge facilities for which there is an Industrial Discharge Permit, the prior owner, if feasible, shall notify the City and the succeeding owner of said change in ownership and of the provisions of the Industrial Discharge Permit and these rules. The new owner shall submit a new permit application or shall submit to the City an executed statement agreeing to be bound by the terms and conditions of the existing Industrial Discharge Permit for the

facility, in which case, upon consent of the City, the permit shall continue in effect until its expiration date.

Subd. 11. Permit Fees. The Industrial Discharge Permit fee, paid to the City, for total waste (million gallons per year) for both initial and reissuance shall be as follows:

- (a) Less than one (1) million gallons per year, annual permit fee of \$200 paid at time of issuance or reissuance of industrial permit agreement.
- (b) Between one (1) and ten (10) million gallons per year, annual permit fee of \$300 paid at time of issuance or reissuance of industrial permit agreement.
- (c) Greater than ten (10) million gallons per year, annual permit fee of \$400 paid at time of issuance or reissuance of industrial permit agreement.
- (d) Permit Application and Reissuance Application fee of \$100

Subd. 12. Permit Violation Fees. Permittees shall pay violation fees as follows by forty-five (45) days original report due date:

- (a) Discharge Violation Fee of \$100.
- (b) Late Industrial Discharge Monitoring Report Fee of \$100

Section 360:41. Liquid Waste Hauler Requirements.

Subd. 1. Any person seeking to transport and subsequently discharge residential, commercial, institutional or industrial waste into the SCWWTS shall comply with applicable requirements specified in this section:

- (a) Permit: Liquid Waste Haulers shall obtain an industrial discharge permit and shall comply with applicable requirements of these rules.
- (b) An annual permit fee of \$100 is due at time of issuance or reissuance of industrial discharge agreement.
- (c) Load Charge: Liquid Waste Haulers shall pay load charges to the City of St. Cloud within 30 calendar days after the billing date. Load charges are specified in the Liquid Waste Hauler's Permit.
- (d) Approved Disposal Sites: Liquid Waste Haulers shall discharge only at approved disposal sites as designated by the Director.
- (e) Conditions of Discharge: Any person who has obtained a written approval or permit shall discharge in accordance with the terms of that approval or permit, any other applicable provisions of these rules, applicable pretreatment standards under the Act, and any other requirements set forth by the Director.

Subd. 2. Leachate and Contaminated Groundwater Discharge Requirements: Any person seeking to discharge leachate or contaminated groundwater into the SCWWTS shall apply to the Director for discharge approval. A written application for approval to discharge leachate or contaminated groundwater into the SCWWTS shall be submitted to the Director according to the following:

- (a) An application for approval to discharge shall be submitted at least 15 days prior to initiation of the proposed discharge;

- (b) An application for approval to discharge for a duration greater than six (6) months shall be submitted at least 60 days prior to initiation of the proposed discharge
- (c) The application shall be made in a form established by the Director.

Approval or Denial: Upon receipt of a complete application for discharge approval, the Director shall:

- (a) Within 30 days, issue a written approval for discharges that will not exceed six (6) months in duration; or
- (b) Within 90 days, issue an industrial discharge permit for discharges that will exceed six (6) months of duration; or
- (c) Deny the request for discharging into the WWTF and state the reasons for denial.
- (d) Conditions of Discharge: Any person who has obtained a written approval or a permit shall discharge in accordance with the terms of the approval or permit, any other applicable provisions of these rules, applicable pretreatment standards under the Act, and any other requirements set forth by the Director.

Section 360:45. Prohibitive Discharge.

Subd. 1. No person shall discharge or cause to be discharged, directly or indirectly, into the SCWWTS any of the following:

- (a) Any combustible, flammable or explosive solids, liquids, or gases which by their nature or quantity will or are likely to cause either alone or by interaction with other substances a fire or explosion or be injurious to the treatment facility operation. At no time shall two (2) successive readings on an explosimeter, at the point of discharge into the sewer system, be more than five percent (5%) nor shall there be any single reading over ten percent (10%) of the Lower Explosive Limit (LEL).

Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, fuel oil, lubricating oil, benzene, toluene, xylene, ethers, alcohols, and ketones.

- (b) Any solids or viscous substances which will or are likely to cause obstruction to the flow in a sewer or interference with the operation of the wastewater treatment facility. These include garbage with particles greater than one-half inch (1/2") in any dimension, grease, animal guts or tissues, bones, hair, hides or fleshings, entrails, feathers, ashes, sand, spent lime, stone or marble dust, metal, glass, grass clippings, rags, spent grains, waste paper, wood, plastic gar tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, glass grinding and polishing wastes.
- (c) Any wastewater having a pH less than 5.0 or greater than 12.0 or having any corrosive property that will or is likely to cause damage or hazard to structures, equipment, or employee of the Public Utility.
- (d) Any alkaline wastewater which alone or with others will or is likely to cause an elevated pH in the treatment facility influent so as to result in an inhibiting effect on the biological process or encrustation to the sewer.

- (e) Any wastewater containing toxic or poisonous pollutants in sufficient quantity, either by itself or by interaction with other pollutants, that will or is likely to cause interference or constitute a hazard to humans. (A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.)
- (f) Any noxious or malodorous solids, liquids, or gases, which either singly or by interaction with other wastes, will or are likely to create a public nuisance or hazard to life or prevent the entry of Utility employees into a sewer for its monitoring, maintenance, and repair.
- (g) Any wastewater which will or is likely to cause excessive discoloration in treatment facility effluent.
- (h) Wastes, other than Domestic Wastes, that are infectious before discharging into the sewer.
- (i) Any solids residual from an industrial pretreatment facility except as provided in Section 360:65.
- (j) Heat in amounts which will or is likely to inhibit biological activity in the treatment facility resulting in interference or causing damage to the treatment facility, but in no case heat in such quantities that the Industrial User's waste temperature is greater than 65 C (150 F) at its point of discharge to the sewer system, or heat causing, individually or in combination with other wastewater, the influent at the wastewater treatment plant to have a temperature exceeding 40 C (104 F).
- (k) Any wastewater containing fat, wax, grease or oil in excess of 100 mg/L that will or is likely to solidify or become viscous at temperatures between 0 and 65 C and which will or is likely to cause interference at the WWTF including petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin.
- (l) Any slug discharged in such volume or strength which a person knows or has reason to know will or is likely to cause interference to the SCWWTS.
- (m) Any substance including nutrients which will cause the WWTF to violate its NPDES and/or State Disposal System Permit or the receiving water quality standards or goals.
- (n) Any substance which may cause the WWTF's effluent or any other product of the wastewater treatment process such as residues, biosolids, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the wastewater treatment system cause the system to be in noncompliance with biosolids use or disposal criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State standards applicable to the biosolids management method being used.

- (o) Any wastewater containing inert suspended solids (including lime slurries and lime residues) or dissolved solids (including sodium chloride) in such quantities that will or is likely to cause interference with the WWTF.
- (p) Radioactive wastes or isotopes of such a half-life or concentration that they are in noncompliance with standards issued by the appropriate authority having control over their use and which will or are likely to cause damage or hazards to the SCWWTF or employees operating it.
- (q) Any hazardous waste, unless prior approval has been obtained from the Director.
- (r) Any waste generated outside the area served by the SCWWTF without prior approval of the Director.
- (s) Any unpolluted water, including cooling water, rain water, storm water or groundwater, unless there is no other prudent or feasible alternative.
- (t) Any trucked or hauled wastes or pollutants, except if approved by the Director at discharge points designated by the City.
- (u) Phosphorus or other nutrients that exceed acceptable limits as set by the WWTF.

Section 360:50. Limitations on Wastewater Strength.

Subd. 1. Federal Pretreatment Standards. Federal Pretreatment Standards and General Regulations promulgated by the U.S. Environmental Protection Agency (EPA) pursuant to the Act shall be met by all users which are subject to such standards in any instance where they are more stringent than the limitations in this ordinance unless the Director has applied for, and obtained from the MPCA, approval to modify the specific limits in the federal pretreatment standards. In all other respects, Industrial Users subject to Pretreatment Standards shall comply with all provisions of these rules and any permit issued thereunder, notwithstanding less stringent provisions of the General Pretreatment Regulations or any applicable Pretreatment Standard.

Subd. 2. State Requirements. State requirements and limitations on discharges shall be met by all users which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations or those in this ordinance.

Subd. 3. City's Right of Revision. The City reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the WWTF if deemed necessary to comply with the objectives presented in Section 360:00 of this ordinance.

Subd. 4. Dilution. No user shall increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in any local or State requirements or Federal pretreatment standards.

Subd. 5. Removal Credits and Variances.

- (a) If the WWTF achieves consistent removal of pollutants limited by Federal Pretreatment Standards, the City may apply to MPCA for modification of specific limits of the EPA Pretreatment Standards. The City shall modify pollutant discharge limits applicable to an Industrial User in the Pretreatment Standards if the requirements contained in 40 CFR 403.7 of the General Pretreatment Regulations relating to credits for the removal of pollutants are fulfilled and approval from MPCA is obtained. However, nothing herein shall be construed to require the City to apply to MPCA for removal credits nor shall it be construed to in any way limit the applicability of the limitations provided in Section 360:45, Subd. 6 in the event that such a removal credit is granted, except as provided in Section 360:45, Subd. 1.
- (b) The City shall recognize and enforce the conditions allowed for by variances from Pretreatment Standards for fundamentally different factors as granted by EPA to individual Industrial Users in accordance with 40 CFR 403.13 of the General Pretreatment Regulations.
- (c) The Director shall notify all affected Industrial Users of the applicable Pretreatment Standards, their amendments, and reporting requirements in accordance with 40 CFR 403.12 of the General Pretreatment Regulations. A compliance schedule as part of the Industrial Discharge Permit shall be developed between the Director and the Industrial User to ensure that the Industrial User complies with local, State, and Federal limitations in a timely manner as provided by the same section of the General Pretreatment Regulations.

Subd. 6. Supplementary Limitations. No person, except as authorized pursuant to a compliance schedule in a permit, shall discharge or cause or allow to be discharged, directly or indirectly, into the SCWWTS any of the following waste pollutants containing concentrations in excess of the following maximum limitations for any operating day:

<u>Pollutant</u>	<u>Maximum Allowable Concentration* (mg/L)</u>
Arsenic	0.13
Cadmium	0.20
Chromium, Total	3.94
Copper	2.76
Cyanide, Total	3.11
Lead	1.25
Mercury	0.0002

Molybdenum	0.11
Nickel	0.75
Selenium	0.23
Silver	0.56
Zinc	4.23
Ammonia Nitrogen	Best Management Practices
CBOD5	Best Management Practices
Phosphorus	Best Management Practices
Total Suspended Solids	Best Management Practices

Subd. 7. Special Agreements. No statement contained in this subsection, except as promulgated by the EPA as stated in 360:50, Subparagraph 1, shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore, by the industrial concern, in accordance with applicable ordinances and any supplemental agreement with the City.

Subd. 8. Pretreatment Standards Notification. The Director shall notify all affected Industrial Users of the applicable Pretreatment Standards, their amendments, and reporting requirements in accordance with Code of Federal Regulations, Title 40, Section 403.12 of the General Pretreatment Regulations. A compliance schedule shall be developed between the City and the Industrial User to ensure that the Industrial User complies with local, State, and Federal limitations in a timely manner as provided by the same section of the General Pretreatment Regulations.

Subd. 9. Reports. Reports specified in Code of Federal Regulations, Title 40, Section 403.12 of the General Pretreatment Regulations shall be submitted to the WWTF by affected users.

Subd. 10. BMP's. BMP's shall be considered local limits and Pretreatment Standards.

Section 360:51. Strength Charge System

Subd. 1. Any permit holder as designated by the Director, discharging into the SCWWTS industrial waste at carbonaceous biochemical oxygen demand and/or total suspended solids concentrations in excess of base levels shall be subject to a strength charge. Further, any person discharging waste into the SCWWTS may be subject to a strength charge under the same provisions. Base levels, strength charge rates and the procedures for determining strength charges shall be set forth by the Director. These rates and methods may be adjusted annually.

Additional parameters, other than carbonaceous biochemical oxygen demand and total suspended solids may be subject to a strength charge.

Subd. 2. Industrial user charges may also include specific credits for industrial pretreatment which would encourage reduction in overall WWTF plant loading. Such credit to be determined by the Director.

Subd. 3. Persons subject to a strength charge shall pay the full amount to the City within 30 calendar days after the billing date. A penalty in the amount of Five Dollars (\$5.00) or 5% of the balance, whichever is greater, shall be added to all Public Utilities accounts not paid in full by the due date. The penalty for late payment shall be added to each billing for which the account remains unpaid.

Subd. 4. Certification Fee. A Fifty Dollar (\$50.00) charge will be added to all accounts certified to the County Auditor's officer for collection. This fee is to be considered separate and distinct from any penalty or interest that may be charged by the County as a result of certification.

Section 360:55. Accidental and Slug Discharges.

Subd. 1. Prevention of Accidental and Slug Discharges. All Industrial Users shall provide adequate protective procedures to prevent the accidental discharge of any waste prohibited in Section 360:45, any waste in excess of the limitations provided in Section 360:50, Subd. 6, or any waste in violation of an applicable pretreatment standard.

Subd. 2. Accidental Discharge. Accidental discharges of prohibited waste into the SCWWTS, directly or through another disposal system, or to any place from which such waste may enter the SCWWTS, shall be reported to the Director by the persons responsible for the discharge, or by the owner or occupant of the premises where the discharge occurred, immediately upon obtaining knowledge of the fact of such discharge. Such notification will not relieve users of liability for any expense, loss or damage to the wastewater disposal system or treatment process, or for any fines imposed on the City on account thereof under any State or Federal law. The responsible person shall take immediate action as is reasonably possible to minimize or abate the prohibited discharge.

The responsible person shall send a letter describing the prohibited discharge to the Director within seven (7) days after obtaining knowledge of the discharge. The letter shall include the following information:

- (a) the time and location of the spill;
- (b) description of the accidentally discharged waste, including estimate of pollutant concentrations;
- (c) time period and volume of wastewater discharged;
- (d) actions taken to correct or control the spill;
- (e) a schedule of corrective measures to prevent further spill occurrences.

Subd. 3. Slug Discharge. In the event that an Industrial User discharges a slug in such volume or strength that the Industrial User knows or has reason to know it will cause interference in the POTW, the Industrial User shall immediately report the same to the Director. Within seven (7) days thereafter, the Industrial User shall send a letter to the Director describing the slug as specified under Accidental Discharge.

Subd. 4. Spill Containment Program Requirement. Any Industrial User with a significant potential to discharge materials listed in the prohibited discharge section of this ordinance is required to install and maintain an adequate spill containment system. General spill containment requirements are listed below:

- (a) Process, storage, holding or treatment tanks containing materials listed in the prohibitive discharge section of this ordinance as well as the associated piping, pumps and other appurtenances must be contained if a spill or leak could enter the sewer. This includes tanks used for short-duration mixing, processing or storage.
- (b) The City prohibits floor drains with direct connections to the public sewer in facilities that store toxic or flammable materials.
- (c) The spill containment system must be capable of containing 100 percent of the volume of the largest tank of restricted material.

(d) Acceptable Containment Systems Include:

- 1. Diking. Diking may be used to spill contain single shell tanks. Diking usually consists of concrete blocks, concrete berming or other materials that form a permanent structural barrier. Portable spill containment trays/pallets are also acceptable.
- 2. Self-Containment. Tanks of double shell construction are considered to be self-contained and do not require additional spill containment features unless there is a significant likelihood of overflowing. These tanks consist of two independent structural shells with the outer shell capable of containing any leakage from the inner one. An air gap of at least one-inch must be provided between the inner and outer shell.
- 3. Pits. Pits constructed under or around tanks are acceptable as spill containment. No openings, manual or electric gates or valves are allowed.

Subd. 5. Slug Discharge Control Plan. Any Significant Industrial User (SIU) that may batch discharge any wastewater (including from spill containment areas), treated or otherwise, and that discharge may potentially cause adverse impacts to the collection system or treatment plant must complete and implement a Slug Discharge Control Plan. Slug Discharge Control Plan must contain the following elements:

- (a) Description of discharge practices, including non routine batch discharges.
- (b) Description of stored chemicals.
- (c) Procedure for promptly notifying the WWTF of slug discharges as defined under Section 403.5(b) of the Code of Federal Regulations Title 40 and Section 360:40 of this ordinance, with procedures for follow-up written notification within five (5) days;

- (d) Procedures necessary to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of site runoff, and employee training. Include drawings that show spill containment dimensions and the locations of all floor drains, wastewater piping and pretreatment equipment.
- (e) The Slug Control Plan must be maintained at the discharge location and be available to staff from the City, MPCA or EPA upon request;

Section 360:60 Monitoring Requirements.

Subd. 1. Monitoring Facilities. When required by the City's permit, the permit holder of any property services by a building sewer carrying industrial wastes shall install a suitable control structure, together with such necessary meters and other appurtenances in the building sewer to facilitate observation sampling, flow measurement, and measurement of the wastes. Such structure and equipment when required shall be constructed at the owner's expense in accordance with plans approved by the City and shall be maintained by the owner so as to be safe and accessible at all times.

Subd. 2. Monitoring Point. Each permit holder shall have an approved monitoring point provided at the permit holder's expense. Liquid Waste Haulers and special industrial users may be exempted by permit from portions of this section. An approved monitoring point shall meet the following criteria:

- (a) the wastewater flow is visible and accessible for inspection and monitoring purposes;
- (b) the wastewater flow has appropriate velocity and is well mixed to yield representative samples;
- (c) the wastewater flow at the monitoring point conveys all of the permit holder's industrial waste;
- (d) the monitoring point is large enough or space is provided nearby to allow for monitoring equipment and replacement; and
- (e) the total wastewater flow of the permitted facility, if exceeding 25,000 gallons per day, can be measured using an open channel or other acceptable measuring device.

The Director may allow multiple monitoring points provided that each point meets criteria 1-5 of this section.

All permit holders shall have an approved monitoring point. All new installations shall be in accordance with provisions of the Minnesota Plumbing Code, Minnesota Rules, chapter 4715.

Each permit holder is responsible for all maintenance on the approved monitoring point, including routine cleaning.

Subd. 3. Inspection Maintenance Hatch. The Director may require the installation of an inspection maintenance hatch (manhole), in the event of construction, replacement or modification of a permit holder's sewer connection(s). Permit holders shall provide notice to the Director prior to any such replacement or modification. The inspection maintenance hatch shall be of standard size and shape and be located on the private sewer line between the facility and the public sewer. If feasible, the inspection maintenance hole shall convey the total facility wastewater discharge.

Subd. 4. Flow Measurement. A permit holder, when required by permit, shall install and maintain a flow measurement device for instantaneous rate and/or cumulative flow volume determinations. Metered water supply may be used in lieu of flow measurement devices if it can be documented that the water usage and waste discharge are the same, or where a measurable adjustment to the metered supply can be made to determine the waste volume.

Meters and flow records shall be maintained at the permit holder's expense in good operating condition at all times. The permit holder shall notify the Director in writing within five (5) days in the event that the permit holder becomes aware that the meter or flow recorder has failed to accurately register the flow. The permit holder shall also notify the Director of the permit holder's intention to alter the installation of a meter or flow recorder so as to affect the accurate recording of industrial waste entering the SCWWTS.

The following requirements apply to the selection and installation of wastewater flow measuring devices:

- (a) Flow measuring devices including, but not limited to, weirs, flumes, area-velocity sensors and closed-pipe flow meters, shall be installed such that proper hydraulic conditions exist. Factors used to determine the type, size and location of a flow measuring device include:
 1. flow rate and velocity;
 2. pipe configuration and slope;
 3. turbulence;
 4. presence of nearby tributary flows and;
 5. solids concentration.
- (b) All flow measuring devices shall be properly installed and, where applicable, properly level and sealed.
- (c) When a weir or a flume is utilized, the flow level-sensing device shall be installed at a proper distance upstream of the primary flow device and in a location where excessive turbulence is not created.

Subd. 5. Self-monitoring Analyses. All measurements, tests, and analyses of the characteristics of water and wastes as outlined in the permit shall be determined in accordance with guidelines established in 40 CFR Part 136 and 40 CFR 403.12 (g) of the General Pretreatment Regulations.

Subd. 6. Representative Sampling. Representative samples of a permit holder's industrial waste shall be collected on a normal operating day and in accordance with guidelines listed in the Industrial Discharge Permit. Industrial Users subject to Pretreatment Standards shall sample in accordance with the Pretreatment Standards. Self-monitoring point(s) for Industrial Users who are not subject to Pretreatment Standards shall be at a location and at a frequency as specified in the Permit. The samples shall accurately characterize the discharge, taking into account batch discharges, daily production variations, downtime, cleanup and other operating conditions.

Subd. 7. Monitoring Techniques. Monitoring methods that will be used by industrial users, and contracted monitoring services and/or commercial analytical laboratories that collect and/or analyze wastewater samples to fulfill requirements of these rules or any permit issued under these rules. Monitoring methods specified in this section include sample collection, preservation, handling, analysis and flow measurement.

- (a) A series of at least four grab samples is required when analyzing wastewater for pH, grease and oil, total phenols and sulfides. Samples for cyanide and volatile organics may be collected by the grab sampling technique described above or by an automatic sampler, using acceptable techniques. For other parameters, grab samples may be required when the wastewater flow is not continuous or when necessary to determine the instantaneous wastewater characteristics. Grab samples can be taken manually or automatically. Appropriate containers shall be used when collected grab samples.
- (b) Composite samples are formed by combining discrete samples collected either manually or by an automatic sampler. Each discrete sample shall have a minimum volume of at least 100 milliliters. Discrete samples can be composited using any of the following methods.
 - 1. equal time intervals and equal volume samples;
 - 2. equal time intervals and unequal volume samples; or
 - 3. unequal time intervals and equal volume samples.
- (c) When an equal time interval is used, the maximum sampling interval shall be 30 minutes. The composite sample volume shall be well mixed before sub sampling.

Subd. 8 Sample Handling Procedures. All samples shall be contained, preserved and held in accordance with 40 CFR Part 136. The sample temperature shall be maintained at four (4) degrees Celsius, if necessary, from the time of collection until sample analysis is performed. When applicable, additional preservation shall be performed upon sample collection.

Subd. 9 Industrial Discharge Monitoring Reports (IDMR's) A condition of the Industrial Discharge Permit shall include the completion and submittal of accurate routine self-monitoring reports to the Director in a form subscribed to by the Director. The nature and frequency of routine reporting shall be based upon the requirements specified in the Discharge Permit.

The Director may modify the above reporting schedule for a particular permit holder based on the permit holder's industrial waste characteristics. Permit holders subject to Pretreatment Standards shall submit reports to the POTW in accordance with the applicable Pretreatment Standards.

Permit holder's shall submit complete IDMR's to the City such that the Director has received such reports on or before the 21st calendar day of the month following the end of each applicable reporting period, unless otherwise stated in the Industrial Discharge Permit. Any permit holder not submitting a self-monitoring report by this date shall pay a late reporting fee as defined in 360:40 Subd 12.

Subd. 10. Inspection and Sampling. The City may conduct such tests as are necessary to enforce this ordinance, and employees of the City may enter any property for the purpose of taking samples, obtaining information or conducting surveys or investigations relating to such enforcement. Entry shall be made during operating hours unless circumstances require otherwise. In all cases where tests are conducted by the City for the purpose of determining whether the user is in compliance with regulations, the cost of such tests shall be charged to the user and added to the user's sewer charge. In those cases where the City determines that the nature or volume of a particular user's wastewater requires more frequent testing, the City may charge such user for the tests, after giving the user ten (10) days written notice of its intention to do so, and the cost thereof shall be added to the user's sewer charge.

Duly authorized employees of the City, MPCA, and EPA bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this ordinance. Those employees shall have no authority to inquire into any processes except as is necessary to determine the kind and source of the discharge to the SCWWTS.

While performing the necessary work on private properties referred to in Subd. 5 of this subsection, the authorized employees of the City shall observe all safety rules applicable to the premises established by the company.

Duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds an easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the SCWWTS lying within said easement. All entry and subsequent work, if any, on said easement shall be done in all accordance with the terms of the easement pertaining to the private property involved.

Subd. 11. Testing Procedures. Testing procedures for the analysis of pollutants for permit applications and routine self monitoring shall conform to the guidelines established in Code of Regulations, Title 40, Part 136 and Code of Federal Regulations, Title 40, Section 403.12 (g) of the Federal Pretreatment Regulations.

Subd. 12. Report and Monitoring Discrepancies. A permit holder shall be notified in writing by the Director of a significant discrepancy between the permit holder's routine, self-monitoring records and the City's monitoring results within thirty (30) days after the receipt of such reports and monitoring results. The permit holder shall then have ten (10) working days to reply in writing to such notification. If mutual resolution of such discrepancy is not achieved, additional sampling shall be performed by the City. Samples may be split between the permit holder's laboratory or agent and the City's laboratory for analysis.

Subd. 13. Wastewater Discharge Records. Wastewater discharge records of a permit holder shall be kept by the permit holder for a period of not less than three (3) years. The permit holder shall provide the Director reasonable access to these records during normal business hours. A permit holder, subject to an applicable Pretreatment Standard, shall maintain all records required by Code of Federal Regulations, Title 40, Section 403.12 (n) of the General Pretreatment Regulations.

Section 360:65. Pretreatment.

Subd. 1. Compliance with Standards. Where pretreatment, flow equalizing facilities or interceptors are provided for any water or wastes, they shall be effectively operated and maintained in satisfactory and effective condition by the owner and at the owner's expense, and shall be available for inspection by t City employees at all reasonable times.

Industrial Users shall achieve compliance with all Federal Categorical Pretreatment Standards within the time limitations as specified by the Federal Pretreatment Regulations. Industrial Users as required by their Industrial Discharge Permit shall submit to the Director for review detailed plans showing the pretreatment facilities at least sixty (60) days prior to initiation of construction. The Director shall approve the Industrial User's pretreatment plans if it appears that the proposed pretreatment facility is capable of meeting all applicable limitations.

The Director's review and approval shall in no way relieve the Industrial User from the responsibility of modifying the facility as necessary to produce an effluent complying with the provisions of these rules. Any subsequent modifications in the pretreatment facilities which will result in a substantial change in discharge shall be reported for approval by the Director upon a determination that the modified facility is capable of meeting all applicable limitations, prior to the modification of the existing facility.

Residual solids from a pretreatment facility shall not be disposed, directly or indirectly, into the SCWWTS without prior written approval from the Director. The disposal method shall be in accordance with local, State and Federal requirements. The Director shall be notified in writing within ten (10) days of any substantial changes in such residual solids disposal procedures and/or characteristics.

Subd. 2. Separatoe and Trap Installations. Grease, oil, and sand separators and traps shall be provided for at the owner's expense for the proper collection of waste containing excessive amounts of grease, oil, or sand. All trap installations shall be regularly cleaned and maintained for adequate performance. All records of separators and traps must be available for review by City personnel. The distance between the inlet and outlet of the separator or trap must be sufficient to

allow gravity separation of solids. To prevent overloading, flow control baffles and any necessary inlet flow, control fitting shall be provided.

Section 360:70. Confidential Information.

Subd. 1. User information obtained from reports, questionnaires, permit applications, permits, monitoring programs, and from inspections shall be available to the public or other governmental agencies without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Director that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets.

Subd. 2. When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this ordinance, the NPDES Permit, State Disposal System Permit, and/or the Pretreatment Programs; provided, however, that such portions of a report shall be available for use by the State or any State agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Subd. 3. Information accepted by the Director as confidential shall not be transmitted to any governmental agency or to the general public by the Director until and unless a ten (10) day notification is given to the user.

Section 360:75. Severability and Conflicts.

Subd. 1. Severability. If the provisions of any section, paragraph, or sentence of these rules shall for any reason be held to be unconstitutional or invalid by any court of competent jurisdiction, the provisions of the remaining sections, paragraphs, and sentences shall nevertheless continue in full force and effect.

Subd. 2. Conflicts. If conflicts arise between these rules or regulations previously adopted by the City, these rules, and the interpretations thereof, shall take precedence.

Section 360:80. Enforcement.

Subd. 1. Remedies Available. The Director may suspend the sewer system service and/or an Industrial Discharge Permit when such suspension is necessary, in the opinion of the Director, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, the environment, or the SCWWTS, or would cause the City to violate any condition of its NPDES or State Disposal System Permit. Any user notified of a suspension of the sewer system service and/or the Industrial Discharge Permit shall immediately stop the discharge. In the event of a failure of the user to comply voluntarily with the suspension order, the Director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the SCWWTS or endangerment to any individuals. The Director shall reinstate the Industrial Discharge Permit and/or the sewer system service upon proof of the elimination of the noncomplying discharge.

Subd. 2. Revocation of Permit. In accordance with the procedures of Section 360:75 of this ordinance, the Director may revoke the permit of any user which fails to factually report the wastewater constituents and characteristics of its discharge; which fails to report significant changes in wastewater constituents or characteristics; which refuses reasonable access to the user's premises for the purpose of inspection or monitoring; or for violation of conditions of its permit, this ordinance, or applicable State and Federal regulations.

Subd. 3. Notification of Violation. Whenever the Director finds that any person has violated or is violating this ordinance, Industrial Discharge Permit, Phosphorus Management Plan or any prohibition, limitation or requirement contained herein, the Director may serve upon such person a written notice stating the nature of the violation. Within ten (10) days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the City by the user.

Subd. 4. Show Cause Hearing.

- (a) Notice of Hearing. If the violation is not corrected by timely compliance, the Director may order any user which causes or allows an unauthorized discharge to show cause before the City Council why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the City Council regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the City Council why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least fourteen (14) days before the hearing. Service may be made on any agent or officer of a corporation.
- (b) Hearing Officials. The City Council may itself conduct the hearing and take the evidence, or may designate any of its members, administrative law judge, or any officer or employee of the (assigned department) to:
 1. Issue in the name of the City notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
 2. Take the evidence; and,
 3. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the City Council for action thereon.
- (c) Transcripts. At any hearing held pursuant to this ordinance, testimony taken must be under oath and recorded. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.
- (d) Issuance of Orders. After the City Council has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed or existing treatment facilities,

devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

Subd. 5. Legal Action. If any person discharges wastewater, industrial wastes, or other wastes into the City's wastewater disposal system contrary to the provisions of this ordinance, Federal or State pretreatment requirements or any order of the City, the City Attorney may commence an action for appropriate legal and/or equitable relief.

Section 360:85. Penalties.

Subd. 1. Administrative Fines. Notwithstanding any other section of this ordinance, any user who is found to have violated any provision of this ordinance, or permits and orders issued hereunder, shall be fined in an amount not to exceed \$1,000 per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Unpaid charges, fines, and penalties shall constitute a lien against the individual user's property. Industrial Users desiring to dispute such fines must file a request for the City Finance Director to reconsider the fine within 10 days of being notified of the fine. Where the City Finance Director believes a request has merit, the Finance Director shall convene a hearing on the matter within 30 days of receiving the request from the Industrial User.

Subd. 2. Criminal Penalties. Any person violating any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be furnished by a fine of not more than \$800, or by imprisonment for not to exceed 90 days, or both.

Subd. 3. Costs. In addition to the penalties provided herein, the City may recover court costs, court reporter's fees and other expenses of litigation by an appropriate action against the person found to have violated this ordinance or the orders, rules, regulations, and permits issued hereunder.

Subd. 4. Costs of Damage. Any person violating any of the provisions of this ordinance shall become liable to the City for any expense, loss, or damage. The Director may add to the user's charges and fees the costs assessed for any cleaning, repair, or replacement work caused by the violation or discharge. Any refusal to pay the assessed costs shall constitute a violation of this ordinance.

Subd. 5. Falsifying Information. Any person who knowingly makes false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this ordinance, or Industrial Discharge Permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance, shall upon conviction, be punished by a fine of not more than \$1000 or by imprisonment for not more than 90 days, or both.

Section 360:90. Publication of Significant Violations. Public notification will occur at least annually in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the WWTF of Industrial Users which, at any time during the previous twelve (12) months, were in significant violation of applicable Pretreatment Standards or Pretreatment Requirements. For the purpose of this provision, an Industrial User is in significant violation if its violations meet one or more of the following:

Subd. 1. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken during a six (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or requirement, including instantaneous limits.

Subd. 2. Technical review criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all the measurements taken for the same pollutant parameter during a six (6) month period equal or exceed the product of a numeric Pretreatment Standard or requirement, including instantaneous limits times the applicable TRC (TRC = 1.4 for CBOD, SS, fats, oil and grease and TRC = 1.2 for all other pollutants except pH);

Subd. 3. Any other violation of a pretreatment (daily maximum or longer term average, instantaneous limit or narrative standard) that the Director determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of City employees or the general public);

Subd. 4. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment and has resulted in the necessity for the City's to exercise its emergency authority under 40 CFR 403.8 (F)(1)(vii)(b) to halt or prevent such a discharge;

Subd. 5. Violation, by ninety (90) days or more after the schedule date, of a compliance schedule milestone contained in a local control mechanism or enforcement order, for starting construction, completing construction, or attaining final compliance;

Subd. 6. Failure to provide required reports such as baseline monitoring reports, self-monitoring reports, and reports on compliance with compliance schedules, within forty-five (45) days of the due date;

Subd. 7. Failure to accurately report noncompliance; or

Subd. 8. Any other violation or group of violations, which may include a violation of Best Management Practices, which the Director determines will adversely affect the operation or implementation of the local Pretreatment Program.

Section 370 - Heritage Preservation Ordinance

Section 370:00. Declaration of Public Purpose. The identification, preservation, protection, enhancement, perpetuation, and use of areas, places, buildings, structures, and other objects having special historical interest and value in the City of St. Cloud is in the public interest and is desired in the interest of the health, education, safety, welfare, and prosperity of the people for the following purposes:

Subd. 1. Safeguard the heritage of the City of St. Cloud by preserving properties which reflect significant elements of the City's cultural, social, economic, political, visual and/or architectural history.

Subd. 2. Protect and enhance the City of St. Cloud's appeal to residents, visitors and tourists, and serve as a support and stimulus to business and industry.

Subd. 3. Enhance the visual and aesthetic character, diversity and interest of the City of St. Cloud.

Subd. 4. Foster civic pride in the beauty and notable accomplishments of the past and present.

Subd. 5. Promote the preservation and continued use of significant historic properties for the education and general welfare of the people of the City of St. Cloud.

Subd. 6. Encourage new design and construction that complements the City's historical buildings.

Subd. 7. Protect property values within the City.

Subd. 8. Identify as early as possible and resolve conflicts between preservation of historical buildings and alternative land uses.

Subd. 9. Administer the alteration permit process to protect the architectural history of properties located in the City's historic districts.

Section 370:05. Definitions.

Subd. 1. "Historic Preservation": The study, identification, protection, restoration and rehabilitation of buildings, structures, objects, districts, areas and sites significant in the history, architecture, archaeology or culture of the City of St. Cloud.

Subd. 2. "Heritage Preservation Property": Any area, place, building, structure, land, site or other objects located within a Historic District.

Subd. 3. "Alteration": Any construction, addition, demolition, relocation or material change affecting the exterior of a Heritage Preservation Property that requires a building permit.

Subd. 4. “Certificate of Appropriateness”: A certificate issued by the Planning Director evidencing the review and authorization by the HPC of plans for alteration of a Heritage Preservation Property or nominated property under interim protection.

Subd. 5. “Design Review Guidelines”: Specific design criteria adopted by the HPC for Historic Districts to be used in reviewing applications for Certificates of Appropriateness.

Subd. 6. “Historic District”: A single parcel or combination of parcels and right-of-way within a defined area designated as an Historic District by the City Council because of the historical, cultural, architectural, or archaeological significance of the area.

Subd. 7. “Minor Alteration”: Work on the exterior of a Heritage Preservation Property that does not modify its design, massing, materials, or quality of workmanship. Minor work includes: repair or reroofing in kind; repairs or replacement in kind for existing windows, doors, siding or trim; repairs or replacement in kind for porches; and other work of a similar nature or which is specifically provided for in the applicable Design Review Guidelines.

Subd. 8. “Major Alteration”: Work on the exterior of a Heritage Preservation Property that modifies its design, massing, materials, or quality of workmanship.

Subd. 9. “Planning Director”: Officially appointed Planning Director, or his/her designee.

Subd. 10. “Owner”: Any person having a freehold interest or a contractual interest that may become a freehold interest.

Subd. 11. “HPC”: Heritage Preservation Commission.

Section 370:10. Establishment of HPC. There is hereby established a HPC.

Subd. 1. The Commission. The HPC consists of seven (7) voting members and two ex-officio, non-voting members who are appointed by the Mayor and approved by the City Council. The Mayor may remove any member of the Commission whenever, at the Mayor’s discretion, the best interests of the City will be served.

Subd. 2. Terms. The term of each member will be for three years and until a successor is appointed and approved. No person may be appointed to more than two successive terms as a HPC member. Upon serving two successive terms, a HPC member may be appointed and approved to a new term after a period of one (1) year between the completion of the past term and beginning of the new term.

Subd. 3. Vacancies. If the office of any HPC member becomes vacant, the vacancy will be filled in the same manner in which the last regular appointment was made for the unexpired portion of the term.

Subd. 4. Qualifications. All HPC members will serve without compensation. All voting members with the exception of the Historical Society nominee will be residents of the City of St. Cloud. All members must have a demonstrated interest, competence, and knowledge in

history, historic preservation, architecture or urban design. Appointments to the HPC will represent the following interests:

- (a) Historical Society Nominee. At least one member will be an individual nominated by a local county historical society.
- (b) Preservation-related Professional. At least one member will be an individual of one of the following preservation-related professions: history, architectural history, archaeology or a registered architect.
- (c) Real Estate Professional. At least one member will be an individual from the real estate profession.
- (d) City Planning Commission. One ex-officio member, selected by the St. Cloud Planning Commission, will be a voting member of the HPC.
- (e) Housing and Redevelopment Authority. One non-voting, ex-officio member, selected by the St. Cloud Housing and Redevelopment Authority Board, will be requested from the St. Cloud Housing and Redevelopment Authority.
- (f) St. Cloud State University. One non-voting, ex-officio member, selected by the St. Cloud State University President, will be requested from St. Cloud State University.

Subd. 5. Meetings. The HPC will meet monthly upon a regular schedule adopted by it and may meet additionally at the call of the chairperson or by consent of a majority of the members. Such meetings and notice thereof will comply with applicable laws.

Subd. 6. Officers: The HPC will, at its first meeting in January of each year, elect a Chairperson and Vice-Chairperson. No person will serve more than two consecutive terms as Chairperson or Vice-Chairperson. The Mayor will provide a recording secretary for the Commission.

- (a) Chair. The Chairperson will preside and maintain order at all Commission meetings.
- (b) Vice-Chair. The Vice-Chairperson will fulfill the duties of the Chairperson in the absence of the Chair.
- (c) Secretary. The Secretary will be responsible for the minutes of all official meetings of the Commission.

Subd. 7. Procedure. The HPC may establish and appoint from its members, on a majority vote of its members, standing committees. Generally, HPC business will be conducted in accordance with Roberts Rules of Parliamentary Procedure, except as Roberts Rules may be in conflict with this ordinance in which case this ordinance will govern. The HPC may adopt additional rules of procedure, subject to City Council review and approval, as it may deem advisable and necessary for the conduct of its affairs, for the purpose of carrying out the intent

of this ordinance, which are not inconsistent with the laws of the City of St. Cloud and the State of Minnesota.

Subd. 8. Reporting. The HPC will present an annual report containing a statement of its activities to the Mayor, City Council, Planning Commission, St. Cloud Housing and Redevelopment Authority, MN Historical Society, and local county historical societies.

Section 370:15. HPC Duties and Responsibilities.

Subd. 1. Studies and Reports. The HPC, with the assistance of the Planning Division and in cooperation with other City departments and appropriate historical societies, will prepare studies that catalogue buildings, land, areas, properties or other objects to be considered for designation as Historic Districts. Such catalogues, and any additions or deletions thereto, will be adopted by resolution by the HPC.

Subd. 2. Designation of Properties. The HPC will determine if any area, place, building, structures, lands, properties or other objects should be recommended for designation as a Historic District in accordance with designation criteria provided for in this ordinance.

Subd. 3. Design Review Guidelines. The HPC will develop design review guidelines for properties located in Historic Districts. The guidelines are the basis for review of alteration permit requests for properties within Historic Districts. The Design Review Guidelines for the St. Cloud Commercial Historic District are published in the City of St. Cloud Downtown Preservation Design Manual. The Design Review Guidelines for St. Cloud's residential Historic Districts are published in the City of St. Cloud Residential Historic District Preservation Design Manual.

Subd. 4. Heritage Preservation Property Alteration Permit Review. A Heritage Preservation Property alteration permit will be required for demolition in whole or part subject to Minnesota Statute Chapter 463, reconstruction or repairs or erection of exterior signs, moving of buildings, new construction, and exterior alterations, within the City's Historic Districts. The application must include detailed plans including a site plan, building elevations, and design details and materials as necessary to evaluate the request. The Planning Director will review the alteration application and if complete, forward the application to the HPC at their next available meeting.

(a) Minor Alteration: Applications for minor alterations will be approved by the Planning Director when the work is in conformance with the Design Review Guidelines from Section 370:15, Subd. 3. A Certificate of Appropriateness will be issued, and the HPC will be notified of the certificate issuance. The Planning Director, at his/her discretion, may require applications for minor alterations to be classified as major alterations and thereby subject to Section 370:15, Subd. 4B.

(b) Major Alteration: Major alteration applications that are clearly in conformance with the Design Review Guidelines from Section 370:15, Subd. 3., may be approved by the Planning Director, after consultation with, and approval by the HPC Chair. With approval of major alterations by the Planning Director, a Certificate of Appropriateness

will be issued, and the HPC will be notified of the certificate issuance. Applications for all other major alterations must be reviewed and approved by the HPC. The HPC will determine within forty (40) days of receipt of an application for major alteration if the work to be performed pursuant to the permit application and plans are contrary to the Design Review Guidelines in Section 370:15, Subd. 3.

(c) Alteration Permit Determination: If it is determined that the alteration permit application will not have an adverse effect on the Historic District and conforms to the applicable Design Review Guidelines, the application will be approved and the applicant will be notified in writing of the approval through a Certificate of Appropriateness. If it is determined that the permit application will have an adverse effect on the Historic District and/or does not conform to the applicable Design Review Guidelines, the HPC will notify the applicant in writing of its findings and advise the applicant of their right to appeal to the City Council.

(d) Appeal: If the Heritage Preservation Property Alteration Permit is denied or modified by the HPC, the applicant will, within ten (10) days of the date of the HPC's order and decision, have a right to appeal such order and decision to the City Council. An appeal will be deemed complete upon receipt by the Planning Division of two copies of a notice to appeal and statement setting forth the grounds for the appeal. One copy of the notice of appeal and statement will be sent to the HPC and one copy to the City Council. The City Council will hold a public hearing in accordance with Section 370:15, Subd. 5, of this ordinance. The City Council will render a decision on the appeal within thirty (30) days of the date of the public hearing held before the City Council or it will be considered denied.

Subd. 5. Survey. The HPC will conduct continuing surveys of all areas, places, buildings, structures or objects in the City of St. Cloud which the HPC, on the basis of information available or presented to it, has reason to believe are significant to the cultural, social, economic, political or architectural history of the City of St. Cloud.

Subd. 6. Improvements. The HPC will act in a resource and advisory capacity to owners of historically significant properties regarding the properties preservation, restoration, and rehabilitation.

Subd. 7. Education. The HPC will work for the continuing education of the citizens of the City of St. Cloud with respect to the civic and architectural heritage of the City.

Subd. 8. Acceptance of Gifts and Contributions. The HPC will assist City staff in preparation of applications for grant funds to be made through the City for the purpose of heritage preservation. Any contribution or gifts will be expended for historic preservation in the manner provided through the fiscal policy of the City.

Subd. 9. Archives. The HPC will collect and review certain City planning and development records, documents, studies, models, maps, plans, and drawings for possible submission to a local county historical society as a permanent record of City history and development, subject to Minnesota Statute 138.17.

Subd.10. Acquisitions. The HPC may recommend to the Planning Commission and City Council that certain property eligible for designation as a Heritage Preservation Property be acquired by gift, negotiation or other legal means as provided in Minnesota Statutes, Chapter 117.

Subd. 11. State and National Designation. The HPC will make no application to the National Register or to the State of Minnesota for the designation of a Historic District without the consent of the City Council after review and comment by the Planning Commission. Property owner(s) will be sent mailed notice at least ten (10) days prior to any City Council action to consent to such application submission by the City.

Subd. 12. Appeals. The HPC will hear and decide on appeals alleging an error in any order, requirement, decision or determination made by an administrative officer of the City in the enforcement of this ordinance or ordinances designating a Historic District.

Subd. 13. City Activity. No City capital improvement activity, including but not limited to new roadway construction, roadway widening, new sidewalks, and street lighting, which may adversely impact the exterior appearance of a designated Heritage Preservation Property will be approved or performed without first being presented to the HPC for review and recommendations. The HPC may provide any comments or recommendations to the Planning Commission and City Council within 35 days of receiving notice of the proposed improvement. If the HPC does not provide a recommendation within the 35 day time period, the proposed capital improvement activity may be approved.

Subd. 14. Emergency Repair. In emergency situations where immediate repair is needed to protect the safety of the structure and its inhabitants and where such repair is in conflict with the approved Design Review Guidelines, the Chief Building Official may approve the repair without prior HPC action. In the case of a permit issued pursuant to this subdivision, the Chief Building Official will notify the HPC of its action and specify the facts or conditions constituting the emergency situation.

Subd. 15. Economic Resource Assistance. The HPC will work to identify economic resources that may be available to assist property owners with historic preservation improvements. The HPC will support community organizations fundraising efforts for historic preservation improvements.

Section 370:20. Retention of Designating Ordinance and Heritage Preservation Ordinance Power. No amendment adopted to change or revoke a Historic District designation, in whole or part, upon petition of its owner or owners will inhibit the authority of the City Council to subsequently amend the designating ordinance to redesignate the same property.

Section 370:25. Nomination and Designation Process. Historic Districts will be designated by the City Council upon the recommendation of the Planning Commission and the HPC in the following manner:

Subd. 1. Historic District Nomination. Nomination of a property(s) to be considered for designation as a Historic District must be submitted to the Planning Director on an approved City nomination application and must be accompanied by all required support information. A nomination application can be submitted by the following:

- (a) The HPC
- (b) The City Council
- (c) The Mayor
- (d) Any person with a legal equitable interest in the subject property.

Subd. 2. Designation Criteria. While considering the nomination of a Historic District, the HPC will apply one or more of the following criteria:

- (a) The property has yielded or may be likely to yield, information important in prehistory or history.
- (b) The property is associated with significant events or with an important pattern of cultural, political, economic, or social history.
- (c) The property has distinguishing characteristics of an architectural type, period, form, or treatment which is not adequately represented elsewhere in the City.
- (d) The property exemplifies work of a master builder, engineer, designer, artist, craftsman, or architect.
- (e) The property contains or is associated with distinctive elements of the City's identity.
- (f) The property has distinguishing characteristics of significance that are for the most part original and intact or capable of restoration.

Subd. 3. HPC Decision on Nomination. Upon receipt of a complete nomination application, the HPC will determine if the nomination potentially meets any of the designation criteria contained in Section 370:25, Subd. 2 and is worthy of designation, in which case, the HPC will prepare a Historic District designation study.

Subd. 4. Interim Protection. The City Council may adopt an interim ordinance in accordance with Minnesota Statute 462.355 prohibiting the issuance of a city permit to construct, demolish, or alter any structure within the proposed designation area being studied by the HPC for Historic District designation.

Subd. 5. Public Hearing. Upon completion of a Historic District designation study, the HPC will schedule a public hearing. Notice of the time and place of the public hearing and a summary of the proposed designation or amendment will be given not more than thirty (30) days nor less than ten (10) days in advance by publishing a notice in the official newspaper of the City of St. Cloud. In addition, notification will be given at least ten (10) days prior to the date of the public hearing to the owner(s) of property within 350 feet of the subject property.

Notice will describe the proposed designation, date, time, and place of hearing, and will offer the opportunity for written or oral comment.

Subd. 6 HPC Designation Recommendations. After the public hearing, the HPC will recommend approval in whole or part or disapproval of the proposed Historic District in writing to the Planning Commission with the details of the proposed Historic District. A simple majority vote of the HPC for approval in whole or part is required. The minutes of the HPC public hearing will be provided to the Planning Commission.

Subd. 7. Planning Commission. Upon receipt of a recommendation from the HPC, the Planning Commission will review the proposed Historic District for consistency with the City of St. Cloud Comprehensive Plan, the effect of the proposed Historic District upon the surrounding neighborhood, and any other planning consideration that may be relevant to the proposed Historic District. The Planning Commission will forward its recommendation, as well as the public records of its proceedings, to the City Council.

Subd. 8. Communication with the MN Historical Society. A copy of the HPC's recommendation for the proposed designation of a Historic District, including boundaries, will be sent to the MN Historical Society in accordance with Minnesota Statutes, Section 471:193, Subd. 6, which provides for a sixty (60) day review period. The Historical Society's comments will be sent to the City Council for consideration.

Subd. 9. City Council Designation. Upon receipt of the Planning Commission's recommendation and expiration of the MN Historical Society's review period, the City Council will schedule a public hearing in accordance with Section 370:15 of this Ordinance. The City Council will conduct a public hearing and take final action on the proposed Historic District within thirty (30) days of the date of the City Council public hearing.

Subd. 10. Failure to Send Notice. Failure to send any notice by mail to any property owner(s) where the address of such owner(s) is not a matter of public record will not invalidate any proceeding in connection with the proposed Historic District.

Subd. 11. Amendment or Rescission. A Heritage Preservation Property(s) may be removed from a Historic District following the same manner and procedure that was followed in the designation of the property(s).

Section 370:30. Penalties for Violation. Violations of this Ordinance are subject to Section 1100.00, Penalties and Revocation of Licenses, in the 2006 Code of Ordinances. Each day a violation is present will constitute a separate violation, and will be punishable as such. A Heritage Preservation Property on which there exists any remodeling, repair, construction, or a building moved in violation of this Ordinance or an ordinance designating a Historic District is declared a nuisance, and the imposition of the penalties prescribed will not prevent the City from instituting an appropriate action or proceeding to prevent an unlawful remodeling, repair, construction, building, building moves, or demolition or to restrain, correct, or abate a violation.

Section 370:35. Interpretation. In interpreting and applying the provisions of this ordinance, they will be held to be the minimum requirements for the promotion of public safety, health, convenience,

comfort, prosperity and general welfare. It is not the intent of the ordinance to interfere with or abrogate or annul any easement, covenant or other agreement between parties; provided, however, that where this ordinance imposes a greater restriction upon the use of building or premises than are imposed or required by other ordinances, rules, regulations or permits or by easements, covenants or agreements, the provisions of this ordinance will govern.

Section 370:40. Repository for Documents. Planning Division will keep a record of heritage preservation documents available for public review.

Section 370:45. Recording of Heritage Preservation Properties. The Office of the City Clerk will record with the respective County Register of Deeds the legal description of all buildings, lands or areas designated as a Historic District by the City Council and will transmit a copy of said legal description to the Chief Building Official.

Section 380 – Life Cycle Housing

Section 380.00 – Declaration of Public Purpose. In October of 2002, the cities of Saint Cloud, Saint Joseph, Sartell, Sauk Rapids, and Waite Park entered into a Joint Powers Agreement pledging to ensure that 15 % of the combined total number of owner-occupied and rental housing units built in each city will be Life Cycle Housing Units. The provisions of this Section are intended to implement the Central Minnesota Life Cycle Housing Joint Powers Agreement by establishing standards and procedures to encourage the development of Life Cycle Housing within the City of St. Cloud.

Section 380.10 – Definitions.

Subd. 1. “Life Cycle Housing Development”: A residential subdivision in which 15% of the total housing units to be constructed meet the definition of an Owner Occupied Life Cycle Housing Unit and/or Rental Life Cycle Housing Unit.

Subd. 2. “Owner Occupied Life Cycle Housing Unit”: Newly constructed units that:

- (a) Are sold only to households with annual incomes at or below 80% of the area median income and are sold at or below the Life Cycle Housing price point; or
- (b) Are sold to anyone, regardless of income, if and only if the builder/developer has not received a written offer to purchase for a price equal to or less than the Price Point from an income-qualified buyer before the end of a 30y day period following completion of framing.

Subd. 3. “Price Point”: The maximum price for which the builder or developer can sell an owner occupied Life Cycle Housing Unit. The price point is determined by the City in cooperation with Central Minnesota Life Cycle Housing Board and will be incorporated into a subdivision agreement prior to final plat approval.

Subd. 4 “Rental Life Cycle Housing Unit”: Newly constructed rental units whose maximum monthly rent is no greater than 30% of the monthly income of households earning 65% of the area median income, adjusted for the size of the unit, as specified and periodically updated by the US Department of Housing and Urban Development.

Section 380.20 – Incentives and Assistance. Any residential subdivision qualifying as a Life Cycle Housing Development may be eligible for incentives and assistance as set forth in this Section to facilitate the construction of Life Cycle Housing Units. The developer of a residential subdivision qualifying as a Life Cycle Housing Development may request any combination of the incentives listed to off-set the cost of providing the life cycle housing units. At its sole discretion, the City may consider for each residential subdivision the extent that these or other incentives are made available based upon the criteria established by Section 380.30, which will be agreed between the parties through the subdivision agreement.

Subd. 1. Density Bonus. The City may provide a 15 % increase in the maximum allowable residential density established by the Comprehensive Plan for any residential

development qualifying as a Life Cycle Housing Development. The density bonus will not require an amendment to the Comprehensive Plan, zoning change, or other discretionary approval by the City; other than those approvals required by City if the development were not proposed as a Life Cycle Housing Development. The housing units allowed by the density bonus will not be included when determining the total number of housing units to qualify as a Life Cycle Housing Development. The density bonus will apply to housing developments consisting of five or more dwellings.

Subd. 2. RLH, Residential Life-Cycle Housing Zoning. The City has enacted the Residential Life-Cycle Housing, zoning district for the purposes of reducing the cost of housing and limiting urban sprawl through increased density of single-family residential neighborhoods. As such, the RLH zoning district establishes common standards for the development of life-cycle housing and other small-lot single-family development without the necessity of a planned unit development.

Subd. 3. Fee Waivers. At the request of the developer, the City may issue a reimbursement for fees and/or charges related to the development and construction of Life Cycle Housing Units, including but not limited to the following. Reimbursements will be issued subsequent to a determination by the City that the developer has satisfied the definitions of an owner-occupied or rental Life Cycle Housing Unit.

- (a) Planning and Zoning Fees. The City may issue a reimbursement to the developer for up to 20% of the zoning and subdivision fees for any Life Cycle Housing Development.
- (b) Building Permit Fees. The City may issue a reimbursement to the builder for up to 20% of the building permit fee for any structure meeting the definition of a Life Cycle Housing Unit. For multiple-family housing developments, the building permit reimbursement may be available for any individual structure meeting the definition of a Life Cycle Housing Unit.
- (c) Sewer and Water Availability Charges. The City may issue a reimbursement to the builder in the amount of 20% of the sewer availability charge (SAC) and water availability charge (WAC) for any structure meeting the definition of a Life Cycle Housing Unit.
- (d) Parkland Dedication Fees. The City may issue a reimbursement to the developer in the amount of 20% of a cash payment in lieu of park and open space dedication, if any, for each Life Cycle Housing Unit constructed within a Life Cycle Housing Development. A reimbursement will not be provided for land dedication.

Subd. 4. Promotion of Life Cycle Housing Units. The City will work with developers of any Life Cycle Housing Development to promote the availability of lots intended for construction of rental or owner occupied Life Cycle Housing Units.

Subd. 5. Modification of Development Standards. At the request of the developer, the City may modify for Life Cycle Housing Developments, to the extent feasible in light of

the uses, design, and infrastructure needs of the residential subdivision, the development standards of the City Code, including but not limited to the following:

- (a) Right-of-Way. The City, at its sole discretion, may reduce the minimum right-of-way width for local streets serving a Life Cycle Housing Development from 66 feet to 54 feet, where appropriate to maintain a safe and efficient transportation network, as well as serve private and public infrastructure needs.
- (b) Street Widths. The City, at its sole discretion, may reduce the minimum street width for local streets serving a Life Cycle Housing Development from 36 feet to 30 feet, where appropriate to maintain a safe and efficient transportation network.
- (c) Curbs and Gutters. The City, at its sole discretion, may allow deviations from the requirement for barrier curbs upon local streets serving Life Cycle Housing Developments. Mountable curb and gutter will be permitted where deemed appropriate by the City.
- (d) The City, at its sole discretion, will consider the reduction to one-side or removal of sidewalks from local residential streets within Life-Cycle Housing Developments where deemed appropriate to maintain a safe pedestrian network. Sidewalks will be required along collector and arterial roadways. Trails or bike paths will be encouraged to provide alternative pedestrian routes within a development.

Subd. 6. Streamlining and Priority Processing. The City will develop procedures and policies for streamlining and priority processing of any residential development qualifying as a Life Cycle Housing Development to the extent feasible consistent with the public health, safety, and welfare.

Subd. 7. Other Requests. The City will consider other forms of incentives requested by the developer provided the request is consistent with the intent of increasing life-cycle housing while maintaining high quality living environments.

Section 380.30 Criteria for Approval of Development Incentives. The City Council will approve of a requested development incentive for a Life Cycle Housing Development provided the evidence presented is such as to establish that:

Subd. 1. The development incentive is necessary to meet the developer's life-cycle housing commitment.

Subd. 2. The development incentive will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons within the Life Cycle Housing Development.

Subd. 3. The development incentive will not unreasonably increase congestion in the public street and/or compromise the ability to maintain the public street.

Subd. 4. The development incentive will not unreasonably diminish or impair established property values within the neighborhood, or in any way be contrary to the intent of the Zoning District in which it is located or the goals and policies of the Comprehensive Plan.

Section 390 - Signs

Section 390:00. Definitions.

Subd.1. "Sign" means any written announcement, demonstration, display, illustration or insignia used to advertise or promote the interest of any person when the same is displayed or placed out of doors in view of the general public and will include every detached sign or billboard and every sign attached to or forming a component part of any building marquee, canopy, awning, street clock, pole, parked vehicle or other objects whether stationary or movable.

Subd. 2. "Illuminated Signs" means any sign which has characters, letter figures, designs or outline illuminated by electric lights or luminous tubes as part of the sign proper or by indirect lighting.

Subd. 3. "Facing" or "Surface" means the surface of the sign upon, against or through which the message is displayed or illustrated on the sign.

Subd. 4. "Incombustible Material" means any material which will not ignite at or below a temperature of 1200 Degrees F. and will not continue to burn or glow at that temperature.

Subd. 5. "Structural Trim" means the molding, battens, capping, mailing strips, latticing, and platforms which are attached to the sign structure.

Subd. 6. "Erect" means to build, construct, attach, hang, place, suspend or affix.

Subd. 7. "Ground Sign" means any sign supported by uprights or braces placed upon the ground and not attached to any building.

Subd. 8. "Wall Sign" means any sign painted on the exterior surface of a building or structure and any flat signs of solid face construction which is placed against a building or other structure and attached to the exterior front, rear or side wall of any building or structure.

Subd. 9. "Roof Sign" means any sign erected, constructed and maintained wholly upon or over the roof of any building with the principal supports on the roof structure.

Subd. 10. "Projecting Sign" means any sign which is attached to a building or other structure and extends beyond the line of said building or structure or beyond the surface of that portion of the building or structure to which it is attached.

Subd. 11. "Marquee" means any hood or awning of permanent construction projecting from the wall of a building above an entrance and extending over the thoroughfare.

Subd. 12. "Major Repair" means the repair or reconstruction of a sign to the extent of making changes in the sign structure or facing.

Section 390:05. License and Bond Insurance Requirements. No person will engage in the business of erecting signs, nor be entitled to a permit to erect a sign under this ordinance unless licensed to do so by the City Council. A license may be granted by the City Council on written application filed with the City Clerk in such form as prescribed and accompanied by the required annual license fee. No license will take effect until the licensee files with the City Clerk a copy of the licensee's liability insurance policy in a form approved by the City Attorney. The application will be accompanied by a surety bond, executed by the licensee as principal, and by a corporate surety, authorized to execute a bond under the laws of the State of Minnesota, in the penal sum of \$10,000, approved by the City Attorney and conditioned that the licensee will pay all permit fees required under this ordinance, pay any fines imposed upon him for violation of the ordinance, will conform to all of the provisions of this ordinance, and will indemnify and hold the City, its officers and agents, harmless from any damage or claim resulting from or related to the erection or maintenance of any sign in the City by the licensee. The application will also be accompanied by a copy of the licensee's general policy of liability and property damage insurance, which will provide a penal sum of not less than \$100,000 for injuries to or death of one person, not less than \$300,000 on account of one accident, and not less than \$100,000 for property damage. The bond required herein will be effective for the period from January 1 through December 31 of the license year. The bond and insurance policy will provide that the bond or insurance policy will not be cancelled for any cause by the principal, the insured, or the surety or insurance company without first giving ten (10) days notice to the City, in writing, of the intention to cancel. The notice will be addressed to the City Clerk by registered mail or will be delivered to the City Clerk personally. Annual licenses will expire the 31st of December of each year. License fees will not be pro-rated or refundable.

Section 390.10. Permits.

Subd. 1. Permits Required for Each Sign. It will be unlawful for any person to erect, relocate or make major repairs to any sign in the City without first obtaining a permit to do so from the Building Inspector and making payment of the fee as herein required.

Subd. 2. Application for Permit. Application for permits will be made upon blanks provided by the Building Inspector and will give the information set forth in the subdivisions which follow.

- (a) Name, address, and telephone number of the applicant.
- (b) Location of building, structure or lot to which, or upon which, the sign is to be attached or erected.
- (c) Drawing of the sign showing dimensions and describing the face of the sign.
- (d) Upon Request: Give a copy of stress sheets and calculations showing the structure is designed for dead load and wind pressure in any direction in the amount required by this and all other laws and ordinances.
- (e) Name of person, firm, corporation or association erecting sign.

- (f) Written consent of the owner of any vacant land on which the sign is to be located.
- (g) Such Other information as the Building Inspector requires to show full compliance with this and all other laws and ordinances of the City. The Building Inspector may waive subdivisions 5 and 7.

Subd. 3. Permit Issued if Application in Order. The Building Inspector upon receipt of an application for a permit will examine the plans and specifications and other data, and the premises upon which it is proposed to be erected. If it will appear that the proposed structure is in compliance with all the requirements of the sign ordinance and all other laws and ordinances of the City, the building inspector will issue a permit. If the work authorized under a permit has not been completed within six months after the date of issuance, the permit will become null and void.

Subd. 4. Permit Fees. A permit will not be granted until the applicant pays to the City Treasurer the required permit fee for each sign regulated by this ordinance. Permit fees are based upon the size of the sign as measured in square feet. The square area of all signs will be determined by multiplying their greatest width by their greatest length.

Subd. 5. License or Permit Revokable at Any Time. All rights and privileges acquired under the provisions of this ordinance are mere licenses revokable at any time by the City Council, and all such licenses and permits will contain a provision to this effect.

Section 390:30. Annual Inspection Fees.

Subd. 1. Advertising Signs. The Building Inspector will inspect annually, and at such other times as deemed necessary, each sign regulated by this ordinance. The Building Inspector will determine if the sign is secure or insecure, whether it is in need of removal or repair, and whether the sign is in compliance with all the requirements of the sign ordinance and all the laws and ordinances of the City.

Subd. 2. Fees. To meet the expense of any annual or periodic inspections, the permit holder of each sign will pay an inspection fee to the City Treasurer. Annual inspection fees will be payable on or before December 31st of each year.

Section 390:40. Unsafe and Unlawful Signs. If the Building Inspector finds that any sign is unsafe, insecure, is a menace to the public, or has been constructed or erected or is being maintained in violation of the provisions of a City ordinance, written notice will be given to the permit holder or to some responsible person at the property or by registered mail to the property owner. If the permit holder or owner fails to remove or alter the structure so as to comply with the provisions of the ordinance, within ten (10) days after such notice, the sign may be removed or altered to comply by the Building Inspector at the expense of the permit holder or owner of the property upon which it is located. The Building Inspector may cause any sign which poses an immediate safety threat to be removed summarily and without notice.

Section 390:45. Painting and Maintenance. All parts and supports of signs will be properly painted unless they are galvanized or otherwise treated to prevent rust. All signs will be properly maintained and owners of signs will comply with an order of the Building Inspection requiring sign painting and maintenance.

Section 390:50. Wind Pressure and Dead Load Requirements. All signs will be designed and constructed to withstand a wind pressure of not less than 30 pounds per square foot of area and will be constructed to receive dead load as required in the Building Code or other ordinances of the City.

Section 390:55. Removal of Certain Signs. Any sign which no longer advertises a bona fide business conducted or a product sold will be taken down and removed by the owner, agent or person having the beneficial use of the building or premises upon which the is located within ten days after written notification by the Building Inspector. The Building Inspector is authorized to remove the sign upon the owner/agent failure to remove the sign within the 10 day period. Any expenses incident to be removed will be paid by the owner of the building or premises to which the sign is attached.

Section 390:60. Exceptions. The provisions and regulations of this ordinance do not apply to the signs described in the subdivisions which follow. However, all said signs are subject to the unsafe and unlawful signs provisions of Section 390:40.

Subd. 1. Real estate signs not exceeding 32 square feet which advertise the sale, rental or lease of the premises upon which the signs are located only.

Subd. 2. Professional name plates not exceeding four square feet in area.

Subd. 3. Signs painted on the exterior surface of a vehicle, unless the vehicle is parked for the primary purpose of displaying the sign.

Subd. 4. Bulletin boards not over 16 square feet in area for public, charitable or religious institutions when the same are located on the premises of said institution.

Subd. 5. Temporary political yard signs not exceeding 32 square feet.

Subd. 6. Signs denoting the architect, engineer or contractor when placed upon work under construction and not exceeding 32 square feet in area.

Subd. 7. Occupational signs denoting only the name and profession of an occupant in a commercial building, public institutional building or dwelling house and not exceeding two (2) square feet in area.

Subd. 8. Memorial signs or tablets, names of buildings and date of erection when cut into masonry or when constructed of bronze or other incombustible material.

Subd. 9. Traffic or other municipal signs, legal notices, railroad crossing signs, danger, and other temporary, emergency or nonadvertising signs as approved by the City Council.

Section 390:65. Signs Not to Constitute Traffic Hazard. No sign will be erected at the intersection of any street or alley in such a manner as to obstruct free and clear vision of persons using the intersecting streets, nor at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of or be confused with "Look", "Drive-In", "Danger" or any other word, phrase, symbol or character in such manner as to interfere with, mislead or confuse traffic.

Section 390:70. Construction Standards.

Subd. 1. All ground signs in Fire Zones 1 or 2, as defined in the City's Building Code, will have a surface or facing of incombustible material. However, paper copy on outdoor signs, commonly known as billboards, will be permitted.

Subd. 2. All letters, figures, characters or representations in cut-out or irregular form maintained in conjunction with, attached to, or super-imposed upon any sign will be safely and securely built or attached to the sign structure.

Subd. 3. All ground signs will be securely built, constructed and erected upon posts and standards sunk at least 3½ feet below grade and unless the Building Inspector will determine that the size of supporting posts is sufficient to support the sign without bracing, each sign will be supported and braced by timbers or metal rods in the rear, of the sign, extending from the top to a point in the ground at least a distance equal to one-half the height of the sign, measured along the ground, from the posts or standards upon which the sign is erected.

Subd. 4. All posts, anchors and bracing of wood that rest upon or enter into the ground will be treated to protect them from moisture by creosoting or other approved methods.

Subd. 5. All ground signs and the premises surrounding the will be maintained by the owner in a clean, sanitary and inoffensive condition, free and clear of all obnoxious substances, rubbish, and weeds.

Subd. 6. No wall sign will cover wholly or partially any wall opening except on approval of the Fire Chief.

Subd. 7. No wall sign will be permitted to extend beyond the building line except as authorized by the Zoning Ordinance.

Subd. 8. All wall signs, except signs painted on the exterior surface of a building or structure, will be safely and securely attached to the building wall by means of metal anchors, bolts or expansion screws of not less than 3/8 inch in diameter, embedded in the wall at least 5 inches; However, signs may rest in, or be bolted to, strong, heavy metal brackets or saddles set no more than six feet apart, each of which will be securely fixed to the wall as required above. In no case will any wall sign be secured with wire, strips of wood

or nails.

Subd. 9. No roof sign will be placed on the roof of any building or structure in such a manner as to prevent free passage from one part of roof to any other part of the roof or interfere with openings in the roof.

Subd. 10. Projecting signs exceeding ten square feet in area or 50 pounds in weight will not be attached to nor supported by frame buildings nor the wood framework of a building. Such signs will be attached to masonry walls with galvanized expansion bolts at least 3/8 inch in diameter, will be fixed to the wall by means of bolts in the same manner as for wall signs. However, when approved by the Building Inspector, a set of plates may be installed in the interior of the building to securely attach the sign to the building.

Section 390:75. Revocation of Permits. The Building Inspector is authorized and empowered to revoke any permit upon the failure of the permit holder to comply with any provision of this ordinance.

Section 390:80. Penalties. Any person violating a provisions of this ordinance is guilty of a misdemeanor. Each day that violation is committed or permitted to continue will constitute a separate offense and may be punishable as such.

CHAPTER IV

Section 400 - General Provision for Issuance of Licenses and Permits

Section 400:00. Application of Regulations.

Subd. 1. Compliance Required. It will be unlawful for any person either directly or indirectly to engage in any business, or to use in connection with any business, any vehicle, premises, machine or device, in whole or in part, for which a license or permit is required by any provision of this chapter or any other law or ordinance of this City, without a license or permit being first procured and kept in effect at all times as required by any provision of this chapter or any other law or ordinance of this City.

Subd. 2. One Act Constitutes Doing Business. For the purpose of this chapter any person will be deemed to be engaged in any business for which a license or permit is required, and thus subject to the requirements of this chapter when he does one act of:

- (a) selling any goods or service for which a license is required,
- (b) soliciting such business or offering such goods or services for sale or hire,
- (c) acquiring or using any vehicle or any premises in the City for such business purposes.

Subd. 3. Agents Responsible for Obtaining License. The agents or other representatives of non-residents of this City who are doing business in this City will be personally responsible for the compliance with the provisions of this chapter by their principals and of the businesses they represent.

Subd. 4. Separate License for Branch Establishments. A license will be obtained in the manner prescribed herein for each branch establishment or location of the business engaged in, as if each such branch establishment or location were a separate business; provided that warehouses and distributing plants used in connection with and incidental to a business licensed under any provision of this chapter will not be deemed to be a separate place of business or branch establishment.

Subd. 5. No License Required for Mere Delivery. No license will be required of any person for the mere delivery in the City of any property purchased or acquired in good faith from such person at his regular place of business outside the corporate limits of the City where no intent by such person is shown to exist to evade the provisions of this chapter.

Section 400:03. Application for Licenses.

Subd. 1. Every person required to procure any permit, license or transfer under the provisions of this chapter or any other law or ordinance of this City will submit an application for the license to the City Clerk. The application will conform to the following subdivisions.

Subd. 2. The application will be a written statement upon forms provided by the City Clerk, such form to include an affidavit to be sworn to by the applicant before a person authorized to administer an oath.

Subd. 3. The application will contain all information necessary to comply with the subdivisions of this chapter under which the license is required and any other information required by the City.

Subd. 4. The application will contain:

- (a) Name and address of applicant.
- (b) Purpose for which license or permit is asked.
- (c) As to license any occupation or permit the doing of any act, the place within the City where such occupation or act is to be carried on or done.
- (d) The length of time such licenses or permits is to cover.

Subd. 5. All questions on the application blank must be answered and all information required must be furnished. Any application for a license made by an individual owner will be signed and sworn to by the owner; if made by a partnership, it will be signed and sworn to by one of the partners; and if by a corporation, by one of the duly elected officials of the corporation.

Section 400:06. Fees, Bonds and Insurance. An applicant for a permit, license or transfer of a license to be issued or granted by the City will pay to the City the full amount of the permit fee, license fee, or transfer fee required by this code and other ordinances of the City, and will file with the City the bond, insurance policy, or certificate and certified copy of a state license, if required for City license.

Section 400:09. Fees. Except as otherwise specifically stated in the regulations for specific licenses or permits, the fees for the various licenses, permits and transfers will be as fixed or estimated in Chapter V of this code or as otherwise provided in the fees ordinances adopted hereafter.

Section 400:12. No Split Fee. The fee for each license issued will be the full amount provided in this code or other ordinance of the City and no reduction in the amount of the fee will be made because part of the license year has elapsed prior to the date the license is issued, unless specifically stated.

Section 400:15. Permit Fee Doubled. Should any person, firm or corporation begin any

construction, installation, alteration or repair for which a permit from the City is required, without having secured the necessary permit either previous to or during the day of the commencement of the work, or on the next succeeding day when the work is commenced on a Saturday afternoon or on a Sunday or a holiday, will, be required to pay double the permit fee and will be subject to all the penal provisions of this code or other ordinances of the City.

Section 400:16. Hearing.

Subd. 1. Should any persons, firm or corporation be directed to pay double fees pursuant to this ordinance, he may appeal said directive to the City Council by giving written notice to the City Administrator within 10 days of the date upon which application was made for the permit in question.

Subd. 2. In the event a hearing is requested by the permit applicant, the City Administrator will set the matter for hearing before the City Council not less than 10 days and not more than 30 days after request. The City Council will review the directive assessing double fees and make its final order sustaining or modifying said directive. The City Council may order any excess fees collected prior to entry of its decision returned.

Section 400:18. License Bonds. If the provisions under which any license is to be issued require the licensee to furnish a bond, such bond will be executed by the licensee and a corporate surety, and will be furnished to the City Clerk at the time the application is filed or as soon thereafter as the City Clerk will request. The bond will be in an amount and with penalty provisions as will be required by the license provision and will be approved as to form and execution by the City Attorney and as to surety and amount by the Director of Finance. The bonds may terminate with the annual license period or may provide for automatic renewal in the event the license is renewed.)

Section 400:21. Procedure for Issuance of Licenses. On receipt of an application for any license, the City Clerk will transmit the same together with license bond and copy of receipt for license fee to the Chief of Police or other department responsible therefor, who will cause investigation to be made of the qualifications of the applicant and the City Clerk will determine whether the applicant has complied with all requirements of the ordinance under which the license is to be issued and which requirements are prerequisites to the issuance of the license. Unless the subdivision of the ordinance pursuant to which the license is to be issued requires issuance of the license by the City Council, the City Clerk will issue such license upon determination that such prerequisites have been complied with, but if he will have determined that such prerequisites have not been complied with, he will deny the application for issuance of the license. If any ordinance will require issuance of a license by the City Council, the City Administrator will refer the application, together with a report of the investigation and determination with respect to the applicant and his compliance with the said requirements of the ordinance, to the City Council. The City Council will review the report and findings and may grant or deny the license. The applicant for any license which has been denied by the City Clerk may appeal the decision of the City Clerk to the City Council by filing with the Clerk within ten days after receipt of notice of such denial, a request for review by the

Council of such determination by the Clerk. The City Clerk will refer the request to the City Council at its next regular meeting, at which time the Council will hear the applicant and review the determination of the City Clerk and may grant or deny such license.

Upon determination of the City Council that a license will be issued, such determination will be transmitted to the City Clerk who will issue the license certificate in duplicate under the seal of the City and deliver one copy to the applicant and retain the other in the license book as a part of the records of the City.

Section 400:30. Contents of License. Each license issued under this chapter will state upon its face the following:

- (1) Name of the licensee and any other name under which such business will be conducted.
- (2) The name and address of each business so licensed.
- (3) The amount of license fee.
- (4) The dates of issuance and expiration thereof.
- (5) Such other information as the City Administrator will determine.

Section 400:33. License Period. All permits, licenses or transfers issued under any provision of this chapter will terminate on December 31st of the calendar year in which issued unless a different termination date with respect to specific licenses will be specifically provided with respect to such permit, license or transfer.

Section 400:36. Renewal License Procedure. Applications for renewal of any license will be made to the City Clerk on forms provided by him, and will contain any information required for renewal of the license by the subdivision of this chapter under which the license is to be issued, and such additional information as the City Administrator will require.

Section 400:39. Duplicate and Replacement License Procedure. A duplicate license certificate or tag will be issued by the City Clerk to replace any license certificate or tag previously issued which has been lost, stolen, defaced or destroyed, without any willful conduct on the part of the licensee, upon the filing by the licensee of an affidavit attesting to such fact and paying to the Clerk the required fee.

Section 400:42. Rebate of Fee. No rebate or refund of any license fee or part thereof will be made by reason of non-use of such license, or by reason of a change in location or business rendering the use of such license ineffective, provided that the Clerk will have authority to refund a license fee collected through an error, or in cases where the application is denied by the City Clerk or the City Council.

Section 400:45. Duties of Licensee.

Subd. 1. Every licensee and permit holder under any provision of this chapter or other ordinances of the City will have the duties set forth in the following subdivisions.

Subd. 2. Permit Inspection. Permit all reasonable inspections of the business and examinations of books and records by such authorities so authorized by law.

Subd. 3. Comply with Governing Law. Ascertain and at all times comply with all laws, ordinances, and regulations applicable to such business.

Subd. 4. Cease Business. Refrain from operating the licensed business after expiration of his the license and during the period the license is revoked or suspended.

Subd. 5. License Displayed. All licenses, tags, plates, or other method of identification required by this chapter or other ordinances of the City will be kept on display at a conspicuous place on the licensed premises, vehicle, or device, or where neither premises, vehicle or device are licensed, on the person of the licensee, or in the case of licenses for billboards or signboards, at the place of business of the licensee.

Subd. 6. Unlawful Possession. Not loan, sell, give, or assign, to any other person, or to allow any other person to use or display or to have in their possession any license or insignia which has been issued to such licensee.

Subd. 7. Pay Taxes. Pay all special assessment and real and personal property taxes levied against real and personal property owned by the licensee and used in the licensed business (prior to the date penalty attaches for non-payment).

Subd. 8. Inspections. All licensees and permit holders are subject to proper periodic inspections, so far as to give the police officers and other duly authorized inspectors of the City the right and power at all times to enter upon their premises for the purpose of ascertaining the manner in which the business is being conducted.

Section 400:48. Change of Location of Licensed Premises. A licensee or permit holder will not have the right to change the location of the licensed premises except upon the approval of the City Clerk if the license will be issued by him, or upon the approval of the City Council if the license will be issued by the City Council. Application for such renewal will be made in writing in such form as will be prescribed by the City Clerk and will be accompanied by the required removal fee.

Section 400:51. Transfer of License. No licensee will have the right to transfer a license to any other person unless specifically authorized by this chapter or pursuant to a provision of the license.

Section 400:54. Enforcement.

Subd. 1. Inspections. It will be the duty of the Health Officer to inspect all licensed premises hereunder for the purpose of determining any violation of law relating to health. It will be the duty of the police department to inspect and examine all premises, businesses and enterprises subject to license, or which have been licensed by the City. The City Administrator will have the right to direct the Health Officer, any police officer, or any other appropriate officer of the City to make such inspections at all reasonable times.

Subd. 2. Sealing of Unlicensed, Defective or Unsafe Machines or Devices and Affixing License Insignia. Any food vending machine, cigarette vending machine, pinball machine, children's amusement device, mechanical amusement device, or other amusement device which is defective or unsafe, or which is licensed and has no license tag or other license insignia affixed as required by law, or is required to be licensed by the City and such machine or device is not currently licensed by the City, may be sealed by a tape or wire to prevent its continued use. The tape or tag attached to the seal will state that the machine or device is not to be used.

Subd. 3. Removing Seal, Using Machine Prohibited. No person will remove or deface a seal affixed under these provisions except under the direction of an authorized agent of the City. No person will use any machine or device on which a seal has been affixed under the provisions hereof.

Section 400:57. Termination of License. At any time that the City Administrator will determine that any person licensed under this chapter or other ordinance of the City will have failed to comply with any requirement of law or with any provision of this chapter, he the Administrator will notify the licensee in writing of the violation. The notice to will be delivered by the U.S. mail or personally as the City Administrator may determine and deposit of the notice in the U.S. mail, addressed to the address stated on the license application, will constitute service of the notice. If such person cannot be otherwise found, the notice may be posted on the premises licensed. The notice will require compliance with the provision of law, code or ordinance specified within a reasonable time to be specified by the Administrator. Upon expiration of said time, unless the licensee will have requested a hearing in writing, the Administrator, in the event that the license involved will have been issued by the City Clerk, may terminate the license, or in the event that the license has been issued by the City Council, the Administrator will report the matter to the City Council and the Council may terminate such license, subject to compliance with any procedure prescribed by the provisions of the ordinance pursuant to which the license or permit was issued.

Section 400:60. Hearing. In the event that a hearing is requested by the licensee, the City Administrator will set a time for such hearing, not less than ten days and not more than 20 days after request, at which time the City Administrator will hear all testimony offered by the licensee, and will inform the licensee of all information upon which alleged violation of law has been determined. If the license has been issued by the City Council, the hearing will be conducted by the City Council. On completion of the hearing, the City Administrator or City Council, as the case may be, may make a final order suspending or terminating the license in question. Upon the entry of any such order by

the City Administrator, the licensee may appeal the determination of the City Administrator to the City Council by filing request for such appeal with the City Clerk within 10 days after receipt of notification of the order of the City Administrator, and the City Council will thereupon promptly hear the licensee and review the determination of the City Administrator and make its final order sustaining or modifying the determination of the Administrator.

Section 400:63. Payment of Taxes on Licensed Premises. It will be a condition of the issuance of any license by the City pursuant to this code or any of the ordinances of the City hereinafter referred to and amended, that all real estate taxes and special assessments levied against the premises licensed will be paid prior to the last date when payable without penalty. Upon receipt of evidence that such taxes or special assessments levied against any such premises have become delinquent, the City Administrator will notify the licensee of the delinquency and that all licenses issued for the premises under the circumstances hereinafter described will be terminated and cancelled thirty days after date of the notice, and unless such taxes and special assessments are paid and the county treasurer's receipt for the same delivered to the City Administrator within said 30 day period, the license described in said notice will upon termination of said 30 day period be deemed cancelled and terminated; provided, however, that no such license will be cancelled or terminated during the time in which any judicial proceeding is pending challenging the validity of the amount of the tax or special assessment in question.

Section 405 – Dance Establishments

Section 405:00. Definitions.

Subd 1. “Public dance” means any dance the public may participate in by payment, either directly or indirectly, of an admission fee, cover charge, fee for dancing, or fee for membership in a club, and including any manner of holding a dance which may be participated in by the public through the payment of money, directly or indirectly.

Subd. 2. “Dance establishment” means and includes any room, place or space in which dancing occurs and is open to general public patronage whether or not a charge for admission, either directly or indirectly, is required to be paid.

Section 405:05. License Required. No person, partnership or corporation will operate a dance establishment in the City of St. Cloud without having first obtained a license. Notwithstanding the foregoing, no license will be required to be obtained under this section if (i) the person, partnership or corporation has already obtained an on-sale intoxicating liquor license, a 3.2 percent malt liquor license, or a hotel or motel license for the premises at which the public dance would take place; or (ii) if the public dance would take place on the campus or in the facilities of an elementary or secondary school, vocational or trade school, college or university, or similar educational institution.

Section 405:10. License Application. A person, partnership or corporation seeking a Dance Establishment License will complete an application containing the following information:

Subd. 1. The name, date of birth and address of the person seeking the license. In the case of a partnership, the names, dates of birth and addresses of all partners will be listed. In the case of a corporation, the names, dates of birth and addresses of all officers of the corporation.

Subd. 2. The address of the property to be licensed, together with a floor plan depicting the premises to be licensed and setting forth the square footage that will be open to the public, and the number of off-street parking stalls that will be available to the customers and employees of the premises.

Subd. 3. A statement whether all real estate taxes and special assessments that are due and payable for the property to be licensed have been paid to the date of the application, and if not paid, the years and amounts that are unpaid.

Subd. 4. A copy of any lease governing the premises to be licensed, in the event that the premises are not owned by the applicant.

Subd. 5. The name, date of birth and address of any individuals employed by the applicant as managers of the premises to be licensed.

Subd. 6. Such other information as the City Council or the Issuing Authority will require.

Section 405:15. License Application Execution. If the application is that of a person, the application will be signed and sworn to by that person; if of a partnership, by one of the general partners; if of a corporation, by an officer thereof.

Section 405:20. License Fee. The annual fee for a Dance Establishment license will be included in Section 510 of the Code of Ordinances.

Section 405:25. Persons and Locations Ineligible for License.

Subd. 1. Persons ineligible. A license will not be approved for the applicant, the applicant's managers, partners (in the case of partnerships), and/or officers (in the case of corporations) under the following conditions:

- (a) Is not a citizen of the United States or a resident alien, or is legally prohibited from working in the United States.
- (b) Is not at least eighteen (18) years of age on the date the application is submitted to the Issuing Authority.
- (c) Has a conviction of any crime that is directly related to the occupation licensed, as prescribed by Minnesota Statutes, Section 364.03, subd. 2, and the applicant has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties as prescribed by Minnesota Statutes, Section 364.03, subd. 3.
- (d) The applicant is not the real party in interest in the business being licensed.
- (e) The applicant knowingly misrepresented or falsified information on the license application.
- (f) The applicant owes taxes or assessments to the State, County, School District, or City that are due and delinquent.

Subd. 2. Locations ineligible.

- (a) No license will be approved for any premises on which taxes, assessments or other financial claims of the State, County, School District, or City are delinquent, or unpaid. In the event a suit has been commenced under Minnesota Statutes, Sections 278.01-278.13, contesting the amount or validity of such taxes, the City Council may, on application, waive strict compliance with this provision, provided, however, that no waiver may be granted for taxes which remain unpaid for a period exceeding one year after becoming due.
- (b) No license will be approved unless the premises proposed to be licensed complies with all applicable zoning requirements.

Section 405:30. License Application Verification and Consideration.

Subd. 1. Verification. Applications for licenses under this section will be submitted to the City Clerk by filing the same, together with the license fee, to the City Clerk. The City Clerk is empowered to conduct any and all investigations to verify the information on the application, including conducting criminal history and/or driver's license checks on the applicant, its partners, officers and managers. Verification will also include an inspection of the premises to be licensed for confirmation that the premises comply with all required building, mechanical, fire, health, zoning and off-street parking requirements.

Subd. 2. Consideration. Within a reasonable period after the completion of the license verification process by the City Clerk, the City Clerk will approve or deny the license application. If the application is approved, the City Clerk will issue the license by regular mail to the applicant at the address provided by the applicant in the application. If the application is denied, the City Clerk will notify the applicant in writing by regular mail at the address provided by the applicant in its application.

Section 405:35. License Restrictions.

Subd. 1. Posting of License. A license issued under ~~the~~ this section must be posted in a conspicuous place on the premises.

Subd. 2. Not to Admit Intoxicated Persons. A licensed dance establishment will not admit or permit to remain on the premises any individual who is intoxicated or appears to be under the influence of alcohol or illegal drugs.

Subd. 3. Maintenance of Order. A licensee will be responsible for the conduct of the public on the premises, including any contiguous parking areas and will maintain conditions of sobriety and order at all times.

Subd. 4. Illegal Activities. A licensee will not allow any person to sell or use alcohol or illegal drugs anywhere on the licensed premises, including any parking areas contiguous thereto.

Subd. 5. Hours of Operation. No public dance will be conducted at the licensed premises between the hours of one o'clock (1:00) a.m. and eight o'clock (8:00) a.m. on any day.

- (a) Licensee must establish and maintain a system that requires all juveniles to depart the licensed premises one-half hour prior to their applicable curfew hour.
- (b) Licensee must establish and maintain a noise control policy to assure that the noise generated inside of the licensed premises is not clearly audible outside the licensed premises.

- (c) Licensee to Comply with all other Ordinances. A licensee is required to comply with any and all City ordinances, including but not limited to the zoning ordinance, noise ordinance, amusement device ordinance, and food and beverage licensing requirements.

Section 405:40. License Term. Each license issued under this section will be valid from January 1 until December 31 of the year in which it is issued.

Section 405:45. Sanctions for License Violations. The City Council may suspend or revoke a license issued pursuant to this section for a violation of:

Subd. 1. Fraud, misrepresentation, or false statement contained in a license application.

Subd. 2. Fraud, misrepresentation, or false statement made in the course of carrying on the licensed business.

Subd. 3. Any violation of State law or City ordinances.

Subd. 4. A criminal conviction of a licensee, a partner in the case of the licensee being a partnership, or an officer in the case of the licensee being a corporation, that is directly related to the business licensed as defined by Minnesota Statutes, section 364.03, subd. 2, provided that the person so convicted cannot show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the licensed business as defined by Minnesota Statutes, Section 364.03, subd. 3.

Subd. 5. Conducting the licensed business in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the community.

Subd. 6. A license suspension or revocation by the City Council will be preceded by written notice to the licensee and the opportunity for a hearing. The notice will give at least eight (8) days' notice of the time and place of the hearing and will state the nature of the allegations against the licensee. The notice will be mailed by regular mail to the address of licensed premises.

Section 406 - Amusement Devices

Section 406:00. Definition. Amusement device means any electronic or mechanical machine or device which upon the insertion of a coin, operates or may be operated as a game, contest or amusement other than music, and which contains no automatic payoff device for the return of money, tokens or merchandise.

Section 406:05. License Required. No person, firm or corporation will keep, maintain, exhibit or permit to be operated in its place of business, any device without first having obtained a license and having paid the required fee.

Section 406:10. Application. Any person, firm or corporation desiring a license will make application to the City Clerk in writing stating; (a) the name and address of the applicant; (b) the location of the premises on which such device is to be used and the general nature of the business (c) that the device is not a gambling device and will not be used for any betting or wagering purpose.

Section 406:15. Issuance. Upon the granting of a license, the City Clerk will issue a license certificate which will be numbered and contain the name and address of the person to whom issued, the location of the premises where the device is to be operated, and the date of expiration of the license. The license certificate will be accompanied by a sticker to be affixed by the licensee to any device operated upon said premises and will be plainly visible to the person operating such device.

Section 406:20. Transfer Prohibited. No license certificate will be transferred to or used by any person other than the one to whom issued nor at any location other than that stated in the certificate but may be affixed to any device that may be used by the licensee at that location during the license period.

Section 406:25. Illegal Uses. No person, firm or corporation will permit any device to be used for betting or gambling purposes in any form. No prize, award, merchandise, gifts or anything of value other than free games will be given to any person operating any such device.

Section 407:40. This ordinance will not apply to devices held or kept in storage and which are not in use or displayed for use.

Section 407 - Amusement Centers

Section 407:00. Definitions.

Subd. 1. "Amusement Center". Any room, place or space available for public patronage, operated as a business, together with any contiguous private parking areas of the business, which utilizes in its operation five or more pieces of equipment or games, including, but not limited to pool tables, billiard tables, table tennis tables, foosball tables, pinball machines, or any mechanical or electronic amusement device. An amusement center as defined in this section will not include intoxicating or non-intoxicating, on- or off-sale liquor establishments licensed pursuant to Section 800 or Section 810 of the Code of Ordinances of the City of St. Cloud.

Subd. 2. "Amusement Device" means any electronic or mechanical machine or device which upon the insertion of a coin, operates or may be operated as a game, contest or amusement other than music and which contains no automatic payoff device for the return of money, tokens, or merchandise.

Subd. 3. "Operator" means any person, firm or corporation who owns, leases or rents to, or places with others for use of play, any amusement device.

Section 407:05. License Required. No person, firm or corporation whether operated for profit or not for profit will conduct, manage, supervise or maintain any amusement center without first obtaining an amusement center license and a conditional use permit, pursuant to the Zoning Code if required. The licensing period will be January 1 through December 31 per calendar year.

Section 407:10. License Application. Applications for an amusement center license will be made in writing to the City Clerk and will be verified by the applicant and accompanied by the required license fee. The application will contain such information as may be required, including, but not limited to, the following:

Subd. 1. The names and addresses of the property owner, the business owner, the lessor, the manager and the operator and the names and addresses of the owner and lessor of the amusement device. If any of the above are acting on behalf of a corporation, the names and addresses of the shareholders, officers and board of directors will be filed with the application.

Subd. 2. The address and location of the place where the amusement center and amusement device will be operated.

Subd. 3. The number and types of devices to be used.

Subd. 4. Total square footage of the room, place or space where the amusement center will be operated. A diagram will be submitted with the application showing the gross area of room, place or space where the amusement center will be operated. The diagram will be drawn to scale (scale must be indicated on the diagram) on size 8 1/2" x 11" graph paper. Each floor must be shown on a separate diagram.

Subd. 5. The hours of operation.

Subd. 6. In addition to the above, the applicant will submit at the time of the application a site plan of the premises showing location of amusement devices, sanitary facilities and

parking provisions for vehicles and bicycles.

Subd.7. The applicant for an amusement center license will provide the City with a certificate of insurance evidencing general liability coverage in the amount of \$100,000 per person and \$300,000 per occurrence.

Subd. 8. Such other information as the Council may require.

Section 407:15. License Fee. The license fee for each amusement center will be set forth in Section 510:00 of the Code of Ordinances.

Section 407:20. License Conditions.

Subd. 1. No amusement center may be operated between the hours of:

- (a) 1:00 a.m. and 7:00 a.m. on any day.
- (b) Amusement centers which are also licensed to serve intoxicating or non-intoxicating liquor are not subject to these hour restrictions.

Subd. 2. The licensee and his employees and agents will adhere to the provisions of the City code relating to minors. No licensee, nor his employees or agents, will knowingly permit a minor to be present on the premises in violation of curfew laws, nor knowingly permit a person under the age of 17 years to be present on the premises between the hours of 7:00 a.m. and 3:00 p.m. on any day which Independent School District No. 742 (St. Cloud) has classes regularly scheduled unless on a valid excused absence.

Subd. 3. The licensee of an amusement center will not permit intoxicated persons to remain on the premises.

Subd. 4. The amusement center and the premises in which amusement devices are located will conform to all building and fire prevention codes of the City. The Building Inspector or Fire Inspector may enter the premises at any time during normal business hours, for the purpose of inspecting the premises for fire hazards. All law enforcement personnel of the City will have the right to enter said premises at any time during normal business hours, for the purpose of enforcement of the terms of this section.

Subd. 5. It will be the responsibility of the licensee to maintain order on the licensed premises at all times, including contiguous parking areas.

Subd. 6. Amusement centers which derive their principal source of income from the utilization of equipment or games including but not limited to pool tables, billiard tables, table tennis tables, pinball machines, or any mechanical or electronic amusement device will have, in addition to a manager, a designated security person on the premises on Fridays and Saturdays for all hours between 5:00 p.m. and closing of the day of operation.

Subd. 7. The licensee will provide for daily outdoor cleanup of the area surrounding any licensed premises.

Subd. 8. No amusement center will be operated so as to constitute a public nuisance.

Subd. 9. The licensee will, at all times, control sound on the licensed premises so as not to cause disturbance or nuisance to others in the vicinity of the licensed premises.

Subd. 10. The licensee will be required to maintain liability insurance coverage in the amount of \$100,000 per person and \$300,000 per occurrence.

Section 407:22. License Revocation. The Council may, after notice and hearing, revoke or suspend any license issued under this section if the licensee is found to have violated any of the provisions of this ordinance or any ordinance, state law, or federal law relating to the use, sale or possession of non-intoxicating liquor or intoxicating liquor, or the use or possession of gambling devices, or state law relating to the sale and use of tobacco products. The conviction of a person, while an occupant of the licensed premises, of a violation of any of the above described ordinances, state laws or federal laws will also be grounds for revocation of the license.

Section 408 - Charitable Gambling

Section 408:00. Charitable Gambling Fees. Prior to conducting charitable gambling within the City of St. Cloud, an application and investigation or permit fee as set forth in Section 510:00 of the Code shall be submitted to the Office of the City Clerk.

Fees will not be prorated or refunded.

Section 409-Circuses, Carnivals and Amusements

Section 409:00. License Required, Transported Shows. Any person or firm or corporation, who will give or exhibit in the City of St. Cloud, any circus, or carnival will obtain a license and pay a license fee to the City of St. Cloud in the required amount.

Section 409:05. Sideshows Included. An extra license will not be required for sideshows or concerts under the same management and ownership as the greater show licensed under Section 409:00.

Section 409:10. Rubbish Removal. No show circus or carnival will permit any accumulation of rubbish or litter upon any streets or ground used by it, and will, at its own expense, remove all rubbish or litter necessary or occasioned by such show so that all streets and grounds used by it will be kept free and clear of rubbish and litter.

Section 409:15. Theaters, License Required. Any person who will operate or maintain a movie theater will obtain a license and pay the required license fee.

Section 409:30. License Required, Amusements. It will be unlawful for any person or persons to maintain, operate or conduct any of the following forms of amusements, except when licensed and the license fee paid:

Subd. 1. Pool and billiard tables.

Subd. 2. Bowling alleys, cone racks and similar games.

Subd. 3. Conducting or operating a place for skating. The license is to be procured by the owner of the premises or the proprietor or operator of said place for public skating. Provided further that when the applicant for a permit and license will hold an "on-sale" or "off-sale" 3.2 percent malt liquor license upon the premises or such 3.2 percent malt liquor license will be subsequently procured or there will be direct or indirect communication with any room in which 3.2 percent malt liquor is sold, given away or otherwise used, then and in that case the license fee will be set forth in Section 510:00 of this code; the fee will not be prorated for any part of the year.

Section 409:35. Clubs Exempt. Bona fide clubs incorporated under the laws of the State will not be subject to any of the license fees required under Section 409:30.

Section 409:40. Term; Non-transferable. All licenses provided for in Section 409:30, Subd. 2, 2, and 3, will terminate on the 1st day of January. Licenses are non-transferable.

Section 409:45. Marathons and Endurance Contests Prohibited. No contest or exhibition will be conducted or participated in for which an admission is charged, either directly or indirectly or for which a prize is given, either directly or indirectly, for the longest period of time or which constitutes an endurance contest.

Section 409:55. Charitable Corporations Exempted. Notwithstanding the provision of any other ordinance of the City of St. Cloud, whenever a license is required for the conduct of exhibits, shows or other forms of public amusement, the fee required for such event may be waived if the applicant for such license is a non-profit organization or corporation which meets the standards established in Minnesota Statutes 290:05, Subdivision (9).

Section 410 - Gambling Halls

Section 410:00. License Required. No person will use or allow to be used, any building or part of a building for the purpose of conducting lawful gambling in the form of pull-tabs, tipboard, raffles, and/or paddle wheels without first obtaining a license as provided in this chapter.

Section 410:05. Exceptions. No License is required if the lawful gambling is to be conducted in the building 12 or fewer days in any calendar year, in a bingo hall licensed pursuant to the provisions of Minnesota Statutes Section 349.164, in an on-sale or off-sale liquor establishment licensed pursuant to section 810 of the Code of Ordinances, or in a private club licensed pursuant to section 810 of the Code of Ordinances.

Section 410:10. Annual Fee. The annual license fee for a gambling hall will be established by ordinance as specified in section 510 of the Code of Ordinances.

Section 410:15. Requirements.

Subd. 1. Application. The application for license will contain, in addition to other information required by the inspector, the name and address of the owner of the property, the names and addresses of all shareholders and officers, if the owner is a corporation or other association, the names of all tenants of the building, and which tenants will be conducting the lawful gambling on the premises.

Subd. 2. Inspection, etc. Prior to the issuance of the license, the building will be inspected by the appropriate officials. No building will be licensed unless it complies with the requirements of the zoning, fire, building, health and sanitation codes of the City and the State.

Subd. 3. Restrictions. The license applicant or licensee will have no financial interest whatsoever in the operation of the lawful gambling, except for any rent to be received from the tenant organization. The amount of rent to be charged will not exceed the rental limits established by the State Charitable Gambling Control Board.

Subd. 4. Inspections. The licensed premises will be open to inspection by officials of the City during normal business hours. The licensee will maintain written records of all lease transactions, including rental receipts and tax records, and will make them available to City inspectors upon reasonable notice. Failure to permit City officials access to such records or access to premises will be cause for revocation of the license.

Subd. 5. Only lawful gambling permitted; obligation of gambling hall licensee. Only lawful gambling permitted under the provisions of Minnesota Statutes, Chapter 349 will be allowed on the licensed premises. It will be the obligation of the gambling hall licensee to investigate and assure that the organization conducting the gambling event has obtained the required state license or city permit.

Section 410:20. Location.

Subd. 1. Minimum distance between gambling halls. A minimum distance of 1,200 lineal feet will be required between buildings licensed for gambling halls under the provisions of section 410. The distance will be measured from the property lines.

Subd. 2. Zoning. Gambling halls will be located only in the C-5 commercial-zoning district.

Subd. 3. Maximum size. The maximum size of any gambling hall facility will not exceed 1,500 square feet of gross floor area.

Section 410:25. Signage. Signage visible from the exterior of the facility will be limited to one wall mounted sign (internally lit only) of not more than 10 square feet in area.

Section 410:30. Hours of Operation. A gambling hall will not be open for business:

- Between the hours of 1:00 a.m. and 8:00 a.m. of any day.
- Between the hours of 1:00 a.m. and 10:00 a.m. on Sunday
- Between the hours of 12:00 midnight on Sunday and 8 a.m. on Monday
- After 8:00 p.m. on December 24.

Section 410:35. Alarm Systems. A gambling hall will be protected by an alarm system that is centrally monitored and has a battery backup.

Section 419 - Unclaimed Property; Disposal

Section 419:00. Purpose. The purpose of this ordinance is to provide for the custody and disposal of property lawfully coming into the City's possession in the course of municipal operations and remaining unclaimed by the owner. The source of this authority is found in part in Minnesota Statutes Section 471.195.

Section 419:10. Custody. Property lawfully coming into the City's possession in the course of municipal operations will be retained by the City or its agent for a period of 60 days. Reasonable effort will be made to identify the owner and notify the owner that the property is in the custody of the City.

Section 419:20. Disposal. Property that remains unclaimed for a period of more than 60 days may be sold to the highest bidder at public auction or sale following reasonable published notice. In the alternative unclaimed property may be donated to a non-profit charitable corporation.

Section 419:30. Proceeds. The proceeds received from any sale, after deducting the costs of the sale, will be placed in the general fund.

Section 419:40. Owners Right to Redemption. In the event that the owner of property sold pursuant to this ordinance makes application to the City Clerk within six months of the sale and provides satisfactory proof of ownership, the owner will be reimbursed the net proceeds from the sale, if any. If no application is made within six months, the net proceeds will become the absolute property of the City.

Section 419:50. Other Statutes or Authority. This ordinance does not supersede the provisions of other statutes that govern the disposal of specific items of property (i.e. abandoned motor vehicles).

Section 424 - Tobacco

Section 424:00. Definitions.

Subd. 1. "Retail Tobacco Dealer" means any person, selling, offering for sale or having in possession for sale, at retail, tobacco as defined;

Subd. 2. "Location" means the building, room or rooms, space or area where tobacco is sold at retail, identified by a postal address and under the control of one person-

Subd. 3. "Operator" means the person in legal possession and control of a location by reason of ownership, lease, contract or agreement, for the sale of tobacco at retail.

Subd. 4. "Tobacco Vending Machine" means any kind of device or mechanical machine which upon the insertion of a currency, tokens or other objects will release in packages or otherwise, tobacco for the purpose of selling the same at retail.

Subd. 5. "Minor" means any individual, without regard to sex, who has not attained the age of eighteen years.

Subd. 6. "Tobacco" means cigarettes; cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour, cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or cigarette papers.

Subd. 7. "Self-service Vending" means the display for sale of tobacco products which are accessible to the public without the need of assistance of an employee.

Subd. 8. The words "Tobacco Shop" mean a self-contained, independent retail facility, as opposed to a department within a larger retail establishment, that is not more than 1000 square feet in area, in which tobacco is offered for sale, with or without other non-tobacco products, which includes open air display of individual products for inspection and selection by patrons, and which is continuously staffed by an employee from which persons under 18 years of age are prohibited from entering, and which otherwise complies with the requirements of Minnesota Statute Section 461.18, Subd. 1(d).

Subd. 9. "Carton" means a package containing ten or more individual packages of cigarettes.

Section 424:05. License Required. It will be unlawful for any person to sell at retail any tobacco within the City unless the person then holds a retail tobacco dealer's license, in full force and effect.

Section 424:10. Procurement of License.

Subd. 1. Any person desiring a retail tobacco dealer's license will make and file with the City Clerk an application, in writing, executed in duplicate. Such application will give the name and residence address of the applicant, if an individual, identify the location at which it is proposed to sell tobacco at retail, and such other information as the Council may from time to time require. The application will be accompanied by the required fee.

Subd. 2. The City Clerk will immediately transmit a copy of the application to the

Chief of Police (application), who will investigate of all facts and information which s/he can reasonably find, bearing upon the question of the applicant's fitness to receive the license and to perform the duties imposed by this ordinance. Upon completing the investigation, the Chief of Police will report, in writing, her/his findings to the Mayor, together with her/his recommendation as to the issuance of a license to the applicant. The Mayor will submit to the City Council the report of the Chief of Police, together with the recommendation as to the issuance of the license to the applicant.

Subd. 3. The City Council will consider the facts and recommendation of the Chief of Police and of the Mayor, together with any material facts which it may have or obtain, and then, by motion, will approve or deny the application to the City Clerk together with a copy of the motion. If the Council has approved the application, it is the duty of the City Clerk to execute and deliver a license to the applicant on a form approved by the City Attorney. Such license will be for the calendar year for which it is issued, or if it be a first issue for the location by the licensee then for the balance of the current year.

Section 424:16. Sales of Less than a Carton. No retail tobacco licensee will offer any tobacco products, packaged less than a carton, but more than a single package, unless a.) by a vending display that is either on or accessible only from behind a checkout or service counter that is staffed by at least one on duty clerk or employee, and the display is within clear view of that on duty clerk or employee, or b.) such displays are contained in a locked display cabinet, to which access is controlled by a store employee. This section will not apply to a tobacco shop.

Section 424:17. Sales of Single Packages. No retail tobacco licensee will offer for sale single packages of tobacco products in open displays that are accessible by the public without the intervention of a store employee.

Section 424:18. Self-service Vending of Cartons, Limitations. Self-service vending of cartons of cigarettes is permitted provided that cartons will be sold only from display racks located within 20 feet and in clear view of an on duty clerk or employee, and the display racks must be equipped with clear shields that allow the removal only of a single carton of cigarettes that are being displayed. All such displays will be accompanied by a sign stating "Shoplifters will be prosecuted" in plain view of customers. This section will not apply to a tobacco shop.

Section 424:19. Prohibition Against Retail Sales of Tobacco by Vending Machine. No person will sell or dispense any tobacco through the use of a vending machine.

Section 424:20. Administrative Fine, Suspension or Revocation of License. Upon a violation by a licensee holding a retail tobacco dealer's license of any provision of this ordinance or any provision of a state law regulating the sale or furnishing of tobacco to minors, the City Council may impose a civil fine, or suspend or revoke the retail tobacco dealer's license in accordance with the following schedule.

First violation.....	fine up to \$100.00
Second violation within 12 months	fine up to \$200.00 and a 30 day license suspension
Third violation within 12 months	license revocation
Violation during period of suspension.....	license revocation

No administrative penalty may be imposed against a licensee until the City Council has conducted a public hearing after having first given the licensee two weeks' written notice setting forth the time and date of the alleged violation, and the time, date and place of the public hearing. Any civil fine assessed against a licensee pursuant to this section must be paid in full within 30 days from receipt of written notification of the City Council imposition of the

civil fine. Failure to pay the fine within that time period will result in a ten day license suspension. Licensees whose licenses have been revoked may not be issued a new license within six months from the effective date of such revocation.

Section 433 - Explosives

Section 433:00. Scope of Section 433.

Subd. 1. Sections 433:00 et seq. will apply to the manufacture, possession, storage, sale, transportation, and use of explosives and blasting agents.

Subd. 2. Sections 433:00 et seq. will not apply to the following:

- (a) Transportation of explosives or blasting agents when under the jurisdiction of and in compliance with the regulations of the Federal Department of Transportation.
- (b) Shipment, transportation and handling of military explosives by the Armed Forces of the United States and the State military forces.
- (c) Transportation and use of explosives or blasting agents in the normal and emergency operation of federal agencies or state or municipal fire and police departments, providing they are acting in their official capacities and in the proper performance of their duties.
- (d) Sale, use or public display of pyrotechnics commonly known as fireworks.

Subd. 3. Sections 433:00 et seq. will not apply to the following commodities and items:

- (a) Stocks of small arms ammunition; propellant-actuated power cartridges; small arms ammunition primers in quantities of less than 1,000,000 smokeless propellant in quantities of less than 750 pounds.
- (b) Explosive actuated power devices when in quantities of less than 50 pounds net weight of explosives.
- (c) Fuse lighters and fuse igniters.
- (d) Safety fuse (safety fuse does not include cordeau detonant fuse), and 3/32 inch cannon fuses or matchlock fuses (slow match).
- (e) The sale or transfer of black powder or other commonly used non-smokeless propellant in individual transactions involving quantities of five (5) pounds or less when used for muzzle loaded firearms or used in the handloading of firearms

Section 433:05. Definitions.

Subd. 1. "Blasting Agent" means any material or mixture consisting of a fuel and oxidizer, intended for blasting not otherwise classified as an explosive and in which none of the ingredients are classified as an explosive, provided that the finished product, as mixed and packaged for use or shipment, cannot be detonated by means of a No. 8 test blasting cap when unconfined.

Subd. 2. A No. 8 test blasting cap is a blasting cap containing two grams of a mixture of 80% mercury fulminate and 20% potassium chlorate, or a cap of equivalent strength.

Subd. 3. Nitro-Carbo-Nitrate. This term applies to any blasting agent which has been classified as nitro-carbo-nitrate under the Department of Transportation Regulations, and which is packaged and shipped in compliance with the regulations of the Department of Transportation.

Subd. 4. Explosive-actuated power devices means any tool or special mechanized device which is actuated by explosives, but not to include propellant-actuated power devices. Examples of explosive-actuated power devices are jet tappers and jet perforators.

Subd. 5. DOT means Department of Transportation of the United States.

Subd. 6. ICC means Interstate Commerce Commission of the United States.

Subd. 7. Explosive or explosives means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion -- i.e., with substantially instantaneous release of gas and heat, unless such compound, mixture or device is otherwise specifically classified by the DOT (formerly ICC). The term "Explosives" will include all material which is classified as Class A, Class B and Class C explosives by the DOT (formerly ICC), and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse lighters, fuse igniters, squibs, cordeau detonant fuse, instantaneous fuse, igniter cord, igniters, small arms ammunition, small arms ammunition primers, smokeless propellant, cartridges for propellant actuated power devices and cartridges for industrial guns, and some special fireworks. (Commercial explosives are those explosives which are intended to be used in commercial or industrial operations.)

Subd. 8. Classification of explosives as described by the Department of Transportation, DOT (formerly Interstate Commerce Commission, ICC) means:

- (a) Class A Explosives. Possessing, detonating or otherwise maximum hazard; such as dynamite, nitro-glycerin, picric acid, lead azide, fulminate of mercury, black powder, blasting caps, and detonating primers.
- (b) Class B Explosives. Possessing flammable hazard, such as propellant explosives (including some smokeless propellants), photographic flash powders, and some special fireworks.
- (c) Class C Explosives. Includes certain types of manufactured articles which contain Class A or Class B explosives, or both, as components but in restricted quantities.
- (d) Forbidden or Not Acceptable Explosives. Means explosives which are forbidden or not acceptable for transportation by common carriers, by rail freight, rail express, highway or water in accordance with the regulations of the DOT (formerly ICC).
- (e) Certain chemicals and certain fuel materials may have explosive characteristics which are not specifically classified by the DOT (formerly ICC) and are not readily

classified for coverage in the code. Authoritative information should be obtained for such unclassified materials and action commensurate with their hazards, location, isolation and safeguards, should be taken.

Subd. 9. Highway means any public street, public alley or public road.

Subd. 10. Inhabited buildings means a building or structure regularly used in whole or in part as a place of human habitation. The term "inhabited building" will also mean any church, school, store, railway passenger station, airport terminal for passengers, and any other building or structure where people are accustomed to congregate or assemble, but excluding any building or structure occupied in connection with the manufacture, transportation, storage and use of explosives.

Subd. 11. Magazine means any building or structure, other than an explosives manufacturing building, approved for the storage of explosives.

Subd. 12. Motor vehicle means any self-propelled vehicle, truck, tractor, semi-trailer, or truck-trailers used for the transportation of freight over public highways.

Subd. 13. Propellant-actuated power devices means any tool or special mechanized device or gas generator system which is actuated by a smokeless propellant or which releases and directs work through a smokeless propellant charge.

Subd. 14. Public conveyance means any railroad car, street car, ferry, cab, bus, airplane or other vehicle which is carrying passengers for hire.

Subd. 15. Railway means any steam, electric, diesel, electric or other railroad or railway which carries passengers for hire on the particular line or branch in the vicinity where explosives are stored or where explosives manufacturing buildings are situated.

Subd. 17. Small arms ammunition means any shotgun, rifle, pistol or revolver cartridge and cartridge for propellant-actuated power devices and industrial guns. Military-type ammunition containing explosives bursting charges, spotting or pyrotechnic projectiles is excluded from this definition.

Subd. 18. Small arms ammunition primers means small percussion-sensitive explosive charges, encased in a cup, used to ignite propellant powder.

Subd. 19. Smokeless propellants. Smokeless propellants, commonly called smokeless powders in the trade, used in small arms ammunition, cannon, rockets, propellant-actuated power devices, etc.

Subd. 20. Special industrial explosive devices means explosive-actuated power devices and propellant-actuated power devices.

Subd. 21. Special industrial explosives materials means shaped materials and sheet

forms and various other extrusions, pellets and packages of high explosives, which include dynamite, TNT, PETN, RDX, and other similar compounds used for high-energy-rate forming, expanding and shaping in metal fabrication, and for dismemberment and quick reduction of scrap metal.

Section 433:10. Permits Required for Acquisition and Use. It will be unlawful for any person to acquire, possess, use, sell or handle any explosive except as otherwise provided by this Section within the City of St. Cloud, without possessing a permit.

Section 433:15. Application.

Subd. 1. Any person desiring a permit will make application in writing to the City Clerk on such forms as the City Clerk may prescribe.

Subd. 2. The application for a permit will be sworn to by the applicant and will contain the following information:

- (a) Name and address of the applicant;
- (b) The applicant's date of birth;
- (c) Where applicant intends to permanently store the explosives and the storage security measures provided at the storage and use sites;
- (d) The applicant's intended use for explosives.
- (e) All information relative to applicant with respect to facts required under Section 433:20, Subd. 2;
- (f) All such additional information as may be prescribed by the City Council in determining whether the applicant is qualified to possess such permit under the requirements of Section 433:00 et seq.

Subd. 3. Upon receipt of an application the Clerk will notify the Chief of the Fire Department. The Chief will inspect the premises upon which the applicant desires the Fire Chief to store, handle and use the explosives as set forth in the application and if he is satisfied (1) that no serious fire hazard will be created, and (2) that the applicant plans to store and use the explosives in the manner prescribed by this ordinance, he will endorse his approval upon the application and return it to the Clerk who will present the application to the Council.

Section 433:20. Issuance.

Subd. 1. A permit will be issued by the City Clerk, only upon approval of the City Council.

Subd. 2. The Council will deny the issuance of a permit to anyone who:

- (a) Has been convicted within the past ten years of a felony or gross misdemeanor involving moral turpitude or anyone who is presently under indictment for any such crime; or
- (b) Has been within the past ten years convicted of a crime in which the use, possession or sale of narcotics or illicit drugs was an element; or
- (c) Has been treated within the past ten years for addiction to narcotic or illicit drugs, or has been within such time period admitted to any hospital or institution for treatment of narcotics or illicit drug addiction, or has been within such time period, certified by a licensed medical doctor as being addicted to narcotic or illicit drugs; or
- (d) Has been within the past ten years, acquitted of any criminal charge by reason of mental illness; or
- (e) Is not twenty-one years of age at the time when application for such permit is made.

Section 433:25. Fee. If the Council approves the permit, the Clerk will, upon receipt of the required fee, prepare and deliver to the applicant a permit as is requested in the application. No permit will be granted for a period exceeding one year.

Section 433:30. Permit Revocation or Suspension. A permit may be revoked or suspended at any time by order of the City Council for any violation of the provisions of this ordinance or upon the creation or existence of any condition which would, in the opinion of the Chief of the Fire Department, create or tend to create a fire hazard.

Section 433:35. May Not Transfer to Unauthorized Person. No person will sell, transfer or give away any explosive or blasting agent to anyone who does not possess a valid permit issued pursuant to this ordinance.

Section 433:40. Seller's Record and Report.

Subd. 1. Every person selling or giving away explosives covered by this ordinance will maintain an accurate record in a bound book, of all explosives handled, indicating a detailed account of:

- (a) Date of each transference of explosives;
- (b) Amount of each such transference;
- (c) Name and address of each purchaser or transferee;
- (d) Manufacturer of the explosives being transferred;
- (e) The type of and any identification numbers of explosives being transferred;
- (f) Explosives owner's or user's permit number;
- (g) Intended place of storage of the explosive by the purchaser or transferee;
- (h) Intended use site; and
- (i) Security measures provided at the storage site and at the use site.

- Subd. 2. Such record book will at all reasonable times be open to the inspection of the Chief of the Fire Department and all duly constituted law enforcement officials of the City of St. Cloud. In addition, on the first day of every month the seller or transferor will make a report to the Chief of the Fire Department of the transactions which took place that month.

Section 433:45. Storage and Security Requirements. Any person storing, handling, using or in any way disposing of explosives covered by this ordinance will maintain minimum safety and security features of all permanent and temporary storage facilities in a manner prescribed by the Rules and Regulations of the Minnesota State Fire Marshal governing the storage, handling, use and transportation of blasting agents and explosives.

Section 433:50. Report of Thefts. Any person who has explosives in his possession and who incurs a loss or theft of explosives immediately, (and in no event longer than 24 hours from the time of discovery), inform the office of the local Chief of Police of the loss or theft, the amount missing and the approximate time of the occurrence.

Section 433:55. Bomb Threats.

- Subd. 1. It will be unlawful and a penal offense for anyone to do the acts described in the following subdivisions.
- Subd. 2. As a hoax, to communicate or cause to be communicated the fact that a bomb or any other explosive device has been placed in any building or in any location other than a building.
- Subd. 3. As a hoax, to threaten to bomb any person, place or building.
- Subd. 4. To knowingly permit any telephone or other means of communication to be used for any purposes prohibited by this section.
- Subd. 5. As a hoax, to place or cause to be placed in any location any article, constructed or placed with intent to give the impression that the article possesses explosive capability.

Section 436-Fireworks

Section 436:00. Definitions.

Subd. 1. Fireworks: For the purposes of this section, “fireworks” will have the same definition as contained in Minnesota Statute § 624.20 subd. 1 or any superceding statute.

Section 436:05. Sale and Use of Fireworks Prohibited. It will be unlawful for any person to offer for sale, or use or explode any fireworks, except as otherwise provided.

Section 436:10. Permit Required. No person will sell or possess for sale fireworks without first having obtained an annual permit from the City.

Subd. 1. Application for Aerial Fireworks Display. An application for an aerial fireworks display permit will be made in writing to the City Clerk at least 15 days in advance of the date of the aerial fireworks display. The application will be promptly referred to the Fire Chief.

- (a) Investigation. The Fire Chief will make an investigation to determine whether the operator of the aerial fireworks display is competent and whether the display is of such a character and is to be so located, discharged, or fired that it will not be hazardous to property or endanger any person. The Fire Chief will report the results of this investigation to the City Clerk and if the Fire Chief reports that the operator is competent and that the display as planned will conform to safety requirements, including the rules and regulations of the State Fire Marshal, the City Clerk will issue a permit for the display when the applicant pays a permit fee set forth in Section 520 of this Code. After such permit will have been granted, sales, possession, use and distribution of fireworks for such aerial fireworks display will be lawful for that purpose only. No permit so granted will be transferable.

Subd. 2. Application for Permitted Sales, Use, and/or Possession. An application for a permitted sale, use, and/or possession permit will be made in writing to the City Clerk at least 15 days in advance of the date of the sales or retail display. The application will be promptly referred to the Fire Chief.

- (a) Investigation. The Fire Chief will make an investigation to determine whether the applicant is competent. The Fire Chief will report the results of this investigation to the Clerk and if he reports that in his opinion the applicant is competent and that the permitted sale, use, and/or possession will conform to safety requirements, including the rules and regulations of the State Fire Marshal, the Clerk will issue a permit when the applicant pays a permit fee set forth in Section 520 of this Code. After the permit has been granted, sales, possession, use and/or distribution of fireworks will be lawful. No permit will be transferable.

Subd. 3. The designated Fire Official will give final approval or denial of an application for the manufacture, storage for commercial purposes or sale of fireworks within 30 days of such application being made to the City.

Subd. 4. Permits for permitted use, sale, and/or possession will be issued for the calendar year applied for and will expire on December 31st of that year. Aerial fireworks display permits and sales and retail display permits will be issued for the duration of the event only and expire thereafter.

Subd. 5. Prior to processing the application, a criminal records check may be conducted. Neither the applicant nor the responsible party for the permit will have been convicted of a felony or a fire or fireworks-related misdemeanor within the last three years.

Subd. 6. Prior to processing the application, the designated Fire Official will determine that the proposed location is code compliant.

Subd. 7. The application will include a letter from the person legally responsible for the property on which the fireworks related activity would occur. Such letter will grant permission to the applicant for the use of said property.

Subd. 8. No aerial fireworks display will be conducted unless a permit has first been secured. However, a permit will not be required when the aerial fireworks display is given by a municipality or fair association within its own limits.

Section 436:15. Exceptions and Permitted Sales and Uses.

Subd. 1. Section 436:05 will not be construed to prohibit the sale or uses set forth in any of the following subdivisions.

Subd. 2. Sales at wholesale to those persons holding valid permits for a fireworks display from a governmental subdivision of the State.

Subd. 3. Sales outside the State.

Subd. 4. Any resident wholesaler, dealer, or jobber, from selling at wholesale such fireworks as are not prohibited.

Subd. 5. The sale of any kind of fireworks for shipment directly out of the State.

Subd. 6. The use of fireworks by airplanes and railroads, or other transportation agencies for signal purposes or illumination.

Subd. 7. The sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations.

Subd. 8. Supervised public displays of fireworks by cities, villages, and fair associations, amusement parks, and other organizations, when granted a permit and conducted as provided by this section.

Section 436:20. Regulations.

Subd. 1. No person will sell or store consumer fireworks within 50 feet of any fuel dispensing apparatus unless the total aggregate quantities of consumer fireworks are below the exempt amounts listed within Chapter 7 of NFPA 1124 *Code for the Manufacture, Transportation, Storage and Retail Sales of Fireworks and Pyrotechnic Articles*®, 2003 Edition within an approved structure or building. Consumer fireworks sales and retail display will be limited to mercantile occupancies as defined in NFPA 10, *Life Safety Code*®. No person will construct a retail display nor offer for sale explosives, explosive materials, or fireworks upon highways, sidewalks, public property, or in assembly or educational occupancies. The designated Fire Official will determine compliance.

Subd. 2. It will be unlawful for any seller of any fireworks to permit smoking at any site containing fireworks. “No Smoking” signs must be conspicuously posted and approved fire extinguishers must be available for use.

Subd. 3. Exempt amounts: The requirement of Chapter 7 of NFPA 1124® will not apply to consumer fireworks retail sales facilities or stores where the total quantity of consumer fireworks on hand does not exceed 56.8 kg [125lb (net)] of pyrotechnic composition or, in a building protected throughout with an approved automatic sprinkler system installed accordance with NFPA 12 *Standard for the installation of sprinkler systems*® 113.6 kg [250lb (net)] of pyrotechnic composition. Where the actual weight of the pyrotechnic composition of consumer fireworks is not known, 25 percent of the gross weight of the consumer fireworks, including packaging, will be used to determine the weight of the pyrotechnic composition. Amounts in excess of the exempt amounts will be required to comply with NFPA 1124®.

Subd. 4. The requirements of this ordinance are in addition to any requirements imposed by any building and zoning regulations, fire codes or state law.

Subd. 5. Only persons 18 years of age or older may purchase fireworks and the age of the purchaser must be verified by photographic identification.

Subd. 6. Exterior storage, retail display, sales or transient sales of fireworks may be permitted subject to a site plan review. Site plans will be submitted for review and approval a minimum of 30 days before display. Approved minimum separation distances in compliance with table 7.7.2 of NFPA 1124® will be provided from the exterior display to adjacent buildings, combustibles or flammable liquids. No manufacturing, sales or storage for commercial purposes will occur on residentially zoned property or within 100’ thereof.

Subd. 7. A list of all consumer fireworks displayed for sale and stored on the property will be available at all times. The list will document the name, weight and quantity of the fireworks and be accompanied by the material safety data sheets.

Subd. 8. Manufacturing, warehouse buildings, or sales displays in *excess* of the quantities listed in Subd. 3 for retail consumer fireworks will be classified as defined in the Building Code and where applicable, subject to the requirement of NFPA 24® and the current edition of the Minnesota State Fire Code.

Subd. 9. A handout describing fireworks use, safety and warnings will be provided to each consumer purchasing fireworks by the retailer.

Section 436:25. Use and Possession.

Subd. 1. It is unlawful to use, fire or discharge any fireworks along the route of and during any parade, in any place of public assembly, on any public property or in any commercial/industrial zoning district.

Subd. 2. It is unlawful at any time to throw, toss or aim any fireworks at any person, animal, vehicle or other thing or object or used in any manner that may threaten or cause possible harm to life or property.

Subd. 3. The discharge of fireworks will be prohibited inside a building and within fifteen (15) feet of any building.

Subd. 4. The Fire Official may ban fireworks if dry or windy conditions exist.

Subd. 5. Juveniles may not possess fireworks unless under the direct supervision of a responsible adult.

Subd. 6. Fireworks will not be discharged in such a manner that may create a nuisance nor between the hours of 12:00 a.m. to 7:00 a.m. Fireworks use will also be subject to any additional ordinances such as noise and/or assembly.

Section 436:30. Officers May Seize Illegal Fireworks. The State Fire Marshal, or any sheriff, police officer, or local fire official, will seize, take, remove, or cause to be removed, at the expense of the owner, all stocks of fireworks or combustibles offered or exposed for sale, stored, or held in violation of Sections 436:00 et seq.

Section 436:35. Penalties.

Subd. 1. Materials that violate and/or pose a threat to public safety will be confiscated and destroyed. Costs associated with disposal will be assessed back to the property owner or permit holder.

Subd. 2. Violations of this regulation, city ordinance or state statute may result in revocation of the permit.

Subd. 3. Any violation of Section 436 is a misdemeanor.

Section 440 - Food Establishments

Section 440:00. Regulation of Food and Beverage Establishments, Catering, Retail Food Service, and Vending Machines.

Subd. 1. Purpose. The purpose of this ordinance is to establish standards for food and beverage service establishments, to protect the health, safety, and general welfare of the people of the City of St. Cloud pursuant to powers granted under Minnesota Statutes Chapters 17, 28A, 31, 145A and 157. The general objectives include the following:

- (a) Prevent food-borne illness.
- (b) Correct and prevent conditions that may adversely affect persons utilizing food, beverage and retail food service establishments.
- (c) Provide minimum standards for the design, construction, operation, and maintenance of food, beverage and retail food service establishments.
- (d) Meet consumer expectations for the quality and safety of food, beverage and retail food service establishments.

Subd. 2. Jurisdiction. These ordinances will be applicable to all food and beverage establishments within the legal boundaries of the City of St. Cloud. Food, beverage and retail food service establishments as defined in Minnesota Statutes Chapters 17, 28A, 31 and 157, will include but not be limited to restaurants, temporary food stands and push carts, commissaries, drive-ins, bars, taverns, drive-in cafes, clubs, lodges, caterers, schools, public buildings, churches, retail food stores, grocery stores and convenience stores and all other businesses and establishments where meals, lunches or drinks are served, except as exempted by Sections 31A and 157.14. Private school food services located in any building constructed and primarily used for religious worship will be included in this regulation.

Section 440:05 Uniform Food Code. The Minnesota Uniform Food Code, established pursuant to Minnesota Rules 1998, Chapter 4626, one copy of which is on file in the Office of the City Clerk, is adopted as the Uniform Food Code of the City of St. Cloud and is incorporated in this ordinance as completely as if set forth in full.

Section 440:10. Sidewalk Cafes.

Subd. 1. Permit Required. Any restaurant whose business address is within the Central Business District as described in Section 635 of this Code and who is licensed under Section 440 of the Code of Ordinances to sell food for consumption on designated premises may apply to the Health and Inspections Department for a special permit to conduct a portion of such licensed business in a sidewalk cafe on a part of the public way immediately adjoining the licensed premises. Such permit will be effective January 1 of each year and will terminate December 31 of that same year. To the extent authorized by special permit granted under the provisions of this section, the permit holder may conduct such licensed business on the public way, notwithstanding the provisions of Section 600 and Section 635 of this Code.

Subd. 2. Restrictions.

- (a) Each permit issued pursuant to Section 440:10 will be limited in area to the frontage of the building in which the licensed restaurant is located and a depth extending from the building line to the location of the nearest bench, planter, streetscape or other fixture, but in no case closer than four (4) feet to the nearest street or curb.
- (b) Seating density within the permitted area will not exceed four persons per fifty (50) square feet and will allow for reasonable flow of pedestrian traffic between tables.
- (c) No permit will authorize any permanent installation to be placed on or in the way, or permit the placing or leaving on the sidewalk of any tables, chairs, furnishings or other equipment during any periods of time such sidewalk cafe is not open and being operated.
- (d) No permit will authorize a sidewalk cafe at any location prohibited by state law, or this Code of Ordinances.
- (e) The ownership, operation and maintenance of a sidewalk cafe will be subject to all applicable laws, ordinances and regulations.
- (f) All permit holders will provide covered garbage receptacles within the permitted area. No waste liquids, garbage, litter or refuse will be dumped or drained into sidewalks, streets, gutters, drains, trash receptacles or any other place except those receptacles provided by the permit holder in the permitted area or within his adjacent restaurant. When leaving the permitted area, the permit holder or their employees will pick up all litter resulting from their business and will deposit the litter in trash receptacles within his adjacent restaurant.

Subd. 3. Permit Procedure. An applicant for a special permit under this section will file an application in the same manner as and in conjunction with the person's application for a food service establishment license issued pursuant to Section 440:25. The permit fee will be that fee described in Section 512:00. The permit fee will not be pro-rated.

Subd. 4. Insurance. No permit authorized by this section will be effective until the applicant has filed with the Health and Inspections Department evidence of insurance insuring the applicant against liability imposed by law arising out of the ownership, maintenance or operation of such sidewalk cafe in an amount of least \$500,000 combined single limit coverage. The City will be named as an additional insured in the policy providing such insurance, and such policy will further provide that it may not be cancelled except upon ten days written notice filed with the Health and Inspections Department. No permit issued pursuant to the provisions of this section will be valid at any time the required insurance is not maintained and evidence of its continuance filed with the Health and Inspections Department.

Subd. 5. Permit Suspension and Revocation. Any permit authorized by this section may be revoked or suspended in the same manner provided for licenses under Section 440:35 and Section 440:40.

Section 440:15. Temporary or Limited Food Service Establishments and Mobile Food Units. Itinerant food service establishments and mobile food units will comply with all provisions of these rules which are applicable to their operations. The City Council may impose additional requirements to protect against health hazards related to the conduct of their operation and may prohibit the sale or giveaway of some or all potentially hazardous food. When no health hazard is likely to result, the Health Department may modify specific requirements for physical facilities.

Section 440:20. Sidewalk Cart Food Vendors. The Health and Inspections Department may issue licenses for sidewalk cart food vendors for the sale of specified food and beverage items from packaged food carts or food preparation carts within the limits of the Central Business District as described in Section 635 of this Code, which will be operated and conducted in accordance with the following conditions:

Section 440:21. Ice Cream, Candy and Popcorn Trucks.

Subd. 1. Definitions.

- (a) A portable confectionery store is defined as a vehicle, regardless of the manner in which it is propelled, for transporting confectionery food products for the purpose of selling such food products from the vehicle.
- (b) A confectionery food product is defined as an edible food particularly appealing to children including, but not limited to, ice milk, ice cream, candy, and popcorn.

Subd. 2. License Required. No person will use, conduct or operate upon the public streets of the City a portable confectionery store without first having obtained a permit from the City. This permit is required in addition to any other permits or licenses required by other ordinances.

Subd. 3. Exemption. This ordinance will not apply to those motor vehicles used exclusively for the regular delivery of fluid milk and related dairy products to homes.

Subd. 4. Application. Each application for a permit will be submitted to the Department of Health and Inspections for its consideration. Permits will not be issued if the Department of Health and Inspections finds that the health, welfare or safety of the public will be endangered by the operation of a portable confectionery store.

Subd. 5. Procedure. An application for a permit will be submitted to the City Clerk on forms prepared by the City Clerk. The application will include information that clearly establishes the times and the places where the applicant desires to operate a portable stores; describes the physical characteristics of the proposed portable stores; describes the wares to be sold; and any other information the clerk may require.

Subd. 6. Insurance. The applicant will carry a general policy of liability insurance in which the City is named co-insured which will provide a limit of coverage of not less than \$100,000 for bodily injury and \$25,000 for property damage.

Subd. 7. Conditions of Insurance Policy. The insurance policy required by this ordinance will further provide that no cancellation of the insurance policy, for any cause, may be

made by the insured or the insurance company without first giving 30 days notice to the City, in writing, of the intention to cancel. Such notice will be addressed to the City Clerk of the City by registered mail or will be delivered to the City Clerk personally.

Subd. 8. Fees and Terms. The fee for each permit will be as set by the Council. All permits issued under this section will expire on July 1 of each year. There will be no pro-rating or refundment of permit fees, nor will a permit be transferrable. A separate permit is required for each portable confectionery store regardless of the ownership.

Subd. 9. Sound Devices. No person operating a portable confectionery store will shout, make any cryout, blow a horn, or use any sound device, including any loud speaking radio or sound amplifying system upon any of the streets, alleys, parks or other public places ~~of~~ ~~said~~ in the City or upon any private premises in the City for the purpose of attracting attention to any goods, wares or merchandise which the permittee proposes to sell. Notwithstanding any other provision to the contrary, food/beverage vehicles may sound a manually operated bell between noon and 9:00 p.m. daily which produces a noise level measured at a distance of 50 feet from the source no greater than 65 decibels.

Subd. 10. Sales While in Motion. At no time will any sales be made from a portable confectionery store while it is in motion.

Subd. 11. Mandatory Safety Devices.

(a) Flashing Warning Lights. The vehicle's flashing warning lights will be activated whenever the vehicle is parked adjacent to the curb line on any City street. The flashing warning lights will be used for the purpose of warning operators of other vehicles to approach, overtake or pass with care. Warning lights will be visible from a distance of not less than 500 feet under normal atmospheric conditions at night. Use of the vehicle's factory equipped emergency or warning lights will satisfy the requirements of this subdivision.

(b) Safety Sign. The vehicle will be equipped with a safety sign mounted on the side of the vehicle nearest the centerline of the street. The sign will be extended whenever the vehicle is parked adjacent to the curb line on any City street. The sign will be yellow and will be 18 inches in width at the point nearest to the vehicle and will extend 18 inches in length, tapering to an end point of approximately seven and one-half inches. Two amber flashing lights will be mounted at each corner of the sign nearest to the vehicle. The word "children" will be centered and clearly printed in black capital case two-inch letters at the top of the sign; centered directly under the word "children" will be the word "Slow" clearly printed in black capital case five-inch letters; centered directly under the word "Slow" will be the word "Crossing" clearly printed in black capital case two-inch letters.

Subd. 12. Location. Each sidewalk cart will be separately licensed and may operate only at the location specified in the license. No sidewalk cart will be located at a place that would substantially impair the movement of pedestrians or vehicles or pose a hazard to public safety. Additionally, a sidewalk cart may not be located adjacent to a bus stop,

taxi stand or handicap loading zone, within 50 feet of an intersection, within three feet of a curb or directly in front of commercial entryway.

Subd. 13. Application Procedure.

- (a) Each applicant will file an application with the Health and Inspections Department on the forms provided by the department. Information on the application may be required as the Health Director considers reasonable and necessary.
- (b) No application for a single license or for the first of several licenses will be accepted for filing unless the applicant files plans and specifications for the cart which have been approved by the Health Director. However, if the cart is not ready and available for inspection within 30 days after the application is filed, the applicant's proposed operating location will be available to other applicants and the applicant will be required to select a new location.
- (c) No application from a single applicant for licenses beyond a first license will be accepted for filing unless the applicant possesses sidewalk carts ready and available for inspection for each location beyond the first location. A single applicant, for the purposes of this ordinance, will mean an individual person or any member of that person's immediate family and will also include a corporation and any corporation with substantially the same ownership or ownership by persons or the immediate family of the stockholders of that corporation or partnership.
- (d) Each applicant will include in his application a proposed operating location. The proposed location will be referred to the Director of Public Works and the Downtown Council for their approval or disapproval. If the applicant's proposed location is disapproved, they will be so notified and they may select an alternate location which will also be referred to the Director of Public Works and the Downtown Council for approval or disapproval. Public locations for each licensed cart will be determined by lot and all applicants will be informed.
- (e) The Director of Public Works will refer the subject of sidewalk cart food vendors in the Central Business District to the Downtown Council. The Downtown Council will report its recommendations concerning the number and location of sidewalk cart sites in the Central Business District to the Director of Public Works on or before July 31, 1984. The Director of Public Works will review the Council's report and prepare a list of approved locations. The list will be available to any applicant or interested person.
- (f) No location which has been chosen in a previous application will be available for selection.

Subd. 14. License Expiration. All sidewalk cart food vendor licenses will expire on December 31 of each year. License and maintenance fees will not be prorated.

Subd. 15. Construction.

- (a) Sidewalk carts will not have dimensions exceeding four feet in width, eight feet in length, and eight feet in height.
- (b) The cart may be equipped with a self-supporting awning on each of two sides of the cart, which awning will not project more than 24 inches from either side. In the alternative, the cart may be equipped with an umbrella not to exceed six feet in diameter.
- (c) Each sidewalk cart will not be self-propelled and must be capable of being moved and kept under control by one person traveling on foot. The City Council may grant a special license to a handicapped person to operate a sidewalk cart propelled by electric motor, provided that the applicant will meet all other conditions for a license.
- (d) Signing will be limited to four square feet of copy area on each of two sides of the cart. The signing may be lettered directly on the body of the cart or securely attached to the surface of the cart. Signs may not project from the cart. Lettering may be integrated into the awning of any cart so equipped. Signing will be limited to advertising the cart and the products offered for sale.
- (e) The design and construction of the cart will be in keeping with the design, development, and use of the Central Business District, all in accordance with Minnesota Statutes Section 430.011 as well as other applicable laws and ordinances. The design and construction will be subject to the approval of the Health and Inspection Department.

Subd. 16. Location Restrictions. Sidewalk cart food vendors may operate only within the limits of the Central Business District.

Subd. 17. A sidewalk cart food vendor license will not be transferable from person to person nor place to place without the approval of the City Council.

Subd. 18. Every licensee will maintain a permanent location within the City of St. Cloud for the storage and preparation of food and beverages carried by the licensee's sidewalk carts and for the cleaning and servicing of those carts. The permanent location will comply in all respects with the requirements of the St. Cloud Food Establishment Ordinances and will be separately licensed as a food distributor. Each cart will return to the permanent location at least once daily for cleaning and servicing.

Subd. 19. Each sidewalk cart will meet National Sanitation Foundation (NSF) standards for food storage, preparation and dispensing. Toilet facilities will be required at the permanent location but not on each cart.

Subd. 20. All waste liquids, garbage, litter, and refuse will be kept in leak-proof, nonabsorbent containers which will be kept covered with tight fitting lids and properly disposed of at the permanent location. No waste liquids, garbage, litter or refuse will be dumped or drained into sidewalks, streets, gutters, drains, trash receptacles or any other place except at the permanent location. When leaving the sales area, the licensee or the licensee's employees will pick up litter resulting from his business and will deposit such litter in an approved container located on his cart.

Subd. 21. Approved Food. No items of any kind, other than approved food and beverage items, will be sold and dispensed from sidewalk carts.

Subd. 22. Licenses. There will be issued to each licensee a suitable decal for each licensed sidewalk cart. Every sidewalk cart licensed under this ordinance will at all times have the decal permanently and prominently fastened on the cart.

Subd. 23. Fixed permanently and prominently to each sidewalk cart will be a sign no smaller than twelve inches by twelve inches displaying the name, address and telephone number of the cart owner.

Subd. 24. Each licensee will provide proof of liability insurance in the minimum amounts of \$100,000 for individuals, \$300,000 for any single incident, and \$50,000 for property damage. A Certificate of Insurance will be delivered to the City Clerk prior to issuance of a license. The City will be named an additional insured.

Subd. 25. Noise Makers. No sidewalk cart operator will use lights or noise makers, such as bells, horns or whistles to attract customers.

Subd. 26. No sidewalk cart will operate before 8:00 a.m. or after 2:30 a.m. on any day. Hours may be extended for special events on approval of the City Council.

Subd. 27. No sidewalk cart will operate, park, stand or stop at any street or alley except to cross at designated street crossings.

Section 440:25. Compliance Procedures.

Subd. 1. Licenses Needed. It will be unlawful for any person to operate a food service establishment within the City of St. Cloud who does not possess a valid license issued by the Health and Inspections Department as required by this ordinance. Only a person who complies with the requirements of this ordinance will be entitled to receive and retain such a license. Licenses will not be transferable from one establishment or person to another establishment or person. A valid license will be posted in every food service establishment. The license year will be valid from January 1 to December 31 of the year of its issuance.

Subd. 2. Application for License.

- (a) Any person desiring to operate a food service establishment will make written application for a license on forms provided by the Health and Inspections Department. An application will include: the applicant's full name and address and whether such applicant is an individual, firm or corporation, and if a partnership, the names of the partners, together with their addresses will be included; the location and type of a proposed food service establishment; and the signature of the applicant or applicants. Each application for a license, together with the appropriate license fee as described in Section 512 will be submitted to the Health and Inspections Department not later than December 31 following expiration of the previous license; or in the case of a new or seasonal business, prior to the opening date of such a business. A penalty will be added to the amount of the license fee and paid by the applicant if the application has not reached the Health and Inspections Department by the dates designated. Any person who operates a food service operation without submitting an application and appropriate fee will be deemed to have violated this ordinance and will be subject to prosecution as provided in this ordinance.

- (b) Any food and/or beverage establishment will pay an annual license fee based on the number of employees at a per-employee rate specified in Section 512.
- (c) "Fee Exemptions". Food services owned and operated by government subdivisions, churches, and schools will not be required to pay a license fee, but will be subject to all other requirements of this ordinance.
- (d) Home Occupation. It will be unlawful to open, operate or conduct a food establishment in any private living quarters in the City of St. Cloud with the exception of licensed Bed and Breakfast Facilities as defined in the City of St. Cloud Zoning Ordinance, Article 3, Rules and Definitions, Section 2 Definitions.
- (e) Vending Machines. The applicant for a license to sell food by vending machines will furnish the address where the applicant proposes to install and operate vending machines, the type and number of machines, and a general description of the food to be vended. After a license has been issued upon written application to the Health and Inspection and payment to the City the established license fee as set forth in Section 512 for each additional machine, the licensee may receive from the Health and Inspections Department written permits for additional machines over and above the number stated in the original application. The application for an additional permit will state the desired number of machines, the date and the number of the original license, and the street address of the property or place where the applicant proposes to install the additional machines.
- (f) Vending Machine Owner's Label. No licensee will install, use or operate a greater number of vending machines than the owner is licensed and has paid the fees. The Health and Inspections Department will have the right to inspect the licensee's books and records to determine compliance with this section. Each licensee will clearly identify each vending machine or bank of interconnected vending machines operated by the owner. The label will clearly identify the owners name and telephone number displayed in such a manner that the information can be easily read without moving the machine or machines. The absence of such an owner's label will constitute a violation of this ordinance.
- (g) Vending Machines in a Licensed Food Establishment. The holder of a food license granted under the provisions of this ordinance may dispense food from not more than two approved vending machines located on the premises for which the owner holds a food license without the payment of any additional fees, provided licensee is the owner of the machine or machines and is fully responsible for the cleaning, operation and food products being vended, and provided further that the food establishment under license is a type required to have equipment and facilities to properly wash and sanitize such machines and their component parts; any machines in excess of two will be paid for at the rate per machine.
- (h) Vending Machine Location. Each vending machine will be located in a room, area or space that can be maintained in a clean condition and

that is protected from overhead leakage or from condensation from water, waste or sewer piping. The immediate area in which the machine is located will be well lighted. Each vending machine will be so located so that the space around the machine can be easily cleaned and maintained, and so that insect and rodent waste is not created. The floor area where vending machines are located will be reasonably smooth, of cleanable construction, and be capable of withstanding repeated washing and scrubbing. The space and the immediate surroundings of each vending machine will be maintained in a clean condition.

- (i) Enforcement. This ordinance will be enforced by the Health Director of the City of St. Cloud.
- (j) Penalty for Late Payment of License Renewal Fee for Food Establishments. The penalty for late payment of license renewal fee will be set forth in Section 512 of this code.

Section 440:30. Inspections.

Subd. 1. The person operating a food establishment will, upon request of the Health and Inspections Department, permit access to all parts of the establishment at any reasonable time for the purpose of inspection and will exhibit and allow copying of any records necessary to ascertain sources of foods or other compliance with this ordinance.

Subd. 2. Whenever an inspection of a food service establishment is made, the findings will be recorded on the inspection report form. One copy of the inspection report form will be furnished to the person in charge of the establishment. The completed inspection report is a public document that will be made available for public disclosure to any person who requests it. The inspection report form will summarize the requirements of this part and will set forth a weighted point value for each requirement. The rating score of the establishment will be the total of the weighted point values for all violations, subtracted from 100.

Subd. 3. The inspection report form will specify a specific and reasonable period of time for the correction of the violations found and correction of the violations will be accomplished within the period specified.

Section 440:35. Suspension of License.

Subd. 1. Licenses may be suspended temporarily by the Health Director at any time for failure by the holder to comply with the requirements of this ordinance. Whenever a license holder or operator has failed to comply with any notice requiring corrective action issued under the provisions of this ordinance, the license holder or operator will be notified in writing that the license, upon service of the notice, is immediately suspended, and the ~~said~~ licensed establishment must discontinue operation immediately; and that an opportunity for a hearing before the City Council will be provided if a written request for appeal is filed with the Health and Inspections Department by the license holder upon form provided by the Health Department within ten days of the date of the notice of suspension.

Subd. 2. Whenever the Health Director finds unsanitary or other conditions in the operation of a food establishment which in the Director's judgment constitutes a substantial hazard to the public health, the Director may without warning, notice

or hearing issue a written notice to the license holder or operator citing such condition, specifying the corrective action to be taken, and specifying the time period with which such action will be taken; The Director may, if deemed necessary, order that the license is immediately suspended, and all food operations to be immediately discontinued. The licensee will comply immediately with the order.

Subd. 3. Any person whose license or permit has been suspended may at any time make application to the Health and Inspections Department for a reinspection for the purpose of reinstatement of the license. Within five days following receipt of a written request, including a statement signed by the applicant that in their opinion the conditions causing the suspension of the license have been corrected, the Health and Inspections Department will make a reinspection. If the applicant is complying with the requirements of this ordinance, the license will be reinstated.

Section 440:40. Revocation of License. For serious or repeated violations of any of the requirements of this ordinance, the license may be revoked after an opportunity for a hearing before the City Council has been provided. Prior to such action, the Health Director will notify the license holder in writing and advised that the license will be permanently revoked at the end of a ten day period. A license may be suspended pending ~~or~~ a hearing on the license revocation.

Section 440:45. Appeal.

Subd. 1. Date of Hearing. The hearing requested will be held not more than ten days after the date on which the petition was filed. The president of the City Council may postpone the date of the hearing for a reasonable time beyond the ten day period if, in the president's judgment, a good and sufficient reason exists for such postponement.

Subd. 3. Notice of Hearing. The Health and Inspections Department will give to the petitioner or petitioners five days written notice of the hearing to by personal service or by mailing to the petition or petitioners' last known address.

Subd. 4. Proceedings. At the hearing the petitioner, petitioner's agent or attorney will be given an opportunity to be heard and to show cause why the notice of suspension or revocation issued by the Health and Inspections Department should be modified or withdrawn. The Health and Inspections Department will present a detailed written statement of its findings and decision to the City Council at the time of the hearing.

Subd. 5. Decisions of the City Council, after such hearing, will sustain, modify or withdraw the notice of suspension or revocation depending upon its findings as to whether the provisions of the ordinance have been complied with. A copy of the decisions of the City Council will be served by mail on the petitioner or petitioners. Any person aggrieved by the decision of the City Council may seek relief in any court of competent jurisdiction as provided by the laws of the State.

Subd. 6. Record of Proceedings. The proceedings of each hearing held before the City Council pursuant to petition, including the findings and the decision of the Health and Inspections Department, will be recorded and reduced to writing and entered as a public record in the office of the Health and Inspections Department. Such record will include a copy of every notice or order or writing issued in connection with the matter.

Subd. 7. Notices not Applied. Any notice served pursuant to the provisions of this ordinance will automatically become final if a written petition for a hearing is not filed with the Health and Inspections Department within ten days after the notice is served.

Section 440:50. Minnesota Department of Health and Minnesota Department of Agriculture. The requirements contained in this ordinance are intended to be comparable to the Minnesota Department of Health standards for food service and delicatessen licenses and the Minnesota Department of Agriculture standards for all other food establishments. Whenever the Minnesota Department of Health or the Minnesota Department of Agriculture amends regulations or adopts new regulations setting higher sanitary standards than the ones established in this ordinance, the standards set by the Minnesota Department of Health or the Minnesota Department of Agriculture will govern and will be considered in the enforcement procedure as part of this ordinance.

Section 441 - Lodging Establishments

Section 441:00. Regulation of Lodging Establishments, Hotels, Motels, Bed and Breakfast and Board and Lodging Establishments.

Subd. 1. Purpose. The purpose of this ordinance is to establish standards for lodging establishments, to protect the health, safety and general welfare of the people of the City of St. Cloud pursuant to powers granted under Minnesota Statutes Chapters 145A and 157. The general objectives include the following:

- (a) Prevent illness.
- (b) Correct and prevent conditions that may adversely affect persons utilizing lodging establishments in the City of St. Cloud.
- (c) Provide minimum standards for the design, construction, operation, and maintenance of lodging establishments.
- (d) Meet consumer expectations of quality and safety of lodging establishments.

Subd. 2. Legal Authority. This ordinance is enacted pursuant to Minnesota Statute Chapter 157 which established the authority for the State to license lodging establishments and Chapter 145, Section 145A.07 which authorizes the Commissioner of Health to enter into an agreement with counties and cities organized under the provisions of Section 145A to perform all or part of the licensing, inspection and enforcement duties authorized under the provisions of these sections and authority provided in Section 157.03.

Subd. 3. Jurisdiction. These ordinances are applicable to all lodging establishments within the legal boundaries of the City of St. Cloud. Lodging establishments will include, but not be limited to, Hotels, Motels, Bed and Breakfast Establishments and Board and Lodging Establishments.

Section 441:05. Definitions.

Subd. 1. "Approved" means acceptable to the City Council as determined by conformance to the provisions of this ordinance, applicable State statutes and good public health practice.

Subd. 2. "Bed and Breakfast Establishment" means any owner occupied, detached single family residential structure which furnishes five or fewer sleeping rooms for rent to the public. Provisions for cooking in any of the sleeping rooms is prohibited. Only one meal will be provided for overnight lodging guests, which will be served during the morning hours.

Subd. 3. "Board and Lodging Establishment" mean any building, kept, used, maintained or advertised as, or held out to the public to be, a place where sleeping accommodations and a meal or meals are furnished to the public for periods usually more than one week and having five or more beds to let to the public.

Subd. 4. "Clean" means free from physical, chemical and microbial substances discernible by ordinary sight or touch, by ultra-violet light, by artificial light, and by the safarain-o-dye test or by microscopic or microbiological examination and free from insects, vermin and debris.

Subd. 5. "Corrosion-Resistant Materials" means those materials that maintain their original surface characteristics under prolonged influence of moisture, the normal use of cleaning compounds and bactericidal solutions, and other conditions-of-use environment.

Subd. 6. "Council" means the St. Cloud City Council acting under the provisions of Minnesota Statutes 145A.

Subd. 7. "Easily Cleanable" means the surfaces are readily accessible and made of such materials and finish, and so fabricated that residue may be effectively removed by ordinary cleaning methods.

Subd. 8. "Garbage" means any organic wastes normally produced from the handling and use of foods, except dishwater and wastewater.

Subd. 9. "Health Department" means the City of St. Cloud Health Department, its Director, staff, or contracted staff, authorized by the City Council to carry out or enforce the provisions of this ordinance.

Subd. 10. "Person in Charge" means the individual present in a lodging establishment who is the apparent supervisor of the lodging establishment at the time of inspection. If no individual is the apparent supervisor, any employee present is the person in charge.

Subd. 11. "Potable Water" means water which is of a quality and from a source of supply and system operated, located, and constructed in accordance with the Minnesota Department of Health rules relating to public water supplies, water wells, and plumbing installations.

Subd. 12. "Regulatory Authority" means the City Council or Health Department or other enforcement authorities having jurisdiction over the lodging establishments.

Subd. 13. "Sanitization" means effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on utensils, equipment and surfaces.

Subd. 14. "Sealed" will mean free of cracks or other openings that permit the entry or passage of moisture.

Subd. 15. "Smooth" will mean having an even surface, free of cracks, chips, open seams, rust, corrosion, breaks, pits, checks, and ridges.

Section 441:10. Building Requirements.

Subd. 1. All windows must be of sound condition with no broken or loose panes; frame and sash must be in sound condition. Windows used for natural ventilation must be openable.

Subd. 2. All doors must fit and operate properly; door, frame and door stop must be in sound condition; required fire rated doors must be self-closing and self-latching; smoke and draft control gaskets must be in place and in good repair.

Subd. 3. All stairs, risers, and hand rails must be in good repair; hand rails must be provided for all stairs having two or more risers. Hand rails must be not less than 34

inches nor more than 38 inches above the nosing of the treads.

Subd. 4. Roof of the building must be in sound condition and good repair with no loose or missing shingles and in weather-tight condition. Visible signs of interior leakage must be investigated.

Subd. 5. Exterior of building, including exterior wall coverings, soffit, fascia, gutters, and downspouts must be in a safe, sound, and sanitary condition.

Section 441:15. Health, Safety, and Comfort

Subd. 1. Every dwelling unit and guest room will be provided with heating facilities capable of maintaining a room temperature of 70 degrees F. at a point three feet above the floor in all habitable rooms.

Subd. 2. Storage and handling of gasoline, fuel oil or other flammable liquids must be in accordance with the City Fire Code.

Subd. 3. All parts of the electrical system, including, but not limited to, electrical switches, receptacles, panels, appliances, and wiring must be in good repair and in accordance with the National Electric Code.

Section 441:20. Floors.

Subd. 1. All floors throughout the establishment must be kept clean and in good repair.

Subd. 2. Cleaning methods must be done so as to minimize the raising of dust and exposure of guests thereto.

Subd. 3. Carpet is allowed in lobbies, hallways, rooms, and customer areas; carpeting must be kept clean with no readily visible soil, stains, spots, or burns.

Subd. 4. Carpet must be of commercial quality, and of closely woven construction for high soil areas; carpet in pool areas must be of a type that is impervious to moisture.

Subd. 5. Floors in locker rooms, toilet rooms, and vestibules must be constructed of smooth, durable material such as terrazzo, ceramic tile, quarry tile, commercial grade vinyl asbestos tile, commercial grade sheet vinyl, or approved poured floors.

Subd. 6. Floors in pool and spa areas must be smooth finished material with nonstop surface, impervious to moisture and sloped to drain. Junctions between walls and floors will be covered.

Subd. 7. Floors in rest room facilities must be smooth, hard, nonabsorbent surfaces which extend upward onto the wall at least five inches.

Section 441:25. Walls and Ceilings.

Subd. 1. Walls and ceilings must be clean and in good repair. Studs, joists, and rafters must not be exposed except where they have been suitably finished and are kept clean.

Subd. 2. Walls and ceilings must not have peeling paint and there must be no cracks or holes.

Subd. 3. Surface materials must be reasonably cleanable and suitable for the use of the area.

Subd. 4. Walls within water closet compartments and walls within two feet of the front and sides of urinals in common rest rooms will have a smooth, hard, non-absorbent surface that extends to a height of four feet.

Subd. 5. Shower walls must have a smooth, hard, non-absorbent surface that extends to a height of not less than 70 inches.

Section 441:30. Screening.

Subd. 1. All outside doors, windows and other outer openings must be screened to prevent the entrance of insects or rodents.

Subd. 2. Louvered vents for exhaust fans must close tightly when not in use and be in good repair.

Subd. 3. Provide and maintain tightly fitting screens of not less than 16 mesh to the inch on all outside openings. Screens must be in good repair with no holes or tears.

Subd. 4. Rodent proof sweep will be installed at the bottom of the exterior doors to prevent entry of rodents.

Subd. 5. All doors opening to the outside must be self-closing.

Section 441:35. Lighting.

Subd. 1. All habitable rooms must be provided with natural light by means of exterior glazed openings with an area not less than 1/10 of the floor area of the room with a minimum size of 10 square feet.

Subd. 2. All rooms and areas used by patrons and guests must be sufficiently lighted by natural and artificial means to allow the use for which the room is intended.

Section 441:40. Ventilation.

Subd. 1. All rooms and areas used by patrons and guests must be adequately ventilated so that excessive heat, odors, fumes, vapors, smoke, or condensation is reduced to a negligible level and are barely perceptible to the normal senses.

Subd. 2. Air replacement vents will be designed to permit the entrance of an equal volume of displaced air and to prevent the entrance of insects, dust or other contaminating materials.

Section 441:45. Heaters Vented.

Subd. 1. All gas fired or oil fired room heaters and water heaters will be vented to outside air.

Subd. 2. All vents will be operating and in good repair; no obstructions will block the vents.

Section 441:50. Space Requirements.

Subd. 1. Every room occupied for sleeping purposes by one person must contain at least 70 square feet of usable floor space with a minimum dimension of seven feet.

Subd. 2. Every room occupied for sleeping purposes by more than one person must contain not less than 60 square feet of usable floor space for each occupant.

Subd. 3. Under no circumstances will there be provided less than 400 cubic feet of air space per occupant.

Subd. 4. Beds must be spaced at least three feet apart when placed side by side.

Subd. 5. No sleeping quarters will be provided in any basement having more than half of its clear floor to ceiling height below the average grade of the adjoining ground.

Section 441:55. Bedding and Linen.

Subd. 1. All beds, bunks, cots, and other sleeping places provided for guests will be supplied with suitable pillow slips and under and top sheets.

Subd. 2. All mattresses, quilts, blankets, pillows, sheets, spreads, and bath linen must be clean.

Subd. 3. All mattresses, quilts, blankets, pillows, bed and bath linen must be kept in good repair.

Subd. 4. All storage areas for bath and bed linen must be clean and organized; clean linen must be stored on clean shelves.

Subd. 5. Soiled linen must be stored in a launderable bag or a non-absorbent, cleanable container and stored in an organized manner away from food, clean equipment and clean linen.

Subd. 6. All pillow slips, sheets and bath linen must be washed before they are used by a guest.

Subd. 7. A clean set of pillow slips, sheets, and bath linen must be provided for each guest.

Subd. 8. Any guest occupying a room for an extended period of time must be provided with a fresh set of sheets and pillow slips at least once each week and at least two clean towels each day.

Subd. 9. Proprietor is not responsible for sheets, towels, pillow slips, and bath linen furnished by guest.

Section 441:60. Room Furnishings.

Subd. 1. All equipment, fixtures, furniture and furnishings will be kept clean and free of dust, dirt, vermin, and other contaminants and maintained in good repair.

Subd. 2. All windows, draperies, and curtains must be clean and free of dust, dirt, vermin and other contaminants.

Section 441:65. Toilets and Showers.

- Subd. 1. Toilet, shower and/or tub must be provided for each room; or
- Subd. 2. Toilet, shower and/or tub must be provided on each floor.
- Subd. 3. One toilet and one lavatory must be provided per 10 guests or fraction thereof.
- Subd. 4. One tub or shower must be provided per 20 guests or fraction thereof.
- Subd. 5. Doors to all toilet rooms, except for private guest rooms or suites, serving the public and employee rest room doors must be self-closing.
- Subd. 6. All toilet rooms must be ventilated by natural or mechanical methods.
- Subd. 7. All toilet and bathroom facilities must be clean and in good repair.
- Subd. 8. Maintain an adequate supply of toilet tissue in toilet rooms. Dispense tissue in a sanitary manner.
- Subd. 9. Provide and maintain an adequate supply of hand cleanser at each hand washing sink.

Section 441:70. Water Supply.

- Subd. 1. An adequate supply of water will be provided by connection to the St. Cloud municipal water system or other approved source.
- Subd. 2. The temperature of hot water which is provided in any public area or guest room, including but not limited to bath tubs, lavatories, or showers must not exceed 130 degrees F.
- Subd. 3. All lavatories for public use, or furnished in guest rooms, must be supplied with hot and cold running water and soap.

Section 441:75. Hand Washing.

- Subd. 1. Individual or other approved sanitary towels or warm air dryers must be provided at all common use lavatories used by employees or the public.
- Subd. 2. Provide hand washing sinks which are conveniently located in all food preparation areas.
- Subd. 3. Hand washing sinks must be accessible to employees at all times.
- Subd. 4. Self-closing faucets must be replaced or adjusted to provide a flow of water for at least 15 seconds without the need to reactivate the faucet.
- Subd. 5. Hand washing signs must be posted in each toilet room used by employees.
- Subd. 6. Provide and maintain a fingernail brush at employee hand washing sinks.
- Subd. 7. Provide a non-absorbent covered waste receptacle in the employees' toilet room.

Subd. 8. Provide and maintain an adequate supply of sanitary single use hand towels at each employee hand sink.

Section 441:80. Guest Room Utensils.

Subd. 1. All multi-use utensils and drinking vessels must be thoroughly washed in hot water containing a suitable soap or detergent, rinsed in clean water, and effectively subjected to a bactericidal process approved by the Health Authority.

Subd. 2. All utensil cleaning equipment must meet NSF standards or be approved by the Health Authority.

Subd. 3. Protect food contact surfaces of equipment and utensils from contamination.

Section 441:85. Single Service Utensils.

Subd. 1. All lodging establishments which do not have adequate and effective facilities for cleaning and sanitizing of utensils will use single service articles. Single service utensils or vessels are to be handled and dispensed in a sanitary manner.

Subd. 2. Storage of single service articles will be at least 6" off the floor on approved shelving.

Subd. 3. Storage of single service items will be in a closed carton or plastic bag. In-use boxes may be open if box is placed on its side with one end open.

Subd. 4. Storage of single service items under or adjacent to cleaning agents or toxic materials is prohibited.

Subd. 5. Storage of single service items in toilet rooms or other unapproved areas is prohibited.

Subd. 6. Re-use of single service articles is prohibited.

Subd. 7. Only equipment and utensils necessary in the conduct of the business under license will be stored in the establishment. The presence of utensils and equipment on the premises will be prima facie evidence of intended use on the premises.

Section 441:90. Waste Disposal.

Subd. 1. All liquid wastes will be disposed of in the St. Cloud municipal waste water system or other approved sewage system.

Section 441:95. Garbage and Refuse.

Subd. 1. Garbage and refuse containers will be provided which are durable, easily cleanable, insect and rodent proof, non-leaking and fire resistant, or comply with the City of St. Cloud Refuse Collection Ordinance.

Subd. 2. Garbage and refuse containers stored outside will be provided with tight fitting lids, doors, covers, or other means approved by the Health Department.

Subd. 3. Garbage and refuse containers will be cleaned on a regular frequency.

Subd. 4. A sufficient number of containers to hold all garbage and refuse that accumulates or frequent enough refuse pickup to prevent excessive accumulation will be provided.

Subd. 5. Outside garbage and refuse storage areas will be kept clean.

Subd. 6. Provide adequate facilities to clean refuse containers and outside storage areas or enclosures.

Subd. 7. Recyclable material not containing garbage or food waste will be stored in a controlled manner which does not create a nuisance, fire hazard or rodent harborage.

Section 441:100. Insects and Rodents.

Subd. 1. Every lodging establishment must be so constructed and equipped to prevent the entrance and harborage or breeding of flies, roaches, bed bugs, rats, mice, and all other insects and vermin.

Subd. 2. If present, specific means must be used to eliminate such pests by the means of cleaning, renovating, or fumigation. In the event of an extensive infestation, the establishment must hire an exterminator licensed by the State of Minnesota. The establishment is ordered to hire a professional, licensed pest control operator when the following evidence of insects, or rodents are found on the property:

- (a) Cockroaches present, dead or alive;
- (b) Mice or rats present, dead or alive;
- (c) Mice or rat droppings present.
- (d) Mice or rat burrows on property.

Section 441:105. Personal Hygiene.

Subd. 1. No employee will return to work after visiting the toilet without first thoroughly washing their hands.

Subd. 2. Employees must not use common towels for drying or wiping hands.

Subd. 3. Employees must use good personal hygiene and refrain from touching their face or hair, scratching, or coughing or sneezing indiscriminately while working.

Subd. 4. Employees on duty must not use tobacco in any form, except in designated smoking areas while on break.

Subd. 5. When required by the Health Authority, personnel may be required to undergo medical examination to determine whether or not they are cases or carriers of a communicable disease that may be transmitted to public using the establishment.

Section 441:110. Fire Protection.

Subd. 1. Fire escapes must be accessible and in good repair.

Subd. 2. Exit signs must be present and in good working order.

Subd. 3. Fire extinguisher must be present, accessible for use and inspected for proper charge on an annual basis with appropriate inspection tags.

Subd. 4. There must be unobstructed egress to the outside or to a central hall leading to a fire escape from all sleeping rooms.

Subd. 5. Smoke detectors must be present in each sleeping room and must be in good working order.

Subd. 6. All fire protection measures must be in accordance with the requirement of the St. Cloud Fire Code.

Section 441:115. Plumbing.

Subd. 1. All plumbing systems will be installed and maintained in accordance with the Minnesota Plumbing Code.

Subd. 2. Provide and maintain floor drain covers where required.

Subd. 3. All swimming pools or other artificial recreational bathing facilities will be located, constructed, operated and maintained in conformity with the standards of the Public Swimming Pool Ordinance.

Subd. 4. No direct connection will be made or permitted to exist between the public water supply system or any other source or water or waste disposal system.

Subd. 5. Ice melt water must be drained to a sanitary sewer through an approved air break.

Subd. 6. Provide properly installed anti-siphon ball-cock in toilet tanks.

Subd. 7. Provide back-flow preventors for all threaded hose bibs.

Subd. 8. Provide anti-back-flow device where chemical or detergent feed equipment is connected to a water inlet.

Section 441:120. Ice Dispensing.

Subd. 1. All ice will be manufactured only from safe potable water which has been obtained from the municipal water supply or other approved source.

Subd. 2. Ice manufacturing equipment will be of approved construction and will be operated and maintained in a clean and sanitary manner.

Subd. 3. Ice will be packaged, stored, and transported under sanitary conditions. Buckets, scoops, and ice containers, unless they are single-service utensils, will be made of smooth impervious material and designed to facilitate cleaning and will be clean at all times.

Subd. 4. Ice for consumer use will be dispensed only by an employee with scoops, tongs or other ice dispensing utensils or through automatic self-service ice dispensing machines.

Subd. 5. Ice crushers will be easily cleanable, maintained in a clean condition, and sanitized and covered when not in use.

Subd. 6. There will be no public access to open type ice bins.

Section 441:125. Minnesota Clean Indoor Air Act.

Subd. 1. All lodging establishments must comply with the provisions of the Minnesota Clean Indoor Air Act and the associated guidelines of the Minnesota Department of Health.

Section 441:127. Licenses Required. It will be unlawful for any person to operate a lodging establishment within the City of St. Cloud who does not possess a valid license issued by the Health and Inspections Department as required by this ordinance. Only a person who complies with the requirements of this ordinance will be entitled to receive and retain such a license. Licenses will not be transferable from one establishment or person to another establishment or person. A valid license will be posted in every lodging establishment. The license year will be from January 1 to December 31 of the year of its issuance.

Section 441:130. Enforcement. This ordinance will be enforced by the Health Director of the City of St. Cloud.

Section 441:135. Penalty for Late Payment of License Renewal Fee for Lodging Establishments will be as prescribed in Section 500 of the 2007 City of St. Cloud Code of Ordinances.

Section 441:140. Inspections.

Subd. 1. The Health Department will inspect every lodging establishment at least biannually and more frequently as may be deemed necessary to ensure compliance with this ordinance. As a rule, most establishments will be inspected twice a year.

Subd. 2. The person operating a lodging establishment will, upon request of the Health Department and after proper identification, permit access to all parts of the establishment at any reasonable time for the purpose of inspection and will exhibit and allow copying of any records necessary to ascertain sources of foods or other compliance with this ordinance.

Subd. 3. Whenever an inspection of a lodging establishment is made, the findings will be recorded on the inspection report form. One copy of the inspection report form will be furnished to the person in charge of the establishment. The completed inspection report is a public document made available for public disclosure to any person who requests it. The inspection report form will summarize the requirements of this part and will set forth a weighted point value for each requirement. The rating score of the establishment will be the total of the weighted point values for all violations, subtracted from 100.

Subd. 4. The inspection report form will specify a specific and reasonable period of time for the correction of the violations found, and correction of the violations will be accomplished within the period specified.

Section 441:145. Suspension of License.

Subd. 1. Licenses may be suspended temporarily by the Health Director at any time for failure by the holder to comply with the requirements of this ordinance. Whenever a license holder or operator has failed to comply with any notice requiring corrective action issued under the provisions of this ordinance, the license, upon service of the notice, is immediately suspended, and the said licensed establishment must discontinue operation immediately; and that an opportunity for a hearing before the City Council will be provided if a written request for appeal is filed with the Health Department within ten days of the date of the notice of suspension.

Subd. 2. Notwithstanding the other provisions of this ordinance, whenever the Health Director finds unsanitary or other conditions in the operation of a lodging establishment which in his judgment constitutes a substantial hazard to the public health, he may without warning, notice or hearing, issue a written notice to the license holder or operator citing such condition, specifying the corrective action to be taken, and specifying the time period with which such action will be taken; and if deemed necessary, such order will state the license is immediately discontinued. Any person to whom such an order is issued will comply immediately therewith, but upon written appeal upon a form provided by the Health Department within ten days of the date of the notice of suspension, the license will be afforded an appeal before the City Council.

Subd. 3. Any person whose license or permit has been suspended may at any time make application to the Health Department for a reinspection for the purpose of reinstatement of the license. Within five days following receipt of a written request, including a statement signed by the applicant that in his opinion the conditions causing the suspension of the license have been corrected, the Health Department will make a reinspection. If the applicant is complying with the requirements of this ordinance, the license will be reinstated.

Section 441:150. Revocation of License. For serious or repeated violations of any of the requirements of this ordinance, the license may be permanently revoked after an opportunity for a hearing before the City Council has been provided. Prior to such action, the Health Director will notify the license holder in writing and advising that the license will be permanently revoked at the end of a ten day period. A license may be suspended for cause pending its revocation.

Section 441:155. Appeal.

Subd. 1. Request for Hearing. Any person affected by the notice of suspension or revocation will be granted a hearing on the matter before the City Council upon filing in the office of the Health Department a written petition upon a form provided by the Health Department, requesting such a hearing and setting forth a brief statement on the grounds for appeal. Said petition will be filed within ten days after the notice was served.

Subd. 2. Date of Hearing. The hearing requested will be held not more than ten days after the date on which the petition was filed. The President of the City Council may postpone the date of the hearing for a reasonable time beyond such ten day period if in the President's judgment a good and sufficient reason exists for such postponement.

Subd. 3. Notice of Hearing. The Health Department will cause five days written notice of the Hearing to be given to the petitioner or petitioners by personal service or by mailing to the petitioner or petitioners' last known address.

Subd. 4. Proceedings. At such hearing the petitioner, his agent or attorney, will be given an opportunity to be heard and to show cause why the notice of suspension or revocation issued by the Health Department should be modified or withdrawn. The Health Department will present a detailed written statement of its findings and decision to the City Council at the time of the Hearing.

Subd. 5. Decision of the City Council. ¶ The Council after such hearing, will sustain, modify or withdraw the notice of suspension or revocation depending upon its findings as to whether the provisions of the ordinance have been complied with. A copy of the decisions of the City Council will be served by mail on the petitioner or petitioners. Any person aggrieved by the decision of the City Council may seek relief in any court of competent jurisdiction as provided by the laws of the State.

Subd. 6. Record of Proceedings. The proceedings of each hearing held before the City Council pursuant to petition, including the findings and the decision of the Health Department, will be recorded and reduced to writing and entered as a public record in the office of the Health Department. The cord will include a copy of every notice or order, or writing issued in connection with the matter.

Subd. 7. Notices Not Applied. Any notice served pursuant to the provisions of this ordinance will automatically become final if a written petition for a hearing is not filed with the Health Department within ten days after the notice is served.

Section 441A - Hotel, Motel Tax

Section 441A:00. Definitions.

Subd. 1. Hotel - The furnishing, for a consideration, of lodging by a hotel, tourist court, or motel, and the granting of any similar license to use real property other than the renting or leasing thereof for a continuous period of 30 days or more.

Subd. 2. Operator - The person who is the proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, licensee, or any other capacity, is an operator.

Section 441A:05. Imposition of Tax. The following tax, as authorized The Laws of Minnesota 1979, Chapter 197, will apply:

- (1) For the privilege of occupancy of any hotel, each person will pay a tax in the amount of five percent (5%) of the charge made by the operator.
- (2) Those persons qualifying under paragraph one of this section will pay the tax on the operator of the hotel or the establishment at the time the charge is paid. The tax constitutes a debt owed to the City by the operator and is extinguished only by payment to the City.

Section 441A:07. Distribution of Tax. The five percent (5%) tax collected will be distributed as follows:

52.5% Convention and Visitor's Bureau
40.0% Civic Center
1.0% Finance Department

- 1.5% Community Festival
- 3.0% Municipal Athletic Complex
- 2.0% Municipal Gardens

History: Ord. 2341 3-13-07.

Section 441A:10. Exceptions and Exemptions.

Subd. 1. Privilege of Occupancy.

- (a) Exceptions. No tax will be imposed on room rentals paid by any officer or employee of a foreign government who is exempt by reason of express provisions of federal law or international treaty.
- (b) Exemptions. No exemption from the tax imposed under this Code will be granted except upon a claim thereof made at the time the rent is collected by the operator, and such claim will be made in writing and under penalty of perjury. All such claims will be forwarded to the City when the reports and collections are submitted as required under Section 441A:15 of this Code. Such exemptions will be granted as follows: Upon any person to whom, or occupancy to which, it is beyond the power of the City to so tax.

Section 441A:15. Collections.

Subd. 1. Operator's Duties. Each operator will collect the tax imposed by this Code at the time the rent is paid. The amount of tax will be separately stated from the rent charged. Those persons paying the tax will receive a receipt of payment from the operator.

Subd. 2. Reports. Each operator collecting such tax will make a report upon forms distributed to the operator by the Finance Director. Such reports will contain, at a minimum:

- (a) The amount of room rentals collected.
- (b) The amount of tax required to be collected and due for the period.
- (c) The signature of the operator or that of the agent if the operator has not made the report.
- (d) The period the return covers.
- (e) The amount of room rentals uncollectible.
- (f) Such additional information as the City Council, in its discretion, from time to time requires.

Subd. 3. Payment to the City. Payment of the tax will be submitted by the operator to the City along with the required reports. Payment will cover the tax due for the preceding calendar month, or any alternative four-week accounting period, whichever the case will be, and such payment will be made no later than 25 days after the end of such calendar or alternative accounting month.

Subd. 4. Uncollectible Charges. The operator may offset against the tax due with respect to any reporting period the amount of the taxes imposed by Section 441A:05 of this Code previously paid as a result of any transaction which becomes uncollectible during such reporting period, but only in proportion to the portion of such amount which becomes a collectible.

Subd. 5. Examination of Return. After a return is filed, the Finance Director may make any examination of the records and accounts of the person making the return which he deems necessary for determining its correctness. The tax computed on the basis of such examination will be the tax to be paid. If the tax due is found to be greater than that paid, such excess will be paid within ten days after receipt of notice. Such notice will be given either personally or sent by registered mail to the address listed on the return. If the tax paid is greater than the tax found to be due, the excess paid will be refunded to the operator at the address listed on the return.

Section 441A:20. Refunds.

Subd. 1. Any operator may file for a refund for taxes paid in excess of the amount legally due for that period, provided that no such claim will be entertained unless filed within one year after such tax was paid.

Subd. 2. Upon application, the Finance Director will determine the correctness of the claim and return any excess paid. If no excess is found, the City will so inform the operator. The operator may make written application for a City Council hearing within five days after receipt of notice that the claim has been denied. The operator will be informed at least five days in advance of the scheduled Council hearing.

Section 441A:25. Penalties.

Subd. 1. Original Deficiency. Any operator failing to make payment within the 25-day period specified in sub-section 441A:15, Subdivision 3, of this Code will be required to pay a penalty of five percent (5%) of the tax amount remaining unpaid. The amount of said tax not timely paid, together with said penalty, will bear interest at the rate of seven percent (7%) per annum from the time such tax should have been paid until paid. Any interest and penalty will be added to the tax and be collected as a part thereof.

Subd. 2. Continuing Deficiency. If payment of the tax and the five percent (5%) penalty imposed under subdivision 1 of this section is not paid within 30 days of the date the tax is due as specified in sub-section 441A:15, Subdivision 3, of this Code, an additional ten percent (10%) penalty will be imposed upon the amount of tax due plus the original deficiency penalty of five percent (5%). If the delinquency continues beyond 30 days after the tax is due as specified in sub-section 441A:15, Subdivision 3, of this Code, the City Attorney may commence such action necessary to collect the tax and penalties due.

Subd. 3. Abatement of Penalties. The Mayor will have the power to abate penalties when, in his opinion, the enforcement would be unjust and inequitable. All requests for abatement of penalties will be in writing and will set forth the reasons for the failure to file the return and pay the tax timely. The Mayor will report all penalty abatements to the City Council at the next regular City Council meeting.

Section 441A:30. Tax Determined by the City Council.

Subd. 1. If the operator refuses to collect the tax imposed or fails to make the required reports, the Finance Director will obtain facts and information and make an estimate of the amount of tax due and report to the City Council for approval. After approval by the City Council, the Finance Director will give the operator a statement of the tax due to his estimate and give notice personally or through registered mail to such operator of the amount due. Depending upon the time periods as specified in Section 441A:25 of this Code, the amount of tax estimated will include the applicable penalties and interest. Payments will be made within ten days after receipt of notice. For the purpose of

carrying out the provisions of this section, the Finance Director will have the right of access to the books and records of the operator.

Subd. 2. The operator will have ten days after receipt of notice to make a written application for a hearing on the assessed tax to the Finance Director. If no request is made during this ten day period, the amount specified in the statement of the Finance Director, including penalties and interest, becomes final and payable within ten days.

Subd. 3. If a hearing is properly requested, the running of the time periods described in Section 441A:25 of this Code are automatically stayed. Notice of the hearing will be given to the operator at least ten days in advance. All hearings are to be held before the City Council. The Council may then determine the amount due, when it will be paid, and whether or not the penalty time period under Section 441A:25 of this Code will resume running until payment. Once the amount due becomes fixed under either Subdivision 1, 2, or 3, of this section, any further steps necessary to ensure collection may be taken by the City Attorney.

Section 441A:35. Administration. The Mayor will be charged with the responsibility for enforcement and administration of Section 441A.

Section 441A:45. Deposit in Special Purpose Fund. All revenues collected pursuant to Section 441A will be deposited in a special purpose fund, hereby established, to be known as the "Hotel-Motel Tax Fund."

Section 441A:50. Distribution. Distribution of all revenues relating to five percent (5%) of the charge made by the operator and collected pursuant to Section 441A will be in accordance with the percentages established in Section 441A:07 and will be used for the purpose of the advancement of the City of St. Cloud as a tourist and convention center or the promotion, operation and maintenance of the convention center facility and related facilities, all in accord with the enabling legislation. The City of St. Cloud may retain a sum not to exceed the actual amount of its costs incurred in the collection and administration of this tax.

The following budgeting practices will be utilized by recipients of revenues to be utilized for the purpose of the advancement of the City of St. Cloud as a tourist and convention center:

- (a) The budget submitted to the City will be in the same form and format that is being used by the City of St. Cloud. Periodically, but not less than quarterly, the recipient will submit a financial statement showing revenue and expenditures along with budget figures. This statement will use the same object codes used by the City.
- (b) The City will deliver to the recipient budget preparation materials at about the same time City departments receive budget materials. The materials will contain budget preparation instructions, budget forms, and a submission deadline. The recipient will be responsible for preparing and submitting its budget as prescribed in the preparation materials.
- (c) Recipients of revenues from the City will separately budget and account for those revenues and expenditures of those revenues apart from non-City revenues which a recipient may receive or expenditures which a recipient may make.

Section 441B - Liquor and Food Tax

Section 441B:00. Authority. The Legislature has by Laws of Minnesota for 1986, Chapter 379, authorized the City to impose additional sales taxes within the City to provide revenues to pay certain costs related to the funding of a convention center and related facilities.

Section 441B:05. Definitions. The words, terms and phrases used in Section 441B:00 to 441B:35 will have the meaning ascribed to them in Minnesota Statutes, Section 297A.61 except where the context clearly indicates otherwise. In addition, the following definitions will apply:

- (a) "Act" means Laws of Minnesota for 1986, Chapter 379.
- (b) "Commissioner" means the Commissioner of Revenue for the State of Minnesota, acting under the authority of an agreement entered into between the City and the State of Minnesota pursuant to the Act, or such other person designated to administer and collect the St. Cloud City Sales Tax.
- (c) "Restaurant" means every building or other structure or enclosure, or any part thereof and all buildings in connection, kept, used or maintained as, or held out to the public to be an enclosure where meals or lunches are served or prepared for service elsewhere and will for the purpose of this Section 441B be deemed to be a restaurant.
- (d) "Place of Refreshment" means every building, structure, vehicle, sidewalk cart or any part thereof, used as, maintained as, or advertised as, or held out to be a place where confectionery, ice cream, or drinks of various kinds are made, sold or served at retail. This Section 441B will not be applicable in any manner to a general merchandise store, grocery store, oil station, cigar stand, confectionery store, or drug store not providing meals, lunches, lodging, or fountain, bar, booth, or table service.
- (e) "Operator" means the person who is the proprietor of the restaurant, place of refreshment or licensed on-sale liquor establishment whether in the capacity of owner, lessee, sublessee, licensee, or any other capacity.

Section 441B:10. Imposition of Tax. On or after the 1st day of February, 1987, the following tax as authorized by the Minnesota State Legislature in Laws 1986, Chapter 379 will apply:

- (1) One percent on the gross receipts from all retail on-sales of intoxicating liquor and fermented malt beverages sold at licensed on-sale liquor establishments within the City of St. Cloud, and
- (2) One percent on the gross receipts from the retail sale of food and beverages not subject to the liquor tax by a restaurant or place of refreshment within the City of St. Cloud.

Section 441B:15. Application of Tax. The application and administration of the City sales tax will be construed consistent with the State general sales tax and the imposition of the City tax will be construed so that any subsequent amendment to Minnesota Statutes, Chapter 297A affecting the sales taxable under this Article will also apply to the City tax and affect in the same manner the sales taxable under this Article.

Section 441B:20. Separate Statement: Collection from Purchases, Advertising No Tax; Minimum; Uniform Tax Collection Methods. The tax will be stated and charged separately from

the sale price and will be collected by the operator from the purchaser and will be a debt from the purchaser to the operator recoverable at law in the same manner as other debts.

No operator will advertise or hold out or state to the public or any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer, or that it will not be added to the sales price or that, if added, it or any part thereof will be refunded. In computing the tax to be collected as the result of any transaction, amounts of tax less than one-half of one cent may be disregarded and amounts of tax of one-half cent or more may be considered an additional cent.

Section 441B:25. Permit. Every operator will file with the Commissioner an application for a separate St. Cloud permit and if such person has more than one place of business in St. Cloud, an application for each place of business must be filed. An applicant who has no regular place of doing business and who moves from place to place will be considered to have only one place of business and will attach such permit to his cart, stand, vehicle or other merchandising device.

The Commissioner will issue to each applicant a separate permit for each place of business within the City. The permit will not be assignable and will be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein.

Section 441B:30. Enforcement, Collection and Administration. Each operator will collect, report and pay to the Commissioner the tax imposed together with the State sales and use taxes. The taxes imposed by the City hereunder will be subject to the same interest, penalties and other rules as are applicable to the State general sales and use tax imposed by Minnesota Statutes, Chapter 297A. The taxes imposed by the City hereunder may be collected by the State on behalf of the City as provided by an appropriate agreement with the Commissioner.

Section 441B:35. Tax Clearance; Issuance of Licenses. The City may not issue or renew a license for the conduct of a trade or business in the City of St. Cloud if the Commissioner notifies the licensing division of the City that the applicant owes delinquent City taxes as provided in this Article, or penalties or interest due on such taxes. For the purpose of this Section, the following terms have the meaning given:

- (a) "City Taxes" include liquor and fermented beverage, and food and beverage taxes as provided in the Article; lodging tax as provided in Chapter 379, Laws of Minnesota for 1986; and transient lodging tax as provided in Chapter 197, Laws of Minnesota for 1979. Penalties and interest are penalties and interest due on taxes included in this definition.
- (b) "Delinquent Taxes" does not include a tax liability if
 - (i) an administrative or court action which contests the amount or validity of the liability has been filed or served,
 - (ii) the appeal period to contest the tax liability has not expired, or
 - (iii) the applicant has entered into a payment agreement and is current with the payments.
- (c) "Applicant" means an individual if the license is issued to or in the name of an individual or the corporation or partnership if the license is issued to or in the name of a corporation or partnership.

A copy of the notice of delinquent taxes will be sent to the applicant taxpayer. In the case of renewal of a license, if the applicant requests in writing, within 30 days of the receipt of the notice of hearing, then, a contested case hearing will be held under the same procedures as provided in Minnesota Statutes, Section 270.72 for the State Sales and Use Tax imposed under Minnesota Statutes, Chapter 297A; provided further that if a hearing must be held on the State Sales and Use Tax, hearings may be combined.

Section 447 - Massage Facilities

Section 447:00. Definitions.

Subd. 1. "Massage" means the rubbing, stroking, kneading, tapping or rolling of the body with the hands, for the exclusive purposes of relaxation, physical fitness, or beautification, and for no other purposes; the term "masseur" means a male person, and the term "masseuse", a female person, who practices massage.

Subd. 2. "Massage Facility" means any room or rooms where a person for a fee may receive a massage.

Section 447:05. License Required. No Person will engage in the business of operating a massage facility either exclusively or in connection with any other business enterprise without being licensed as provided in this ordinance. Massage will not be offered for a fee except in connection with a licensed massage facility. Licensed massage facilities may perform their services for customers at off premised locations.

Section 447:07. Requirements. To qualify for a license, the massage facility must have all services performed by or under the direction of an employee currently certified as an insured member, in good standing, of the American Massage Therapy Association, the Minnesota Touch Movement Network, or the Associated Bodyworks and Massage Professionals. Proof of such membership and training must be provided to the Health Director prior to the providing of such massage services within the City.

Section 447:08. Exceptions. A license is not required under this section for premises at which massage services are provided by or under the direction of any of the following: Persons duly licensed or registered in this state to practice medicine, surgery, osteopath, chiropractic, physical therapy, or podiatry; registered nurse; athletic directors and trainers; beauty culturists or barbers who do not give or hold themselves out to give massages or other services other than those customarily given in such shops and places of business for the purpose of beautification only. Massages customarily given by beauty culturists or barbers will be limited to the areas of head, neck and shoulder; hand and lower arms to the elbow; foot and ankle.

Section 447:10. License Application.

Subd. 1. Forms and procedures.

(a) Forms. Any person desiring to engage in the business of operating a massage facility under a license as defined will make application in writing providing an original and four copies to the Health Director. The application will address the following:

1. A complete description of the proposed business activities to be conducted on the premises.
2. Value added by new construction or remodeling, if any.
3. Impact on employment.
4. Compatibility with St. Cloud Zoning Ordinances and the Comprehensive Plan.
5. Proximity to residences.
6. Proximity to other establishments licensed as a massage facility.
7. Proximity to churches, schools and public buildings.
8. Probable impact on law enforcement.
9. A description and location of the premises to be licensed. Whenever the

application for the license to operate a massage facility is for premises on which new construction or the alteration of existing structures is to occur, the application will be accompanied by a set of preliminary plans showing the interior and exterior design, including site and space allocation and utilization.

10. Names and addresses of the property owner, the business owner, the lessee, the manager or operator, and if a corporation, all the names and addresses of the officers and shareholders of such corporation.
 11. Description of any crime or other offense, including the time, place, date and disposition for which any person named in number 10 above has been convicted.
- (b) Release of Information. The applicant will submit with the completed application form an executed release of information authorizing the Chief of Police to obtain any information pertaining to the applicant's character or criminal history which may be deemed confidential, private, or privileged by the laws of the United States or of any state. The applicant will also submit additional information that may be required by the Planning Office, Health and Inspections Department, Police Chief and City Attorney. No person will make a false statement in an application.
- (c) Administrative Review. Upon the filing of an application for a license, together with the documents required to accompany the license, the Health Director will forward a copy of the application and accompanying documents to the Planning Office, Health and Inspections Department, Police Chief and City Attorney.
1. Planning Office Review. The Planning Office will review the application and any other pertinent information relative to zoning, land use compatibility, and comprehensive planning.
 2. Police Department Review. The Police Chief will make or cause to be made a review of the application to determine the potential impact of law enforcement. The Police Chief will also make or cause to be made an investigation of the applicant's character and criminal history.
 3. Health and Inspections Department. The Health and Inspections Department will review the license application and inspect the premises for which the license is to be issued to confirm compliance with all requirements of the City and State relating to health and sanitation.
 4. City Attorney Review. The City Attorney will review the application for compliance with all applicable statutes and ordinances.
 5. Findings and Recommendations. Within 45 days of receipt of the application, the Planning Office, Police Chief, Health and Inspections Department and City Attorney will submit in writing to the Health Director their respective findings and recommendations. The Health Director will immediately submit the application, including the preliminary plans, if any, to the Mayor with the reports and recommendations of the Planning Office, Police Chief, Health and Inspections Department and City Attorney in respect to the granting or denying of the application.

Section 447:15. Insurance Required. Each applicant for a license under this ordinance will file with the Health Director a public liability insurance policy or certificate of insurance from a company authorized to do business in Minnesota, insuring the applicant against any and all loss

arising out of the use, operation or maintenance of a massage facility. The policy of insurance will be in limits of not less than \$100,000 for injury or loss to one person, \$300,000 for each occurrence and \$25,000 property damage. The policy or certificate is subject to the approval of the St. Cloud City Attorney. No cancellation of any insurance policy will be valid except upon 30 days prior written notice to the City. Failure to keep in full force and effect the insurance is grounds for revocation of the license.

Section 447:20. Granting of Initial License.

Subd. 1. Council to approve. The Council will review all facts set out in the initial application and may approve the initial license.

Subd. 2. License Restrictions. Each license will be issued to the applicant only and only for the premises described in the application.

Section 447:22. Issuance of Licenses for New Construction and Alterations of Existing Structures.

Subd. 1. Final Plans Reviewed. Where a license to operate a massage facility is granted for premises on which new construction or alteration of existing structures is to occur, the applicant will submit a set of detailed final plans showing interior and exterior design, including site and space. These plans will be certified by a registered architect or engineer and submitted to the Building Inspections Division. The Council will review the plans for compliance with the preliminary plans included in the original application as required by Section 447:10.

Subd. 2. Certificate of Occupancy Required. For premises on which new construction or alteration of existing structures is to occur, no license to operate a massage facility will be issued until a certificate of occupancy is issued by the City for premises constructed in accordance with the application and plans reviewed by the Council. Prior to issuance of the certificate of occupancy, the Chief Building Official will certify to the Health Director that construction was or was not in compliance with the final plans reviewed by the City Council. Where the construction is found not to be in accordance with the final plans, the Chief Building Official will state all significant deviations.

Subd. 3. Council to Review Deviations. Where the certification to the Health Director indicates that construction was not in accordance with the final plans, the Health Director will not issue the license but will return the application, together with the final plans and a statement of deviations to the City Council for further action.

Section 447:23. Review and Investigation Fee. At the time of each original application, the applicant will pay in full a review and investigation fee. Review and investigation fees will be set forth in Section 510 of this Code. If the City Council finds that an investigation is required outside the State of Minnesota, the fee will be that established for the same class of in-state review and investigation in addition to the actual costs of review and investigation exceeding the in-state fee. For investigation outside of the State of Minnesota, the portion of the fee determined by the in-state schedule will be paid at the time of the original application; any fee due in excess of that amount must be paid prior to the license hearing and before the City Council considers the application. Where a new application is filed as a result of incorporation by an existing licensee and the ownership control and interest in the license are unchanged, no additional license fee will be required. The review and investigation fee will not be refunded.

Section 447:25. License Fee and License Year. The Health Director may issue annual licenses after the initial license approval by the City Council. The annual license fee for engaging in the business of a massage facility will be in the amount duly established by the Council from time to time. A separate license will be obtained for each place of business. The licensee will display the license in a prominent place on the licensed premises at all times. A license, unless revoked, is for the calendar year, or part thereof, for which it has been issued. The annual license will expire on December 31 of each year.

Section 447:26. License Restrictions. Each license will be issued to the applicant only. Each license will be issued only for the premises described in the application. No license may be transferred to another person or place.

Section 447:30. Denial of Application. The license will be denied for any of the reasons set forth in the following subdivisions: The listing is not intended to state the exclusive reasons for denial, but only indicates those reasons for which denial is mandatory.

Subd. 1. The proposed use is in conflict with the St. Cloud Zoning Code or the Comprehensive Plan.

Subd. 2. The proposed use is in conflict with any health regulations or building code regulations of the City of St. Cloud or State of Minnesota.

Subd. 3. The application contains false, fraudulent, or deceptive statements.

Subd. 4. The applicant has been convicted within the previous three years of a violation of this ordinance or of any law involving moral turpitude.

Subd. 5. The applicant is an alien or a non-resident of the City unless such non-resident was holding a license to operate a massage facility on the effective date of this ordinance, and has continuously held such a license until the time of making their application. In the case of a corporation, the manager or person in charge will be subject to this requirement.

Subd. 6. The applicant is not the proprietor of the establishment for which the license is issued. In the case of a corporation, the manager or person in charge will be subject to this requirement.

Subd. 7. Any premises on which taxes, assessments, or other financial claims of the City or the State of Minnesota are delinquent and unpaid.

Section 447:35. Suspension or Revocation of License. A license will be suspended or revoked for any of the reasons set forth in the subdivisions which follow. The reasons which follow are not intended to be the only reasons upon which suspension or revocation of the license may be based, but are intended to be a listing of the mandatory reasons for suspension or revocation.

Subd. 1. The operation or maintenance of a massage facility in conflict with the provisions of this ordinance, or any other ordinance or statute.

Subd. 2. The employment of a masseur or masseuse who has been convicted of a felony within the last three years.

Subd. 3. The conviction of the licensee for prostitution, pandering, or keeping a disorderly house.

Subd. 4. The conviction of any person for prostitution, pandering, or other criminal acts which took place on the licensed premises under such circumstances that the licensee knew of or should have known that the person was engaging in such acts on the premises.

Subd. 5. The employment on the licensed premises of any person under 19 years of age.

Section 447:40. Business Hours. No customers or patrons will be allowed to enter the licensed premises after 1:00 a.m. and before 8:00 a.m. daily. Customers or patrons will not be allowed to remain upon the licensed premises after 1:30 a.m. and before 8:00 a.m. daily.

Section 447:45. Inspection by City Officers and Identification of Employees. Licensed premises will be open to inspection by City Health, Building and License Inspectors and Police Officers during business hours. Any person engaged in providing business hours. Any person engaged in providing services in any licensed premises will identify themselves giving their true legal name and correct address upon demand by any police officer.

Section 447:50. Violations.

Subd. 1. Notice of Violation. The Chief of Police, upon a conviction of the licensee or an employee of the licensee of a violation of any provision of this ordinance or of state law committed in the operation of licensee's business, will report, such violations to the Mayor's office in writing, giving all relevant facts and circumstances. The Mayor's office will transmit the report to the Council at the next regular meeting. If the Council determines from the facts and circumstances reported, together with any other facts and circumstances known to it, that a suspension or revocation of the licenses held by the licensee is warranted, it will set a hearing, and provide the licensee at least 10 days notice of the time, place and purpose of the hearing.

Section 449 - Tattooing, Body Piercing, Branding, and Scarification

Section 449:00. Definitions.

Subd. 1. "Body Piercing" will mean the penetration of human skin by any method which is intended to result in a permanent entrance and exit point on the body.

Subd. 2. "Branding" will mean the use of heat, cold, or any chemical compound to imprint permanent markings on human skin by any means other than tattooing.

Subd. 3. "Tattooing" will mean the marking of the skin of a person by insertion of permanent colors by introducing them through puncture of the skin.

Subd. 4. "Scarification" will mean the cutting or tearing of human skin for the purpose of creating a permanent mark or design on the skin.

Section 449:05. License Required. No person will engage in the practice of tattooing, body piercing, branding, or scarification without being licensed under this section.

Subd. 1. No person will be granted a license under this chapter who is not free from communicable disease.

Subd. 2. No person will perform tattooing, body piercing, branding, or scarification who is under the age of 18.

Section 449:10. Application for License. Any person desiring a license under this chapter will file with the Health Department a written application, signed by applicant, and containing the name of the applicant, the names of co-partners, if a partnership, and if a corporation, the names of the principal officers of the corporation together with a brief description of the place or location at which the business is to be conducted.

Subd. 1. License Term. All licenses issued under this section will expire on December 31 of the license year.

Subd. 2. Licensing Procedure. The Health Director will, upon receipt of an application and prescribed license fee, the facility named in the application as the place or location at which the business is to be conducted. If the facility is found to be in clean and sanitary condition, the license will be granted.

Section 449:15. Location Restricted. No person will engage in the practice of tattooing, body piercing, branding, or scarification at any place other than the place or location named or described in the application and license. All locations will comply with Articles of the City of St. Cloud Zoning Ordinance.

Subd. 1. There will be not less than 150 square feet of floor space at the place where the practice of tattooing, body piercing, branding, or scarification is conducted, and the place will be so lighted and ventilated as to comply with the standards approved by the Building Inspector.

Subd. 2. No place used for the practice of tattooing, body piercing, branding, or scarification will be used or occupied for living or sleeping quarters or for any purpose other than tattooing, body piercing, branding, or scarification.

Subd. 3. Every place where tattooing, body piercing, branding, or scarification is done will be equipped with a sewer and water connected toilet and hand basin or sink. The hand basin or sink will be supplied with hot and cold running water under pressure and will be maintained in good working order at all times and will be kept in a clean and sanitary condition.

Subd. 4. All tables, chairs, and operating furniture will be constructed of smooth, easily cleanable, non-absorbent material and will be kept in a clean and sanitary condition.

Section 449:20. Suspension or Revocation of License.

Subd. 1. A license will be suspended or revoked for any of the reasons set forth below. The reasons which follow are not intended to be the only reasons upon which suspension or revocation of the license may be based, but are intended to be a listing of the mandatory reasons for suspension or revocation.

- (a) The operation or maintenance of a tattooing, body piercing, branding, or scarification facility in conflict with the provisions of this ordinance or any other ordinance or statute.
- (b) A licensee's criminal conviction that is directly related to the occupation or business licensed as defined by Minnesota Statutes, Section 364.03, Subdivision 2, provided that the licensee cannot show competent evidence of rehabilitation and present fitness to perform the duties of the licensed occupation or business as defined by Minnesota Statutes, Section 364.03, Subdivision 3.
- (c) Conducting the business or occupation in an unlawful manner or in such a manner as to constitute a breach of peace or to constitute a menace to the health, safety, or general welfare of the community.

Subd. 2. Appeal to the Health and Housing Advisory & Appeals Committee. No suspension or revocation will take effect until after the licensee has received notice of the proposed suspension or revocation, and has been afforded an opportunity for a hearing before the Health and Housing Advisory and Appeals Committee. If the Health and Housing Advisory and Appeals Committee finds that the licensee has failed to comply with this section, the Committee will give written notice of such findings to the licensee by certified mail within ten business days of the hearing.

Subd. 3. Appeal to City Council. Unless the owner will appeal the decision of the Committee to the City Council within five business days of issuance of the Committee's written notice the City Council, at its next meeting will suspend or revoke the tattooing, body piercing, branding, or scarification license in accordance with the Committee's recommendation. If the owner will appeal the Committee's decision upon a form provided by the Health and Inspections Department within 5 business days, the owner will be afforded an opportunity to have the City Council review the Committee's findings and recommendations and either affirm the Committee's decision and suspend or revoke the license or to substitute its own findings and take whatever action it deems warranted.

Section 449:35. Tattooing, Body Piercing, Branding or Scarification of Minors. No person will tattoo, body pierce, brand, or scar any person under the age of eighteen except in the presence of, and with the written permission of, a parent or legal guardian of such person. The consent must include both the custodial and noncustodial parents, where applicable. Any person licensed under this section will conspicuously post a sign in the establishment that a person under the age of eighteen is prohibited without the presence of and written permission of the parent or legal guardian. Appropriate identification of the parent or guardian and minor must be provided.

Section 449:40. Health and Sanitary Requirements. No person will engage in the practice of tattooing, body piercing, branding, or scarification at any place within the City of St. Cloud without complying with the following regulations:

Subd. 1. No person having any skin infection or other disease of the skin or any communicable disease will be tattooed. Operators with skin infections of the hand will not tattoo, body pierce, brand, or scar. All personnel performing these procedures are strongly urged to obtain an immunization for Hepatitis B.

Subd. 2. All equipment, including needles, needle bars, tubes, pigment receptacles, stencils, razors, outline or marking pens, piercing needles, piercing gun parts in contact with skin, and razor blades will be single use, individually pre-packaged, pre-sterilized and disposable unless pre-approved by the Health Director. No such equipment will be used on more than one (1) customer. All bio-hazardous waste will be disposed of in accordance with law, and disposal procedures will be approved by the Health Director.

Subd. 3. All needles, tubes, jewelry, forceps, piercing equipment and branding equipment that is part of an invasive procedure will be sterilized in a steam pressure autoclave for at least 15 minutes at a minimum of 250 degrees Fahrenheit (121 degrees centigrade) and at a minimum of 15 pounds of chamber pressure, or for at least 30 minutes at a minimum of 240 degrees Fahrenheit (115 degrees centigrade) and at a minimum of ten (10) pounds of chamber pressure before use on any customer, and after their use will be again so sterilized.

Subd. 4. Disinfection solutions may be used for the purpose of sterilizing instruments other than needles when such disinfection solutions are approved prior to use by the Health Department.

Subd. 5. Skin preparation and aseptic technique will be as follows:

- (a) Each operator will scrub his or her hands thoroughly before beginning to tattoo, body pierce, brand, or scar. The use of sterile surgical gloves is mandatory for all procedures performed under the licensure of this ordinance.
- (b) Whenever it is necessary to shave the skin, pre-packaged, pre-sterilized, disposable razor will be used. A new disposable razor blade must be used for each customer.
- (c) The skin area to be tattooed, body pierced, branded or scarred must be thoroughly cleaned with germicidal soap and water, rinsed thoroughly, and sterilized with an antiseptic solution approved prior to use by the Health Department. Only single service towels and washcloths will be used in the skin cleaning process.
- (d) After tattooing, body piercing, branding, or scarification, a sterile dressing will be applied to the affected area.

Subd. 6. Every operator will provide single service towels or wipes for each customer and such towels or wipes will be stored and disposed of in a manner acceptable to the Health Department.

Subd. 7. Every operator will wear clean washable garments when engaged in the practice of tattooing, body piercing, branding, or scarification.

Subd. 8. Pigments used in tattooing will be sterile and free from bacteria and noxious agents and substances, and the pigments used from stock solutions for each customer will be placed in a single service receptacle and will be discarded after use on each customer.

Subd. 9. All bandages and surgical dressings used in connection with the tattooing, body piercing, branding, or scarification of any person will be sterile.

Subd. 10. No person will practice tattooing, body piercing, branding, or scarification while under the influence of alcohol or drugs.

Subd. 11. The operator will provide the with printed instructions on the approved care of the tattoo, body piercing, branding, or scarification during the healing process.

Subd. 12. No customer will be tattooed, body pierced, branded, or scarred while under the influence of alcohol or drugs.

Section 457:00. Definitions.

Subd. 1. Pawnbroker. Any natural person, partnership or corporation, acting as principal, agent or employee thereof, who loans money on deposit or pledge of personal property, or other valuable thing, or who deals in the purchasing of personal property, or other valuable thing on condition of selling the same back again at a stipulated price, or who loans money secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged. To the extent that a pawnbroker's business includes buying personal property previously used, rented or leased, or selling it on consignment, the provisions of this chapter will be applicable.

Subd. 2. Reportable transaction. Every transaction conducted by a pawnbroker in which merchandise is received through a pawn, purchase, consignment or trade, or in which a pawn is renewed, extended or redeemed, or for which a unique transaction number or identifier is generated by their point-of-sale software, is reportable except:

- (a) The bulk purchase or consignment of new or used merchandise from a merchant, manufacturer or wholesaler having an established permanent place of business, and the retail sale of said merchandise, provided the pawnbroker must maintain a record of such purchase or consignment which describes each item, and must mark each item in a manner which relates it to that transaction record.
- (b) Retail and wholesale sales of merchandise originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired.

Subd. 3. Billable transaction. Every reportable transaction conducted by a pawnbroker except renewals, redemptions or extensions of existing pawns on items previously reported and continuously in the licensee's possession is a billable transaction.

Section 457:05. License Required. No person will engage in or carry on the business of pawnbroker without first obtaining a license to carry on such business in compliance with the provisions of this code.

Section 457:10. Application. Any person, corporation or association, either as principal or agent, desiring to engage in or carry on the business or occupation of a pawnbroker within the corporate limits of the City of St. Cloud, will file an application for a license for that purpose with the City Clerk, which application will be made in writing at least twenty (20) days before issuance, wherein the applicant will state his name, his proposed place of business, the name of the proposed manager of the business, the length of time for which he desires to do business, and will make payment of the required license fee.

Section 457:15. License Fee and Term. Every person, corporation, association or co-partnership requiring a license will on or before the time for filing the application for a pawnbroker license, pay

the required fee to the City Treasurer of the City of St. Cloud. The license fee will be for one year or any part of a year and each license year will terminate on December 31st.

Section 457.16. Billable Transaction License Fee. The billable transaction license fee will reflect the cost of processing transactions and other related regulatory expenses as determined by the city council, and will be reviewed and adjusted, if necessary, every six months. Licensees will be notified in writing thirty (30) days before any adjustment is implemented. Billable transaction fees will be billed monthly and are due and payable within 30 days. Failure to do so is a violation of this chapter.

Section 457:20. Records. At the time of any reportable transaction other than renewals, extensions or redemption, every licensee must immediately record in English the following information in a computerized record approved by the St. Cloud Police Department:

Subd. 1. A complete and accurate description of each item including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item.

Subd. 2. The purchase price, amount of money loaned upon or pledged.

Subd. 3. The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges.

Subd. 4. Date, time and place the item of property was received by the licensee, and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the licensee's records.

Subd. 5. Full name, current residence address, current residence telephone number, date of birth and accurate description of the person from whom the item of the property was received, including: sex, height, weight, race, color of eyes and color of hair.

Subd. 6. The identification number and state of issue from any of the following forms of identification of the seller:

- (a) Current valid Minnesota driver's license.
- (b) Current valid Minnesota identification card.
- (c) Current valid photo identification card issued by another state or province of Canada.

Subd. 7. The signature of the person identified in the transaction.

Subd. 8. For renewals, extensions and redemption, the licensee will provide the original transaction identifier, the date of the current transaction, and the type of transaction.

Subd. 9. The records must be open for inspection by the police department at all times the licensee is open for business. Data entries must be retained for at least three years from the date of transaction.

Section 457:21. Daily Reports to Police Department.

Subd. 1. Effective no later than sixty (60) days after the police department provides licensees with computerized record standards, licensees must submit every reportable transaction to the police department daily in the following manner:

- (a) Licensees must provide to the police department all information required in Section 457:20, (1) through (6) and other required information, by transferring it from their computer to the Automated Pawn System via modem. All required records must be transmitted completely and accurately after the close of business each day in accordance with standards and procedures established by the issuing authority using procedures that address security concerns of the licensees and the issuing authority. The licensee must display a sign of sufficient size, in a conspicuous place in the premises, which informs all patrons that all transactions are reported to the police department daily.
- (b) Billable transaction fees. Licensees will be charged for each billable transaction reported to the police department.
 - (1) If a licensee is unable to successfully transfer the required reports by modem, the licensee must provide the police department printed copies of all reportable transactions along with the video tape(s) for that date, by 12 noon the next business day;
 - (2) If the problem is determined to be in the licensee's system and is not corrected by the close of the first business day following the failure, the licensee must provide the required reports as detailed in Section 457:21 (b)(1), and may be charged a fifty dollar (\$50.00) reporting failure penalty, daily, until the error is corrected; or
 - (3) If the problem is determined to be outside the licensee's system, the licensee must provide the required reports in 457:21 (b)(1), and resubmit all such transaction via modem when the error is corrected.
 - (4) Regardless of the cause or origin of the technical problems that prevented the licensee from uploading their reportable transactions, upon correction of the problem, the licensee will upload every reportable transaction from every business day the problem had existed.
 - (5) Section 457:21 (b) (1) through (3) notwithstanding, the police department may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

Section 457:25. Bond. Before the license will be issued to any person or persons as provided in this ordinance, the licensee will cause to be filed with the City Clerk a surety bond, to be approved by the City Attorney, as to form, in the sum of \$1,000.00 conditioned that said licensee will comply with all the provisions of this ordinance, and will account for and deliver to any person who is legally entitled any and all goods, wares and merchandise, article or thing which may come into his possession while engaged in said business or occupation of a pawnbroker.

Section 457:30. Minors, Intoxicated Persons. It will be unlawful and it will be a violation of this ordinance for any pawnbroker to purchase or receive on deposit or pledge anything of value as security for a loan of money from any person, under age of 18 or from intoxicated persons.

Section 457:32. Prohibited Acts. The following acts are unlawful and will be a violation of this ordinance:

Subd. 1. For a licensee to receive any goods, unless the seller presents identification in the form of a valid State of Minnesota driver's license, a valid State of Minnesota identification card, or current valid photo driver's license or identification card issued by the state of residency of the person from whom the item was received.

Subd. 2. For a licensee to receive any item of property that possesses an altered or obliterated serial number or operation identification number or any item of property that has had its serial number removed.

Subd. 3. No person may pawn, pledge, sell consign, leave or deposit any article of property not their own; nor will any person pawn, pledge, sell, consign, leave or deposit the property of another, whether with permission or without; nor will any person pawn, pledge, sell, consign, leave or deposit any article of property in which another has a security interest; with any licensee.

Subd. 4. No person seeking to pawn, pledge, sell consign, leave, or deposit any article of property will give a false or fictitious name, false date of birth, an out of date address of residence or telephone number; nor present a false or altered identification, or the identification of another; to any licensee.

Section 457:35. Redemption Period. Any person pledging, pawning or depositing an item for security must have a minimum of 90 days from the date of that transaction to redeem the item before it may be forfeited and sold. During the 90 day holding period, licensees are prohibited from redeeming any item to anyone other than the person to whom the receipt was issued or, to any person identified in a written and notarized authorization to redeem the property identified in the receipt, or to a person identified in writing by the pledger at the time of the initial transaction and signed by the pledger, or with approval of the police license inspector. Written authorization for release of property to persons other than original pledger must be maintained along with original transaction record in accordance with Section 457:20 (9).

Section 457:40. Police Order to Hold Property.

Subd. 1. Investigative hold. Whenever a law enforcement official from any agency notifies a licensee not to sell an item, the item must not be sold or removed from the premises. The investigative hold will be confirmed in writing by the originating agency within 72 hours and will remain in effect for 15 days from the date of initial notification, or until the investigative order is canceled, or until an order to hold/confiscate is issued, pursuant to Section 457:40 (b), whichever comes first.

Subd. 2. Order to hold. Whenever the chief of police, or the chief's designee, notifies a licensee not to sell an item, the item must not be sold or removed from the licensed premises until authorized to be released by the chief or the chief's designee. The order to hold will expire ninety (90) days from the date it is placed unless the chief of police or the chief's designee determines the hold is still necessary and notifies the licensee in writing.

Subd. 3. Order to confiscate. If an item is identified as stolen or evidence in a criminal case, the chief or chief's designee may:

- (a) Physically confiscate and remove it from the shop, pursuant to a written order from the chief or the chief's designee, or
- (b) Place the item on hold or extend the hold as provided in Section 457:40 (b), and leave it in the shop.

Subd. 4. When an item is confiscated, the person doing so will provide identification upon request of the licensee, and will provide the licensee the name and phone number of the confiscating agency and investigator, and the case number related to the confiscation.

Subd. 5. When an order to hold/confiscate is no longer necessary, the chief of police, or chief's designee will so notify the licensee.

Section 457:41. Denial, Suspension or Revocation. Any license under this chapter may be denied, suspended or revoked for one or more of the following reasons:

Subd. 1. The proposed use does not comply with the any applicable zoning code.

Subd. 2. The proposed use does not comply with any health, building, building maintenance or other provisions of this Code of Ordinances or state law.

Subd. 3. The applicant or licensee has failed to comply with one or more provisions of this chapter.

Subd. 4. The applicant is not a citizen of the United States or a resident alien, or upon whom it is impractical or impossible to conduct a background or financial investigation due to the unavailability of information.

Subd. 5. Fraud, misrepresentation or bribery in securing or renewing a license.

Subd. 6. Fraud, misrepresentation or false statements made in the application and investigation for, or in the course of, the applicant's business.

Subd. 7. Violation within the preceding five years, of any law relating to theft, damage or trespass to property, sale of a controlled substance, or operation of a business.

Subd. 8. The owner of the premises licensed or to be licensed would not qualify for a license under the terms of this chapter.

Section 457:45. Hours. Licensed pawnbrokers may operate between the hours of 7:00 a.m. and 9:00 p.m. on any day of the week. Further, no pawnbroker will be open for business of any kind on the following holidays: Easter Sunday, Thanksgiving Day and Christmas Day.

Section 457:50. Separability. Should any section, subsection, clause or other provision of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision will not effect the validity of the ordinance as a whole or any part other than the part declared invalid.

Section 470 - Swimming Pools, Public,
State Regulations Adopted by Reference

Section 470:00 Applicability of Minnesota Department of Health Rules.

Subd. 1. The Minnesota Department of Health (MDH), Environmental Health Rules, Chapter 4717 as Extracted from Minnesota Rules 1993, including amendments adopted through January 30, 1995 relating to public swimming pools, is adopted by the City of St. Cloud by reference and will be controlling within the City of St. Cloud. Three copies of Minnesota Department of Health, Environmental Health, Chapter 4717, Public Swimming Pool Rules will be marked as official copies and filed for use and examination by the public in the Office of the City Clerk.

Section 2. Public swimming pools, as defined in MHD Chapter 4717, constructed prior to the adoption by the State of Minnesota of MHD Chapter 4717 and its Amendments will be subject to those requirements of MHD Chapter 4717 relating to the Health and Safety of the swimmer and to those provisions governing the Operation and Maintenance of public swimming pools.

Section 470:10. Swimming Pool License.

Subd. 1. License Required. It will be unlawful for any person to own, operate, maintain, lease or be responsible for any public swimming pool as defined in MHD Chapter 4717, regardless of whether a fee is charged for such use, unless the City Public Swimming Pool License has been obtained. The license will be displayed in the vicinity of the swimming pool or conveniently accessible upon demand.

Subd. 2. Application for License. Application for a City public swimming pool license will be submitted to the City Clerk in such form and manner as the City Clerk prescribes.

Subd. 3. License Expiration and Renewal. Licenses issued under this ordinance will expire on the 30th of April each year. License renewal applications must be filed with the City Clerk prior to April 1 of each year.

Subd. 4. License Fees. License fees will be set forth in Section 510 of this Code.

Subd. 5. License Fee Exemptions. Licenses are required for public swimming pools owned, operated or maintained by schools, governmental agencies or subdivisions and religious and charitable institutions, but no license fee will be charged.

Section 470:20. Approval of New Construction, Repair, Remodeling or Alteration. No person will construct, enlarge, convert, or alter any public swimming pool without first submitting plans to and obtaining the approval of the Minnesota Department of Health as outlined in MDH Chapter 4717, Section 4717:0450 and the City of St. Cloud Health and Inspection Department. The St. Cloud Health and Inspection Department will not issue any permits for such work until the plans have been approved by the Minnesota Department of Health.

Section 470:30. Access, Inspections, and Testing. The Department of Health and Inspections is authorized to conduct such inspections and testing procedures as it deems necessary to ensure compliance with all provisions of this ordinance and will have right of entry at any reasonable hour to the licensed premises for this purpose.

Section 470:35. Removal and Correction of Violations. Any person given notification of one or more violations of this ordinance will correct or remove each violation within a reasonable period of time as determined by the Department of Health and Inspections. The length of time for the correction or removal of each violation will be noted on the inspection report. Failure to remove or correct each violation within the time period noted on the inspection report will constitute a separate violation of this ordinance.

Section 472:00 Taxicabs

Section 472:00. Definitions.

Subd. 1. Unless the context clearly require a different meaning, the following words and phrases as used in this ordinance will be defined as set forth in the following subdivisions.

Subd. 2. "Person" will mean and include any individual, firm, partnership, association or corporation.

Subd. 3. A "taxicab" is a vehicle driven by mechanical power of which a taximeter is affixed. The term "taxicab" will include any motor vehicle for hire designed to carry seven persons or less, operated upon any highway in this City or on call or demand, accepting or soliciting passengers indiscriminately for transportation for hire between points along streets or highways as may be directed by the passenger or passengers so being transported.

Subd. 4. The word "taximeter" will mean a mechanical instrument and device by which the charge for hire is mechanically calculated and upon which such charge is being indicated by means of figures plainly visible.

Section 472:05. Meters. All taxicabs will have affixed thereon a taximeter and no person will operate or permit to be operated any taxicab unless the taximeter has been first inspected, tested and approved by the Police Department or its authorized representative. No taxicab will be operated when a taximeter is out of order or for any reason does not correctly register the fare charge; provided that a variance of 3% will be considered correct. No person will operate or permit to be operated a taxicab equipped with a taximeter not having the case thereof sealed and the cover and gear thereof intact. Every taximeter will be so affixed that the amount of the fare will be plainly visible to the passenger thereof, and after dark the same will be illuminated by suitable light. Taximeters may be examined and tested by the Police Department at any time and said department will keep a record of all such inspections, approvals and disapprovals.

Section 472:10. License Required for Taxicab Vehicle. No person will operate or permit to be operated for hire upon the streets of the City of St. Cloud any taxicab as hereinafter defined, without first obtaining a license therefor in the manner hereinafter provided and paying the required license fees.

Section 472:15. Application for Taxicab Vehicle License. Application for license will be made to the St. Cloud Police Department upon a form to be provided for that purpose.

Section 472:30. Transfer of Taxicab Vehicle License. Upon any transfer of ownership of any taxicab, the St. Cloud Police Department may, where the transferor indicates that the vehicle is no longer to be operated as a taxicab, validate by appropriate endorsements thereon such license for use on another taxicab to be designated by such transferor. The provision of the foregoing sentence will also apply where the licensee will produce satisfactory evidence that such taxicab has through destruction or otherwise ceased to be used as a taxicab. Upon any transfer of ownership of any taxicab where the transferor indicates that such vehicle is to continue in use as a taxicab, the St. Cloud Police Department may, by appropriate endorsements thereon validate such license in the hands of the transferee. Upon the death of any person owning a vehicle licensed hereunder, the St. Cloud Police Department may, upon receipt of satisfactory evidence of such death, at the request of the deceased's personal representative, validate by appropriate endorsement thereon

such license in the hands of the person in whose name title to such taxicab will have vested by reason of such death. In no event, however, will any transfer be made as hereinbefore contemplated unless and until the transferee in all other respects complies with the terms and provisions of this ordinance.

Section 472:35. Term of Taxicab Vehicle License. All licenses issued by the St. Cloud Police Department unless sooner revoked by the City of St. Cloud as hereinafter provided will expire on December 31 of each year. When such license will have been granted, the Clerk will issue suitable tags or stickers for each cab so licensed. Such tags or stickers will be displayed in a prominent place on each taxicab or motor vehicle for hire while it is in use. Each tag or sticker will bear the vehicle identification number (VIN) of the vehicle so licensed. Such license will be issued by the St. Cloud Police Department upon the applicant paying the required license fee and upon providing proof of insurance hereinafter required.

Section 472:40. Insurance or Bond for Taxicab Vehicle. Before the issuance of a license to operate a taxicab, the licensee will file:

A certificate signed by a duly authorized officer of a company authorized to write insurance in the State of Minnesota to the effect that a policy of insurance has been issued and is in full force and effect, issued to the licensee, and that premiums have been paid as required thereon, together with a true copy of the policy contract or certificate of insurance, or in lieu thereof the original policy, and will provide in a minimum that coverage required by Minnesota Statutes Section 65B.48 entitled "Reparation Security Compulsory." Minnesota Statutes 65B.48 and other sections of the Minnesota Statutes referenced therein is hereby incorporated into this ordinance by reference the same as if it were fully set forth. Such insurance policy will be filed for each and every motor vehicle for which a license is applied. Such policy of insurance will contain a provision for a continuing liability thereunder to the full amount thereof, notwithstanding any recovery thereon, and that until the policy is revoked as herein provided, the insurance company will not be released from liability on account of non-payment of premium, failure to renew license at the end of the year, or any act or omission of the named assured. Any insurance company whose policy has been so filed pursuant to this section may file a notice in the office of the St. Cloud Police Department of its intention to terminate and cancel such policy and give notice thereof to the named licensee. Whereupon after ten (10) days after such filing licensee or owner will cease to operate or cause to be operated within the City of St. Cloud such taxicab or motor vehicle for hire, and the license issued therefor will be automatically revoked and liability on such policy will cease and terminate unless another insurance policy is forthwith issued, approved and filed in lieu of said cancelled policy, provided that the liability of the insurance company therein for any act or omission of the licensee or owner occurring prior to the effective date of the cancellation will not be thereby discharged or impaired.

If the financial condition of any such insurance companies will at any time be found unsatisfactory or insecure with reference to the extent of the risks assumed or policies outstanding, the St. Cloud Police Department will be forthwith notified thereof, and after ten (10) days notice to the owner or owners of any vehicle covered or affected by insurance policies issued by any such company or companies in pursuance to the provisions of this ordinance, the St. Cloud Police Department will revoke the licenses of such owner or owners, unless a satisfactory policy or policies, bond or bonds, will have been previously filed in the manner and form herein required.

Section 472:45. Taxicab Drivers Licenses Required. No person will drive or operate a taxicab in the City of St. Cloud unless duly licensed as hereinafter provided.

Section 472:50. Application for Taxicab Driver License. Every applicant for an initial license and renewal license as a driver of a taxicab or motor vehicle for hire will file a verified application with the St. Cloud Police Department on a form provided for that purpose. Such application will

set forth that the applicant (1) is a citizen of the United States or an alien admitted for permanent residence, or who has otherwise obtained work authorization from the U.S. Immigration and Naturalization Service; (2) is the holder of a valid Minnesota driver's license authorizing operation of the licensed vehicle; (3) is able to speak, read and write the English language; (4) is eighteen years of age or over; (5) has obtained and provided a doctor's certificate indicating the applicant is free from any infirmity, physical or mental, which would render the applicant unfit for the safe operation of the licensed vehicle, will be provided every three years after the date the initial license was issued; (6) has no felony convictions in this State or elsewhere in the last ten (10) years; no gross misdemeanor convictions in this State or elsewhere within the last five (5) years; no misdemeanor convictions in this State or elsewhere in the last three (3) years involving alcohol-related driving offenses, theft, damage to property, check forgery, the use or threat of use of force, possession or sale of a controlled substance, prostitution or indecent conduct; no convictions in this State or elsewhere of three (3) or more traffic code violations within the preceding twelve (12) months. For purposes of this ordinance, traffic code ordinances will be defined pursuant to Minnesota Statutes, Chapter 169 and Minnesota Statutes, Chapter 171. The applicant's verified status must be maintained during the entire licensing period.

A person who has been convicted of a crime, as defined in this ordinance will not be disqualified from obtaining taxicab driver's license if the person can show competent evidence of sufficient rehabilitation and present fitness to perform the duties of the public employment sought or the occupation for which the license is sought pursuant to Minnesota Statutes §364:03. Sufficient evidence of rehabilitation may be established by the production of:

- (a) A copy of the local, state, or federal release order; and
- (b) Evidence showing that at least one year has elapsed since release from any local, state, or federal correctional institution without subsequent conviction of a crime; and evidence showing compliance with all terms and conditions of probation or parole; or
- (c) A copy of the relevant department of corrections discharge order or other documents showing completion of probation or parole supervision.

In addition to the documentary evidence presented, the licensing or hiring authority will consider any evidence presented by the applicant regarding:

- (1) The nature and seriousness of the crime or crimes for which convicted;
 - (2) All circumstances relative to the crime or crimes, including mitigating circumstances or social conditions surrounding the commission of the crime or crimes;
 - (3) The age of the person at the time the crime or crimes were committed;
 - (4) The length of time elapsed since the crime or crimes were committed; and
 - (5) All other competent evidence of rehabilitation and present fitness presented, including, but not limited to, letters of reference by persons who have been in contact with the applicant
- Section 472:50 (5) (Cont.)
- since the applicant's release from any local, state, or federal correctional institution.

At the time of filing said initial application or renewal application, the applicant will exhibit to the St. Cloud Police Department the driver's license issued to the applicant by the State of Minnesota and will furnish a card prepared by the Police Department of the City of St. Cloud and certified by the Chief of Police showing that the fingerprints of the applicant together with his photograph

taken by or under the supervision of said Police Department. Prior to issuance of said card, the Police Department will conduct a driving record and criminal history investigation regarding each individual applicant. A card may be issued to each applicant not in violation of the criteria set forth in this section.

All initial licenses and renewal licenses issued pursuant to this section will be issued for a period of twelve months from the date of issuance. License application forms will be obtained from the St. Cloud Police Department.

Section 472:55. Fee. Before such license is issued the applicant will pay to the City Treasurer the required license fee.

Section 472:60. Revocation. A taxicab driver's license or taxicab vehicle license may be revoked, suspended or not renewed at any time for cause pursuant to the provisions of this chapter upon notice and hearing by the City Council.

Any time that a licensee's Minnesota driver's license is suspended, revoked or canceled, his or her taxicab driver's license will likewise be immediately suspended, revoked or canceled. No person will operate a taxicab without a valid Minnesota driver's license.

Any person holding a taxicab driver's license whose Minnesota driver's license is suspended, canceled or revoked for any reason will immediately surrender his or her taxicab driver's license to the St. Cloud Police Department. The taxicab driver's license will be returned to the licensee upon reinstatement of the Minnesota driver's license or issuance of a limited license authorizing operation of a taxicab; provided, however, that suspension, cancellation or revocation of a Minnesota driver's license due to refusal to submit to a legally required blood alcohol test under the state implied consent statute will be grounds for the revocation, nonissuance or nonrenewal of the taxicab driver's license.

Any licensed taxicab driver whose Minnesota driver's license has been revoked and who has been issued a limited license authorizing the operation of a taxicab will immediately notify the St. Cloud Police Department of the same. At that time, the licensee will furnish to the St. Cloud Police Department a copy of the limited license and a written statement containing a schedule of the days and hours of each day during which he or she will be driving a taxicab during the term of the limited license. No deviation from the schedule will be permitted. In addition, the licensee will personally furnish to the St. Cloud Police Department copies of all trip sheets for all shifts worked during the term of the limited license. The limited license documentation and trip sheets must be furnished weekly, i.e., every Monday by 12:00 noon, to the St. Cloud Police Department.

Any person holding a taxicab driver's license will notify the St. Cloud Police Department immediately whenever he or she is convicted of an alcohol-related driving offense, whether or not it involves the operation of a taxicab.

Refusal to take and/or failure to pass a standard breathalyzer test administered pursuant to Minn. Stat. § 169.123 while on duty will be grounds for revocation of a taxicab driver's license.

Failure to comply with the provisions of this section will be grounds for revocation of a taxicab driver's license.

Section 472:65. Rates of Fares, Taxicabs. The rates to be charged and collected for service, including waiting time, by taxicabs will be such as the Council from time to time will fix therefor, and no charge will be made for extra passengers. Waiting time will include the time when the taxicab is not in motion, beginning with the arrival at the place to which it has been called or the time consumed while standing at the direction of the passenger, but no charge will be made for the

time lost for inefficiency of the taxicab or its operators, or time consumed by premature response to a call. There will be posted in a conspicuous place on the inside of the taxicab a card on which will be printed in plain legible type the rates of fare.

Section 472:75. Continued Service; Equipment Inspection. Suspension of service for a period of five consecutive days without the approval of the City Council will be deemed sufficient cause for revocation or cancellation of the license of the company, provided, however, that no order of revocation will issue until the company has been afforded a hearing on rule to revoke the license of the company. The Police Department will have jurisdiction over the lighting equipment, safety and sanitary condition of all taxicabs and autos for hire and will cause inspection to be made before registering the same and from time to time thereafter as will be deemed necessary for the convenience and protection and safety of passengers and public.

Section 472:80. Emergency Service. In case of emergency, and to give service, autos for hire may be used temporarily for taxicab services at the same rate as the taxicab or vice versa, taxicabs may be used as autos for hire but in case of any dispute over such use the Police Department will be the final judge.

Section 472:85. Baggage Regulations. Ordinary hand baggage of passengers (not exceeding 50 pounds) will be carried in the cab free of charge.

Section 472:90. Taxicabs Licensed Outside St. Cloud. Taxicabs having no St. Cloud license and whose place of business is not in the City of St. Cloud may bring passengers into St. Cloud but may not pick up passengers for any destination or accept any business within the City of St. Cloud.

Section 472:95. Unauthorized Carrying of Passengers Prohibited. The carrying of passengers as a business for compensation by any vehicle other than a public vehicle, duly licensed under and operating in accordance with the provisions of this ordinance, or by motor buses operating under proper authority, is hereby forbidden.

Section 472:100. Change of Fare; Adjustment of Meter. No change of fare will be made until approved by the Council and the meter will be adjusted to said changed rate and approved by the Police Department, and no fare in excess of or less than the indication shown by said taximeter will be charged.

Section 475 - Peddlers/Transient Merchants

Section 475:00 Definitions.

Subd. 1. The word "person" includes the singular and the plural and also means any person, firm, corporation, association, club, co-partnership, society or any other organization.

Subd. 2. The word "peddler" means any person traveling by foot, wagon, motor vehicles or any other type of conveyance, from place to place, house to house or from street to street, carrying, conveying or transporting goods, wares, merchandise, food, farm products or provisions, offering for sale or making sales and delivering articles to purchasers or who, without traveling from place to place, will sell or offer the same for sale from a wagon, motor vehicle, or other conveyance or from a vacant lot or open sales lot.; A person who solicits orders and as a separate transaction makes deliveries to purchasers is a peddler subject to the provisions of this ordinance.

Subd. 3. The words "transient merchant" means any person, who engages temporarily in the business of selling and delivering goods, wares, or merchandise within the municipality and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, vacant lot, motor vehicle, trailer or railroad car.

Section 475:05. Permit and License Required. It will be unlawful for any person to engage in the business of a peddler or transient merchant and to sell or offer for sale any goods, wares or merchandise within the corporate limits of the City of St. Cloud or to sell or offer for sale any goods, wares or other articles of value upon or along the streets or other public places without first obtaining a permit and license. It is unlawful to sell or offer for sale any goods, wares or merchandise on any right-of-way or on any public lands within the City without a special permit granted by the City Council.

Subd. 1. Exemptions. This ordinance does not apply to persons licensed or specifically exempted from licensing under Article I, Section 8 of the United States Constitution, the constitution and laws of the State of Minnesota or the ordinances of this municipality at such times as such persons are conducting only the activity described by said laws and ordinances; This ordinance does not apply to persons making an initial uninvited call upon the householders of this municipality as a preliminary to the subsequent establishment of a regular route service for the sale and delivery to customers of the daily necessities of life which are perishable or subject to spoiling within a reasonable period of time; This ordinance does not apply to charitable organizations or their representatives duly registered under the laws of Minnesota as set forth in Minnesota Statutes Section 309.50 - 309.61 or those specifically exempted from registration, including but not limited to schools, scouts, organized youth athletic leagues and their representatives. Nor will it include or apply to farmers or truck gardeners who offer for sale or sell or who peddle from house to house or in the markets, vegetables, butter, eggs or other farm or garden products produced and raised by said farmer or truck gardener from lands occupied and cultivated by him within this State. Provided however that every such farmer or truck gardener claiming the exemption from the

license requirements of this ordinance will, upon request of the City Clerk, present satisfactory proof that the farmer or truck gardener is entitled to license exemption. It is a misdemeanor to execute a false sworn statement or make any false representation which induces the City to grant an exemption.

Subd. 2. Application. Applicants for a license under this ordinance must file with the Clerk a sworn application, which application will be made in writing at least thirty (30) days before issuance thereof, in duplicate, on a form to be furnished by the Clerk, wherein the applicant will give the following information:

- (a) Full legal name and physical description and date of birth of the applicant;
- (b) Address (legal and local);
- (c) A brief description of the nature of the business and the goods to be sold and in the case of products of farm or orchard, whether produced or grown by the applicant;
- (d) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
- (e) The specific length of time and the dates for which the permit to do business is desired;
- (f) If a vehicle is to be used, a description of the same, together with license number or other means of identification;
- (g) Driver's license number and licensing state;
- (h) If sales are to be made from an open lot, vacant land or an open sales lot, then the applicant will indicate on the application where these sales will be conducted and will file written permission from the landowner showing knowledge and consent on the landowner's part to proposed sales activity and to the applicant's use. All setback, parking, and other requirements for that zoning use district where the lands are located will apply to the temporary license. The applicant will be provided a copy of the zoning use district regulations applicable to the location where he intends to engage in the temporary sales;
- (i) A photograph of the applicant, taken within 60 days immediately prior to the date of the filing of the application. The picture will be 2" x 2" showing the head and shoulders of the applicant in a clear and distinguishable manner;
- (j) The fingerprints of the applicant and the names of at least two reliable property owners of the Counties of Stearns, Benton or Sherburne, State of Minnesota, who will certify as to the applicant's good character and business responsibility or, in lieu of the names of references, any other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility;

(k) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, including the nature of the offense and the punishment or penalty assessed.

(l) At the time of filing the application, a fee will be paid to the City Clerk to cover the cost of investigation in the amount set by the Council;

(m) The City Clerk will refer the application to the Zoning and Building Department for comment and recommendation.

Subd 3. Investigation and Issuance.

(a) Police Chief to Investigate. Upon receipt of a license application, the original will be referred to the Police Chief, who will investigate the applicant's business and moral character.

(b) Disapproval of Application. If the Police Chief finds the applicant's business and moral character to be unsatisfactory, then the Chief will endorse disapproval on the application and the reason for the disapproval. The application will then be forwarded to the City Clerk who will notify the applicant that the application has been disapproved and that a license will not be issued.

(c) Approval of Application. If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police will endorse approval on the application and return the application to the City Clerk who will, upon payment of the prescribed license fee, deliver to the applicant the license. The license will contain the signature and seal of the issuing officer and show the name, address and photograph of the licensee, the class of license issued and the kind of goods to be sold under the license the amount of fee paid, the date of issuance, and the length of time the license will be operative, as well as the license number and other identifying description of any vehicle used in such peddling. The City Clerk will keep a permanent record of all licenses issued.

Subd. 4. Fees. License fees will be in an amount set by the Council from time to time. The City Council may prescribe daily, weekly, monthly or yearly fees.

Section 475:10. Bond.

Subd. 1. Every transient merchant or peddler operating within the City of St. Cloud, in addition to the required license fee, will deposit with the City Clerk a surety bond equivalent to 5% of the retail value of the inventory offered for sale. In any case, the amount of the surety bond will be not be less than one thousand dollars (\$1,000.00).

Subd. 2. A transient merchant who claims to be exempt from the license requirements of this ordinance will, upon request, present to the City Clerk satisfactory proof of intention to locate permanently in the City. Additionally, the transient merchant will deposit with the City Clerk a

surety bond in the sum of \$500 which becomes payable to the City of St. Cloud in the event the transient merchant does not remain in the City for more than 6 months. After being in the same business for a period of at least 6 months the transient merchant may execute a sworn statement which will serve as proper proof that the transient merchant has become an authorized permanent merchant

Subd. 3. The bond will be executed by a surety company holding a certificate of the Insurance Commissioner of the State of Minnesota. The bond must be approved as to form by the City Attorney, conditioned upon the complete compliance with the terms and requirements of this ordinance, and also conditioned to indemnify or reimburse any purchaser of goods, wares, or merchandise in a sum equal to at least the amount of any payment or payments such purchaser may have been induced to make through misrepresentation as to kind, quality or value of such goods, wares or merchandise.

Section 475:20 Requirements and Prohibitions.

Subd. 1. License Plates and Badges. The City Clerk will issue to each licensee at the time of delivery of the license an identification card which the licensee will exhibit upon request.

Subd. 2. Transfer. No license or identification card issued under the provisions of this ordinance will be used or exhibited at any time by any person other than the one to whom it was issued.

Subd. 3. Nuisance. No peddler will conduct his business so as to annoy any other person or to become a nuisance or so as to obstruct travel upon any street, highway or public place in the City.

Subd. 4. Loud Noises and Speaking Devices. No peddler or any associate will shout, make any cryout, blow a horn, ring a bell or use any sound device, including any loud speaking radio or sound amplifying system upon any of the streets, alleys, parks or other public places or upon any private premises where sound is emitted or produced and is plainly audible upon the streets, avenues, alleys, parks or other public places for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

Subd. 5. Signs. The use of open lots or vacant properties for sales licensed by this ordinance does not authorize signs which are not in compliance with the sign ordinances. All applicants are required to comply with Section 469 of the City Code.

Subd. 6. Use of Streets. No peddler will have any exclusive right to any location in the public streets, nor will any be permitted a stationary location, nor will any peddler be permitted to operate in any congested area where operations might impede or inconvenience the public. For the purpose of this ordinance, the judgment of a police officer, good faith is assumed and is deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

Subd. 7. Exhibition of Identification Card. Peddlers are required to exhibit their identification card at the request of any citizen.

Section 475:65. Duty of Zoning and Building Department and Police to Enforce. It will be the duty of the Zoning and Building Department and any Police Officer of this City to require any person seen peddling and any transient merchant, who is not known by such officer to be duly licensed, to produce his identification card and to enforce the provisions of this ordinance against any person found to be violating the same.

Section 475:70. Records. The Police Chief will report to the City Clerk all convictions for violation of this ordinance. The Clerk will maintain a record for each license issued and record the reports of violation therein.

Section 475:75. Revocation of License.

Subd. 1. Licenses issued under the provisions of this ordinance may be revoked by the Council after notice and hearing for any of the following causes:

- (a) Fraud, misrepresentation or false statement contained in the application for license;
- (b) Fraud, misrepresentation or false statement made in the course of carrying on his business as peddler;
- (c) Any violation of this ordinance;
- (d) Conviction of any crime or penal offense involving moral turpitude;
- (e) Conducting the business of peddling in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

Subd. 2. Notice of the hearing for revocation of a license will be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Notice will be mailed, postage prepaid, to the licensee at The last known address at least five (5) days prior to the date set for hearing.

Section 490 - Alarms

Section 490:00. Purpose.

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

Section 490:05. Definitions. For the purposes of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Subd. 1. "Alarm System" means any device or system which transmits a signal visibly, audibly, electronically, mechanically or by a combination of these methods which indicates a hazard or occurrence requiring urgent attention and to which police are expected to respond. Alarm system will not include personal, direct telephone call requesting emergency services from a person at the premises in question. Automobile alarm devices will not be considered an alarm system under the terms of this ordinance.

Subd. 2. "Alarm User" means the person, firm, partnership, association, corporation, company or organization of any kind in control of any building, structure, or facility wherein an alarm system is maintained.

Subd. 3. "Police Dispatch Center" is the facility used to receive emergency requests for service and general information from the public to be dispatched to Police patrol units.

Subd. 4. "Indirect Alarm Transmittal" means any security alarm system which does not directly terminate in the Police dispatch center, but which causes a third party, answering services or central station to notify the Police dispatch center of the alarm activation.

Subd. 5. "False Alarm" means an alarm signal eliciting a response by Police personnel when a situation requiring a response does not, in fact, exist and which is caused by the activation of the alarm system through mechanical failure, alarm malfunction, improper installation or the inadvertence of the owner or lessee of an alarm system or of his/her employees or agents. False alarms do not include alarms caused by climatic conditions such as tornadoes, thunderstorms, utility line mishaps, violent conditions of nature or any other conditions of nature or other conditions which are clearly beyond the control of the alarm manufacturer, installer or owner.

Subd. 6. "Automatic Dialing Device" means a device, which is interconnected to a telephone line and is programmed to select a predetermined telephone number and transmit by voice message or code signal an emergency message indicating a need for emergency response.

Section 490:10. False Alarms, Civil Penalties, Fees, corrective action, no response list.

Subd. 1. For police response to any false alarm, the City will charge and collect a civil penalty fee from the alarm user. During each calendar year, commencing with the first response, the following police response policy and penalty structure will apply:

(a) First False Alarm Response. A civil penalty will not be charged for the first false alarm response with the calendar year. Notice of conditions and requirements of this chapter shall be given to the alarm user or occupant of the premises on which the false alarm occurred and upon which the alarm system is located.

(b) Second False Alarm Response. For a second false alarm response to premises within the calendar year a civil penalty of \$75.00 will be charged. The alarm user shall, within five working days after notice to do so, make a written report to the Police Chief, setting forth:

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

(c) Third and Fourth False Alarm Response. For a third or fourth false alarm response to premises within the calendar year a civil penalty of \$150.00 will be charged.

(d) Fifth and Subsequent False Alarm Responses. For a fifth or subsequent response to premises a civil penalty of \$250 will be charged. The alarm user will also be given a “restricted response” status and the Police Department will be no longer respond to the alarm system. The “restricted response” status will last until the alarm user has satisfied the Police Chief that the causes of the false alarms have been corrected and are not likely to reoccur.

Subd. 2. Any alarm user which is required by the Police Department to pay a civil penalty as the result of a false alarm or alarms may make a written appeal of the false alarm civil penalty to the within ten days of the notice by the Police Department of the false alarm charge. The Police Chiefs decision may be appealed to the City Administrator who will have authority to make a final determination as to whether the alarm user is to be charged with a false alarm or alarms.

Section 490:15. Payment of Fees.

Subd. 1. Payment of civil penalties provided for under Section 490:10 must be paid to the City Cashier within 30 days from the date of the notice by the City to alarm user. Failure to pay the penalty within 30 days will cause the alarm user to be considered delinquent and subject to a late fee penalty equal to the original. civil penalty.

Subd. 2. If the alarm user fails to provide the information required in Section 490:10, Subdivision (b) within the prescribed time or fails to pay the penalty together with any late fee within 60 days from the date of notice by the City to alarm user, the Police Department will inform the alarm user that THE POLICE DEPARTMENT WILL NO LONGER RESPOND TO THEIR ALARM SYSTEM. The “restricted response” status will last until all information has been provided and penalties and late fees have been paid.

Section 490:30. Duties of Alarm Users. It shall will be the responsibility of the alarm users to instruct employees or others who may have occasion to activate an alarm that alarm systems are to be used in emergency situations to summon an immediate police response. Alarm users shall also instruct appropriate employees as to the operation of the alarm system, including setting, activation and resetting of the alarm. All instructions pertaining to alarm systems and procedures shall be in written form, suitable for distribution to employees. The alarm user will be responsible for maintaining the alarm system in proper working order.

Section 490:35. Deliberate False Alarms. It is unlawful for any person to deliberately and without just cause activate an alarm system to summon the police in a non-emergency situation. Periodic testing of direct transmittal alarms may be conducted when sufficient notice is given to the Police Dispatch Center.

Section 490:40. Confidentiality.

Subd. 1. All information submitted in compliance with this ordinance shall be held in confidence and shall be deemed a confidential record exempt from discovery to the extent permitted by law.

Subd. 2. Subject to requirements of confidentiality, the Police Chief may develop and maintain statistics for the purpose of ongoing alarm system evaluation.

Section 490:45. Police Dispatch Center.

Subd. 1. No alarm user will install, maintain or operate automatic devices which are set or programmed to directly dial, activate, call or in any other manner make direct contact with any emergency telephone line or radio circuit of the Police Dispatch Center. Alarm users are only allowed to use indirect alarm systems.

Section 490:55. Exceptions. The penalties of this ordinance will not be applied to any alarm system used, operated or installed in any premises or place owned, leased, occupied or under the control of the United States Government, the State or any of its political subdivisions, including

the counties and school districts in which the City is located together with any officer, agent or employee of governmental agencies while acting or employed in their official capacity.

Section 490:60. Enforcement and Penalties. Failure or omission to comply with section 490:35 or 490:45 of this ordinance shall be deemed a misdemeanor.

CHAPTER V.

FEES, CHARGES AND RATES

Section 500 - Fees, Charges and Rates Established

Section 500:00. Fees, Charges and Rates Authorized and Defined. The fees, charges, and rates for licenses, permits, and municipal services will be in the amounts set forth in this chapter. Other portions of the City Code may reference these fees, charges and rates by using such terms as "required fee", "established fee", "required license fee", "license fee" and "license fee in the required amount", without specific reference to this chapter, in which event the amounts set forth in this chapter will be applicable.

Section 500:05. Priority of Application. If fees, charges, and rates are set forth specifically in parts of this code other than this Chapter V. or in other ordinances of the City which are now in effect, but have not been set forth in this Chapter V., in that event, the fees, charges, and rates thereby specifically set forth will be effective for all purposes. In the event that such amounts will appear in other places in this code or in other ordinances or codes of the City, but will appear in this Chapter V., the amounts appearing in Chapter V. will supersede the others.

Section 500:10. Late Fee, Generally. Failure to submit any completed license and/or permit application to the Office of the City Clerk or other department set forth by ordinance prior to the expiration of any license and/or permit will result in a late fee penalty equal to the original license and/or permit fee.

Section 510 - Business Licenses, Permits, & Fees

Section 510:00. Business Licenses and Permits. The fees, charges and rates for business licenses and permits, the duration or term of the license or permit, and applicable conditions are set forth in the subdivisions which follow:

Subd. No.	Code Section	Type of License	Conditions and Terms	Amount
1	407:00	Amusement Centers Annual Fee	For 0-1,000 sq. ft. For 1,001 to 3,000 sq. ft More than 3,000 sq. ft.....	\$160.00 \$228.00 \$318.00
2	406:00	Amusement Devices, Mechanical, Pinball, etc.	Annual fee, each machine Fee, if issued after July 31st All to expire December 31 following issuance	\$15.00 \$8.00
3	510:00	Applications for Issuance of Industrial Revenue Bonds	For each original application..... For each amendment thereto	\$3,000.00 \$1,500.00
4	409:30	Billiards or Pool	First table..... Each additional table	\$18.50 \$10.00
5	409:30	Bowling Alleys	For each track.....	\$10.00
6	409:00	Circuses, Menagerie and Circuses combined, and Wild West Shows	For each day's performance for each car, coach, or other unit of transporta- tion used not exceeding 35 And in excess of 35, for each car, coach or other unit of transportation Minimum fee per day	\$12.50 \$11.25 \$320.00
7	409:00	Carnival	Daily Fee.....	\$270.00
8	447:25	Massage Facilities	For each place, Annual.....	\$74.00

9	447:23	Massage Facilities	Review and investigation fee: For a single natural person 325.00 For a partnership 500.00 For a corporation 500.00
10	409:20	Opera House, Hall, or other enclosure other than a theatre in which shows, performances, exhibitions or entertainments are given	Annual, expires December 31 \$375.00 If issued after July 01 \$187.50
11	457:00	Pawnbroker	Annual, all expire December 31 \$180.00
12	475:05	Peddlers and Transient Merchants	Minimum fee, period of 7 days \$135.00 Each additional day \$16.00
13	409:30	Skating, Public Place	Annual \$54.50 After July 1st \$37.00 With 3-2 Liquor Fee not to be pro-rated \$140.00
14	472:10	Taxis	First Taxicab for hire 21.00 Each additional 10.00
15	472:45	Taxi Driver	Initial License Application Fee 31.00 Annual Renewal Fee 17.00
16	409:15	Theatre, Movie or live performance	Annual fee, expires December 31st \$237.00 Additional fee per screen or stage \$60.00
17	424:00	Tobacco Sales	Annual fee or for portion of year, for each location, expires December 31st after issuance \$121.50 If issued after July 31st \$60.75
18	408:00	Gambling	Two year local on-site investigation fee \$60.75 Gambling exemption permit fee \$12.90

19	405:00	Dance Establishments	Annual fee or for portion of year expires December 31 after issuance .....\$118.50 If establishment is licensed as an amusement center the annual fee is .....\$59.75
20	410:00	Gambling Hall	Annual Fee or for portion of year, expires December 31 st after issuance .....\$225.00

Section 511-Liquor Licensing Fees

511:00 Liquor Licensing Fees.

Subd. No.	Code Section	Type of License	Conditions and Terms	Amount
1	810:00	Liquor License, Intoxicating	Class A, B and Class C For 0-3,000 sq. ft.....3600.00 For 3,001 tp 5,000 sq. ft.....4100.00 For more than 5,000 sq. ft.....4700.00 Class D (Clubs, on-sale): For a veteran’s organization or fraternal club with a membership of 200 or less .....300.00 Between 201 and 500.....500.00 Between 501 and 1,000.....650.00 Between 1,001 and 2,000.....800.00 Between 2,001 and 4,000.....1000.00 Between 4,001 and 6,000.....2000.00 Over 6,000.....3000.00 Class E (Exclusive Liquor Store, Off-sale) .....200.00 Class F (Drug Store, off-sale).....200.00 Class G (Special May Bowle).....50.00 Class H (Special Sunday).....200.00 Class J (Temporary on-sale) ...100.00 Class I (Wine) .....350.00 Classes K and L (Seasonal Sidewalk Café/Outdoor Sales)..... -0- For Class A, Class B and Class C Licenses when the application Is made after January 1 of the License year, the fee will be 50% of the fee listed above Review and Investigation Fee: For a single natural person .....325.00 For a partnership .....500.00 For a corporation.....500.00 For a seasonal sidewalk café.....100.00 For seasonal outdoor sales .....100.00	
	810:05 Subd. 6			

2 Late Fee, Intoxication Liquor. Failure to submit a completed license and/or permit application to the Office of the City Clerk by April 1 will result in a late fee penalty of \$100.00 for each business day the application is late. The maximum penalty will be a late fee equal to the original license and/or permit fee. Failure to submit a completed license and or permit application may result in the interruption of liquor service. An application submitted by mail will be deemed to be submitted on the day it is postmarked by the U.S. Post Office. If April 1 falls on a Saturday, Sunday or legal holiday the application will be due the next business day.

3	800.30	Liquor License, 3-2	Off Sale30.00 On Sale.....200.00 Club.....75.00 Temporary On Sale30.00 Review and Investigation Fee: For a single natural person325.00 For a partnership500.00 For a corporation.....500.00 For a second or subsequent license For a license holder at another Location210.00
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4 Late Fee, Non-intoxicating Liquor. Failure to submit any completed license and/or permit application to the Office of the City Clerk by May 15 will result in a late fee penalty equal to the original license and/or permit fee.

Section 512 - Food Establishments, Licenses and Permits

Section 512:00. Fees Established.

Subd. 1. The annual license fee to be paid by the following classes of food establishments, will be based upon the type of foods and the size of the establishment as measured in square feet.

a) Type A Food Establishment\$60.00

b) Type B Food Establishment

(i) For Grocery:

1,000 square feet or less.....\$85.00
More than 1,000 square feet but not more
than 5,000 square feet\$116.00
More than 5,000 square feet but not more
than 7,500 square feet\$147.00
More than 7,500 square feet but not more
than 10,000 square feet.....\$206.00
More than 10,000 square feet but not more
than 15,000 square feet\$315.00
More than 15,000 square feet\$448.00

(ii) For Meat Markets:

1,000 square feet or less.....\$85.00
More than 1,000 square feet but not more
than 2,500 square feet\$116.00
More than 2,500 square feet but not more
than 5,000 square feet\$180.00
More than 5,000 square feet\$232.00

(iii) For Food Manufacturers, Bakeries and Distributors:

1,000 square feet or less.....\$85.00
1,001 square feet to 2,000 square feet\$116.00
2,001 square feet to 4,000 square feet\$147.00
4,001 square feet to 5,500 square feet\$180.00
5,501 square feet to 7,000 square feet\$206.00
7,001 square feet to 8,500 square feet\$232.00
8,501 square feet to 10,000 square feet\$315.00
10,001 square feet to 15,000 square feet\$386.00
15,001 square feet and more\$448.00

(iv) Each Additional Type B Food Establishment Present In a
Licensed Type B Food Establishment\$85.00

- c) For Vending Machines:
 Each machine dispensing foods, per location.....\$15.00
- d) For Food Vehicles (each).....\$33.00
- e) Sidewalk Cart Food Vendors:
 Per Cart - Per Year.....\$71.00
- Maintenance Fee on Germain Mall Per Fixed Cart Servicing Location:
 April 1 to September 30.....\$500.00
 October 1 to March 31.....\$500.00

f) Sidewalk Cafes (per year).....\$71.00

Subd. 2. The annual license fee to be paid by the following classes of food establishments, as defined in Section 440:00 and as set forth in Section 440:25 will be based on the average number of employees under the provisions of Section 542:15. The fee will be determined in accordance with the schedule as follows:

- a) For restaurants, cafes, dining rooms, caterers, place of beverage/refreshment, boarding homes, drive-in restaurants and all short term or temporary permits:

Number of Employees	Fee
1 - 4	\$122.00
5 - 18	\$212.00
19 - 28	\$315.00
29 - 35	\$436.00
36 and over	\$513.00
Short term or temporary	\$71.00

- b) For daycare facilities:
 Nonresidential Day Care Facilities as defined in
 MN Statutes 157.16 and 245A.14.....\$206.00

Subd. 3. If a restaurant and a place of refreshment/beverage is located on the same premises, the fee for each one of these facilities will be determined separately according to the average number of employees working in each area. The fee schedule for each of the above will be the same as in subd. 2 (a). If you operate a hotel or motel, only one additional license fee will be required for all food and/or beverage facilities on the same premises.

Subd. 4. Portable Confectionery Stores\$54.00

Section 512:05. Pro-rating Annual Fees. Pro-rating will be allowed, except for itinerant

restaurants, vending machines, short term permits, and food vehicles, as follows:

License for less than 3 months: 50% of annual fee
License for 3 to 6 months: 75% of annual fee

Section 512:10. Determination of Square Footage. In determining the square footage area for the purpose of fixing the license fee to be paid, all areas used for sales, processing, packaging, serving, cold storage, and all areas actually used for storage of products and merchandise used or dispensed in connection with the business carried on at the premises will be computed.

Section 512:15. Average Number of Employees. For all those classes of food establishments whose license fee is based on the average number of employees, each full time employee will be considered as one employee and each part time employee as that fraction of one employee as the number of months in which he is employed is to the 12 months of the year. Employees will include all persons, except children of the licensee under the age of 18, at work in any capacity, either voluntary or paid, and whether or not reported under the labor laws of this State. Every licensee will, at the time of application, certify as to the number of his employees on forms provided by the City. The City will be provided access, on demand, to any and all employment records for purposes of substantiating or correcting number of declared employees.

Section 520 - Police & Fire Department Fees

520:00. False Alarm Fees.

False Alarm (4th and subsequent violations).....	various
2 nd Violation within calendar year.....	\$75.00
3 rd Violation.....	\$150.00
4 th Violation.....	\$150.00
5 th Violation.....	\$250.00
Any Subsequent False Alarm.....	\$250.00

520:05. Billable Transaction Fee (Pawnbrokers/per billable transaction)\$1.50

520:10. Vehicle Forfeiture Administrative Fee.....\$250.00

Administrative Fee of \$250 for processing of vehicles subject to forfeiture to cover administrative costs of processing vehicles subject to forfeiture pursuant to Minnesota Law. It is designed to cover costs of data entry, tracking, locating and confirming lienholder status, personal property removal and storage, and administrative tasks related to title transfers of forfeited vehicles and subsequent disposition.

520:15. Fireworks Retail Displayper display \$35.00

Fireworks Sales	
Indoor Sales	50.00
Outdoor Sales	\$350.00

520:20. Burning Permits

Subd. 1. Agricultural Burning Permits.

(a) Five Day Permit.....	\$13.00
(b) Recreational Burning Permit	\$24.00

Sud. 2. Natural Resource Management Permits:

(a) Less than one acre	\$13.00
(b) One to ten acres	\$27.00
(c) Greater than ten acres.....	\$42.00

520:25. Flammable Liquids

Bulk storage of flammable liquids	\$179.00
Bulk storage of liquefied petroleum (LP)	\$179.00
First Nozzle	\$15.00
Each additional nozzle.....	\$8.25

Not to exceed a maximum fee of\$103.00
for each station dispensing gasoline
Miscellaneous storage of flammable liquids..... \$36.00
Each Station dispensing liquified petroleum (LP).....\$36.00

520:30. Automatic Fire Extinguishing System

Installation1.2% of system cost minimum fee \$33.00
Fire Alarm System Installation.....1.2% of system cost minimum fee \$33.00
Above or Underground Fuel Tank Installation.....\$35.00
Underground Tank Removal \$35.00

Section 530 - Zoning and Subdivision Action Fees

Section 530:00. Fees Established.

Subd. 1. The fees, rates and charges for municipal services arising out of zoning and subdivision actions, will be for the term, upon the conditions, and in the amounts set forth in the subdivisions which follow.

Subd. 2. Zoning Action Fees. The following schedule of fees applies to each zoning action:

<u>Category</u>	<u>Fee</u>
Rezoning	\$ 675.00
PUD General Development Plan Amendment.....	675.00
Medical District Application/Amendment.....	675.00
Conditional Use Permit.....	600.00
Variances:	
Homestead Property	64.00
Non-Homestead Property.....	600.00
Appeal of Zoning Administrator Decisions to Zoning Board of Appeals.....	525.00
Land Use Change Permit.....	600.00
Appeals to the Council.....	525.00
Homestead Property	64.00
Non-Homestead Property.....	525.00
Vacation	475.00

Subd. 3. Subdivisions.

Preliminary Plat

Single Family Residential	500 + 5 per unit with max. of 700
Multiple Family, Commercial, Industrial	500 + 20 per acre with max. of 700

Final Plat

Single Family Residential 250 + 5 per unit with max. of \$600.00
Multiple Family, Commercial, Industrial 250 + 20 per acre with max. of \$600.00
Certificates of Survey150.00+20 per acre with max of 600
Variances..... 600.00

Subd. 4. Cash Payment in Lieu of Park and Open Space Land Dedication:

Single Family Development 1.96 per square foot (\$1,196 per dwelling unit)
Multi-Family Development 1.65 per square foot (\$ 792 per dwelling unit)

Subd. 5. Annexation Petitions.....3 per acre with 100 min. and 500
max.

Subd. 6. Environment Assessment Worksheet Review500.

Section 540 – Municipal Athletic Complex Fees

Subd. 1. Ice Rental Rates and Charges

(a) Hourly Ice Rental Rates:

	“A”	“B”	“C”
School Day (Ex. Monday – Thursday)	2 PM – 10 PM	8 AM – 2 PM 10 PM – 12 AM	12 AM – 8 AM
School Day Before a Non-School Day (Ex. Friday, Day before a Holiday)	2 PM – 12 AM	8 AM – 2 PM	12 AM – 8 AM
Non-School Day (Ex. Saturday)	8 AM – 12 AM	NONE	12 AM – 8 AM
Non-School Day Preceding a School Day (Ex. Holiday, Sunday)	8 AM – 10 PM	10 PM – 12 AM	12 AM – 8 AM

Rates:

A Time	130.00/hr
B Time	125.00/hr
C Time	120.00/hr

(b) Paid Admission Hockey Games:

- | | |
|---|------------|
| 1. High School Single Game
(Minimum Guarantee) | \$520.00 |
| 2. College Single Game | \$710.00 |
| 3. High School Single Game w/JV game | \$800.00 |
| 4. High School Double Header | \$950.00 |
| 5. College/High School Double header | \$1,045.00 |
| 6. College Double Header | \$1,200.00 |
| 7. High School Triple Header | \$1,250.00 |

Gate Split:

Maximum City Percentage Take	\$1,350.00
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All of the above game packages are subject to the 60/40 Game Split. Percentage split is taken from all receipts net of sales tax and minimum guarantee. Split is 60% to Arena and 40% to lessee. The maximum City percentage take is \$1,350.00.

(c) Free Admission Games:

- | | |
|-------------------------------------|----------|
| 1. Free Admission High School Games | \$165.00 |
| 2. Free Admission College Games | \$165.00 |

(d) Individual Charges (1 ½ to 2 hour sessions):

1. Open Hockey (all levels)	\$4.00
2. Open Freestyle	
1 hour	\$9.00
1 ¼ hour	\$9.50
1 ½ hour	\$10.00
3. Open Skating: Adults	\$4.00
Students (18 and Under)	\$2.00
4 and under	FREE with paying adult

(e) Summer Clinic Rate Card(June 1 – August 31)

1 – 9 hours	\$130.00/hr
10 – 19 hours	\$129.00/hr
20 – 29 hours	\$128.00/hr
30 – 39 hours	\$127.00/hr
40 – 49 hours	\$126.00/hr
50 – 59 hours	\$125.00/hr
60 – 69 hours	\$124.00/hr
70 – 79 hours	\$123.00/hr
80 – 89 hours	\$122.00/hr
90 – 99 hours	\$121.00/hr
100 and more hours	\$120.00/hr
200 and more hours	\$100.00/hr

Subd. 2. Baseball Game Rates

(a) Day Game Rates:

1. Single Day Games	
1 – 7 Inning Day Game	\$134.00
1 – 9 Inning Day Game	\$148.00
1 Partial Game Rate	\$95.00
2. Double Header Day Games	
2 – 7 Inning Day Games	\$203.00
2 – 9 Inning Day Games	\$222.00

(b) Night Game Rates:

1. Single Night Games	
1 – 7 Inning Night Game	\$168.00
1 – 9 Inning Night Game	\$187.00
1 Partial Night Game Rate	\$108.00
2. Double Header Twi-Light Games	

2 – 7 Inning Twi-Light Games	\$233.00
2 – 9 Inning Twi-Light Games	\$259.00

3. Double Header Night Games	
2 – 7 Inning Night Games	\$252.00
2 – 9 Inning Night Games	\$282.00

(c) Standard Game Time Allotments (SGTA):

The rental rates listed above are based on the following SGTA:

1 – 7 Inning Game	140 minutes (2 hours & 20 minutes)
1 – 9 Inning Game	180 minutes (3 hours)
2 – 7 Inning Games	300 minutes (5 hours)
2 Games, 7 & 9 Inning	340 minutes (5 hours & 40 minutes)
2 – 9 Inning Games	380 minutes (6 hours & 20 minutes)

(d) Extended Play Penalties:

(e) Day Games:

Exceeds a 7 or 0 Inning Day Game SGTA	\$21.00
(per 15 minute increment exceeding SGTA)	

(f) Night Games:

Exceeds a 7 or 9 Inning Night Game SGTA	\$37.00
(per 15 minute increment exceeding SGTA)	

(g) Game Cancellations:

Game/Events which are not canceled prior to 30 days of the schedule game/event (contact must be officially made with the Field Superintendent), may be subject to the game cancellation penalties. This fee may be waived in the event of inclement weather or act of God or by actions caused by the MAC management and its staff. In the case of inclement weather, contact must be made with the Field Superintendent a minimum of 2 ½ hours prior to the game/event to avoid said penalties.

Single Game Cancellation	\$75.00
Double Header Game Cancellation	\$129.00

(h) Gate Split on Paid Admission Games:

The City reserves the right to assess the above admission gate splits for all games/events. The Gate Split for the City will be 20% of the ticket receipts collected in excess of the applicable Sales Taxes and Stadium Rental Rate. The City's percentage take will not exceed the maximum game percentage take.

Maximum Single Game Percentage Take	\$150.00
Maximum Double Header Game Percentage Take	\$245.00

The Gate Split for the Lessee will be 80% of the ticket receipts collected in excess of the applicable Sales Taxes and Stadium Rental rate plus the excess of the City's maximum percentage take if any. All other game/event charges will be charted to the Lessee's remaining percentage split balance, if any.

(i) Game Personnel:

Game Rates included 2 maintenance personnel only. Additional game personnel are available for hire on a seasonal or individual game basis; charges for their services will be competitive with the existing market (see current game personnel rate schedules).

Personnel available include: Ticket sellers, ticket takers, pass gate attendants, announcer, scoreboard operator, official scorer, press stewards, trainers, police ushers, tournament administrative assistants, tournament headquarter stewards, ball shaggers and parking attendants.

(j) Tournament Headquarters Rentals:

The Dick Putz Field Tournament Headquarters is available for rental/use as a viewing suite/headquarters during baseball games to booster clubs, faculty associations, private parties, etc. Food and beverage services are also available. In the event of a Tournament, the following fee may be waived (see current Tournament HQ rental rate schedule).

- 1. Single Games \$74.00
- 2. Double Header \$110.00

Subd. 3. Golf Course Rates and Charges

(a) Green Fee Rates:

Daily Rates (9 Holes)

Weekday	\$9.00 + tax
Weekday, Additional 9 holes	\$5.50 + tax
Weekday, Senior Rate	\$7.25 + tax
Weekend, Holiday	\$10.25 + tax
Weekend, Additional 9 holes	\$7.75 + tax

(b) Memberships:

Family	\$490 + tax
Family, Non – prime time	\$345 + tax
Single	\$395 + tax
Single, Non – prime time	\$260 + tax
Senior, Single	\$405 + tax
Youth	\$210 + tax
Youth, Non – prime time	\$140 + tax

(c) Footnotes:

1. The weekday, senior rate applies Monday – Friday, 8 AM – 4 PM, excluding holidays.
2. Non-prime time is defined as Monday – Friday, 7 AM – to 1 PM, excluding holidays.
3. Non-prime time membership holders may golf during prime hours @ 50% of applicable daily rate.
4. Family members include five (5) people (Father, Mother, and 3 youth).
5. Additional Family Memberships for Youth @ \$62 (prime) and @ \$42 (non-prime).
6. Youth defined as age 10 – 17 (inclusive) as of April 1.
7. Seniors defined as 56 and older.
8. For Senior couple both members must be 56 and older.
9. \$0.50 Daily membership fee

Varied promotional rates may also be used including senior discounts, youth promotional rates, etc. Memberships, League Play Fees, Etc. All Memberships, League Fees, Instructional Leagues, etc. will be based on the Green Fee Rates.

Section 541 - Whitney Senior Center Fees

Subd. 1. Deposit. A \$75.00 deposit is required upon application to cover damage expenses, custodial set-up and take-down of groups and cleanup. Deposit will be applied to rental fee if manpower is supplied for set-up and take-down of group, cleanup and no damages occur. In cases of cancellation, 20 percent of the deposit will not be refunded. Deposit will not be returned if lessee fails to cancel and does not show up for date applied.

Subd. 2. Rental Fees:

Group A

- Senior organizations, senior advocate and senior support groups
- Nutrition Centers Program/United Way of St. Cloud Area
- City of St. Cloud Employee Bargaining Units/City of St. Cloud Departments
- City authorized activities and committees

Fee Per HourNo Fee Assessed

Group B

- District 742 Schools
- St. Cloud area non-profit organizations
- Private parties for honoring only persons age 55 years of age or older sponsored by St. Cloud area individuals; i.e., anniversaries, birthdays and retirements

1. Clemens Hall
Rental Fee Per Hour..... \$46.00

2. Meeting Room C, D & E (Combined)
Rental Fee Per Hour..... \$35.00

3. Meeting Room C or D or E
Rental Fee Per Hour..... \$25.00

4. Classrooms: Herberger/Whitney
Combined: Brewer/Olson
Rental Fee Per Hour..... \$25.00

5. Classrooms: Herberger, Whitney, Brewer or Olson
Rental Fee Per Hour..... \$24.00

Persons in Group B may not rent the Whitney Senior Center for fundraising events.

Group C

--Non-St. Cloud area organizations

--Commercial group rentals

1. Clemens Hall Base Fee

--From 1 to 4 hours..... \$396.00

--Every hour after 4 hours \$98.00

2. C, D & E Meeting Rooms Combined
or Classroom 1, 2, 3, 4, 5, 6, or 7

--From 1 to 4 hours..... \$2608.00

--Every hour after 4 hours \$90.00

3. C, D or E Meeting Rooms or Classroom 1, 2, 3, 4, 5, 6 or 7

--From 1 to 4 hours..... \$200.00

--Every hour after 4 hours \$50.00

Subd. 3. Additional Rental Information:

--PA system, movie screen and podiums \$20.00 per item

--Coffee pots, movie projector, slide projector, grease boards and phonograph will be provided if available.

1. No liquor (including beer, wine, alcohol of any kind).
2. The Whitney Senior Center is a non-smoking facility. There are no exceptions.

Subd. 4. Service Fees & Charges. To include the following:

		<i>(St. Cloud resident discount)</i>
Activity Cards (12 punches)	\$36.00	\$30.00
Activity Cards (6 punches)	\$18.00	\$15.00
Fitness Card (Annual)	\$84.00	\$72.00
Fitness Card (Tri-Annual)	\$32.00	\$28.00
Woodshop (Annual membership)	\$84.00	\$72.00
Woodshop (Tri-Annual)	\$32.00	\$28.00
Woodshop (Daily Use Fee)	\$ 5.00	\$ 4.00
Whitney Newsletter (Annual)	\$21.00	\$18.00
Newsletter sale at Front Desk	\$ 2.00	\$ 2.00

Section 542 City Hall Meeting Room Facilities

Section 542:00. City Hall Meeting Room Facility Charges.

Subd. 1. Room Rental, Monday through Friday. Eligible groups, as set forth by resolution, will be charged for use of City Hall meeting facilities as follows:

Council Chambers	\$155.00 per day
Conference Room	\$77.00 per day
Audio/Video Technician	\$52.00 per hour

Rooms are available for a half day at half the rate. There is a four-hour minimum charge for use of the rooms.

Subd. 2. Room Rental, Saturday. Eligible groups, as set forth by resolution, will be charged for City Hall meeting facilities as follows:

Council Chambers	\$206.00 per day
Conference Room	\$103.00 per day
Audio/Video Technician	\$52.00 per hour

An hourly janitorial fee will be charged if a City employee or a City elected official is not present for opening, clean-up and lock-up. Rooms are available for a half day at half the rate. There is a four hour minimum charge for use of the rooms.

Section 543 - Central Services Building Meeting Room
Facility Charges

Subd. 1. Room Rental, Monday through Friday. Eligible groups or individuals, as set forth by resolution, will be charged for the use of Central Services Building meeting facilities as follows:

Conference Room..... \$ 44.00 per day

Room is available for one-half day at the rate of one-half the full day rate. Minimum room charge will be four hours.

Subd. 2. Room Rental, Saturday. Eligible groups or individuals as set forth by resolution will be charged for the use of Central Services Building meeting facilities as follows:

Conference Room..... \$ 56.00 per day

An additional janitorial fee will be charged if a City employee or a City elected official is not present for opening, clean-up and lock-up.

The Conference Room is available for one-half day at the rate of one-half the full day rate. Minimum room charge will be four hours.

Section 544 - Airport Fees

Subd. 1. Airport Hangar Fees.

40 x 12 foot door with electric door opener	\$129.00
40 x 12 foot door without electric door opener	\$121.50
44 x 14 foot door with electric door opener	\$141.00
44 x 16 foot door with electric door opener	\$154.50
Seasonal fee for Tanis-type heater- per engine.....	\$37.00
Hangar 11 – Bays 1-4 & 6-10	\$154.50
Hangar 11 – Bay 5 (larger unit)	\$212.00
Airport hanger storage unit	\$32.00
Airport hangar storage units in hangar 11	\$47.00

Subd. 2. Landing Fees.

Aircraft under 12,500 lbs.-minimum landing fee	\$14.00
Otherwise \$0.49 per 1,000 pounds	

Subd. 3 Airport Business Permit.

Analysis Fees, Cost of collection and cost of analysis work.....	\$27.00
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Subd. 4. Room Rental, Monday through Friday. Eligible groups or individuals identified in Section 200 of this ordinance, will be charged for the use of the St. Cloud Regional Airport Building meeting facilities as follows:

Conference Room.....	\$ 45.00 per day
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Room is available for one-half day at the rate of one-half the full day rate.
Minimum room charge will be four hours.

Subd. 5. Room Rental, Saturday. Eligible groups or individuals identified in Section 200 of this ordinance, will be charged for the use of the St. Cloud Regional Airport Building meeting facilities as follows:

Conference Room.....	\$55.00 per day
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An additional janitorial fee if a City employee or a City elected official is not present for opening, clean-up and lock-up.

Room is available for one-half day at the rate of one-half the full day rate.
Minimum room charge will be four hours.

Section 545:00 - Civic Center Rates, Fees and Charges

<u>Room Rented</u> <u>Rate</u>	<u>Daily</u> <u>Rental Rate</u>	<u>Civic/</u> <u>Charitable</u>
Glenn Carlson Hall	\$1,200	\$ 925
½ Glenn Carlson Hall (includes curtain)	\$ 775	
Move In/Move Out Day - Carlson Hall	\$ 450	\$ NA
Terry Haws Center	\$1,700	\$1,325
½ Terry Haws Center	\$1,000	
Move In/Move Out Day - Haws Center	\$ 450	\$ 400
Opportunities Suite:	\$ 425	\$ 285
Bell Room	85	60
Alexander Room	85	60
Weidner Room	140	90
Clarke Room	70	45
Edelbrock Room	70	45
Wilson Suite:	\$ 210	\$ 140
First American Room	135	95
Thielman Room	100	70
Stockinger Suite:	\$ 400	\$ 285
Swisshelm Room	115	75
Whitney Room	115	75
Mitchell Room	115	75
Schilplin Room	115	75
Herberger Suite:	\$ 700	N/A
Coborn Room	170	N/A
Helgeson Room	135	N/A
Metzroth Room	140	N/A
Marsh Room	140	N/A
Fandel Room	135	N/A
Board Room	\$ 150	\$ 125

<u>Item Rented</u>	<u>Daily Rental Fee</u>
* 6' x 30" Table	\$ 7.00
* 8' x 30" Table	7.00
*72" Round Table	7.00
*16" x 8' Seminar Table	7.00
* 6' x 8' Stage Section	25.00
*Upholstered Chair	2.50
*Table Drapes - Per Table	10.00
**Chalkboard	15.00
**Easels	15.00
**White Boards	15.00
**Table Top Podium	15.00
**Free Standing Podium	25.00
**Flip Chart w/markers	25.00
Rope & Stanchions (10') - Each Stand	7.00
Forklift - 1 drop w/driver	25.00
Forklift - 1 hr. w/driver	100.00
Forklift - 1 day without driver	150.00
High Reach	150.00
**Screen - 7' x 9' - 6' x 8'	25.00
**Overhead Projector	25.00
**Slide Projector	25.00
**VCR & Monitor	75.00
**Cassette Tape Recorder	30.00
**Projection Cart	15.00
**Piano	50.00
**Pointer	25.00
Follow Spot - Small	60.00
Follow Spot Light - Large	125.00
	+ \$2.00 per 15 min.
State Spot Install	175.00
Stage Spots on Request	30.00
**Microphone (Additional)	10.00
**Cordless Microphone	35.00
*Divider Curtain - Hung	175.00
*Dance Floor	100.00
*Carpet	4,000.00

Section 550 Electrical Inspection Fee Schedule

Section 550:00 SCHEDULE. City electrical inspection fees will be paid according to subdivisions 2 to 13.

Secton 550:05 FEE FOR EACH SEPARATE INSPECTION. The minimum fee for each separate inspection of an installation, replacement, alteration, or repair is \$23.00; or

Subd. 1. A minor residential improvement permit fee will not exceed \$15.00 or five percent of the cost of the improvement, installation, or replacement, whichever is greater, for the improvement, installation, or replacement of a residential fixture or appliance that:

- (a) Does not require modification to electric or gas service;
- (b) Has a total cost of \$500.00 or less, excluding the cost of the fixture or appliance; and
- (c) Is improved, installed, or replaced by the home owner or a licensed contractor.

Section 550:10 FEE FOR SERVICES, GENERATORS, OTHER POWER SUPPLY SOURCES, OR FEEDERS TO SEPARATE STRUCTURES. The inspection fee for the installation, addition, alteration, or repair of each service, change of service, temporary service, generator, other power supply source, or feeder to a separate structure is:

Subd. 1. 0 ampere to and including 400 ampere capacity, \$28.50;

Subd. 2 401 ampere to and including 800 ampere capacity \$57.00; and

Subd. 3 ampere capacity above 800, \$83.50.

Subd. 4 Where multiple disconnects are grouped at a single location and are supplied by a single set of supply conductors the cumulative rating of the overcurrent devices will be used to determine the supply ampere capacity.

Section 550:15 FEE FOR CIRCUITS, FEEDERS, FEEDER TAPS, OR SETS OF TRANSFORMER SECONDARY CONDUCTORS. The inspection fee for the installation, addition, alteration, or repair of each circuit, feeder, feeder tap, or set of transformer secondary conductors, including the equipment served, is:

Subd. 1 0 ampere to and including 200 ampere capacity, \$7.00; and

Subd. 2 Ampere capacity above 200, \$13.50.

Section 550:20. LIMITATIONS TO FEES OF SECTIONS 550:10 AND 550:20

Subd 1 The fee for a one-family dwelling and each dwelling unit of a two-family dwelling with a supply of up to 500 amperes where a combination of ten or more sources of supply, feeders, or circuits are installed, added, altered, repaired, or extended is

\$90.00. This fee applies to each separate installation for new dwellings and additions, alterations, or repairs to existing dwellings and includes not more than two inspections. The fee for additional inspections or other installations is that specified in subdivisions 2 to 4. The installer may submit fees for additional inspections when filing the request for electrical inspections.

Subd. 2. The fee for each dwelling unit of a multifamily dwelling with three to 12 dwelling units is \$57.00 and the fee for each additional dwelling unit is \$28.50. These fees include only inspection of the wiring within individual dwelling units and the final feeder to that unit. This limitation is subject to the following conditions:

(a) the multifamily dwelling is provided with common service equipment and each dwelling unit is supplied by a separate feeder. The fee for multifamily dwelling services or other power source supplies and all other circuits is that specified in subdivisions 2 to 4; and

(b) this limitation applies only to new installations for multifamily dwellings where the majority of the individual dwelling units are available for inspection during each inspection trip.

Subd. 3. A separate request for electrical inspection form must be filed for each dwelling unit that is supplied with an individual set of service entrance conductors. These fees are the one-family dwelling rate specified in paragraph Section 550:20, Subd 1.

Section 550:25. ADDITIONS TO FEES OF SECTIONS 550:10, 550:15 AND 550:20

Subd. 1. The fee for the electrical supply for each manufactured home park lot is \$28.50. This fee includes the service or feeder conductors up to and including the service equipment or disconnecting means. The fee for feeders and circuits that extend from the service or disconnecting means is that specified in subdivision 4.

Subd. 2. The fee for each recreational vehicle site electrical supply equipment is \$7.00. The fee for recreational vehicle park services, feeders, and circuits is that specified in subdivisions 3 and 4.

Subd. 3. The fee for each street, parking lot, or outdoor area lighting standard is \$3.00, and the fee for each traffic signal standard is \$7.50. Circuits originating within the standard or traffic signal controller will not be used when computing the fee.

Subd. 4. The fee for transformers for light, heat, and power is \$12.50 for transformers rated up to ten kilovolt-amperes and \$25.00 for transformers rated in excess of ten kilovolt-amperes.

Subd. 5. The fee for transformers and electronic power supplies for electric signs and outline lighting is \$7.50 per unit.

Subd. 6. The fee for alarm, communication, remote control, and signaling circuits or systems, and circuits of less than 50 volts, is \$2.00 for each system device or apparatus.

Subd. 7. The fee for each separate inspection of the bonding for a swimming pool, spa, fountain, an equipotential plane for an agricultural confinement area, or similar installation will be \$23.00. Bonding conductors and connections require an inspection before being concealed.

Subd. 8. The fee for all wiring installed on center pivot irrigation booms is \$45.50.

Subd. 9. The fee for retrofit modifications to existing lighting fixtures is 35 cents per lighting fixture.

Section 550:30 INVESTIGATION FEES: WORK WITHOUT A REQUEST FOR ELECTRICAL INSPECTION.

Subd. 1. Whenever any work for which a request for electrical inspection is required by the city has begun without the request for electrical inspection form being filed with the city, a special investigation will be made before a request for electrical inspection form is accepted by the city.

Subd. 2. An investigation fee, in addition to the full fee required by Section 550:00 through Section 550:25, will be paid before an inspection is made. The investigation fee is two times the hourly rate specified in Section 550:45 or the inspection fee required by Section 550:00 through Section 550:25, whichever is greater, not to exceed \$1,000. The payment of the investigation fee does not exempt any person from compliance with all other provisions of the board and city rules, or ordinances nor from any penalty prescribed by law.

Section 550:35 STATUTES AND REINSPECTION FEE. When reinspection is necessary to determine whether unsafe conditions have been corrected and the conditions are not the subject of an appeal pending before the city or any court, a reinspection fee of \$22.00 may be assessed in writing by the inspector.

Section 550:40 SUPPLEMENTAL FEE. When inspections scheduled by the installer are preempted, obstructed, prevented, or otherwise not able to be completed as scheduled due to circumstances beyond the control of the inspector, a supplemental inspection fee of \$23.00 may be assessed in writing by the inspector.

Section 550:45 SPECIAL INSPECTION. For inspections not covered in this section, or for requested special inspections or services, the fee will be \$57.00 per hour, including travel time, plus 59.5 cents per mile traveled, plus the reasonable cost of equipment or material consumed. This provision is applicable to inspection of empty conduits and other jobs as may be determined by the city. This fee may also be assessed when installations are not accessible by roadway and require alternate forms of transportation.

Section 550:50 INSPECTION OF TRANSITORY PROJECTS.

Subd. 1. For inspection of transitory projects including, but not limited to, festivals, fairs, carnivals, circuses, shows, production sites, and portable road construction plants, the inspection procedures and fees are as specified in Subd. 2 through Subd. 9 below.

Subd. 2. The fee for inspection of each generator or other source of supply is that specified in Section 550:10. A like fee is required at each engagement or setup.

Subd. 3. In addition to the fee for generators or other sources of supply, there must be an inspection of all installed feeders, circuits, and equipment at each engagement or setup at the hourly rate specified in Section 550:45, with a two-hour minimum.

Subd. 4. An owner, operator, or appointed representative of a transitory enterprise including, but not limited to, festivals, fairs, carnivals, circuses, production companies, shows, portable road construction plants, and similar enterprises will notify the board of its itinerary or schedule and make application for initial inspection a minimum of 14 days before its first engagement or setup. An owner, operator, or appointed representative of a transitory enterprise who fails to notify the board 14 days before its first engagement or setup may be subject to the investigation fees specified in subdivision 7. The owner, operator, or appointed representative will request inspection and pay the inspection fee for each subsequent engagement or setup at the time of the initial inspection. For subsequent engagements or setups not listed on the itinerary or schedule submitted to the board and where the board is not notified at least 48 hours in advance, a charge of \$113.50 may be made in addition to all required fees.

Subd. 5. Amusement rides, devices, concessions, attractions, or other units must be inspected at their first appearance of the year. The inspection fee is \$23.00 per unit with a supply of up to 60 amperes and \$34.00 per unit with a supply above 60 amperes.

Subd. 6. An additional fee at the hourly rate specified in Section 550:45 must be charged for additional time spent by each inspector if equipment is not ready or available for inspection at the time and date specified on the application for initial inspection or the request for electrical inspection form.

Subd. 7. In addition to the fees specified in Subd. 1 and Subd. 2 above, a fee of two hours at the hourly rate specified in Section 550:45 must be charged for inspections required to be performed on Saturdays, Sundays, holidays, or after regular business hours.

Subd. 8. The fee for reinspection of corrections or supplemental inspections where an additional trip is necessary may be assessed as specified in Section 550:35.

Subd. 9. The city may retain the inspection fee when an owner, operator, or appointed representative of a transitory enterprise fails to notify the city at least 48 hours in advance of a scheduled inspection that is canceled.

Section 550:55 HANDLING FEE. The handling fee to pay the cost of printing and handling of the form requesting an inspection is \$2.00.

Section 550:60 NATIONAL ELECTRICAL CODE USED FOR INTERPRETATION OF PROVISIONS. For purposes of interpretation of this section and Minnesota Rules, chapter 3800, the most recently adopted edition of the National Electrical Code will be prima facie evidence of the definitions, interpretations, and scope of words and terms used.

Section 551 - Plumbing and Water Conditioning Permit Fees

Section 551:00. Permit Fees. Except as specifically provided, the fees for all plumbing permits will be computed on the basis of the number of plumbing fixtures and/or devices provided for in such permit:

1. A minor residential improvement permit fee will not exceed \$15.00 or five percent of the cost of the improvement, installation, or replacement, whichever is greater, for the improvement, installation, or replacement of a residential fixture or appliance that:
 - a. Does not require modification to electrical or gas service;
 - b. Has a total cost of \$500.00 or less, excluding the cost of the fixture or appliance; and
 - c. Is improved, installed, or replaced by the home owner or a licensed contractor.

2. Each new fixture or device installation or rough-in\$10.00

3. Each sanitary sewer connection with a building - per inspection 18.50

4. Each City water connection with a building per inspection 18.50

5. Each City storm sewer connection with a building or area drain - per inspection 18.50

6. Each lawn sprinkler system when connected with domestic water 18.50

7. Replacing water distribution piping - per inspection 18.50

8. Replacing only drain and/or vent piping per inspection 18.50

9. Repair of sanitary sewer - per inspection 18.50

10. Repair of water services - per inspection..... 18.50

11. Repair of storm sewer - per inspection 18.50

12. Each fixture replacement or relocation.....~~9.50~~ 10.00

13. Ground water heat pump discharge to storm sewer.....24.00

14. Each manhole	10.00
15. Water conditioners: New installation or replacement	18.50
16. Re-inspection fee for additional inspections in excess of normal rough-in and/or final per inspection	18.50
17. Disconnect water service - per inspection	18.50
18. Disconnect sewer service - per inspection.....	18.50
19. Minimum fee for numbers 1 through 17	29.00
20. Plumbing Contractor	128.00
21. Sewer Cleaning Contractor	38.00
22. Master Plumber	13.00 13.50
23. Journey Worker Plumber	10.50
24. Apprentice Plumber.....	8.50
25. Water Treatment Installers.....	37.00
26. Individual Sewage Treatment System Permit	154.50
27. Individual Sewage Treatment System Certification	103.00
28. Non-emergency work in progress without a valid permit In addition to permit fees identified herein.....	155.00

Section 552 - Sign Erectors, Signs, and Sign Inspection

Subd. 1.	Sign Erectors Annual, expires December 31	\$39.00
Subd. 2.	Signs	
	Wall Sign, not exceeding 100 square feet in area.....	33.00
	For each additional 50 sq. ft. or fraction thereof in excess of 100 sq. ft. of area.....	8.50
	Ground Signs for the first 10 sq. ft. of area	33.00
	For each additional 5 sq. ft. of area	8.50
	Temporary Signs - Annual Permit.....	67.00
Subd. 3.	Sign Inspection	
	Advertising Signs: Annual, per sign	33.00
	Business Signs: For each inspection of all signs upon the same premises	21.00
Subd. 4.	Non-Emergency work in progress without a valid permit..... (In addition to normal permit fees)	155.00

Section 553 - Building Permits, Inspections and Fees

Section 553:00. Permits, inspections, and fees will be charged as follows:

Total Valuation	Fee
\$1.00 to \$500.00	\$17.50
\$501.00 to \$2,000.00	\$17.50 for the first \$500.00 plus \$2.30 for each additional \$100.00 or fraction thereof, to and including \$2,000.00
\$2,001.00 to \$25,000.00	\$52.00 for the first \$2,000.00 plus \$10.50 for each additional \$1,000.00 or fraction thereof, to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$292.50 for the first \$25,000.00 plus \$6.90 \$7.50 for each additional \$1,000.00 or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$482.00 for the first \$50,000.00 plus \$5.20 for each additional \$1,000.00 or fraction thereof, to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$744.00 for the first \$100,000.00 plus \$4.00 for each additional \$1,000.00 or fraction thereof, to and including \$500,000.00
\$500,001.00 to \$1,000,000.00	\$2,372.00 for the first \$500,000.00 plus \$3.50 for each additional \$1,000.00 or fraction thereof, to and including \$1,000,000.00
\$1,000,001.00 and up	\$4,126.50 for the first \$1,000,000.00 plus \$2.30 for each additional \$1,000.00 of fraction thereof

\$23.00 minimum fee except for a single family dwelling basement finish which will have a \$65.00 minimum fee.

Section 554 - Heating, Ventilating, Air Conditioning
and Refrigeration Examinations, Licenses, Permits

Section 554:00. Examination Fees For Original Certificates of Competency. The examination fee, in addition to the fee to be paid for an applicant's original certificate of competency will be as follows, and each annual fee for a certificate of competency will be as follows:

A. Master A Installers:

Examination	\$58.00
Original and Annual Renewal	12.50

B. Master B Installers:

Examination	45.50
Original and Annual Renewal	12.50

C. Journeyman Installers:

Examination	28.00
Original and Annual Renewal	12.50

D. Appliance Installers:

Examination	35.00
Original and Annual Renewal	12.50

Section 560:05. Heating Contractor License Fee. The fee for a Heating Contractor License will be \$128.00 per year or fraction thereof.

Section 560:10. Heating, Ventilation and Refrigeration Permit Fees.

Subd. 1. Fee Required. Before issuing any permits for the construction, installation or alteration of any furnace, boiler or heating plant or any equipment to be connected therewith, or to be connected to any chimney or stack of any ventilation system or sheet metal or ductwork or equipment therewith, will require the payment by the applicant for such permit of the fee in the amount herein provided.

Subd. 2. Residential Permits.

- (a) Minor residential improvement permit fee will not exceed \$15.00 or five percent of the cost of the improvement, installation, or replacement, whichever is greater, for the improvement, installation, or replacement of a residential fixture or appliance that:
 - 1. Does not require modification to electric or gas service;
 - 2. Has a total cost of \$500.00 or less, excluding the cost of the fixture or appliance; and
 - 3. Is improved, installed, or replaced by the home owner or a licensed contractor.
- (b) For the new installation of any warm air furnace and ductwork, or of any hot water or steam boiler and radiation or the installation of conversion burners on existing furnaces with an input of 149,000 B.T.U.H. or less, including gas piping or oil tank installation, the permit fee will be \$39.00.
- (c) When the domestic hot water supply line is part of the house heating system, \$28.00 will be added to the fee.
- (d) For gas piping air testing mobile home hookups, the fee will be \$28.00. For gas piping only, each system, the fee will be \$28.00. For each additional opening provided, the fee will be \$12.50.
- (e) For new gas piping and the installation of domestic type of appliances such as gas dryers, ranges, water heaters, barbecues, incinerators, hot plates, etc., the fee will be \$28.00.

For each additional appliance on any permit, the fee will be \$23.00.

Domestic appliances are any appliance with an input of 149,000 B.T.U.H. or less and installed in a residential building.

For over 149,000 B.T.U.H. see Commercial Schedule.

Subd. 3. Commercial Permits.

- (a) For the installation or replacement of any commercial cooking equipment or process equipment or laboratory burners, commercial water heaters, dryers, etc., including gas piping:

INPUT	FEE
Not exceeding 99,999 BTU	\$33.00
100,000 BTU but not exceeding 199,999 BTU	36.00
200,000 BTU but not exceeding 399,999 BTU	59.00
400,000 BTU but not exceeding 599,999 BTU	79.50

600,000 BTU but not exceeding 999,999 BTU	101.00
1,000,000 BTU but not exceeding 2,499,999 BTU	170.00

Subd. 4. Commercial Heating.

- (a) For the installation or replacement of any furnace or boiler, gas or oil conversion burner, dual fuel burners, stokers, powdered fuel burners, direct fired air heaters, etc., including gas piping:

INPUT	FEE
Not exceeding 200,000 BTU	\$36.00
200,000 BTU but not exceeding 399,999 BTU	59.00
400,000 BTU but not exceeding 599,999 BTU	79.50
600,000 BTU but not exceeding 999,999 BTU	101.00
1,000,000 BTU but not exceeding 2,499,999 BTU	170.00
2,500,000 BTU but not exceeding 9,999,999 BTU	211.00
10,000,000 BTU but not exceeding 49,999,999 BTU	281.00
50,000,000 BTU but not exceeding 74,999,999 BTU	409.00
75,000,000 BTU and over.....	539.00

- (b) For the installation of infrared heaters or unit heaters not exceeding 200,000 B.T.U.H.: \$34.00 each for the first two, and \$23.00 each on the same permit thereafter.
- (c) For alterations to existing burners or equipment with an input of less than 1,000,000 B.T.U.H. or the installation of ductwork or radiation for such equipment, the permit fee will be \$29.00.
- (d) For the alteration to existing burners or equipment with an input of 1,000,000 B.T.U.H. or more or for the installation of radiation or ductwork to such equipment, the permit fee will be one-half of the fee scheduled for new equipment of that size.
- (e) For the installation of gas piping only, or where one contractor is installing the equipment and another fuel supply piping, the fee will be \$28.00 for each separate system.

For each additional opening, the fee will be \$12.50.

- (f) Temporary heating permits will be \$29.00 for each appliance or unit used.

Subd. 5. Ventilation

- (a) General ventilation, including fan and duct system:

Up to 2,000 CFM	\$29.00
Each additional 1,000 CFM or fraction	

thereof 12.50

(b) For commercial kitchen hoods including fan and welded duct system:

Up to 2,000 CFM 29.00

Each additional 1,000 CFM or fraction

thereof 12.50

(c) Noxious vapors and/or flammable material spraying, painting or dipping ventilation, including fan and duct system:

Up to 2,000 CFM 29.00

Each additional 1,000 CFM or fraction

thereof 12.50

Subd. 6. Duplicate Permits Not Required.

- (a) No additional permits are required for replacement only of domestic type storage water heaters of under 60,000 B.T.U.H. input for which a permit has been issued under an ordinance adopting the State Plumbing Code.

Subd. 7. Penalty for Work Performed Without a Valid Permit.

- (a) Non-emergency work in progress without a valid permit will be assessed \$155.00 in addition to permit fees and late penalties.

Section 555 - Miscellaneous Licenses and Permit Charges

Section 555:00. Miscellaneous Licenses and Permit Charges.

Subd. 1. The fees, rates and charges for miscellaneous licenses and permits of the following kinds will be for the term, upon the conditions, and in the amounts set forth in the subdivisions which follow.

Subd. 2. Animals, Other Than Dogs, Within The City.

Valid until revoked, upon 5 days notice\$ 5.00

Subd. 3. Dog Kennels, Licenses, Impound and Quarantine Fees. Annual license terminates on May 31 next succeeding issuance.

All spayed or neutered dogs, male and female10.00
All unspayed or unneutered dogs, male and female25.00
Spayed or neutered dogs owned by senior citizens6.00

Late fee for all dog licenses to be paid in addition to regular license fees will be as follows:

License Purchased between June 1 - 30.....\$5.00
July 1 - 31 10.00
August 1 - 31 15.00
September 1 - 30 20.00
After September 30 25.00

Duplicate tags6.00
Impounding fee40.00
Each additional offense during year of licensure will increase impounding fee by 110.00
Each additional day of board after impoundment 11.00
Each day of quarantine in the pound after biting 11.00
Dog kennels 125.00
Dangerous Animal Registration fee 75.00

Subd. 3A. St. Cloud Animal Shelter Fees.

Adoption fees (not to exceed):

Cats: not altered/ unknown\$30.00
Cats: spayed / neutered\$50.00
Dogs: not altered / unknown\$40.00
Dogs: spayed / neutered \$70.00
Pocket pets (mice, rats, hamsters, etc.) \$5.00

Birds, reptiles, other mammals..... \$5-\$100
 Unique breeds / special situations add \$20.00 - \$100.00
 Veterinarian checked add \$20.00

Transportation fee \$15.00

Subd. 4. Special Assessments.

For each certificate.....25.75

Subd. 5. Boarding Homes.

Annual Fee\$103.00 plus \$5.00 per room
 maximum fee.....\$500.00

Less than 3 months of year 50% of annual fee

3-6 months of year 75% of annual fee

Subd. 6. Carnival.

Daily Fee.....\$270.00

Subd. 7. Commercial Contractor.

Class A, Annual.....\$136.00
 After July 1st.....\$89.00
 After August 1st.....\$44.00
 Class B, Annual\$70.00
 After July 1st.....\$44.00
 After August 1st.....\$24.00
 Class C, Annual\$36.00
 After July 1st.....\$24.00
 After August 1st.....\$14.00

Subd. 8. Excavating Contractor.

Annual Fee.....\$125.00

Subd. 9. Building and House Movers.

Moving Permit
 First 400 square feet.....\$16.00
 Each additional 400 square feet\$10.00

Subd. 10. Hotel Fees.

Annual Fee	\$103.00 plus 5.00 per room
3 months of year or less	50% of annual fee
3-6 months of year	75% of annual fee

Subd. 11. Rental Registration and Inspection Fees.

Rental Dwelling Registration License Fee. The fee for each dwelling unit or sleeping room will be paid on or before the 15th day of January of each year.

- (a) For the first dwelling unit or sleeping room in a rental property the fee will be \$100.00 per year. Every additional dwelling unit or sleeping room in the same rental property will be charged a fee of \$12.00 per year with the exception of owner occupied dwellings. An owner occupied dwelling license fee will be \$30.00 for the first unit and \$12.00 for each additional unit to a maximum of 3 units. The maximum fee for sleeping room license fees will be \$400.00 for licenses from 25 to 49 sleeping rooms and \$600.00 for 50 sleeping rooms and above. Each dwelling unit of sleeping room in a rental property will be charged \$6.00 per year for a Crime Free Multi Housing Program support fee in addition to the Rental Dwelling Registration License Fee.
- (b) Rental property which is licensed as a "Nursing Home" or as a "Boarding Care Home" under the provisions of Section 440 of the Code of Ordinances will be exempt from the fee required under this section.
- (c) The late fee for any application received after January 15 of each year will be an amount equal to the rental registration license fee. Failure to obtain a rental registration license prior to occupying a rental dwelling will result in a penalty equal to the rental registration license fee.
- (d) There will be a fee of \$100.00 for inspection by the St. Cloud Housing Inspection Department of a dwelling place not registered as a rental dwelling if such inspection is made at the specific request of a seller or buyer of, or a real estate firm or commercial lending institution interested in, the premises inspected. No such inspection will be made unless the owner of the premises or his agent consents in writing.
- (e) There will be a fee of \$1,000.00 for the processing of provisional rental dwelling license applications. An application for a provisional license will not be processed or considered by the City Council until the application fee is paid.

Subd. 12. Right of Way Management.

- 1. Registration Fee.....\$32.00
- 2. Excavation Permit Fees
 - A. Hole.....\$69.00
 - B. Trench..... \$37.00 per 100 lineal feet of trench plus the hole fee
- 3. Obstruction Permit Fee \$27.00 plus \$0.05 per lineal foot
- 4. Permit Extension Fee\$42.00
- 5. Delay Penalty \$22.00 per day for minor/local streets
 \$106.00 per day for collector streets
 \$530.00 per day for arterial streets

Subd. 13. Swimming Pools.

- Year around operation\$237.00
- Seasonal operation107.00

Subd. 14. Tattooing, Body Piercing, Branding, and Scarification

- Annual fee\$167.00

Subd. 15. Mobile Home Parking

- Parking mobile home more than 72 hours\$4.00

Subd. 16. Duplicate/Replacement of License, Certificate or Tag.....\$2.75

Subd. 17. Change Location of Licensed Premises6.89

Subd. 18. Keg Permit.....\$4.80

Subd. 19.	Disposal of Petroleum Contaminated Soil	\$1000.00
Subd. 20.	Use of Waste Material for Fertilizer and Soil Treatment	\$35.00
Subd. 21.	Commercial Haulers Licensed under Section 240:24 of the Code	\$50.00

Section 560 - Park Department Fees

Subd. 1. WEED/GRASS TREE REMOVAL.

Removal cost.....\$53.00 per hour

Plus administrative/inspection fee\$14.85

Minimum fee: one hour plus administrative/inspection fee.

Certification fee: A \$50.00 charge will be added to all accounts certified to the County Auditor’s office for collection. This fee is to be considered separate and distinct from any penalty or interest that may be charged by the County as a result of the certification.

SUBD. 2. WEDDINGS AND SPECIAL EVENTS.

NO WEDDING CEREMONIES, OR SPECIAL EVENTS WILL BE ALLOWED IN THE UPPER GARDEN OR VIRGINIA CLEMENS ROSE GARDEN AREA

Weddings and special events will be limited to a maximum of fifty (50) persons.

(a) Booking Fee: A \$50.00 non-refundable booking fee must be paid in order to reserve a wedding and/or special event date and time. Full payment is due in January of the year of the event.

(b) Resident Wedding Ceremonies/Special Events at Munsinger Gardens.
Two (2) hour maximum.....\$222.79

Non-resident Wedding Ceremonies/Special Events at Munsinger Gardens.
Two (2) hour maximum.....\$275.83

(c) Weddings in other parks require permit – two hour max\$106.09

(d) Wedding and Special Events Refund Policy. If a reservation is cancelled 30 or more calendar days before the event, the total fee minus the \$50.00 Booking Fee will be refunded. If a reservation is cancelled and fewer than 30 calendar days remain before the event only 50% of the total fee will be refunded.

Day of the event cancellations are subject to review by the Parks Director for refunds.

Subd. 3. PROFESSIONAL PHOTOGRAPHY AT MUNSINGER GARDENS IN DESIGNATED AREAS

Photography Sessions-All Photography Sessions in Munsinger Gardens must be paid in full to reserve a date and time, Sessions are two hours long.

Resident groups under twelve (12) and	\$30.90 per session
Resident groups over twelve (12)	\$61.60 per session
Non-resident groups under twelve (12)	\$41.20
Non-resident groups over twelve (12)	\$82.40

Munsinger Gardens Photography Sessions Refund Policy-If a reservation is cancelled at least 4 hours before the session, a full refund minus a \$14.85 administrative fee will be issued in the form of a refund or credit. Cancellations occurring within 24 hours of the session are subject to the review of the Park Director for refunds.

Professional Photography at Clems Gardens in Designated Areas

Photography Sessions for Clemens Gardens-All reservations for the Clemens Gardens photography sessions must be paid in full in order to reserve your session date and time. Sessions are two hours long.

If a reservation is cancelled at least 24 hours before the session, a full refund minus a \$50.00 booking fee will be refunded. Cancellations occurring within 24 hours of the session are subject to the review of the Park Director for refunds.

Resident and Non-resident groups up to twelve (12) persons maximum	\$400.00
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Subd. 4. DOG PARK FEES.

a. Daily.....	\$2.00
b. Daily Non Resident.....	\$2.00
c. Annual.....	\$20.00 first dog and \$10.00 each additional dog.
d. Annual Non Resident.....	\$40.00 first dog and \$20.00 each additional dog.
e. Replacement Permit.....	\$5.00

See Section 561 for park shelter rental and permit fees

Section 561 - Recreation Department Fees

Subd. 1. Definitions.

- a. "Youth" is a person age 17 or younger.
- b. "Adult" is a person age 18 or older.
- c. "Senior" is a person age 55 or older.

Subd. 2. Non-resident fees.

- a. Youth (per year).....\$20.00
- b. Adult (per year).....\$30.00

Subd. 3. Adult League Fees.

- a. Softball (balls included).....\$475.00
- b. Volleyball.....\$250.00
- c. Unofficialated Volleyball/Basketball League per team/per game\$20.00

Subd. 4. Whitney Recreation Center Fees.

- a. Open Gym.
 - 1. - Adult fee per session\$5.00
 - 2. Youth fee per session\$3.00
 - 3. Open gym pass (15 punches).....\$50.00
 - 4. Adult Yearly Gym Pass\$125.00
 - 5. Youth Yearly Gym Pass \$63.00
- b. Tournament Fees\$1200.00 per day OR \$100 per hour
- c. Walking/Jogging Pass.
 - Annual Fee Adult\$50.00
 - Senior Citizen\$45.00
 - plus deposit for prox card.....\$12.00
 - Daily track pass\$3.00
- d. Walking Track and Fitness Room membership.
 - Annual fee Adult.....\$90.00
 - Senior Citizen\$75.00

e. Walking Track, Gym and Fitness Room membership.		
Annual fee	Adult.....	\$200.00
	Senior Citizen	\$160.00
	Youth.....	\$180.00
f. Track, Fitness and Gym Daily pass.		
Daily Fee	Adult.....	\$7.00
	Senior Citizen	\$5.00
	Youth.....	\$5.00
g. Fitness Room pass.		
Annual fee	Adult.....	\$ 70.00
	Senior Citizen	\$ 60.00
	Youth.....	\$ 50.00
h. Basketball/Volleyball Court Rental.		
	Recreation Center Group Court Hour Basketball Rental	\$35.00
	Recreation Center Youth Court Hour Basketball Rental	\$25.00
	Recreation Center Group Court Hour Volleyball Rental	\$25.00
	Recreation Center Youth Court Hour Volleyball Rental	\$19.00
	Park and Recreation League Court Hour Basketball Practice	\$25.00
	Park and Recreation League Court Hour Volleyball Practice	\$20.00

Subd. 5. Wading Pools and Climbing Wall.

Wading Pools per hour	\$35.00
PLUS the cost of lifeguard	\$10.00 per hour
Seberger Pool rent per hour.....	\$84.00
Seberger Yearly Pool Pass	
Family (2 or more in same family structure)	\$60.00
Individual Youth Annual Pass.....	\$35.00
Daily swimmer admission	\$2.00
Seberger Climbing Wall	
Individual season pass	\$35.00
Daily wall admission	\$2.00
Group Rental Rates per hour	
6-10 people.....	\$9.00

11-15 people	\$16.50
16+ people	\$24.00
Birthday Parties at the Wall	
Per child (minimum of 4/maximum of 12)	\$8.00
Combination daily pool and climbing wall individual pass	\$3.00
Combination pool and climbing wall individual year pass	\$60.00

Subd. 6. Swimming lessons and Aquatic Classes.

a. Aquatic Classes:

Moms in Motion	\$26.00
Warm Water Fitness	\$21.00
Water Aerobics Willow/Deep	\$21.00
Adaptive Swim.....	\$26.00
Adult Swim lessons.....	\$32.00
PreSchool Swim lessons	\$26.00
Tadpole Swim lessons	\$26.00
Parent/Child Swim lessons	\$26.00
Lap Swim Daily	\$2.00
Lap Swim Punch Pass (10).....	\$16.00
Open Swim K-12	\$1.00
Open Swim adults	\$2.00

b. Swimming Lessons:

Red Cross Lessons.....	\$31.00
Wading Pool.....	\$27.00
Tadpole Swim lessons.....	\$26.00

Subd. 7. Youth Classes:

Kids in Action.....	\$26.00
Arts In The Parks	\$21.00
Puddle Ducks	\$21.00

Subd. 8. Winter Classes:

Broom Ball.....	\$21.00
Hockey Clinics.....	\$21.00
Ice Skating lessons.....	\$15.00

Subd. 9. Heritage Day Camp

Grades K-1	\$46.00
Grades 2-6	\$70.00

Subd. 10. Youth Sports:

Baseball	
BamBam.....	\$26.00
T-Ball	\$29.00
Cub Ball	\$33.00
Lou Gehrig	\$37.00
Sluggers.....	\$41.00
Jackie Robinson	\$26.00
Sports Inc	\$51.00

Girls Softball

Michelle Carew	\$33.00
Dottie Green	\$37.00
Babe Didrikson	\$41.00
Dot Richardson	\$51.00
Soccer.....	\$29.00
Clinics (baseball and softball)	
Grades K - 6.....	\$25.00

Youth Volleyball.....	\$30.00
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Subd. 11. Heritage Nature Center Membership

Chipmunk - kids under 10	\$10.00
Squirrel - individuals	\$15.00
Woodchuck - families.....	\$30.00
Maple – agencies/organizations	\$60.00

Subd. 12. Heritage Park Nature Center

Canoe rental per hour	\$4.00
Snow shoe rental per hour	\$3.00
Shelter rental (groups of 35-3 hour maximum) per hour	\$40.00

Tours:

Minimum charge.....	\$25.00
District 742.....	per student \$2.00
Out of District 742	per student \$3.25
Scout.....	per scout \$ 3.50

Birthday Parties (minimum of 5 children)

Parties of 5-8 children	\$72.00
Parties of 9-12 children	\$100.00

Heritage Outreach Programs at School/Organizational sites:

Classroom program (up to 35 children), 45 minutes	\$70.00
Each additional, same day and topic	\$60.00
Large group program (up to 80 children), 45 minutes	\$90.00
Minimum charge for any tour	\$25.00

Outside St. Cloud City limits:

Classroom program (up to 35 children), 45 minutes	\$90.00
Each additional, same day and topic	\$80.00
Large group program (up to 80 children), 45 minutes	\$95.00
PLUS round trip mileage per city mileage policy	

Membership Rates:

Schools/Organizations	\$100.00 per year
Individuals	\$ per year 15.00
Families (3 members)	\$ per year 30.00
Children (12 and under)	\$per year 10.00
Heritage Shelter Rental...per hour charge	\$40.00
Minimum of 3 hours/maximum of 6 hours	

SUBD. 13. WHITNEY FIELDS.

ALL GAMES AND PRACTICES MUST BE SCHEDULED THROUGH RECREATION OFFICE. ONLY RECREATION MAINTENANCE STAFF WITH DEPARTMENT EQUIPMENT MAY INSTALLS BAGS.

a. Elementary, Junior High and High School Softball Programs

Bagged Field - no field prep, bases installed	/field \$21.00
Bagged and Dragged Field - practice condition	fields \$32.00
Prepped Field - game condition	/field \$42.00
(dragged, bagged, lined)	
Field maint. after initial prep (dragged, lined).....	/field \$42.00

Non Resident programs.....+ per above fee charge \$25.00

b. Elementary, Junior High and High School Baseball Programs

Bagged Field- no field prep, bases installed.....field \$30.00

Bagged and Dragged Field – practice condition.....field \$50.00

Prepped Field – game condition (dragged, bagged, lined).....field \$55.00

Field maint. after initial prep (dragged, lined).....field \$30.00

Non Resident programs.....+ per above fee charge \$ 20.00

c. Local High School Softball Tournaments

Prepped Field - game condition field \$60.00

Field maint. after initial prep (dragged, lined)..... field \$40.00
(scheduled at the request of the tournament director)

Recreation Department Supervisor (required)..... hour \$20.00

d. Minnesota State High School League Tournaments

Facility Fee (game condition)..... day \$50.00

Field maint. after initial prep (dragged, lined)..... field \$50.00
(Scheduled at the request of the tournament director)

e. Adult Softball Tournaments for Local St. Cloud Organizations

Facility Fee (game condition).....per day/field \$50.00

Field maint. after initial prep (dragged lined)..... \$40.00/field
(Scheduled at the request of the tournament director)

f. Adult Softball Tournaments for Non-local Organizations

Facility Fee (includes game condition).....\$75.00 per day/field

Field maint. after initial prep (dragged, lined)..... \$40.00/field
(Scheduled at the request of the tournament director)

g. Community Baseball and Softball Program Use

All games must be scheduled through the Park and Recreation Office.

Sports Inc.	Game condition (dragged, bagged, lined)	\$30.00/field
Babe Ruth	Game condition (dragged, bagged, lined)	\$40.00/field
VFW, Legion	Game condition (dragged, bagged, lined)	\$70.00 field
Amateur	Game condition (dragged, bagged, lined)	\$170.00/field
	Games requiring field lighting -- the above charge plus:	\$25.00/hr.
	Field maint. after initial prep (dragged, lined).....	\$30.00/field
	Park and Recreation Dept. Supervisor (when required).....	\$20.00/hour

h. Soccer Field Charges

Elementary and Junior High Programs

Mowed Field	/game	\$25.00
Mowed, lined or chalked	/game	\$75.00

High School Programs

Mowed Field	/game	\$30.00
Mowed, lined or chalked (game condition).....	/game	\$110.00

Special Exemption and Priority for Contributors

Organizations contributing to the capital improvement and upkeep of Whitney Park will receive priority in scheduling in accordance with the size and consistency of their beneficence.

i. Walks and Special Events:

The above are events that require a supervisor to open and monitor the facility.

Facility Attendant.....	\$25.00/per hour
Clean up required following event.....	.\$100.00/per hour

SUBD. 14. PARK SHELTER RENTAL AND PERMIT FEES.

WILSON AND RIVERSIDE PARK

Group Size	Rental Fee (includes tax, and non-refundable administrative fee of \$15.00)
Under 75	Half Shelter.....\$82.00
75 – 149	Entire Shelter..... \$160.00
150 – 249	Entire Shelter..... \$190.00
250 – 349	Entire Shelter..... \$220.00
350 – 499	Entire Shelter plus all extra expenses incurred (such as more garbage containers, portable, toilets, etc.)..... \$280.00
500 – 1000	Entire Shelter plus all extra expenses incurred (such as more garbage containers, portable, toilets, etc.)..... \$330.00
Over 1000	Entire Shelter plus all extra expenses incurred (such as more garbage containers, portable, toilets, etc.)..... \$440.00
KNIGHTS OF COLOMBUS-UNDER 50.....	\$70.00
LIONS PARK-Under 50 Entire Shelter	\$80.00
All other parks and park shelters - special events require a park rental fee	\$65.00

Picnic Hours: Picnic shelter rentals are limited to 6 hours each (including set-up and clean-up time). An additional charge of \$32.00 per hour is charged after 6 hours.

Beer and Food: Refer to Ordinance 236:55(d)
Keg Permits.....\$30.00

VENDORS IN THE PARKS FEE

Refer to Ordinance 236:21

Private vendors, non-collaborating non-profit or charitable organization.....\$175.00per day/site

Collaborating non-profit or charitable Organization15% of daily net/per

site

PARK SHELTER REFUND

- ◆ If a reservation is cancelled 30 or more calendar days before the event, the total fee will be refunded, minus the \$15.00 Administrative Fee.
- ◆ If a reservation is cancelled and fewer than 30 calendar days remain before the event, **only** 50% of the total fee will be refunded, minus the \$15.00 Administrative fee.
- ◆ No refunds will be given on or after the day of a scheduled rental for any reason.

Patron is required to have available the shelter rental agreement, keg permit and any other permits issued from the City for inspection purposes.

Subd 15. Lake George Municipal Complex

Monday-Friday Room Rates

Multipurpose Room	.....	\$15 per hour/\$75 full day
Classroom	.....	\$10 per hour /\$50 full day
Arts & Crafts room	.....	\$25 per hour/ \$85full day

Weekend Rates

Multipurpose Room	.....	\$25 per hour/ \$100 full day
Classroom	.....	\$35 per hour /\$70 full day
Arts & Crafts room	.....	\$35 per hour / 120 full day

Ceramic Kiln rental – per burn \$30.00

Subd. 16. Recreation Activity Refund. For all participatory activities the following will apply:

- a. If the City of St. Cloud Recreation Department cancels activity/trip/program there will be a full refund to the participant.
- b. If the participant cancels their registration for any activity/trip/program the following will apply:
 1. Before the first meeting of any activity there will be a 100 percent letter of credit, minus a \$15.00 administrative fee, issued to participant valid for one-year from date of issue.
 2. Between the first and second meeting time of said activity the letter of credit will be issued for 50% minus a \$15.00 administrative fee of registration received valid for one-year from date of issue.

c. After the activity/program has operated for two times there will be NO REFUND.

Subd. 17. Late Fee. A \$25.00 late fee is applied to a youth or adult fee if the fee is not paid by the deadline.

Subd. 18. Refund Fee Policy. 100% refund if cancelled two weeks before the first day of class. Letter of credit for 50% if cancelled after first day of class. No credit after second day of class.

City Refuse, Recycling, and Rubbish Collection
and Disposal Charges

Section 570:00. Refuse, Recycling and Rubbish Collection and Disposal.

Charges for City refuse, recycling and rubbish collection and disposal services will be as follows:

Subd. 1. Normal Service:

- (a) \$6.30 per dwelling unit per month for bag and recycle system service plus \$2.00 per each City refuse bag.
- (b) \$32.80 per dwelling unit per month for cart and recycle service.
- (c) Replacement refuse carts will be provided at the actual cart purchase price, including taxes, plus a \$10.00 administrative and delivery fee.

Subd. 2. Special Rubbish Collection Service:

- (a) Yard waste rubbish fee: \$1.00 per each City yard waste bag.
- (b) Tree branches and brush rubbish fee: Minimum \$10.00 per collection of a maximum of five bundles. \$1.00 for each additional bundle.
- (c) Household rubbish fee:
 - (1) \$10.00 per collection of a maximum of five 30-gallon trash bags or the equivalent volume of material placed in other containers. \$1.00 for each additional 30 gallon trash bag or the equivalent volume.
 - (2) All dwelling units that qualify for City refuse service are entitled to one special pickup of up to 2 cubic yards of household rubbish between May 1st and October 1st each year for a fee of \$10. 00.
- (d) Yard waste disposal at City compost site: \$20.00 per vehicle permit per year. (Use of the compost site is limited to dwelling units that qualify for City refuse service.)

Section 571 - City Water Charges

Section 571:00. Water. The following fees, rates, and charges for the municipal water service will be collected in accordance to procedures set forth in Section 245 of this code.

Section 571:05. That the following rates are established for charges made to the consumers who purchase water from the City of St. Cloud, Minnesota:

<u>Monthly Volume</u> (in cubic feet)	<u>Rate Per 100 Cubic Feet</u>
0 to 17,000	\$2.61
From 17,000 to 50,000	\$2.29
Over 50,000	\$2.18

* The minimum charge will be 200 cubic feet per month.

Billing will be determined by calculating consumption during each month of service and applying the appropriate rates (for that month) to that consumption.

Section 571:10. Minimum Charges; Billing Minimum. The meter minimum charge as set forth in the table below will supersede any lesser water charges for any given billing period.

<u>Meter Size in Inches</u>	<u>Minimum Charge (per month)</u>
5/8" meter	\$ 5.22
3/4" meter	\$ 5.22
1" meter	\$ 5.73
1 1/4" meter	\$ 7.62
1 1/2" meter	\$ 11.54
2" meter	\$ 14.07
3" meter	\$ 28.65
4" meter	\$ 63.76
6" meter	\$127.63

Section 571:12. Water Permit Fees. The following fees will be charged for the establishment of new accounts, which fees will include the cost of tapping the main water line, providing the water meter, and administrative expenses in setting up the account. The permit fee will be determined by adding the appropriate tapping fee to the appropriate meter fee.

<u>Main Size and Tap Size in Inches</u>	<u>Fee</u>	<u>Meter Size in Inches</u>	<u>Fee</u>
4 x 1	240.00	5/8	\$ 160.00
4 x 1-1/2	435.00	3/4	200.00
4 x 2	500.00	1	250.00
6 x 1	190.00	1-1/2	510.00
6 x 1-1/2	345.00	2 comp.	1,655.00
6 x 2	415.00	3 comp.	2,245.00
8 x 1	190.00	4 comp.	3,585.00
8 x 1-1/2	240.00	6 comp.	6,485.00
8 x 2	440.00	1-1/2 turbo	825.00
10 and Above x 1	190.00	2 turbo	980.00
10 and Above x 1-1/2	235.00	3 turbo	1,315.00

Section 572 – Water and Sewer System Availability Charges

Section 572:00. Water and Sewer System Availability Charges. Pursuant to Minnesota Statutes Chapter 444.075 and all other powers delegated by the State of Minnesota, the City adopts an availability charging system charges to pay for the construction, reconstruction, repair, enlargement, improvement and for the availability of potable water treatment, supply, storage and distribution facilities and for wastewater treatment, disposal and conveyance facilities. These charges, to be known as Water Availability Charges (WAC) and Sewer Availability Charges (SAC), will be in the amounts established in Section 572:08. These charges are in addition to all other permit fees, special assessments and connection charges heretofore established by the City.

Section 572:02. Water System Availability Permit Required. It is unlawful for any person to connect any structure, property or building addition to the municipal water system of the City, either directly or indirectly, or to install or alter any water supply plumbing system that is subject to the provisions of this ordinance, without first making written application to, and obtaining, a Water System Availability Permit from the City Health and Inspection Department. The WAC fee must be paid before the City will issue a plumbing permit for the connection to the municipal water system.

Section 572:03. Sewer System Availability Permit Required. It is unlawful for any person to connect any structure, property or building addition to the municipal sanitary sewer system of the City, either directly or indirectly, or to install or alter any wastewater collection plumbing system that is subject to the provisions of this ordinance, without first making written application to, and obtaining, a Sewer System Availability Permit from the City Health and Inspection Department. The SAC fee required herein must be paid before the City will issue a plumbing permit for said connection to the municipal sanitary sewer system.

Section 572:07. Charges, General. Water Availability Charges (WAC) and Sewer Availability Charges (SAC) will be based on the projected water consumption and sewer usage at the premises to be connected to the municipal water and sanitary sewer systems as indicated by the size of the water meter(s) to be installed thereat.

Section 572:08. Charges. The WAC and SAC charges for all structures/properties to be connected to the municipal water and sanitary sewer systems will be determined by multiplying the base rate (as shown in Table 1) by the applicable Meter-and-Service Ratio (as shown in Table 2):

Table 1
Base Rate Schedule, Water and Sewer Availability Charges

	Calendar Year Beginning <u>01/01/04</u>	Calendar Year Beginning <u>01/01/05</u>	Calendar Year Beginning <u>01/01/06</u>	Calendar Year Beginning <u>01/01/07</u>
WAC:	\$1100	\$1200	\$1300	\$1400
SAC:	\$1100	\$1200	\$1300	\$1400

Table 2
Equivalent Meter-and-Service Ratio

<u>Meter Size</u>	<u>Meter-and-Service Ratio</u>
5/8 inch	1.0
3/4 inch	1.0
1 inch	1.4
1 1/4 inch	1.6
1 1/2 inch	1.8
2 inch	2.9
3 inch	11.0
4 inch	14.0
6 inch	21.0
8 inch	29.0
Other sizes	To be determined by the Utility Director based on the flow capacity of the water meter(s) to be installed.

In situations where a premises is to be connected to the municipal sanitary sewer system, but will not be connected to the municipal water system, the Utility Director will determine the applicable SAC charges based on the anticipated sewer usage at such premises.

Section 572:10 Exemptions. Buildings/property uses that meet any of the following criteria will be exempt from the WAC and SAC charges:

Subd. 1. Existing Building Exemption. All buildings and building additions which exist as of the effective date of this ordinance, and which are connected to the municipal sanitary sewer and water systems by December 31, 2006.

Subd. 2. Pending Construction Exemption. All buildings and building additions for which a building permit was issued prior to December 31, 2003, and which are connected to the municipal sanitary sewer and water systems by December 31, 2004.

Subd. 3. Merger Area Exemption. All buildings situated within Areas 1 through 6 of the Merger Agreement between the City and the (former) Township of St. Cloud, which are connected to the municipal sanitary sewer and water systems within one year following the date that utility service is first made available in such area. This exemption does not apply to buildings constructed on lots platted after December 31, 2003.

Subd. 4. Pending Development Exemption. All buildings in newly platted areas that meet the following conditions:

- (a) The plat was filed before December 31, 2003.
- (b) The building must be connected to the municipal sanitary sewer and water systems by December 31, 2004.

Section 572:12. Violations. Violation of any of the provisions of this ordinance will constitute a misdemeanor.

Section 573 - Water Pollution Control Facilities

Section 573:00. St. Cloud Water Pollution Control Facilities. The fees, rates and charges for using the St. Cloud Water Pollution Control Facilities will be, upon the conditions and in the amounts set forth in this section, except where this ordinance is declared inapplicable for a particular user by a written contract providing for alternative charges between such user and the City.

Section 573:05. Definitions. For the purpose of this ordinance, the following words, terms, and abbreviations will have the meaning set out below, unless the context specifically indicates otherwise.

Subd. 1. "Administrator" means the administrator of the U.S. Environmental Protection Agency.

Subd. 2. "CBOD" (denoting Carbonaceous Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter in five days at 20° C, expressed in milligrams per liter, as determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater.

Subd. 3. "Capital Costs" means all reasonable and necessary costs and expenses incurred by the City in planning, designing, financing, and constructing Water Pollution Control facilities, including but not limited to costs and expenses for obtaining necessary permits, licenses, approvals and grants for design and construction; costs; fees for legal and consulting services; acquisition.

Subd. 4. "Commercial User" means all users of the system classified as industrial users in the Standard Industrial Classification Manual, 1972, U.S. Office of Management and Budget, as amended and supplemented, under Divisions C, F, G, H, and K and under Divisions A, B, D, E and I, but who are excluded from such definition for the purposes of this ordinance, because they discharge primarily segregated domestic wastes, or wastes from sanitary conveniences, except the classification will not include such exempted users who are otherwise classified in this ordinance as Domestic Users, Governmental Users, or Institutional Users.

Subd. 5. "Contract User" means all users who have a written contract with the City to use the Water Pollution Control Facilities.

Subd. 6. "Debt Service" means the principal and interest necessary to pay bonded indebtedness.

Subd. 7. "Domestic User" means those establishments of which its related occupations, if any, are usually considered as domestic service and whose discharge consists solely of sanitary wastes.

Subd. 8. "Federal Grant" means that portion of the cost of the Water Pollution Control Facilities Project of 1973 defrayed by monies received from the U.S. Environmental Protection Agency.

Subd. 9. "Flow" means the quantity of sewage expressed in gallons or cubic feet per 24 hours.

Subd. 10. General Municipal Flow means the total sewage flow discharged to the Water Pollution Control Facilities, minus the flows from industrial users, other municipalities, and contract users.

General Municipal Flow includes flow from Domestic Users, Commercial Users, Institutional Users and Governmental Users. Infiltration/inflow are not included in the determination of domestic strength wastewater.

General Municipal Flow, based on the design of the wastewater treatment facilities is further defined as flows containing 5-day CBOD concentrations no greater than 218 mg/l and total suspended solids concentrations no greater than 240 mg/l.

Subd. 11. "General Municipal User" means any user discharging sewage to the general municipal flow other than industrial users, municipalities and other contract users. This category of user includes as sub-categories:

- Domestic Users
- Commercial Users
- Institutional Users
- Governmental Users, which are not Contract Users.

Subd. 12. "Governmental User" includes those establishments whose function is the administration and/or execution of governmental programs as well as the offices of executives, legislative bodies and agencies which provide general support services for government.

Subd. 13. Industrial User means any non-government user of the WPCF identified in the Federal Standard Industrial Classifications Manual, 1972, Office of Management and Budget, as amended and supplemented, under the following divisions:

- (a) Agriculture, Forestry and Fishing
- (b) Mining
- (c) Manufacturing

- (d) Transportation, Communications, Electric, Gas and Sanitary Services
- (e) Services

A user in the divisions listed may be excluded and treated as a commercial user if the City Council determines it will primarily introduce domestic wastes or wastes from sanitary conveniences.

The CBOD and total suspended solid (TSS) loads from Industrial Users will be based on the actual concentrations of those constituents, except that for industrial users with sewage containing CBOD and TSS concentrations less than the concentrations as defined for General Municipal Flow, the charges will be based on concentrations as defined for General Municipal Flow.

Subd.14. "Institutional User" means those establishments engaged in activities of a non-economic nature, frequently being the performance of services for the general public (health, educational, social) and not classified as a governmental or commercial user in this ordinance.

Subd. 15. "Load" means quantities of sewage characteristics such as CBOD, TSS, or other constituents as expressed in milligrams per liter (mg/l) or pounds per twenty-four (24) hours (lbs/24 hrs.)

Subd. 16. "Operation and Maintenance" means the associated costs of manpower, energy, materials and chemicals to produce a wastewater that will meet effluent requirements and to keep equipment functioning at satisfactory efficiencies.

Operation and Maintenance also includes the annual costs for upkeep of the real property associated with the Water Pollution Control Facilities Project of 1973.

Subd.17. "Replacement" means expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

Subd. 18. "Sewage" means the liquid-carried waste products from whatever source as derived, together with such ground water infiltration and surface water as may be present.

Subd. 19. "Sewer" means a pipe or conduit for carrying sewage, industrial waste or other waste liquids.

Subd. 20. "Sewer System" means pipelines or conduits, pumping stations, force mains, and all other devices and appliances appurtenant thereto, used for collecting or conducting sewage.

Subd. 21. "Significant Industrial User" means any industrial user who discharges sewage which constitutes greater than ten percent (10%) of the design flow or design pollutant loading of the wastewater treatment plant.

Subd.22. "TSS" (denoting Total Suspended Solids) means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering, in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater.

Subd.23. "User" means any person, firm, corporation or other entity, whether municipal or otherwise, discharging sewage into the Water Pollution Control Facilities.

Subd.24. "User Charge System" means the system established by this ordinance to recover from the users of the WPCF the cost of operation, maintenance, and replacement of the WPCF.

Subd. 25. "WPCF" (denoting Water Pollution Control Facilities) means individually or collectively all parts and facilities of the sewer system and wastewater treatment plant.

Subd. 26. "Wastewater Treatment Plant" means any facility, appurtenant structures, or arrangement of devices used for the treatment of sewage.

Section 573:10. General. It is the purpose of this ordinance to recover from users of the Water Pollution Control Facilities, on an equitable basis, the share of the Water Pollution Control Facilities' costs attributable to such users, and to provide funds for the operation and maintenance, debt service, replacement and improvements of the WPCF as provided for in Section 204(b)(1)(A) of the Clean Water Act.

Subd. 1. The user charges provided for in this section are hereby levied and assessed upon each lot, parcel of land, building or premises having any connection with, or discharging either directly or indirectly into, the sewer system.

Subd. 2. The Director of Water Utilities will be responsible for preparing an annual report to the City Council and which report will accomplish the following:

- (a) Maintain the proportionate distribution of Operation, Maintenance and Replacement costs, O.M. & R. among users and users classes.
- (b) To generate sufficient revenues to pay for the proper operation and maintenance costs of the treatment works.
- (c) To apply excess revenues collected from a user or user class to the O.M. & R. costs attributable to that user or user classes for the next year and user charge rates should be adjusted accordingly.

Subd. 3. The City Council will annually determine and fix the unit costs for use of the WPCF on the basis of Flow, CBOD, TSS, and any other pollutant, taking into consideration the cost of treatment of such sewage, and may increase or decrease such unit cost as often and in such amounts as may be required to accomplish the purposes of this section.

Subd. 4. The Finance Director will compute the amount due the City for Sewer User Charges and render a statement, on a monthly, bi-monthly or quarterly basis, to the owner or occupant of any premises using the WPCF. All amounts due will be payable at the office of the City Finance Director. The Finance Director will annually notify each user in conjunction with a regular bill of the amount of the user charge rate and that portion of the bill which is attributable to wastewater treatment services for O.M. & R. pursuant to 40 CFR 35.2140(c).

Section 573:15. Charges a Lien. Each charge levied pursuant to this section will be a lien against the property, and all such charges due on September 30 of each year, more than 30 days past due, and having been properly mailed to the occupant or owner of the premises, will be certified by the City Clerk to the County Auditor between the first and tenth day of October of each year, and the City Clerk will specify the amount, due the description of the premises, the name of the owner thereof, and the amount certified will be extended upon the tax rolls against the premises in the same manner as other taxes, and collected by the County Treasurer and paid to the City, along with other taxes.

Section 573:20. Civil Action. Any charges levied pursuant to this section, and which have been properly sent to the occupant or owner and not paid, may be recovered in a civil action by the City in any Court of competent jurisdiction.

Section 573:25. Funds from User Charges. The funds received from the collection of the charges authorized by this ordinance will be deposited as collected in the St. Cloud Water Utility Fund and will be used for the operation, maintenance, debt service, replacement, and improvements of the WPCF, except that the portion of any such funds which is limited to a particular use by applicable State or Federal rules or regulations, will be used in compliance with such restrictions.

Section 573:30. Unit Cost Categories. The cost to be recovered pursuant to this ordinance and the unit cost to be fixed by the City Council will be determined and allocated in each of the following categories:

Category A. Debt Service for the Water Pollution Control Facility. This will be the amount of the annual interest and principal cost necessary to retire the bonds issued to pay for the local share of project cost.

Category B. (Repealed by Ord. No. 1206, Adopted by the Council on November 19, 1984.)

Category C. Debt Service - Miscellaneous Existing and Future Improvements. This will be the amount of the annual principal and interest costs necessary to retire existing debts and future capital costs for miscellaneous improvements to the WPCF.

Category D. Debt Service - Future Sewer Improvements of Metropolitan Area Benefit. This will be the amount of the annual principal and interest costs of future improvement projects of general benefit to the metropolitan area.

Category E. Operation and Maintenance - Water Pollution Control Facilities. This will be the annual cost of operating and maintaining the WPCF, including an amount for replacement costs of personal property which will be segregated in a separate fund.

Category F. (Repealed by Ord. No. 1206, Adopted by the Council on November 19, 1984.)

Section 573:35. Unit Cost and Industrial Users Charges.

Subd. 1. The industrial user charges for debt service for Water Pollution Control Facilities Project of 1973 (Category A) will be determined as follows:

Unit cost for Flow, CBOD and TSS will be calculated by apportioning the debt service cost associated with that year 33.3% to Flow, 33.3% to CBOD and 33.3% to TSS and then dividing each cost so apportioned by the total estimated Flow, CBOD and TSS to be received at the Wastewater Treatment Plant in that year.

The formula for this unit cost calculation is:

Flow: $(\text{Category A Cost}) (.333) = \$ \text{ gal.}$
(Estimated Annual Flow in Gals.) Flow

CBOD: $(\text{Category A Cost}) (.333) = \$ \text{ lbs.}$
(Estimated Annual CBOD in lbs.) CBOD

TSS: $(\text{Category A Cost}) (.333) = \$ \text{ lbs.}$
(Estimated Annual TSS in lbs.) TSS

Industrial User charges will be the sum of the products obtained by multiplying the unit cost as determined above by the users actual Flow, CBOD and TSS during the billing period. The formula for this calculation is:

FLOW: $(\$ \text{ /gal. Flow}) \times (\text{Actual Flow Gals/billing period}) = \$$

CBOD: $(\$ \text{ /lbs. BOD}) \times (\text{Actual lbs. CBOD/billing period}) = \$$

TSS: $(\$ \text{ /lbs SS}) \times (\text{Actual lbs. TSS/billing period}) = \$$

\$_____

Total Category A User charges for billing period

\$_____

Subd. 2. The industrial user charges for miscellaneous existing and future improvements (Category C) will be determined as follows:

The Unit Cost will be the total estimated Category C cost associated with that year divided by the total estimated flow to be received from the City of St. Cloud users only, for that year. The formula for this unit cost calculation is:

Category C Cost - \$_____ gals.
(Estimated Annual Flow - St Cloud)

Industrial Users charges will be the product of the unit cost for flow as determined above and the users actual flow for the billing period. The formula for this calculation is:

User Charge: (\$_____gals) x Actual Flow gals/billing period) = \$_____

Subd. 4. The industrial user charges for debt service for future sewer improvements of metropolitan area benefit (Category D) will be determined as follows:

The unit cost will be the estimated Category D cost divided by the total estimated Flow to be received at the Wastewater Treatment Plant for the year. The formula for this unit cost calculation is:

(Estimated Category D Cost) \$_____ gals.
(Estimated Annual Flow)

Industrial user charges will be the sum of the product obtained by multiplying the unit cost as determined above by the users actual flow for the billing period. The formula for this calculation is:

User Charge: (\$_____ gals.) x (Actual Flow gals/billing period = \$_____

Subd. 5. The industrial user charges for operation and maintenance of the Water PollutionControl Facilities (Category E) will be determined as follows:

Unit cost for Flow, CBOD and TSS will be calculated by apportioning the Category E cost one-third each to Flow, CBOD and TSS, and then dividing each cost so apportioned by the total estimated Flow, CBOD and TSS to be received at the Wastewater Treatment Plant in that year. The formula for this unit cost calculation is:

Flow: (Category E Cost) x one-third = \$_____ gals. Flow
(Estimated Annual Flow)

CBOD: (Category E Cost) x one-third = \$_____ lbs. CBOD
(Estimated Annual CBOD)

TSS: (Category E Cost) x one-third = \$_____ lbs. TSS
(Estimated Annual TSS)

Industrial User charges will be the sum of the products obtained by multiplying the unit costs as determined above by the users actual Flow, CBOD and TSS during the billing period. The formula for this calculation is:

Flow: (\$_____ gal. Flow) x (Actual Flow gals./billing period) = \$_____

CBOD: (\$_____ lbs. CBOD) x (Actual lbs. CBOD/billing period) = \$_____

TSS: (\$_____ lbs. SS) x (Actual lbs. TSS/billing period) = \$_____

Category E User Charges billing period - Total \$_____

Subd.6. In addition to the charges provided for herein, the City may impose a surcharge on any industrial user pursuant to this section, or based on some other pollutant loading factor which requires special treatment at the Wastewater Treatment Plant.

Section 573:37. Industrial Users-Unit Costs.

User Charge Category	Unit Cost
A	Flow: \$.15/ 1,000 gallons CBOD: \$ 11.16 / 100 pounds TSS: \$ 4.06 / 100 pounds
C	Flow: \$.06 / 1,000 gallons
D	Flow: \$.23/ 1,000 gallons
E	Flow: \$.32/ 1,000 gallons CBOD: \$ 24.46/100 pounds TSS: \$ 20.25/100 pounds

Section 573:38. General Municipal Users-Unit Cost.

General Municipal Users \$13.90 per month per dwelling unit where water is not measured by a City meter.

Monthly Volume (in cubic feet)	Rate Per 100 Cubic Feet
0-200	\$2.01
Over 200	\$1.40

Section 573:40. Measurements of Strength and Volume.

Subd. 1. When required by the City, each industrial user will install suitable measuring, sampling and analyzing devices in compliance with the Sewer Use Code, 360:55.

Subd. 2. The City will not require installation of such devices where the City determines that the industrial user has concentrations of CBOD and TSS no greater than the concentration of such constituents in the general municipal flow and a satisfactory method and access exist for sampling and determining the total daily sewage flow. In such cases the charges to those industrial users will be based on the flow rate as determined and on CBOD and TSS loads equal to the average load of the general municipal flow.

Subd. 3. Each industrial user required by the City to install and maintain sewage monitoring facilities will submit to the St. Cloud Public Utilities Director a monthly report of daily Flows, CBOD and TSS, on a form approved by the City. This report will be used for billing purposes and will be submitted prior to the 15th day of the subsequent month.

Subd. 4. The City has the right to periodically or continuously inspect the monitoring facilities, to measure, sample and analyze the users flow and to analyze the samples obtained by the industrial user. In the event of any discrepancy between the flows or loads determined by the City and the industrial user, the values determined by the City will be used for billing purposes.

Section 573:45. Significant Industrial Users. A significant industrial user must comply with all provisions of this ordinance applicable to industrial users and in addition, as a condition precedent to using or continuing to use the WPCF, must sign a letter of intent with the City of St. Cloud to pay that portion of the grant amount allocable to the treatment of its wastes. Each letter will also include a statement of the intended period of use of the treatment works.

Section 573:50. Charges for General Municipal Users - Domestic, Commercial, Institutional and Governmental Users.

Subd. 1. The charge for general municipal users for this section will be determined by adding the total annual cost of Categories A, C, D, and E, and subtracting the total fees collected from other municipalities, contract users and industrial users which are applied to such category costs. The balance remaining divided by the total annual estimated volume of billable water to be supplied by the St. Cloud Public Utilities less the estimated volume for municipalities, contract users and industrial users, will be the unit cost per volume of water. The formula for this calculation is as follows:

(Balance of Costs)
Unit Cost per - \$_____ ga.
Volume of Water
(Estimated Water Flow as Defined Above)

Subd. 2. The charges to Commercial Users will be the product of the unit cost obtained in accordance with this section and the quantity of water used by such user as measured by the city water meter on the premises. The formula for this calculation is as follows:

Unit Cost Per Volume of Water x Users Metered Water Flow = Commercial Users Charge.

Subd. 3. The charges to institutional users will be the product of the unit cost obtained in accordance with this section and the quantity of water used by such user as measured by the city water meter on the premises. The formula for this calculation is as follows:

Unit Cost Per Volume of Water x Users Metered Water Flow = Institutional Users Charge.

Subd. 4. The charges to Governmental Users ~~will~~ will be the product of the unit cost obtained in accordance with this section and the quantity of water used by such user as measured by the city water meter on the premises. The formula for this calculation is as follows:

Unit Cost Per Volume of Water x Users Metered Water Flow = Governmental Users Charge.

Subd. 5. In the event a general municipal user is not supplied with the City water or the water so used is not measured, user charge will be fixed and determined by the City Council in such method as they may find just, equitable and practicable.

Subd. 6. If a substantial portion of the water utilized by any user is not discharged into the sewer system, the volume of such water will be deducted in computing the sewer use charge provided a separate meter is installed to measure such volume. The user desiring to install such separate meter will make application and payment for the meter to the St. Cloud Public Utilities Director and engage, at his own expense, a plumber to effect the necessary piping changes and install the meter.

Section 574 Storm Water Utility

Section 574.00. Storm Water Utility. This Ordinance sets forth uniform requirements for the establishment of a Storm Water Utility.

Subd. 1. Purpose. The purpose of the Storm Water Utility is to provide a funding mechanism for the following services:

- a) The administration, planning, implementation, and maintenance of storm water Best Management Practices (BMPs) to reduce the introduction of sediment and other pollutants into local water resources.
- b) The installation, operation, maintenance and replacement of public drainage systems.
- c) Activities necessary to maintain compliance with the National Pollutant Discharge Elimination System (NPDES) Permit requirements established by the U.S. Environmental Protection Agency, including preparation, implementation and management of a Storm Water Pollution Prevention Plan (SWPPP) to address the following control measures:
 - 1) Public education and outreach on storm water impacts.
 - 2) Public involvement/participation.
 - 3) Illicit discharge detection and elimination.
 - 4) Construction site storm water runoff control.
 - 5) Post-construction runoff control in new development and redevelopment.
 - 6) Pollution prevention for municipal operations.
- d) Other education, engineering, inspection, monitoring, testing and enforcement activities as necessary to maintain compliance with local, state and federal storm water requirements.

Subd. 2. Establishment of a Storm Water Utility. There is established a public utility to be known as the Storm Water Utility for the City of St. Cloud. The Storm Water Utility will be operated as a public utility pursuant to the City Charter, City Code and applicable statutes. The revenues are subject to provisions of this Section and Minnesota Statutes Section 444.075. The Storm Water Utility is part of the Public Services Department and will be administered by the Public Services Director. This Ordinance applies to the entire City of St. Cloud.

Subd. 3. Definitions.

- a) *Unit Area.* For purpose of this Ordinance, the “Unit Area” (“UA”) of a given parcel will be determined by the following formula:

First, divide the area of a parcel (expressed in square feet) by 10,000. Next, “round-down” the quotient to one decimal place. The minimum Unit Area value for any parcel will be 1.0.

The following table provides examples of the determination of Unit Area values:

<u>Parcel Area</u> <u>in Square Feet</u>	<u>Unit Area</u> <u>(UA)</u>
5,000*	1.0*
10,000	1.0
20,000	2.0
43,560**	4.3**
65,000	6.5

* Minimum value rule applies

** Round-down rule applies

- b) *Residential Equivalency Factor.* A “Residential Equivalency Factor” (“REF”) is the ratio of the volume of runoff generated by a Unit Area of a particular land use to the volume of runoff generated by a Unit Area of single-family residential property based on typical surface conditions and average annual rainfall.

The REF for the various land uses within the City will be considered to be as follows:

<u>Land Use</u> *	<u>REF</u>
Single-Family, and Patio Home:	1.00
Townhouse, Duplex Residential, Detached Townhouse and Twin-Home Residential:	1.00
Manufactured Home Park:	1.00
Multi-Family Residential containing three or more attached dwelling units including Dormitories and Nursing Homes:	1.50
Schools, Day Care Facilities serving 16 or more persons, and Religious Institutions:	1.50
Other Institutional:	1.50
Commercial, Industrial, Hospital, Medical District:	1.75

* The land and building uses listed in this table are defined in the St. Cloud Zoning Ordinance, Ordinance No. 1906.

The REF for land uses not listed in the foregoing table will be determined by the Public Services Director based on probable hydrologic response.

Subd. 4. Rates and Charges:

- a) *Calculation of Utility Charge.* The charges to be made against a given parcel of land will then be determined by multiplying the Unit Rate (UR) by the parcel's REF times the parcel's Unit Area (UA) and then adding the Fixed Charge (FC).

$$\begin{aligned}\text{Storm Water Charges} &= \text{Fixed Charge} + (\text{Unit Rate} \times \text{Residential Equivalency} \\ &\quad \text{Factor} \times \text{Unit Area}) \\ &= \text{FC} + (\text{UR} \times \text{REF} \times \text{UA})\end{aligned}$$

- b) Fixed Charge and Unit Rate.

- 1) Fixed Charge = \$1.10
- 2) Unity Charge = \$1.00

- c) *Standardized Charges.* The following rules will apply for the purpose of simplifying and equalizing charges:

- 1) Each single-family and patio home parcel is considered to have a UA value of 1.0.
- 2) Parcels containing townhouse, duplex, twin home, and detached townhouse housing units, including manufactured home parks, are considered to have a UA value of 1.0 per each housing unit situated on the parcel (for example, a parcel that contains 4 four townhouse units will be considered to have a UA value of 4.0).
- 3) Parcels containing tri-plex or larger multi-family residential structures are considered to have a UA value of 0.5 per each housing unit situated on the parcel (for example, a parcel that contains a 12-unit apartment building will be considered to have a UA value of 6.0).

Parcels subject to these Standardized Charge provisions are not eligible for Adjustments to Charges or Adjustments to Area as defined below.

- d) *Adjustments to Charges.* The City Council may adopt policies providing for the adjustment of charges for parcels or groups of parcels based upon hydrologic data supplied by affected property owners, demonstrating an actual hydrologic response substantially different from the REF being used for the parcel or parcels. Such adjustment will be made only after receiving the recommendation of the Public Services Director, and will not be made effective retroactively. If the adjustment would have the effect of changing the REF for all or substantially all of the land uses in a particular classification, such adjustment will be accomplished by amending the REF table in Subdivision 3 of this Ordinance.

- e) *Adjustment to Area.* The total parcel area as shown in the City Assessor's records will be used to calculate the parcel Unit Area (UA). It is the responsibility of the owner or manager of any premises to provide the City with necessary land surveys and other

information as the City may reasonably request to determine if a parcel, or a portion of a parcel, qualifies for an Exception or an Area Adjustment. Requests for Exceptions and/or Adjustments will be reviewed after the receipt of all required information. Exceptions and/or Adjustments must be approved by the Director of Public Services, and will become effective at the beginning of the next billing cycle following approval.

- f) *Exceptions.* Accounts that are billed annually are exempted from the Fixed Charge (FC). The following land uses are exempt from the Storm Water Utility Fees established herein:
- 1) public street right-of-way,
 - 2) wetlands and public waters as defined by state law,
 - 3) purposes up to the 100-year flood elevation,
 - 4) undeveloped parcels,
 - 5) publicly-owned park lands, natural areas, and recreational fields,
 - 6) railroad right-of-way,
 - 7) cemeteries,
 - 8) unsewered parcels situated within the AG (Agricultural) and the RR (Rural Residential) zoning districts of the City, and
 - 9) City-owned land. Golf courses are an exempt use except for the club house/building/paved surface portions thereof.
- g) *Falsification of Information.* Willful failure to provide information that the City reasonably requests related to the use, development and area of a premises, or falsification of such information, will constitute a violation of this Ordinance.
- h) *Estimated Charges.* If, for any reason, precise information related to the use, development or area of a premises is not available, then Storm Water Utility Charges for such premise will be estimated, and billed, based upon information then available to the City.
- i) *Billing Method.* Storm Water Utility Fees will be computed and collected by the City together with other City utility fees, in accordance with the procedures set forth in Section 245:05 of this Code.
- j) *Delinquent Accounts.* Storm Water Utility Fees past due on October 1 of any year may be certified to the County Auditor for collection with real estate taxes during the following year or any year thereafter in the manner prescribed in Section 245:10 of this Code.

Section 575 – City Water Charges

Section 575:00. Water. The fees, rates, and charges for the municipal water service shall be for the terms, upon the conditions, and in the amounts set forth in this section and shall be collected in accordance to procedures set forth in Section 245 of this code.

Section 575:05. That the following rates shall be and hereby are established for charges made to the consumers who shall purchase water from the City of St. Cloud, Minnesota:

<u>Monthly Volume</u> <u>(in cubic feet)</u>	<u>Rate Per 100 Cubic Feet</u>
0 to 17,000	\$2.74
From 17,000 to 50,000	\$2.40
Over 50,000	\$2.29

*The minimum charge will be 200 cubic feet per month.

Billing will be determined by calculating consumption during each month of service and applying the appropriate rates (for that month) to that consumption.

History: Ord. 2333 1-8-07.

Section 575:10. Minimum Charges; Billing Minimum. The meter minimum charge as set forth in the table below shall supersede any lesser water charges for any given billing period.

<u>Meter Size in Inches</u>	<u>Minimum Charge (per month)</u>
5/8" meter	\$5.48
3/4" meter	\$5.48
1" meter	\$6.02
1¼" meter	\$8.00
1½" meter	\$12.12
2" meter	\$14.77
3" meter	\$30.08
4" meter	\$66.95
6" meter	\$134.01

History: Ord. 2333 1-8-07.

Section 575:12. Water Permit Fees. The following fees shall be charged for the establishment of new accounts, which fees include the cost of tapping the main water line, providing the water meter, and administrative expenses in setting up the account. The permit fee shall be determined by adding the appropriate tapping fee to the appropriate meter fee.

<u>Main Size and</u> <u>Tap Size in Inches</u>	<u>Fee</u>	<u>Meter Size</u> <u>in Inches</u>	<u>Fee</u>
4 x 1	\$250.00	5/8	\$170.00
4 x 1½	\$455.00	3/4	\$210.00

4 x 2	\$525.00	1	\$260.00
6 x 1	\$200.00	1½	\$535.00
6 x 1½	\$360.00	2 comp.	\$1,740.00
6 x 2	\$435.00	3 comp.	\$2,360.00
8 x 1	\$200.00	4 comp.	\$3,765.00
8 x 1½	\$250.00	6 comp.	\$6,810.00
8 x 2	\$460.00	1½ turbo	\$865.00
10 and Above x 1	\$200.00	2 turbo	\$1,030.00
10 and Above x 1½	\$245.00	3 turbo	\$1,380.00
10 and Above x 2	\$315.00	4 turbo	\$2,595.00
Above 2	Actual Cost of Time and Materials	6 turbo	\$4,540.00

Section 575:15. Hydrants. The charge made to the City of St. Cloud for fire hydrant rental shall be Sixty-three Dollars (\$63.00) per hydrant per year.

Section 575:20. Due Date. All bills shall be due and payable by due date stated on the bill.

Section 575:25. Water-Turn On/Off. An additional charge of Seventy-five Dollars (\$75.00) shall be collected for turning on or off any water service between the hours of 8:00 a.m. and 4:30 p.m. A charge of One Hundred Dollars (\$100.00) will be made for any service after hours and weekends. Delinquent accounts will only be turned on during the hours: 8:00 AM to 8:00 PM

History: Ord. 2333 1-8-07.

Section 575:27. Penalty for Late Payment. A penalty in the amount of Ten Dollars (\$10.00) or 5% of the balance, whichever is greater, shall be added to all Public Utilities accounts not paid in full by the due date. The penalty for late payment shall be added to the balance for which the account remains unpaid.

History: Ord. 2333 1-8-07.

Section 575:28. Certification Fee. A Fifty Dollar (\$50.00) charge will be added to all accounts certified to the County Auditor's office for collection. This fee is to be considered separate and distinct from any penalty or interest that may be charged by the County as a result of the certification.

Section 575:30. Billing. Customers of the Water Utility may be billed on a monthly, bimonthly, or quarterly basis.

Section 575:35. Unmetered Water and Metered Hydrant Water. Reasonable charges for use of facilities, unmetered water consumption, special services and metered hydrant water may be established from time to time by the Director of the St. Cloud Public Utility. Parties that want to use water from hydrants must apply for a permit at the Public Utility.

Section 580 - Parking Fees

Section 580:00. Parking Fees.

Subd. 1. Parking Meter Hoods. \$10.00 per day per parking space utilized.

Subd. 2. 15-Minute Meter Installation. \$200.00 per meter installation

Subd. 3. Parking Permit Fees – Quarterly Payments Including Taxes:

\$172.00 "Reserved" permit

\$108.00 "A" permit

\$64.00 "C" permit

Subd. 4. Parking Ramp Fees-Quarterly Payments Including Taxes:

Grand Central	\$167.00
Paramount	\$167.00
Combination Grand Central and Paramount	\$190.00
Civic Center	\$167.00
Stearns County-Paramount	\$144.00
SCPD-Paramount	\$ 82.00

Subd. 5. Loading Zone Fees - Annual Payments Including Taxes:

\$720.00 per stall per year within parking meter zone

\$24.00 for each supplemental "customer parking" sign or similar message sign within the parking meter zone

\$41.00 per year per 24-foot parking stall or fraction thereof outside of parking meter zone

Subd. 6. Parking Meter Zone Fees.

All on-street meters (except 15-minute meters) will be 50 cents per hour with a 2 hour maximum.

All 15-minute meters will be 25 cents per 15 minutes.

Parking lot meter rates will be as follows:

• Plaza Lot	1 hour meters	50 cents per hour
• Broken Art Lot	2 hour meters	50 cents per hour
• Mississippi Lot	2 hour meters	50 cents per hour
• River Boat Lot	2 hour meters	50 cents per hour
• Lady Slipper Lot	2 hour meters	50 cents per hour
• Canoe Lot	4 hour meters	50 cents per hour
• Judicial Lot	4 hour meters	50 cents per hour
• Library Lot	4 hour meters	50 cents per hour
• Railway Lot	4 hour meters	50 cents per hour

- River's Edge Lot 4 hour meters 50 cents per hour
- Timber Lot 4 hour meters 50 cents per hour
- Cloverleaf Lot 10 hour meters 25 cents per hour
- Swan Lot 10 hour multi-space meters 25 cents per hour

Subd. 7. Parking Ramps – Special Event Parking. An entry fee of \$3.00 will be paid to the attendant for special events parking at the St. Cloud Civic Center or other municipal facility as determined by the Public Works Director. An entry fee of \$1.00 will be paid to the parking machine for non-special event days, with a maximum time of 24 hours.

Subd. 8. Attendant Lots.

- Centre Square Parking Lot – 40 cents per 1/2 hour or fraction thereof.
- Paramount Ramp – 40 cents per 1/2 hour or fraction thereof.
- Grand Central Ramp – 40 cents per 1/2 hour or fraction thereof.

Subd. 9. Permit Lot Locations.

Reserved Permits:

- Judicial Lot
- Lady Slipper Lot

“A” Permits:

- Canoe Lot
- Carter Lot
- Lady Slipper Lot
- Library Lot
- Judicial Lot
- Railway Lot
- Plaza Lot
- Timber Lot
- Cloverleaf Lot
- Swan Lot

“C” Permits:

- Coborn's Lot
- River's Edge Lot

Subd. 10. Resident Parking Permits – Annual Payment Including Taxes.

All resident parking permits will be \$12.84 per permit issued per year.

Subd. 11. Day Pass Permits. All Day Pass Permits will be \$2.00 per day.

Subd. 12. SCSU Area Parking District – Annual Payments Including Taxes.

Parking permits within the St. Cloud State University Parking District will be valid for the period of time commencing on September 1st and running through May 31st of the following year. Permit fees for parking within the SCSU Parking District will be as follows:

“E” Permit	\$253.00
“G” Permit	\$253.00
“G” Resident Permit	\$12.84

Subd. 13. Traffic Parking Violations.

Expired Meter	\$5.00 per violation for up to five violations. \$10.00 per violation thereafter.
Improper Position	\$5.00 per violation for up to five violations. \$10.00 per violation thereafter.
Fire Hydrant	\$25.00
Handicapped	\$200.00
All Other Parking Violations	\$ 20.00

Subd. 14. Late Fee Penalties. A \$5.00 penalty in addition to the initial fee will be assessed to all parking violations which remain unpaid after seven calendar days.

Section 589 – Public Works Fees

Subd. 1. SNOW, ICE AND DEBRIS REMOVAL. The fees for the removal of snow and ice, dirt, debris or weeds from the public sidewalk pursuant to Section 680 will be as follows:

Administrative/inspection fee\$14.85
Removal charge \$53.00 per hour
Minimum charge.....\$67.85
Certification fee: A \$50.00 charge will be added to all accounts certified to the County Auditor’s office for collection. This fee is to be considered separate and distinct from any penalty or interest that may be charged by the County as a result of the certification.

CHAPTER VI.

Section 600 - Streets, Sidewalks and Alleys

Section 600:00. Definitions.

Subd. 1. Roadway. The roadway is that portion of a street improved, designed, or ordinarily used for vehicular traffic.

Subd. 2. Sidewalk. The sidewalk is that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

Subd. 3. Boulevard. Boulevard is that portion of a street normally lying between the sidewalk and the curb, if there be a curb, and, if there be no curb, then the nearest lateral line of a roadway.

Subd. 4. Street. A street is the entire width between property lines of every way or place of whatever nature whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, alley, boulevard, land, place, or however designated, which has been dedicated for pedestrian or vehicular travel.

Subd. 5. Vehicle. A vehicle is a device in, upon, or by which any person or property is or may be transported or drawn upon a street, except devices moved by human power or used exclusively upon stationary rails or tracks.

Section 600:05. Unlawful Acts. It will be unlawful for any person to do, perform, or cause to be performed any of the following acts or cause any of the following conditions:

Subd. 1. To drive, lead or leave any animal other than a dog, cat or other house animal; to drive or leave any vehicle or machinery; to throw or leave any junk material or any objects likely to cause injury or damage to persons or property, upon any boulevard;

Subd. 2. Molesting Unfinished Street Improvements. To walk upon, drive on, ride over or across or otherwise molest any pavement, sidewalk, or other work improvement in any street that is in the course of construction and before the same is open for public travel;

Subd. 3. Bill Posting. To place or cause to be placed any bills, advertisements, posters, signs, notices or advertising matter of any kind on any tree, telephone, or light pole, post or fixture in the streets or public ways of the City, or to place or post any such bills, advertisements, or posters on any building, fence, or property adjacent to such streets or public places, without the consent of the owner or person in control of such buildings or property; provided that such bills or advertisements may be removed by any officer of the City or the owner of such property without notice to the person posting or placing such bills or advertisements.

Subd. 4. Barb Wire Fences; Iron Points. To place or maintain any barbed wire or other sharp metal points on any railing, fence, pole or posts in any street, alley, or sidewalk in the City; provided that each day's refusal or neglect to remove any such wire or metal points after written notice will constitute a separate offense and be punishable as a violation of this ordinance;

Subd. 5. Burning in Street. To accumulate or burn leaves, trash, or other combustibles in or upon any street in the City;

Subd. 6. Petroleum Products in Streets. To deposit or throw any waste, oil, fuel oil, kerosene, gasoline or other petroleum products or acids into or upon any street of the City, or willfully permit the same to be spilled, dripped, or otherwise to come into contact with the surface of any street of the City;

Subd. 7. Hauling Building Materials. To haul or transport any sand, dirt, rock, or other like building materials in any vehicle so loaded that such materials may escape or spill onto the streets of the City;

Subd. 8. Injury to Street Property or Fixtures. To willfully cut, break, or remove, or in any manner to displace any curbing, guttering, street crossing marking, or interfere or change the grade or drainage thereof or to tear down or remove any street, parking or informational sign or fixture maintained by lawful authority, or to deface or remove any grade mark, stake, or other grade point or location in the City;

Subd. 9. Placing Snow and Ice Upon Streets. To place, push, haul, or plow any snow or ice from any private property upon any street in the City;

Subd. 10. Advertising, Washing, Greasing, Etc. To park upon any street any vehicle displayed for the primary purpose of sale, or to wash, grease, or repair such vehicle, except for making temporary repairs necessitated by an emergency;

Subd. 11. Advertising, Primary Purpose. To operate or to park on any street any vehicle for the primary purpose of displaying advertising;

Subd. 12. Intoxicating Beverages. No persons on a street, sidewalk, or municipal parking area will consume or dispense any alcoholic beverage including 3.2 beer or possess open containers of any alcoholic beverage including 3.2 beer. The area of a seasonal sidewalk cafe licensed under the provisions of Section 810:05, Subd. 8 is exempt from the application of this Subd. 15.

Section 600:15. Illegal Obstructions. No person will encumber or obstruct any sidewalk, lane, alley, street, public ground, or other public place by any means.

Section 600:25. Remove Earth, etc. from City Streets. No person will dig, remove or carry away or cause the same to be done, any stone, earth, sand or gravel from any street, lane, alley or public ground within the City of St. Cloud.

Section 600:30. Parking Limitations for Repairs. No person will allow a vehicle, for the purpose of repairs, to remain or stand in any street, lane, or alley for more than three hours.

Section 600:35. Ditching in Streets. No person will make any drain ditch or bridge across any street, lane, alley or public ground in said City.

Section 600:40. Building on Public Grounds. No person will build or place any building or other structure in whole or in part upon any street, alley, sidewalk or other public grounds within the City except as specifically allowed herein.

- (a) When any person is the owner of real property on both sides of an alley in the City upon which there are buildings, the person may be permitted to connect the buildings by an underground passage or an overhead structure under or across said alley.
- (b) Installation of bus shelters by and for the St. Cloud Metropolitan Transit Commission on the public right of ways may be permitted.
- (c) No such permit, will be granted except upon application in writing to the Council describing the property affected and accompanied with plans and specifications for the structure which the applicant proposes to construct. If such plans and specifications provide for a structure which will not interfere with the use of any public street, alley, sidewalk or other public ground by the public and which will fully protect the public when using said public grounds against accident or injury, a permit to build said structure may be granted by the Council. All permits granted will be upon the express conditions that the structure will not be used until it is approved and accepted in writing by the City Engineer and upon the further express conditions that the structure will be maintained at all times so as to fully protect the public when using the public grounds against accident or injury. In the case of accident or injury to any user of the public grounds, the applicant will indemnify and hold harmless the City in all respects.

Section 600:45. Obstructions on Sidewalks.

Subd. 1. No person will at any time place or cause to be placed any goods, wares, or merchandise so the same will lie or project over or upon any sidewalk within said City.

Subd. 2. No person will pile, deposit or place or cause to be or permit to be deposited, piled, or placed any rubbish, wood, coal, dirt, impediment, or obstruction of any kind upon or over any sidewalk or crossing or otherwise occupy or obstruct any sidewalk or crossing.

Subd. 3. No person or persons receiving or delivering goods, wares or merchandise will place or keep upon or cause or permit to be placed or kept upon any sidewalk any of the merchandise or goods being received or delivered, without leaving a passageway clear upon such sidewalk of at least four feet in width for the use of foot passengers and none of such goods, or merchandise or the containers in which they were received will in any event remain upon the sidewalk more than four hours; and none of the same will remain thereon during any of the time between six o'clock in the afternoon of any day and seven o'clock in the morning of the following day.

Subd. 4. No person will sell or attempt to sell or cry for sale at public auction any goods or property whatever to any person or persons upon the sidewalk or streets within said City so as to collect a crowd upon the sidewalks or streets whereby the free passage to any person is prevented or hindered.

Subd.5. Obstructing Sidewalk with Personal Property. To place or store or to allow to be placed or stored on any sidewalk of the City any implements, tools, merchandise, goods, crates, vending machines, newspaper racks, showcases, or other articles obstructing such sidewalks any longer than is reasonably necessary for the loading or unloading of the same by the occupants of the buildings adjacent thereto or their employees or agents. Any obstruction may be summarily removed by any officer of the City without notice;

Section 600:60. Filling Dams, Ditches or Sewers. No person will fill up, dam, or obstruct any ditch, drain, or sewer within the City of St. Cloud and will not in any manner obstruct or hinder the full course of water.

Section 600:65. Injury to Streets and Appurtenances Thereto. No person will in any manner willfully injure or deface any sidewalk, curb, gutter, pavement, crosswalk, street surface, street sign, street lamp, street lamp hose or house number in the City, or any pole or post erected or being in any of the streets of the City pursuant to any of the ordinances of the City, or any of the poles, wires or boxes or apparatus of the fire alarm system of the City, or any property of any kind whatsoever belonging to the City.

Section 601 - Restrictions upon Street Construction
Residential Zones

601:00 Definitions

Subd. 1. Bicycle Lane. "Bicycle Lane" means that portion of a roadway set aside for the exclusive use of bicycles or other appropriate signs and markings.

Subd. 2. Motor Vehicle. "Motor Vehicle" means every vehicle which is self-propelled and not moved solely by human power; and includes motorized bicycles as defined by Minnesota Statutes Section 169.01, subd. 4(a).

601.05 Street Construction

Subd.1. Restriction. No street will be constructed or physically developed to carry more than two lanes of motorized vehicle traffic along those portions of said street within a residential neighborhood.

Subd.2. Exceptions. The citizens of the City of St. Cloud may, by a majority of those voting at a regular or special election, authorize the City Council to construct a specific street or streets to permit more than two lanes of motorized traffic.

Section 601.10. Bicycle Lanes; Motor Vehicles Prohibited.

Subd.1. Designation of Bicycle Lanes. The following portions of roadway within the City limits of the City of St Cloud are hereby designated as bicycle lanes.

- (a) Veterans Drive/8th Street North from 44th Avenue North to 54th Avenue North, adjacent to both northernmost westbound and the southernmost eastbound traffic lanes.
- (b) 2nd Street South from 33rd Avenue South to 25th Avenue South, adjacent to both the northernmost westbound and the southernmost eastbound traffic lanes.
- (c) Clearwater Road from 11th Street South to 33rd Street South, adjacent to both the northbound and southbound traffic lanes.
- (d) That portion of 10th Street South, the University Bridge and Michigan Avenue Southeast lying between 5th Avenue South and Kilian Boulevard and adjacent to both the northernmost westbound and the southernmost eastbound traffic lanes.
- (e) Cooper Avenue South from Traverse Road to 33rd Street South, adjacent to both the northbound and southbound traffic lanes.
- (f) Traverse Road from Cooper Avenue South to Roosevelt Road, adjacent to the both the eastbound and westbound traffic lanes.

- (g) Main Prairie Road from 25th Avenue South to Quarry Road, adjacent to both the northbound and southbound traffic lanes.
- (h) Oak Grove Road from Main Prairie Road to 22nd Street South, adjacent to both the eastbound and westbound traffic lanes.

Subd. 2. Prohibition. No person will drive, park, or operate a motor vehicle on a bicycle lane within the City of St. Cloud.

Subd. 3. Exceptions. The prohibition contained in this section will not apply to drivers of the following:

- (a) Authorized emergency vehicles as defined by Minnesota Statutes, Section 169.01, subd. 5.
- (b) Motor vehicles making right-hand turns pursuant to Minnesota Statutes, Section 169.19, subd. 1(7).
- (c) Motor vehicles used by the United States Postal Service in the delivery of mail.
- (d) City of St. Cloud street maintenance vehicles.
- (e) City of St. Cloud refuse collection vehicles.
- (f) Motor vehicles owned by any public utility while being used for business of that utility.
- (g) Motor vehicles operated solely for public mass transportation.
- (h) Self-propelled wheelchair
- (i) Scooters as defined in M.S. §169.225
- (j) Electric Assisted Bicycle as defined in M.S. §169.223

Section 605 - Right-of-Way Management

Section 605:00. Findings, Purpose, and Intent.

To provide for the health, safety and welfare of its citizens, and to ensure the integrity of its streets and the appropriate use of the rights-of-way, the city strives to keep its rights-of-way in a state of good repair and free from unnecessary encumbrances.

Accordingly, the city hereby enacts this new section of this code relating to right-of-way permits and administration. This section imposes reasonable regulation on the placement and maintenance of facilities and equipment currently within its rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies. Under this section, persons excavating and obstructing the rights-of-way will bear financial responsibility for their work. Finally, this section provides for recovery of out-of-pocket and projected costs from persons using the public rights-of-way.

Section 605:02. Election to Manage the Public Rights-of-Way

Pursuant to the authority granted to the city under state and federal statutory, administrative and common law, the city elects pursuant Minn. Stat. 237.163 subd. 2(b), to manage rights-of-way within its jurisdiction.

Section 605:03. Definitions.

Subd. 1. “Abandoned Facility” means a facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service. A facility is not abandoned unless declared so by the right-of-way user.

Subd. 2. “Applicant” means any person requesting permission to excavate or obstruct a right-of-way.

Subd. 3. “Business District” means that portion of the City lying within and bounded by the following: Bounded on the south by State Highway 23, bounded on the west by 11th Avenue, bounded on the north by the BNSF railway and bounded on the east by the Mississippi.

Subd. 4. “Commission” means the State Public Utilities Commission.

Subd. 5. “Congested Right-of-Way” means a crowded condition in the subsurface of the public right-of-way that occurs when the maximum lateral spacing between existing underground facilities does not allow for construction of new underground facilities without using hand digging to expose the existing lateral facilities in

conformance with Minnesota Statutes, section 216D.04., over a continuous length in excess of 500 feet.

Subd. 6. “Construction Performance Bond” means any of the following forms of security provided at permit holder’s option:

- a. Individual project bond;
- b. Cash deposit;
- c. Security of a form listed or approved under Minn. Stat. Sec. 15.73, subd. 3;
- d. Letter of Credit, in a form acceptable to the city
- e. Self-insurance, in a form acceptable to the city
- f. A blanket bond for projects within the city, or other form of construction bond, for a time specified and in a form acceptable to the city.

Subd. 7. “Degradation” means a decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation or disturbance did not occur.

Subd. 8. “Degradation Cost” subject to Minnesota Rules 7819.1100 means the cost to achieve a level of restoration as determined by the city at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minnesota Rules parts 7819.9900 to 7819.9950.

Subd. 9. “Degradation Fee” means the estimated fee established at the time of permitting by the city to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost.

Subd. 10. “Department” means the department of public works of the city.

Subd. 11. “Department Inspector” means any person authorized by the city to carry out inspections related to the provisions of this section.

Subd. 12. “Director” means the director of the department of public works of the city, or her or his designee

Subd. 13. “Delay Penalty” is the penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.

Subd. 14. “Emergency” means a condition that (1) poses a danger to life or health or of a significant loss of property; or (2) requires immediate repair or replacement of facilities in order to restore service to a customer.

Subd. 15. “Equipment” means any tangible asset used to install, repair, or maintain facilities in any right-of-way.

Subd. 16. “Excavate” means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

Subd. 17. “Excavation permit,” means the permit which, pursuant to this section, must be obtained before a person may excavate in a right-of-way. An Excavation permit allows the holder to excavate that part of the right-of-way described in such permit.

Subd. 18. “Excavation permit fee” means money paid to the city by an applicant to cover the costs as provided in Section 605:11.

Subd. 19. “Facility or Facilities” means any tangible asset in the right-of-way required to provide Utility Service.

Subd. 20. “Five-year project plan” shows projects adopted by the city for construction within the next five years.

Subd. 21. “High Density Corridor” means a designated portion of the public right-of-way within which telecommunications right-of-way users having multiple and competing facilities may be required to build and install facilities in a common conduit system or other common structure.

Subd. 22. “Hole” means an excavation in the pavement, with the excavation having a length less than the width of the pavement.

Subd. 23. “Local Representative” means a local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this section.

Subd. 24. “Management Costs” means the actual costs the city incurs in managing its rights-of-Way, including such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way permits. Management costs do not include payment by a telecommunications right-of-way User for the use of the right-of-way, the fees and cost of litigation relating to the interpretation of Minnesota Statutes Sections 237.162 or 237.163 or any ordinance enacted under those sections, or the city fees and costs related to appeals taken pursuant to subsection 605:29 of this section.

Subd. 25. “Obstruct” means to place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.

Subd. 26. “Obstruction Permit” means the permit which, pursuant to this section, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way, for the duration specified therein.

Subd. 27. “Obstruction Permit Fee” means money paid to the city by a permit holder to cover the costs as provided in Section 605:11.

Subd. 28. “Patch or Patching” means a method of pavement replacement that is temporary in nature. A patch consists of (1) the compaction of the subbase and aggregate base, and (2) the replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions. A patch is considered full restoration only when the pavement is included in the city’s five-year project plan.

Subd. 29. “Pavement” means any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.

Subd. 30. “Permit” has the meaning given “right-of-way permit” in Minnesota Statutes, section 237.162.

Subd. 31. “Permit holder” means any person to whom a permit to excavate or obstruct a right-of-way has been granted by the city under this section.

Subd. 32. “Registrant” means any person who (1) has or seeks to have its equipment or facilities located in any right-of-way, or (2) in any way occupies or uses, or seeks to occupy or use, the right-of-way or place its facilities or equipment in the right-of-way. Water pipes, sanitary sewer pipes and appurtenances thereto installed for the purpose of connection to the City water or sewer services are not required to be registered pursuant to this Section.

Subd. 33. “Restore or Restoration” means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition that existed before excavation.

Subd. 34. “Restoration Cost” means the amount of money paid to the city by a permit holder to achieve the level of restoration according to plates 1 to 13 of Minnesota public Utilities Commission rules.

Subd. 35. “Public Right-of-Way” means the area on, below, or above a public roadway, highway, street, cartway, bicycle lane and public sidewalk in which the city has an interest, including other dedicated rights-of-way for travel purposes and

utility easements of the city. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other nonwire telecommunications or broadcast service

Subd. 36. “Right-of-Way Permit” means either the excavation permit or the obstruction permit, or both, depending on the context, required by this section.

Subd. 37. “Right-of-Way User” means (1) a telecommunications right-of-way user as defined by Minnesota Statutes, section 237.162, subd. 4; or (2) a person owning or controlling a facility in the right-of-way that is used or intended to be used for providing utility service, and who has a right under law, franchise, or ordinance to use the public right-of-way.

Subd. 38. “Service or Utility Service” includes (1) those services provided by a public utility as defined in Minn. Stat. 216B.02, subds. 4 and 6; (2) services of a telecommunications right-of-way user, including transporting of voice or data information; (3) services of a cable communications systems as defined in Minn. Stat. Chapter. 238; (4) natural gas or electric energy or telecommunications services provided by the city; (5) services provided by a cooperative electric association organized under Minn. Stat., Chapter 308A; and (6) water, sewer, steam, cooling or heating services.

Subd. 39. “Supplementary Application” means an application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.

Subd. 40. “Temporary Surface” means the compaction of subbase and aggregate base and replacement, in kind, of the existing pavement only to the edges of the excavation. It is temporary in nature except when the replacement is of pavement included in the city’s two-year plan, in which case it is considered full restoration.

Subd. 41. “Trench” means an excavation in the pavement, with the excavation having a length equal to or greater than the width of the pavement.

Subd. 42. “Telecommunication right-of-way User” means a person owning or controlling a facility in the right-of-way, or seeking to own or control a Facility in the right-of-way, that is used or is intended to be used for transporting telecommunication or other voice or data information. For purposes of this section, a cable communication system defined and regulated under Minn. Stat. Chap. 238, and telecommunication activities related to providing natural gas or electric energy services whether provided by a public utility as defined in Minn. Stat. Sec. 216B.02, a municipality, a municipal gas or power agency organized under Minn. Stat. Chaps. 453A, or a cooperative electric association organized under Minn. Stat. Chap. 308A, are not telecommunications right-of-way users for purposes of this section.

Subd. 43. "Two Year project Plan" shows projects adopted by the city for construction within the next two years.

Subsection 605:04 Administration.

The director is the principal city official responsible for the administration of the rights-of-way and right-of-way permits. The director may delegate any or all of the duties under this section.

Section 605:05. Registration and Right-of-Way Occupancy.

Subd. 1. *Registration*. Each person who occupies, uses, or seeks to occupy or use, the right-of-way or place any equipment or facilities in or on the right-of-way, including persons with installation and maintenance responsibilities by lease, sublease or assignment, must register with the city. Registration will consist of providing application information and paying a registration fee.

Subd. 2. *Registration Prior to Work*. No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities in any right-of-way without first being registered with the city.

Subd. 3. *Exceptions*. Nothing in this section will be construed to repeal or amend the provisions of a city ordinance permitting persons to plant or maintain boulevard plantings or gardens in the area of the right-of-way between their property and the street curb. Persons planting or maintaining boulevard plantings or gardens will not be deemed to use or occupy the right-of-way, and will not be required to obtain any permits or satisfy any other requirements for planting or maintaining such boulevard plantings or gardens under this section. However, nothing relieves a person from complying with the provisions of the Minn. Stat. Chap. 216D, Gopher One Call Law. Any service or utility service provided by a person under franchise with the city will register pursuant to this section, but need not provide the registration information required by Section 605:06 if such information has been received by the city in the administration of the franchise agreement.

Section 605:06. Registration Information.

Subd. 1. *Information Required*. The information provided to the city at the time of registration will include, but not be limited to:

(a) Each registrant's name, Gopher One-Call registration certificate number, address and e-mail address if applicable, and telephone and facsimile numbers.

(b) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee will be available at all times. Current information regarding how to contact the local representative in an emergency will be provided at the time of registration.

(c) A certificate of insurance or self-insurance:

(1) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the State of Minnesota, or a form of self insurance acceptable to the city;

(2) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the (i) use and occupancy of the right-of-way by the registrant, its officers, agents, employees and permit holders, and (ii) placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees and permit holders, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property;

(3) Naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages;

(4) Requiring that the city be notified 30 days in advance of cancellation of the policy or material modification of a coverage term;

(5) Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the city in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this section.

(d) The city may require a copy of the actual insurance policies.

(e) If the person is a corporation, a copy of the certificate required to be filed under Minn. Stat. 300.06 as recorded and certified to by the Secretary of State.

(f) A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other applicable state or federal agency, where the person is lawfully required to have such certificate from the permission or other state or federal agency.

Subd. 2. *Notice of Changes.* The registrant will keep all of the information listed above current at all times by providing to the city information as to changes within fifteen (15) days following the date on which the registrant has knowledge of any change.

Section 605:07. Reporting Obligations.

Subd. 1. *Operations.* Each registrant will, at the time of registration and by December 1 of each year, file a construction and major maintenance plan for underground facilities

with the city. Such plan will be submitted using a format designated by the city and will contain the information determined by the city to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights-of-way.

The plan will include, but not be limited to, the following information:

(a) The locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (in this section, a “next-year project”); and

(b) To the extent known, the tentative locations and estimated beginning and ending dates for all projects contemplated for the five years following the next calendar year (in this section, a “five-year project”).

Subd. 2. Project Lists.

The term “project” in this section will include both next-year projects and five-year projects.

(a) By January 1 of each year the city will have available for inspection in the city’s office a list of all projects of which the city has been informed of the annual plans. All registrants are responsible for keeping themselves informed of the current status of this list.

(b) Thereafter, by February 1, each registrant may change any project in its list of next-year projects, and must notify the city and all other registrants of all such changes in said list. Notwithstanding the foregoing, a registrant may at any time join in a Next-year project of another registrant listed by the other registrant.

Subd 3. *Additional Next-Year Projects.* Notwithstanding the foregoing, the city will not deny an application for a right-of-way permit for failure to include a project in a plan submitted to the city if the registrant has used commercially reasonable efforts to anticipate and plan for the project.

Section 605:08. Permit Requirement.

Subd. 1. *Permit Required.* Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way without first having obtained the appropriate right-of-way permit from the city to do so.

(a) *Excavation Permit.* An excavation permit is required by a registrant to excavate any part of a right-of-way and to hinder free and open passage of the right-of-way. The permit will describe the right-of-way affected, the facilities used and expected duration of the excavation.

(b) *Obstruction Permit.* An obstruction permit is required by a registrant to hinder the free and open passage of a right-of-way. The permit will described the right-of-way. The equipment used and the extent and duration of the obstruction. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

Subd. 2. *Permit Extensions.* No person may excavate obstruct the right-of-way beyond the date or dates specified in the permit unless (i) the person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and (ii) a new permit or permit extension is granted.

Subd. 3. *Delay Penalty.* In accordance with Minnesota Rule 7819.1000 subd. 3 and notwithstanding subd. 2 of this Section, the city will establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty will be established from time to time by city council resolution.

Subd. 4. *Permit Display.* Permits issued under this section will be conspicuously displayed or otherwise available at all times at the work site and will be available for inspection by the city.

Section 605:09. Permit Applications.

Application for a permit is made to the city. Right-of-way permit applications will contain, and will be considered complete only upon compliance with the requirements of the following provisions:

Subd. 1. Registration with the city pursuant to this section;

Subd. 2. Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities.

Subd. 3. Payment of money due the city for:

(a) permit fees, estimated restoration costs and other management costs;

(b) prior obstructions or excavations;

(c) any undisputed loss, damage, or expense suffered by the city because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city;

(d) franchise fees or other charges, if applicable.

Subd.4. Posting an additional or larger construction performance bond for additional facilities when applicant requests an excavation permit to install additional facilities and the city deems the existing construction performance bond inadequate under applicable standards.

Subd. 5. Submitting a Gas Safety Plan with all permit applications that contemplate excavations within the right-of-way in areas designated as containing critical facilities on the City's critical facilities map. A critical facilities map will be established from time to time by the Director.

(a) The development of a Gas Safety Plan will be initiated by an Right-of-Way Application request to excavate in a critical area, designated as such on the Critical Natural Gas Facilities Map. The applicant will contact the Natural Gas Facilities operator to schedule a Gas Safety Plan development meeting. At this meeting the following safety factors will be considered when developing a Gas Safety Plan for a specific excavation project.

- (1) Size, diameter, and material type of natural gas pipeline.
- (2) Pressure of natural gas pipeline.
- (3) Distance from pipeline to buildings or hard surfaces.
- (4) Type of equipment used for excavation.
- (5) Length and duration of project.
- (6) Impact of pipeline shutdown.
- (7) Proximity of proposed construction, horizontally and vertically
- (8) Running line of proposed construction, parallel or perpendicular to pipeline.
- (9) Surface conditions over pipeline, i.e. hard surface, soft surface.
- (10) Pipeline locatability.
- (11) Consideration of frost cap and other weather conditions as they relate to migrating gas.

(b) The Gas Safety Plan will include the following elements:

- (1) Excavator locating the area of construction in accordance with Minnesota Statutes Section 216D.
- (2) Exposing of gas lines as required by Minnesota Statutes Section 216D.
- (3) Pothole by hand, vacuum excavation or other approved method, all p pipeline crossing locations for directional drilling or boring.
- (4) Pothole by hand, vacuum excavation or other approved method, every 50 feet or less to expose the gas pipeline for parallel directional boring, 2 feet on each side of the pipe.
- (5) Directional drilling or pneumatic boring away from gas pipelines instead of toward them unless prohibited by site conditions.
- (6) Hand digging 2 feet on each side of a gas mains and services when crossing or paralleling it.
- (7) Notification of utility operator when as-found location of the gas pipeline is different then originally indicated.
- (8) Excavators providing competent inspection of their work by an employee qualified and trained under an Excavator Safety Training program approved by the City. The employee must be identified and be on site during all times when excavation work is being performed.

(9) Determination of the most effective method to isolate the system and minimize hazard in the event of an emergency together with the means to implement that method.

(10) Completion of a Gas Safety Plan check off sheet which will be submitted with the permit application.

(c) In consideration of the safety factors listed above and in light of the scope of the project and proximity to gas facilities, the Gas Safety Plan may also be required to include any of the following:

- (1) Job site meets involving all parties involved in the project, including utilities, to plan the work.
- (2) Engineering a safety zone for system shutdown in the event of a gas line hit, to include if necessary excavations for system squeeze offs, or valve installation.
- (3) Redundant locates by excavators prior to the work commencing.
- (4) Inspection by qualified gas safety inspectors as needed.
- (5) Gas personnel standing by with squeeze off tools or at valve locations.

(d) An Excavator Safety Training Program will include the following elements:

- (1) State, federal and local laws and ordinances, policies and procedures as they relate to excavation.
- (2) Policies and procedures of the local natural gas utility provider as they relate to excavation, safety, and emergency response.
- (3) The properties and principles of natural gas.
- (4) State "One Call" requirements.
- (5) Gas system shutdown procedures.
- (6) Verification of attendance and successful completion.
- (7) Annual certification of trainees.

An Excavator Safety Training Program submitted to the City for approval will be reviewed by the Director. The Director will maintain a list of approved programs.

Section 605:10. Issuance of Permit; Conditions.

Subd. 1. *Permit Issuance.* If the Applicant has satisfied the requirements of this section, the city will issue a permit.

Subd. 2. *Conditions.* The city may impose reasonable conditions upon the issuance of the permit and upon the applicants performance under the permit to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use.

Section 605:11. Permit Fees.

Subd. 1. *Excavation Permit Fee.* The city will establish an Excavation permit fee in an amount sufficient to recover the following costs:

- (a) the city management costs;
- (b) degradation costs, if applicable.

Subd. 2. *Obstruction Permit Fee.* The city will establish the obstruction permit fee which will be in an amount sufficient to recover the city management costs.

Subd. 3. *Payment of Permit Fees.* No excavation permit or obstruction permit will be issued without payment of excavation or obstruction permit fees. The city may allow Applicant to pay such fees within thirty (30) days of billing.

Subd. 4. *Non Refundable.* Permit fees that were paid for a permit that the city has revoked for a breach as stated in subsection 605:21 are not refundable.

Subd. 5. *Application to Franchises.* Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

Subd. 6. *Rates for Permit Fees.* The rates for all right-of-way permit fees will be set forth in section 565:00 of this code.

Section 605:12. Right-of-Way Patching and Restoration.

Subd. 1. *Timing.* The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required by this section, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permit holder or when work was prohibited as unseasonal or unreasonable under Section 605:15.

Subd. 2. *Patch and Restoration.* Permit holder will patch its own work. The city may choose either to have the permit holder restore the right-of-way or to restore the right-of-way itself.

(a) *City Restoration.* If the city restores the right-of-way, the permit holder will pay the costs of restoration within 30 days of billing. If, following the Restoration, the pavement settles due to the permit holder's improper backfilling, the permit holder will pay to the city, all costs associated with correcting the defective work, within thirty (30) days of billing.

(b) *Permit holder Restoration.* If the permit holder restores the right-of-way itself, it will at the time of application for an Excavation permit post a construction performance bond in accordance with the provisions of Minnesota Rule 7819.3000.

(c) *Degradation fee in Lieu of Restoration.* In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee. However, the right-of-way user will remain responsible for patching and the degradation fee will not include the cost to accomplish these responsibilities.

Subd. 3. *Standards.* The permit holder will perform excavation, backfilling, patching and restoration according to the standards and with the materials specified by the city and will comply with Minnesota Rule 7819.1100.

Subd. 4. *Duty to Correct Defects.* The permit holder will correct defects in patching, or restoration performed by permit holder or its agents. The permit holder upon notification from the city, will correct all restoration work to the extent necessary, the methods required by the city. The work will be completed within five calendar days of the receipt of the notice from the city, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable under Section 1.16.

Subd. 5. *Failure to Restore.* If the permit holder has elected to restore the right-of-way and fails to restore the right-of-way in the manner and to the condition required by the city, or fails to satisfactorily and timely complete all restoration required by the city, the city at its option may do the restoration work. In that event the permit holder will pay to the city the cost of restoring the right-of-way within 30 days of billing. If permit holder fails to pay as required, the city may exercise its rights under the construction performance bond.

Section 605:13. Joint Applications.

Subd. 1. *Joint application.* Registrants may jointly apply for permits to excavate or obstruct the right-of-way at the same place and time.

Subd. 2. *Shared fees.* Registrants who apply for permits for the same obstruction or excavation, which the city does not perform, may share in the payment of the obstruction or excavation permit fee. In order to obtain a joint permit, registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

Subd. 3. *With city projects.* Registrants who join in a scheduled obstruction or excavation performed by the city, whether or not it is a joint application by two or more registrants or a single application, are not required to pay the excavation or obstruction and degradation portions of the permit fee, but a permit would still be required.

Section 605:14. Supplementary Applications.

Subd. 1. *Limitation on Area.* A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permit holder may do any work outside the area specified in the permit, except as provided in this section. Any permit holder who determines that an area greater than that specified in the permit must be obstructed or excavated must before working in

that greater area (i) make application for a permit extension, and (ii) pay any additional fees required, and (iii) be granted a new permit or permit extension.

Subd. 2. *Limitation on Dates.* A right-of-way permit is valid only for the dates specified in the permit. No permit holder may begin its work before the permit start date or, except as provided by this section continue working after the end date. If a permit holder does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

Section 605:15. Other Obligations.

Subd. 1. *Compliance With Other Laws.* Obtaining a right-of-way permit does not relieve permit holder of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the city or other applicable rule, law or regulation. A permit holder will comply with all requirements of local, state and federal laws, including Minn. Stat. Chapter 216D. (Gopher One Call Excavation Notice System). A permit holder will perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

Subd. 2. *Prohibited Work.* Except in an emergency, and with the approval of the city, no right-of-way Obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

Subd. 3. *Interference with Right-of-Way.* A permit holder will not so obstruct a right-of-way that the natural, free and clear passage of water through the gutters or other waterways are interfered with. The private vehicles of those doing work in the right-of-way may not be parked within or next to the permit area, unless parked in conformance with city parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.

Section 605:16. Denial of Permit.

The city may deny a permit for failure to meet the requirements and conditions of this section or if the city determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

Section 605:17. Inspection.

Subd. 1. *Notice of Completion.* When the work under a permit is completed, the permit holder will furnish a Completion Certificate in accordance Minnesota Rule 7819.1300.

Subd. 2. *Site Inspection.* The permit holder will make the work-site available to the city and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

Subd 3. *Authority of Director.*

(a) At the time of inspection the director may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well being of the public.

(b) The director may issue an order to the permit holder for any work that does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order will state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the permit holder will present proof to the director that the violation has been corrected. If such proof has not been presented within the required time, the director may revoke the permit pursuant to Sec. 1.22.

Section 605:18. Work Done Without a Permit.

Subd. 1. *Emergency Situations.* Each registrant will immediately notify the director of any event regarding its facilities that it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency the registrant will apply for the necessary permits, pay the associated fees and fulfill the rest of the requirements necessary to bring itself into compliance with this section for the actions it took in response to the Emergency.

If the city becomes aware of an emergency regarding a registrant's facilities, the city will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the city may take whatever action it deems necessary to respond to the emergency, the cost of which will be borne by the registrant whose facilities occasioned the emergency.

Subd. 2. *Non-Emergency Situations.* Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit, and as a penalty pay double the normal fee for the permit, pay double all the other fees required by the city code, deposit with the city the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this section.

Subsection 605:19. Supplementary Notification.

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permit holder will notify the city of the accurate information as soon as this information is known.

Subsection 605:20. Revocation of Permits.

Subd. 1. *Substantial Breach.* The city reserves its right, as provided herein, to revoke any right-of-way permit, without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permit holder include, but will not be limited to, the following:

- (a) The violation of any material provision of the right-of-way permit;
- (b) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
- (c) Any material misrepresentation of fact in the application for a right-of-way permit;
- (d) The failure to complete the work in a timely manner; unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permit holder's control; or
- (e) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to Sec. 1.19.

Subd. 2. *Written Notice of Breach.* If the city determines that the permit holder has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit the city will make a written demand upon the permit holder to remedy such violation. The will state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the city to place additional or revised conditions on the permit to mitigate and remedy the breach.

Subd. 3. *Response to Notice of Breach.* Within a time period established within a written notification of breach received from the city, the permit holder will provide the city with a plan acceptable to the director that will cure the breach. The permit holder's failure to contact the city, the permit holder's failure to timely submit an acceptable plan, or permit holder's failure to reasonably implement the approved plan, will be cause for immediate revocation of the permit.

Subd. 4. *Reimbursement of city costs.* If a permit is revoked, the permit holder will reimburse the city for the city's reasonable costs, including restoration costs, the costs of collection and reasonable attorneys' fees incurred in connection with the revocation.

Section 605:21. Mapping Data.

Subd. 1. *Information Required.* Each registrant and permit holder will provide mapping information required by the city in accordance with Minnesota Rules 7819.4000 and 7819.4100.

Subsection 605:22. Location and Relocation of Facilities.

Subd. 1. Placement, location, and relocation of facilities must comply with the Act, with other applicable law, and with Minnesota Rules 7819.3100, 7819.5000 and 7819.5100, to the extent the rules do not limit authority otherwise available to cities

Subd. 2. *Corridors.* The city may assign a specific area within the right-of-way, or any particular segment of the right-of-way as may be necessary, for each type of facilities that is or, the city expects will someday be located within the right-of-way. All excavation, obstruction,

or other permits issued by the city involving the installation or replacement of facilities will designate the proper corridor for the facilities at issue.

Any registrant who has facilities in the right-of-way in a position at variance with the corridors established by the city will, no later than the time of the next reconstruction or excavation of the area where the facilities are located, move the facilities to the assigned position within the right-of-way, unless this requirement is waived by the city for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the registrant.

Subd. 3. *Limitation of Space.* To protect health, safety, and welfare or when necessary to protect the right-of-way and its current use, the city has the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making such decisions, the city will strive to the extent possible to accommodate all existing and potential users of the right-of-way, but will be guided primarily by considerations of the public interest, the public's needs for the particular Utility Service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

Section 605:23. Pre-excavation Facilities Location.

In addition to complying with the requirements of Minn. Stat. 216D.01-.09 (“One Call Excavation Notice System”) before the start date of any right-of-way excavation, each registrant who has facilities or equipment in the area to be excavated will mark the horizontal and vertical placement of all said facilities. Any registrant whose facilities are less than 20 inches below a concrete or asphalt surface will notify and work closely with the excavation contractor to establish the exact location of its facilities and the best procedure for excavation.

Section 605:24. Damage to Other facilities.

When the city does work in the right-of-way and finds it necessary to maintain, support, or move a registrant's facilities to protect it, the city will notify the local representative as early as is reasonably possible. Associated costs will be billed to that registrant and must be paid within 30 days from the date of billing. Each registrant is responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages. Each registrant is responsible for the cost of repairing any damage to the facilities of another registrant caused during the city's response to an Emergency occasioned by that registrant's facilities.

Section 605:25. Right-of-Way Vacation.

Reservation of right. If the city vacates a right-of-way that contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minnesota Rules 7819.3200.

Section 605:26. Indemnification and Liability

By registering with the city, or by accepting a permit under this section, a registrant or permit holder agrees to defend and indemnify the city in accordance with the provisions of Minnesota Rule 7819.1250.

Section 605:27. Abandoned and Unusable Facilities.

Subd. 1. *Discontinued Operations.* A registrant who has determined to discontinue all or a portion of its operations in the city must provide information satisfactory to the city that the registrant's obligations for its facilities in the right-of-way under this section have been lawfully assumed by another registrant.

Subd. 2. *Removal.* Any registrant who has abandoned facilities in any right-of-way will remove it from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the city.

Section 605:28. Appeal.

A right-of-way user that: (1) has been denied registration; (2) has been denied a permit; (3) has had a permit revoked; or (4) believes that the fees imposed are invalid, may have the denial, revocation, or fee imposition reviewed, upon written request, by the city council. The city council will act on a timely written request at its next regularly scheduled meeting. A decision by the city Council affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

Section 605:29. Severability.

If any portion of this section is for any reason held invalid by any court of competent jurisdiction, such portion will be deemed a separate, distinct, and independent provision and such holding will not affect the validity of the remaining portions. Nothing in this section precludes the city from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth in this section.

Section 610 - Excavations In Streets And Alleys

Section 610:05. Licenses For Excavating Contractors.

Subd. 1. License Required. No person will make any excavation within any street, alley or other public grounds for the purpose of installing water, sewer, steam or gas pipes, electric or telephone conduits, or for any other purpose without first obtaining an "Excavating Contractor" License from the City Engineer. However, that a license will not be required for any person for the purpose of completing a contract awarded by the City, nor will a license be required of any public utility corporation when the excavation and all associated work is to be accomplished by the corporation with its own staff.

Subd. 2. Excavations Authorized. An Excavating Contractor's License will entitle the licensee to engage in the business of making excavations in the streets, alleys and other public grounds within the City, and to place and install steam or gas pipes, electric or telephone conduits, water and sewer pipes, including house service connections, and other facilities legally permitted, within the rights of way of the public streets and alleys subject to the provisions of this ordinance and subject to the provisions of other applicable ordinances and laws.

Subd. 3. Application. Any person desiring to obtain an Excavating Contractor's License will make written application to the City Engineer for a license stating therein the name of the person desiring a license and their place of business.

Subd. 4. Procedure. Upon presentation to the City Engineer of an application for an Excavating Contractor's License, the City Engineer will issue the license to the applicant upon the applicant (a) filing the bond and insurance policies, and (b) paying the required license fee. An applicant that holds a Master Plumbing Contractor's License and has furnished bond and insurance policies required for the issuance of such license, will not be required to submit separate bond and insurance policies if the City Attorney finds that the bond and insurance also adequately covers the Contractor's responsibilities and liabilities as required by this ordinance.

Subd. 5. Bond Required. With each application for license, the applicant will furnish a surety bond, approved by the City Attorney. The bond will be signed by the applicant as principal and by a corporate surety authorized to do business in the State of Minnesota, conditioned that the principal in all materials, equipment and appliances furnished, and in all work done or performed which is subject to the provisions of this ordinance will fully conform to the provisions of this ordinance and for the use and benefit of the City. The bond will be in the amount of \$10,000.00.

Subd. 6. Insurance Required. In addition to the surety bond, the applicant will furnish a general policy of liability and property damage insurance, including products and complete operation coverage, which has minimum limits of coverage of \$100,000.00 for injuries to or the death of one person and not less than \$500,000.00 on account of one accident and not less than \$250,000.00 for property damage.

Subd. 7. Requirements of Bond and Insurance. The bonds required by this ordinance will be effective for the period from January 1 through December 31 of the license year. The bonds and insurance policies will provide that no cancellation of the bond or insurance policy will be made by the principal, the insured or the surety or insurance company, for any cause, without first giving ten days notice to the City, in writing, of the intention to cancel. The notice will be addressed to the City Engineer by registered mail, or will be delivered to the City Engineer personally.

Subd. 8. License Fee. The license fee for Excavating Contractor will be the amount set by the City Council for the calendar year. License fees will not be pro-rated for fractions of a year.

Subd. 9. Expiration of Licenses. Licenses expire on the 31st day of December of the year for which it was issued.

Subd. 10. Use of Licenses, Subletting. No person licensed under this ordinance who holds a permit for a particular job, will sublet or assign any work contemplated by the permit to any person not licensed under this ordinance and any attempted subletting or assignment is void. In the event the person holding a permit sublets any portion of the work to be done under the permit to any other person holding an Excavating Contractor's License, the person holding the permit remains responsible for the completion of all work under the permit in accordance with the provisions of this ordinance, and the licensee on permittee and the person so doing the work will both be subject to prosecution for the violation of any provision of this ordinance.

Subd. 11. Maintenance of Bond and Insurance Required. A license becomes invalid at any time when the licensee ceases to maintain, in full force and effect, the bond and insurance required by this ordinance.

Subd. 12. Fraud or Error in Issuance. Any license issued becomes invalid if the license was obtained through fraud or error.

Section 610: 10. Regulations Regarding Installation of Water and Sewer Services.

Subd. 1. Plumbing Code Applicable. All installations of water and/or sanitary sewer service connections will be accomplished in accordance with the applicable provisions of the Plumbing Code Ordinance regarding size, alignment, depth, grade, etc. of such service connections.

Subd. 2. Taps by City Forces, Fees. All taps to water mains will be made by City forces. A schedule of charges for the making of such taps will be established by resolution of the City Council. Payment for the making of such taps will be made by the Excavating Contractor at the time he secures a permit unless payment therefore has already been made by the plumbing contractor.

Subd. 3. Sanitary Sewer Service Connections. All sanitary sewer service connections will be made to existing wyes, tee or risers where such connection points are available at a reasonably convenient location. Where no such connection points exist at a reasonably convenient location, the Contractor will make the necessary tap utilizing a mechanical tapping machine which saws the required opening in the main sewer pipe in such a manner as to accomplish a smooth cut without cracking the pipe, and he will then make the service connection utilizing a pipe saddle. The pipe saddle will be designed for use with the size of main sewer pipe which is being tapped and will be of a design which will prohibit any protrusion beyond the inside wall of the main sewer. Pipe saddles used on vitrified clay pipe or polyvinyl chloride pipe sewers will be cemented to the main sewers utilizing an epoxy cement or other water tight cementing agent approved by the Plumbing Inspector. Pipe saddles on other types of sewer pipe will be attached in a manner which accomplishes a rigid and water tight connection meeting the approval of the Plumbing Inspector. The pipe saddle used on any particular installation will be designed specifically for use with the same type of gaskets as are used on the balance of the sewer service pipe.

Subd. 4. Depth of Water and Sewer Connections. All water and sewer service

connections will be installed with a minimum of eight (8) feet of earth cover unless the depth of the existing main lines make it impossible to install the service connections at such depth. Where it is impossible to provide at least seven (7) feet of cover at any point, said service connections will be protected by insulation in a manner approved by the Plumbing Inspector.

Section 610:20. Connection to Water and Sewer Services.

Subd. 1. Certificate Required. In addition to all other charges for tapping into or connecting with the municipal sanitary sewer system, or the municipal water system, including inspection of connection, street opening fees and permit fees, no connection permit will be issued, nor will any tap or other connection be installed, or made, with or into any municipal sanitary sewer or water system of the City, either directly or indirectly, from any lot or tract of land unless the City Engineer will have certified as follows:

- (a) That such lot or tract of land to be thus served by such connection or tap has been assessed for the cost of construction of the sewer and water main with which the connection is made.
- (b) If no assessment has been levied for such construction cost that proceedings for the levying of such assessment, or assessments, have been or will be commenced in due course.
- (c) That the cost of construction for said sewer or water main has been paid by the developer, or builder platting said lot or tract of land. This will not include lots or tracts served by the municipal sewer system, and which were not a part of the plat or tract development.

Subd. 2. Additional Connection Charges. If none of the above conditions can be certified by the City Engineer, no permit to tap or connect to any sanitary sewer or water main will be issued unless the applicant will pay an additional connection fee, or fees, which will be equal to the portion of the cost of the construction and installation of water and sewer mains, which would be assessable against said lot, tract or parcel to be served by such tapping or connection pursuant to such permit. Such assessable cost will be determined by the City Engineer upon comparable basis per front foot as similar assessments for such public improvements were determined and levied in such district or area, then such calculation will be made upon the basis of a uniform charge per front foot, which may have or will be estimated or levied for similar public improvement most recently constructed, such determination having regard for construction costs current on the date of such determination.

Subd. 3. Procedure for Additional Connection Charges.

- (a) Written application will be made upon forms to be provided therefore by the City and will require information including but not limited to the following:
 - (1) Exact legal description of premises for which water and/or sewer connection is applied, including plat and parcel number.
 - (2) Address of premises.
 - (3) Name and address of plumber or other contractor.
 - (4) Name and address of owner of premises.

- (5) Date of opening and installation of connection.
- (6) General description of type and method of connection to be used or made.
- (7) Such other pertinent information as the Engineer may require from time to time.

(b) The appropriate additional connection fee, or fees will be determined by the City Engineer within ten (10) days of the application.

(c) The applicant will enter into a contractual agreement with the City of St. Cloud whereby for payment of the additional connection fee, or fees the premises for which water and/or sewer connection is applied will be permitted to tap or connect to said water and/or sewer system.

Any person, firm or corporation being aggrieved by any such additional connection charges pursuant to this ordinance, may appeal said charges to the City Council by giving written notice to the City Administrator within ten (10) days of the date upon which determination of said charges was made known to said applicant. In the event a hearing is requested by the applicant, the City Administrator will set the matter for hearing before the City Council not less than ten (10) days and not more than thirty (30) days after request. The City Council will review the determination of the fee, or fees and make its final order sustaining or modifying said fee, or fees

Subd. 4. Future Assessment. In the future should sanitary sewer or water improvements be made, the abutting property would be subject to assessment for those improvements, but would receive full credit (without interest) for any connection fee or fees previously paid or levied.

Subd. 5. Special Fund. Any sums thus received by the City will be deposited or paid into a special assessment fund or account and may be credited to the special assessments which may have been theretofore levied, or may thereafter levied, for water or sanitary sewer improvements involving the premises for which such special connection fee has been collected.

Section 610:30. Penalties for Violations.

Subd. 1. Violations. Any violation of any of the provisions of this ordinance will constitute a penal offense and will be subject to the penalties provided for penal offenses in this code.

Subd. 2. Continued Violations. After a conviction for violation of any provision of this ordinance becomes final, the continued violation of such provision will constitute a separate offense for each day such violation continues to exist, and if such non-compliance by a person holding an Excavating Contractor's License is not corrected within 20 days after such conviction becomes final, the Contractor will not qualify to receive any additional permits.

Subd. 3. Suspension and Revocation of Licenses. Upon notice to the City Council that a person holding a license has been convicted of a violation of this ordinance, and that such conviction has become final, the City Council may suspend such person's license for such period of time as the Council may deem proper under the circumstances, or the Council may revoke said license and order that no new license be granted to such person for a period not to exceed six months from the date that such action is ordered by the Council.

Subd. 4. Notice of Hearing Upon Revocation. Before the City Council will revoke any license, the licensee will be entitled to a hearing by the City Council upon ten days written notice to the licensee by regular mail addressed to the licensee's place of business or by serving notice upon the licensee in the manner prescribed by statute for serving summons in the district court.

Section 630 - House and Lot Numbering

Section 630:00. House Numbers Required. The houses and lots along the streets and avenues of the City of St. Cloud will be numbered. The number of every house and lot will be determined by adding together its block number as determined by Section 630:05 of this ordinance, and the tract number, as determined by Section 630:10 of this ordinance, of the tract upon which the house or lot, or the major part thereof is situated.

Section 630:05. For each and every block, the block number used along streets will be determined by multiplying one hundred by the number of the avenue on the easterly side of the block, or, if there is no avenue, or no avenue named by number in the easterly side of said block, then by one less than the number of the avenue on the westerly side of the block.

For each and every block, the block number used along the avenue between 21st Avenue and the Mississippi River will be determined by multiplying one hundred by the number of the street along the side of the block nearest St. Germain Street, or, if there be is no street, or no street named by number along the side of the block, then by a number one less than the number of the street on the side of block farthest from St. Germain Street.

For each and every block, the block numbered along all avenues, between 2nd Avenue and the Mississippi River will be determined by multiplying one hundred by the number of the street along the side of the block nearest the quarter section line extending east and west through the center of section fifteen in township 124, north of range 28, west of the 5th principal meridian and said line extended west, or if there be is no street or no street named by number, along the side of said block, then by a number one less than the number of the street on the side of said block farthest from said line. But for the purposes of this ordinance all of 8th Street South west of the point where it intersects said line will be considered as a street not named by number.

Section 630:10. Along every street and avenue adjoining any block there will be a tract number for every 22 feet of frontage or major fraction thereof, which number will be determined as follows:

On the southerly side of streets and easterly side of avenues only even numbers will be used as tract numbers; on the northerly side of streets and westerly side of avenues only odd numbers will be used as tract numbers, along streets the most easterly tract numbers in each block will be one and two respectively; along avenues one to twenty inclusive, the tract numbers nearest St. Germain Street in each block and along all other avenues, the tract numbers nearest the line mentioned in Section 630:05 will be one and two respectively. All tract numbers on the same side of the same block will be consecutive odd numbers if the first number on such side is one and consecutive even numbers if the first number on such side is 2.

Section 630:15. Numbers to be Maintained. Every owner or occupant of any building in the City of St. Cloud used as a dwelling house or as a place of business will cause the correct house or lot number as determined by this ordinance to be placed and maintained thereon in such manner that it may be easily read from the adjacent street. The numbers will be placed on all buildings heretofore erected or that may be hereafter erected, at or before the time the same are occupied.

Section 630:20. Numbers Requirements. All figures used in such numbers will be perfectly formed, neat, legible and permanent, and in quality, neatness, legibility and durability will be, at least, equal to a nickel plated iron figure two inches long and properly proportioned as to width and size of lines forming the figure.

Section 630:25. Violations. Any person convicted of the violation of any of the provisions of this ordinance will be punished by a fine of not less than one dollar nor more than twenty-five dollars and may be imprisoned for a period not exceeding thirty days. Each day that any building will be without a number will be considered a separate offense within the provisions of this ordinance.

Section 635 - Central Business District Regulations

Section 635:00. Definitions.

For purposes of this section, Central Business District will be defined as follows:

Commencing at the east right-of-way of 5th Avenue North and the south right-of-way of the Burlington Northern Railroad (BNRR); thence westerly along the south right-of-way line of the BNRR to the east right-of-way line of 6th Avenue North; thence north along the east right-of-way line of 6th Avenue North to the south right-of-way line of 3rd Street North; thence west along the south right-of-way line of 3rd Street North to the west right-of-way line of 7th Avenue North; thence south along the west right-of-way line of 7th Avenue North to the north right-of-way line of 2nd Street North; thence west along the north right-of-way line of 2nd Street North to the east right-of-way line of 9th Avenue North; thence south along the east right-of-way line of 9th Avenue North to the south right-of-way line of 2nd Street North; thence westerly along the south right-of-way line of 2nd Street North to the east right-of-way of 12th Avenue North; thence southerly along the east right-of-way of 12th Avenue North to the north right-of-way of T.H. 23-52; thence easterly along the north right-of-way line of T.H. 23-52 to the east right-of-way of 4th Avenue South; thence northerly along the east right-of-way line of 4th Avenue South to the south right-of-way of St. Germain Street; thence northerly and westerly along the easterly and northerly right-of-way line of 4th Avenue North to the east right-of-way of 5th Avenue North; thence northerly along the east right-of-way line of 5th Avenue North to the south right-of-way of the BNRR and there terminating.

Section 635:05. Traffic Uses.

Except as otherwise provided, the sidewalk (as defined in Section 600:00 of this code) and landscaping (as defined by the St. Cloud Zoning Ordinance Article III, Section 2) of the Central Business District is at all times limited to pedestrians. Police bicycles, while being used for official police business, may be ridden or parked on the sidewalk of the Central Business District. Bicycles may be walked on the sidewalk and landscaping areas of the Central Business District.

Section 635:30. Uses in the Central Business District.

Subd. 1. The City Engineer may allow the placement of the following public or private facilities and uses in the Central Business District: bike racks, seating, telephones, post office kiosks, transit stops and shelters, plantings, ornaments, display of merchandise, protection from the elements, furniture, sculpture, pedestrian and vehicular traffic control devices, trees, flowers, shrubs, lighting or heating facilities, fountains, trash receptacles, signs, exhibit art, walls, barriers, or other fixtures, and equipment, facilities and appurtenances as will in the City's judgment enhance the free movement, safety, convenience and enjoyment of pedestrians and benefit the adjoining properties and the central business district and the City. Said facility or use may not impede or block the free movement or use of right-of-way by other people in the Central Business District, hinder the city the ability to maintain public

improvements, or otherwise create a nuisance as defined by the city code.

Subd. 2. Requests for permits or licenses for activities and business uses in the Central Business District will be submitted in writing to Engineering Department who will grant or deny the request and will advise the City Council of its decision. Engineering office will obtain a recommendation of the planning and health inspections office prior to issuance of ~~if~~ the permit. A recommendation from the city's heritage preservation commission is required for permits within the downtown historic district. The city engineer may place conditions on said permit to ensure compliance with Subd.1 of this section. The City Council will have the right of review and the right to reverse any action taken by the City Engineer by a majority vote.

Section 635:35. Nuisances and Penalties.

Subd. 1. The prohibitions set forth in the subdivisions which follow are declared to be nuisances affecting the peace and safety of users of the Central Business District and violations will constitute a petty misdemeanor.

Subd. 2. To impede or block the free movement of other persons in the Central Business District.

Subd. 3. To ride a bicycle on the sidewalk ~~and~~ or landscaping areas of the Central Business District or to lock or chain a bicycle to any object other than a bike rack.

Subd. 4. To drive a snowmobile on the sidewalk ~~and~~ or landscaping areas or in the Central Business District at any time.

Subd. 5. To ride or propel roller-skates, in-line skates or skateboards anywhere on the sidewalk or landscaping areas in the Central Business District.

Section 635:40. Limitations and Applicable Regulations. Nothing in this ordinance will be interpreted or construed to be a vacation, in whole or in part, of any City street, or part of any street. The City of St. Cloud and the City Council retain all police powers and other rights and powers in the Central Business District. All uses and activities in the Central Business District are subject to applicable ordinances and police regulations of the City of St. Cloud. The City Council, through the Downtown Public Facilities Commission, may in its discretion grant or deny the application and limit the duration of all permits and licenses, designate the hours and days to which they will apply, and specify such reasonable conditions and requirements in connection therewith as it will deem necessary or desirable and as will be in conformity with the City Charter, and City ordinances generally applicable.

Section 635:50. Public Protection: Effective Date. This ordinance is necessary to protect the public welfare and the interests of the public in the safe and effective movement of persons and to preserve and enhance the function and appearance of that part of the central business district located in the Central Business District.

Section 640 – Sidewalk, Curb and Gutter, Driveway Approach and Curb Cut
Construction Permit

Section 640:00 City Engineer Supervision. The city engineer has direct control and supervision over the construction and repair of all sidewalks, curb, curb and gutter, driveway approaches and curb cuts within the public right-of-way.

Section 640:05 Permit Required. No person will be allowed or permitted to lay or construct any sidewalks, curb, curb and gutter, driveway approach or curb cut within the public right-of-way without first obtaining an appropriate permit from the City Engineer. Applications for permits under this Section will be made on forms provided by the City Engineer. The rates for construction permits for sidewalk, curb, curb and gutter, driveway approaches and curb cuts within the public right-of-way are set forth in Section 565:00 of this Code.

Section 640:10 License and Insurance Required. No person, firm or corporation will engage in the business of constructing or repairing sidewalk, curb, curb and gutter, driveway approaches or curb cuts within the public right-of-way without first securing one of the following licenses:

- (a) A license from the State of Minnesota as a residential building contractor or specialty contractor as defined by Minnesota Statute, Chapter 326.83
- (b) A Commercial Contractors license from the City as defined in Section 445:00 of this code

Section 640:12 Penalties for Violations. Any violation of the provisions of this ordinance will constitute a misdemeanor and is punishable under the provisions set forth in Section 1100 of this Code. Additionally, failure to submit a completed permit application prior to the commencement of work will result in a late fee penalty equal to the original permit fee.

Section 640:15 Sidewalk and Curb Standards. All sidewalk, curb, and curb and gutter, within the public right-of-way will be constructed in accordance with the standards established by the City Engineer.

Section 640:20 Driveway Standards. All driveway approaches/aprons, and curb cuts within the public right-of-way will be constructed in accordance with the standards established by the city Engineer and the following:

Subd. 1. Width of Driveway Approaches

- (a) Residential driveway approaches will not exceed 24 feet in width except where determined necessary by the City Engineer, not narrower than a width of 12 feet. Three-foot flares will be constructed at the street/curb line on all residential driveway approaches.

- (b) Non-residential driveway approaches will not exceed 30 feet in width except where determined necessary by the City Engineer, nor be narrower than a width of 16 feet. Five-foot flares will be constructed at the street/curb line on all non-residential driveway approaches.

Subd. 2. Driveway Setbacks. Except as allowed below, the minimum setbacks of driveway approaches from property lines will be as follows:

- (a) Side or rear property lines: 5 feet
- (b) Side or rear property lines abutting a local public street: 20 feet
- (c) Side or rear property lines abutting a collector or arterial street: 75 feet*

* The City Engineer may reduce this setback requirement if, in his/her opinion, a 75 foot setback is not practical due to small parcel size or other existing site constraints.

- (d) Setbacks from side or rear property lines may be zero feet where a driveway common to abutting properties has been required by the city or has been approved by the City Engineer, and a common driveway easement is of record.

Subd. 3. Number and Location of Curb Cuts.

- (a) The consolidation of curb cuts will be encouraged, and new curb cuts will be discouraged whenever appropriate, considering safe traffic flow, and access points needed for the proper functioning of the use.
- (b) All properties are entitled to one driveway approach/curb cut unless otherwise specified in this Section.
- (c) Where frontage of a parcel is 150 feet or less, only one driveway approach/curb cut is permitted.
- (d) Where the frontage of parcel exceeds 150 feet but is less than 300 feet, two curb cuts may be permitted provided that a minimum separation of 24 feet is maintained between curb cuts.
- (e) Where the frontage of a parcel is 300 feet or greater, one curb cut may be permitted for each 100 feet of lot frontage, or major fraction thereof.
- (f) Where residential use is severed by an alley direct access to the street through a curb cut will not be permitted except where determined necessary by the City Engineer.
- (g) Unless there is no reasonable alternative, as determined by the City Engineer, residential properties will not be permitted direct access through a curb cut to an existing or proposed collector or arterial street as identified by the St. Cloud Comprehensive Plan.
- (h) Where the proposed driveway approach/curb cut would open to a State or County highway, then the additional specifications of the appropriate State or County highway department will apply.

- (i) Unless otherwise approved by the City Engineer, driveway approaches within the public right-of-way must be constructed perpendicular to the roadway/curb line.

Subd. 4. Maintenance and Use.

- (a) Every driveway approach/curb cut within the public right-of-way will be maintained and kept in safe condition by the owner of the abutting property. The City Engineer may order the repair or the removal of any such driveway approach which is not so maintained, or which interferes with or obstructs drainage carried by adjoining street or the use of such street for public travel. Upon removal of any such driveway approach, that portion of the public street and boulevard occupied by the same will be restored as nearly as practical to its former condition and all curbing replaced. The expense of such work will be paid by the owner of the abutting property.
- (b) Whenever existing driveway approach/curb cut is no longer in use for vehicular access to the abutting property, then the City Engineer may order the removal of such driveway approach and restoration of the public street, boulevard, and curb, all at the expenses of the owner of the abutting property.
- (c) If any such repair or removal is not made by the owner of the abutting property within the time specified by the City Engineer, then the City may proceed to cause such repair or removal under the direction of the City Engineer. The cost of repair or removal will be leveled against the abutting property as a special assessment and collected in the manner of other special assessments.

Subd. 5. Exceptions. The City Engineer is authorized to grant exceptions in writing from the strict application of the Section based upon a determination that the following conditions are met:

- (a) The exception desired arises from a peculiar physical condition or unique nature of the business or operation on the abutting property.
- (b) The exception desired is not contrary to the public interest, particularly safety.
- (c) The granting of the exception will not adversely affect the rights of adjacent property owners or tenants.
- (d) The strict application of the terms of the Section will create an unnecessary hardship on the property owner or tenant.

Section 650 - Sidewalk Repair, Special Assessments

Section 650:00. Maintenance by Owner. Property owners have the primary responsibility for keeping and maintaining the public sidewalk of the City in front of each parcel of land in such state of repair as not to be dangerous to public travel.

Section 650:05. Inspection. The City Engineer will inspect the public sidewalks within the City, at least once each year, and will, from time to time, report in writing to the City Council any sidewalks deemed to be in such disrepair as to be dangerous for public travel.

Section 650:10. Notice of Hearing. Upon receipt of the City Engineer's report, the Council will, by resolution, set a date for a public hearing on the report, giving at least two weeks written notice of the hearing to be given by mail, addressed to the owner of each parcel of land abutting upon the portion of any sidewalk alleged in the report to be in such disrepair as to be dangerous to public travel. Notice is to be addressed to such owner at the address shown on the last general assessment roll of City real estate.

Section 650:15. Notice to Repair. If the Council finds, that the sidewalks are in such disrepair as to be dangerous to public travel, it will direct the City Engineer to send, a written notice of the defect to the owner of each parcel of land abutting upon any such defective sidewalk, directing him to cause the sidewalk in front of his parcel of land to be repaired, at his own cost and expense, in the manner recommended by the City Engineer, within 30 days from the date of the notice. The notice will further state that, if the sidewalk is not repaired, the City will proceed to make such repairs and assess the cost against the abutting parcels of land. For good reason shown, the City Engineer is authorized to extend the time given to any owner with which to make the repairs.

Section 650:20 Assess Cost. After repairs made by the City have been completed, the engineer will certify to the Council the total cost of the repairs. The Council will then determine by resolution, the amount of the total cost the City will pay, if any, and the amount to be assessed. The resolution will then be filed with the City Clerk. The clerk, with the assistance of the City Engineer or other qualified person selected by the Council, will calculate the proper amount to be assessed against each abutting parcel of land in front of which any of such repairs have been made by the City on the basis of the cost thereof, and will prepare a proposed assessment roll and deliver it to the Council.

Section 650:25. Hearing on Assessment. Upon receipt by the Council of the proposed assessment roll, it will, by resolution, set a date for a public hearing on the proposed assessment, and file the proposed assessment roll with the City Clerk, where it will be open to public inspection. The City Clerk, will then cause to be published once in the legal newspaper of the City, a notice of the public hearing, giving the date, time, and place proposed, stating the general nature of the improvement and that written or oral objections to the assessments will be considered at the hearing. The notice will be published at least one week before the date of the hearing.

Section 650:30. Assessment Roll. At the hearing, the Council will consider objections to the proposed assessments, and may amend the proposed assessment roll with respect to a particular parcel of land. The Council may then adopt by resolution, the proposed assessment roll as made or

as amended. Upon such adoption, the assessment roll will be filed with the City Clerk, and upon such filing the amount against the respective parcels of land, together with accrued interest, at such rate per annum as the Council may from time to time fix by resolution, will become a lien upon the property and continue until the assessment is fully paid.

Section 650:35. Certification to County Auditor. On or before the 1st day of November each year, the City Clerk will transmit a certified duplicate of the assessment roll so adopted to the County Auditor of the county in which any parcel of land subject to such lien is situated, setting forth the amount of the assessment, together with interest computed to the first Monday in January of the succeeding calendar year.

Section 660 - Snow and Ice Removal Emergency Regulations

Section 660:00. Definitions. As used herein the term

Subd. 1. "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a street or highway, except devices moved by human power or used exclusively upon stationary rails or tracks, and

Subd. 2. "Street" or "Highway" means the entire width between boundary lines of any way or place where any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.

Section 660:10. Emergency Declared. Whenever, in the opinion of the City Engineer or the Chief of Police or their designees that an emergency exists in the City, or in a section or sections of the City because of snow, freezing rain, sleet, ice, snowdrifts or other natural phenomena which create, or are likely to create hazardous road conditions impeding, or likely to impede, the free movement of fire, health, police, emergency, or other vehicular traffic, or the safety and welfare of the community, the City Engineer or Chief of Police or their designee may declare an emergency to exist for a period of seventy-two (72) hours, but such emergency may be sooner terminated if conditions permit. Notice of such emergency, and the effective time of the declaration shall immediately be given to each daily newspaper published in St. Cloud, and to each radio station having a transmitter within the City limits of St. Cloud. The City Engineer or Chief of Police shall give notice of the removal of the snow emergency regulations to the news media sources specified herein in the event that the snow emergency is terminated prior to the expiration of seventy-two (72) hours from the time of the declaration of the snow emergency.

Section 660:15. Prohibitions. During a period when an emergency has been declared pursuant to this section it is unlawful to park or leave a vehicle parked on any street within the City of St. Cloud in violation of any of the provisions of Section 700 entitled "Traffic and Parking Regulations." All provisions of Section 700 will be immediately enforced, and all vehicles found in violation of the provisions of Section 700 will be immediately cited and towed, pursuant to the provisions of Minnesota Statutes Section 169.041. The cost and expense of towing and impounding are the responsibility of the vehicle owner.

Section 660:25. Permission to Remove. Any person removing or tampering with an impounded vehicle without the permission of the City or of an employee of the City in charge of the impounded vehicle, will be guilty of a penal offense.

Section 660:30. Evidence of Ownership. Any person desiring to claim and release any impounded vehicle must produce evidence of ownership.

Section 660:35. Procedure. Upon the impounding of any vehicle the person in charge of the vehicle will immediately notify the St. Cloud Police Department of the impoundage. The police department will make every reasonable effort to ascertain the name and address of the person owning the vehicle, and, if ascertained, the Chief will immediately advise the owner by letter, duly addressed to

the owner, and deposited in the U.S. Post Office of St. Cloud. The letter will:

- (1) Give the general description of the vehicle and the license number if there be one.
- (2) Give the approximate time of its removal, and the reason for removal and the place where it is stored.
- (3) State the towing charges and the daily storage charge in those instances where the vehicle has been towed and impounded by the City or its employees.
- (4) Advise the owner that to release the vehicle, evidence of ownership must be produced.

Section 660:45. Violations; Penalties. Any motor vehicle parked contrary to the provisions of this ordinance is the act of the registered owner as well as the act of the person parking the vehicle. For purposes of this section, the registered owner is defined to include motor vehicle or leasing agencies and corporate owners.

It will be a defense to any violation if the registered owner shows that on the date of the offense, title has been transferred to another.

Section 670 - Trees in Streets, Parkways and Public Grounds

Section 670:00. Definitions.

Subd. 1. "Street, parkway or boulevard" means the entire width between boundary lines of any way or place when any part thereof is open to the use of the public as a matter of right, for the purposes of vehicular or pedestrian traffic.

Section 670:05. Permit Required. No person will plant or cause to be planted or change the location of any tree or trees within the limits of any street, parkway or boulevard in the City of St. Cloud without first having obtained a permit from the Parks Director.

Section 670:10. Removal Prohibited. No person will remove or cause to be removed any tree or trees that have been and at present are located within the limits of any street, parkway or boulevard in the City of St. Cloud.

Section 670:15. Application and Issuance.

Subd. 1. Any person desiring to plant a tree or trees within the limits of any streets, parkway or boulevard will make application in writing to the Parks and Recreation Director for a permit. The permit application will state the variety and diameter one foot above the groundline of tree or trees to be planted and the precise location proposed for each tree.

Subd. 2. The permit will specify the variety, tree diameter one foot above the groundline and the location of each tree. No tree will be planted except in accordance with the terms of the permit and the provisions of this ordinance. The permit will be good only for the season stated

Subd. 3. The Parks Director will investigate each site prior to issuing a permit to assure compliance with the provisions of this ordinance.

Subd. 4. On streets and avenues designated by the Engineering Department of the City of St. Cloud as collector streets, minor arterials and principal arterials all permit applications for tree planting are subject to the approval of the City Engineer.

Section 670:20. Species.

Subd. 1. No trees will be planted within the limits of any street, parkway, or boulevard except for the varieties as follows: Norway Maple (*Acer platanoides*), Cleveland Norway Maple (*Acer platanoides* "Cleveland"), Emerald Queen Norway Maple (*Acer platanoides* "Schwedleri"), Summer Shade Norway Maple (*Acer platanoides* "Summer Shade"), Red Maple (*Acer rubrum*), Sugar Maple (*Acer saccharum*), Hackberry (*Celtis occidentalis*), White Ash (*Fraxinus americana*), Purple White Ash (*Fraxinus americana* "Autumn Purple"), Green Ash (*Fraxinus pennsylvanci*), Marwill Seedless, Summit Green Ash (*Fraxinus pennsylvania* "Summit"), Ginkgo (*Ginkgo biloba*), Imperial Honeylocust

(Gledtsia triacanthus, Imperial), Skyline (Gledtsia triacanthus "Skyline"), Ironwood (Ostraya virginiana), Amur Corktree (Phellodendron amurense), American Linden (Tilla americana), Littleleaf Linden (Tillia cordata), Greenspire Linden (Tilla cordata "Greenspire"), Redmond Linden (Tilla x euchiora "Redmond").

Subd. 2. Species not listed above will be considered if the Parks Director determines that the planting would enhance the beauty of the area in question and all adjacent property owners agree to conditions of planting as set forth by the Parks Director.

Section 670:25. Prohibited Location.

Subd. 1. No tree will be planted within the limits of any street, parkway, or boulevard where the space available between the sidewalk and the curb is less than six feet. Permits may be granted for replacing trees lost within the limits of any street, parkway or boulevard less than six feet wide but more than four and one-half feet wide.

Subd. 2. No permit will be granted for tree planting within the limits of any street, parkway, or boulevard which has a right-of-way less than 60 feet in width.

Section 670:30. Configuration of Trees.

Subd. 1. No trees will be planted which measures less than 1 1/4 inches in diameter of trunk one foot above the ground.

Subd. 2. The trunk of each tree will be without branches for a height of six feet above the ground and the lowest branch will not be more than eight feet above the ground.

Section 670:35. Spacing. There will be a distance of not less than 27 feet and not more than 33 feet between trees.

Section 670:40. Alignment.

Subd. 1. Where curb and sidewalks exist, all trees will be planted on the center line between the curb and sidewalk edge line.

Subd. 2. No permit will be granted for tree planting within the limits of any street, parkway or boulevard until sidewalk and curbing have been constructed.

Section 670:45. Trimming.

Subd. 1. No person will trim any tree or trees growing upon any street, parkway, or boulevard except under the supervision of the Parks Director.

Subd. 2. The Parks Director will have authority to direct and require the trimming of such trees and may cause the same to be trimmed by employees of the City without cost to the abutting property owners.

Subd. 3. If trees are in need of being raised to allow proper clearance the tree will be raised by the employees of the City without cost to the abutting property owners.

Section 670:50. Prohibiting Planting in Streets.

Subd. 1. No person will plant shrubs, evergreens, flowers, or vegetation of any kind other than grass or the varieties of trees listed in Section 670:20 of this ordinance or trees otherwise approved by the Parks Director within the limits of any street, parkway, or boulevard in the City of St. Cloud.

Subd. 2. The Parks Director has the authority to require owners of abutting property to remove any shrubs, evergreens, flowers, or vegetation or any trees planted without a permit. Notice in writing of such removal will be served by mail upon the owners of the abutting property. If the plantings are not removed within ten days after the mailing of such notice, the Parks Director may cause them to be removed and destroyed.

Section 670:52. Plantings Which Obstruct Public Right-of-Way. The Parks Director has the authority to require owners of abutting property to trim or remove any shrubs, evergreens, trees, hedges or other vegetation which overhang or otherwise obstruct a public street, alley or right-of-way, and where such overhang or obstruction may interfere with vehicular or pedestrian traffic and/or visibility. Notice in writing of the required removal will be served by mail upon the owners of the abutting property. If the plantings are not removed from the public right-of-way within ten days after the mailing of the notice, the plantings will be removed under the direction of the Parks Director, and the cost of removal will be levied against the abutting property as a special assessment and collected as in the case of other special assessments.

Section 670:55. Diseased Trees. The Parks Director has the authority to require the destruction or cause to be destroyed any tree or trees within the limits of any street, parkway, or boulevard or private real property that have been found to be infected by disease or infested by injurious insects when destruction is necessary for the protection of other trees. No action to remove diseased or infested trees will be taken until positive diagnosis of the disease or identification of the injurious insect has been made.

Section 670:60. Damaged Trees. The Parks Director has the authority to require the destruction or cause to be destroyed any tree or trees within the limits of any street, parkway, boulevard or private real property that have been found to be damaged to such an extent that such tree is considered dangerous to people or property.

Section 670:65. New Planting by City.

Subd. 1. The City Council may order and require the Parks Director to plant trees within the limits of any street, parkway or boulevard.

Subd. 2. The cost of such trees and plantings may be assessed upon the property fronting on such improvements as a special assessment.

Section 670:70. House Moving.

Subd. 1. No person, whether licensed or otherwise, will move any building along any street, parkway, or boulevard without a special permit obtained from the Parks Director.

Subd. 2. Applications for permits will specify the building, the building dimensions (width and height) and the proposed route.

Subd. 3. All tree trimming or removal of trees made necessary for the moving of such building will be carried out by the City employees under the supervision and direction of the Parks Director and at the expense of the applicant. Should such moving or replanting cause serious injury or destruction of such tree or trees, the applicant will replace the trees and bear the expense.

Subd. 4. A bond adequate to cover the costs of trimming, removal and replacement of trees by the City will accompany each application for a special permit. The bond will be retained until the tree or its replacement has, in the judgment of the Parks Director, been permanently established.

Section 670:75. Material in Street. No building material or materials of any kind will be piled upon any street, parkway, or boulevard which may interfere with or injure any tree, until the tree or trees have been sufficiently protected by a proper guard to prevent injury. All instructions issued for that purpose by the Parks Director will promptly be complied with by the person or persons placing or causing to be placed such material.

Section 670:80. Attachments. No person will attach any materials to a tree within the limits of any street, parkway, or boulevard by nailing or any other methods detrimental to the tree. The person or persons responsible for such acts, whether or not intentional, will be responsible for the repair or replacement of the effected tree or trees.

Section 670:90. Enforcement. It is the duty of the Parks Director to enforce the provisions of this ordinance.

Section 680 - Weed, Rubbish, Snow and Ice Removal

Section 680:00. Owner and Occupant, Duties. The owner or occupant of each and every building or tract of land within the City, abutting any street or alley, will remove all ashes, dirt, rubbish and weeds from the sidewalks, streets, boulevards and alleys abutting the building or tract of land and keep the sidewalks, streets, boulevards and alleys clean and free from all ashes, dirt, rubbish and weeds at all times.

Section 680:05. Time of Removal, Ice and Snow. The owner or occupant of every building or tract of land within the City fronting upon any street, having a sidewalk abutting upon the premises, will clear the sidewalk of snow and ice within 24 hours following the termination of any snowstorm or the formation of ice from any cause and will keep the same clear and free from snow and ice. If such snow and ice are not removed by the owner or occupant within 24 hours the same will be removed under the direction of the Director of Public Works and the expense of such removal will be levied against the property as a special assessment and collected as in the case of other special assessments.

Section 680:10. City Removal. In case any owner or occupant of any building or tract of land within the City will fail to remove all ashes, dirt, rubbish, and weeds as required the same will be removed under the direction of the Director of Public Works and the expense of removal will be levied against the property as a special assessment and collected as in the case of other special assessments.

Section 680:15. Any person who will fails to remove ashes, dirt, rubbish, weeds, snow and ice as required will be guilty of a penal offense.

Section 680:25. Weed Growth in the City.

a. Weeds as used in this ordinance, will be construed to mean and include all noxious weeds as defined in Minnesota Statutes Sections 18.171 and 21.47 and all such useless and troublesome plants as are commonly known as weeds to the general public.

b. Weeds Prohibited. It is unlawful for any owner, lessee, occupant, or any other person, having control of property in the City, to permit or maintain on such property, or on or along any sidewalk adjacent to the property, or along any street adjacent to the said property between the property line and the curb, or on or along any alley adjacent to the said property between the property line and the middle of the alley:

- (1) Any growth of weeds, grasses, or rank vegetation to a height of greater than ten inches, on the average, or
- (2) Any accumulation of dead weeds or grasses (except compost piles).
- (3) It is unlawful for any persons to cause, permit or allow poison ivy, ragweed, or other poisonous plant(s), or plant(s) detrimental to health, to grow on any such lot or any such land in such manner that any part of the weed(s) or plant(s) will extend upon, overhang or border any public place, or in such manner that the weed(s) or plant(s) are allowed to seed or to emit pollen or other poisonous particles into the atmosphere in such a manner that the particles are carried through the air into a public place(s).

b. Exemption. This Section of the Code and the sections that follows, all relating to weed

removal in the City, do not apply to properties in the City that are zoned Rural Residential or Agricultural by the St. Cloud Zoning Ordinance.

Section 680:30. Duty of Land Owner. It is the duty of the owner, lessee, or occupant of any lot or land to cut and remove, or to cause to be cut and removed, all weeds, grass or other rank, poisonous or harmful vegetation as often as is necessary to comply with the provisions of Section 680:25. This section does not apply to lands where hay is harvested, or where other young trees or other crops or growth have been planted for improvement or public nature purposes, although the owners, lessees, or occupants of such lands may not flagrantly violate the provisions of this ordinance. The Director of Parks will serve written notice of violations of this ordinance upon the owner, lessee, occupant, or other person having control of the property. A property owner who receives a notice of a violation of this ordinance must, within the time specified in the notice, either bring the property into compliance or inform the Director of Parks that the property is exempt from the ordinance's weed restrictions. If the property is not brought into compliance and the weeds removed then the Director of Parks will cause the offending weeds, grass, or other vegetation on the property to be removed. The cost of cutting and removal is set forth in Section 560 of this code. The expense of removal will be levied against the property as a special assessment and collected as in the course of other special assessments.

Section 690 - Transit Amenities

Section 690:00. Purpose. It is the intent of this Section to provide procedures and standards for the installation, operation, and maintenance of transit amenities within the public right-of-way of the City of St. Cloud.

Section 690:05. Definition of Transit Amenity A transit amenity for purposes of this ordinance is defined as "a bus shelter or bench, with or without advertising, constructed and maintained at a designated bus stop along a public street, located on a public boulevard or privately owned property, for the convenience and comfort of persons waiting for buses or other vehicles operated by or for the St. Cloud Metropolitan Transit Commission (MTC)".

Section 690:10. Transit Amenity Permit. A transit amenity permit will be required for the installation, maintenance, and operation of a transit amenity within the public right-of-way of any street in the City. Transit amenity permits will be issued by the MTC in accordance with the following procedures:

- a. Application. Every person desiring a transit amenity permit under this ordinance will apply to the MTC giving the location and specifications for each bench or shelter, the name and address of the applicant, and such other information as may be required by the MTC.
- b. Permit Term. All transit amenity permits issued by the MTC under this ordinance will automatically expire on December 31 of each year.
- c. Permit Renewal. If the plans and specifications of the bench or advertising matter or location of the transit amenity are not to be changed, the application for renewal will be sufficient if the applicant gives their name and address and the location and number of the transit amenity for which a renewal permit is desired.
- d. Separate Permit Required for Each Transit Amenity. A separate transit amenity permit will be required for each transit amenity at each location and will be valid for the transit amenity for which it is issued.
- e. Permit Fee. The MTC may determine an appropriate permit fee structure. The fee may be collected by contractual or other agreement as approved by the MTC Board of Commissioners.
- f. Transfer of Title or Control. Whenever a transit amenity for which a permit has been issued is sold or title or control transferred or assigned, a new permit will be required and obtained for its maintenance.
- g. Insurance Required. Before a permit will be issued, the applicant will file with the MTC a policy, or certificate of public liability insurance issued by an insurance company authorized to do business in the State of Minnesota, insuring such applicant

against loss in the minimum sum of \$1,000,000 because of liability imposed by law on account of bodily injury or death of any one person and any one accident. The City of St. Cloud will be named as an additional insured on the policy. The policy will be maintained in the original amount by the permittee at their expense at all times during the period for which the permit is in effect.

Section 690.20 Notice to Adjacent Property Owners. Prior to issuing a permit for the installation of a transit amenity, the MTC will notify all property owners within 150 feet of the location and provide an opportunity for hearing comments. Upon receipt of any complaint, the MTC will hold a public hearing at its next available meeting following ten days of receipt of the complaint to consider the issuance of the transit amenity permit for that location.

Section 690:45. Transit Amenity Standards. Transit amenities permitted under this Section must comply with the following standards, unless otherwise approved by resolution of the City Council. An administrative review by the City Engineer is required prior to the installation of any proposed transit amenity to determine compliance with the following location, design, and advertising standards.

Subd. 1. Location. Transit amenities are prohibited in the following locations:

- a. At any location where the distance from the face of the curb to the inside sidewalk line is less than six feet.
- b. At any location more 50 feet from the nearest point of the intersection with street, unless the designated bus stop is in such other location.
- c. Bus shelters may not be located within the AG, RR, R1, AR1, R2, or AR2 zoning districts unless located along a collector or arterial street or at a public facility.
- d. At any location within 500 feet of another transit amenity in the same direction of travel, unless multiple amenities are permitted at a single location. Multiple amenity locations must be approved by resolution of the City Council. For the purposes of this section, multiple amenity locations are defined as locations with more than one bus bench or bus shelter; bus shelters with interior benches will constitute a single amenity site.
- e. At any location that is in conflict with public or private infrastructure or poses a health or safety concern to the public, as solely determined by the City Engineer.

Subd. 2. Design. Transit Amenities must meet the following design standards:

- a. Bus benches must be no longer than eight feet, no higher than 42 inches, no wider than 30 inches, and weigh no less than 300 pounds.

- b. Bus shelters are limited to a maximum dimension of 120square feet and ten feet in height, unless a specific site as determined by the MTC requires a larger shelter due to the special nature of the bus stop.
- c. Any transit amenity must be located on a concrete surface with an extension to a sidewalk or curb line in compliance with current Americans with Disabilities Act (ADA) standards as applicable or required.
- d. Any transit amenity must comply with uniform design standards for transit amenities approved by the MTC. The MTC may approve alternative designs where appropriate to be consistent with the architecture of adjacent public and/or private properties.

Subd. 3. Advertising. Advertising may be allowed upon a transit amenity in accordance with the following standards:

- a. Advertising panels within a bus shelter must be located on the far end wall of the shelter away from the direction of travel for the bus route serving that stop.
- b. Advertising panels within a bus shelter may be lighted with backlit lighting or indirectly with a light located in the interior of the shelter.
- c. Advertising panels within a bus shelter are limited to two panels measuring a maximum of 24 square feet per panel.
- d. One advertising panel may be placed on a bus bench and is limited to the front vertical face of the backrest and may not be lighted. No advertising is permitted on the backside of the bus bench.
- e. Advertising panels on bus benches must be single sided and limited to twelve square feet in area.
- f. Advertising may not be provided on bus shelters or bus benches in the AG, RR, R1, AR1, R2, or AR2 zoning districts.
- g. All advertising messages will be in compliance with generally accepted standards of good taste and the text of such advertising messages will be subject to the approval of the MTC and City of St. Cloud, which approval will not be unreasonably withheld. No liquor, beer, tobacco product, or sexually explicit or suggestive advertising will appear on any signboard.
- h. All advertising upon a transit amenity must be permitted by the MTC. Any advertising within the public right-of-way that is not authorized by the MTC may be removed by the City of St. Cloud or the MTC.

Section 690.50. Removal or Repair by City. If at any time, the City of St. Cloud observes a transit amenity which is in disrepair, poses a health or safety concern to the public, and/or is otherwise found inappropriate in a given location, the City Council has the right upon written notice to MTC to have the transit amenity either repaired or removed, depending on the circumstances and the directions given by the City Council. If the transit amenity is not removed or repaired according to the written request by the City Council, the City may have the transit amenity removed at its own expense, and the MTC agrees to pay the reasonable cost of said removal.

Section 690.55. Maintenance of Transit Amenity Area. The MTC or its licensee will be responsible for the maintenance of grounds within and surrounding a transit amenity, including: mowing of grass, weed removal, snow removal, trash removal, cleaning and other customary maintenance activities. If at any time the City of St. Cloud observes the failure to maintain an area surrounding a transit amenity, the City Engineer has the right to order the maintenance of the grounds. If the grounds are not maintained pursuant to the written request of the City Engineer, the City may resolve the issue at its own expense and the MTC agrees to pay the reasonable cost of maintenance.

Section 690.60. Reservation of Police Powers. The City Council reserves unto itself any and all police power it may have with respect to regulation and control of the public rights-of-way. Any permit issued pursuant to this Section is subject to the future exercise of the police power by the City Council and the issuance or termination of such the will not entitle the permittee to any compensation from the city by virtue of the exercise of such police power.

Section 695 - Technical High School Area
Street Access Permit

Section 695:00. Purpose.

The Council finds that streets adjacent to Technical High School are congested because of heavy motor vehicle traffic and parking. Criminal activity occurring in close proximity to the school is aided by easy drive by access to individuals and facilities. Heavy concentrations of pedestrian traffic attempting to mix with motor vehicle traffic creates significant risks for all persons traveling through the area. Adjacent public park facilities bring large numbers of individuals, including many young children, into potential conflict with the motor vehicle traffic. Parents and other individuals wishing to drop-off or pick-up students from school buildings may not do so in an orderly and safe manner. All of these concerns are heightened by the proximity to State Highway 23 and the desire of non-school related traffic to travel through the area. It is the purpose of this section to stem the flow of traffic in the immediate vicinity of Technical High School during those times when students are being picked up or dropped off; to provide for safe pick up and drop-off of students; to reduce the risk of criminal activity in the same locations; to promote efficiency in providing public safety; to preserve the safety of children and other pedestrians and traffic safety, and to promote the peace, good order, comfort, convenience, and welfare of the inhabitants of the City. The provisions of this section, providing access to designated streets by permit only, during certain hours when Technical High School is in session, are deemed to be in furtherance of such objectives.

Subd. 1. The Council may from time to time, by resolution, designate certain streets in the vicinity of Technical High School as limited access by permit only, and cause control gates to be installed and appropriate signs to be posted. The resolution will establish the designated hours during which access to a specific street, or portion of a street, is limited.

Subd. 2. Permits will be made available to allow access only by vehicles owned or operated by parents or legal guardians of students attending Technical High School. St. Cloud School District No. 742, through its Technical High School, is designated by the City to identify eligible individuals and issue those permits on behalf of the City. Eligibility will be established by showing proper identification to the designated school officials at the time of application for the permit.

Subd. 3. Permits will bear an identification number for the motor vehicle(s) of the parent or guardian obtaining the permit(s). A record of parents and guardians who have permits, and the vehicles to which they are issued, will be maintained. Technical High School Street Access Permits will be displayed in the lower corner of the windshield on the driver's side of the motor vehicle.

Subd. 4. To cover the costs of administering the permit system a fee may be charged for each permit. The amount of the fee will be set forth in Section 516:00 of this code. Permit fees will not be prorated.

Subd. 5. Technical High School Street Access Permits cannot be transferred to a motor

vehicle other than the one for which the permit was issued.

Subd. 6. Section 695 will not apply to individuals who perform or vehicles used in the performance of commercial services, repairs, law enforcement or emergency assistance for Technical High School, provided that such persons or vehicles are in fact being used in such services or assistance. Such vehicles will be identified by permanent lettering or by signs displayed on both sides of the vehicle indicating the name of the business or service. This exemption will terminate immediately upon completion of the service or assistance.

Section 695:10. Penalty for Access Violations. It is unlawful to operate a motor vehicle upon a street subject to the provisions of Section 695 of the Code of Ordinances, during those times when access is controlled, without having a permit properly displayed.

CHAPTER VII

Section 700 - Traffic and Parking Regulations

Section 700:00. Definitions.

Subd. 1. Alley or Alleyway. An alley or alleyway is a travelway that is used primarily for vehicle service access to the back or the side of properties abutting on a street.

Subd. 2. Bus Stop, Taxi Stand or Passenger Curb Loading Zone. A Bus Stop, Taxi Stand or Passenger Curb Loading Zone is that space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

Subd. 3. Curb Loading Zone. Curb Loading Zone is a space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

Subd. 4. Delivery Vehicle. Delivery Vehicle means a vehicle used by a business enterprise for the purpose of loading or unloading merchandise. A delivery vehicle must be identified by permanent lettering or by signs displayed on both sides of the vehicle indicating the name of the business and the words delivery vehicle.

Subd. 5. Fire Lane. A Fire Lane is any roadway and adjacent land, necessarily required to be kept clear to permit unimpeded access by Fire Department personnel, equipment and vehicles to exits, entrances, hydrants, stand pipes and other facilities, when duly designated and signs posted.

Subd. 6. Metered Lot. A Metered Lot is a municipal parking lot on which parking meters have been placed.

Subd. 7. Municipal Parking Lot. Municipal Parking Lot is an off-street parking lot owned or operated by the City of St. Cloud as part of the municipal parking system and established for the parking of vehicles for a fee.

Subd. 8. Municipal Parking Ramp. A Municipal Parking Ramp is an off-street multileveled parking facility owned or operated by the City of St. Cloud as part of the municipal parking system and established for the parking of vehicles for a fee.

Subd. 9. Operator. An Operator is an individual who operates a vehicle as the owner, or as the agent, employee or permittee of the owner.

Subd. 10. Park or Parking. Park or Parking means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of or while actually engaged in loading or unloading merchandise or passengers.

Subd. 11. Parking Meter. A Parking Meter is any mechanical device installed in locations authorized by the City Council for the purpose of regulating parking.

Subd. 12. Parking Meter Space. A Parking Meter Space the space for the parking of vehicles which will be indicated by painted lines, or otherwise, and adjacent to which a parking meter is installed for the regulation of parking within said space.

Subd. 13. Parking Officer. A Parking Officer is a designated employee of the City whose duties are to enforce the provisions of this section relating to parking violations.

Subd. 14. Private Parking Lot. A Private Parking Lot is an area that is not dedicated to municipal or public use which is made available and equipped by the owner for the parking of motor vehicles by the public or by persons visiting or having business on the owner's premises.

Subd. 15. Special Parking Zone. A Special Parking Zone means a parking restriction applying to an on-street parking area for the purpose of accommodating the special needs of adjacent properties, and which is not in conformance with the parking regulations which are prevalent in the neighborhood in question. Normally, a special parking zone is for the benefit of only one property and will occupy an area less than one block in length.

Subd. 16. Street. A Street is any public street, alley, road, boulevard, highway or other public place located in the City of St. Cloud and established for use of vehicles.

Subd. 17. Unmetered Lot. An Unmetered Lot is a municipal parking lot on which no parking meters have been placed but which requires payment of a fee before vehicles may leave.

Subd.18. Park-UR-Self; Pay-and-Display Station. Park-UR-Self; Pay-and-Display Station is any mechanical device installed in locations authorized by the City Council in which money is deposited for the purchase of a parking receipt.

Subd. 19. Trailer. A Trailer is a vehicle designed for carrying property or passengers on its own structure and for being drawn by a motor vehicle.

Subd. 20. Recreational Equipment” is defined as:

- (a) Travel trailers including those that fold down, chassis, campers, tent trailers and slip in campers.
- (b) A non-motorized utility trailer intended and generally used for transporting other recreational equipment.
- (c) Snowmobiles, all terrain vehicles, boats and any type of watercraft. Recreational equipment placed on a utility trailer is, together with the trailer, considered to be one vehicle.

Section 700:05. Prohibited Parking and Stopping. No person will stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with directions of a police officer or traffic control device, in any of the following places:

Subd. 1. Sidewalk. No person will park any vehicle on a sidewalk.

Subd. 2. Driveway. No person will park any vehicle in front of a public or private driveway.

Subd. 3. Intersection. No person will park any vehicle within an intersection.

Subd. 4. Fire Hydrant. No person will park any vehicle within ten feet of a fire hydrant.

Subd. 5. Crosswalk. No person will park any vehicle on a crosswalk or within 20 feet of a crosswalk.

Subd. 6. Signs. No person will park any vehicle within 30 feet upon the approach to any flashing beacon, stop sign, or traffic control signal located at the side of a roadway.

Subd. 7. Railroad Crossing. No person will park any vehicle within 50 feet of the nearest rail of a railroad crossing.

Subd. 8. Fire Station. No person will park any vehicle within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly sign posted.

Subd. 9. Street Obstruction. No person will park any vehicle alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic.

Subd. 10. Parked Vehicle. No person will park any vehicle on the roadway side of any vehicle stopped or parked at the edge or curb of a street.

Subd. 11. Bridge. No person will park any vehicle upon any bridge, or other elevated structure upon a highway or within a highway tunnel, except as otherwise provided by ordinance.

Subd. 12. Stopping Prohibited. No person will park any vehicle at any place where official signs prohibit stopping.

Subd. 13. Fire Escape. No person will park a vehicle so as to block a fire escape or the exit from any building, whether on public or private property.

Subd. 14. Police Order. No person will park any vehicle where temporary signs are posted reading "No Parking - Police Order", as long as such signs are in place.

Subd. 15. Fire Lane. No person will park in any area designated as a fire lane.

Subd. 16. Snow Removal Parking Restrictions. No person will park any vehicle nor leave any vehicle which was parked at the time of posting, for a period of more than two hours thereafter, in any block on any street or in a municipal parking lot posted by the Engineer/Public Works Director in accordance with this subdivision. The Engineer/Public Works Director is authorized to post no parking signs for snow removal (a) along streets where snow removal operations will require the use of the entire width of the street by snow plowing and removing equipment, and (b) on municipal parking lots. Such signs will be posted at frequent intervals at least four (4) hours prior to the time when snow removal

commences on the street or municipal parking lot so posted and such signs will be removed promptly after completion of the snow removal operation. Snow removal will be done on any street or municipal parking lot so posted as soon as possible following a lapse of four (4) hours after posting the signs.

Subd. 17. Seasonal/Calendar Parking In Effect.

(a) Definitions.

1. Even Side of the Street. That side of all public streets or avenues whose addresses end with an even number.
2. Odd Side of the Street. That side of all public streets or avenues whose addresses end with an odd number.

(b) Prohibitions. No person will park any motor vehicle nor leave any motor vehicle parked upon the even side of the street on even calendar days between the hours of 1:00 a.m. to 7:00 a.m. from November 1 of one year to April 1 of the following year. No person will park any motor vehicle nor leave any motor vehicle parked upon the odd side of the street on odd calendar days between the hours of 1:00 a.m. to 7:00 a.m. from November 1 of one year to April 1 of the following year.

(c) Exceptions. This subdivision will not apply to any of the streets or avenues within the areas:

1. The area having boundaries from 4th Street South to 16th Street South inclusive, and from the east boundary of 9th Avenue South/Clearwater Road to the Mississippi River, and including 1st and 2nd Avenues South from 4th Street South north to the end of the cul-de-sacs, and including 3rd Avenue South from 16th Street South south to the end of the cul-de-sac.
2. The areas listed under the following Subdivision 18. Seasonal Parking Ban.
3. The area bounded on the south by State Trunk Highway 23, bounded on the west by 12th Avenue, bounded on the north by BNSF railroad tracks and 2nd Street North and bounded on the east by the Mississippi River.
4. The area bounded on the south by 4th Street South; bounded on the west by 9th Avenue South; bounded on the north by 2nd Street South (State Trunk Highway 23); and bounded on the east by the following described line: Beginning at the intersection of 2nd Street South and 5th Avenue South; thence southerly on 5th Avenue South to Ramsey Place; thence easterly on Ramsey Place to 4th Avenue South; thence southerly on 4th Avenue South to 4th Street South.

Subd. 18. Seasonal Parking Ban

(a) Effective Area of Parking Ban. The seasonal parking ban described applies to the following portions of the City:

1. The area situated north and west of the Sauk River.

2. The area situated west of the Mississippi River and south of 22nd Street South.
 3. The area situated east of the Mississippi River and south of Minnesota Highway No. 301 and Minnesota Boulevard.
 4. The area situated north and east of U.S. Highway No. 10.
1. The area situated west of Minnesota Highway No. 15

(b) Parking Ban. A parking ban will go into effect on November 1 of each year and will remain in effect until April 1 of the following year. The following parking restrictions will be effective during a parking ban:

1. No vehicle or motor vehicle may be parked on any street between the hours of 1 a.m. and 7 a.m.
2. Any vehicle or motor vehicle may be parked on any street until and unless the entire area of such street has been cleared of snow and ice.
3. No vehicle or motor vehicle may be parked on any street that has a paved surface less than 32 feet in width.

Subd. 19. No person will park or leave parked any trailer or recreational equipment on any street within the City limits for more than 24 hours that is not connected to, hitched to or attached to a motor vehicle.

Section 700:10. No Parking and Limited Time Parking Zone. The Council may designate no parking or limited time parking zones by a resolution setting forth the location of the zone, and in the case of a limited time parking zone, the time limit imposed. The Engineer/Public Works Director will post signs at designated locations that will indicate the parking restriction.

History: Ord. 2336 2-5-07.

Section 700:12. Parking More Than 24 Hours. No person will leave parked any vehicle of any kind upon any street, municipal parking lot, or municipal parking ramp for a period of more than 24 consecutive hours except during Special Event Parking. There is no 24 hour parking limitation for the Civic Center Parking Ramp.

Section 700:15. Parking Meter Zone. The City Council is authorized to establish by resolution zones to be known as "parking meter zones" upon all streets and avenues and the City owned or City operated off-street parking lots within the following described boundaries.

Commencing at the east right-of-way of 5th Avenue North and the south right-of-way of the Burlington Northern Railroad (BNRR); thence westerly along the south right-of-way line of the BNRR to the east right-of-way line of 6th Avenue North; thence north along the east right-of-way line of 6th Avenue North to the south right-of-way line of 3rd Street North; thence West along the south right-of-way line of 3rd Street North to the west right-of-way line of 7th Avenue North; thence south along the west right-of-way line of 7th Avenue North to the north right-of-way line of 2nd Street North; thence west along the north right-of-way line of 2nd Street North to the east right-of-way line of 9th Avenue North; thence south along the east right-of-way line of 9th Avenue North to the south right-of-way line of 2nd Street North; thence westerly along the south right-of-way line of 2nd Street

North to the east right-of-way of 12th Avenue North; thence southerly along the east right-of-way of 12th Avenue North to the north right-of-way of T.H. 23-52; thence easterly along the north right-of-way line of T.H. 23-52 to the east right-of-way of 4th Avenue South; thence northerly along the east right-of-way line of 4th Avenue South to the south right-of-way of St. Germain Street; thence northerly and westerly along the easterly and northerly right-of-way line of 4th Avenue North to the east right-of-way of 5th Avenue North; thence northerly along the east right-of-way line of 5th Avenue North to the south right-of-way of the BNRR and there terminating.

Subd. 1. Meters. In parking meter zones the City Council will install and maintain parking meters. Parking meter spaces will be designated and time limitations for legal parking in such zones will be set. The time limitations will be designated on the parking meters or by appropriate signs posted in proximity to the parking meters. Fees for parking meters are set forth in Section 580:00 of this Code.

Subd. 2. Meter Location in Streets. Parking meters installed upon the streets in the parking meter zones will be placed upon or near the curb immediately adjacent to the individual parking meter spaces. Each parking meter will be placed in such manner as to display by a signal that the adjacent parking meter space is or is not in use.

Subd. 3. Stall Markings on Streets. Lines or markings will be painted or placed upon the curb or the street adjacent to each parking meter for the purpose of designating the parking meter space. Each vehicle parking adjacent to any parking meter will park within the lines or markings. It is unlawful to park any vehicle in a position that is not entirely within the designated lines or markings.

Subd. 4. Manner of Parking. When a parking meter space is parallel with the adjacent curb, any vehicle parking in the parking meter space will be parked with the front of the vehicle nearest to the meter.

Subd. 5. Payment and Time Period. When a vehicle is parked in any parking meter space, the operator will deposit appropriate coins of the United States into the parking meter. If such vehicle will remain in such maximum parking meter space beyond the parking time designated for the space, the vehicle will be considered as parked overtime, and therefore subject to the Parking Use Fee described by Section 700:50, Subd. 1 of this Code. Each additional hour a vehicle remains parked overtime will constitute a separate occurrence of overtime parking. If the parking meter displays a sign showing "expired", the vehicle will be considered as parked overtime and such parking will be subject to the Parking Use Fee described by Section 700:50, Subd. 1, of this Code. The parking meter will display the amount of time remaining on the metered parking. An operator may purchase parking meter time up to the maximum permitted by the City Council and as indicated on the meter or sign.

Subd. 6. Slugs Prohibited. No person will deposit in any parking meter any slug, device or substitute for coins of the United States.

Subd. 7. Tampering Prohibited. No person will injure, deface, tamper with, open or willfully break, destroy or impair the usefulness of any parking meter in the City. Designated employees of the City may open a parking meter for the purpose of repair, maintenance or

collection from the meter.

Subd. 8. Parking Meter Hoods or Bags. Parking meter hoods or bags may be issued by the Parking Violations Bureau for the purpose of reserving parking spaces for short-term special use.

- (a) Parking meter hoods or bags will be issued only when needed to allow the conduct of non-regular activities such as utility construction or repair, construction or reconstruction of adjacent buildings, parades, weddings, funerals, etc.
- (b) The fee for the use of parking meter hoods or bags is set forth in Section 580:00 of this Code. The City Clerk is authorized to waive fees when the user is a charitable organization or public service agency.
- (c) Such hoods or bags will be utilized only on that meter (or meters) for which they were issued.
- (d) The fees for the use of hoods or bags will continue to be imposed on the lessee until they are returned to the Parking Violations Bureau. In the event the lessee fails to return hood or bag, or if the lessee returns it in damaged condition, the lessee will be required to reimburse the City for the cost of replacement or repair, in addition to the usage fees.

Subd. 9. Fifteen Minute Meter Spaces. Where the City Engineer determines there is a need for rapid turnover he may order the establishment of up to four 15 minute meters on any block or street. On a two-way street where parking is allowed on both sides of the street, the 15 minute meter spaces will be established on the first and last stalls on both sides of the block. Where other traffic and/or parking conditions exist, the City Engineer will determine an equivalent distribution of the 15 minute meter spaces.

- (a) An owner or lessee of a parcel of property abutting a given street who desires to have additional 15 minute meter spaces established will file a request with the City Clerk, who will forward the request to the City Council. If the Council approves the request, the 15 minute meter spaces will be established upon the applicant paying the required charges. Charges may be pro-rated for the first year. Thereafter, they will be renewed annually, in advance, with a January 1st renewal date and must be paid for the full year, and will not be refundable.
- (b) The parking meter fee schedule for 15 minute meter spaces will is forth in Section 516:00 of this Code.

Subd. 10. Hours of Operation. A deposit of coins as provided for in Subd. 5 of this section will be enforced daily between the hours of 8 a.m. and 6 p.m., except that no payment of parking meter fees will be enforced on any Saturday, Sunday, and except for the following:

(a) Payment of the fee for parking in the Centre Square Lot will be enforced during the following hours:

Monday, Tuesday and Wednesday: 8 a.m. to 9 p.m.

Between 8 a.m. Thursday and 3 a.m. Friday

Between 8 a.m. Friday and 3 a.m. Saturday

(b) Payment of any parking meter fees will not be enforced on the following holidays:

New Year's Day
Martin Luther King Day
President's Day
Good Friday
Memorial Day
Independence Day
Labor Day
Veteran's Day
Thanksgiving Day
Friday after Thanksgiving
Christmas Eve Day
Christmas Day

Subd. 11 Exceptions. City of St. Cloud employees may be issued permits allowing that employee to park in a parking meter space within the City of St. Cloud, while performing City authorized business, without depositing coins in the parking meter. The permit will be displayed in the lowest portion of the rear most side window of the driver's side of the vehicle.

Subd. 12. Parking Prohibited. No Parking is permitted on any streets or avenues in the Parking Meter Zone on any day between the hours of 2:00 a.m. and 7:00 a.m.

Subd. 13. Day Pass Permit Parking. Holders of day pass parking permits may park their passenger vehicles at locations designated for day pass permit parking in City owned or City operated on-street and off street metered parking zones.

- (a) The day pass parking permits are only for use by Stearns County District Court jurors.
- (b) Day pass permits will be sold in the City Clerk's Office, or by the attendant at a City owned or operated parking facility.
- (c) The day pass permit is only valid for the day issued.
- (d) The day pass permit holder will park in a metered stall in an area designated for day pass permit parking in City owned or City operated on-street and off-street metered parking zones.
- (e) The charges for these permits are set forth in Section 580:00 of this Code.

Section 700:18. Permit Parking Zones.

Subd. 1. Council Findings. The Council finds that streets in certain residential areas are congested because of heavy residential and non-residential traffic and parking. It is the purpose of this section to stem the flow of commuter traffic from institutional, commercial and industrial districts into adjoining residential neighborhoods; to reduce air pollution and other environmental effects of automobile commuting, and to enhance the quality of life in the residential area by reducing noise, traffic hazards and litter; to protect the residents from unreasonable burdens in gaining access to their residences; to preserve the character of the residential district; to promote efficiency in the maintenance of these streets in a clean and safe condition; to preserve the value of property; to preserve the safety of children and other pedestrians and traffic safety, and to promote the peace, good order, comfort, convenience and welfare of the inhabitants of the City. The provisions of this section, providing parking by permit only in designated areas, are deemed to be in furtherance of such objectives.

The Technical High School neighborhood imposes some unique burdens on the St. Cloud parking system. There is a desire to retain the high school in its existing location, an established residential neighborhood with limited options for parking. To accomplish this objective the parking needs of students and staff must be addressed and accommodated. There is also a need to recognize the impact of student parking on the residents who live in the surrounding neighborhoods. To accomplish the objectives of our parking permit ordinance the needs of the residents and the school must be balanced. The provisions of this section, providing parking by permit only in the Technical High School neighborhood, are deemed to furtherance of such objectives.

Similarly, the City streets within the St. Cloud State University campus are subject to unusual and significant parking burdens. Class schedules, a large number of commuters, a shortage of parking in desirable locations and an ever-increasing number of vehicles all contribute to this burden. A City park is located within the campus. There is a desire to allow general use of the park, and therefore the adjacent on street parking, evenings, and weekends and during the summer. The provisions of this section, providing parking by permit only in the St. Cloud State University campus area, are deemed to further such objectives.

Subd. 2. General Procedures. The Council may, designate certain streets as permit parking zones. Permit zones may be combined with limited time parking restrictions. No resolution establishing a permit parking zone(s) will be adopted until a public hearing has been held thereon by the City Council. A notice of the time, place and purpose of the hearing will be published in the official newspaper at least ten days prior to the day of the hearing. A similar notice will be mailed at least ten days before the day of the hearing to each owner of affected. In respect to resolutions for neighborhoods impacted by parking generated by Technical High School or St. Cloud State University, school administration will also be given. A copy of the notice and a list of the owners and addresses to which the notice was sent will be attested to by the responsible person and will be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners, or defects in the notice will not invalidate the proceedings, provided a good faith attempt to comply with this subdivision has been made. The resolution will establish the time and designated hours for each permit zone. Except in

the case of neighborhoods impacted by parking generated by Technical High School or St. Cloud State University, the resolution will establish the number of resident permits that will be made available for purchase by eligible residents on the basis of one permit for every established number of square feet of lot area per zoning lot as defined in the City of St. Cloud Zoning Ordinance. Permit Parking zones will be established only in those areas meeting the following criteria: (1) the area is residentially zoned under the City of St. Cloud Zoning Ordinance; (2) the area is utilized for parking by commuter traffic destined for adjoining institutional, commercial or industrial areas; (3) the area is congested because of heavy residential and non-residential traffic and parking; (4) the area does not have adequate off-street parking available; and (5) traditional parking restrictions such as limited time parking and limited day parking have been utilized in the area but have not successfully alleviated parking congestion

Subd. 3. Permit Parking Zone Violation. No owner or driver of any motor vehicle will park or permit the vehicle to be parked on posted streets in parking by permit zones except in compliance with Section 700:18.

Subd. 4. Tech High School Permit Zone. For neighborhoods impacted by parking generated by Technical High School, the resolution described in subdivision 2 above will establish a fixed number of permits for use by Technical High School, its students and staff.

- (a) Permits will be issued in the form of a card. Parking permits will be displayed in the lower rear corner of the left side window closest to the rear of the vehicle.
- (b) No duplicate permits will be issued.
- (c) The charges for parks permits will be set forth in Section 598:00 of this Code.
- (d) Permits intended for use by Technical High School will be provided to school administration for the exclusive use of Technical High School students and staff.
- (e) The number of permits that will be made available for purchase by eligible residents in the Technical High School neighborhood will be determined on the basis of one permit for every established number of square feet of lot area per zoning lot as defined in the City of St. Cloud Zoning Ordinance. Eligibility will be determined in the same manner used for Resident Permit Zones as set forth in subdivision 4 below.

Subd. 5. Resident Permit Zone. Residents of zoning lots, as defined in the City of St. Cloud Zoning Ordinance, located on a street(s) designated by resolution pursuant to subdivision 2 above, will be eligible to purchase one parking permit per motor vehicle they own or lease.

- (a) The number of resident permits made available for purchase by eligible residents will be established by resolution pursuant to subdivision 2 above.
- (b) Residency will be established by the showing of proper identification showing domicile in the resident parking zone at the time of application for the permit. Proper identification will include current Minnesota driver's license or identification card, homestead property tax statement, or a signed lease or affidavit from a landlord.
- (c) The holding of a permit will not guarantee the availability of a parking space at any specific location or time, and the unavailability of a parking space will not entitle the permit holder to any reimbursement, nor to the free use of any other parking space.
- (d) Permits will be annual and will be valid from August 1 through July 31 of the

following year.

- (e) A record of residents who have permits will be kept by the City. Resident permits will be displayed on a plastic hanger, provided by the City and will be hung on the vehicle's rear view mirror. If no rear view mirror has been installed, the permit and plastic hanger will be affixed on the vehicle's center portion of the front windshield.
- (f) To cover the costs of administering the permit system, a fee may be charged for each permit. As set forth in Section 580:00 of this Code. Permit fees will not be prorated.
- (g) Section 700:18 Subd. 4. will not apply to individuals who perform, or vehicles used in the performance of commercial services, repairs, or emergency assistance for any resident, provided that such persons or vehicles are in fact being used in such services or assistance. Such vehicles will be identified by permanent lettering or by signs displayed on both sides of the vehicle indicating the name of the business or service. This exemption will terminate immediately upon completion of the service or assistance.

Subd. 6. SCSU Parking Permit Zone. SCSU parking permits will permit the holders of valid parking permits to park their vehicles on designated city streets within the SCSU parking permit zone. The boundaries of the parking zone will include:

All that area situated between 5th Avenue South and the west bank of the Mississippi River from 4th Street South to 11th Street South and all that area situated between 4th Avenue South and the west bank of the Mississippi from 11th Street South to 16th Street South.

- (a) The permit will be required for parking 7 A.M. to 5 P.M. Monday through Friday from September 1st to May 31st of each year.
- (b) Sale of permits will be conducted in the City Clerk's office only.
- (c) Permits will be seasonal and will be valid from September 1st through May 31st of the next year.
- (d) The charges for such permits will be set forth in Section 580:00 of this Code.
- (e) The holding of a permit will not guarantee the availability of a parking space at any specific location or time, and the unavailability of a parking space will not entitle the permit holder to any reimbursement, nor to the free use of any other parking space.

Subd. 7. Except to the extent otherwise specifically provided in this subdivision, the general parking regulation of Section 700 will be applicable within areas designated "Parking by Permit".

Section 700:20. Parking Permit System. Holders of valid parking permits may park their vehicles at City owned or City operated off-street parking lots whether or not these lots are metered in accordance with the provisions set forth in this subdivision.

Subd. 1. Parking permits will be sold in the City Clerk's office only.

Subd. 2. Permits will be issued on a quarterly basis.

Subd. 3. Four types of permits will be issued: "A" permits are valid at all City owned or City

operated off-street parking lots or portions of lots within parking meter zones A, B, and C established pursuant to resolution of the Council in accordance with Section 700:15 of the Code; "B" permits are valid at all City owned or City operated off-street parking lots or portions of lots within parking meter zones B and C established pursuant to resolution of the Council in accordance with Section 700:15 of the Code; "C" permits are valid at all City owned or City operated off-street parking lots or portions of lots within parking meter zone C established pursuant to resolution of the Council in accordance with Section 700:15 of the Code; "Reserved" permits are valid at all portions of City owned or City operated off-street parking lots established pursuant to resolution of the Council in accordance with Section 700:15 of the Code.

Subd. 4. The holding of a parking permit will not guarantee the availability of a parking space at any specific location or time, and the unavailability of a parking space will not entitle the holder of a permit to any reimbursement, nor to the free use of any other parking stall.

Subd. 5. Permits will be issued in the form of a card. Parking permits will be displayed in the lowest portion of the rear most side window of the driver's side of the vehicle.

Subd. 6. No duplicate permits will be issued.

Subd. 7. The charges for such permits are set forth in Section 580:00 of this Code.

Subd. 8. Persons holding a parking permit under this section must park the vehicle front-end forward into any parking stall located in all City owned or City operated off-street parking lots or portions of lots within parking meter zones A, B, and C.

Section 700:21. Complimentary Parking Permit System. Holders of complimentary parking permits may park their passenger vehicles at City owned or City operated off-street metered parking lots.

Subd. 1. The complimentary parking permits are only for use by visitors to the community, and are not to be given out to friends, employees, customers, etc.

Subd. 2. Complimentary permits will be sold in the City Clerk's office only.

Subd. 3. Complimentary permits will be used for a specific day.

Subd. 4. The complimentary permit holder must park in one of the meter-only stalls in one of the off-street parking lots.

Subd. 5. Complimentary permits will be issued in the form of a card. Complimentary parking permits will be displayed hung from the rear view mirror.

Subd. 6. The charges for complimentary permits will be established from time to time by resolution of the Council.

Section 700:22. Parking Lots.

Subd. 1. Regulation of Metered Lots. The provisions of Section 700:15 et seq. entitled

"Parking Meters" will apply to metered lots. Parking meters in a metered lot will be placed in front of the parking meter space (rather than alongside the parking meter space as in the case of parking meters in the streets).

Subd. 2. Rates for Unmetered Lots. Rates for unmetered lots will be set forth in Section 516:00 of this Code.

Subd. 3. Payment. Before removing a vehicle from an unmetered lot, the operator of the vehicle will make payment of the required fee to the attendant or toll gate. If the attendant is not on duty, payment will be made by depositing the required fee in the envelope provided for such purpose and placing the envelope in a deposit box as provided for this purpose at the parking lot exit.

Subd. 4. Failure to Pay Attendant or Deposit Required Fee. Failure to pay the attendant, or failure to deposit the fee required in the manner prescribed herein will constitute a violation of this ordinance and will be punishable pursuant to Section 700:70.

Subd. 5. Swan Lot. Upon parking in the Swan Lot, the operator of a motor vehicle will deposit coins or dollar bills in a multi-space parking meter. A parking receipt will be issued by the multi-space parking meter and will display the time the parking receipt will expire.

Subd. 6. Rates for Swan Lot. Rates for Swan Lot are set forth in Section 580:00 of this code. If a vehicle will remains in the lot beyond the parking time noted on the parking receipt, the vehicle will be considered as parked overtime. Each additional hour a vehicle remains parked overtime will constitute a separate occurrence of overtime parking.

Subd. 7. Operation and Parking of Vehicles. No person will operate a motor vehicle in any municipal parking lot within this municipality at a speed greater than is safe and reasonable under the conditions of traffic then existing, and in no event at a speed exceeding five miles per hour. Parking of vehicles in parking lots will be restricted to and will conform to any stalls or positions for parking designated on the surface of the parking lots. It is unlawful to park any vehicle in any position so that the vehicle will not be entirely within the area designated by lines or markings. The City Engineer may post signs at any entrances to a parking lot from a public street, which will designate one-way traffic for entrance or exit, and the driver of any vehicle entering or leaving any such lot will comply with any one-way signs so posted.

Subd. 8. Nuisances and Penalties. The prohibitions set forth in the subdivisions, which follow, are declared to be nuisances affecting the peace and safety of users of municipal parking lots:

- a. To impede or block the free movement of other persons in parking lots.
- b. To ride a bicycle in the landscaping areas of a parking lot or to lock or chain a bicycle to any object in a parking lot other than a bike rack.
- c. To drive a snowmobile in a parking lot or the landscaping areas of a parking lot at any time.
- d. To write or deface or cause damage to the parking lot.

- e. To ride or propel roller-skates; in-line skates or skateboards anywhere in a parking lot and landscaping areas of a parking lot.
- f. Possession or consumption of alcoholic beverages in a parking lot and the landscaping areas of a parking lot.
- g. Occupation or use of a parking lot for purposes other than the operation or parking of a motor vehicle unless permission is obtained from the City Engineer. Occupation or use of a parking lot by police officers, firefighters, parking lot operations personnel or maintenance personnel are specifically permitted.

Subd 9. Parking of oversize vehicles. No person will operate or park in any parking lot any vehicle that is longer than 22 feet, nor any vehicle and trailer combination that is longer than 22 feet, nor any vehicle that exceeds the size limitations designated at the entrance to the parking lot.

Section 700:23. Municipal Parking Ramps.

Subd. 1. Hours of Operation. Parking Ramps will be operated and all rules enforced 24 hours each day and seven days per week.

Subd. 2. Rates For Parking Ramps. The rates for parking at all municipal parking ramps are set forth in Section 580:00 of this Code.

Subd. 3. Payment. The operator of a vehicle will make payment of the required fee to the attendant prior to removing a vehicle from a municipal parking ramp when the attendant is on duty. When an attendant is not on duty, or during designated special event parking, the operator of a vehicle will pay the required fee prior to entry into the municipal parking ramp by making payment to the toll gate or as otherwise directed by the attendant.

Subd. 4. Failure to Pay Attendant or Deposit Required Fees. Failure to pay the attendant, or failure to deposit the fee required in the manner prescribed in this section, will constitute a violation of this ordinance and will be punishable pursuant to Section 700:70.

Subd. 5. Operation and Parking of Vehicles. No person will operate a motor vehicle on any municipal parking ramp within this municipality at a speed greater than is safe and reasonable under the conditions of traffic then existing therein, and in no event at a speed exceeding five miles per hour. Parking of vehicles on ramps will be restricted to and will conform to any stalls or positions for parking designated on the surface of the ramp area. It is unlawful to park any vehicle in such a position that the vehicle will not be entirely within the area designated by lines or markings. The City Engineer may post signs at any entrances to a ramp from a public street, which will designate one-way traffic for entrance or exit, and the driver of any vehicle entering or leaving any lot will comply with any one-way signs so posted.

Subd. 6. Nuisances and Penalties. The prohibitions set forth in the subdivisions, which follow, are declared to be nuisances affecting the peace and safety of users of municipal parking ramps.

- (a) To impede or block the free movement of other persons in municipal parking ramps.
- (b) To ride a bicycle on a municipal parking ramp and the landscaping areas of a municipal parking ramp or to lock or chain a bicycle to any object other than a bike rack. This prohibition does not apply to police use of bicycles.
- (c) To drive a snowmobile on a municipal parking ramp and the landscaping areas of a municipal parking ramp at any time.
- (d) To write or deface or cause damage to the municipal parking ramp itself or any facility located in the municipal parking ramp.
- (e) To ride or propel roller-skates; in-line skates or skateboards anywhere on a municipal parking ramp and landscaping areas of a municipal parking ramp.
- (f) Possession or consumption of alcoholic beverages in a municipal parking ramp and the landscaping areas of a municipal parking ramp.
- (g) Occupation or use of a municipal parking ramp for purposes other than the operation or parking of a motor vehicle unless permission is obtained from the City Engineer. Occupation or use of a municipal parking ramp by police officers, firefighters, ramp operations personnel or ramp maintenance personnel are specifically permitted.

Subd. 7. Parking of overweight or oversize vehicles. No person will operate or park on a municipal parking ramp any vehicle, with or without load, which weighs more than six thousand pounds or is registered for a gross weight of more than 9,000 pounds, nor any vehicle which is larger than the size limitations designated at the entrance to a municipal parking ramp.

Section 700:24. Disability Permit-Parking.

Subd. 1 Disability Discount for Permit Parking at Parking Ramps and Surface Lots. Physically disabled persons, as defined in Minn. Stat. 169.345, subdivision 2, may qualify for a 50% discount from standard permit parking fees at certain off-street parking lots and parking ramps. To qualify, the permitted vehicle must prominently display the certificate authorized by Minn. Stat. 169.345 or license plate issued under Minn. Stat 168.021, and must be parked by or solely for the benefit of a physically disabled person. This discount will apply only to standard rate quarterly contracts at the Grand Central, Paramount and Civic Center parking ramps, and to "A" Permit surface parking lots.

Subd. 2. On-Street Disability Parking Permits. Where there is a demonstrated need for a person with a valid disability certificate or plate to park at a metered stall on the street for more than four hours per day, and there is no other reasonable alternative available, that person may apply to the Director of Public Works for an On-Street Disability Parking Permit ("D" Permit). The "D" Permit rate will be 50% of the standard "A" Permit rate. "D" Permits will be available only on a quarterly basis.

Section 700:25. Loading, Restricted and Special Parking Zones.

Subd. 1. Loading Zones. Loading zone signs may be installed in lieu of parking meters subject to the subdivisions of this section which follow.

- (a) Owner or lessee of a parcel of property abutting a given street who desires to have a loading zone installed will file a request with the City Clerk, who will forward the request to the City Engineer. The City Engineer will review the request and make a recommendation to the City Council. If the Council approves the request, the loading zone sign will be installed upon the applicant paying the fees set forth in Section 580:00 of this Code. The fees may be prorated for the first year, with a January 1 renewal date. Thereafter, the fees must be paid for the full year, and will not be refundable.
- (b) Loading zones will be utilized for loading and/or unloading of merchandise, and will not be utilized for the purpose of storing vehicles or merchandise. Loading zones may be used for short-term customer parking, not to exceed 15 minutes in duration, subject to the following conditions:
 - (1) A supplemental sign will be installed below the loading zone sign to indicate that the designated space is available for customer parking. The name of the party/business that holds the loading zone permit also be displayed on the supplemental sign.
 - (2) The supplemental sign will be installed upon the applicant paying the fee set forth in Section 598:00.
 - (3) The permit holder will share parking enforcement responsibilities with the City for loading zones designated for customer parking. The permit holder will monitor the use of the designated customer parking spaces and will notify the City Police Department/Parking Authority of time-limit violations or of violations involving use by non-customers.
- (c) Unless otherwise recommended by the City Engineer, only one loading zone per premises will be authorized.

Subd. 2. Restricted Parking Zones. The Council may establish prohibited or restricted parking zones upon streets, avenues, parkways, parking lots and off-street parking areas of the City, to prohibit or restrict the parking of any vehicles within designated zones, to provide for the parking of certain vehicles within such zones and prohibit the parking of other vehicles and to fix the limit of time during which any vehicle may remain parked within restricted zones.

Subd. 3. Signs. Whenever any special, prohibited, or restricted parking zone has been established by the Council the zone will be designated by appropriate signs clearly indicating the prohibition or restriction within the zone.

History: Ord. 2336 2-5-07.

Subd. 4. Special Parking Zones. An owner or lessee of a parcel of property abutting a street in any area of the City of St. Cloud outside of the parking meter zone, who desires to have a special parking zone established, will file an application for installation with the City Clerk, who will forward the application to the City Council.

- (a) Permit Approval; Fees. If the City Council approves the permit, the appropriate signs will be installed upon the applicant paying a permit fee as established by resolution of

the Council. For the first year of application, new permit fees may be pro-rated. Thereafter, they must be paid for the full year.

- (b) Refunds. Permit fees are not refundable.
- (c) Waiver of Fees. Permit fees may be waived by the City Council for non-profit organizations or agencies. However, waiver of fees will not constitute waiver of permit requirements.
- (d) Term; Notice. All permits will be granted on a calendar year basis. On or about November 1 of each year, the City Clerk will notify the holders of all existing permits for special parking zones that the permits will expire at the end of the calendar year along with an application form wherein the permit holder certifies the continued need for the special parking zone and agrees to pay the established permit fees.
- (e) Approval of Permit. Each permit application and/or permit renewal will be considered separately and the City Council reserves the right to approve or disapprove each application based on its merits.
- (f) Termination and Renewal. Any special parking zone for which a valid permit does not exist will be summarily removed.

Section 700:30. Trucks and Delivery Vehicles.

Subd. 1. Residential Truck Parking. No person will park a bus, truck-tractor, farm tractor, road tractor, trailer, semi-trailer, truck, commercial or industrial vehicle of any type on a street, highway, or on public property in an area zoned R1, R2, R3, R3A, R4, R5, R6, and R7.

- (a) The provisions of Subdivision 1 of this section will not apply to light trucks classified as 1/2 ton and 3/4 ton pickups, panels and sedan deliveries, or to vehicles temporarily parked by the driver, while the driver is engaged in the performance of a trade or occupation within a residentially zoned area.

Subd. 2. Alley Regulations. No person will drive over any public alley within a parking meter zone, any truck or other vehicle the total weight of which is more than eight tons (including pay load), the length of which is greater than 30 feet or the width of which is greater than eight or any truck or other vehicle to which there is attached a trailer of such dimensions and weight as to make the combined length of truck and trailer greater than 30 feet or the width of either of which is greater than eight feet or of which the combined total weight (including pay load), is greater than eight tons. Vehicles other than trucks will not be parked in public alleys except for pick-up or delivery, and then not to exceed five minutes, and trucks will not be parked for a longer period of time than is necessary to load or unload commodities, and then not to exceed 30 minutes.

Subd. 3. Cattle Truck Parking. It is unlawful to leave standing upon any street or public alley of the City any cattle truck for a period exceeding one hour. Those portions of the City that are zoned Rural Residential or Agricultural by the St. Cloud Zoning Ordinance are exempt

from this restriction.

Subd. 4. Double Parking. Vehicles will not be double parked on a street or highway, except trucks when loading or unloading merchandise when access to the curb at or immediately adjacent to the place of delivery is blocked by other vehicles, and then only for a length of time as is necessary to load or unload, time in any event and not to exceed 15 minutes. No truck will be double parked at any time on the left side of a one-way street or on a street ending in a cul-de-sac.

Subd. 5. Delivery Vehicles, Loading. For the purpose of loading or unloading merchandise, delivery vehicles may park in any parking meter space except a 15 minute meter space for a period of not more than 30 minutes without the operator depositing coins.

Section 700:35. Manner of Parking and Stopping.

Subd. 1. Parallel to Curb. Each vehicle stopped or parked upon a two-way roadway where there is an adjacent curb will stop or park with the passenger side wheels of the vehicle parallel with and within 12 inches of the curb, except where angle parking has been established.

Subd. 2. Where No Curb. Upon streets and highways not having a curb, each vehicle stopped or parked will stop or park parallel with and to the right of the paved or improved or main traveled part of the street or highway.

Subd. 3. One-Way Roadway. Upon one-way roadways, vehicles may be parked with the driver's side wheels adjacent to and within 12 inches of the left-hand curb, except where angle parking has been established.

Subd. 4. Traffic Officer Directions. No person will stop or park a vehicle on a street or highway when directed or ordered to proceed by any peace officer.

Subd. 5. Through Streets. The City Council may designate any street as a through street and any intersection as a stop intersection where necessary to preserve the free flow of traffic and to prevent accident. Appropriate signs will be posted at the entrance to such streets or intersections. However, trunk highways will not be designated as through streets and intersections on a trunk highways will not be designated as stop intersections without the consent of the Commissioner of Transportation.

Subd. 6. Operation and Parking of Vehicles on Public and Private Parking Lots. Motor vehicle may not be operated on any public or private parking lots at a speed greater than is safe and reasonable under the conditions of traffic, and in no event at a speed exceeding 15 miles per hour. The parking of vehicles in parking lots will be restricted to and will conform to any stalls or positions for parking designated on the surface of the parking area. The City Engineer may post signs at entrances to a parking lot from a public street, which will designate one-way traffic for entrance or exit, and the driver of any vehicle entering or leaving any such lot will comply with any one-way signs so posted.

Subd. 7. Display for Sale. Vehicles cannot be parked on any street for the purpose of

displaying it for sale.

Subd. 8. Bus Stops and Cab Stands. "Bus Stop" and "Cab Stand" within the parking meter zone must be approved by the City Council.

Section 700:50. Parking Violations Bureau. The parking Violations Bureau is responsible for the collection of the parking use fee, assessed for overtime parking.

Subd. 1. Parking Use Fee. When any person occupies a parking meter space in any street or publicly owned or operated parking lot beyond the time paid by deposit in the meter be assessed a parking use fee. All fees will be paid or mailed to the Parking Violations Bureau. Any failure to pay the parking use fee will constitute a violation for each separate charge imposed and not timely paid. Parking use fees will be set forth in Section 580:00 of this Code.

Subd. 2. Enforcement. It will be the duty of the police officers and parking officers of the City to report to the Parking Violations Bureau the following:

- a) The number of each parking meter which indicates that the vehicle occupying the parking meter space has been parked in violation of a provision of this ordinance.
- b) The license number of the vehicle.
- c) The date and hour at which the violation was found to exist.
- d) The nature of the violation.
- e) Any other necessary facts relating to the violation.

Subd. 3. Ticket. The police officer or parking officer will attach to a vehicle referred to in this subsection a notice to the owner or operator that the vehicle has been parked in violation of the provisions of this section and directing the owner or operator to make payment as required by this subsection.

Section 700:55. Fines for Violation. The Parking Violations Bureau will collect fines for violations of this ordinance. Fines will be paid in accordance with the instructions on the parking ticket.

Section 700:60. Penalty for Parking Violations. It is unlawful to park a motor vehicle contrary to the provisions of this Chapter. Any parking violation is the act of the registered owner as well as the act of the person actually parking the vehicle. For the purposes of this section, registered owner is defined to include motor vehicle renewal or leasing agencies or corporate owners.

It will be a defense to any violation that the registered owner shows that on the date of the offense the title has been transferred to another.

A violation of this section is a petty misdemeanor.

Section 700:70. Penalty for Non-Parking Violations. A violation of any provision of Chapter VII of the Code that relates to matters other than the parking of a motor vehicle will be a petty misdemeanor.

Section 700:75. Impounding Vehicle.

Subd. 1. In accordance with Minn.Stat. §169.041, the City may tow and impound any vehicle found parked in violation of this ordinance.

Subd. 2. Any impounded vehicle may be redeemed by the owner or by the person parking the vehicle in violation of this ordinance, by paying to the entity which towed and/or impounded the vehicle, the applicable towing charge and/or storage fee.

Section 700:80. Use of Proceeds. The specified coin or coins required to be deposited in parking meters are levied and assessed as fees to provide for the proper regulation and control of traffic upon the public streets and the cost of supervising and regulating the parking of vehicles in the parking meter zones, and to cover the cost of purchasing, acquiring, installing, operating, maintaining, supervising and regulating parking meters.

Section 700:85. Reparking to Avoid Overparking. For the purpose of the sections relating to limited parking zones, any vehicle moved and reparked within a distance of not more than 300 feet during the limited parking period will be deemed to have remained stationary.

Section 700:90. West St. Germain Street. In order to implement elements of the City's transportation control plan for air quality improvements, measures must be taken to control the parking and movement of vehicles on West St. Germain Street from its intersection with 8th Avenue to its intersection with 10th Avenue. Efforts must be focused on those hours of the day in greatest need of air quality improvement, presently 8 a.m. to 5 p.m.

Subd 1. Double Parking. No person will stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device on the roadway side of any vehicle stopped or parked at either edge or curb of that portion of West St. Germain Street from its intersection with 8th Avenue to its intersection with 10th Avenue.

Subd 2. Idling of Engines. No person who has stopped or parked a vehicle at the edge or curb of that portion of West St. Germain Street from its intersection with 8th Avenue to its intersection with 10th Avenue will idle or otherwise leave the engine of that vehicle running for a period of time in excess of 5 minutes.

Subd 3. Delivery Vehicles. Parking space for delivery vehicles will be established on the south side of West St. Germain between the intersection with 8th Avenue and its intersection with 9th Avenue. The parking space will be 65 feet in length. It is a violation of this ordinance for any vehicle other than designated delivery vehicles to stop or park in the established space.

Subd 4. Posting. Signs will be posted and maintained to give notice of the provisions of this section as follows:

- (a) No double parking. Two signs to a block on both sides of St. Germain Street from its intersection with 8th Avenue to its intersection with 10th Avenue (total of eight signs).
- (b) Delivery vehicles only. Two signs will be posted designating the zone and indicating its limits. The curb within the delivery zone will be painted to indicate its limits.

Subd 5. Enforcement. Law enforcement personnel will concentrate enforcement efforts between the hours of 8 a.m. and 5 p.m. in respect to violations of provisions of this section as well as all other traffic regulations affecting West St. Germain Street from its intersection with 8th Avenue to its intersection with 10th Avenue.

Subd. 6. Illegal Acts, Penalties. It is unlawful to park a motor vehicle contrary to the provisions of this ordinance. Any vehicle so parked is the act of the registered owner as well as the act of the person actually parking the vehicle. For the purposes of this section, the registered owner is defined to include motor vehicle rental or leasing of corporate owners. It is a defense to any violation if the registered owner shows that on the date of the offense title had been transferred to another.

Section 700:91. A violation of this section is a petty misdemeanor.

Section 703 - Traffic Signal Preemption System

Section 703:00. Definitions.

Subd. 1. Emergency Vehicle:

An emergency vehicle is a vehicle equipped and identified according to law and operated by the St. Cloud Police and/or Fire Departments or any other vehicle so designated by State statute.

Subd. 2. Traffic Signal Preemption System (TSPS):

A traffic signal preemption system (TSPS) is a traffic-control system designated for use by emergency vehicles to improve traffic movement by temporarily controlling signalized intersections. Under written agreement with the City, the TSPS can be used by transit system operators to improve transit movements at traffic signals.

Section 703:10. Conditions for Using the Traffic Preemption System.

Subd. 1. Fire Department: City-owned Fire Department vehicles will use the TSPS while on emergency responses only. The Fire Department standard operating procedures include conditions for using the TSPS.

Subd. 2. Police Department: City-owned Police Department vehicles may use the TSPS while on emergency responses only, all other use by the Department is prohibited.

Subd. 3. St. Cloud MTC: Regularly scheduled buses may use the TSPS system in a “low priority” and non-emergency mode. The operators of the traffic signal system will control the programming and operation of the “low priority” system. The MTC will follow all procedures prescribed by the City in utilizing the TSPS.

Subd. 4. City or County Maintenance Personnel, or their contractors under written agreement, may activate the TSPS only when testing or repairing the system. Sirens and flashing red lights need not be used except when the test vehicle must exceed the posted speed limits. In such instances, said test must be pre-approved and coordinated through the Fire Chief.

Subd. 5. The use of TSPS within the City by non-City emergency vehicles is allowed. Provided that the emergency vehicle will follow all procedures prescribed by the City in utilizing the TSPS.

Subd. 6. Unless specifically approved, it is unlawful for any person to activate the TSPS in the City by any means whatsoever.

Section 756 - Downtown Public Facilities

756:00. Establishment of Commission and District. There is hereby established a Downtown Public Facilities Commission and Downtown Public Facilities District.

Subd. 1. The Commission. The Commission will consist of five voting members and five ex-officio, non-voting City staff members who will be appointed by the Mayor and approved by the City Council.

Subd. 2. The Public Facilities District. The district is defined as follows: Beginning at the intersection of the center of the Mississippi River and the center of the right-of-way of the DeSoto Bridge; thence, northerly along the centerline of the Mississippi River to the centerline of the Burlington Northern right-of-way; thence westerly along the centerline of the Burlington Northern right-of-way to the easterly right-of-way of Sixth Avenue North; thence, northerly along the easterly right-of-way of Sixth Avenue North to the northerly right-of-way of Third Street North; thence, westerly along the northerly right-of-way of Third Street North to the westerly right-of-way of Seventh Avenue North; thence, southerly along the westerly right-of-way of Seventh Avenue North to the northerly right-of-way of Second Street North; thence, westerly along the northerly right-of-way of Second Street North to the centerline of the Burlington Northern right-of-way; thence, westerly along the centerline of the Burlington Northern right-of-way to the centerline of Eighth Avenue North; thence, southerly along the centerline of Eighth Avenue North to the northerly right-of-way of Second Street North; thence, westerly along the northerly right-of-way line of Second Street North to the westerly right-of-way of 12th Avenue North; thence, southerly along the westerly right-of-way of 12th Avenue North to the center right-of-way of T.H. 23; thence, easterly along the centerline of T.H. 23 to the westerly right-of-way of Seventh Avenue South; thence, southerly along the westerly right-of-way of Seventh Avenue South to the southerly right-of-way of Third Street South; thence, easterly along the southerly right-of-way of Third Street South to the easterly right-of-way of Fourth Avenue South; thence, northerly along the easterly right-of-way of Fourth Avenue South to the center of the right-of-way of T.H. 23; thence, easterly along the centerline of the right-of-way of T.H. 23 to the point of beginning.

756:05. Terms. The term of each commission member will be for three years and until a successor is appointed and approved. No person may be appointed to more than two successive terms. Any member that misses three consecutive meetings, without approval of the Mayor and of the Downtown Public Facilities Commission will be automatically terminated as an appointed member and a vacancy declared.

756:10. Vacancies. If the office of any Commission member becomes vacant, the vacancy will be filled in the same manner in which the last regular appointment was made for the unexpired portion of the term.

756:15. Qualifications. All members will serve without compensation. Appointments to the Commission will represent the following groups/interests:

Subd. 1. Business Interests. Two individuals will be appointed who are either an owner, operator or lessee of two separate business establishments within the downtown public facilities district.

Subd. 2. Employee Interests. One individual will be appointed who is an employee of a business establishment within the downtown business district which does not have an individual appointed in accordance with Subd. 1. of this section. The appointee of this qualification may not have an ownership interest in a downtown business district business establishment or land parcel, nor be an operator or lessee of a downtown business district establishment or land parcel nor be an officer nor managerial or supervisory level employee.

Subd. 3. Patron Interests. One individual will be appointed who does not have a direct or indirect financial nor employment interest in any property or business interest in the downtown business district who will represent the public at large as a patron of the downtown public facilities district.

Subd. 4. At Large Interest. One individual that qualifies for membership under Section 756:15 of this ordinance will be appointed as an at large member.

756:20. Chairperson. The Commission will appoint one of its members as chairperson for a term of one year. The chairperson will preside over all meetings of the Commission and will perform all other duties and functions assigned by the Commission or the Council.

756:25. Vice Chairperson. The Commission will appoint one of its members as vice chairperson for a term of one year. The vice chair will resume the duties of the chairperson in his/her absence.

756:30. Meetings. The Commission will meet at such times and at such places as it will designate. The Commission may adopt and from time to time amend their rules of procedure. Action by the Commission will be the affirmative vote of not less than a majority of its members, unless otherwise specified herein. All meetings of the Commission are open to the public and the Commission will keep a record of its meetings, resolutions, findings, and reports. The Commission will act in an advisory and review capacity to the Mayor, unless otherwise specified.

756:35. Responsibilities. The Downtown Public Facilities Commission will:

Subd. 1. Uses on City Controlled Property. Recommend to the Mayor the provision of and location for the following facilities and uses on the City owned property and right-of-way; bike racks, seating, telephones, post office and public information kiosks, transit stops and shelters, plantings, ornaments, protection from the elements, furniture, sculpture, pedestrian and traffic control devices, lighting or heating facilities, fountains, trash receptacles, walls, barriers, or other fixtures, and equipment, facilities and appurtenances which will enhance the free movement, safety, convenience, and enjoyment of pedestrians and benefit the adjoining properties, the downtown business district, and the public at large.

Subd. 2. Requests for Permits or Licenses for Activities and Business Uses in the Central Business District. Grant or deny requests, received in writing for permits or licenses for activities and

uses in the Central Business District including advertising, decorations or banners, displays of merchandise, exhibits, public solicitations, art and cultural displays, parades, demonstrations, building or passageway construction over or under the Central Business District or other special uses not otherwise defined in this section, including temporary private uses. The Commission may recommend to the City Council a fee for permits or licenses granted pursuant to this section. The City Council by a majority vote will have the right of review and the right to reverse any action taken by the Downtown Public Facilities Commission.

Subd. 3. Public Parking Facilities Not Financed by Special Service District Fees. Make recommendations to the Mayor regarding all acquisitions and/or sales of public parking facility properties. Review and recommend plans and procedures for the construction or alteration of public parking facilities and other appurtenant structures and improvements. Recommend reasonable rules and regulations for the management of public parking facilities, including charges and fees for use. Recommend solutions to parking problems in the downtown business district.

Subd. 4. Pedestrian Walkway System. Perform those functions as delineated in the Transportation Plan of the General Development Plan (Comprehensive Plan) for the Central Business District Pedestrian Walkway System.

Subd. 5. Special Service District. The Downtown Public Facilities Commission will advise the City Council in connection with the construction, maintenance, and operation of improvements and the furnishing of special services within a district as may be established by the City Council in accordance with Laws, 1985, as amended by Laws 1989 Chapter 210. The Commission will make recommendations to the City Council on requests and complaints of owners, occupants and users of property within the special service district. The Commission will review and comment to the City Council on any proposal to provide services or to impose service fees within the district.

756:40. Special Service District. It is the purpose of this subsection to establish a special service district as provided for in Laws of Minnesota 1985 Chapter 301, as amended by Laws of Minnesota 1989 Chapter 210, to recover from properties located within the special service district all or a portion of those costs for the operation, maintenance, debt service, replacement and improvements which are attributable to the municipal parking system; to provide additional security services within the special service district; and to provide for additional maintenance, replacement and improvements in the Central Business District.

Subd. 1. Establishment. A special service district is established for financing purposes of the municipal parking system, as authorized in Laws of Minnesota 1985, Chapter 301, as amended in Laws of Minnesota 1989 Chapter 210, which is defined as follows:

Beginning at the intersection of the center of the Mississippi River and the center of the right-of-way line of the DeSoto Bridge; thence northerly along the centerline of the Mississippi River to the center of the right-of-way line of the Veterans Memorial Bridge; thence westerly along the center of the right-of-way line of the Veterans Memorial Bridge and continuing west

along the center of the right-of-way line of First Street North to the center of the right-of-way line of Sixth Avenue North; thence northerly along the center of the right-of-way line of Sixth Avenue North to the center of the right-of-way line of the Burlington Northern Railroad; thence northwesterly along the center of the right-of-way line to the center of the right-of-way line of Second Street North; thence westerly along the center of the right-of-way line of Second Street North to the center of the right-of-way line of 11th Avenue North; thence south along the center of the right-of-way line of 11th Avenue North and continuing south along the center of the right-of-way line of 11th Avenue South to the center of the right-of-way line of Second Street South and continuing south to the center of the right-of-way line of T.H. 52 and 23; thence easterly along the center of the right-of-way line of T.H. 52 and 23 to the point of beginning.

Subd. 2. Definitions. For the purpose of this subsection, the following words, terms and abbreviations will have the meaning set out below, unless the context specifically indicates otherwise.

(a) "Gross Square Footage": The total square footage of the horizontal areas of the floors of the building (including but not limited to usable basements, closets, storage and mechanical rooms, mezzanines, bathrooms, common corridors and areas, and hallways), measured from the exterior faces of the exterior walls.

(b) "Hotel/Motel Unit": A building occupied as a temporary abiding place of individuals who are lodged with or without meals in which there are more than ten sleeping rooms usually occupied singly and no provisions made for cooking in any individual room or apartment.

(c) "Residential Dwelling Unit": One or more rooms in a building or portion thereof, designed or used exclusively for residential occupancy, designed for occupancy by one family for living purposes and having its own permanently installed kitchen and bathroom facilities.

(d) "Family": Persons living together on the premises in a single dwelling unit under one of the following conditions:

1. Four or fewer unrelated persons, or
2. Any number of persons related by blood or marriage, or
3. Any number of persons related by blood or marriage and two unrelated persons.

(e) "Lodging House Dwelling Unit": Each sleeping room in a structure where only sleeping rooms are provided, with a common entrance, internal access to all rooms (except as stated below), one or more bathrooms, and one or more kitchens to provide lodging for five or more persons in contradistinction to residential dwelling units and motels/hotels open to transients. Bathrooms and bedrooms may have locks on the doors.

(f) "Distance Benefit Factor": The distance from the closest property line to the nearest public parking lot or ramp as follows: 1.00 = within 300 lineal feet, 1.00 = 301 to 600 lineal feet, 1.00 = 601 to 900 lineal feet, 1.00 - 901 or more lineal feet.

(g) "Parking Demand Factor": Total parking demand created by land or space use type will be as follows: Office/Service = .0017/gross square foot, Public = .0007/gross square foot, Retail = .0025/gross square foot, Transportation = .0025/gross square foot, Vacant = .0007/gross square foot, Hotel/Motel = .7/hotel/motel unit, Residential = .4/residential dwelling unit or lodging house dwelling unit, Non-profit Property Ownership = .0007/gross square foot.

(h) "Storage Space": The gross square footage of a space which is designed or is used to provide storage service capabilities to one or more space uses.

(i) "Space Use, Office/Service": The use of property or a building for the primary purpose of providing administrative, clerical or professional activities or functions or for providing repair, maintenance or incidental service for a person or tangible product.

(j) "Space Use, Public": The use of property or a building for a function or services provided by a unit of government including but not limited to: non-office related governmental facilities (i.e. library, jail, law enforcement, civic, convention, courthouse, fire station, and similar uses), public and non-profit elementary, junior high and senior high schools, and churches.

(k) "Space Use, Retail": The use of property or a building for the primary purpose of selling a tangible product to a consumer.

(l) "Space Use, Transportation": The use of property or a building for the primary purpose of providing a means of conveyance or travel from one place to another.

(m) "Space Use, Vacant": A property or building which is designed to be but is not occupied, is without content, without work or activity, is not lived in, nor put to any use. Space used for or that is designed for other uses for storage purposes does not constitute vacant.

(n) "Space Use, Dwelling": The use of a property or building for the primary purpose of providing more or less permanent living accommodations or lodging.

(o) "Space Use, Non-profit Property Ownership": A property or building which is occupied by and owned by an entity certified under Title 26 of the USCS, Sections 501c(3) or 501c(4).

(p) "Common Areas": Those areas which are a common amenity to one or more occupants of an area, including but not limited to bathrooms, hallways, corridors, stairways, fire escapes, lobbies, closets, and storage spaces.

(q) "Parking Demand": Gross square footage of the applicable space use times (x) parking demand factor for the applicable space use times (x) the applicable distance benefit factor.

(r) "Net Parking Demand": Parking demand less private parking provided through property

ownership or a minimum one-year property lease which is located within 150 lineal feet of the nearest special service district boundary line.

(s) "Total Net Parking Demand": The sum of the net parking demand for all properties located within the special service district.

(t) "Special Service Fee": Net parking demand divided by total net parking demand times the total service fee, as established by resolution, for the special service district.

(u) "Parking Space": A land area of such shape and dimensions and so prepared as to be usable for the parking of a motor vehicle and so located as to be readily accessible to a public street or alley and so constructed as to meet the requirements of Article 6, Sections 2.1, 2.3, 2.4, 2.7, 2.8, and 2.9 of the Zoning Ordinance for the City of St. Cloud.

Subd. 3. Service Charge Imposition. Service charges will be imposed by resolution as provided for in Laws of Minnesota 1985 Chapter 301, as amended by Laws of Minnesota 1989 Chapter 210.

Subd. 4. Service Charge Collection. Service charges, established by the City Council by resolution in accordance with Laws of Minnesota 1985 Chapter 301, as amended in Laws of Minnesota 1989 Chapter 210, are due and payable on July 1 of each year. The Finance Director will annually compute the service fee due the City and render a statement on an annual basis, to the owner of property within the service district.

Subd. 5. Charges a Lien. Each service fee levied pursuant to this section and by resolution of the City Council, in accordance with Laws of Minnesota 1985 Chapter 301, as amended by Laws of Minnesota 1989 Chapter 210, will be a lien against the property, and all such charges due on September 30 of each year, more than 30 days past due, and having been properly mailed to the owner of the property, will be certified by the City Clerk to the County Auditor between the first and tenth day of October of each year. The City Clerk in certifying late service fees to the County Auditor, will specify the amount of the lien, the description of the property and the name of the property owner. The amount certified will be extended upon the tax rolls against such premises in the same manner as other taxes, and collected by the County Treasurer and paid to the City, along with other taxes.

Subd. 6. Space Use Status Appeal for Special Service District. Each property owner may appeal the space use status for that year by filing with the City Clerk, no later than May 15, an objection to the stated space use status and requesting an opportunity to provide evidence substantiating a change in the space use status to the Downtown Public Facilities Commission. The Downtown Public Facilities Commission will hear such appeal(s) and make substantiated space use status changes no later than July 1 of each year. Property owner(s) may appeal the decision of the Downtown Public Facilities Commission regarding space use status to the City Council by filing a request to appeal the decision with the City Clerk no later than July 15 of the respective year. Upon receipt of the request to appeal the decision of the Downtown Public Facilities

Commission, the City Council, if it determines appropriate, will hold a public hearing on the appeal and will establish the space use status for the property no later than September 1 of the respective year.

Section 760 - Snowmobiles

Section 760:00. Definitions.

Subd. 1. "Snowmobile" means a self-propelled vehicle designed for travel on snow or ice or natural terrain steered by wheels, skis or runners.

Subd.2. "Owner" means a person, other than a lien holder having a property interest in or title to the snowmobile and who is entitled to the use or possession of the snowmobile.

Subd. 3. "Operate" means to ride in or on and control the operation of a snowmobile.

Subd. 4. "Operator" means every person who operates or is in actual physical control of a snowmobile.

Subd. 5. "Roadway" means all that portion of a highway improved, designed or ordinarily used for vehicular travel.

Subd. 6. "Street" or "Highway" means the entire width between the boundary lines of way or place when any part thereof is open to the use of the public in the City, as a matter of right, for the purpose of vehicular traffic.

Section 760:05. Purpose.

Snowmobiles are primarily used for recreational purposes in off-road locations. As the City becomes increasingly urbanized the operation of snowmobiles within the corporate limits is less compatible with community needs. Individuals have a right to expect snowmobile operators to respect property rights. Public facilities and grounds, although snow covered are susceptible to damage by snowmobiles. Operation of snowmobiles at inappropriate times can negatively impact the peace and tranquility of our neighborhoods. Operation of snowmobiles on and adjacent to public streets and sidewalks creates safety risks for all users of those facilities. Snowmobile mobility presents a difficult enforcement problem for law enforcement officers who patrol primarily in automobiles. The registered owners of snowmobiles need to assume a part of the responsibility when those machines are operated inappropriately. Snowmobiles are great recreational vehicles when operated at appropriate locations and can serve a valuable purpose in emergency situations. Such use should continue. The State of Minnesota regulates the operation of snowmobiles in Chapter 84 of our State law starting at Section 84.81. All snowmobilers need to operate their machines in accordance with those laws. Additionally, Section 84.87 authorizes Cities to adopt additional regulations that are effective within the City limits. The City of St. Cloud has decided that it is in the best interest of the City to limit the operation of snowmobiles. The sections, which follow, establish those limitations.

Section 760:10 Permitted Areas Of Operation.

Subd. 1. Snowmobiles may be operated on the following roads and locations in the City.

- (a) Ditches of State Highways and County Roads in the manner allowed by State law and County Ordinance.
- (b) Private property owned by the snowmobile operator.
- (c) On private property not owned by snowmobile operator, with the written or spoken permission of the landowner.
- (d) In designated snowmobile trail access and service areas. The designated areas are:
 - i. The vehicle parking lot located in Pineview Park.
 - ii. From the northern right-of-way line of 41st Street South to the southern right-of-way line of 43rd Street South between the east right-of-way line of Clearwater Road and County Road 75.
- (e) On groomed and signed snowmobile trails as designated by the State & County Snowmobile Trail Maps.

Section 760:15 Prohibited Areas of Operation.

Subd. 1. No snowmobile may be operated in any of the following locations.

- (a) Public sidewalks.
- (b) City streets and alleys.
- (c) Boulevards within any public right-of-way.
- (d) Private property of another without the written or spoken permission of the landowner.
- (e) Any trails, walk paths, bike paths.
- (f) Within any ponding basins.
- (g) Within any City park.
- (h) All school property.
- (i) All City property.
- (j) Lake George.
- (k) Mississippi River.
- (l) Sauk River.

Section 760:20. Unlawful Acts. It is unlawful for any person to operate a snowmobile within the limits of the City of St. Cloud.

Subd. 1. At a rate of speed greater than reasonable or proper under all surrounding circumstances; and, with the exception of State or grant-in-aid snowmobile trails, in no case greater than 20 miles per hour.

Subd. 2. At any place in a careless, reckless or negligent manner or heedlessly in disregard of the rights or safety of others or in a manner so as to endanger or be likely to endanger or cause injury or damage to any person or property.

Subd. 3. During the hours from 10:00 p.m. to 7:00 a.m. of any day on any street or closer than one hundred feet to any dwelling which is usually occupied by one or more persons;

Subd. 4. So as to tow any person or thing in a public street or highway except through use of a rigid tow bar attached to the rear of the snowmobile;

Subd. 5. Within 100 feet of any fisherman, pedestrian, skating rink or sliding area where the operation would conflict with use or endanger other persons or property.

Section 760:25. Single File. Snowmobiles will operate in single file when traveling in groups of two or more.

Section 760:30. Equipment. No person will operate a snowmobile any place within the limits of the City unless it is equipped as required in the following subdivisions:

Subd.1. Standard mufflers which are properly attached and which reduce the noise of operation of the motor to the minimum necessary for operation. No person will use a muffler cutout, by-pass, straight pipe or similar device on a snowmobile motor.

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

Subd. 3. A safety or so-called "dead-man" throttle in operating condition. A safety or "dead-man" throttle is defined as a device which, when pressure is removed from the engine accelerator or throttle, causes the motor to be disengaged from the driving track.

Subd. 4. Front and rear lights as required by state law will be on at all times a snowmobile is in operation.

Subd.5. Running lights or reflective material, at least 16 inches square on each side, forward of the handlebars, so as to reflect or beam light at a ninety-degree angle.

Section 760:35. Removal of Ignition Key. Every person leaving a snowmobile on a public place will lock the ignition and remove the key.

Section 760:40. Emergency Operation. Notwithstanding any prohibitions in this ordinance, a snowmobile may be operated contrary to the regulations prescribed in this section only in a police designated emergency or by any City employees involved in performing essential services for the City, or by any on-duty law enforcement officers responsible for the enforcement of this ordinance and the laws and order of the State of Minnesota.

Section 760:45. Owners Penalty.

It is unlawful for any person who is the owner or in lawful control of a snowmobile to permit the snowmobile to be operated contrary to the provisions of this section. Violations are petty misdemeanors and are subject to fines up to \$300.

Section 780 - "Parades"

Section 780:00. Definition. "Parade" means any march or procession consisting of people, animals, or vehicles, except funeral processions, upon any public street, sidewalk or alley, which does not comply with normal and usual traffic regulations or controls.

Section 780:05. Permit Required. No person will engage in, participate in, aid, form or start any parade, unless a permit to conduct such parade has been obtained from the Chief of Police, or, as the City Council.

Section 780:10. Application For Permit.

Subd. 1. A person seeking the issuance of a parade permit will file in writing an application with the Chief of Police on forms provided. The application will be filed with the Chief of Police not less than 30 days in advance of the date of the proposed parade. The Chief of Police has the discretion to consider any application for a permit to conduct a parade which is filed less than 30 days prior to the date the parade is to be conducted.

Subd. 2. The application for a parade permit will set forth the following information:

- (a) The name of the applicant, the sponsoring organization, the parade chairman and the addresses and telephone numbers of each.
- (b) The purpose of the parade, the proposed date of the parade, the location of the assembly area, the location of the disbanding area, route to be traveled and the approximate time when the parade or motorcade will assemble, start and terminate.
- (c) A description of the individual floats, marching units, vehicles, bands, including a description of any sound amplification equipment to be used.
- (d) Such other information as the Chief of Police may deem reasonably necessary.

Section 780:20. Permit Issuance or Denial. The Chief of Police may deny the application for a permit if the Chief of Police finds any of the following:

- (a) The conduct of the parade will substantially interrupt the safe and orderly movement of other traffic contiguous to its route.
- (b) The conduct of the parade would require the diversion of so great a number of police officers of the City to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the City.

- (c) The Chief of Police makes a finding that the cost to the City to provide an adequate number of police personnel to maintain order and safety within the City is prohibitive or beyond the City's ability to sustain.
- (d) The concentration of persons, animals and vehicles at assembly points of the parade will unduly interfere with proper fire and police protection of, or ambulance service to areas contiguous to such assembly areas.
- (e) The conduct of such parade will interfere with the movement of fire fighting equipment enroute to a fire.
- (f) The parade is not scheduled to move from its point of origin and to its point of termination expeditiously and without unreasonable delays enroute.
- (g) The parade is to be held for the sole purpose of advertising any produce or goods and is designed to be held purely for private profit.
- (h) The Chief of Police makes any finding contrary to the findings required to be made for the issuance of a permit.
- (i) The information contained in the application is found to be false or nonexistent in any material detail.
- (j) The applicant refused to agree or abide by or comply with all conditions of the permit.

Section 780:30. Time for Action on Application; Notice of Denial. The Chief of Police will act upon the application for a parade permit within five business days. If the Chief of Police disapproves the application, notice will be delivered or mailed to the applicant, within five business days, after the date upon which the application was filed. The notice will state the reasons for the denial of the permit.

Section 780:40. Appeal Procedure. Upon a denial by the Chief of Police of a permit application the applicant may appeal from the determination within five days to the City Council by filing a written notice of appeal for hearing by the City Council at its next meeting. Upon appeal, the City Council may reverse, affirm, or modify in any regard the determination of the Chief of Police. In the event an application is not filed within the required time the applicant may request a waiver of the time requirement by the City Council at its next regular meeting, or at a special meeting which may be called by the City Council to consider the matter. If it finds unusual circumstances the City Council may waive the time requirement.

Section 780:50. Revocation of Permit. Any permit for a parade issued pursuant to this section may be summarily revoked by at any time when by reason of disaster, public calamity, riot or other emergency, the Chief of Police determines that the safety of the public or property requires such revocation. Notice of such action revoking a permit will be delivered in writing to the permittee by personal service or by certified mail.

CHAPTER VIII

Section 800 - 3.2 Percent Malt Liquor

Section 800:00. Provisions of State Law Adopted. The provisions of Minnesota Statutes, Section 340A.101, relating to the definition of terms, are adopted and made a part of this ordinance as if set out in full.

Section 800.01. Other Definitions.

Subd. 1. Liquor Service Manager. "Liquor Service Manager" is the person responsible for overseeing the daily operations of the establishment and for compliance with State and local laws

Subd. 2. Local Contact. "Local Contact" is the person(s) required to be on the premises of the establishment daily, who is familiar with daily operations, and who is available for contact by city officials and law enforcement in emergency and non-emergency situations.

Section 800:05. License Required.

Subd. 1. No person, except wholesalers and manufacturers to the extent authorized by law, will deal in or dispose of by gift, sale, or otherwise, or keep or offer for sale, any 3.2 percent malt liquor within the City without first having received a license as provided by this ordinance. Licenses will be of three kinds:

- (a) "On-Sale"
- (b) "Off-Sale"
- (c) "Temporary On-Sale".

Subd. 2. On-Sale License. "On-Sale" license will be granted only to bona fide clubs, establishments for sale of 3.2 percent malt liquor at retail, restaurants, including restaurants operated in the place of manufacture of a brewer licensed pursuant to Minn. Stat. §340A.301, subd. 1., and hotels. "On-Sale" licenses will permit the sale of 3.2 percent malt liquor for consumption on the premises only.

Subd. 3. Off-Sale License. "Off-Sale" licenses will permit the sale of 3.2 percent malt liquor at retail, in the original package, for consumption off the premises only.

Subd. 4. Manufacturer. A manufacturer of 3.2 percent malt liquor may sell such liquor without a license to licensed dealers holding either "On-Sale" or "Off-Sale" licenses, and may sell and deliver 3.2 percent malt liquor, in quantities of not less than two gallons, direct to consumers at their homes. Such manufacturer or any affiliated or subsidiary company will not sell 3.2 percent malt liquor except as prescribed in this ordinance. An affiliated or subsidiary company will be one in which such manufacturer or its stockholders own a majority of the stock.

Subd. 5. Temporary On-Sale. "Temporary On-Sale" will permit the sale of 3.2 percent malt liquor for consumption at a designated premises only under the auspices or sponsorship of a non-profit organization. A temporary license for consumption on the campus of St. Cloud State University will be issued only for those places designated by the University.

Section 800:07. Licensed Premises. "Licensed premises" is the premises described in the approved license application. In the case of a restaurant, club, or exclusive liquor store licensed for on-sales of alcoholic beverages and located on a golf course, "licensed premises" means the entire golf course except for areas where motor vehicles are regularly parked or operated.

Section 800:10. Application Form. Any person desiring to sell 3.2 percent malt liquors will make application in writing, in duplicate, to the City Clerk, on a form supplied by the City and containing such information as the Clerk or the City Council may require.

Section 800:15. Procedure. The application will be signed and verified by the applicant, and if the applicant is a corporation, then by an officer of the corporation before a notary public or other officer authorized to administer oaths. No application will be considered unless accompanied by a receipt showing the full payment of the license fee. The fee will be returned if the license is denied. Upon the filing of an application for a license, together with the instruments required to accompany the license, the City Clerk will immediately deliver the application to the Mayor's Office. A copy of the application will be immediately forwarded to the Police Chief who will immediately investigate all information material to the application. Upon the completion of the investigation, the Police Chief will submit in writing to the Mayor's Office complete findings and recommendations. The Mayor will then submit the application to the Council along with the Chief's report of the investigation.

Section 800:20. False Statement. Any person who willfully makes any false statement in an application for a license, or who willfully deceives, or attempt to deceive, the Council or any City officer on City business by any statement or answer made in connection with an investigation or application will be held in violation of the provisions of this ordinance.

Section 800:25. Renewal Or Transfer. Applications for the renewal of licenses will be filed with the City Clerk on or before June 1st of each year preceding the expiration of the current license. Any person applying for this first license desiring to transfer a license from one location to another will make application not less than two weeks prior to the regular Council meeting at which the application will be considered. Temporary On-Sale licenses will not be renewable and not more than three Temporary On-Sale licenses may be issued to any one club, charitable, religious, or educational nonprofit organization during any twelve month period. However, Temporary On-Sale licenses may be issued on successive days provided that not more than three temporary licenses be issued to the same organization or group during any twelve month period.

Section 800:30. License Fees. Each application for a license will be accompanied by a receipt of the City Clerk showing payment in full of the prescribed annual fee.

Section 800:35. Date of Expiration. All licenses will expire on the last day of June of each year. Any person desiring a license for the succeeding year will make application therefore not later than the first day of June. A Temporary On-Sale license will be issued for one day only and will expire at 12:00 midnight of the day for which issued.

Section 800:40. Granting of License.

Subd. 1. Review Procedure. The City Clerk will immediately after filing deliver the license application to the Mayor, together with documents required to accompany the license.

- (a) The City Clerk will forward a copy of the application and accompanying documents to the Planning Director, Health Department, Police Chief, and City Attorney.
- (b) The Planning Director will review the application and any other pertinent information relative to zoning, land use compatibility, and comprehensive planning.
- (c) The Police Chief will make or cause to be made a review of the application to determine the potential impact of law enforcement. The Police Chief will also make or cause to be made an investigation of the applicant's character and criminal history.
- (d) The Health Department will review all license applications where the service of food is a requirement of the license. The Health Department will confirm that all persons applying for a license where service of food is a requirement are in fact a locally licensed food establishment. The Health Department will also confirm that the premises for which the license is to be issued meets all other requirements of this code and State Statutes relating to the handling and service of food and the designation as a restaurant, hotel, or club. The City Attorney will review the application for compliance with all applicable statutes and ordinances.

Subd. 2. Submission of findings and Recommendations. Within 60 days of receipt of the application, the Police Chief, Planning Director, Health Department and City Attorney will submit in writing to the Clerk their respective findings and recommendations. The Clerk will immediately submit the application, including preliminary plans, if any, to the Mayor with the reports and recommendations of the Police Chief, the Planning Director, the Health Department, and the City Attorney with respect to the granting or denying of the application. The Mayor will immediately submit the application and preliminary plans, if any, to the City Council.

Subd. 3. License Restrictions; Transfers. Each license will be issued to the applicant only. Each license will be issued only for the premises described in the application. No license may be transferred to another person or place without prior City Council approval. Any person desiring to transfer a license from one location to another will make application not less than two weeks prior to the regular Council meeting at

which the application will be considered. Changes in corporate directors and officers must be reported within 30 days to the City Clerk. Any transfer of stock of a corporate licensee which constitutes a transfer of more than ten percent (10%) of that corporation's outstanding stock is deemed a transfer of the license. A license transfer may not be made without prior Council approval.

Subd. 4. Review and Investigation Fee.

- (a) At the time of each original application for a license or at the time of any application for the transfer of an existing license, the applicant will pay in full a review and investigation fee. If the review and investigation is conducted solely within the State of Minnesota, the fee will be set forth in Section 510 of this Code.
- (b) Should the City Council find that an investigation is required outside the State of Minnesota, the fee will be that established for the same class of in-State review and investigation in addition to which will be added actual costs of review and investigation exceeding the in-State fee. For investigation outside of the State of Minnesota, the portion of the fee determined by the in-State schedule will be paid at the time of the original application; any fee due in excess of that amount must be paid prior to the license hearing and before the City Council considers the application.
- (c) Where a new application is filed as a result of incorporation by an existing licensee and the ownership control and interest in the license are unchanged, no additional license fee will be required.
- (d) Review and investigation fees will not be refunded.

Subd. 4. Temporary On-Sale License Review. Temporary On-Sale licenses may be issued by the City Clerk without approval by the City Council provided that applications for Temporary On-Sale licenses are reviewed by the Chief of Police in accordance with Section 800:15. The report of the Chief of Police will only be forwarded to the City Clerk

Subd. 5. Proof of Financial Responsibility. At the time of filing of the application for a license under this ordinance, proof of financial responsibility with regard to liability imposed by Minnesota Statutes §340A.409 must be furnished to the municipality. The municipality must submit to the Commissioner of Public Safety the applicant's proof of financial responsibility prior to the license being granted. Proof of financial responsibility will be provided as follows:

- (a) A certificate that there is in effect for the license period an insurance policy or pool providing at least \$50,000 of coverage because of bodily injury to any one person in any one occurrence, \$100,000 because of bodily injury to two or more persons in any one occurrence, \$10,000 because of injury to or destruction of property of others in any one occurrence, \$50,000 for loss of means of support of any one person in any one occurrence, and \$100,000 for loss of means of

support of two or more persons in any one occurrence; or

- (b) A bond of a surety company with minimum coverages as provided in clause (1); or;
- (c) A certificate of the State Treasurer that the license has deposited with the State Treasurer \$100,000 in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of \$100,000.

Subd. 5. The requirements do not apply to licensees who by affidavit establish that (a) they are on-sale 3.2 percent malt liquor licensees with sales of less than \$10,000 of 3.2 percent malt liquor for the preceding year; or (b) they are off-sale 3.2 percent malt liquor licensees with sales of less than \$20,000 of 3.2 percent malt liquor for the preceding year.

Section 800:45. Persons Ineligible For License. No license will be granted to or held by any person included in the subdivisions which follow.

Subd. 1. Age. Persons under the age of 21.

Subd. 2. Convicted of Crime. Person who within a period of five years immediately prior to the filing of an application have been convicted of a felony or of a violation of any law of this State or of any ordinance of a city or the State relating to the sale of 3.2 percent malt liquor or of intoxicating liquors.

Subd. 3. Manufacturer or Wholesaler. Persons who are a manufacturer or wholesaler of 3.2 percent malt liquor, or who is interested in the control of any place where 3.2 percent malt liquor is manufactured.

Subd. 4. Citizen or Resident Alien. Persons who are not a citizens of the United States, or a resident alien.

Subd. 5. Good Character. Persons who are not of good moral character.

Subd. 6. Holder, Federal Stamp. Persons who are or during the period of licensure become, the holder of a Federal retail liquor dealer's special tax stamp for the sale of intoxicating malt liquor at any place, unless a local license was also issued to sell intoxicating malt liquor at such place.

Subd. 7. Not the Proprietor. Persons who are not the proprietor of the establishment for which the license is issued.

Subd. 8. No Other Establishment For "On-Sale". Persons directly or indirectly interested in any other establishment in the municipality to which an "On-Sale" license has been issued under the ordinance.

Subd. 9. Limitation on Ownership Interest by Brewer. A brewer may not be granted an "on-sale" license unless the brewer's ownership interest in any other manufacturer, brewer, importer or wholesaler of 3.2 percent malt liquor meets the requirements of Minn. Stat. §340A.301, subd. 7(b).

Section 800:48. Proximity to schools, churches, residentially zoned property and the St. Germain Street Business District.

Subd. 1. Prohibition. No on-sale beer license will be issued for any building, room or place within:

- (a) 300 feet from any building that is used primarily and regularly for any public or parochial schools, or used primarily and regularly for any church.
- (b) 300 feet of any residentially zoned property.
- (c) The St. Germain Street business district. For purposes of Section 810:28 the St. Germain Street business district will be defined as follows: A corridor with a width extending 150 feet north and south of the St. Germain Street right-of-way and a length commencing at the Mississippi River on the East end and proceeding to the intersection with 12th Avenue North on the West end. All distances will be measured in a straight line from the building in which such school or church is conducted or from the nearest boundary of the residentially zoned property or the St. Germain Street business district to the main public entrance of the premises for which license is sought.

Subd. 2. Exceptions. Section 800:48 Subd. 1 will not apply when:

- (a) The premises for which the on-sale beer license is sought is a restaurant which will meet a minimum food service requirement as follows:
 - (1) Be under the control of a Liquor Service Manager.
 - (2) Have suitable kitchen facilities including a stove or re-thermalizing equipment, refrigerator, worktable, dishwashing and utensil-washing sink with sanitizing heater. The equipment and premises will meet the provisions of all food and health codes.
 - (3) Have facilities for seating not fewer than 50 guests at one time at tables.
 - (4) Provide food service consisting of no less than four entrees

and a choice of non-alcoholic beverages. Pre-packaged foods will not be included in the enumerated required food items.

- (5) Employ an adequate staff to provide the usual and suitable table service to its guests.
- (6) Provide food service during a substantial portion of the operating hours of the establishment.
- (7) Have gross sales revenue during each fiscal year from the sale of food and beverages not containing alcohol in an amount of not less than 60 percent of its total gross revenue from the sale of food and beverages.
- (8) Not display any sign advertising any alcoholic beverage on the exterior of the building nor in the windows of the building nor on any portable sign. Interior advertising will be limited to signs directed primarily to patrons within the establishment.

(b) The premises is currently licensed as an on-sale beer establishment with a validly issued license, operating and in existence on the date of passage of this ordinance. It is the intent of this ordinance that the prohibitions found in Section 800:48 will not apply to existing businesses, operating in the location licensed on the date of passage of this ordinance. Those businesses may continue to operate as they have. In such case the license may be renewed or transferred to, or an application for new ownership granted, for such premises if all other provisions of Section 810 of this Code can be complied with.

(c) The license sought is a temporary license issued pursuant to Section 800:05, Subd. 5 of this Code.

Subd. 3. Records. The business records of the licensee, including federal and state tax returns, will be available for inspection by duly authorized representatives of the City at all reasonable times.

Section 800:50. Conditions of License.

Subd. 1. Every license will be granted subject to the conditions specified in the following subdivisions and all other provisions of this ordinance and the provisions of any other applicable ordinance or of State law;

Subd. 2. License Posted. The license will be posted in a conspicuous place on the licensed premises at all times.

Subd. 3. Licensee Responsible for Conduct. Every licensee will be responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to serve or sell 3.2 percent malt liquor is deemed the act of the licensee as well and the licensee is liable to all penalties provided by this ordinance equally with the employee.

Subd. 4. Employing Minors. Persons under 18 years of age may not serve or sell 3.2 percent malt liquor in a licensed 3.2 percent malt liquor or intoxicating liquor establishment.

Subd. 5. Slot Machines and Gambling Devices. Licensees will not keep, possess or operate or permit the keeping, possession, or operation of slot machines, or a gambling device or apparatus on the licensed premises or any room adjoining the licensed premises under control. However, gambling devices may be kept or operated and raffles conducted on licensed premises or any room adjoining the licensed premises under the licensees control where the gambling device or raffle is licensed pursuant to the laws of the State of Minnesota. This subdivision does not apply to dice kept or used on the premises for purposes permitted under Minnesota Statutes Sections 340A.410, Subd. 5 and 609.761, Subd. 4.

Subd. 6. Owner of Equipment. Equipment or fixture in any licensed place will not be owned in whole or in part by any wholesaler, manufacturer, or distiller of 3.2 percent malt liquor;

Subd. 7. Display of Intoxicating Liquor.

- (a) A person holding a license to sell 3.2 percent malt liquor who does not also hold a license to sell intoxicating liquor, will not sell or permit the consumption or display of intoxicating liquor on the premises, or serve any liquids for the purpose of mixing the same with intoxicating liquor. The presence of intoxicating liquors on the premises of such licensee will be prima facie evidence of possession of intoxicating liquors for the purpose of sale and the serving of any liquid for the purpose of mixing the same with intoxicating liquors will be prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to this ordinance.
- (b) A person holding a license to sell 3.2 percent malt liquor and a permit issued by the State Liquor Control Commissioner, pursuant to Minnesota Statutes Annotated, Chapter 735, to operate a bottle club, but who does not have a license to sell intoxicating liquor, may display intoxicating liquors and permit their consumption on the premises, in the manner permitted by State statute. In no event may intoxicated liquor be sold on the premises.

Subd. 8. City Officials Right to Enter. Any Police Officer, Health Officer, or properly designated officer of the City has the unqualified right to enter, inspect, and search the premises of the licensee during business hours without a search warrant and any Police Officer has the right to seize all gambling devices found on the

licensed premises.

Subd. 9. Ethyl Alcohol or Neutral Spirits. No "On-Sale" establishment will keep ethyl alcohol or neutral spirits on the licensed premises or permit their use on the premises either alone or mixed with any other beverage.

Subd. 10. Local Contact Required to be On Premises. A designated Local Contact will be present on the licensed premises. At the time of the application for a license, the applicant will designate a maximum of three individuals as Local Contacts of the licensed premises. No other persons may be designated as a Local Contact without the prior approval of the City Council. Each designated Local Contact is subject to the requirements of Section 800:45.

Subd. 11. Persons who have not been trained under a training program approved by the City Clerk for the current licensing year may not serve or sell 3.2 percent malt liquor in a licensed 3.2 percent malt liquor establishment. An exception is made for persons currently participating in a training program when they are under the direct supervision and accompanied by a person who is already certified as trained. The license holder must maintain a list on the licensed premises of those persons who have been trained as required by this subdivision together with the date that training was completed. The list must be certified by the license holder and in the case of a corporation or club, an officer of that entity. The list will immediately be made available upon the request of a law enforcement officer or other city official.

History: Ord. 2349 4-2-07.

Section 800:55. Hours of Operation. 3.2 percent malt liquor will not be sold on Sunday between 2:00 a.m. and 12:00 noon nor between the hours of 2:00 a.m. and 8:00 a.m. on any week day Monday through Saturday inclusive. Licensees, employees, and agents of any licensee, will not serve, dispense, or in any manner furnish 3.2 percent malt liquor; nor permit the consumption of any 3.2 percent malt liquor; nor permit the presence of any open bottle or open receptacle containing 3.2 percent malt liquor on the licensed premises on Sunday between 2:30 a.m. and 12:00 noon, nor between the hours of 2:30 a.m. and 8:00 a.m. on any week day Monday through Saturday inclusive.

Section 800:60. Physical Facilities.

Subd. 1. Partitions or Screens. There will be no partition, box, stall, screen, curtain, or other device which will obstruct a view of any part of the room, except that partition, subdivision, or panels not higher than 48 inches from the floor may be maintained.

Subd. 2. Toilet Facilities. Every "On-Sale" licensee will maintain upon the licensed premises for which the license is issued public toilets conveniently located and of easy access for the accommodations of its customers. The toilets will conform to the City's building code and will be maintained at all times in conformance with municipal ordinances and State laws. Separate toilets will be provided for each sex and will be properly designated.

Section 800:65. Clubs. Licensed club will sell 3.2 percent malt liquor except to members and to guests in the company of members.

Section 800:70. Restrictions on Purchase or Consumption.

Subd. 1. Mix or Prepare Liquor. No person will mix or prepare liquor for consumption in any public place of business not licensed to sell liquor "On-Sale" and no person will consume liquor in any such place except as permitted by this ordinance.

Subd. 2. Samples Authorized. Off-sale licenses and municipal liquor stores may provide samples of malt liquor which the licensee or municipal liquor store currently has in stock and is offering for sale to the general public without obtaining an additional license, provided the samples are dispensed at no charge and consumed on the licensed premises during the permitted hours of off-sale in a quantity less than 100 milliliters of malt liquor per variety per customer.

Section 800:75. Suspension or Revocation of License; Civil Penalty.

Subd. 1. Notice of Violation. The Police Chief will report, in writing, any violation of the provisions of this section or Minnesota Statutes Chapter 340A committed in the operation of the licensee's business, to the City Attorney's Office, giving all facts and circumstances known. If the City Attorney's Office determines from the facts and circumstances known to it, that the violation may warrant a suspension or revocation of the licenses held by the licensee, it will fix a time and place for a hearing sufficiently in advance to enable ten days written notice of the time, place and purpose of such hearing. The City Attorney's Office will then report to the Council at its next regularly scheduled meeting that a hearing has been scheduled on an alleged violation at the licensed premises.

Subd. 2. Hearing on Alleged Violation. The hearing will be held before an independent hearing examiner. At the time of the hearing, the licensee may appear and present any evidence which is material to the investigation. The hearing officer will make a finding of facts as to whether a violation of the provisions of this section or Minnesota Statutes Chapter 340A has been committed in the operation of the licensee's business and whether the violation was willful in nature. The hearing officer will also make a recommendation of what penalty, if any, will be applied. The Council will adopt the hearing officer's findings of fact that the licensee is guilty of a violation of any of the provisions of this ordinance or State law, and may impose a civil penalty of up to \$2,000 for each violation, suspend the license for up to 60days, revoke the license, or impose any combination of these sanctions, subject to the provisions of the presumptive penalties set forth in Section 800:80. In the event of suspension, the Council will also suspend any licenses held by the licensee under the intoxicating liquor ordinance, and in the event of a revocation, the Council will also revoke any licenses held by the licensee under the intoxicating liquor ordinance. The licensee will be given notice in writing of any such action by the City Attorney's Office.

A 3.2 percent malt liquor or intoxicating liquor license will not be renewed or reissued to any licensee who has not paid to the City the full amount of any civil penalty previously imposed by the City against the licensee under this section.

Subd. 3. Temporary On-Sale License Violations. In the event that any holder of a Temporary On-Sale license violates any of the provisions of this ordinance, the City Clerk may refuse to issue an organization, group or individual a subsequent license. In the event of such refusal, the aggrieved party may petition the City Council for a hearing in order to present any evidence which the aggrieved party deems material to the refusal.

Section 800:80. Penalties for Violations. Upon a finding by the City Council that a violation of this section or Minnesota Statutes Chapter 340A has occurred, the Council will, at a minimum, apply the following adverse penalties:

- 1) For a first violation within a 18 month time period a \$750.00 civil penalty.
- 2) For a second violation within a 18 month time period a \$1,500.00 civil penalty.
- 3) For a third violation within a 18 month time period.....a 7 day license suspension.
The City will notify the establishment's insurance company of the license suspension.
- 4) For a fourth violation within a 18 month time period..... a revocation of license.
The City will notify the establishment's insurance company of the license suspension.

History: Ord. 2349 4-2-07. Section 810:85 entitled "Penalty; Training Program" repealed by Ord. 2349 4-2-07.

Section 810 - Intoxicating Liquor

Section 810:00. Provisions of State Law Adopted. The provisions of Minnesota Statutes, Chapter 340A, relating to the definition of terms, are adopted and made a part of this ordinance as if set out in full.

Section 810.01. Definitions.

Subd 1. Licensed Premises. "Licensed Premises is the premises described in the approval license application. In the case of a restaurant, club, or exclusive liquor store licensed for on-sales of alcoholic beverages and located on a golf course, "licensed premises" means the entire golf course except for areas where motor vehicles are regularly parked or operated.

Subd. 2. Liquor Service Manager. "Liquor Service Manager" is the person responsible for overseeing the daily operations of the establishment and for compliance with State and local laws

Subd. 3. Local Contact. "Local Contact" is the person(s) required to be on the premises of the establishment daily, who is familiar with daily operations, and who is available for contact by city officials and law enforcement in emergency and non-emergency situations.

Section 810:05. Licenses.

Subd. 1. License Required. No person, except wholesalers will directly or indirectly deal in, sell, or keep for sale any intoxicating liquor without first having received a license to do so as provided in this ordinance.

Subd. 2. On-Sale Licenses. "On-Sale licenses will be issued only to hotels, restaurants, including restaurants operated in the place of manufacture of a brewer licensed pursuant to Minn. Stat. §340A.301, subd. 1, exclusive liquor stores, and clubs, and will permit "on-sales" of liquor only. The number of licenses issued pursuant to this ordinance will be established from time to time by resolution of the City Council. The following classes of on-sale licenses will be used for the purposes of establishing license fees:

- Class A: Exclusive Liquor Store, On-Sale
- Class B: Hotels, On-Sale
- Class C: Restaurants, On-Sale
- Class D: Clubs, On-Sale

Subd. 3. Off-Sale Licenses. "Off-Sale" licenses will be issued only to exclusive liquor stores and drug stores; the number of licenses issued pursuant to this ordinance will be established from time to time by the City Council. The following classes of off-sale licenses will be used for the purpose of establishing license fees:

Class E: Exclusive Liquor Stores, Off-Sale

Class F: Drug Stores, Off-Sale

Subd. 4. Sunday Sales. Notwithstanding the provisions of Section 810:35 of this ordinance, any hotel, restaurant, or club as defined in this ordinance to which an on-sale license has been issued, and which has facilities for serving not less than 30 guests at one time, may serve intoxicating liquors between the hours of 10:00 a.m. on Sundays and 2:00 a.m. on Mondays in conjunction with the serving of food. Such establishment will maintain an adequate staff, including a cook whose duties will include the preparation or cooking of meals in a kitchen located on the premises, for service in the restaurant, hotel or club. It is unlawful for any such establishment, directly or indirectly, to sell or serve such intoxicating liquors without having first obtained a special Sunday license. The special Sunday license is subject to all the requirements imposed upon on-sale licenses by this ordinance and by State Statute. The following license class will be used for the purposes of establishing the license fee:

Class H: Special Sunday

Subd. 5. On-Sale Wine Licenses. "On-Sale Wine Licenses" will be issued for the sale of wine not exceeding 14 percent alcohol by volume, for consumption on the licensed premises only, in conjunction with the sale of food. An on-sale wine license may be issued only to a restaurant having facilities for seating not fewer than 25 guests at one time. The holder of an on-sale wine license who is also licensed to sell on-sale 3.2 percent malt liquors and whose gross receipts are at least 60 percent attributable to the sale of food, may sell intoxicating malt liquors at on-sale without an additional license. Licenses under this section are not valid unless first approved by the Commissioner of Public Safety. The following license class will be used for the purposes of establishing the license fee:

Class I: On-Sale Wine.

Subd. 6. Temporary On-Sale Licenses.

- (a) A club or charitable, religious or other non-profit organization in existence for at least three years may apply for and be granted a temporary license for the on-sale of intoxicating liquor in connection with a social event within the City sponsored by the licensee. The license will be issued for not more than three consecutive days, may authorize sales on premises other than those owned by the licensee and may provide that the licensee may contract for intoxicating liquor catering services with the holder of a full year on-sale intoxicating liquor license issued by the City.
- (b) Application for temporary on-sale licenses will be as follows and will not be subject to other criteria relating to application forms and procedures for licenses as set forth in Section 810:10, Subd. 1 of this Code.

- (c) All applications must be submitted to the City Clerk's office at least 60 days prior to the date of the event. The application will be provided by the City Clerk's office and will be accompanied by a non-refundable fee set forth in Section 510:00 of this Code, and proof of financial responsibility as set forth in Section 810:10, Subd. 2 of this Code.
- (d) Upon review of the application, the City Council will approve or disapprove the license in its discretion. The following license class will be used for the purposes of establishing the license fee:

Class J: Temporary On-Sale.

Subd. 7. Sidewalk Cafes.

(a) Application

Any restaurant as to which an on-sale license has been issued and to which a permit has been issued under the provisions of Section 440:27 of this Code relating to sidewalk cafes, may make application to have an area that is contiguous to the completely enclosed licensed premises included in the area licensed to permit the sale and/or consumption of intoxicating liquor in such contiguous area that is not wholly within a completely enclosed building. The restaurant which is the holder of the on-sale license must have facilities for serving not less than 30 guests at one time and must maintain an adequate staff, including a cook whose duties must include the preparation or cooking of meals in a kitchen located on the premises, for service in the restaurant. The application must be accompanied by an investigation and review fee, which is non-refundable and in addition to any other investigation fee required. An application for the same area in a succeeding year does not require an additional review and investigation fee.

(b) Description of Area

Each application pursuant to Paragraph (a) will contain a description of the unenclosed area that is proposed to be licensed and will be accompanied by a drawing of the proposed area to be licensed. The area must be the same area upon which the applicant is permitted to operate a sidewalk cafe under the provisions of Section 440:27 of this Code. The application will also include a detailed scale description of the barriers that will be used, method of seating, ingress and egress arrangements, security provisions, sanitary and fire arrangements, and lighting. The drawings must include the dimensions of the area, barriers, tables, aisles, and equipment, and must be drawn proportionately to scale.

(c) Limitations on Areas Licensed for Sidewalk Sales

Sales of liquor in sidewalk cafes is limited to the hours commencing at 10 a.m. and ending at 10 p.m. No licensee, nor the employee, nor the agent of any licensee, will serve, dispense, or in any manner furnish intoxicating liquor in a sidewalk cafe at any other time;

nor permit the presence of any open bottle or open receptacle containing intoxicating liquor in the unenclosed area within thirty minutes after the expiration of the time of any day when intoxicating liquor may be legally sold in the unenclosed area. No sales are permitted in the unenclosed area during these times and on these days if otherwise prohibited by the provisions of Section 810 of this Code.

(d) Review of Application

The application for liquor sales in a sidewalk cafe must be submitted to the Police Department, Fire Department, Planning Division, Health Department and City Attorney for review and comment before submission to the City Council. The City staff must review the suitability of the proposed unenclosed premises in light of the applicable fire, building, and life safety codes, zoning ordinances, past performance of the licensee in maintaining order in the licensed premises and obeying applicable laws, the adequacy of the proposal to provide for the safety of persons on the proposed premises, impact on the surrounding land, adequacy of lighting, appropriateness of noise level, suitability of ingress and egress arrangements including control of persons entering and leaving for purposes of preventing consumption by minors and safety of seating arrangements.

(e) Any application granted for the inclusion of unenclosed premises in the licensed premises is subject to such terms and conditions as the Council may specify in granting such application relating to the limits of such use including provisions relating to:

1. Barriers to be maintained delineating the unenclosed area such as requiring planters, walls or fences;
2. Minimum lighting requirements;
3. Type of chairs and/or tables used and/or their anchoring;
4. Personnel required to supervise the unenclosed area;
5. Items required by applicable fire, health, building and life safety codes;
6. Maximum number of persons who may be present at any one time;
7. Means and methods used to restrict consumption to licensed area and prevent removal or consumption of beverages outside licensed area;
8. The type of beverage container used;
9. Sanitary facilities provided, their location and number.

(f) Each seasonal outdoor license issued pursuant to this Subdivision 8 expires on October 15 of any year. Application for the succeeding year may be made at any time during that year.

(g) Any licensing of unenclosed premises must be deemed experimental and as such, no expectation

must be had by the licensee that the licensing of the unenclosed premises will be renewed even though no misconduct occurred on the unenclosed premises in the event the City Council determines to repeal the general authorization for unenclosed areas to be included in the licensed premises of establishments.

(h) The following class will be used for the purposes of establishing the license fee:

Class K: Seasonal Sidewalk Cafe.

Subd. 9. Seasonal Outdoor Sales.

(a) Special License Required.

The sale of liquors pursuant to any of the licenses issued in accordance with Section 810 of the Code, will be limited to the sale and consumption inside of a structure on the licensed premises, unless the licensee applies for and receives permission from the City Council for sale and consumption outside of a structure on the licensed premises as indicated by receipt of a license to operate a "Seasonal Sidewalk Cafe" (a Class K license endorsement), or a license to conduct "Seasonal Outdoor Sales" (a Class L license endorsement).

(b) Application.

Any restaurant to which an on-sale license has been issued may make application to have an area that is contiguous to the completely enclosed licensed premises included in the area licensed to permit the sale and/or consumption of intoxicating liquor in such contiguous area that is not wholly within a completely enclosed building. The contiguous area will not be part of a public street, sidewalk or other public grounds. The restaurant which is the holder of the on-sale license must have facilities for serving not less than 30 guests at one time and must maintain an adequate staff, including a cook whose duties must include the preparation or cooking of meals in a kitchen located on the premises, for service in the restaurant. The application must be accompanied by a review and investigation fee, which is non-refundable and in addition to any other investigation fee required. An application for the same area in a succeeding year does not require an additional review and investigation fee.

(c) Description of Area.

Each application pursuant to paragraph (b) will contain a description of the outdoor area that is proposed to be licensed and will be accompanied by a drawing of the proposed area to be licensed. The application will also include a detailed description of the barriers that will be used, method of seating, ingress and egress arrangements, security provisions, sanitary and fire arrangements, and lighting. The drawings must include the dimensions of the area, barriers, tables, aisles, and equipment, and must be drawn proportionately to scale.

(d) Limitations on area Licensed for Seasonal Outdoor Sales.

1. Time. Sales of liquor in the licensed area is limited to the hours commencing at 10 a.m. and ending at 2:00 a.m. licensees, employees, and agents of any licensee, will not serve, dispense or in any manner furnish intoxicating liquor in the licensed area at any other time; nor permit the presence of any open bottle or open receptacle

containing intoxicating liquor in the licensed area within 30 minutes after the expiration of the time of any day when intoxicating liquor may be legally sold. Sales are not permitted in the licensed area during these times and on these days if otherwise prohibited by the provisions of Section 810 of this Code.

2. Access. The primary access and egress will be from the main premise or structure and no other access or egress will be allowed other than those required as emergency exits.
 3. Free Passage Controlled. The premise will be defined or structurally constructed so as to prohibit the free passage of any person or substance from the licensed area.
 4. Landscaping and Screening. The licensed area and surroundings will be so landscaped or designed as to screen the enclosure from the outside.
 5. Supervision. A Liquor Service Manager will be assigned, at all times of operation, the responsibilities of supervision of the activities within the licensed area.
 6. No Live Entertainment. Live entertainment or the use of sound producing equipment in the licensed area is prohibited except upon receipt of special permit issued separately by the City. All noise will be controlled in such a manner that it remains in compliance with noise control regulations set forth in this Code.
- (e) Review of Application. The application for seasonal outdoor sales of liquor must be submitted to the Police Department, Fire Department, Planning Division, Health Department and City Attorney for review and comment before submission to the City Council. The City staff must review the suitability of the proposed licensed area in light of the applicable fire, building and life safety codes, zoning ordinances, past performance of the licensee in maintaining order and obeying applicable laws in the licensed outdoor area and in the principal licensed premises, the adequacy of the proposal to provide for the safety of persons on the proposed premises, impact on the surrounding land, adequacy of lighting, appropriateness of noise level, suitability of ingress and egress arrangements including control of persons entering and leaving for purposes of preventing consumption by minors and safety of seating arrangements.
- (f) Additional Terms and Conditions. Any application granted for the licensed area premises will be granted upon such additional terms and conditions as the Council may specify.
- (g) Expiration. Each seasonal outdoor sales license issued pursuant to this Subdivision 9 expires October 15 of any year. Application for the succeeding year may be made at any time during that year.
- (h) No Expectation of Renewal. Any licensing of premises must be deemed experimental and as such, no expectation must be had by the licensee that the licensing of the outdoor area will be renewed, even though no misconduct occurred in the outdoor area, in the event the City Council determines to repeal the general authorization for seasonal outdoor sales.

- (h) Violations Impact Principal License. Any violations of the provisions of this ordinance regulating seasonal outdoors sales, or of the State law regulating the sales of liquors which occur in the licensed area, will be considered as violations of the principal on-sale license for the premises.
- (j) License Class Established. The following class will be used for the purposes of establishing the license fee:

Class L: Seasonal Outdoor Sales

Section 810:10. Application for License.

Subd. 1. Forms and Procedure.

- (a) Forms. Any person desiring to sell intoxicating liquors under licenses as defined will make application in writing providing an original and four copies to the City Clerk. The application will be on a form provided by the City Clerk, and will include the form prescribed by the State Liquor Control Commissioner, will state the category of on-sale license applied for (hotel, restaurant, exclusive liquor store, or club), and will state the name of the applicant, his age, representations as to character, with such references as the Council may require, citizenship, the type of license applied for (on-sale, off-sale, special May Bowle, Sunday sales, temporary on-sale, on-sale wine) the business in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the business, how long the business has been at that place, and such other information as the Council may require. The application will be verified, and any person who willfully makes any false statement in an application for a license, or who willfully deceives, or attempt to deceive, the Council or any City official by any statement or answer made in connection with an investigation, will be in violation of the provisions of the ordinance.
- (b) Whenever the application for an on-sale license to sell intoxicating liquor is for premises on which new construction or the alteration of existing structures is to occur, the application will be accompanied by a set of preliminary plans showing the interior and exterior design, including site and space allocation and utilization.
- (c) The applicant will submit with the completed application form an executed release of information authorizing the Chief of Police to obtain any information pertaining to the applicant's character or criminal history which may be deemed confidential, private, or privileged by the laws of the United States or of any state.
- (d) The applicant will also submit any additional information as may be required by the Planning Director, Health Department, Police Chief, and City Attorney. Each applicant for an initial on or off-sale liquor license, a license renewal, or an applicant for a transfer of these licenses will authorize, by signed statement, the City to request from the

Minnesota Commissioner of Revenue a tax clearance certificate pursuant to M.S. Section 290.612 and 297A.431. The City Clerk will then request the certificate from the Commissioner, which will disclose and make public to the City, amounts of State tax delinquencies and instances of non-filing of tax returns. The Commissioner will not disclose to the City any amounts of tax liability where there is an administrative or court action questioning the amount or the validity of the liability or where the taxpayer's appeal period has not expired.

(e) Review Procedure.

1. Upon the filing of an application for a license, together with the documents required to accompany the license, the City Clerk will immediately deliver the application to the Mayor. The City Clerk will forward a copy of the application and accompanying documents to the Planning Director, Health Department, Police Chief, and City Attorney.
2. The Planning Director will review the application and any other pertinent information relative to zoning, land use compatibility, and comprehensive planning.
3. The Police Chief will make or cause to be made a review of the application to determine the potential impact of law enforcement. The Police Chief will also make or cause to be made an investigation of the applicant's character and criminal history.
4. The Health Department will review all license applications where service of food is a requirement of the license. The Health Department will confirm that all persons applying for a license where service of food is a requirement are in fact a locally licensed food establishment. The Health Department will also confirm that the premises for which the license is to be issued meets all other requirements of this chapter and State Statute relating to the handling and service of food and the designation as a restaurant, hotel, or club.
5. The City Attorney will review the application for compliance with all applicable statutes and ordinances.
6. Within 60 days of receipt of the application, the Police Chief, Planning Director, Health Department, and City Attorney will submit in writing to the Clerk their respective findings and recommendations. The Clerk will immediately submit the application, including preliminary plans, if any, to the Mayor with the reports and recommendations of the Police Chief, the Planning Director, the Health Department, and the City Attorney in respect to the granting or denying of the application. The Mayor will immediately submit the application and preliminary plans, if any, to the City Council.

(f) Review and Investigation Fee. At the time of each original application for a license or at the time of any application for the transfer of an existing license, the

applicant will pay in full a review and investigation fee. If the review and investigation is conducted solely within the State of Minnesota, the fee will be as set forth in Section 510 of this Code.

Should the City Council find that an investigation is required outside the State of Minnesota, the fee will be that established for the same class of in-State review and investigation in addition to which will be added actual costs of review and investigation exceeding the in-State fee. For investigations outside of the State of Minnesota, the portion of the fee determined by the in-State schedule will be paid at the time of the original application; any fee due in excess of that amount must be paid prior to the license hearing and before the City Council considers the application.

Where a new application is filed as a result of incorporation by an existing licensee and the ownership control and interest in the license are unchanged, no additional license fee will be required.

The Review and investigation fee will not be refunded.

Subd. 2. Proof of Financial Responsibility. At the time of filing of the application for a license under this ordinance, proof of financial responsibility with regard to liability imposed by Minnesota Statutes §340A.409 must be furnished to the municipality. The municipality must submit to the Commissioner of Public Safety the applicant's proof of financial responsibility prior to the license being granted. Proof of financial responsibility will be provided as follows:

- (a) A certificate that there is in effect for the license period an insurance policy or pool providing at least \$50,000 of coverage because of bodily injury to any one person in any one occurrence, \$100,000 because of bodily injury to two or more persons in any one occurrence, \$10,000 because of injury to or destruction of property of others in any one occurrence, \$50,000 for loss of means of support of any one person in any one occurrence, and \$100,000 for loss of means of support of two or more persons in any one occurrence; or
- (b) A bond of a surety company with minimum coverages as provided in clause (1); or
- (c) A certificate of the State Treasurer that the licensee has deposited with the State Treasurer \$100,000 in cash or securities which may legally be purchased by savings banks or for trust funds having a market value of \$100,000.

Proof of financial responsibility will not apply to licensees who by affidavit establish that (a) they are on-sale 3-2 malt liquor licensees with sales of less than \$10,000 of 3-2 malt liquor for the preceding year; (b) they are off-sale 3-2 malt liquor licensees with sales of less than \$20,000 of 3-2 malt liquor for the preceding year; and (c) they are holders of on-sale wine licenses with sales of less than \$10,000 for wine for the preceding year.

Subd. 3. Approval of Security. Surety bonds and liability insurance policies will be approved as to form by the City Attorney. The filing of the above described security for license is deemed sufficient for the purpose of the issuance of a "Special License for Sunday Liquor Sales", provided the terms of such security are amended to include the periods during which such licensee is operating under a "Special License for Sunday Liquor Sales".

Subd. 4. License Fees. Each application for a license will be accompanied by a receipt from the City Clerk showing payment in full of the annual fee.

Subd. 5. Date of Expiration. All licenses will expire on the last day of June of each year. Any person desiring a license for the succeeding year will make application not later than the first day of June preceding the expiration of the current license.

Section 810:12. Contents of Application. In addition to the information which may be required by the State Liquor Control Commissioner's form, the application will contain the information set forth in the subdivisions which follow.

Subd. 1. True name, place, and date of birth, and street residence address of applicant.

Subd. 2. Whether applicant is married or single. If married, true name, place and date of birth, and street residence address of applicant's spouse.

Subd. 3. Whether applicant and spouse are registered voters of St. Cloud.

Subd. 4. Street addresses at which applicant has been living during the preceding 10 years.

Subd. 5. Kind, name and location of every business or occupation applicant has been engaged in during the preceding 10 years.

Subd. 6. Names and addresses of applicant's employers for the preceding 10 years.

Subd. 7. Whether or not applicant has ever been convicted of any felony, crime, or ordinance violation. If so, when, where and for what such convictions were had.

Subd. 8. Whether applicant has ever been engaged as an employee in operation of a saloon, cafe or other business of similar nature. If so, when, where and for how long.

Subd. 9. Whether applicant is a natural person, corporation, partnership, or unincorporated association.

Subd. 10. If applicant is other than a natural person, the name of the manager or proprietor of the premises to be licensed, giving all the information about the manager or proprietor as is required about the applicant by Subd. 2 above.

Subd. 11. If applicant is other than a natural person, the names of all the members or owners thereof, giving all the information about the members or owners as is required about the

applicant by Subd. 2 above. This Subd. 11, however, will not apply to a hotel applying for an "On-Sale" license to be owned and operated by it.

Subd. 12. The floor number, street number, and square footage of rooms where the sale or consumption of liquor is to be conducted, and if to be conducted in a hotel or restaurant, the number of dining rooms, square footage, open to the public where meals are regularly served to guests. The applicant will include a diagram drawn to scale (scale must be indicated on diagram) on size 8½" by 11" graph paper showing the gross area of rooms where sales or consumption of liquor is to be conducted. Calculations of gross areas will be made without further exclusion as to location of bars, coolers, restrooms, etc. Each floor will be shown on a separate diagram.

Subd. 13. Names and addresses of the owner and any lessees of the land upon which is located the building which houses the premises to be licensed.

Subd. 14. Names and addresses of all owners, lessees, mortgagors or vendors of fixtures or furniture used or to be used in the premises to be licensed.

Subd. 15. Name and address of every person who will have charge, management or control of the place licensed.

Subd. 16. If applicant is a corporation, partnership, unincorporated association, or club, the name and general purpose of such corporation, partnership, unincorporated association, or club, and the names and street addresses of all officers. In addition, corporations will file with the application two certified copies of the by-laws, articles of incorporation, and minutes of the meeting setting forth the officers of the corporation.

Subd. 17. If applicant is a corporation, the state of incorporation, and a complete list of all stockholders with number of shares owned by each. This subdivision 18, however, will not apply to a hotel applying for an "On-Sale" license to be owned and operated by it.

Subd. 18. If the applicant is a partnership, the names and addresses of all partners.

Subd. 19. If a permit from the Federal government is required by the laws of the United States, whether or not such permit has been issued and, if so, in what name.

Subd. 20. Exact legal description of the premises to be licensed.

Subd. 21. Whether or not all real estate and personal property taxes for the premises to be licensed have been paid, and if not paid, the years for which delinquent.

Subd. 22. Where an applicant is a party to a civil action/ pursuant to Minn. Stat. § 340A.801 the applicant will include a copy of the summons and complaint with the license application.

Subd. 23. Other information as the City Council may require.

Section 810:15. Granting of Licenses.

Subd. 1. Council Investigation, Hearing. The Council will investigate all facts set out in the application and will hold a public hearing before granting the license. A notice of the filing of the application will be published in the legal newspaper at least one week before the public hearing, giving the name of the applicant, the location of the premises, and the time and place when the application will be considered. Opportunity will be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Council will grant or refuse the application in its discretion. No "Off-Sale" license will become effective until it, together with the bond furnished by the applicant, has been approved by the Commissioner of Public Safety. After approval, the City Clerk will immediately issue the license.

Subd. 2. Information to Commissioner of Public Safety. The City Clerk will, within ten days after the issuance of any "On-Sale" license under this ordinance, submit to the Commissioner the full name and address of each person granted a license, the trade name, if any, the effective license date, and the date of expiration of the license. He will also submit to the Commissioner any change of address, transfer, cancellation, or revocation of any "On-Sale" or "Off-Sale" license by the Council during the license period.

Subd. 3. License Restrictions; Transfers. Each license will be issued to the applicant only. Each license will be issued for only the compact and contiguous space specified in the application or shown on the final plans pursuant to Section 810:16. A license may not be transferred to another person or place without City Council approval. Any person desiring to transfer a license from one location to another will make application not less than two weeks prior to the regular Council meeting at which the application will be considered. Changes in corporate directors and officers must be reported within 30 days to the City Clerk. Any transfer of stock of a corporate licensee which constitutes a transfer of more than ten percent (10%) of that corporation's outstanding stock is deemed a transfer of the license. No such transfer may be made without prior Council approval.

Section 810:16. Issuance of License.

Subd. 1. Final Plans Reviewed. Where an on-sale license to sell intoxicating liquor is granted for premises on which new construction or alteration of existing structures is to occur, the applicant will submit a set of detailed final plans showing interior and exterior design, including site and space. These plans will be certified by a registered architect or engineer. The Council will review the plans for compliance with the preliminary plans included in the original application, as required by Section 810:10, subd. 1(a).

Subd. 2. Certificate of Occupancy Required. For premises on which new construction or alteration of existing structures is to occur no license to sell intoxicating liquor will be issued until a certificate of occupancy is issued by the City for premises constructed in accordance with the application and plans reviewed by the Council. Prior to issuance of the certificate of occupancy, the Chief Building Official will certify to the Clerk that construction was or was not in accordance with the final plan reviewed by the City Council. Where the construction

is found not to be in accordance with the final plan, the Chief Building Official will state all significant deviations.

Subd. 3. Council To Review Deviations. Where the certification to the Clerk indicates that construction was not in accordance with the final plans, the Clerk will not issue the license but will return the application together with the final plans and statement of deviations to the City Council for further action.

Section 810:20. Persons Ineligible For License.

Subd. 1. A license will not be granted to or held by any person included in the subdivisions which follow.

Subd. 2. Age. Under 21 years of age.

Subd. 3. Good Character. A person who is not of good moral character or repute.

Subd. 4. A Citizen or Resident Alien, Non-Resident. A person who is not a citizen of the United States, or an alien admitted for permanent residence, or who has otherwise obtained a work authorization from the U.S. immigration and naturalization services.

Subd. 5. Convicted of a Crime. A person who, within five years prior to the application of such license, has been convicted of any willful violation of any law of the United States or the State of Minnesota or of any local ordinance with regard to the manufacture, sale, distribution, or possession for sale or distribution of intoxicating liquor.

Subd. 6. No Other Establishment. A person who already has a direct or indirect interest in two on-sale intoxicating establishments or one off-sale intoxicating establishment in the municipality to which a license of the same class has been issued under this ordinance. An applicant for an initial license under this section is eligible for only one license during the first year of operation. For purposes of this sub-division, a year of operation will consist of at least twelve consecutive months of actual business operation. The term "interest" includes any pecuniary interest in the ownership, operation, management, or profits of a retail liquor establishment, but does not include: bona fide loans; bona fide rental agreements; bona fide open accounts or other obligations held with or without security arising out of the ordinary and regular course of business of selling or leasing merchandise, fixtures or supplies to such establishments; an interest in a corporation owning or operating a hotel but having at least 150 or more rental units holding a liquor license in conjunction therewith; or ten percent or less interest in any other corporation holding a license.

Subd. 7. Not The Proprietor. Who is not the proprietor of the establishment for which the license is issued.

Subd. 8. Spouse. Whose spouse has a financial interest in any "On Sale" or "Off Sale" intoxicating liquor establishment or whose spouse has had a liquor license revoked within five years prior to the date of application.

Subd. 9. Corporations. In the case of a corporation, the manager or person in charge will be subject to all of the above qualifications, and the corporation itself will be subject to subdivisions 4, 5, 6 and 7.

Subd. 10. Limitation on Ownership Interest by Brewer. A brewer may not be granted an on-sale license unless the brewer's ownership interest in any other manufacturer, brewer, importer or wholesaler of intoxicating malt liquor meets the requirements of Minn. Stat. §340A.301, subd. 7(a).

Section 810:25. Places Ineligible For Licenses.

Subd. 1. A license will not be granted for places included in the following subdivisions unless otherwise expressly permitted in this section.

Subd. 2. Payment of Taxes, Etc. Any premises on which assessments or other financial claims of the City or State are due, delinquent, or unpaid. The City may waive strict compliance with this provision where an action has been commenced pursuant to the provisions of Minnesota Statutes, questioning the amount or validity of any assessment, tax, or other financial claim. The City may issue a conditional license where the applicant or transferor has entered into a payment agreement with the Revenue Department or the City to satisfy the liability in question. However, if the terms of said payment agreement are not satisfied, the City will revoke the conditional license and the application or transferor will waive any right to a hearing pursuant to M.S. 340.304.

Subd. 3. Distance From St. Cloud State University. Any place within 1,500 feet of the St. Cloud State University as measured on a direct line from the nearest corner of the administration building of the university to the main entrance of the premises proposed for licensing.

Subd. 4. Restriction On Property Owners. Any premises owned by a person to whom a license may not be granted under this ordinance, except an owner who is a minor, alien, or a person who has been convicted of a crime other than the violation of Extra Session Laws 1934, Chapter 46.

Subd. 5. License of Another Class. Any place, except an exclusive liquor store, for which a license of another class has been granted under this ordinance.

Subd. 6. Off Sale Only. Any place where non-intoxicating malt liquor is sold "On Sale". This subsection will not apply to an "On Sale Intoxicating Liquor License".

Section 810:28. Proximity to schools, churches, residentially zoned property and the St. Germain

Street Business District.

Subd. 1. Prohibition. No on-sale beer license will be issued for any building, room or place within:

- (a) 300 feet from any building that is used primarily and regularly for any public or parochial schools, or used primarily and regularly for any church.
- (b) 300 feet of any residentially zoned property.
- (c) The St. Germain Street business district. For purposes of Section 810:28 the St. Germain Street business district is defined as follows: A corridor with a width extending 150 feet north and south of the St. Germain Street right-of-way and a length commencing at the Mississippi River on the East end and proceeding to the intersection with 12th Avenue North on the West end.

All distances will be measured in a straight line from the building in which such school or church is conducted or from the nearest boundary of the residentially zoned property or the St. Germain Street business district to the main public entrance of the premises for which license is sought.

Subd. 2. Exceptions. Section 810:28 Subd. 1 will not apply when:

- (a) The premises for which the on-sale liquor license is sought is a restaurant which will meet a minimum food service requirement as follows:
 - (1) Be under the control of a single Liquor Service Manager.
 - (2) Have suitable kitchen facilities including a stove or rethermalizing equipment, refrigerator, work table, dishwashing and utensil-washing sink with sanitizing heater. The equipment and premises will meet the provisions of all food and health codes.
 - (3) Have facilities for seating not fewer than 50 guests at one time at tables.
 - (4) Provide food service consisting of no less than four entrees and a choice of non-alcoholic beverages. Pre-packaged foods will not be included in the enumerated required food items.
 - (5) Employ an adequate staff to provide the usual and suitable table service to its guests.
 - (6) Provide food service during a substantial portion of the operating hours of the establishment.
 - (7) Have gross sales revenue during each fiscal year from the sale of food and

beverages not containing alcohol in an amount of not less than 60 percent of its total gross revenue from the sale of food and beverages. For Class D (Clubs, On-Sale) licensees (Section 810:05 Subd 2.) the gross sales revenue during each fiscal year from the sale of food and beverages not containing alcohol will be in an amount not less than 50 percent of its total gross revenue from the sale of food and beverages.

- (8) Not display any sign advertising any alcoholic beverage on the exterior of the building nor in the windows of the building nor on any portable sign. Interior advertising will be limited to signs directed primarily to patrons within the establishment.

- (b) The premises are currently licensed as an on-sale beer establishment with a validly issued license, operating and in existence on the date of passage of this ordinance. It is the intent of this ordinance that the prohibitions found in Section 810:28 will not apply to existing businesses, operating in the location licensed on the date of passage of this ordinance. Those businesses may continue to operate as they have. In such case such license may be renewed or transferred to, or an application for new ownership granted, for such premises if all other provisions of Section 810 of this Code can be complied with.

- (c) The license sought is a temporary license issued pursuant to Section 810:05, Subd. 7.

Subd. 3. Records. The business records of the licensee, including federal and state tax returns, will be available for inspection by duly authorized representatives of the City at all reasonable times.

Section 810:30. Conditions of License.

Subd. 1. Every license will be granted subject to the conditions in the following subdivisions and all other provisions of this ordinance and of any other applicable ordinance of the City or State law.

Subd. 2. License Posted. The license will be posted in a conspicuous place on the licensed premises at all times.

Subd. 3. Licensee Responsible For Conduct. Every licensee will be responsible for the conduct of his place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell or serve intoxicating liquor will be deemed the act of the licensee as well, and the licensee will be liable to all penalties provided by this ordinance equally with the employee.

Subd. 4. Space Named. A license will not be effective beyond the compact and contiguous space specified in the license for which it was granted. The diagram submitted with the application pursuant to Section 810:12, subd. 12, or the final plans submitted pursuant to

Section 810:16, will become part of the license and will show the compact and contiguous space specified. All space specified will include the gross area of each room where sales or consumption of liquor is to be conducted without further exclusion (as to location of bars, coolers, restrooms, etc.).

Subd. 5 . Employing Minors. Persons under 18 years of age may not serve or sell intoxicating liquor in a licensed intoxicating liquor establishment.

Subd. 6. Slot Machines and Gambling Devices. Licensees will not keep, possess, or operate or permit the keeping, possession, or operation of slot machines, or a gambling device or apparatus on the licensed premises or in any room adjoining the licensed premises under the licensee's control. However, gambling devices may be kept or operated and raffles conducted on licensed premises of any room adjoining the licensed premises under his control where the gambling device or raffle is licensed as provided pursuant to the laws of the State of Minnesota. This subdivision does not apply to dice kept or used on the premises for the purposes permitted under Minnesota Statutes Sections 340A.410, Subd. 5 and 609.761, Subd. 4.

Subd. 7. Owner of Equipment. Equipment or fixtures in any licensed place will not be owned in whole or in part by any wholesaler, manufacturer, or distiller of intoxicating liquor.

Subd. 8. City Officials Right to Enter. Any police officer, health officer, or properly designated officer of the City will have the unqualified right to enter, inspect, and search the premises of the licensee during business hours without a search warrant and any police officer will have the right to seize all gambling devices found on the licensed premises.

Subd. 9. Restriction On Display. On-sale liquor establishments will not display liquor while open to the public during the hours when the sale of liquor is prohibited by this ordinance. During all hours when the sale of liquor is prohibited by this ordinance, all bar areas and liquor storage areas will be closed and locked, and all persons, except the licensee, employees and law enforcing officers, will be excluded.

Subd. 10. Ethyl Alcohol Or Neutral Spirits. Licensees will not keep ethyl alcohol or neutral spirits on the licensed premises or permit their use on the premises either along or mixed with any other beverage.

Subd. 11. Lewd Or Indecent Conduct Prohibited. Lewd or indecent conduct will not be allowed or permitted on the licensed premises. Lewd or indecent conduct will include "nudity" and "sexual conduct" as those terms are defined in M.S. 617.292.

Subd. 12. Live Entertainment and Dancing. Any licensee desiring to provide live entertainment or allow public dancing must conduct that activity entirely within the licensed premise as that term is defined in Section 810:00 of this ordinance.

Subd. 13. Local Contact Required to be on Premises. A designated Local Contact will be present on the licensed premises. At the time of the application for a license, the applicant will designate a maximum of three individuals as Local Contacts of the licensed premises. The applicant will provide the same information in respect to designated Local Contacts as is required of the applicant under Section 810:12, Subds. 1 through 8. No other persons may be designated as a Local Contact without the prior approval of the City Council. Each designated Local Contact will be subject to the requirements of Section 810:20.

Subd. 14. Promoting Responsible Consumption. Between the hours of 9:00 p.m. and 2:00 a.m., no licensee or employee or agent of a licensee will:

- (a) Sell, offer to sell or deliver to any person multiple drinks containing intoxicating liquor or 3.2 percent malt liquor for a single price, except at private functions not open to the public.
- (b) Increase the volume of alcoholic beverages contained in a drink without increasing proportionately the price charged for such drink.

Subd. 15. Intentionally omitted 4-2-07.

Subd. 16. Persons who have not been trained under a training program approved by the City Clerk for the current licensing year may not serve or sell intoxicating liquor in a licensed intoxicating liquor establishment. An exception is made for persons currently participating in a training program when they are under the direct supervision and accompanied by a person who is already certified as trained. The license holder must maintain a list on the licensed premises of those persons who have been trained as required by this subdivision together with the date that training was completed. The list must be certified by the license holder and in the case of a corporation or club, an officer of that entity. The list will immediately be made available upon the request of a law enforcement officer or other city official.

Section 810:35. Time When Sales Are Prohibited.

Subd. 1. No intoxicating liquor will be sold during the hours as prohibited in the subdivisions which follow.

Subd. 2. "On Sales". "On Sales" may not be made:

- (a) Between 2:00 a.m. and 8:00 a.m. of any day.
- (b) Between 2:00 a.m. on Sunday and 8:00 a.m. on Monday, unless the licensee will have obtained a Class H Special Sunday license pursuant to this ordinance, in which case sales may be made on Sundays between the hours of 10:00 a.m. and 2:00 a.m. in conjunction with the serving of food.
- (c) After 8:00 p.m. on December 24

Subd. 3. "Off Sales". "Off Sales" may not be made:

- (a) After 10:00 p.m. and before 8:00 a.m. on any day except as provided herein;
- (b) During any Sunday, Thanksgiving Day, or Christmas Day; however, on the evening preceding these holidays, "Off Sales" may be made until 10:00 p.m., except the day before Christmas, December 24, no sales will be made after 8:00 p.m.

Subd. 4. Time When Sales Are Prohibited. Licensees employees, and agents of any licensee, will serve, dispense or in any manner furnish intoxicating liquor; nor permit the consumption of any intoxicating liquor; nor permit the presence of any open bottle or open receptacle containing intoxicating liquor on the licensed premises on Sunday between 2:30 a.m. and 12:00 noon, nor between the hours of 2:30 a.m. and 8:00 a.m. on any weekday Monday through Saturday inclusive.

Section 810:40. Closing of Bar and Restricting Other Business Operated In Connection Therewith.

Subd. 1. The word "bar", as used in this section means the room or rooms in which a licensee under an "On Sale" liquor license customarily prepares, or pours intoxicating drinks.

Subd. 2. All persons, except the licensee, employees and law enforcement officers, will be excluded from the bar within 30 minutes after the expiration of the time of any day when intoxicating liquor may be legally sold, and all doors into the bar will then be closed and locked.

Subd. 3. If the licensee is operating any other lawful business in the building in which the bar is located, no intoxicating liquor will be served or permitted to be consumed on the premises where such other business is conducted during the time when the bar is closed.

Section 810:45. Merchandise Sales In "Off-Sale" Stores. No cigars, cigarettes, tobacco, or non-intoxicating malt beverages, or soft drinks will be sold in any exclusive "Off Sale" liquor store during the hours when the sale of intoxicating liquor is prohibited in the store.

Section 810:50. Physical Facilities.

Subd. 1. Partitions Or Screens. There will be no partition, box, stall, screen, curtain, or other device which will obstruct a view of any part of the room, except that partition, sub-division, or panel not higher than 48 inches from the floor may be maintained.

Subd. 2. Toilet Facilities. Every "On Sale" licensee will maintain upon the licensed premises public toilets conveniently located and of easy access for the accommodation of his customers. The toilets will conform to the City's building code and will be maintained at all times in conformation with municipal ordinances and state laws. Separate toilets will be provided for each sex and will be properly designated.

Section 810:55. Clubs. Licensed clubs will not sell liquor except to members and to guests in the

company of members.

Section 810:60. Restrictions On Purchase Of Licenses.

Subd. 1. Mix Or Prepare Liquor. No person will mix or prepare liquor for consumption in any public place of business not licensed to sell liquor "On Sale" and no person will consume liquor in any such place except as permitted by this ordinance.

Subd. 2. Samples Authorized. Off-sale licenses and municipal liquor stores may provide samples of malt liquor, wine, liqueurs, cordials, and distilled spirits which the licensee or municipal liquor store currently has in stock and is offering for sale to the general public without obtaining an additional license, provided the wine, liqueur, cordial, and distilled spirits samples are dispensed at no charge and consumed on the licensed premises during the permitted hours of off-sale in a quantity less than 100 milliliters of malt liquor per variety per customer, 50 milliliters of wine per variety per customer, 25 milliliters of liqueur or cordial, and 15 milliliters of distilled spirits per variety per customer.

Section 810:65. Suspension Or Revocation Of Licenses; Civil Penalty.

Subd. 1. The Council will follow the provisions of this section of the ordinance on the suspension, revocation or imposition of a civil penalty against any license granted under this ordinance.

Subd. 2. Notice Of Violation. The Chief of Police will report, in writing, any violation of the provisions of this section or Minnesota Statutes Chapter 340A committed in the operation of the licensee's business to the City Attorney's Office, giving all facts and circumstances known. If the City Attorney's Office determines from the facts and circumstances reported, together with any other facts and circumstances known to it, that the violation may warrant a suspension or revocation of the licenses held by the licensee, it will fix a time and place for a hearing sufficiently in advance to enable ten days written notice of the time, place and purpose of such hearing. The City Attorney's Office will then report to the Council at its next regularly scheduled meeting that a hearing has been scheduled on an alleged violation at the licensed premises.

Subd.3 Hearing On Alleged Violations. The hearing will be held before an independent hearing examiner. At the time of the hearing, the licensee may appear and present any evidence which is material to the investigation. The hearing officer will make a finding of facts as to whether a violation of the provisions of this section or Minnesota Statutes Chapter 340A has been committed in the operation of the licensee's business, whether the violation was willful in nature. The hearing officer will also make a recommendation of what penalty, if any, will be applied. The City Council will adopt the hearing officer's findings of fact that the licensee is guilty of a violation of any of the provisions of this ordinance or State law, other than one which calls for a mandatory revocation, and may impose a civil penalty of up to \$2,000 for each violation, suspend the license for up to 60 days, revoke the license, or impose any combination of these sanctions, subject to the provisions of the presumptive penalties set forth in Section 810:70. In the event of suspension, the Council will also

suspend any licenses held by the licensee under the 3.2 percent malt liquor ordinance, and in the event of a revocation, the Council will also revoke any licenses held by the licensee under the 3.2 percent malt liquor ordinance. The licensee will be given notice in writing of any such action by the City Attorney's Office. No 3.2 percent malt liquor license or intoxicating liquor license will be renewed or reissued to any licensee who has not paid to the City the full amount of any civil penalty previously imposed by the City against the licensee under this section.

Subd. 4. Mandatory Revocation. The Council will revoke the license or licenses of any licensee under this ordinance if the licensee willfully violates any provisions of the Minnesota Statutes, Chapter 340A.

Section 810:70. Penalties for Violations. Upon a finding by the City Council that a violation of this section or Minnesota Statutes Chapter 340A has occurred, the Council will, at a minimum, apply the following adverse penalties:

- 1) For a first violation within a 18 month time period a \$750.00 civil penalty.
- 2) For a second violation within a 18 month time period a \$1,500.00 civil penalty.
- 3) For a third violation within a 18 month time period a 7 day license suspension.
The City will notify the establishment's insurance company of the license suspension.4)
For a fourth violation within a 18 month time period a revocation of license.
- 4) For a fourth violation within a 18 month time period..... a revocation of license. The City will notify the establishment's insurance company of the license suspension.

History: Ord. 2350 4-2-07. Section 810:75 entitled "Penalty; Training Program" repealed by Ord. 2350 4-2-07.

Section 817 - Permit to Possess Kegs Required

Section 817:00. Definitions. For the purpose of this section the following definitions will apply:

Subd. 1. The definitions contained in Article 3, Section 2 of the St. Cloud Zoning Ordinance are hereby incorporated herein as if fully set forth in their entirety.

Subd. 2. "Intoxicating Liquor". Ethyl alcohol, distilled, fermented, spirituous, vinous, and malt beverages containing more than 3.2 percent of alcohol by weight.

Subd. 3. "Kegs". Containers designed for and capable of holding intoxicating or 3-2 malt liquor to be dispensed from a tapper.

Subd. 4. "3-2 Malt Liquor". Malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight.

Section 817:05. Permit to Possess Kegs Required. Any individual of lawful age under the laws of the State of Minnesota may possess a keg in a residentially zoned area within the City of St. Cloud after first having obtained a permit and permit sticker from the Office of the City Clerk.

Section 817:10. Permit Fee. The permit fee for each keg will be as set forth in Section 500:10 of the Code of Ordinances.

Section 817:15. Limitations. All permits authorized under the preceding section will be subject to the following limitations:

Subd. 1. The permit is valid for possession of one keg containing up to 16 gallons. No person may possess more than one permit.

Subd. 2. No more than one keg may be possessed within any dwelling unit, lodging house, fraternity house, or sorority house located in a residentially zoned area within the City of St. Cloud. No resident will possess or allow any other person to possess a keg contrary to this section.

Subd. 3. No application will be approved without the applicant first providing written authorization from the owner of the premises where the applicant will be possessing the keg or the owner's agent authorized under the provisions of Section 465 of the Code of Ordinances on a form provided by the City Clerk.

Section 817:20. Application for Permit and Permit Sticker. Any person desiring to obtain a permit to possess a keg will fill out an application at the Office of the City Clerk setting forth the applicant's full name, address and telephone number and the address within St. Cloud where the applicant will be possessing the keg. In addition, the applicant will be required to provide proof of identity and age in the form of a valid Minnesota driver's license or identification card, or valid driver's license from another jurisdiction. Falsifying any information requested on the permit application will constitute a

violation of this ordinance. At the time of issuance of the permit, a permit sticker will be issued to the applicant. The permit sticker will be immediately and firmly affixed by the applicant to the keg utilizing the adhesive on the sticker and placing the sticker in a clearly visible location upon the purchase of the keg.

Section 817:25. Return of Permit. Prior to the issuance of any subsequent keg permit and permit sticker, the preceding permit issued and the remains of the permit sticker must be returned to the Office of the City Clerk or in the alternative a minimum of 30 days will have elapsed since the date of issuance of the previous permit.

Section 817:30. Persons Ineligible for Permit. No person will be issued a keg permit if that person has been convicted of a violation of this section Section 1050:00 a violation of Minnesota Statutes, Section 340A which occurred within the previous 365 days.

Section 817:35. Prohibitions. It will be unlawful for any person to possess a keg within the City of St. Cloud without having first obtained a permit and permit sticker as set forth herein. A permittee will have the permit present at the location where the keg is possessed at all times, and will exhibit the permit upon the request of any licensed peace officer.

Section 817:40. Duty of Licensed Liquor Establishment. Each liquor establishment located in the City of St. Cloud, licensed under the provisions of Sections 800 and 810 of the 1977 Code of Ordinances, and offering for sale kegs containing 3-2 or intoxicating malt liquor for consumption off-premises, will, as a condition of the license, post in a conspicuous location within five feet of the check-out location in the establishment, a notice provided by the St. Cloud Police Department regarding the provisions of this section.

Section 817:45. Exceptions. Any person or premises licensed under any other provision of state law or local ordinance may possess kegs and are specifically exempted from the provisions of this ordinance. Possession of kegs in parks in accordance with Section 236 of the Code of Ordinances or in non-residentially zoned areas of the City of St. Cloud is specifically excepted from the provisions of this ordinance.

CHAPTER IX.

Section 910 - Curfew Enforcement

Section 910:00. Purpose. It is hereby found that increased juvenile criminal activity, juvenile gang activity, and juvenile violent crime in the City of St. Cloud and surrounding areas in recent years has taxed local law enforcement services and jeopardized the public safety. Increased rates of juvenile victimization has endangered the emotional and physical well being and safety of juveniles and adults. Because of their lack of maturity and experience, juveniles are particularly susceptible to participation in unlawful activity. Juveniles are particularly vulnerable at nighttime hours to become victims of crime due to their inability to make critical decisions in a mature and experienced manner. A juvenile curfew would minimize the dangers to which juveniles are subject when they are upon the streets and in public places and establishments unattended and unsupervised by adults during late night hours. Such a curfew would regulate juvenile activities at times and places where risk of danger to juveniles can be the greatest, and would encourage parents and guardians of juveniles to supervise, control, and know the whereabouts of their children during high risk nighttime hours. Curfew enforcement seeks to reduce juvenile criminal activity during nighttime hours when local law enforcement services are already taxed.

Section 910:05. Definitions. The following words and terms when used in this section will have the following meanings:

Subd. 1. Juvenile. A person under the age of 18 years who is not married or who has not been legally emancipated.

Subd. 2. Parent. Birth parents, adoptive parents and step-parents.

Subd. 3. Guardian. A person appointed or qualified by a court as a guardian of an individual, including a limited guardian, but not a persona who is only a guardian ad litem.

Subd. 4. Responsible Adult. A person over the age of 18 years authorized by the parent or guardian of a juvenile to have custody and control of the juvenile.

Subd. 5. Public Place. Any place to which the public has access and includes, but is not limited to streets, highways, alleys, parking lots, parks, and common areas of libraries, schools, hospitals, apartment houses, office buildings, transportation facilities, shopping malls, and shops.

Subd. 6. Establishment. Any privately owned place of business to which the public is invited, including, but not limited to any place of amusement, entertainment or refreshment.

Subd. 7. Proprietor. Any individual, firm, association, partnership or corporation operating, managing, owning or conducting the business of any establishment, including but not limited to the members or partners of an association or partnership, and the officers of a corporation.

Subd. 8. Emergency. An unexpected situation or combination of circumstances or events,

or the resulting state that calls for prompt action, including but not limited to natural disaster, fire, automobile accident, or situations requiring prompt action to prevent serious bodily injury or loss of life.

Subd. 9. Serious Bodily Injury. Bodily injury creating a substantial risk of permanent disfigurement, or the loss or impairment of the function of any body part or organ.

Section 910:10. Prohibited Acts.

Subd. 1. It is unlawful for juveniles under the age of 16 years to be present in any establishment or public place within the City of St. Cloud from 10:00 o'clock p.m. to 5:00 o'clock a.m. of the following day, local time.

Subd. 2. It is unlawful for a juvenile aged 16 or 17 years to be present in any establishment or public place within the City of St. Cloud on:

- (a) Sunday from 11:00 P.M. to Monday 5:00 A.M.
- (b) Monday from 11:00 P.M. to Tuesday 5:00 A.M.
- (c) Tuesday from 11:00 P.M. to Wednesday 5:00 A.M.
- (d) Wednesday 11:00 P.M. to Thursday 5:00 A.M.
- (e) Thursday 11:00 P.M. to Friday 5:00 A.M.
- (f) Friday 12 midnight to Saturday 5:00 A.M.
- (g) Saturday 12 midnight to Sunday 5:00 A.M.

Subd. 3. It is unlawful for a parent or guardian of a juvenile to permit the juvenile to be in any establishment or public place within the City of St. Cloud during the hours specified in Subd. 2 of this section.

Subd. 4. It is unlawful for a proprietor of an establishment within the City of St. Cloud to permit a juvenile to remain in the establishment, or upon the property of the establishment during the hours specified in Subd. 2 of this section.

Section 910:15. Exceptions.

Subd. 1. This section will not apply to the following:

- (a) A juvenile who is accompanied by his or her parent, guardian or a responsible adult.
- (b) A juvenile engaged in employment, or going to or returning home from his or her employment without any intervening detour or stop.
- (c) A juvenile involved in an emergency.
- (d) A juvenile attending an official school, religious, or other recreational or educational activity supervised by adults or sponsored or supervised by a public entity, civic organization, religious organization, or other similar entity taking responsibility for

the juvenile; or a juvenile going to or returning home from, without any intervening detour or stop, such an activity, when the entity supervising or sponsoring such an activity has notified the Police Department of the date of the event, and the starting and ending times of the event activity.

- (e) A juvenile on an errand at the direction of the juvenile's parent or guardian, without any intervening detour or stop, who has in his or her possession a note signed by the juvenile's parent or guardian authorizing the errand, and includes the correct address and telephone number of the present location of the parent or guardian.
- (f) A juvenile engaged in interstate travel.
- (g) A juvenile exercising First Amendment rights protected by the United States Constitution or Article I of the Constitution of the State of Minnesota.
- (h) A juvenile on the public right-of-way, boulevard, alley or sidewalk abutting the juvenile's residence, or the residence of his or her next door neighbor. In the case of multiple dwelling units when the juvenile does not reside within one of the units in that building, the juvenile will have in their immediate possession a written document showing permission to be upon the property signed by the owner or manager of the property, and containing the date and time for which the permission was granted.

Subd. 2. This section will not apply to a proprietor:

- (a) When the proprietor reasonably and in good faith relies upon the juvenile's representation of proof of age. Such proof of age may have been demonstrated by a valid driver's license or identification card issued by Minnesota, another state, or a province of Canada which includes the photograph and date of birth of the person presenting; in the case of a foreign national from a nation other than Canada, a valid passport; or other verifiable means, including but not limited to school identification cards and birth certificates. Proprietors who reasonably and in good faith believe that a juvenile has misrepresented his or her proof of age and is in violation of this section are required to immediately notify the Police Department.
- (b) When the proprietor immediately notifies the Police Department that a juvenile is present on the premises in violation of this section.

Section 910:20. Penalties.

Subd. 1. A parent or guardian who violates this section is guilty of a misdemeanor.

Subd. 2. A proprietor, or the agent of the proprietor who is present in the establishment at the time of a violation of this section, is guilty of a misdemeanor.

Section 915 - Defrauding an Innkeeper

Section 915:00. Defrauding Innkeeper and Others Prohibited. Any person who will obtain, food, lodging or other accommodations at any hotel, motel, lodging house, inn, boarding house or restaurant, without paying, with intent to defraud the owner or manager, or who obtains credit at any hotel, lodging house, inn, boarding house or restaurant by or through any false pretense, or by or through the aid, assistance or influence of any baggage or effects in his possession and control, but not actually belonging to such person, will be guilty of a penal offense. Proof that food, lodging or other accommodations was obtained by false pretense or by false or fictitious show or pretense of baggage or other property or proof that the person refused or neglected to pay for such food, lodging or other accommodations on demand, or that he gave in payment of such food, lodging or other accommodations negotiable paper on which payment was refused, or that he absconded without offering to pay for such food, lodging or other accommodations, or that he surreptitiously removed or attempted to remove his baggage, will be prima facie proof of the fraudulent intent mentioned in this section.

Section 920 - Disorderly Conduct on School Grounds

Section 920:05. Defacement of School Buildings. No person will mark with ink, paint, chalk or other substance, or post hand bills on, or in any other manner deface or injure any public, private or parochial school building or structure used or usable for school purposes within the City or mark, deface or injure fences, trees, lawns, or fixtures appurtenant to or located on the site of such buildings, or post hand bills on such fences, trees or fixtures, or place a sign anywhere on any such site.

Section 920:10. Breach of Peace on School Grounds. No person will willfully or maliciously make or assist in making on any school grounds adjacent to any school building or structure any noise, disturbance or improper diversion or activity by which peace, quiet and good order will be disturbed.

Section 920:15. Offensive Language and Conduct. No person will use offensive, obscene or abusive language or engage in boisterous or noisy conduct tending reasonably to arouse alarm, anger or resentment in others on any school grounds or in buildings or structures.

Section 920:20. Improper Conduct in School or on School Buildings and Grounds. No person will, in any school room or in any building or on the grounds adjacent to the same, disturb or interrupt the peace and good order of such school while in session. Any person not in immediate attendance in such school and being in such building or upon the premises belonging thereto who upon the request of a teacher of such school or the person in charge thereof to leave said building or premises, will neglect or refuse to do so, will be in violation of this ordinance. No person will loiter on any school grounds or in any school building or structure.

Section 940 - Urinating or Defecating in Public

Section 940:00. Urinating in Public. No person will urinate or defecate on or into any street, sidewalk, lane, alley, parking lot or any other public ground, or upon any private ground, exclusive of structures containing toilet facilities within the City of St. Cloud.

Section 955 - Throwing, Dropping, Placing, etc. of
Fruit or Vegetable Matter Upon Sidewalks

Section 955:00. Throwing Fruits of Vegetables. It is unlawful for any person to throw, drop, deposit or place upon any part of any street or sidewalk in the City of St. Cloud, any fruit or vegetable matter of any sort or description or the peel or rind or any part thereof.

Section 960 - Trespass and Unlawful Conduct in Public Buildings

Section 960:00. Definitions. Public buildings will mean: structures or areas owned and operated by any governmental unit for the conduct of governmental functions including, but not limited to, schools and colleges, public and private; libraries, parks, playgrounds, airports, holding ponds, courthouses; jails and reformatories; city, county, state or federal administrative offices.

Section 960:05. Trespass. It is unlawful for any person to remain in a public building or upon the grounds thereof after being requested to leave said premises by persons lawfully responsible for the control and maintenance thereof, when the continued presence of any person will injure or endanger the safety of said buildings or unreasonably interfere with the administration thereof.

Section 960:10. Interfere with Public Business. It is unlawful for any person to willfully harass, disrupt, interfere with or obstruct any public or governmental business or function being conducted within or upon the premises or grounds of any public building.

Section 972:00 - Use of Municipal Holding Ponds

Section 972:00. Use of Municipal Holding Ponds Prohibited. It will be unlawful for any person to wade, swim or operate any watercraft in or upon the waters of any municipal holding pond, or to go upon the frozen surface of any municipal holding pond, unless such use is specifically approved or permitted by the Director of Parks and Recreation or the Director of Public Works.

CHAPTER X

Section 1000 - Nuisances

Section 1000:00.Purpose.

It is the purpose of this section to protect the safety, health, peace and general welfare of the public. It is specifically found that the property conditions regulated in this section negatively impact upon the aesthetics, the residential quality and the visual peace and quiet of our neighborhoods. The maintenance of these nuisances are inappropriate for residential uses and are therefore likely to have a negative impact upon residential property values.

Section 1000:05. Definitions of Public Nuisance; Unlawful.

Subd. 1. It will be unlawful and a public nuisance to do any act or to omit to perform any duty which act or omission will be as set forth in the subdivisions which follow.

Subd. 2. Annoy, injure or endanger the safety, health, comfort or repose of the public;

Subd. 3. Offend public decency;

Subd. 4. Unlawfully interfere with the use of or obstruct, or tend to obstruct or render dangerous for passage, a river, bay, stream, creek, canal, or basin, or unlawful interference with the use of a public park, square, street, alley, or highway;

Subd. 5. In any way render a considerable number of persons insecure in life or in use of property.

Section 1000:15. Nuisances Affecting Safety, Health, Peace and General Welfare.

The following are declared to be nuisances affecting public safety, health, peace, and general welfare:

Subd. 1. Artificial Lighting Facilities. To operate any artificial lighting facilities upon any residential, commercial or industrial premises without some efficient device so as to protect adjacent premises from being affected thereby.

Subd. 2. Dust in Parking Lots. To operate any private parking lot without keeping the same reasonably free from dust.

Subd. 3. Fireworks, Explosives. All use or display of fireworks and use of explosives except as provided by law.

Subd. 4. Large Crowds. The use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the full use of public streets or sidewalks.

Subd. 5. Material From Aircraft. Throwing, dropping or releasing printed material, paper or other material or objects from an airplane, balloon or other aircraft or in such a manner as to cause such materials to fall within the City.

Subd. 6. Old Machinery and Debris. The uncovered piling, storing or keeping of old machinery, motor vehicle component parts, including but not limited to engines, transmissions, wheels, tires and doors, cut or uncut timber, pipes, or other junk or debris.

Subd. 7. Special Provisions - Outside Parking and Storage.

a. Definitions

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(1) "Motor Vehicle" means any motorized, self-propelled vehicle of a type that may be used to convey persons or materials or to perform a task.

(a) For purposes of this section the definition of motor vehicle includes the following:

(i) Inoperable, pioneer, classic, collector, and street rod vehicles

(ii) Motorcycles

(iii) Motorhomes and converted vans that are motorhomes.

(b) For purposes of this section the definition of motor vehicle does not include the following:

(i) Home maintenance equipment such as riding lawn mowers or snowblowers.

(ii) Mobile construction equipment not licensable for public streets that is being used for construction or remodeling at the residence. The temporary parking of mobile construction equipment is permitted only for the duration of the construction or remodeling project. This section does not permit the permanent storage or parking of mobile construction equipment.

(2) "Recreational Equipment" is defined as:

(a) Travel trailers including those that fold down, chassis, campers, tent trailers and slip in campers.

(b) A non-motorized utility trailer intended and generally used for transporting other recreational equipment.

(c) Snowmobiles, all terrain vehicles, boats and any type of watercraft. Recreational equipment placed on a utility trailer is, together with the trailer, considered to be one vehicle.

(3) "Oversized Vehicles" are those vehicles that have been issued a license decal greater than "D" or otherwise weigh in excess of 6,000 pounds.

(4) "Front yard area" will mean an open, unobstructed yard across the front of a lot between the building or allowed building line and the front property lines excluding on appropriately surfaced designated driveway to the garage or house as defined by the St. Cloud Zoning Ordinance.

(5) "Side yard area" will mean any open unobstructed yard between the building or allowed building line and either side lot line to the rear yard line.

(6) "Outside" means to be outside of an enclosed storage facility and visible from any other property.

(7) "Improved Parking Surface" has the meaning prescribed for "Construction of Parking Areas", St. Cloud Zoning Ordinance Article 6, Section 2.1.

b. Unlawful Parking and Storage.

(1) No person may place, store, or allow the placement or storage of ice fish houses, skateboard ramps, playhouses or other similar non-permanent structures or equipment outside continuously for longer than 24 hours in the front yard area of residentially-zoned property.

(2) No person may place, store, or allow the placement or storage of non-commercial pipe, lumber, forms, steel, machinery, or similar materials outside on residentially-zoned property, unless shielded from ordinary public view by means of a fence, shrubbery or trees.

(3) Recreational equipment may not be parked or stored on required front or side yard set back areas nor on any landscaped area of the front or side yard of residential property. One piece of recreational equipment may be stored on an improved surface beyond the front and side yard set back or on the landscaped area of the backyard of residential property subject to the oversized vehicle restrictions of paragraph b(4) of this subdivision.

(4) Oversized vehicles may not be parked or stored on residential property except those vehicles being used in conjunction with a legitimate service or those vehicles parked or stored in a completely enclosed building.

(5) No person will cause, undertake, permit or allow the outside parking and storage of motor vehicles on residentially-zoned property unless it complies with the following requirements:

(a) No more than four licensed and operable motor vehicles per lawful dwelling unit may be parked or stored anywhere outside on R-1 and R-2 zoned property, excluding vehicles of occasional guests who do not reside on the property.

(b) The parking or storage of motor vehicles is not allowed on any required front yard or side yard setback area nor on any landscaped area. In any event motor vehicles parked or stored on residential property must be parked or stored on an improved parking surface.

(6) Any vehicle so parked is the act of the registered owner as well as the act of the person actually parking the vehicle. For the purposes of subsection c, registered owner is defined to include motor vehicle renewal or leasing agencies or corporate owners. It will be a defense to any violation that the registered owner shows that the date of the offense the title has been transferred to another.

(7) Penalty. A violation of this subdivision is a petty misdemeanor as defined by Minn. Stat. 609.02, Subd. 4a.

(8) Fines for Violation. The Parking Violations Bureau will collect fines for violations of this subdivision in accordance with the fine schedules adopted from time to time by the City Council. Payment of the scheduled fine indicated on the violation notice, enclosed in said notice and deposited in the manner described thereon and received by the Parking Violations Bureau, will satisfy the violation.

(9) Enforcement. It is the duty of parking officers to report to the Parking Violations Bureau the following information:

1. The license number of such vehicle.
2. The date and hour of which such violation was found to exist.
3. The nature of the violation
4. Any other necessary facts relating to such violation.

(10) Tags. The parking officer will attach to a vehicle referred to in this subdivision a notice to the owner or operator thereof that the vehicle has been parked in violation of the provisions of this subdivision and directing the owner or operator to make payment as required by this subdivision.

c. Exceptions. The prohibitions of this section will not apply to the following:

(1) Any motor truck, pickup truck or similar vehicle being used by a public utility, moving company, or similar company, which is actually being used to service a residence not belonging to or occupied by the operator of the vehicle.

(2) Any vehicle which is actually making a pickup or delivery at the location where it is parked. Parking for any period of time beyond the period of time reasonably necessary to make such pickup or delivery and in excess of the two-hour limit will be unlawful.

(3) Lawful nonconforming uses as defined by the St. Cloud Zoning Ordinance.

(4) Temporary Permits for Community Events

(a) Residential property owners may obtain permits for the temporary parking of motor vehicles on landscaped areas subject to the following conditions:

- (i) The parking is for the purpose of accommodating a community event.

(ii) Public parking facilities and street parking do not afford adequate parking for the event.

(iii) The residence is located within a quarter-mile of the event.

(vi) The parking permitted will be limited to the duration of the event.

(b) The Director of Health and Inspections will approve and issue permits that meet all of the above conditions.

Subd. 8. Unreasonable Acceleration Prohibited.

(a) Unreasonable Acceleration Defined. Unreasonable acceleration is the acceleration or unnecessary exhibition of speed of a motor vehicle which reduces the normal rolling traction of a tire or tires on the driving surface, thereby causing them to emit a squealing or screeching sound, or causing the throwing of sand or gravel by the tire or tires of said vehicle or both. Prima facie evidence of such unreasonable acceleration will be the squealing or screeching sounds by the tire or tires or the unnecessary throwing of sand or gravel by the tire or tires or both.

(b) Unreasonable Acceleration on Public Property Prohibited. Unreasonable acceleration by any motor vehicle upon any public street, road, parking lot, or driving way within the corporate limits of the City of St. Cloud is hereby declared to be a public nuisance and is prohibited.

Subd. 9. Engine Braking Prohibited.

(a) No person may slow a vehicle by the practice known as engine braking, also referred to as "jake braking" or "dynamic braking," whereby rapid downshifting of a vehicle's engine is used in lieu of applying a vehicle's brakes, causing loud noises to emit from the vehicle's engine and exhaust system. Engine braking by any motor vehicle on any public highway, street, parking lot or alley within the corporate limits of the City of St. Cloud is hereby declared to be a public nuisance and is prohibited.

(b) The foregoing provision will not apply to emergency vehicles.

Section 1005 - Public Nuisances
Affecting Health and Safety

Section 1005:00. Definitions.

Subd. 1. Abandoned Well. "Abandoned well" means a well which has been permanently discontinued, or which is in such disrepair that its continued use is impracticable, endangers the quality of the groundwater or may be a health or safety hazard.

Subd. 2. Accumulations of Manure.

- (a) Pets. An accumulation of manure that exceeds that which would ordinarily occur in two days and/or an accumulation such that odor or runoff of said manure is not contained on the premises.
- (b) Other Domestic Animals. An accumulation of manure that exceeds the requirements for manure storage established by the Minnesota Pollution Control Agency Feedlot Rules.

Subd. 3. Accumulation of Rubbish, Garbage and Trash. An accumulation of rubbish, garbage or trash that exceeds that which would ordinarily accumulate in one week.

Subd. 4. Diseased Animal. An animal with an infectious or contagious disease.

Subd. 5. Garbage. Any organic wastes normally produced from the handling and use of foods, except dishwater and waste-water.

Subd. 6. Infestations. Shelter provided for rodents, insects and/or other vermin such that development and/or reproduction occurs or may occur.

Subd. 7. Litter. Garbage, refuse, rubbish and all other waste material which if not deposited as specified by this ordinance, tends to create a danger to public health, safety or welfare.

Subd. 8. Private Premises. Any dwelling, house, building or other structure, designed or used wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and will include any yard, grounds, walk, driveway, porch, steps, vestibule, or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

Subd. 9. Public Health Nuisance. Any action or failure to act that adversely affects the public health.

Subd. 10. Public Place. Any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds and buildings.

Subd 11. Refuse. All garbage, household rubbish and ashes.

Subd. 12. Rubbish. Any wastes which are not garbage and will include the following: Yard waste rubbish which includes grass clippings, leaves and garden waste, tree branches and brush rubbish, household rubbish which includes furniture, appliances and similar materials.

Subd. 13. Unreasonable Quantities. Amounts such that the health, safety or welfare of the public is damaged or threatened.

Subd. 14. Waste Material. Material that no longer is of any value for its original purpose and has been or should be discarded.

Subd. 15. Waste Water. Water that has been used for any purpose, excluding irrigation of plants, including sewage and gray water.

Section 1005:10. Obstructing Health Official. No person will willfully oppose or obstruct a Health Department employee charged with the enforcement of the health laws of the City of St. Cloud or with the performance of any legal duty.

Section 1005:20. Diseased Animals. No person will negligently or willfully permit diseased animals owned or controlled by him to escape his control or to run at large.

Section 1005:30. Common Drinking Cups. The use of common drinking cups in public places, public conveyances and public buildings is prohibited.

Section 1005:40 Nuisances Affecting Health and Safety Enumerated. The following are declared to be nuisances affecting health:

Subd. 1. Accumulations of manure, rubbish, garbage, ashes, waste oil and trash as determined by the Health Department.

- (a) It is the duty of every tenant, lessee, owner or occupant of every private dwelling, house, store, hotel, restaurant, and the owner of every flat or apartment house, and of every other person having refuse, which accumulates on the premises to at least once a week or more often as necessary deposit said refuse with a refuse collection service or in a manner acceptable to the City of St. Cloud.
- (b) No person will accumulate or permit to accumulate any refuse which might constitute a nuisance by reason of appearance, odor, sanitation, possible littering of neighboring properties or a fire hazard.
- (c) No person will throw or deposit litter in or upon any street, sidewalk, or other public place within the City except in public receptacles or authorized private receptacles for such collection. Persons placing litter in public receptacles or in private receptacles will do so in such a manner as to prevent it from being carried or deposited by the elements and by wild or domestic animals upon any street, sidewalk or other public place or upon private property.

Subd. 2. The pollution of any water supply, stream, lake, or body of water by sewage, industrial wastes or other pollutants.

Subd. 3. Dense smoke, noxious fumes, gas and soot or cinders in unreasonable quantities.

Subd. 4. Infestations of insects, vermin or rodents as determined by the Health Department.

Subd. 5. Spit on Sidewalks, Etc. To spit on any public sidewalk or on the walls or floor of any public building or in any public conveyance.

Subd. 6. Barbed Wire Fences. All barbed wire fences except those located in a commercial or industrial zoned area and used in connection with security fencing, and having the first strand at least six feet above normal grade. Those portions of the City that are zoned Rural Residential or Agricultural by the St. Cloud Zoning Ordinance are exempt from the application of this Subdivision 6.

Subd. 7. Vehicle With Filth. Any vehicle which will contain any animal filth, manure, decaying animal or vegetable matter will not be parked more than 20 minutes on the streets or alleys anywhere in the City; nor will any such vehicle be parked or left standing for more than 20 minutes on any private premises in the City within a residential zone.

Subd. 8. Abandoned Excavation. To leave any abandoned basement, well, shaft, wall, cesspool, or septic tank, or other excavation unless covered or filled or otherwise protected as to prevent people from accidentally falling into the same or being injured.

Subd. 9. Abandoned Refrigerator. To leave any unused refrigerator or other container with doors that fasten automatically when closed.

Subd. 10. Dangerous Machinery, Etc. All unguarded dangerous machinery, equipment or other property in any public place or so situated or operated on private property as to attract minor children.

Subd. 11. Electrical Disturbances. All interference and disturbance of radios and television sets caused by electrical appliances and equipment.

Subd. 12. Leaking, Spilling Liquids, Etc. From Trucks, Etc. To transport by truck or other vehicle, over any street, alley or other public way, any fine substance or fluid materials, unless such truck or vehicle is so constructed as to prevent the leakage of such material, substance or liquid, or the emission of an offensive odor or smell.

Subd. 13. Glass in Streets. No person will deposit or cause to be deposited any breakable glass upon any sidewalk, street, alley or public grounds in the City.

Section 1005:50. Property Owner Negligence. Any landlord or property owner allowing a safety or health hazard to persist on or within his property, including the following:

Subd.1. Structural defects as outlined by Section 300 of the St. Cloud Code of Ordinances. Additionally all building walls and other structures that have been damaged by fire, decay, age or otherwise which are so situated as to endanger the safety of the public.

Subd. 2. Garbage, refuse and sewage disposal that does not meet all applicable codes and laws.

Subd. 3. Pest, rodent and animal control, the harboring of vermin and rodents.

Subd. 4. Fire Hazards as defined by the Minnesota State Fire Code.

Subd. 5. Wastewater cast upon or permitted to flow upon or over streets or other public property, but excluding the natural runoff of rainwater or snow.

Subd. 6. Any well, abandoned well, hole or excavation left uncovered or in such other condition as to constitute a hazard to a child or other person being or coming upon the premises where the same is located.

Section 1005:60. Enforcement. It is the duty of the Health Department to enforce the provisions of this ordinance, including the power to inspect private premises and issue orders for abatement. Whenever, in the judgement of the officer charged with enforcement, it is determined upon investigation that a public nuisance is being maintained or exists within the City, the following will apply:

Subd. 1. Notification. The Health Department will notify in writing the person committing or maintaining the nuisance and require the person to terminate and abate the nuisance and to remove such conditions or remedy such defects. The written notice will be served upon the person committing or maintaining the nuisance in person or by registered mail. If the premises are not occupied and the address of the owner is unknown, service on the owner may be had by posting a copy of the notice on the premises. The notice will require the owner or occupant of such premises, or both, to take reasonable steps within five days to abate and remove the nuisance. The maximum time for the removal of the nuisance after service of the notice will not in any event exceed ten days. Filing an affidavit of service with the Court Administrator may prove service of notice.

Subd. 2. Abatement of Nuisance. If, after service of notice, the person served fails to abate the nuisance or make the necessary repairs, alterations or changes in accordance with the order of the Health Department, at the direction of the nuisance will be presented to the St. Cloud City Council at a regular meeting. The City Council may cause the nuisance to be abated at the expense of the City of St. Cloud and recover abatement expenses by assessing the cost of the enforcement action against the real property upon which the nuisance existed and certify the same for collection in the same manner as taxes and special assessments are certified and collected.

Subd. 3. St. Cloud City Council Findings. The St. Cloud City Council finds that some property owners take little or no responsibility for the maintenance of their property until the City, through its various inspections programs, has repeatedly ordered them to abate the conditions listed in Section 1005:40 Nuisances Affecting Health and Safety Enumerated and/or Section 1005:50 Property Owner Negligence of this chapter. Such property owners create excessive costs for the city which are over and above the normal cost of providing inspection services city-wide. Property owners who must repeatedly be ordered to abate nuisances on their property consume an unacceptable and disproportionate share of limited city resources. Therefore, it is the intent of the City by the adoption of Section 1005:60 to impose and collect a user fee to defray costs associated with excessive consumption of city inspection services.

Subd. 4. Excessive consumption of inspection services, fee and liability.

- (a) The city will be entitled to collect its costs of enforcement from a property owner who consumes excessive inspection services. An excessive consumption of inspection services occurs when:
 - (1) Written notice of a violation is served under section 1005:60, Subd. 1. Notification, following an initial inspection and follow-up inspection to determine compliance; and

- (2) An additional initial inspection and follow-up inspection are performed at the same location within a consecutive twelve-month period after the first initial inspection; and the enforcement officer finds violations of Section 1005:40 Nuisances Affecting Health and Safety Enumerated and/or Section 1005:50, Property Owner Negligence, which are either new violations or violations based upon failure to correct previous violations; and
 - (3) The fee will be applied to a third initial inspection within a consecutive twelve-month period after the inspections set forth in subsections (1) and (2) at which the enforcement officer finds violations of Section 1005:40 Nuisances Affecting Health and Safety Enumerated and/or Section 1005:50, Property Owner Negligence, which are either new violations or violations based upon failure to correct previous violations.
- (b) The fee will be The fee for each initial inspection or re-inspection thereafter will be \$100.00.
- (c) Owners who have received a notice of warning will be jointly and severally liable for the excessive consumption of inspection services fees.
- (d) The amount of the excessive consumption of inspection services fee will be recovered by assessing the cost of the enforcement action against the real property upon which the nuisances existed and to certify the same for collection in the same manner as taxes and special assessments are certified and a debt owed to the city by the responsible person or persons.
- (e) The fee will be based upon the number of inspections performed and will include, but not be limited to, the pro-rata salaries of enforcement officers performing inspections of the subject property, the pro-rata cost of equipment, materials and all other overhead costs used during inspections of the subject property.
- (f) Action under this section does not preclude any other civil or criminal enforcement procedure.
- (g) A new owner who has duly recorded the instrument of conveyance for the subject property within the time provided in Minn. Stat. §507.235 will not be liable for any excessive consumption fees arising from inspection services provided to the previous owner of the subject property.

Section 1007 - Removal of Graffiti

Section 1007:00. Definition. "Graffiti" is an inscription, drawing or design scratched, painted, sprayed or placed without consent of the owner on a surface so as to be seen by the public.

Section 1007:05. Mandatory Removal. The owner of any building displaying graffiti will, within 60 days of notification to remove the graffiti sent by the City to the owner, remove or cover by paint or other external wall coverings permissible under the Uniform Building Code, all graffiti from the surface of the building at the owner's expense.

Section 1007:10. Notice of Hearing. After police or other City employees have verified existence of graffiti, the City Clerk will give notice to the affected property owner that a hearing on removal of the graffiti will be held by the City Council. The notice will contain information relative to the hearing date, the owner's right to respond at the hearing, that the Council may order removal of the graffiti and if removal has to be done by City employees, that the cost of removal may be assessed against the owner's property.

Section 1007:15. Interference. It is unlawful for any person to prevent, delay or interfere with the police or any other assigned City employee while they are engaged in the investigation or removal of graffiti under this section.

Section 1010:00 - High Risk Sexual Conduct

Section 1010:00. Findings. It is found that there are within the City of St. Cloud commercial premises, buildings and structures, which, by reason of the design and use of such premises, buildings or structures are conducive to the spread of communicable disease of danger to persons frequenting such premises, buildings and structures, and to the public health, safety and welfare of the community. The health, safety and welfare of all persons in the City of St. Cloud must be protected through the application and enforcement of standards regulating such premises, buildings and structures, in order to eliminate the possibility of the spread of, or infection by, contagious disease. The sexually transmittable disease of Acquired Immune Deficiency Syndrome, is found to be irreversible and uniformly fatal. The incidence of this disease is found to occur in discernible population groups. The risk factors for obtaining or spreading the disease are associated with high-risk sexual conduct. The commercial premises, buildings and structures where persons are placed at risk of infection from this disease or other communicable diseases facilitated by their design or use for high risk sexual conduct are in need of regulation and of establishment of minimal standards for the prevention of the spread of this disease and other communicable diseases for the protection of the public health, safety and welfare of the community.

Section 1010:05. Definitions.

Subd. 1. The term "high risk sexual conduct" means:

- (a) fellatio;
- (b) anal intercourse;
- (c) vaginal intercourse with persons who engage in sexual acts in exchange for money.

Subd. 2. The term "hazardous site" means any commercial premises, building or structure, which is a site of high-risk sexual conduct.

Subd. 3. The phrase "booths, stalls, or partitioned portions of a room or individual rooms" means:

- (a) Enclosures specifically offered to persons for a fee or as an incident to performing high risk sexual conduct; or
- (b) Enclosures which are part of a business operated on the premises which offers movies or other entertainment to be viewed within the enclosure, including enclosures where movies or other entertainment is dispensed for a fee. The phrase "booths, stalls, or partitioned portions of a room or individual rooms" does not mean enclosures which are private offices used by the owners, manager, or persons employed on the premises for attending to the tasks of their employment, and which are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing movies or other entertainment for a fee, and are not open to any persons other than employees.

Subd. 4. The phrase "doors, curtains or portal partitions" means full, complete, non-transparent closure devices through which one cannot see or view activity taking place within the enclosure.

Subd. 5. The phrase "open to an adjacent public room so that the area inside is visible to persons in the adjacent public room" means either the absence of any "door, curtain or portal partition" or a door or other device which is made of clear, transparent material such as glass, plexiglass or other similar material meeting building code and safety standards, which permits the activity inside the enclosure to be viewed or seen by persons outside the enclosure.

Subd. 6. The words "Health Director" means the City of St. Cloud Health Director.

Section 1010:10. Building Standards.

Subd. 1. No commercial building, structure, premises will be so constructed, used, designed or operated for the purpose of engaging in, or permitting persons to engage in, sexual activities which include high risk sexual conduct.

Subd. 2. No person will own, operate manage, rent, lease or exercise control of any commercial building, structure, or premises, which contains:

- (a) Partitions between subdivisions of a room, portion or part of a building, structure or premises having an aperture which is designed or constructed to facilitate sexual activity between persons on either side of the partition.
- (b) Booths, stalls or partitioned portions of a room, or individual rooms, used for the viewing of motion pictures or other forms of entertainment, having doors, curtains or portal partitions, unless such booths, stalls, partitioned portions of a room, or individual rooms so used will have at least one side open to an adjacent public room so that the area inside is visible to persons in the adjacent public room. Such areas will be lighted in a manner that the persons in the areas used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms, but such lighting will not be of such intensity as to prevent the viewing of the motion pictures or other offered entertainment.

Subd 3. The standards as set forth in this section will not apply to buildings, structures and premises that are lawfully operating as hotels, motels, apartment complexes, condominiums or rooming houses.

Section 1010:15. Powers of the Health Director.

Subd. 1. In exercising powers conferred by this or any other section of this ordinance relating to communicable diseases, the Health and Housing Advisory and Appeals Committee (HAAC) and the Health Director will be guided by the most recent instructions, opinions and guidelines of the Center for Disease Control of the United States Department of Health and Human Services which related to the spread of infections diseases.

Subd. 2. In order to ascertain the source of infection and reduce its spread, the Health Director and persons under the Health Director's direction and control, have full power and authority to inspect or cause to be inspected, and to issue orders regarding any commercial building, structure or premises, which may be a site of high risk sexual conduct. If the Health Director determines that a hazardous site exists, the Health Director will declare it to be a public health hazard and public health nuisance and will then:

- (a) Notify the management, owner or tenant of the premises that that Director has reasonable belief that the premises, building or structure is a hazardous site.
- (b) Issue warnings to the management, owner or tenant of the premises stating the reasons for the Director's belief that the premises, building, or structure is a hazardous site.
- (c) Once such notice and warnings have been issued, the Director, or the Director's appointee will proceed as follows:
 - (1) After the management, owner or tenant of the premises has been notified in writing as to the basis of the Director's determination, the management, owner or tenant will have ten days to request a hearing before the Health and Housing Advisory and Appeals Committee for a determination as to the existence of such hazardous site. If the management, owner or tenant of the premises does not request a hearing within ten days of the notice, the Director will then cause the premises to be posted with a warning advising the public that the premises have been declared a hazardous site. The Health Director will cause orders to be issued to the management, owner or tenant of the premises constituting the hazardous site to take corrective measures to prevent high risk sexual conduct from taking place within the premises.
 - (2) If the management, owner or tenant of the premises requests a hearing, the hearing will be held before the Health and Housing Advisory and Appeals Committee at a date not more than 30 days after demand for a hearing. After considering all evidence, the Health and Housing Advisory and Appeals Committee will make a determination as to whether the premises constitute a hazardous site. The Health and Housing Advisory and Appeals Committee will then issue a decision based upon all evidence presented. If the Health and Housing Advisory and Appeals Committee makes a determination that the premises constitute a hazardous site, the Health Director will then issue an order and cause the premises, building or structure to be posted with a warning advising the public that the premises have been declared a hazardous site.

Subd. 3. If, within 30 days from issuance of the orders to the management, owner or tenant of the hazardous site, the Health Director determines that such corrective measures have not been undertaken, then the Health Director may order the abatement of the hazardous site as a public nuisance, which will be enforced by mandatory or prohibitory injunction in a court of competent jurisdiction; or may secure a court order for the closure of the premises constituting the "hazardous site" until the premises, building, or structure is in compliance with the standards set forth in Section 1010:10.

Subd. 4. Any person who removes, destroys, or defaces warnings posted on premises will be guilty of a misdemeanor.

Section 1015 Clandestine Drug Lab Sites and Chemical Dumpsites

Section 1015:00 Purpose. The purpose of this Section is to reduce public exposure to health risks where law enforcement officers have determined that hazardous chemicals from a suspected clandestine lab site or associated dumpsite may exist. The City Council finds that such sites may contain hazardous chemicals, substances, or residues of hazardous chemicals and substances that place people, particularly children or adults of child-bearing age, at risk of exposure through inhabiting or visiting the site, now and in the future.

Section 1015:10 Interpretation and Application.

Subd. 1. The provisions of this ordinance will be interpreted and applied as the minimum requirements necessary to protect public health, safety and welfare.

Subd. 2. Where the conditions imposed by any provision of this ordinance are either more restrictive or less restrictive than comparable provisions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements will prevail.

Section 1015:15 Definitions. The following terms or words will be interpreted as follows:

Subd. 1. "Child" means any person less than 18 years of age.

Subd. 2. "Chemical dumpsite" means any place or area where chemicals or other waste materials used in a clandestine drug lab have been located.

Subd. 3. "Clandestine drug lab" means the unlawful manufacture or attempt to manufacture controlled substances.

Subd. 4. "Clandestine drug lab site" means any place or area where law enforcement has determined that conditions associated with the operation of an unlawful clandestine drug lab exist. A clandestine drug lab site may include dwellings, accessory buildings, accessory structures, vehicles, a chemical dumpsite or any land.

Subd. 5. "Controlled substance means" a drug, substance or immediate precursor in Schedules I through V of Minn. Statutes 152.02. This term does not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.

Subd. 6. "Household hazardous wastes" means waste generated from a clandestine drug lab. Such wastes will be treated, stored, transported or disposed of in a manner consistent with the Minnesota Department of Health and Minnesota pollution Control Agency rules and regulations.

Subd. 7. "Manufacture", in places other than a pharmacy, means and includes the production, cultivation, quality control, and standardization, by mechanical, physical, chemical or pharmaceutical means, packing, repacking, tableting, encapsulating, labeling, relabeling, filling, or by other process, of drugs.

Subd. 8. "Owner" means any person, firm or corporation who owns, in whole or in part, the land, building, structure or vehicle associated with a clandestine drug lab site or chemical dumpsite.

Subd. 9. "Public Health Nuisance" means all dwellings, accessory structures and buildings, adjacent property or vehicle associated with a clandestine drug lab site or chemical dumpsite, are potentially unsafe due to health hazards, and will be considered a public health nuisance.

Section 1015:20. Declaration of a Property as a Public Health Nuisance. If law enforcement or a chemical assessment determines the existence of a clandestine drug lab site or chemical dumpsite, the property will be declared a Public Health Nuisance.

Subd.1. Notice to Other Authorities. The law enforcement authority or other agency requesting a chemical assessment that identifies conditions associated with a clandestine drug lab site or chemical dumpsite must promptly notify the appropriate child protection agency if children are or have been present, the St. Cloud Fire Department Hazmat/Chemical Assessment Team and the City of St. Cloud Health and Inspections Department of the property location, property owner if known and conditions found.

Subd. 2. The Health and Inspections Department will promptly post the property as a Public Health Nuisance at all probable entrances to the building, structure or property. Removal of the posting by anyone other than the Health and Inspections Department or law enforcement authority is prohibited.

Subd. 3. Occupancy Prohibited. Upon the issuance of a notice of a Public Health Nuisance and posting, all occupants of the building or structure will immediately vacate the premises. No person will occupy, enter or allow occupancy or entrance to a building or structure declared a public health nuisance until the public health nuisance declaration is vacated or modified to allow occupancy.

Subd. 4. The Health and Inspection Department is authorized to modify the conditions or remove the notice of a Public Health Nuisance.

Subd. 5. Modifications or removal of the notice of a Public Health Nuisance will occur only after documentation from a qualified environmental hazard testing and cleaning firm, stating that the health and safety risks including those to neighbors and potential dwelling occupants are sufficiently abated or corrected to allow safe occupancy of the dwelling.

Section 1015:25. Notice of Public Health Nuisance to Concerned Parties. The Health and Inspections Department will notify the owner of the property by mail in addition to the following parties:

Subd. 1. Occupants of the property.

Subd. 2. Neighbors at probable risk.

Subd. 3. Other state and local authorities if appropriate, such as the Minnesota Pollution Control Agency and the Minnesota Department of Health, which are known to have public and environmental protection responsibilities to the situation.

Section 1015:30. Property Owner's Responsibility to Act. Within ten days of receiving the notice of Public Health Nuisance, the owner and/or occupant will act to accomplish the following:

Subd. 1. Notify the Health and Inspections Department that the Clandestine Drug Lab Site has been and will remain vacated and secured until the Health and Inspections Department acts to remove the Notice of Public Health Nuisance.

Subd. 2. Contract with one or more acceptable environmental hazard testing and cleaning firms (acceptable firms are those that have provided the Health and Inspections Department assurance of appropriate equipment, procedures, and staff) to accomplish the following:

- a. Conduct a detailed onsite assessment.
- b. Determine the extent of contamination.
- c. Carry out and /or direct remediation operations.
- d. Perform and/or direct follow-up sampling and testing.
- e. Determine that the risks are sufficiently reduced, according to Minnesota Department of Health guidelines, to allow renewed occupancy of the Clandestine Drug Lab Site.

Section 1015:35 Property Owner's Responsibility for Costs and the City of St. Cloud Costs.

Subd. 1. Consistent with Minnesota Statutes Chapter 145A, the property owner will be responsible for:

- a. Private contractor's fees, cleanup, remediation, and testing of the Clandestine Drug Lab Site, and;
- b. The City of St. Cloud's fees and costs of administering notices, enforcing vacating, cleanup, remediation, and testing of the Clandestine Drug Lab Site.

Subd. 2. Nothing in this ordinance is intended to limit the property owners, occupants, or the City of St. Cloud's right to recover costs, referenced in this section, from persons contributing to the contamination, such as the operators of the Clandestine Drug Lab and/or other lawful sources.

Subd. 3 The City of St. Cloud's administrative and enforcement services, referenced in Subd. 1, b. of this Section include but are not limited to, the following:

- a. Posting the site.
- b. Notification of concerned parties.
- c. Remediation services.
- d. Laboratory fees.
- e. Expenses related to the recovery of cost, including the property assessment process.
- f. Administrative fees
- g. Other services associated with assessing, vacating, and remediation of the property.

Section 1015:40. Recovery of Public Costs

Subd. 1. If, after service of the notice of a Public Health Nuisance, the property owner fails to arrange appropriate assessment and cleanup within ten days, the Health and Inspections Department is authorized to proceed in a prompt manner to initiate the on-site assessment and cleanup.

Subd. 2. If the Health and Inspections Department is unable to locate the property owner within ten days of the notice of Public Health Nuisance, The Health and Inspections Department is authorized to proceed in a prompt manner to initiate the on-site assessment and cleanup.

Subd. 3. The Health and Inspections Department may abate the nuisance by removing any hazardous structure, building or condition, in accordance with Minnesota Statute Chapter 463.

Subd. 4. If the City of St. Cloud abates the Public Health Nuisance, in addition to any other legal remedy, the City of St. Cloud will be entitled to recover all costs. The City of St. Cloud may recover costs by civil action against the person or persons who own the property or by assessing such costs as a special tax against the property in the manner that taxes and special assessments are certified and collected.

Section 1040 –Animal Control Ordinance

Section 1040:00. Definitions.

Subd. 1. "Owner" means any person, firm or corporation owning, harboring or keeping a dog.

Subd. 2. "At Large" means off the premises of the owner and not under the control of the owner, or other competent person, by leash not exceeding eight feet in length.

Subd. 3. "Kennel" means any place, building, tract of land, abode, or vehicle where three or more dogs are kept and maintained. Kennel does not include a veterinarian licensed to practice in the State of Minnesota who keeps, congregates or confines dogs in the normal pursuit of the practice of veterinary medicine. Kennel does not include a pound owned and operated by any political subdivision of the State or providing pound services under contract with any political subdivision of the State.

Subd. 4. "Animal Control Officer" means the city staff charged with the duty of picking up and impounding unlicensed dogs (strays and abandoned animals) as herein provided.

Subd. 5. "Poundmaster" means the person in charge of the city pound. The Animal Control Officer will be the poundmaster unless the City will provide otherwise.

Subd. 6. Establishment of Pound. The St. Cloud Dog Pound is designated as the City pound for the purpose of this ordinance.

Subd. 7. Zoning Definitions Incorporated. Definitions contained in Article 3, Section 2 of the St. Cloud Zoning Ordinance are incorporated herein as if fully set forth in their entirety.

Subd. 8. "Domestic Animal" means any of various animals domesticated so as to live and breed in a tame condition.

Subd. 9. "Dangerous/Vicious Animal" means an animal determined by the Health and Housing Advisory and Appeals Committee or the Health Director to be a threat to the health and welfare of the citizens of the community. An animal that has bitten or attacked human beings or other animals may be prima facie determined to be a "vicious animal".

Section 1040:05. Rabies Control.

Subd. 1. Dogs, Cats and Ferrets Rabies Immunization Required. All dogs, cats and ferrets harbored or maintained within the City in all zoning districts will be immunized against rabies by a licensed veterinarian. The vaccines used and their duration of immunity against rabies will be as recommended by the National Association of State Public Health Veterinarians in their annual Compendium of Animal Rabies Vaccines.

Subd. 2. Dogs cats or ferrets or other animals known to have been bitten or exposed to a rabid animal must be euthanized or detained in a suitable quarantine for a period of not less than six months after exposure, unless proof of immunization is shown and "booster" injections have been given by a licensed veterinarian at the animal owner's expense.

Section 1040:10. Disposition of Diseased Dogs, Cats or other Animals. If a dog, cat or other animal quarantined under Section 1040:05 is found to be sick or diseased, the operator of the quarantine facility will immediately report in writing to the Health Director the condition of the dog or animal. The Health Department may then take possession of the dog, cat or animal for the purpose of submitting it to determine if it is suffering from rabies. A diseased dog, cat or animal may be euthanized, if the Health Director determines such action necessary for the protection of public health and safety, as recommended by a licensed veterinarian.

Section 1040:15. Muzzeling Confining Proclamation. Whenever rabies is prevalent in the City, the Mayor, for the protection of the public health and safety, and upon recommendation of the Health Director, may issue and publish in the official newspaper of the City a proclamation ordering every owner or keeper of a dog, cat or other animal to confine it securely on his premises, unless it is muzzled so that it cannot bite. It will be unlawful to violate such proclamation, and any unmuzzled dog running at large during the period fixed in the proclamation will be seized and impounded. An officer may immediately euthanize such unmuzzled dog, if after reasonable effort, it cannot be seized and impounded. Any dog seized and impounded under this section during the first 48 hours after publication of such proclamation will, if claimed within two days, be returned to the owner without any impounding charge or cost, if not infected with hydrophobia (rabies). After a period of two days, impounding fees as fixed by the City Council will be charged, and after four days the animal may be euthanized.

Section 1040:20. Animals at Large.

Subd 1. It will be unlawful for any person having or maintaining any animal to permit the animal to be at large or to be upon any premises other than as provided in the permit whether or not a permit for such animals has been issued as provided under the licensing and permit provisions of this code or other ordinance of the City.

Subd. 2. It is unlawful for any owner to allow a dog to run at large at any time.

Subd. 3 It is unlawful for any owner to allow a cat to run at large at any time.

Subd. 4 Dogs are permitted to run unleashed in the fenced and posted areas of Wilson Park on Riverside Drive N.E., Jaycees Park on 37th Avenue North and the northern fenced and posted portion of the Whitney Park and adjacent land north of the Sauk River that is accessible only by the foot bridge, under the following conditions:

- a. The owner of the dog must be present; and
- b. The dog must be under the voice control of the owner at all times; and

- c. The owner of the dog must provide proof of rabies vaccination as required by Section 1040:05 Rabies Control and have in their possession a valid dog park permit as provided for in Section 236:15 Permits; and
- d. Feces must be properly removed and disposed of in compliance with Park Department Rules.

Section 1040:25. Permit Required For Animals other than Dogs, Cats or Ferrets. Except as provided in this ordinance, it is unlawful for any person, either as owner or agent, to have or maintain within the limits of the City of St. Cloud, any animal either domestic or wild without having first obtained a permit according to Section 1040:120. Those animals exempted from the permit requirement are:

- a. Any of the order of Rodentia (mice, rats, hamsters);
- b. Any of the class of Reptilia (snakes, lizards, but not excepting crocodiles and alligators);
- c. Any of the class of Amphibian (salamanders, frogs, toads);
- d. Any of the class of Aves (birds) that are caged and otherwise kept inside the residence;
- e. Any of the class of Aves (birds) kept under the owners or caretakers control and within properties that are zoned Rural Residential or Agricultural by the St. Cloud Zoning Ordinance. Further providing that those birds are not free to leave the property.
- f. Fish.
- g. Dogs will be licensed pursuant to Section 1040:00. Wolves (of the genus Canis, especially C. lupus) and brush wolves or coyotes (of the genus Canis, especially C. latrans) are required to have a permit.
- h. There will be no permit required for domestic cats except permits are required for any exotic non-domestic cat.
- i. There will be no permit required for horses, cattle, sheep, goats, swine and fowl kept within properties that are zoned Rural Residential or Agricultural by the St. Cloud Zoning Ordinance. Further providing that those animals are not free to leave the property.

Section 1040:30. Restriction on Certain Dogs.

Subd. 1. No person will keep or harbor a dog which habitually barks or cries, howls or whines for a period of 10 minutes or longer, and no dog owner will permit his dog to damage any lawn, garden or other property.

Subd. 2. It is unlawful for any owner to maintain at any place within the City any dog or dogs which, by their habitual barking, howling, whining or other disagreeable noises, disturbs the people in the locality where kept.

Section 1040:35. Restrictions on Food and Drink Establishments. It is unlawful for the owner or operator of any establishment wherein the selling, handling, processing or preparation of food is done to permit any dog, cat or other animal in such establishment.

Subd. 1. This section does not apply to a seeing eye or leader type dog accompanied by its blind master.

Subd. 2. In areas that are not used for food preparation, including dining and sales areas, support animals that are trained to assist an employee or other person who is handicapped, are controlled by the handicapped employee or person, and are not allowed on seats or tables.

Section 1040:40. Damage to Property by Dogs, Cats, or other Animals Prohibited. No person having the custody or control of a dog, cat or other animal will permit the dog, cat or animal to damage any lawn, garden or other property, public or private, or to defecate on private property, without the consent of the owner or possessor of the property. It is the duty of each person having the custody or control of a dog, cat or other animal to voluntarily and promptly remove any feces left by such dog on any sidewalk, gutter, street, park land or other public property, or any public area, and to dispose of the feces in a sanitary manner and to have in immediate possession a device or equipment for the picking up and removal of feces. For the purpose of this section, "public area" will include any property open for public use or travel, even though it is privately owned. The provisions of this section do not apply to a guide dog accompanying a blind person or to a dog when used in police or rescue activities by or with the permission of the City. This section will not be construed by implication or otherwise to allow dogs to be where they are otherwise prohibited by the ordinances of the City.

Section 1040:45. Dangerous Animals. It is unlawful for an owner to fail to restrain an animal from inflicting or attempting to inflict bodily injury to any person or other domestic animal whether or not the owner is present. This section does not apply to an animal under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder who has entered the owner's premises with criminal intent.

Subd. 1 The Health Director has the authority to order the euthanization of dangerous animals.

Subd. 2. A dangerous animal is an animal that has:

- (a) Caused bodily injury or disfigurement to any person on public or private property; or
- (b) Engaged in any attack on any person under circumstances which would indicate danger to personal safety; or
- (c) Exhibited unusually aggressive behavior, such as an attack on another domestic animal; or
- (d) Bitten one or more persons on two or more occasions; or
- (e) When unprovoked, chased or approached a person upon the streets, sidewalks or any property other than the owners, in an apparent attitude of attack; or
- (f) Has the known history of propensity, tendency or disposition to attack while unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

Subd. 3. Unprovoked. Unprovoked means the condition in which the animal is not purposely excited, stimulated, agitated or disturbed. It is a rebuttable presumption that any attack on a child fourteen years of age or younger for which a reasonable person connotes an intent to inflict bodily harm will be considered to be unprovoked unless the child is engaged in the commission of a crime or illegal activity, including activities classified under Minnesota Statute 343 as cruelty to animals.

Subd. 4. Designation as a Dangerous Animal. The Health Director will designate any animal as a dangerous animal upon receiving such evidence that such animal has, when unprovoked, bitten, attacked, or threatened the safety of a person or domestic animal as stated in Subd. 2. The Health Director will cause one owner of the animal to be notified in writing or in person that the animal is dangerous and may order the animal seized or make such orders as deemed proper in accordance with Section 1040:50 Disposition of Dangerous Animals. This owner will be notified as to dates, times and places of parties bitten, and will be given five days excluding intervening weekends and holidays, to appeal this order by requesting, in writing on a form provided by the Health and Inspections Department, a hearing before an independent hearing examiner as provided for in Section 1040:55 Appeal.

Section 1040:50. Disposition of Dangerous Animals. The Health Director, after designation of an animal as dangerous according to Section 1040:45 Dangerous Animals Subd. 4 will determine the disposition of the dangerous animal.

Subd. 1. The dangerous animal will be euthanized; or

Subd 2. The dangerous animal will be subject to the following conditions:

(a) Housed in a Proper Enclosure. Proper enclosure means securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the animal from exiting. Such enclosure will not allow the egress of the animal in any manner without human assistance. A pen or kennel will meet the following minimum specifications:

- (1) Have a minimum overall floor size of thirty-two square feet.
- (2) Sidewalls will have a minimum height of five feet and be constructed of 11-gauge or heavier wire. Openings in the wire will not exceed two inches, support posts will be one-and-one quarter-inch or larger steel pipe buried in the ground eighteen

inches or more. When a concrete floor is not provided, the sidewalls will be buried a minimum of eighteen inches in the ground.

- (3) A cover over the entire pen or kennel will be provided. The cover will be constructed of the same gauge wire or heavier as the sidewalls and will also have no openings greater than two inches.
 - (4) An entrance/exit gate will be provided and be constructed of the same material as the sidewalls and will also have no openings in the wire greater than two inches. The gate will be equipped with a device capable of being locked and will be locked at all times when the animal is in the pen or kennel; and
- (b) Insurance. The owner provides and shows proof annually of public liability insurance paid in full in the minimum amount of \$500,000. If the animal is impounded, proof of insurance must be demonstrated prior to the animal's release; and
- (c) Posting. Post the front and rear of the premises with clearly visible warning signs including a warning symbol to inform children, that there is a dangerous animal on the property as specified in Minnesota Statute 347:51; and
- (d) Muzzle. If the animal is a dog and is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash not to exceed 8 feet in length and be under the physical restraint of a person eighteen years of age or older. The muzzle must be of such design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration; and
- (e) Microchip Identification Required. The owner of a dangerous dog is required to have a microchip installed or injected on the animal. The microchip will be installed in or injected under the skin of the animal by a licensed veterinarian and will be designed so that, when scanned by an electronic reader, it is capable of providing the identification of the dog's owner. The owner will pay an appropriate fee to the licensed veterinarian for the microchip. If the dog is impounded, the microchip will be installed or injected prior to its release; and
- (f) Annual Registration Fee. The owner of a dangerous dog is required to pay annual registration fee as set forth in Section 565:00. Miscellaneous Licenses and Permit Charges, Subd. 3. Dog Kennels, Licenses, Impound and Quarantine Fees, in addition to the annual dog license. If the dog is impounded the fee will be paid prior to the animal's release.

Section 1040:55 Appeal. Appeal of the Health Directors dangerous animal designation will be a hearing before an independent hearing examiner not more than fifteen days after receipt of the appeal request as described in Section 1040:45 Subd 4. At the time of the hearing, the animal owner may appear and present any evidence which he or she may deem material to the investigation. The hearing officer will make a finding of facts as to whether a violation of the provisions of this section has been committed. The hearing officer will affirm or reject the Health Directors dangerous animal designation or may impose other sanctions as warranted.

Section 1040:60. Dog, Cat or Animal Biting; Quarantine. Whenever any dog, cat or animal has bitten any person or domestic animal, the owner or custodian of the dog, cat or animal, upon being notified by the Health Department, will immediately cause the dog, cat or animal to be quarantined at the City pound, or by a veterinarian licensed to practice in the State of Minnesota and approved by the Health Director, for a period of ten days after the person has been bitten by the dog, cat or animal. Within 24 hours of impoundment, a veterinarian will observe the animal and examine the animal if necessary to ascertain whether symptoms of rabies exist. If at the end of ten days the veterinarian diagnoses the dog, cat or animal to be free of the signs of rabies, the dog, cat or animal will be released from quarantine. If the dog, cat or animal dies, its head will be sent to the State Department of Health for examination for rabies. The owner of the dog, cat or animal is responsible for the cost of quarantine and examination by a veterinarian.

Section 1040:65. Impounding.

Subd. 1. Dogs. The Animal Control Officer or any duly authorized assistants, or any peace officer, may impound any dog found in the City without the currently effective tag provided for in Section 1040: 90; or any dog found running at large at any time within the City in violation of Section 1040: 20 In enforcing this ordinance officers may enter upon private premises where they have reason to believe there is an unlicensed dog.

Subd. 2. Cats. It will be lawful for The Animal Control Warden or any of his duly authorized assistants, or any peace officer, to take up and impound any cat found in the City without a currently effective rabies vaccination provided for in Section 1040:85; or any cat found running at large at any time within the City in violation of Section 1040:50 (2). In enforcing this ordinance peace officers may enter upon any private premises

Section 1040:70. Redemption. Dogs and cats may be redeemed from the pound by the owner any time, during office hours, within 120 hours after seizure and impounding, upon a sworn statement of ownership, proof that a license has been issued for the dog, and presentation of a receipt showing payment to the City Clerk of the impounding fee. The Poundmaster will release the dog or cat to the owner, unless the dog or cat is being held for rabies observation pursuant to Section 1040: 10. The amount of the redemption fee will be the amount established by the Council.

Section 1040:75. Disposition of Unredeemed Dogs. Any dog or cat that is not redeemed by the owner or sold will be euthanized or otherwise disposed of, as directed by the Health Department.

Section 1040:80. Interference with Officers. It unlawful for any unauthorized person to break open the pound, or to attempt to do so, or to take or let out any dog or cat, or to take, or attempt to take, from any officer any dog or cat taken by them in compliance

with this ordinance, or in any manner to interfere with or hinder such officer in the discharge of their duties under this ordinance.

Section 1040:85. Rabies Immunization Required.

Subd. 1. Dogs. No license will be issued for any dog unless the applicant for such license presents proof that the dog has been immunized against rabies according to Section 1040:05 Rabies Control, Subd. 1.

Subd. 2. Cats. All cats harbored or maintained within the City will be immunized against rabies by a licensed veterinarian. The vaccines used and their duration of immunity against rabies will be as recommended by the National Association

Section 1040:90. License Required; Fee. It will be unlawful for any person to own, keep or harbor any dog or dogs over six months of age within the corporate limits of the City, with the exception of agricultural zoned areas, without having obtained a license. Dogs that are not spayed or neutered due to age or health reasons will be licensed at the same rate as neutered or spayed dogs. The determination that a dog will not be spayed or neutered will be made by a licensed veterinarian. The written determination will be provided to the City at the time of licensing.

Section 1040:100. Date of Payment of License Fee. It is the duty of the owner of a dog required to be licensed to pay to the City Clerk the prescribed license fee on or before the 31st day of May in each year, or upon acquiring ownership or possession of an unlicensed dog, or upon establishing residence in the City. The Animal Control Officer will cause a notice of the necessity of obtaining such license and paying such license fee to be published in the official newspaper of the City twice before the 31st day of May, in each year, the last publication to be at least one week prior such date. If any owner does not obtain a license for his/her dog by this date, a late license fee will be added onto the regular dog license fee. When applying for a dog license, the owner will state the name, sex, breed and color of the dog for which the license is to be procured.

Section 1040:105. Receipts and Tags. Upon the payment of the required license fee, the City Clerk will execute a receipt, in duplicate, showing the name and place of residence of the person to whom issued and the number designated upon the dog tag delivered to such person. The owner will permanently fasten the tag to the collar of the dog in such manner that the tag may be seen easily, and the tag will be worn constantly by such dog. All licenses will expire on the 31st day of May of the calendar year following its issuance.

Section 1040:110. Duplicate Tags. When any dog tag is lost, a duplicate may be issued by the City Clerk, upon presentation of a receipt showing the payment of the license fee for the then current year. A fixed charge will be made for each such duplicate tag.

Section 1040:115. Offenses Involving Tags. It is unlawful to counterfeit, or attempt to counterfeit, the tags provided for in Section 1040:105 or to remove from any dog a tag legally placed upon it with the intent of placing it upon another dog, or to place such tag upon another dog. It is unlawful for any person to transfer any tag issued, or to place a tag upon any dog other than the one for which it was issued, provided a tag may be transferred with the dog for which it was issued. No refunds will be made on any dog license fee because of the removal of the dog from the city or because of the death of the dog before the expiration of the license period.

Section 1040:120. Permit Application for Animals other than Dogs, Cats or Ferrets . Any person desiring to have or maintain any animal other than a dog, cat or ferret within the

limits of the City of St. Cloud will make application to the Health Director for a permit. The application will be made in writing upon a form provided by the Health Director and will state the name and address of the applicant, the kind and number of animals and the purpose for which the animals are to be kept and the location where the applicant proposes to keep the animals.

Section 1040:125. Issuance. The application will be filed with the Health Director who will conduct an investigation. The Health Director will consider the application and if it appears that the granting of the application will not create a hazard to health and that the keeping and maintaining of such animals will not constitute a nuisance, the Health Director may grant a permit for the keeping of such animals at the location stated in the application. The permit so granted will be issued by the City Clerk upon payment of the required permit fee.

Section 1040:130. Permit Revoked. The Health Director may revoke any permit upon five days notice in writing mailed to the permit holder at the address stated in the application. The notice will also schedule a hearing where the revocation of the permit will be considered and will set the time and place of hearing. The permit holder will have an opportunity to be heard at the permit revocation hearing. If the Health Director revokes said permit, the holder will be allowed ten days in which to dispose of the animals maintained by the Health Director.

Section 1040:140 Exemption for Police K-9 Dogs. The provisions of Section 1040 do not apply to police K-9 dogs utilized by law enforcement agencies within the corporate limits of the City.

Section 1040:145. Kennels; License Required. No person will maintain a kennel within the City except in a location permitted by the zoning ordinance. The kennel license will be in addition to the license prescribed in preceding sections for each dog kept in such kennel, and the license fee will be fixed from time to time by the Council and will be obtained in the same manner as the dog license. The fee will be based upon the maximum number of dogs handled at the kennel. The license will expire annually on May 31st of each year.

Section 1040:150. Limitations. Except for kennels licensed under Section 1040:145, no more than two licensed dogs may be possessed per dwelling unit, lodging house, fraternity house or sorority house located in a residentially zoned area within the City of St. Cloud. Except for kennels licensed under Section 1040:145, no more than two licensed dogs may be possessed per commercial or industrially zoned property located within the City of St. Cloud.

Section 1040:200. Waterfowl.

Subd.1. Definitions.

- (a) Waterfowl. A general term referring to all “undomesticated birds” commonly known as geese, ducks, brants, swans, river and sea ducks, gulls and similar species.Feed.
- (b) To “feed” includes the provision or dissemination of food in any manner in the vicinity of waterfowl.

- (c) Waterways. A general term referring to lakes, ponds, streams, creeks and stormwater basins.

Subd. 2. Prohibited acts. It will be unlawful for any person to feed waterfowl on any publicly owned land or waterways within the City.

Subd. 3. Signs.

- (a) Signs will be conspicuously placed on publicly owned land and adjacent waterways alerting the public not to feed waterfowl. Signs will be constructed not less than twelve by eighteen inches (12"x18") in size, bearing the words: "WARNING: FEEDING OF WATERFOWL PROHIBITED."
- (b) Defacing, tampering, moving, or damaging such signs will constitute a misdemeanor.

Subd. 4. Enforcement.

- (a) The Saint Cloud Police Department will enforce this Section.
- (b) Notice of violation will be by issuance of a citation.

Subd. 5. Violations and Penalties.

- (a) Any person violating this Section will be subject to a warning for the first violation, except for violations of Section 1006:30(2). It is not the intent of the City to penalize people for feeding waterfowl but to discourage people from doing so.
- (b) A person violating this Section for a second and subsequent time will be subject to fine of not less than \$25 nor more than \$100.

1040:300. Deer.

Subd. 1. Definitions.

- (a) "Deer" means all mammals of the family Cervidae.
- (b) "Feed" means the provision or dissemination of food, including salt, in any manner in the vicinity of deer.

Subd. 2. Prohibited acts. It will be unlawful for any person to feed deer on any land not zoned agricultural within the City.

Subd. 3. Enforcement.

- (a) This Section will be enforced by the Saint Cloud Police Department and/or the St. Cloud Health and Inspections Department.
- (b) Notice of violation will be by issuance of a citation.

Subd. 4. Violations and Penalties.

- (a) Any person violating this Section will be subject to a warning for the first violation, except for violations of Section 1006:30.
- (b) A person violating this Section for a second and subsequent time will be subject to an administrative penalty in accordance with the administrative fine schedule.

Section 1045 - Dutch Elm Disease and Oak Wilt

Section 1045:00. Declaration of Policy. The City of St. Cloud has determined that the health of elm and oak trees is threatened by the fatal disease known as Dutch Elm and Oak Wilt Diseases. It has been further determined that the loss of elm and oak trees growing upon public and private property would substantially depreciate the value of property and impair the safety, good order, general welfare and convenience of the public. It is declared to be the intention of the City of St. Cloud to control and prevent the spread of these diseases and this ordinance is intended for this purpose.

Section 1045:05. Shade Tree Disease Program. It is the intention of the City of St. Cloud to conduct a program of plant pest control pursuant to authority granted by Minnesota Statutes, Section 18.023. This program is directed specifically at the removal of trees stricken with Dutch Elm or Oak Wilt Disease and is undertaken at the recommendation of the Commissioner of Agriculture and Minnesota State Statutes. The City Forester will act as coordinator for the Commissioner of Agriculture, the City of St. Cloud, and the Department of Parks and Recreation of the City of St. Cloud in the conduct of the program.

Section 1045:10. Nuisance Declared. The following items are a public nuisance wherever they are found within the City of St. Cloud:

- (a) Any living or standing elm tree infected to any degree with Dutch elm disease fungus, *ceratocystis ulmi* (Buisman) Mureau, or which harbors any elm bark beetles, *Scolytus multistriatus* (Eich.) or *Hylurgopinus rufipes* (March).
- (b) Any living or standing oak tree infected to any degree with Oak Wilt fungus, *Ceratocystis fagacearum*.
- (c) Any dead elm or oak tree, including logs, branches, stumps, firewood or other material from which the bark has not been removed and burned or sprayed with an effective insecticide as often as deemed necessary.

Section 1045:11. Exemption. Those portions of the City that are zoned Rural Residential or Agricultural by the St. Cloud Zoning Ordinance are exempt from the application of this Section 1045 of the Code.

Section 1045:15. Abatement. It is unlawful for any person to permit any public nuisance as defined in this section to remain on any premises owned by him. Such nuisance will be abated in the manner prescribed by this ordinance.

Section 1045:20. Inspection and Investigation.

Subd. 1. The Parks Director, his agent or employees assigned to him, may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned in this section.

Subd. 2. The Parks Director will inspect all premises and places within the City of St. Cloud as often as practicable to determine whether a nuisance exists.

Subd. 3. The Parks Director, upon finding conditions indicating Dutch elm or Oak Wilt infestation, immediately will take appropriate specimens or samples and culture them in a laboratory by an individual authorized by the Commissioner of Agriculture to perform such culture. In the event no one is authorized to perform such culture or the laboratory facilities are unavailable for such purpose, the specimens or samples are to be sent to the Commissioner of Agriculture (Bureau of Plant Industry) State of Minnesota, for analysis or the City Forester will take such other steps for diagnosis as may be recommended by the Commissioner of Agriculture.

Subd. 4. No action to remove infected trees will be taken until positive diagnosis of the disease has been made.

Section 1045:25. Abatement of Dutch Elm or Oak Wilt Disease Nuisance on City Property. The Parks Director will cause any nuisance, as defined in Section 1045:10, to be removed from property of the City, including streets, boulevards and alley right-of-ways (from property line to property line) and cause same to be burned or otherwise effectively treated so as to destroy and prevent, as fully as possible, the spread of Dutch elm or Oak Wilt disease fungus. The abatement procedures will be carried out in accordance with such technical and expert methods and plans as may be designed by the City of St. Cloud and consistent with the regulations and requirements of the Commissioner of Agriculture of the State of Minnesota. The Park Director will establish procedures for tree removal and disposal methods consistent therewith.

Section 1045:30. Abatement of Dutch Elm or Oak Wilt Disease Nuisance on Private Property. Whenever the Parks Director finds with reasonable certainty that a nuisance as defined in Section 1045:10 exists on private property, including property controlled by other entities of government and outside any public way or property of the City, within the City of St. Cloud, the City Forester or his authorized representative will notify the owner by certified mail of the existence of the nuisances and direct that the nuisance be removed and burned or otherwise effectively treated in the approved manner within 15 days after mailing of such notice. The notice will also state that if the nuisance is not abated by the owner within the time provided, that the City of St. Cloud will abate the nuisance and assess the costs against the property. In the event the owner of any private or public premises upon which such a nuisance is situated fails to comply with the notice, the Park Director, his agents or employees assigned to him, will proceed to abate the nuisance in the manner prescribed for abatement of such nuisances on City property. Any expenses incurred by the City of St. Cloud or by approved contractors in so doing will be a charge and a lien upon said property and will be collected as a special assessment in the same manner as other special or as stated in Minnesota Statutes Chapter 18G.

Section 1045:35. Collection of Assessments. The cost of abatement of any nuisance incurred by the City of St. Cloud and not reimbursed by the owner on or before November 1st of each year will be reported by the Parks Director to the City Council, through the Mayor's Office. The Council will assess the levy and cause to be collected the amount of such costs as a special assessment upon and against the premises and property upon which said nuisance existed in like manner as other special

assessments, payable in one sum or as stated in Minnesota Statutes, Chapter 18G.

Section 1045:36. Transporting Elm and Oak Wood Prohibited. It is unlawful for any person to transport within the City of St. Cloud any bark bearing elm or oak wood without having obtained a permit from the Park Director.

Section 1045:40. Interference Prohibited. It is unlawful for any person to prevent, delay or interfere with the Parks Director his agents, employees or contractors, while they are engaged in the performance of duties imposed by this ordinance.

Section 1045:45. Position of City Forester. The Parks Director is responsible for the enforcement of this ordinance and to coordinate the abatement program within the rules, regulations and policies set forth by the Commissioner of Agriculture, the Mayor, and the City Council.

Section 1050 - Noise Control Regulations

Section 1050:00. Unlawful to Make Loud or Unnecessary Noises. It will be unlawful for any person to make, or cause to be made any loud, unnecessary or unusual noise, which either annoys, disturbs, or affects the comfort, repose, health, or peace of others.

Section 1050:05. Unlawful Acts. The following acts set forth in the following subdivisions are declared to be loud, disturbing, and unnecessary noises in violation of this ordinance, but this enumeration is not exclusive.

Subd. 1. Horns, Signaling Devices, etc. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle, except as a danger warning;

Subd. 2. Radios, Tape and Disc Players, etc. The using, operating, or permitting to be played any radio tape or disc player, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner, considering the time and place and the purpose for which the sound is produced, as to disturb the peace, quiet or repose of a person of ordinary sensibilities.

(a) The play, use, or operation of any radio, tape or disc player, musical instrument, phonograph or other machine or device for the production or reproduction of sound in such a manner as to be plainly audible at a distance of 50 feet from such machine or device will be prima facie evidence of a violation of this section.

(b) When sound violating this section is produced or reproduced by a machine or device that is located in or on a vehicle, the vehicle's owner is guilty of the violation. However, if the vehicle's owner is not present at the time of the violation, the person in charge or control of the vehicle at the time of the violation is guilty of the violation.

(c) This section will not apply to sound produced by the following:

- (1) Amplifying equipment used in connection with activities which are authorized, sponsored or permitted by the City of St. Cloud, so long as the activity is conducted pursuant to the conditions of the license, permit or contract authorizing such activity.
- (2) Church bells, chimes or carillons.
- (3) School bells.
- (4) Anti-theft devices.
- (5) Machines or devices for the production of sound on or in authorized emergency vehicles.

(d) With the exception of the machines or devices listed in subsection (c), this section will apply to all radios, tape and disc players, musical instruments, phonographs, and machines and devices for the production or reproduction of sound, whether on public or private property.

Subd. 3. Loud Speakers, Amplifiers for Advertising. The using, operating, or permitting to be played any radio receiving set, musical instrument, phonograph, loudspeaker, sound

amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure;

Subd. 4. Yelling, Shouting, etc. Yelling, shouting, hooting, whistling, or singing at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel, motel, or other place of residence, or of any persons in the vicinity;

Subd. 5. Animals, Birds, etc. The keeping of any animal or bird which by causing frequent or long continued noise will disturb the comfort or repose of any persons in the vicinity;

Subd. 6. Whistles or Sirens. The blowing of a locomotive whistle or steam whistle attached to any stationary boiler or any siren whatsoever except to give notice of the time to begin or stop work or as a warning of fire or danger, or by public emergency vehicles;

Subd. 7. Exhausts. The discharge into the open air of the exhaust of any vehicle except through a muffler or other device, which will effectively prevent loud or explosive noises therefrom;

Subd. 8. Defect in Vehicle or Load. The use of any automobile, motorcycle, or vehicle so out of repair, so loaded, or in such manner as to create loud and unnecessary grating, grinding, rattling, or other noise which will disturb the comfort or repose of any persons in the vicinity;

Subd. 9. Sound Trucks for Advertising Purposes. The use of sound trucks or any other vehicle equipped with sound amplifying devices for the purposes of advertising any program, project, or meeting of any public agency, private business, religious organization, civic group, political party, or charitable organization;

Subd. 10. Loading, Unloading, Opening Boxes. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers;

Subd. 11. Construction or Repairing of Buildings. The erection (including excavating), demolition, alteration, or repair of any building between the hours of 9 p.m. and 6 a.m. on week days and all day Sunday except where single individuals or families work on single family residences for their own occupancy owned by them, except that the Building Inspector may, in cases of emergency, grant permission to repair at any time when it is determined that such repair work will not affect the health and safety of the persons in the vicinity;

Subd. 12. Schools, Courts, Churches, Hospitals. The creation of any excessive noise on any street or private property which unreasonably interferes with any school, institution of learning, church, court, or hospital while the same is in use.

Subd. 13. Hawkers, Peddlers. The shouting and crying of peddlers, hawkers, and vendors which disturbs the peace and quiet of the neighborhood;

Subd. 14. Pile Drivers, Hammers, etc. The operation between the hours of 9 p.m. and 6 a.m. of any pile driver, power shovel, pneumatic hammer, derrick, power or electric hoist, or other appliance the use of which is attended by loud or unusual noise;

Subd. 15. Blowers. The operation of any noise creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of aerating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise;

Subd. 16. Noisy Parties and Gatherings.

- (a) Prohibition. No person will, between the hours of 10:00 p.m. and 7:00 a.m. congregate at, or participate in any party or gathering of two or more people from which noise emanates of a sufficient volume so as to disturb the peace, quiet, or repose of another person. No person will knowingly remain at such a noisy party or gathering.
- (b) Evidence. Noise of such volume as to be clearly audible at a distance of 50 feet from the structure or building in which the party or gathering is occurring, or in the case of apartment buildings, in the adjacent hallway or apartment, will be prima facie evidence of a violation of this section.
- (c) Duty to Disperse. When a police officer determines that a party or gathering is in violation of this section, the officer may order all persons present at the premises where the violation is occurring, other than the owner or tenants of the premises, to disperse immediately. No person will knowingly remain at such a party or gathering.
- (d) Exceptions. The following are exempt from violation of this section:
 - (i) Activities which are duly authorized, sponsored or licensed by the City of St. Cloud, so long as the activity is conducted pursuant to the conditions of the license, permit or contract authorizing such activity.
 - (ii) Church bells, chimes or carillons.
 - (iii) Persons who have gone to a party for the sole purpose of abating the violation.
- (e) Penalties. Every owner or tenant of the premises where a party or gathering in violation of this section occurs, who is present at such party or gathering, is guilty of a misdemeanor. Any person who refuses to disperse from a party or gathering in violation of this section after being ordered by a police officer to do so, is guilty of a misdemeanor.

Subd. 17. Exemptions Authorized by the St. Cloud City Council. Upon special request made by contractors, the Council may exempt contractors performing public works operations from time prohibitions set forth within this ordinance.

Section 1050:10. Landlord's Responsibility. For purposes of this section, owner is defined to include corporations and partnerships as well as individual owners.

Subd. 1. The owner of a residential dwelling is responsible to cause persons occupying the dwelling unit to conduct themselves in such a manner to ensure that persons upon the premises are not in violation of noise control regulations set forth in Section 1050:05, Subdivisions 2, 4, and 16 of this Code; the keg permit provisions set forth in Section 817:35 of this Code; or the provisions of Minn. Stat. §609.72.

Subd. 2. The Police and/or the Health and Inspections Department will be charged with the responsibility of enforcing Subd. 1.

Subd. 3. Upon determination by the Police that the licensed premises were used in a manner in violation of Section 1050:05, subdivisions 2, 4 or 16; Section 817.35; or Minn. Stat. §609.72, the Health and Inspections Department will notify the owner and managing agent of the owner by regular mail, within 21 days of the violation and direct the owner and managing agent to take steps to prevent further violations at the premises.

Subd. 4. If another violation of Section 1050:05, subdivisions 2, 4, or 16; Section 817:35; or the provisions of Minn. Stat §609.72 occurs at the premises within 12 months of an incident for which notice provided in Subd. 3 of this section was given, the owner and managing agent will be notified of the subsequent violation by the Health and Inspections Department, and will be required to submit a written report of actions taken by the owner and/or managing agent to eliminate future violations of Section 1050:05, subdivisions 2, 4 or 16; Section 817.35; or Minn. Stat. §609.72 . This written report will be submitted to the Health and Inspections Department within 15 days, excluding intervening weekends and holidays, of the notice of violation, and will detail all actions taken by the owner and/or his managing agent in response to all notices of violations at the premises within the preceding 12 months.

Subd. 5. If another violation of the Section 1050:05, subdivisions 2, 4 or 16; Section 817.35; or Minn. Stat. §609.72 occurs at the premises within 12 months after receipt of notices pursuant to Subd. 3 and Subd. 4, a civil fine of \$500.00 will be imposed against the licensee. If any further violations occur at the premises within 12 months of imposition of a \$500.00 civil fine, the rental dwelling license will be revoked or suspended for such dwelling unit for a period of not less than 30 days, and, in addition, a civil fine of \$1,000.00 will be imposed against the licensee. No fine, suspension, or revocation will be imposed until after the owner has received notice of the proposed fine, suspension or revocation, and has been afforded an opportunity for a hearing before an independent hearing officer. If the independent hearing officer finds a violation of this section, the independent hearing officer will give written notice to the owner by certified mail within ten days of the hearing date, excluding intervening weekends and holidays, of its findings, and recommendation to the City Council that a fine be imposed, or that the rental dwelling license be suspended or revoked.

Subd. 6. Unless the owner appeals the decision of the independent hearing officer to the City Council within five days of issuance of the independent hearing officer's findings and recommendation, excluding intervening weekends and holidays, the City Council, at its next meeting will impose the fine and/or suspend or revoke the rental dwelling license in accordance with the independent hearing officer's findings and recommendation. If the owner appeals the independent hearing officer's decision upon a form provided by the Health and Inspections Department within the prescribed time period, the owner will be afforded an opportunity to have the City Council review the independent hearing officer's findings and recommendations and either affirm the independent hearing officer's findings and recommendation imposing a fine, suspension or revocation or to substitute its own findings that a violation did not occur.

Subd. 7. The rental license may be reinstated by the Health and Inspections Department after suspension or revocation, upon payment to the City of the fine imposed by the City Council. No rental dwelling license will be renewed for the subsequent year until all outstanding civil fines imposed under this section have been paid in full.

Subd. 8. No fine, suspension, or revocation will be imposed for a violation of subd. 1 which occurred during the pendency of eviction proceedings (unlawful detainer) or within 30 days, or such other time period required by the lease, of notice given by the owner or managing agent to a tenant to vacate the premises, where the violation related to or occurred in the unit for which eviction proceedings were undertaken or notice to vacate was given. Eviction proceedings and not a bar to sanctions pursuant to this section unless a certified copy is provided to the Health and Inspection Department at the time of delivery to the tenants by the owner or managing of the premises who is a member of the Crime Free Multi-Housing Program as established in Section 1055 of this Code.. No action will be taken under this section against an owner who was personally, or through designated agent, the complainant on the underlying violation of subd. 1.

For the purpose of this Subdivision 8 the designated agents will be those individuals identified by the owner or managing agent on a list provided to and maintained at the Health and Inspections Department. Any owner or managing agent who does not maintain a current list of all managers, caretakers or agents for a licensed premises with the Health and Inspections Department will not be afforded an exemption under this subdivision for a designated agent being the complainant on the underlying violation of subd. 1.

Subd. 9. All written leases for licensed rental premises will contain a clause providing that violation of Subd. 1 of this section will constitute a material breach of the lease and grounds for termination of the lease.

Subd. 10. It is irrelevant that the dwelling owner or others were not criminally prosecuted or were acquitted of criminal charges for the incidents serving as the basis of the suspension or revocation.

Subd. 11. Any person, firm, corporation or partnership that violates subdivisions 4. and 9. of this ordinance is guilty of a misdemeanor. Each violation of this ordinance constitutes a separate offense.

Section 1055-Crime Free Multi-Housing Program

Section 1055. The Program. The Crime Free Multi-Housing Program is a three-phase certification program for rental properties of all sizes, including single family rental homes. The program is available to owners and property managers of rental properties located within the corporate limits of the City of St. Cloud. Necessary training and support of the program is designed to provide for ease of participation. The program is known to be effective in reducing criminal activity in rental properties. It is the policy of the City of St. Cloud to encourage active participation in the program by all rental property owners and property managers.

Section 1055:01. Certification. To obtain and maintain certification from the St. Cloud Police Department a member of the Crime Free Multi-Housing Program a rental property owner or property manager must:

Subd. 1. Successfully complete and implement all of the components of the Crime Free Multi-Housing Program within two years from the date of application to the program. The components of the program are:

- (a) Attendance at and successful completion of the Management Training component which will be shown by demonstrating an understanding of each of the following subject matter:
 - (1) The Crime Free Multi-Housing Program and ordinance.
 - (2) Rental applications and housing discrimination.
 - (3) Screening and background checks.
 - (4) Lease and lease addendum's.
 - (5) Unlawful detainer and eviction.
 - (6) Manager/Owner policies and roles.
 - (7) Data privacy.
 - (8) Narcotics and gangs.
 - (9) Section 8 housing.
 - (10) Rental licensing.

- (b) Compliance with environmental crime prevention requirements by owners for their rental properties that are located within the corporate limits of the City of St. Cloud or in the case of a property manager, for all rental properties located within the corporate limits of the City of St. Cloud that are managed by that property manager. Compliance will be indicated by completion of the following requirements:
 - (1) Single cylinder deadbolt locks installed in each entry door for each dwelling unit.
 - (2) High security strike plate with 3-inch screws installed on each entry door for each dwelling unit.

- (3) Door viewer- 180° peephole installed in primary entry door for each dwelling unit.
 - (4) Anti-lift/slide device installed on all windows and sliding glass doors.
 - (5) Security lighting adequate to illuminate exterior grounds.
 - (6) Landscaping in a manner that provides for visual sight lines.
 - (7) Visible address numbering installed.
 - (8) Compliance with all Fire and Building Code requirements.
- (c) At least once every 12 months make available, in cooperation with the St. Cloud Police Department, training for tenants in respect to the following subject areas:
- (1) The Crime Free Multi-Housing program together with the concept of partnerships and sharing responsibilities.
 - (2) Crime concerns and prevention awareness techniques.
 - (3) Application of Neighborhood Watch program/principles.
- (d) Include, implement and enforce, as part of all written leases, the Lease Addendum for Crime-Free/Drug-Free Housing provided by the St. Cloud Police Department.

Subd. 2. Following successful completion of the program components described in Subd. 1 above, rental property owners or property managers must attend annual retraining sessions and maintain compliance with all program components.

Subd. 3. Rental property owners who acquire additional rental properties following the successful completion of the program described in Subd. 1 above must bring those properties into compliance within one year from the date of acquisition. Rental property managers who add additional properties for which they are responsible following the successful completion of the program described in Subd. 1 above must bring those properties into compliance within one year from the date of assumption of management responsibilities.

Section 1055:02. Decertification. Owners or property managers who do not maintain compliance with the certification requirements set forth in Section 1055:01 above will lose their certification.

Subd. 1. The owner or property manager will be notified of proposed decertification by regular mail postmarked at least ten days prior to the proposed date for decertification. The owner or property manager may appeal the decision to decertify by providing written notice to the St. Cloud Police Department within 15 days of the mailing of the decertification notice.

Subd. 2. Decertification will not occur following an appeal until the owner or property manager has been afforded an opportunity for hearing before an independent hearing officer. If the independent hearing officer finds the owner or property manager has not maintained compliance with the certification requirements set forth in Section 1055:01, the independent hearing officer will give written notice to the owner or property manager by certified mail within ten days of the hearing date, excluding intervening weekends and

holidays, of such findings, and recommendation to the City Council that the owner or property manager be decertified.

Subd. 3. Unless the owner or property manager appeals the decision of the independent hearing officer to the City Council within five days of issuance of the independent hearing officer's findings and recommendation, excluding intervening weekends and holidays, the City Council, at its next meeting will decertify. If the owner or property manager appeals the independent hearing officer's decision upon a form provided by the St. Cloud Police Department within the prescribed time period, the owner or property manager will be afforded an opportunity to have the City Council review the independent hearing officer's findings and recommendations and either affirm the independent hearing officer's findings and recommendations or substitute its own findings that the owner or property manager is in compliance with the certification requirements.

Subd. 4. An owner or property manager who is decertified will not be eligible to reapply for Crime Free Multi-Housing certification for a period of two years following the date of decertification.

Section 1060 - Weapons, Regulations Relating to Use

Section 1060:00. Use of Weapons, Guns. No person except a police officer in the performance of duty will, within the City, discharge any gun, pistol, firearm of any description or carry any such weapon unless it is dismantled or broken apart or carried in a case in a manner that it cannot be discharged. This subdivision does not prevent the carrying of a handgun within the City under a permit subject to the restrictions imposed by law.

Section 1060:05. Air Rifles, Air Pistols, BB Guns, Sling Shots. No person will use or discharge any air rifle, air pistol, BB gun, or sling shot within the City except in conjunction with a recreation program approved by the Police Department.

Section 1060:10. Bows and Arrows. No person will shoot an arrow from a bow within the City except in conjunction with a recreation program approved by the Recreation Department or by permit in areas specifically described in the Deer Management Policy of the City of St. Cloud during the authorized archery hunting season.

Section 1060:11. Exemption. Those portions of the City that are zoned Agricultural by the St. Cloud Zoning Ordinance are exempt from the application of this Section 1060 of the Code.

Section 1060:15. Offense by Parents, Guardians. It is unlawful for any parent or guardian of any person under the age of 18 years to knowingly permit such person to violate any provision of this section.

Section 1070 - Disposal of Petroleum Contaminated Soils

Section 1070:00. Disposal of Petroleum Contaminated Soils. The spreading or disposal of petroleum contaminated soils within the limits of the City of St. Cloud will be allowed only in those portions of the City that are zoned agricultural by the St. Cloud Zoning Ordinance under a permit issued pursuant to this ordinance. Only petroleum contaminated soils resulting from a spill or tank leak which took place or is taking place in the City of St. Cloud will be eligible for a permit under this ordinance.

Section 1070:05. Requirements.

Subd. 1. The applicant for a permit ("Applicant") will comply with all requirements of the Minnesota Pollution Control Agency ("MPCA") and will have obtained a permit from the MPCA, subject to Stearns County and City approval, prior to any public hearing held in conjunction with the conditional use permit application.

Subd. 2. The applicant will, along with a completed application, also submit to the Health Director at the time of application:

- (a) A detailed site plan on a minimum scale of one inch to 100' feet and contoured at two foot levels showing the proposed disposal site and the area surrounding it for a distance of 2,000 feet. The plan will show, at a minimum:
 - (1) The specific location of all buildings, which will be labeled;
 - (2) The specific location of all surface waters including lakes, rivers, streams, ditches, ponds, and wetlands as defined by the Minnesota Department of Natural Resources;
 - (3) The specific location of the proposed disposal site;
 - (4) Detailed plans of the disposal site and locations of any dams, berms, and other drainage controls.
 - (5) Current use of the property and a brief description of its past use.
 - (6) Locations of all access points to underground water including wells and sandpoints, together with their depth.
 - (7) Locations of all borings and test sites.
- (b) Baseline test data prior to the application for the following areas:
 - (1) All wells in the site plan area for levels of contaminants.
 - (2) If there are no wells in the site plan area less than 40 feet in depth, at least one sample will be drawn from the disposal site at 40 feet.
 - (3) Soil borings on site at the rate of one for every five acres for ground water levels and contaminants in the ground water. Two tests will be conducted prior to application, one in April and one in November. Soil borings must also test for soil types and contaminants, including topsoil depths and

types.

- (4) All testing will be performed by an independent laboratory or testing service certified by the Minnesota Pollution Control Agency, and will be conducted in accordance with MPCA rules and regulations regarding methodology.
- (5) All test data and results will be provided to the Health Director along with the application.
- (c) Copies of any MPCA permits or applications for such permits in the possession of the applicant.
- (d) A resume of the applicant and any related individuals, business, or other entities, reciting their financial viability, their past history or engaging in the business of disposal of hazardous or solid waste, and an operational plan for the site. A listing of prior MPCA and similar municipal permits received or denied must also be provided.

Section 1070:10. Minimum Site Characteristics. To be eligible for a permit, a proposed site for the disposal or treatment of petroleum contaminated soil must meet the following minimum characteristics:

- (a) The outermost boundaries must be located a minimum 150 feet from an adjacent property line.
- (b) The outermost boundaries must be located a minimum of 1000 feet from any building or residence.
- (c) The outermost boundaries must be located a minimum of 1000 feet from the ordinary highwater mark of any open body of surface water including lakes, rivers, streams, ditches, ponds or wetlands.
- (d) The outermost boundaries must be located a minimum of 1,000 feet from any open tile, open well or sandpoint casing, or septic or drainage system.
- (e) The minimum depth from groundwater at the site will be six feet (or ten feet in sand soils).
- (f) The site will be diked or bermed in such a manner that there will be no surface runoff and/or run-on during heavy rains equal to a "100-year" rain or more.

Section 1070:15. Minimum Requirements. When applying petroleum-impacted soils to approved sites, the following minimum requirements will apply to all permits:

- (a) For each approved site, the maximum number of individual leak sites that may be treated is three and the maximum amount of soil that may be deposited is 1,000cubic yards.
- (b) Once soil has been used for disposal of petroleum contaminated soils, it will not be reused for the same purpose. Soil may be used to treat petroleum-contaminated soil only once.
- (c) Application of the soils will be at a maximum rate of two inches, unless lower

levels are recommended by the MPCA.

- (d) All application sites will be tilled at least every two weeks during the growing season through September 1. Thereafter, a cover crop will be administered if possible to prevent wind erosion.
- (e) Application and tilling may only occur between sunrise and sunset. No application may be performed during the remaining hours.
- (f) Only petroleum impacted soils may be treated. No industrial or other hazardous wastes or materials may be disposed of or treated pursuant to this ordinance.
- (g) Contaminated soils must be applied immediately after delivery to the disposal site. Stockpiling of contaminated soil will only be allowed when field conditions prevent spreading. All stockpiled soils must be set on and covered by at least six mil plastic. All tears must be repaired immediately.
- (h) Stockpiling of contaminated soils is not permitted between November 1 and the following April 1.
- (i) All plots where contaminated soil is placed must be mapped and a log kept of the test results of the contaminated soils, its origin and the amounts placed. A copy of the log and map will be forwarded to the Health Director within five working days of the application.
- (j) All spreading will be accomplished using methods approved by the Health Director and capable of providing uniform spreading at the required level.
- (k) Upon completion of the treatment process, all rock four inches in diameter or greater and all other foreign material will be removed from the soil.

Section 1070:20. Testing. Before, during, and after application, representatives of the City may conduct whatever soil and water testing they deem proper. Persons selected by the City will conduct the testing. The applicant will prepay the City's costs of testing by making payment into an escrow account established for that purpose in an amount to be determined by the Health Director. Failure to allow testing or to pay for it upon demand will be cause for immediate suspension of the permit at the option of the Health and Housing Advisory and Appeals Committee. Thereafter, the City in accordance with the provisions of this ordinance may revoke the permit.

- (a) Testing by the City may continue until such time as the soil's original baseline levels have been achieved.
- (b) The applicant will notify the City 30 working days in advance of the date and time contaminated soil is scheduled for delivery to a disposal site. The City may conduct testing of the soil prior to application to determine its content. If testing shows discrepancies between soils and MPCA permits or certificates of origin, the disposal of the soil may be immediately halted until the discrepancies are rectified.
- (c) The applicant will forward all test results required by MPCA regulations to the Health Director within five days of receipt. Test results conducted by the applicant must be accompanied by a chain of custody document showing who took the sample, where it was taken from, when it was taken, and who analyzed it.

Section 1070:25. Security and Insurance.

- (a) No application for a permit will become effective until such time as the applicant posts a surety bond, cash escrow or letter of credit (collectedly referred to as "security"), valid for at least 12 months and annually renewable on a calendar year basis thereafter, in favor of the City guaranteeing that the applicant will follow all federal, state, and local laws, rules, and regulations in the application, treatment, and disposal of petroleum contaminated soils. In the event the applicant will fail to perform as required, the City may, at its sole discretion, complete performance of proper disposal and testing and make a claim against the security for reimbursement of any costs connected with proper disposal and testing.. The amount of the security will equal the sum of \$10,000.00. The security will remain in effect for a period of two years after disposal. The security will be in a form approved by the City Attorney.
- (b) No application for a permit will become effective until such time as the applicant procures a policy of liability insurance in the minimum amount of \$600,000. The liability insurance will name the City as beneficiary and will be payable to the City in the event the applicant is responsible for treating and cleaning any soil or water contamination resulting from the disposal of petroleum impacted soil. Such insurance will also provide for a minimum of 30 days notice to the City prior to the cancellation of the insurance.
- (c) Receipt of notice of cancellation of either the security or insurance policy will result in the immediate revocation of the permit. The City has the option of continuing to pay the premiums for the security or insurance, at its sole discretion, in the event of notice of cancellation, which costs will be recovered from the applicant, bond or insurance policy.

Section 1070:30. Access to Site. City authorities have free access to the disposal site without notice whenever deem necessary.

Section 1070:35. Fee. The fee for a permit of this type will be as set forth in Section 565 of this Code.

Section 1070:40. Violations of Permit; Remedies. No person may dispose of any hazardous waste or petroleum impacted soils unless the provisions of this ordinance are complied with. In the event of a violation, the Health Director may order an immediate suspension of the permit and the Health Director will notify the Health and Housing Advisory and Appeals Committee of such action and recommend to the Committee that the permit be revoked, reinstated or modified.

- (a) Once suspended, no further disposal of contaminants may continue without approval of the Health and Housing Advisory and Appeals Committee.
- (b) The applicant may appeal the decision to suspend the permit to the City Council. Pending appeals, the permit will be suspended.
- (c) Once suspended, and after a violation is found to exist after hearing, the permit may be reinstated, revoked or amended after recommendation of the Health and Housing Advisory and Appeals Committee.
- (d) Hearings before the Health and Housing Advisory and Appeals Committee will be held within 30 days of the suspension of the permit. A decision must then be

rendered within 15 days. A hearing before the City Council must be scheduled within 30 days of the decision rendered by the Health and Housing Advisory and Appeals Committee, with a decision due within 15 days of the hearing. At the hearings, applicant will be allowed the opportunity to present evidence in support of his or her position, as well as other interested parties at the discretion of the Committee or City Council.

- (e) In the event of contamination that is in need of immediate response, the City Council is empowered to arrange and commence corrective action immediately, with all costs being the responsibility of the applicant and subject to a claim against the security.

Section 1070:45. Term of Permit. The term of a permit is specifically limited to two years from date of issue. Thereafter, an application for renewal to continue application of petroleum impacted soil must be made in the same manner as the original application.

Section 1070:50. Completion of Disposal. In the event a permit expires, is suspended or revoked, the applicant must still perform whatever measures are necessary to ensure completion of the soil disposal on soil that has previously been placed on site, as well as continue testing requirements.

Section 1070:55. Prior History of Applicant. In addition to the considerations of this ordinance, the prior history of the applicant or any person or entity involved in the disposal process relating to compliance with federal, state, and local laws relating to disposal of hazardous or solid waste, is a consideration in the granting or denial of the permit. A permit may be denied solely due to previous violations by any of said parties.

Section 1080 - Use of Waste Materials for Fertilizer and Soil Treatment

Section 1080:00. General Provisions. No person will store on, or apply to, any land within the City of St. Cloud any fertilizer or material for the treatment of soil obtained from a source other than is customary in normal farming operations without first securing a permit to do so from the Health Director.

Section 1080:10. Permits.

Subd. 1. Issuance. The City may issue permits for the use of materials for fertilizer or treatment of soil obtained from a source other than is customary in normal farming operations. The permit will be for a period of one month, renewable upon request, and will require payment of a permit fee as set forth in Section 565 of this Code.

Subd. 2. Supervision. The Health Director will supervise the storage and application of such material and may summarily order cessation of such operations if the operations are in violation of this ordinance or the permit conditions.

Subd. 3. Application. Such materials will be stored and applied in such a manner that it is not hurtful to the inhabitants of the area, dangerous to the public health, and injurious to the neighboring property.

Subd. 4. Record Keeping. The person supplying such material will keep a record of the quantity of such material applied to the land in the City and will produce such records upon demand by Health Director.

Section 1080:15. Violations and Penalty. Any person, firm or corporation who will violate any of the provisions or who makes any false statement in any document required to be submitted pursuant to this ordinance will be guilty of a misdemeanor. Each day that a violation is permitted to exist will constitute a separate offense.

Section 1080:20. Separability. If any court of competent jurisdiction will judge any provision of this ordinance to be invalid, such judgment will not affect any other provisions of this ordinance not specifically included in the judgment. If any court of competent jurisdiction will judge invalid the application of any provision of this ordinance to a particular property, building or other structure, such judgment will not affect the application of the provision to any other property, building or structure not specifically included in the judgment.

Section 1090 - Disposal of Demolition Waste

Section 1090:00. Purpose. It is the intention of the City Council to prohibit the disposal of any demolition waste within the City for the purpose of promoting the public peace, health, safety, welfare and aesthetics of the City of St. Cloud.

Section 1090:10. Definitions.

Subd. 1. "Demolition waste" will mean metal, concrete, glass, wood, asphalt, insulation, brick, mortar, wire, conduit, pipes, plumbing and lighting fixtures, other fixtures, any combustible and noncombustible waste, and any and all other materials normally handled in construction operations, and will also include any substance which is defined by State law or regulation to be hazardous waste.

Subd. 2. "Authorized disposal sites" will mean any disposal site which is licensed by the State of Minnesota to receive demolition waste.

Subd. 3. "Clean fill" will mean clean sand, gravel, earth, rocks, sod, and boulders.

Section 1090:20. Prohibited Acts. There will be no disposal of demolition waste within the City. Demolition waste will not include clean fill.

Section 1090:30. Enforcement. The Health Director and any duly authorized county or state health officers, City Police Officer and any other duly authorized county or state officer, may enforce the provisions of this ordinance. Such officers will have the power to inspect public and private premises and take all reasonable precautions to prevent the commission and maintenance of prohibited waste disposal.

Section 1090:40. Penalty. Any person who violates any provision of this ordinance is guilty of a misdemeanor and will also be responsible for all costs of prosecution, attorneys' fees, clean up, and other damages which may occur to private or public property as a result of the offense.

Section 1100 – Administrative Hearing Process

Section 1100. Administrative Hearing Process.

Subd. 1. Purpose. Pursuant to City Charter, Section 14.84, the City council enacts Section 1100 of the City Code to provide an administrative hearing process for the resolution of certain violations of the City Code. The Council finds that an administrative hearing process will facilitate compliance with certain City Code provisions and avoid unnecessary delay in the enforcement of the City Code.

Subd. 2. Alternative Methods of Enforcement. This administrative enforcement procedure seeks to gain compliance with certain provisions of the City Code prior to any formal criminal or civil court action. The administrative hearing process provided for in Section 1100 shall be in addition to any other legal or equitable remedy available to the City for City code violations, except that if a determination is made by the hearing officer pursuant to the hearing process detailed in Subd. 9 that a violation did not occur, the City may not then proceed with criminal prosecution for the same act or conduct.

Subd. 3. City Code Provisions That Are Administrative Offenses. A violation of the following provisions of the City Code shall be an administrative offense that may be subject to the administrative hearing process of Section 1100.

1. Section 244 – Refuse and Garbage Collection and Disposal
2. Section 300:41 – International Property Maintenance Code of St. Cloud
3. Section 355 – Ordinance No. 634, as amended, The Zoning Ordinance
4. Section 300:40 – Rental Dwelling License
5. Section 1000 – Nuisances Generally defined, enumerated and made unlawful
6. Section 1005 – Public Nuisances Affecting Health and Safety
7. Section 1040 – Animal Control Ordinance
8. Section 1050 – Noise Control Regulations

Subd. 4. Order To Correct; Administrative Citations. Upon the reasonable belief that an administrative offense detailed in Subd. 3 of this Section has occurred, the City officials listed in this section shall serve on the violator an order to correct the violation. If compliance is not achieved by virtue of an order to correct, the official is authorized to issue an administrative citation. An administrative citation shall be presented in person or by mail to the person responsible for the violation. The citation shall state the date, time and nature of the offense, the name of the official issuing the citation, the amount of the scheduled civil fine, and the manner for paying the fine or appealing the citation by requesting a hearing.

Pursuant to Minn. Statute §626.862, the Health Director or representatives who are limited to the Chief Building Official, Assistant Health Director, Environmental Health Specialist, Environmental Health Technician, Building Inspector, Plumbing Inspector, Electrical Inspector and Heating Inspector is authorized to issue a citation for ordinance violations.

Subd. 5. Civil Fines. The administrative offenses detailed in Subd. 3 may be subject to a civil fine. The amount of a civil fine may not exceed the amount of the maximum fine allowed if the ordinance violation had been prosecuted as a misdemeanor. Civil Fines may not be imposed for ordinance violations that prohibit the same conduct that is classified as a crime of petty misdemeanor in Minnesota statutes, Chapters 168, 168A, 169, 169A, 170, 171, and 609.

Subd. 6. Schedule of Civil Fines. The City shall adopt by resolution a schedule of civil fines for administrative offenses for which a citation has been issued. City officials shall adhere to this schedule of fines in issuing administrative citations pursuant to this section.

Subd. 7. Payment of Civil Fine; Request for Administrative Hearing. The person responsible for the violation shall either pay the scheduled civil fine or request a hearing within 25 days after issuance of the administrative citation. During that period, only the City Attorney or an Assistant City Attorney has authority to dismiss the citation and/or waive the scheduled civil fine.

Subd. 8. Fee for Late Payment of Civil Fine.

- (a) A late payment fee of ten percent of the civil fine amount shall be imposed if the person responsible for the violation fails to pay the civil fine within 25 days after issuance of the administrative citation or fails to timely request a mediation and hearing pursuant to this Article.
- (b) If a civil fine is not paid within the time specified and no request for a hearing is timely received, the nonpayment of the civil fine shall constitute a personal obligation of the violator. A personal obligation may be collected by the City by any appropriate legal means. If the fine was imposed for a property-related violation, the City may assess the applicable property pursuant to Subd. 11 of this Code.

Subd. 9. Administrative Hearing Procedures.

- (a) Hearing Officers. The City Administrator shall periodically approve a list of lawyers, from which the City Administrator shall randomly select as a hearing officer to hear a matter for which a hearing is requested. The person requesting a hearing shall have the right to request, no later than five days before the date of the hearing, that the assigned hearing officer be removed from the case. One such request for each case will be granted automatically by the City Administrator. A subsequent request shall be directed to the assigned hearing officer, who will decide whether he or she cannot fairly and objectively review the case. If such a finding is made, the hearing officer shall remove himself or herself from the case, and the City Administrator shall assign another hearing officer. The hearing officer is not a judicial officer, but is a public officer as defined by Minnesota Statutes, Section 609.415. The hearing officer shall not be a current or former City employee.
- (b) Notice of Hearing. Notice of the hearing must be served in person or by mail on the person responsible for the violation at least ten days in advance of the scheduled hearing, unless a shorter time is accepted by all parties.

- (c) **Payment for Cost of Hearing.** The cost of the hearing shall be apportioned equally between the person requesting the hearing and the City. At the time the request for hearing is made, the City shall provide the requestor with an estimate of the requesting party's share of that cost. The requestor must provide payment of that estimated cost to the City not later than 48 hours in advance of the scheduled hearing. The City has authority to reduce the requesting person's share of the costs where that person can demonstrate indigency by clear and convincing evidence. Proof of indigency can be demonstrated by the person's receipt of means tested governmental benefits or a demonstrated lack of assets or current income. Such proof shall be presented to the City Attorney's Office for determination of the amount of the prepayment in advance of the hearing. However, the hearing examiner at the time of the hearing shall make specific findings as to whether or not the requesting person is indigent and make a final determination as to that party's share of the costs of mediation. In all cases, where the person requesting mediation is unable to attend and fails to request a continuance of the mediation at least 48 hours in advance of the scheduled hearing, all costs incurred by the City attributable to the requested mediation shall be charged to the requesting party and deducted from any prepayment made.
- (d) **Hearing Procedures.** At the hearing, the parties shall have the opportunity to present testimony and question any witnesses, but strict rules of evidence shall not apply. The hearing officer shall tape record the hearing and receive testimony and exhibits and the full record of the hearing shall be kept. The hearing officer shall receive and give weight to evidence, including hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent people in the conduct of their affairs.
- (e) **Authority of Hearing Officer.** The hearing officer shall have the authority to:
- (1) determine whether a violation occurred;
 - (2) dismiss the administrative citation;
 - (3) impose the scheduled fine; or
 - (4) reduce, stay or waive a scheduled fine either unconditionally or upon compliance with appropriate conditions.
- (f) **Imposition of Civil Fine by Hearing Officer.** When imposing a fine for a violation, the hearing officer may consider any or all of the following factors but in no case shall the fine exceed \$1,000.00.
- (1) the duration of the violation;
 - (2) the frequency or reoccurrence of the violation;
 - (3) the seriousness of the violation;
 - (4) the history of the violation;
 - (5) the violator's conduct after issuance of the notice of hearing;
 - (6) the good faith effort by the violator to comply;
 - (7) the economic impact of the fine on the violator;
 - (8) the impact of the violation upon the community;

- (9) prior record of city code violations; or
 - (10) any other factors appropriate to a just result.
- (g) Fines for Continuing Violations. The hearing officer may exercise discretion to impose a fine for more than one day of a continuing violation but only upon a finding that:
- (1) the violation caused a serious threat of harm to the public health, safety, or welfare; or
 - (2) the accused intentionally and unreasonably refused to comply with the code requirement. The hearing officer's decision and supporting reasons for continuing violations must be in writing.
- (h) Written Report of Hearing Officer. The decision of the hearing officer shall be in writing and contain findings of fact and conclusions of law. The written report shall be served on the parties by mail within 20 days of the last date of the hearing.
- (i) Finality of Decision. The decision of the hearing officer shall be final without any further right of administrative appeal.

Subd. 10. Judicial Review. An aggrieved party may obtain judicial review of the decision of the hearing officer by petitioning the Minnesota Court of Appeals for a writ of certiorari pursuant to Minnesota Statute Section 606.01.

Subd. 11. Assessment of Civil Fines for Property-Related Violations.

- (a) Civil Fines Subject to Assessment. In accordance with Section 14.85 of the City Charter, unpaid civil fines imposed for property-related violations may be assessed against:
- (1) property which was the subject matter or related to the subject matter of the civil fine; or
 - (2) property which was the location of an activity, proposed use, delivery of city services or other circumstances which resulted in the civil fine.
- (b) Prior Voluntary Payment. Prior to any assessment for unpaid fines, the City Administrator or the City Administrator's designate shall seek voluntary payment of the fines by notifying the owner of the property in writing of the fine imposed.
- (c) Assessment Procedure. On or before the first day of October of each year, the unpaid civil fine and late fees, including the administrative charge due under subdivision (d) of this Section, together with interest thereon at the maximum lawful rate permitted under Minnesota Statutes, Chapter 429, against said lot or parcel of land, together with a description of the premises and the name of the supposed owner, shall be certified to the County Auditor and shall be collected in the same manner as taxes and/or special assessments against the premises. The charge shall be a perpetual lien on the premises

until paid. Prior to the certification to the County Auditor, the owner shall be given written notice of the proposed assessment and be provided an opportunity to be heard before the City Council.

- (d) Administrative Charge for Assessment. An administrative charge of \$_____ shall be due upon the mailing of the notice of the proposed assessment.

History: Ord. 2340 2-26-07.