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ADOPTION OF WILLERNIE CODE OF ORDINANCES

The City Council of Willernie does ordain:

101.010 Adoption of Code. The Ordinances of Willernie are hereby codified as the Willernie City Code, consisting of Chapters 100 through 1500, inclusive, and shall be operative without further publication and in accordance with Minnesota Statutes Section 415.021. The Willernie City Code is intended as a codification of the laws and ordinances of the City of Willernie, and shall be construed in accordance with such intent. This Code contains all ordinances enacted and in force through July 20, 2022. Ordinances passed after that date shall be passed as amendments or additions to this Code. Such ordinances shall be incorporated into this Code as directed by the City Council.

101.030 Amendments to Code Any additions or amendments to the City Code when adopted in a form that indicates the intentions of the City Council to make such ordinance a part of this Code shall be deemed to be incorporated herein, so that any reference to the City Code shall include such amendments.

101.040 Availability of Code. The City Code, Appendices, and Schedules, shall be printed and published and maintained at the Willernie City Hall. The City Clerk is hereby directed to maintain a suitable number of copies of the City Code available to the public for reference at City Hall. The City Code shall also be published on the City website promptly after the passage of each ordinance and any amendments thereto.

101.050 Severability. Every section, subdivision, subpart, or provision of each chapter of this Code is declared separable from every other section, subdivision, subpart, or provision. If any section, subdivision, subpart, or provision of any chapter herein shall be declared invalid, it shall not affect any other section, subdivision, subpart, or provision of any other chapter contained herein.

101.060 Preservation of Existing Rights. The repeal of any chapter or any portion thereof by the adoption of this Code shall not affect or impair any completed act or vest right or any proceeding, suit or prosecution commenced in any cause before such repeal shall take effect, and all such matters shall remain in full force and effect as if such chapter or part thereof had remained in force. No offense committed and no liability, penalty or forfeiture, either civil or criminal, incurred prior to the time when any such chapter or part thereof shall be repealed or altered by this Code shall be discharged or affected by such repeal or alteration, but all such matters shall be instituted and proceeded with, in all respects, as if the prior chapter or portion thereof had not been repealed or altered.

102 RULES OF CONSTRUCTION

102.010 **General.** All words and phrases are used in their plain and ordinary sense unless otherwise clearly indicated. It is the intent of the Willernie City Council that in interpreting and construing the various provisions of this Code, an effort be made to fairly construe those provisions to achieve the beneficial ends for which they were adopted, and therefore this Code must be construed liberally to carry out its purposes. The rules of statutory construction contained in Minnesota Statutes Sections 645.08 through 645.44 shall apply to the interpretation of this Code. Unless clearly in conflict with the provisions of this Code or for some other reason clearly inapplicable, definitions established by state statute or case law shall apply to this Code. All headings used in the Chapters of this Code are for convenience only. Grammatical errors do not negate any part of this Code. Words and phrases that may be necessary for the proper interpretation of any part of this code may be added if they do not conflict with the obvious intent and do not affect the scope and operation of the relevant chapter, section, subdivision, subpart, or provision of this Code.

102.020 **Number and Gender.** The term “person,” wherever used in this Code, shall be applicable to one or more persons, as the case may be. The singular reference shall include the plural, and references to one gender shall apply to all genders.

102.030 **Minnesota Law.** Unless clearly in conflict with the provisions of this Code or for some other reason clearly inapplicable, definitions established by state statute or case law and statutory rules of construction shall apply to the Willernie City Code. Where a reference is made to a Minnesota State Statute, Rule, or any other similar reference, that reference shall be to such Statute, Rule, or other reference as shall be amended from time to time, and shall refer to the specific Statute, Rule or other reference in effect at that time.

102.040 **Inconsistent Provisions.** If the provisions of one section of this Code differ from those in another section, the provisions that are more restrictive shall prevail.

102.050 **Post-Adoption Changes Not Requiring Publication.** When integrating ordinances into the Code, the City Clerk may:

- A. Correct obvious grammatical, punctuation, and spelling errors;
- B. Change reference numbers to conform with applicable sections of the Code;
- C. Substitute figures for written words and vice versa; and
- D. Take other similar actions to ensure a uniform Code of ordinances if such actions do not alter the meaning of the ordinances enacted.

103 DEFINITIONS

103.010 **Certain Terms Defined.** Unless the context clearly indicates otherwise, or the term is specifically defined for the purposes of a particular section of this Code, the words and phrases below shall have the following definitions for purposes of this Code:

- (1) “City” means the City of Willernie, located in Washington County, Minnesota, including all territory lying within its boundaries.
- (2) “Clerk” means the Willernie City Clerk.
- (3) “Code” or “City Code” means the Willernie City Code or Willernie Code of Ordinances.

- (4) “Council” or “City Council” means The City Council of the City of Willernie.
- (5) “County” means Washington County, Minnesota.
- (6) “This ordinance” means the chapter or section in which it appears and related sections, subdivisions, subparts, and paragraphs under the same section or chapter.
- (7) “Person” means a natural person, a firm, partnership, corporation, or any other association of people or entity, and includes the manager or agent of that person or organization.
- (8) “State” means the state of Minnesota.
- (9) “Police Department” means the law enforcement agency charged with serving as the police department for the City of Willernie.
- (10) “Vehicle” and “Motor Vehicle” means a thing used for transporting people or goods. This definition includes, but is not limited to the following: snowmobiles, trailers (open-bed and enclosed), RVs/motorhomes, campers, storage trailers, ice houses, automobiles, ATVs, UTVs, motorcycles, and any other machine or device that is on wheels, motorized or pulled by motorized vehicles, including storage pods.

103.020 **Other Definitions.** Certain chapters of this Code contain other definitions applicable particularly to such chapters. In case of any conflict between the definitions in Section 103.010 and such other definitions, the other definitions shall prevail in the chapters where applicable.

104 PENALTY FOR VIOLATION OF CODE PROVISIONS

104.010 **Misdemeanor.** Any person who violates any provision of this Code, including Minnesota Statutes specifically adopted by reference, for which another penalty is not specifically provided, shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this Code, including Minnesota Statutes specifically adopted by reference, shall be the sentence for a misdemeanor under Minnesota Statutes Chapter 609.

104.020 **Petty Misdemeanor.** Any person who violates any provision of this Code, including Minnesota Statutes specifically adopted by reference, which is designated as a petty misdemeanor shall, upon conviction, be guilty of a petty misdemeanor. The penalty which may be imposed for any crime which is a petty misdemeanor under this Code, including Minnesota Statutes specifically adopted by reference, shall be the sentence for a petty misdemeanor under Minnesota Statutes Chapter 609.

104.030 **Official Duties.** The failure of any officer or employee of the City to perform any official duty imposed by this Code shall not subject the officer or employee to the penalty imposed for a violation of any provision of this Code.

200 CITY ORGANIZATION AND PROCEDURE

201 ELECTION DATE

202 ADMINISTRATIVE ORGANIZATION PROCEDURES

203 PLANNING COMMISSION

204 MAYOR AND COUNCILPERSON SALARIES

205 BUILDING DEPARTMENT

206 REIMBURSEMENT FOR EXPENSES

201 ELECTION DATE

201.10 Election Date. The regular city election for the City of Willernie shall be held on the first Tuesday after the first Monday in November in each even-numbered year.

202 ADMINISTRATIVE ORGANIZATION AND PROCEDURE

202.10 Council Meetings. The City Council shall hold one regular meeting on the third Wednesday of each month. A special meeting may be called at any time by the mayor or in the Mayor's absence or disability by the acting mayor or by two Council persons. Except in cases where notice is waived, the person or persons calling such a special meeting shall cause a written notice of such special meeting specifying the business to be transacted at such meeting to be delivered to the residence of all other council members or shall cause a notice of each special meeting to be mailed to all other council members at least three days prior to such a special meeting. No business shall be transacted at the special meeting unless the same shall have been specified in the notice thereof except by consent of all members of the council. At least three (3) days prior to the date of the special meeting, notice shall be provided to each person who has filed a written request for notice of special meetings and shall be posted on the city bulletin board and at the main entrance to where City Council meetings are held. The notice shall indicate the date, time, place, and purpose of the special meeting.

202.020 General Fund. A general fund shall be maintained into which shall be placed or credited all monies received not otherwise appropriated and from which shall be paid all expenses and disbursements not otherwise provided for.

202.030 Other Funds. The City Council may create by ordinance and maintain such other funds as they desire.

203 PLANNING COMMISSION

203.10 City Council to act as Planning Commission. Due to the limited population of the City and the difficulty of obtaining planning commission members and since the City of Willernie is almost fully developed, the City Council shall act as the Planning Commission when action by a planning commission is required by law.

204 MAYOR AND COUNCILPERSON SALARIES

204.10 Salaries. The Mayor of the City of Willernie shall receive a salary of \$150.00 per month. The councilpersons shall receive a salary of \$100.00 per month. No additional compensation shall be made to councilpersons, including the Mayor, for any additional meetings attended in the course of business and function of the City Council.

204.020 Payment. The salaries provided by Section 204.010 shall be paid monthly or as directed by the City Council.

205 BUILDING DEPARTMENT

205.10 Creation of Department. There is hereby established in the municipality the “Building Department” which shall be under the jurisdiction of the Building Inspector designated by the City Council. The City Council shall designate a Mechanical Inspector and Plumbing Inspector, in addition to the Building Inspector (collectively with the Building Inspector, “Inspectors”).

205.020 Powers and Duties of Inspectors. The Inspectors are hereby authorized and directed to enforce all the provisions of the Minnesota State Building Code.

205.030 Reports and Records. The Inspectors shall keep a permanent, accurate account of all fees and other monies collected and received, the names of the persons upon whose account the same were paid, the date and the amount thereof, together with the location of the building or premises to which they relate.

205.040 Right of Entry. Upon the presentation of proper credentials, the Inspectors or their duly authorized representative may enter at a reasonable time any building, structure, or premises in the City to perform any duty imposed upon him by said Code. No person shall interfere with the Inspectors or their duly authorized representatives in the execution of their duties.

205.050 Stop Orders. Whenever any building work is being done contrary to the provisions of said Code, the Inspectors may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done. Any such persons shall forthwith stop such work until authorized by an Inspector to proceed with the work.

205.060 Occupancy Violations. Whenever any structure is being used contrary to the provisions of said Code, the Building Inspector may order such use discontinued and the structure or portion

thereof vacated, by notice served on any person causing such use to be continued. Such person shall discontinue the use within ten (10) days after receipt of such notice or make the structure, or portion thereof, comply with the requirements of said Code; provided, however, that in the event of an unsafe building the inspector may require that use be discontinued on lesser notice.

205.070 Liability. The Building Inspector or any employee charged with the enforcement of said Code, acting in good faith and without malice for the City in the discharge of his or her duties, shall not thereby render himself or herself liable personally and he is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of his or her duties. Any suit brought against the Building Inspector or employee, because of such act or omission performed by him or her in the enforcement of any provisions of said Code, shall be defended by the City until final termination of the proceedings.

205.080 Cooperation of Other Officials. The Inspectors may request, and shall receive so far as may be necessary in the discharge of their duties, the assistance and cooperation of the other officials of the municipality.

206 REIMBURSEMENT FOR EXPENSES

206.10 DEFINITIONS

A. "Owner" means any person, firm, or corporation.

B. "Consultant Fees" means any charges billed to the City of Willernie for services performed by the City of Willernie planner, engineer, and attorney; exclusive of services performed as part of the consultant's normal retainer or by special agreement between the City of Willernie and its consultants. Consultant fees shall also include clerk's fees attributable to a particular development proposal and publication and special meeting expenses.

C. "Development" means any rezoning, subdivision, special use permit, variance, building addition, or change in site plan.

206.020 Establishment of Fees. Any owner that causes the City of Willernie to expend monies for consultant fees on behalf of, or on account of, that owner; associated with a development or proposed development, shall reimburse the City of Willernie for the actual consultant fees expended by the City on behalf, or on account of, said owner.

206.030 Escrow Fund. The owner shall deposit with the City of Willernie an amount, as determined by the City Council, necessary to cover the total consultant services associated with the development or proposed development prior to the performance of any such services by Willernie's employed consultants. However, if a development or proposed development and the related consultant review is anticipated to span a period of time in excess of ninety (90) days, the owner will only be expected to deposit a sum, as determined by the City Council, necessary for the City to pay consultant fees for ninety (90) days. The owner will then be expected to maintain the escrow fund at a balance equal to one-third (1/3) of the original amount deposited. The City

of Willernie will from time-to-time provide an itemized statement to the owner showing him the City expenditures for consultant services associated with his development together with the current balance in his escrow fund. This statement will be provided if additional funds are required to maintain the established level. The owner shall reimburse the escrow fund for any deficits caused if the amount actually expended or billed to the City exceeds the escrow balance. The City of Willernie shall refund any monies deposited in the escrow fund not expended for consultant fees within ninety (90) days after completion of a consultant's services associated with the development or proposed development. The City of Willernie shall not pay interest on the monies deposited in the escrow fund.

301 ZONING

302 REGULATION OF PARKING ON COMMERCIAL LOTS OR NEW CONSTRUCTION

303 REGULATIONS FOR LANDSCAPING

304 SIGNS

301 ZONING

301.010 **Intent and Purpose.** This Ordinance is adopted for the purpose of:

- (1) Protecting the public health, safety, morals, comfort, convenience and general welfare.
- (2) Dividing Willernie into zones and districts restricting and regulating therein, the location, and use of structures and land.
- (3) Promoting orderly development of the residential, business, recreational and public areas.
- (4) Providing adequate light, air, and convenience of access to property.
- (5) Limiting congestion in the public rights-of-way.
- (6) Preventing overcrowding of land and undue concentration of structures by regulating the use of land and buildings and the bulk of buildings in relation to the land and buildings surrounding them.
- (7) Providing for the compatibility of different land uses and the most appropriate use of land throughout the City of Willernie.
- (8) Conserving and developing natural resources, and maintaining a high standard of environmental quality.
- (9) Guiding wise development of shorelands of public water.
- (10) Preserving and enhancing the quality of surface water.
- (11) Providing for the administration of this Ordinance and amendments thereto.
- (12) Limiting disruption by, and frequency of rentals within the City.
- (13) Promoting the City's rural, residential character, and a sense of community and neighborhood throughout the City.

301.020 **Relationship to the Comprehensive Plan.** The administration, enforcement, and amendment of this Ordinance shall be consistent with the policies contained in the City's adopted Comprehensive Plan. In accordance with Minnesota Statutes, the City Council will not approve any rezoning or other changes in this Ordinance that are inconsistent with the City's Comprehensive Plan.

301.030 **Scope.**

A. **Jurisdiction.** This Ordinance shall apply to all the area inside the corporate limits of the City of Willernie, Minnesota.

B. **Compliance.** All buildings erected hereafter, all uses of land or buildings established hereafter, all structures, alterations or relocation of existing buildings occurring hereafter and all enlargements of or additions to existing uses occurring hereafter shall be subject to all regulations of this Ordinance which are applicable to the zoning districts in which such buildings, uses or land shall be located. However, where a building permit for a building or structure has been issued in accordance with law prior to the effective date of this Ordinance, which has not by its terms expired prior to such effective date and provided that construction is begun before the permit's expiration and within one (1) year of its effective date and diligently pursued to completion, said building or structure may be completed in accordance with the approved plans on the basis of which the building permit was issued; and further, may upon completion be occupied under a certificate of zoning compliance by the use for which originally designated, subject thereafter to the provision of this Ordinance relating to non-conformities.

301.040 **Severability.** Every section or subdivision of this Ordinance is declared separable from every other section or subdivision. If any section or subdivision is held to be invalid by competent authority, no other section or subdivision shall be invalidated by the action or decision.

301.050 **Districts.** The City of Willernie is divided into three distinct zoning Districts and an overlay district, the districts are as follows:

<u>ZONING DISTRICT</u>	<u>PERMITTED USES</u>
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Residential:	Single-family residences, playgrounds, parks, churches, public libraries or museums.
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| Commercial I: | <ul style="list-style-type: none">(a) All lawful retail businesses, including supermarkets.(b) Manufacture of baked goods, provided not more than five persons are employed in such business.(c) Department stores.(d) Establishments for the sale of china, floor covering, hardware, furniture, household goods and appliances, paint wallpaper, materials and objects of interior decorating.(e) Establishments for the sale of books, magazines, newspapers, tobacco products, drugs, flowers, gifts, music, photographic supplies, sporting goods, stationery and the like. |
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- (f) Eating places such as lunchrooms, restaurants and cafeterias, and places for the sale and consumption of soft drinks, juices ice cream and beverages of all kinds, but excluding “drive-in” establishments.
- (g) Service establishments such as barber or beauty shops; custom tailors; laundry agencies and shoe repair shops; pressing or tailoring shops; printing shops; radio and television stations; telephone exchanges and the like.
- (h) Business and professional offices and office buildings.
- (i) Office display or sales of a wholesale, jobbing or distributing establishment not specifically mentioned as permitted only in a less restricted district, in connection with which not more than 25% of the floor area of the building, or part thereof, occupied by said establishment is used for making, assembling, remodeling repairing, altering, refinishing its products or merchandise; and provided that:
 - (1) Any resulting cinders, dust, fumes, noise, odors, refuse matter, smoke, vapor or vibration is effectively confined to the premises.
 - (2) The ground floor premises facing upon and visible from a major street upon which the premises abut shall be used only for entrances, office or display.
- (j) Any other building, use or service similar to those hereinbefore listed in the type of services or goods sold, in the number of persons or vehicles to be attracted to the premises or in the effect upon adjacent areas.
- (k) Any accessory use customarily incident to a use authorize this Subdivision.

Permitted uses on Special Permits from the City Council. In the Residential and Commercial I Districts, the following buildings and uses and their accessory buildings and uses may be permitted only by special permits from the City Council, pursuant to the requirements of Section 1400 of this Code:

- (a) Multi-family homes.
- (b) Duplexes.

- (c) Twin homes.
- (d) Short-term or long-term rental homes.

The Council may impose conditions on a proposed special use that are reasonable to further the intent, purpose, and standards set forth in Section 301.010, and the terms in Section 1400. No single-family residences shall be allowed to convert to a multi-family home, rental, duplex, or twin home, without prior approval by the City Council.

In the Commercial I District, the following buildings and uses and their accessory buildings and uses may be permitted by special permits from the City Council. The Standards to be supplied in determining whether to issue a Special Use Permit shall be set forth in the Commercial II uses in section (d).

- (a) Manufacture of baked goods.
- (b) Carpet, bag and rug cleaning establishments.
- (c) Light assembly businesses.

COMMERCIAL II: All uses allowed in Commercial I District and the following uses:

- (a) Automotive sales, service and storage, including gasoline filling stations.
- (b) Amusement and recreational establishments such as armories, assembly halls, bowling alleys, dance halls, pool and billiard parlors, skating rinks and other social, sport or recreational centers operated as a business, provided the place or building in which it is operated is sufficiently sound-insulated to effectively confine the noise to the premises.
- (c) Self-service laundries and dry-cleaning establishments.
- (d) Light manufacturing uses will be allowed by Special Use Permit. In determining whether to issue a Special Use Permit, the Council may consider the following guidelines:
 - 1. Adequate parking for at least one vehicle per employee.
 - 2. No noise level which will interfere with the reasonable use of adjoining property.
 - 3. No noxious or offensive odors.

4. Reasonable hours of operation so as not to interfere with the reasonable use of adjoining property.

The Council may impose conditions on a proposed special use that are reasonable to further the standards set forth above.

301.060 **Zoning Permit.** Permits are required to ensure conformance with the Zoning Ordinance. All permits require review and approval of a permit from the City Council or other Authorized Agent. A zoning permit is required for items such as driveways, fences, accessory structures under one hundred –twenty (120) square feet and the like.

A. **Permit Required.** Unless and until a zoning permit shall have been obtained from the City Council, the construction, reconstruction, or moving of any structure requiring a zoning permit shall not be commenced.

B. **Application for Zoning Permit.** Any application for a zoning permit where required by the City, which contains the information required by this Subdivision shall be deemed to be an application for a Zoning Permit.

a. **Application.** Every application for a zoning permit shall contain at least the following information and shall be accompanied by at least the following documents, unless any specifically required information or document is waived in by the City Clerk as not relevant or necessary to determine that all provision of this Ordinance have been met in a particular case:

- i. Boundary survey, prepared by a registered surveyor of an area including the property in question and one hundred (100) feet beyond its outer boundaries showing existing property lines and dimensions, platting and easements, buildings, street and railroad rights-of-way, utilities, topography, waterways, and ownership of all parcels.
- ii. A site plan indicating location, size and placement of proposed structures, parking and loading facilities, vehicular access and egress, or pedestrian walkways.
- iii. Exterior elevation drawings of the proposed structure which accurately indicate the height, size, design, and appearance of all elevations of the proposed structure, and a description of the construction and materials to be used.

C. **Issuance of Zoning Permit.** The City Clerk or other Authorized Agent shall refuse to issue a permit for the construction of any structure or building in which the construction or necessary grading incidental thereto shall obstruct any natural waterway, unless provision has been made to leave such natural

waterway open in a manner satisfactory to the City Engineer or other Authorized Agent.

D. Period of Validity.

- a. The work for which a zoning permit is issued shall commence within one hundred–eighty (180) days after the date thereof unless an extension request has been submitted and approved by the Building Inspector or other Authorized Agent. The work shall be completed within twelve (12) months from the date of permit issuance, unless a request for an extension has been submitted and approved by the Building Inspector or other Authorized Agent.
- b. A zoning permit shall become null and void twelve (12) months after the date on which it was issued unless within such period construction, reconstruction, remodeling or moving of a structure is commenced or a use is commenced, or unless a request for an extension has been submitted and approved by the Building Inspector or other Authorized Agent.

301.070 **Boundaries.** The boundaries of the districts as established by this Ordinance are shown on the map published herewith and made a part of this ordinance which is designated as the “Zoning District Map” which is properly approved and filed with the City Clerk. The district boundary lines on said map are intended to follow street right-of-way lines, street centerlines or lot lines unless such boundary line is otherwise indicated on the map. In the case of unsubdivided property or in any case where street or lot lines are not used as boundaries, the district boundary lines shall be determined by use of dimensions or the scale appearing on the map. All of the notations, references, and other information shown thereon shall have the same force and effect as if fully set forth herein and will hereby be made a part of this ordinance by reference and incorporated herein as if fully set forth herein at length.

301.080 **Minimum Lot Size.** The minimum lot size for residential or commercial lots not in the overlay district shall be 6,400 square feet with a minimum average width of 80 feet. In the overlay district the minimum lot size shall be 12,800 square feet.

301.090 **Subdivision.** No parcel of land consisting of less than 12,800 square feet in the overlay district or 6,400 square feet outside the overlay district may be subdivided without the approval of the City Council. A subdivision shall include any sale to a given buyer of less than the entire amount of adjoining property of an owner including splitting of an individual lot. The City Council shall not approve a proposed subdivision if it creates a parcel of land of less than the minimum lot size either as to the proposed or residual parcels unless a variance for lot size is granted.

301.10 **Setbacks.** All structures not in the overlay district shall be set back a minimum of 20 feet from any street, 5 feet from the rear lot line and five feet from any side yard lot line. Structures in the overlay district shall be set back in accordance with Ordinance 100 (Appendix “A”). All distances shall be measured from the nearest point of the building to the applicable property line or street.

301.11 **VARIANCE PROCEDURE.**

A. **Applicability.** The City Council, acting as the Board of Adjustments and Appeals, may authorize variances from the provisions of this Ordinance, except as otherwise specified in this Ordinance.

B. **Review Process.**

- a. Initiation. Initiation of a variance may be made upon application of the property owner or their designated agent.
- b. Application Submittal. A complete application shall be submitted to the City Clerk or other Authorized Agent, and should include:
- c. A description of the proposed use and how it varies from the applicable provisions of the Zoning Code;
- d. A legal description of the property, including plot and parcel number;
- e. A site plan showing the location and extent of the proposed building, parking, loading, access drives, landscaping and any other improvements;
- f. A statement of the applicant, referring to specific facts, describing the following:
 1. The exceptional or extraordinary circumstances or conditions applying to the land, building, or use referred to in the application, which do not apply generally to land, buildings, or uses in the same zone classification;
 2. The practical difficulty to the applicant if the variance is not granted;
 3. Any other information required by the City Clerk, City Council, or other Authorized Agent.

C. **Staff Review.** The City Clerk or other Authorized Agent shall complete the following review tasks:

- a. Determine if the application is complete;
- b. Notice a public hearing;
- c. Review the application, considering the approval criteria, and prepare a report to the City Council with a recommendation for final action.

D. **City Council Final Action.** The City Council, acting as the Board of Adjustments and Appeals, shall complete the following tasks:

- a. Within sixty (60) days of the City’s receipt of a complete application, the City Council shall review the request and the approval criteria and

take action to approve, approve with conditions, or deny the request by 4/5ths vote of the Council, unless extended pursuant to Minnesota State Statute 15.99.

- b. The City may extend the time limit of this Subdivision before the end of the initial sixty (60) day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed sixty (60) days unless approved by the applicant.
- c. An applicant may by written notice to the City request an extension of the time limit under this Subdivision.
- d. Denial. If an application for a variance is denied by the City Council, the denial shall be accompanied by written findings setting forth the reasons for the denial in terms of the ways in which the proposed request fails to meet the standards and intent of this Ordinance.
- e. Expiration of Approval. Any variance granted by the city shall run with the land and shall be perpetual unless no building permit has been issued or substantial work performed on the project within one (1) year from the date of approval, in which case the variance shall be null and void. The City Council may extend the period for construction upon finding that the interest of the owners of neighboring properties will not be adversely affected by such extension. An extension of a variance approval for up to one (1) year may be granted by providing a written request to the City Council for their review and approval. The City Council may decline to grant an extension if there has been a change in circumstances affecting the property or if there are other reasons to justify the denial. Three (3) consecutive one – year extensions shall be conclusive proof that the development has not made adequate progress toward completion, and no further extensions shall be granted, except upon a variance from this provision.

E. **Approval Criteria.** No variance from the terms of this Ordinance shall be authorized unless the City Council finds failure to grant the variance will result in practical difficulties on the applicant. The burden of proof is on the applicant to show that all of the following criteria have been met:

- a. Because of the exceptional or extraordinary physical surroundings, shape or topographical conditions of the specific parcel of land involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the ordinance were to be carried out.
- b. The conditions upon which an application for a variance is based are unique to the parcel of land for which the variance is sought and are not applicable, generally, to other property within the same zoning classification.
- c. The purpose of the variance is not based exclusively upon a desire to increase the value or income potential of a parcel of land.

- d. The alleged practical difficulties are caused by this Ordinance and have not been created by any persons presently having an interest in the parcel of land.
- e. The granting of the variance will not be detrimental to the public welfare or injurious to other land or improvements in the vicinity of the parcel of land nor shall it alter the essential character of the neighboring lots and the locality.
- f. The proposed variance is in keeping with the spirit and intent of the Ordinance.
- g. The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.
- h. The variance is consistent with the Comprehensive Plan.

F. **Appeal.** Any person or persons, any private or public board, or taxpayer of the City aggrieved by any decision of the City Council acting as the Board of Adjustments and Appeals shall have the right to seek review of the decision with a court of record in the manner provided by the laws of the State of Minnesota, as such statutes may be from time to time amended, supplemented or replaced.

301.12

REZONING.

A. **Applicability.**

a. General Applicability. The Zoning Map may be amended whenever the public necessity, convenience, general welfare, or good zoning practice require. Amendments may also be made to correct errors in the Zoning Map or to address changed or changing conditions in a specific area or within the city generally. All Zoning Map Amendments must be consistent with the Comprehensive Plan and the provisions of this Subdivision.

B. **Review Process.**

a. Initiation. A Zoning Map Amendment may be initiated by any of the following:

- 1) The property owner or their designated agent;
- 2) The City Council; or
- 3) The Zoning Administrator or other Authorized Agent.

b. Application Submittal. A complete application shall be submitted to the City Clerk or other Authorized Agent;

c. Staff Review. The City Clerk or other Authorized Agent shall complete the following review tasks:

- 1) Determine if the application is complete;
- 2) Notice a public hearing;

3) Review the application, considering the approval criteria and prepare a report to the City Council with a recommendation for final action.

d. City Council Final Action.

1) Within sixty (60) days of the City's receipt of a complete application, the City Council (considering the approval criteria) shall approve, approve with conditions, or deny the requested Ordinance amending the Zoning Map, unless extended pursuant to Minnesota State Statute 15.99: Time Deadline for Agency Action.

2) Approval, or approval with conditions, shall require a 4/5ths vote of the City Council, unless otherwise required by State Law.

3) Failure to deny a request within sixty (60) days of the receipt of a petition is approval of the request, unless extended pursuant to Minnesota State Statute 15.99: Time Deadline for Agency Action.

4) The City may extend the time limit of this Subdivision before the end of the initial sixty (60) day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed sixty (60) days unless approved by the applicant.

5) An applicant may by written notice to the City request an extension of the time limit under this Subdivision.

6) Denial. If an application for a zoning map amendment (rezoning) is denied by the City Council, the denial shall be accompanied by written findings setting forth the reasons for the denial in terms of the ways in which the proposed request fails to meet the standards and intent of this Ordinance.

C. **Approval Criteria for a Zoning Map Amendment.** In determining whether to approve, approve with conditions, or deny an application for a Zoning Map Amendment (rezoning), the following criteria shall be considered:

1. Criteria.

a. The Zoning Map Amendment is consistent with the Comprehensive Plan;

b. The Zoning Map Amendment promotes public health, safety, morals, and the general welfare, as well as efficiency and economy in the process of development;

c. The Zoning Map Amendment is compatible with the present zoning and conforming uses of nearby property and with the character of the neighborhood; and

d. The property to be amended (rezoned) is suitable for the uses permitted by the Zoning District that would be applied by the proposed Zoning Map Amendment.

301.13 Zoning Ordinance Text Amendment.

A. Applicability. The text of the Zoning Ordinance may be amended whenever the public necessity, convenience, general health, safety or welfare, or good zoning practice require. Amendments may also be made to correct errors in the text of the Zoning Ordinance or to address changed or changing conditions affecting the City. All text amendments shall be consistent with the Comprehensive Plan.

B. Review Process.

1. Initiation. A text amendment may be initiated by any of the following:

- a. The City Council; or
- b. The property owner or their Authorized Agent.

2. Application Submittal. A complete application shall be submitted to the City Clerk or other Authorized Agent, and include the following:

- a. The Applicant's name and address;
- b. The precise wording of any proposed amendment to the text of this Ordinance; and
- c. In the event that the proposed amendment would change the zoning classification of any property:

(1) A legal description and street address of the property proposed to be re-classified;

(2) The name and address of the owner or owners of the said property;

(3) The present zoning classification and existing uses of the property proposed to be reclassified;

(4) The area of the property proposed to be reclassified, stated in square feet or acres, or fraction thereof;

(5) A map, drawn to scale, clearly showing the property proposed to be reclassified and its present zoning classification and existing uses, together with an abstractor's certificate with the names and addresses of the owners of land within three hundred and fifty (350) feet of the area proposed to be rezoned;

(6) A written statement of how the rezoning would fit in with the general zoning pattern of the neighborhood, and the zoning plan of the entire City;

(7) Proof of ownership of the property consisting of an Abstract of Title currently certified or a current Certificate of Title; and

(8) Such other information as the City Clerk or other Authorized Agent may require.

3. Staff Review. The City Clerk or other Authorized Agent shall complete the following review tasks:

- a. Determine if the application is complete;
- b. Notice a public hearing; and

c. Review the application, considering the approval criteria, and prepare a report with a recommendation for final action.

4. City Council Final Action.

a. Within sixty (60) days of the City's receipt of a complete application, the City Council (considering the approval criteria) shall approve, approve with conditions, or deny the requested Ordinance amending the Ordinance Text, unless extended pursuant to Minnesota State Statute 15.99: Time Deadline for Agency Action.

b. Approval, or approval with conditions, shall require a 4/5ths vote of the City Council.

c. Failure to deny a request within sixty (60) days of the receipt of a petition is approval of the request, unless extended pursuant to Minnesota State Statute 15.99: Time Deadline for Agency Action.

d. The City may extend the time limit of this Subdivision before the end of the initial sixty (60) day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed sixty (60) days unless approved by the applicant.

e. An applicant may, by written notice to the City, request an extension of the time limit under this Subdivision.

f. Denial. If an application for a zoning ordinance text amendment is denied by the City Council, the denial shall be accompanied by written findings setting forth the reasons for the denial in terms of the ways the proposed request fails to meet the standards and intent of this Ordinance.

C. Approval Criteria. In determining whether to approve, approve with conditions, or deny an application for a text amendment to the Zoning Ordinance, the following criteria shall be considered:

- (1) The text amendment is consistent with the Comprehensive Plan;
- (2) The text amendment promotes public health, safety, morals, and the general welfare, as well as efficiency and economy in the process of development;
- (3) The text amendment is compatible with the present zoning and conforming use of the property and the character of the neighborhoods, existing conditions and the conservation of property values, as well as the direction of building development to the best advantage of the entire City and for the uses to which the property affected is being devoted at the time.

301.14 Interim Use Permit

A. *Interim uses.* The City Council may issue an interim use permit to allow a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it. The purpose of this section is to establish provisions for the review of proposals by applicants for interim uses.

B. *Application.* An application for an interim use permit shall be made to the City Council, which shall address the following general provisions.

C. *General provisions.* Interim uses may be allowed by permit if:

1. The use otherwise conforms to the comprehensive plans and zoning regulations as regards performance standards and other requirements;

2. The date or event that will terminate the use can be identified with certainty;
3. By agreement with the owner, the use will be subject to any specific conditions that the city has deemed appropriate for permission of the use, including a condition that the owner will provide an appropriate financial surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use permit.

D. *Procedure.* Issuance procedure is as follows:

1. The City Council will only consider applications that have been completed and appropriately submitted pursuant to the requirements of this Section and the Willernie Code.
2. A public hearing shall be held by the City Council in order to approve or deny an application. The public hearing on the permit application shall be no later than 60 days after the application has been submitted. Notice of the Public Hearing shall be publicized and notice shall be mailed to each owner of property situated wholly or partly within 350 feet of the property to which the interim use is related at least 10 days prior to the Meeting. The City of Willernie shall be responsible for mailing such notices.
3. Approval of a request shall require passage by a majority vote of the City Council.

E. *Termination.* An interim use permit shall terminate upon whichever of the following events occurs first:

1. The date stated in the permit; or
2. A violation of conditions under which the permit was issued; or
3. A change in the city's zoning regulations that renders the use nonconforming; or
4. Redevelopment of the use, and/or property upon which it is located, as a permitted use allowed within the respective zoning districts.

301.15 Conditional Use Permit

A. *Conditional Uses.* The purpose of a conditional use permit is to allow the integration of essential or desirable uses which may be suitable only in certain zoning districts or designed or arranged on a specific site in a certain manner. The purpose of this section is to establish provisions for the review of proposals by applicants for conditional uses.

B. *Application.* An application for a conditional use permit shall be made to the City Council, which shall address the following general provisions.

C. *General Provisions.* Conditional uses may be allowed by permit if:

1. The use otherwise conforms to the comprehensive plans and zoning regulations as regards performance standards and other requirements. The use is also compatible with the existing neighborhood;
2. All conditional and special uses set forth in this section are subject to use permit review and are declared to be of such unique and special character that it is impractical to include them as principal permitted uses or as accessory uses in any district;
3. Any additional conditions necessary for the public interest have been imposed; and

4. The use or structure will not constitute a nuisance or be detrimental to the public welfare of the community.

D. *Procedure.* Issuance procedure is as follows:

1. The City Council will only consider applications that have been completed and appropriately submitted pursuant to this Section and the Willernie Code.
2. A public hearing shall be held by the City Council in order to approve or deny an application. The public hearing on the permit application shall be no later than 60 days after the application has been submitted. Notice of the Public Hearing shall be publicized and notice shall be mailed to each owner of property situated wholly or partly within 350 feet of the property to which the conditional use is related at least 10 days prior to the Meeting. The City of Willernie shall be responsible for mailing such notices.
3. Approval of a request shall require passage by a majority vote of the City Council.

302: REGULATION OF PARKING ON COMMERCIAL LOTS OR NEW CONSTRUCTION

Section 302 Purpose

The purpose of this ordinance is to provide minimal reasonable regulations as to parking requirements for new construction or new commercial uses within the City of Willernie.

- A. **Required Parking.** Off-street parking areas of sufficient size to provide for patrons, customers, suppliers, visitors and employees shall be provided on the premises of each use. Subsection M designates the minimum number of parking spaces that are required to be provided and maintained at the time any new use or structure is occupied, or any existing use or structure is enlarged or increased in capacity.

For uses not specifically listed in this Ordinance, uses for which a specific number of spaces have not been defined, or for joint parking facilities serving two or more different uses, the City Council shall determine the number of spaces to be required by utilizing the requirements of the most similar use listed below.

- B. **Existing Spaces.** Off-street parking facilities existing at the effective date of this Ordinance shall not subsequently be reduced to an amount less than that required under this Ordinance for a similar new building or use. Off street parking facilities provided to comply with the provisions of this Ordinance shall not subsequently be reduced below the requirements of this Ordinance. Such required parking or loading space shall not be used for storage of goods or storage of vehicles that are inoperable or for sale or rent.

- C. **Size.** Each parking space shall contain a minimum area of not less than 180 square feet excluding access drives, a width of not less than 9 feet, and a depth of not less than 20 feet. Each space shall be adequately served by access drives of not more than 24 feet in width at the property line for residential lots and not more than 32 feet in width for commercial and industrial properties. all loading

spaces shall be sufficient to meet the requirements of each use and shall provide adequate space for storage and maneuvering of the vehicles it is designed to serve.

- D. **Lighting.** Any lighting used to illuminate off-street parking shall be dark sky lighting and indirect or diffuse and shall not be directed upon the public right-of-way or upon nearby or adjacent properties.
- E. **Accessory Locations.** Parking spaces may be located on a lot other than that containing the principal use upon the approval of the City Council.
- F. **Surfacing.** Any off-street parking lot for more than five vehicles shall be graded for proper drainage and shall be surfaced with bituminous or concrete and shall have case in place curbing.
- G. **Location.** No off-street parking shall be located within thirty feet of any street right-of-way or within five feet of any interior property line except as provided through access drives.
- H. **Site Plan.** Any application for a building permit or for a certificate of occupancy shall include a site plan or plot plan drawn to scale in dimensioned showing off-street parking and loading space to be provided in compliance with this Ordinance.
- I. **Screening.** When a parking area designed for five spaces or more abuts a more restrictive zoning district, a fence, not over five feet in height, shall be erected along adjacent property lines and grass or planting shall occupy the space between the curb and property line.
- J. **Signs.** No signs shall be located in any parking area except as necessary for orderly operation of traffic movement and such sign shall not be a part of the permitted advertising space.
- K. **Access.** All off-street parking spaces shall have access off driveways and not directly off the public street.
- L. **Maintenance of Off-Street Parking Space.** It shall be the responsibility of the owner of the principal use, uses and or building to maintain, in a neat and adequate manner, the parking space access way, landscaping and required fences.

M. <u>Schedule of Parking Requirements for New Construction or New Commercial Uses.*</u>	
USE	PARKING SPACES REQUIRED
Single Family House	2 per dwelling unit
Two Family House; Townhouse; Multiple Family Dwellings	2.5 per dwelling unit; one of which must be enclosed
Churches, Auditoriums and Mortuaries	1 per 4 seats in principal assembly room
Schools	1 per classroom plus 1 additional for every 30 students
Private Club or Lodge	1 per 4 members 1 per 4 seats
Theater, Medical, Dental & Animal Clinics	5 per doctor, dentist, veterinarian plus 1 additional employee
Hospital and Rest Homes	1 per 3 beds and 1 for each 2 employees on the maximum working shift
Hotel/Motel	1 per rental unit plus 1 per employee
Professional Offices and Business Services	1 for every 250 sq. ft. of floor space
Motor Fuel Station	4 for each service stall
Retail Stores	1 for every 200 sq. ft. of floor space
Furniture Store, Appliance and Auto Sales	1 for every 400 sq. ft. of floor space
Eating/Drinking Places & Personal Services Establishments	1 for every 100 sq. ft. of floor space

Bowling Alleys	5 for each alley
Recreational Assembly Places; e.g. Dance Halls, Night Clubs	1 for every 50 sq. ft. of floor space
Drive-In Food Establishments	1 for every 15 sq. ft. of floor space
Manufacturing	1 space for each 350 sq. ft. of floor area, plus 1 space for each company vehicle not stored inside a building.
Warehousing-Wholesale	That space which is only used for office space shall comply with office space requirement and 1 space per each 1000 ft. of floor area, plus 1 space for each employee on the maximum shift, plus 1 space for each company vehicle if not stored inside a building. Proof of parking shall be shown on site plans to provide a minimum of one parking space for each 500 square feet of floor space so that adequate parking is provided in the event a more labor intensive use is installed.

*Floor space shall mean the gross floor area of the specific use. Where fractional spaces result, the parking spaces required shall be construed to be the nearest whole number.

Section 302.02 PARKED VEHICLE REGULATIONS

302.021 **Brakes Applied or Engine in Gear**. No person shall leave any motor vehicle unattended without the emergency brake applied or with the motor vehicle in gear or running.

302.022 **One-way-roadway**. Persons may park a vehicle with the left-hand wheels adjacent to and within twelve (12) inches of the left-hand curb of a one-way street.

302.023 **Sidewalks**. No person shall drive or park any vehicle upon any sidewalk or within the

intersection of any streets.

302.024 **Time Limit**. No person may place, park, permit to remain, store or leave any vehicle in any one location upon any City street for more than seventy-two (72) hours. For the purposes of this Section, a vehicle moved to another location within one hundred (100) feet of the first location is deemed to have remained stationary.

302.025 **Immovable Motor Vehicles**. No person shall leave any motor vehicle parked upon any street in the City with the wheels chained, locked, or fastened in such manner that such motor vehicle cannot easily be moved in case of necessity or emergency. A person may lock his or her motor vehicle provided the vehicle can be moved by hand.

302.026 **Restricted Parking Violation is a Petty Misdemeanor**. Any violation of the restricted parking ordinance provisions of this Section 302.02 shall constitute a petty misdemeanor violation as defined by Minnesota Statutes section 609.02, and shall incur a \$25.00 fine per occurrence within a twenty-four (24) hour period.

303: REGULATIONS FOR LANDSCAPING

Section 303: Purpose. The purpose of this Ordinance is to provide minimal reasonable regulations as to landscaping requirements for new construction or new commercial uses within the City of Willernie.

Section 303.010:

A. Landscaping.

Intent:

i) It is the policy of the City of Willernie to preserve its significant natural resources as a complement to existing and future urbanization. In particular, steep slopes, very steep slopes, woodlands, wetlands and drainage ways shall be preserved in their natural state for their functional and ecological value as well as for their positive impact upon proximate urban development.

In addition to preservation of existing woodland areas, it is the policy of the City to require significant landscaping/planting in open or disturbed areas as a normal part of land development. Specific requirements shall be as set forth in this Section.

ii) **Landscape Plan Required:** A landscape plan shall be provided for all new residential or commercial construction and change of commercial uses within the City of Willernie. The applicant for a building permit

shall submit a landscape plan prepared by a landscape architect, nursery designer or other qualified person in accordance with the provisions of this Section.

The landscape plan shall include the following information:

- a. **General.** Name and address of developer/owner; name and address of landscape architect, designer, date of preparation; date of description of all revisions; name of project or development.
 - b. **Site Plan.** A scale drawing of the site based upon a survey of property lines within indication of scale and north point; name and right-of-way of propose streets; location of all proposed utility easements and rights-of-way; location of existing proposed buildings; parking areas; water bodies; proposed sidewalks.
 - c. **Landscape Plan.** A scale drawing of proposed landscaping for the site with indication of scale and north point; delineation of both sodded and seeded area; location and identification of proposed landscape or man-made material used to provide screening from adjacent and neighboring properties; location and identification of all planting (trees, shrubs, flowers, ground cover, etc.) existing trees and shrubbery to remain; details of fences, retaining walls, berms and other landscape improvements; identification of plant material used; and location and details of irrigation systems.
- iii) **General Requirements, All Districts:**
- a. **Required Landscaping:** All disturbed areas of developed lots which are not devoted to off-street parking, loading and driving areas, sidewalks, patios, gardens and similar uses, shall be landscaped with grass, ground cover, trees, shrubs or other ornamental landscape material.

304: SIGNS

304.010 **FINDINGS, PURPOSE AND EFFECT**

A. **Findings.** The City Council hereby finds as follows:

- 1) Exterior signs have a substantial impact on the character and quality of the environment.
- 2) Signs provide an important medium through which individuals may convey a variety of messages.

- 3) Signs can create traffic hazards, aesthetic concerns and detriments to property values, thereby threatening the public health, safety, and welfare.
- 4) The city's zoning regulations have included the regulation of signs in an effort to provide adequate means of expression and to promote the economic viability of the business community, while protecting the city and its citizens from a proliferation of signs of a type, size, location, and character that would adversely impact upon the aesthetics of the community and threaten the health, safety, and welfare of the community. The regulation of the physical characteristics of signs within the city has had a positive impact on traffic safety and the appearance of the community.

B. **Purpose and intent.** It is not the purpose or intent of this sign ordinance to regulate the message displayed on any sign; nor is it the purpose or intent of this article to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building. The purpose and intent of this article is to:

- 1) Regulate the number, location, size, type, illumination and other physical characteristics of signs within the city in order to promote the public health, safety, and welfare.
- 2) Maintain, enhance, and improve the aesthetic environment of the city by preventing visual clutter that is harmful to the appearance of the community.
- 3) Improve the visual appearance of the city while providing for effective means of communication, consistent with constitutional guarantees and the city's goals of public safety and aesthetics.
- 4) Provide for fair and consistent enforcement of the sign regulations sets forth herein under the zoning authority of the city.

C. **Effect.** A sign may be erected, mounted, displayed or maintained in the city if it is in conformance with the provisions of these regulations. The effect of this sign ordinance, as more specifically set forth herein, is to:

- 1) Allow a wide variety of sign types in commercial zones, and a more limited variety of signs in other zones, subject to the standards set forth in this sign ordinance.
- 2) Allow certain small, unobtrusive signs incidental to the principal use of a site in all zones when in compliance with the requirements of this sign ordinance.

- 3) Prohibit signs whose location, size, type, illumination or other physical characteristics negatively affect the environment and where the communication can be accomplished by means having a lesser impact on the environment and the public health, safety, and welfare.
- 4) Provide for the enforcement of the provisions of this sign ordinance.

304.020 SEVERABILITY

If any section, subsection, sentence, clause or phrase of this Sign Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Sign Ordinance. The City Council hereby declares that it would have adopted the Sign Ordinance in each section, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

304.030 DEFINITIONS

The following words and terms, when used in this Sign Ordinance, shall have the following meanings, unless the context clearly indicates otherwise:

- 1) **Abandoned Sign.** Any sign and/or its supporting sign structure which remains without a message or whose display surface remains blank for a period of sixty (60) days or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of six (6) months or more. Any sign remaining after demolition of a principal structure shall be deemed to be abandoned. Signs which are present because of being legally established nonconforming signs or signs which have required a conditional use permit, or a variance shall also be subject to the definition of abandoned sign.
- 2) **Awning.** A roof-like cover, often of fabric, plastic, metal or glass designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure primarily over a window, walk, or the like. Any part of an awning which also projects over a door shall be counted as an awning.
- 3) **Awning sign.** A building sign or graphic printed on or in some fashion attached directly to the awning material.
- 4) **Building.** Any structure used or intended for supporting or sheltering any use or occupancy.
- 5) **Building sign.** Any sign attached or supported by any structure used or intended for supporting or sheltering any use or occupancy.
- 6) **Cabinet sign.** Any wall sign that is not of channel or individually mounted letter construction.

- 7) **Canopy**. A roof-like cover, often of fabric, plastic, metal, or glass on a support, which provides shelter over a doorway.
- 8) **Canopy sign**. Any sign that is part of or attached to a canopy, made of fabric, plastic, or structural protective cover over a door or entrance. A canopy sign is not a marquee and is different from service area canopy signs.
- 9) **Changeable copy sign**. A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. Changeable copy signs do not include signs upon which characters, letters, or illustrations change or rearrange only once in 24-hour period.
- 10) **Commercial speech**. Speech advertising a business, profession, commodity, service, or entertainment.
- 11) **Elevation**. The view of the side, front, or rear of a given structure(s).
- 12) **Elevation area**. The area of all walls that face any lot line.
- 13) **Erect**. Activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, painting, drawing, or any other way of bringing into being or establishing.
- 14) **Flag**. Any fabric or similar lightweight material attached at one end of the material, usually to a staff or pole, so as to allow movement of the material by atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia, or other symbolic devices.
- 15) **Flashing sign**. A directly or indirectly illuminated sign which exhibits changing light or color effect by any means, so as to provide intermittent illumination which includes the illusion of intermittent flashing light by means of animation. Also any mode of lighting which resembles zooming, twinkling, or sparkling.
- 16) **Free Standing Sign**. A sign which stands on the ground and is not attached to a building.
- 17) **Frontage**. The line of contact of a property with the public right-of-way.
- 18) **Grade**. Grade shall be construed to be the final ground elevation after construction. Earth mounding criteria for landscaping and screening is not part of the final grade for sign height computation.
- 19) **Height of sign**. The height of the sign shall be computed as the vertical distance measured from the base of the sign at grade to the top of the highest attached component of the sign.
- 20) **Interior sign**. A sign which is located within the interior of any building, or within an enclosed lobby or court of any building.

- 21) **Issuing authority.** The City of Willernie City Council.
- 22) **Legally established nonconforming sign.** Any sign and its support structure lawfully erected prior to the effective date of this ordinance which fails to conform to the requirements of this ordinance. A sign which was erected in accordance with a variance granted prior to the adoption of this ordinance and which does not comply with this ordinance shall be deemed to be a legal nonconforming sign. A sign which was unlawfully erected shall be deemed to be an illegal sign.
- 23) **Multiple tenant site.** Any site which has more than one (1) tenant, and each tenant has a separate ground level exterior public entrance.
- 24) **Non-commercial speech.** Dissemination of messages not classified as Commercial Speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.
- 25) **Off-premise sign.** A commercial speech sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same premises where such business sign is located. For purposes of this sign ordinance, easements and other appurtenances shall be considered to be outside such platted parcel of land and any sign located or proposed to be located in an easement or other appurtenance shall be considered an off-premise sign.
- 26) **On-premise messages.** Identify or advertise an establishment, person, activity, goods, products or services located on the premises where the sign is installed.
- 27) **Pole sign.** See Pylon Sign.
- 28) **Portable sign.** Any sign which is manifestly designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support is converted to another sign or attached temporarily or permanently to the ground since this characteristic is based on the design of such a sign.
- 29) **Principal building.** The building in which the principal primary use of the lot is conducted. Lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages, and other clearly accessory uses shall not be considered principal buildings.
- 30) **Projecting sign.** Any sign which is affixed to a building or wall in such a manner that its leading edge extends more than two (2) feet beyond the surface of such building or wall face.
- 31) **Property owner.** Legal owner of property as recorded by Washington County.
- 32) **Public notices.** Official notices posted by public officers, employees, or their agents in the performance of their duties, or as directed by such officers, employees, or agents.

- 33) **Public street right-of-way.** The planned right-of-way for a public street.
- 34) **Pylon sign.** Any freestanding sign which has its supportive structure(s) anchored in the ground and which has a sign face elevated above ground level by pole(s) or beam(s) and with the area below the sign face open.
- 35) **Residential district.** Any district zoned for residential uses.
- 36) **Roof sign.** Any sign erected and constructed wholly on and above the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.
- 37) **Rotating sign.** A sign or portion of a sign which turns about on an axis.
- 38) **Setback, front.** The minimum horizontal distance permitted between the public right-of-way and a structure on the premises. In instances in which a property fronts on more than one (1) street, front setbacks are required on all street frontages.
- 39) **Setback, rear.** The minimum horizontal distance permitted between the property line opposite the principal street frontage and a structure on the premises.
- 40) **Setback, side.** The minimum horizontal distance permitted between the side lot line and a structure on the premises.
- 41) **Sign.** Any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.
- 42) **Sign face.** The surface of the sign upon, against, or through which the message of the sign is exhibited.
- 43) **Sign structure.** Any structure including the supports, uprights, bracing and the framework which supports or is capable of supporting any sign.
- 44) **Site.** A plot or parcel of land, or combination of contiguous lots or parcels of land, which are intended, designated, and/or approved to function as an integrated unit.
- 45) **Stringer.** A line of string, rope, cording, or an equivalent to which is attached a number of pennants.
- 46) **Suspended sign.** Any building sign that is suspended from the underside of a horizontal plane surface and is connected to this surface.
- 47) **Total site signage.** The maximum permitted combined area of all freestanding and wall identification signs allowed on a specific property.

- 48) **Visible.** Capable of being seen by a person of normal visual acuity (whether legible or not) without visual aid.
- 49) **Wall.** Any structure which defines the exterior boundaries or courts of a building or structure and which has a slope of sixty (60) degrees or greater with the horizontal plane.
- 50) **Wall sign.** Any building sign attached parallel to, but within two (2) feet of a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such all or building, and which displays only one (1) sign surface.
- 51) **Window sign.** Any building sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

304.040

SIGNS IN THE COMMERCIAL DISTRICT(S)

A. The following signs are allowed in the Commercial Districts:

- 1) **Wall sign.** The sign area shall have a maximum allowable area of fifteen percent (15%) of the building wall upon which the sign is located.
- 2) **Ground sign.** The City Council can grant a special use permit pursuant to the conditions described in Subsection D, below to allow for the use of a ground sign. The sign shall have a maximum allowable area of fifty (50) square feet and not extend more than fifteen (15) feet above the ground.
- 3) **Projecting sign.** The sign shall provide adequate clear space between the sign and pedestrian traffic and street activity. No projecting sign shall extend more than five feet into the public right-of-way, nor be lower than eight (8) feet above the public sidewalk. The sign shall be no greater than eight (8) square feet in area. The City Council can grant a special use permit pursuant to the conditions described in Subsection D below to allow a maximum sign area of fifteen percent (15%) of the building wall upon which the sign is projected from.
- 4) **Portable Menu Board Sign.** The sign is allowed without a permit provided it meets the following conditions:
 - 1) A portable menu board sign is permitted to occupy the public or private sidewalk area within five (5) feet of the entryway to the subject business, provided that such sign allows for a minimum clearance of four (4) feet along the sidewalk to facilitate pedestrian circulation.
 - 2) The size and content of the display message shall relate to pedestrians and not be designed to convey information to vehicular traffic.
 - 3) No electrical connections can be used with the portable menus board sign.
 - 4) Sign display is only permitted during the business hours of the subject business.

- 5) The sign may be no greater than five (5) feet in height and no greater than six (6) square feet in area.
- 5) Awning and Canopy Sign. Awning and canopy signs as described in the standard provisions of 304.150.
- 6) Painted Wall Sign. The City Council can grant a special use permit pursuant to the conditions described in Subsection D below to allow for the use of a painted wall sign. The sign shall have a maximum allowable area of fifteen percent (15%) of the building wall upon which the sign is located. A painted wall sign must be maintained in a neat and clean condition, having no chipping or peeling paint.
- 7) Roof Sign. The City Council can grant a conditional use permit pursuant to the conditions described in Subsection D below to allow for the use of a roof sign. The sign shall have a maximum allowable area of fifty (50) square feet and a maximum height of eight (8) feet above the roof. The top of a sign cannot extend higher than thirty-five (35) feet above the average grade measured at the front of the building.
- 8) Electronic Display Sign. The City Council can grant a conditional use permit pursuant to the conditions described in Subsection D below to allow for the use of an electronic display sign. The electronic display portion of the sign shall be no greater than eight (8) square feet in area. The sign cannot contain moving sections or flashing lights.
- 9) Other signs. All other signs allowed without a permit as described in the Code.

B. Temporary signs. Each business in the Commercial District(s) shall be allowed to display one (1) temporary sign. However, the City Council must first approve a sign plan that shows the general design of the temporary sign, indicates the proposed placement of the temporary sign, and states the allowable period that the temporary sign can be displayed. The temporary sign must be removed once the allowable period has expired. Another temporary sign may be erected after the sign has been removed as per the City Council approved sign plan. If the replacement temporary sign is consistent with the City Council approved sign plan, no additional City Council action or sign permit is required to display the replacement temporary sign. A temporary sign cannot exceed thirty-two (32) square feet in area. The City Council may permit a business to display two (2) temporary signs at one time under special use permit procedures. Refer to Subsection D below for conditions to be considered when reviewing a sign plan for temporary signs or when considering a conditional use permit to display two (2) temporary signs at one time.

C. Maximum Number of Total Allowable Area of Signs. No more than two (2) permanent signs identifying any one business should be displayed. However, no more than one (1) permanent sign per business may be displayed on a building façade. The total aggregate area of all signs per lot shall be limited to two (2) square feet per linear foot of lot frontage.

D. **Conditions.** Conditions to be considered when reviewing a special use permit for signs in the Commercial District(s) include, but are not limited to, the following:

- 1) The sign does not impair the integrity of the district and the pedestrian – oriented character of the district.
- 2) The sign does not obstruct driver vision, or is noxious, annoying, or hazardous because of method of lighting, illumination, reflection, or location.
- 3) The sign is harmonious with the building and site for which it is associated.
- 4) The sign is harmonious with the buildings and grounds adjacent to it.
- 5) The use conforms to the District and use provisions and all general regulations of this Code.

E. **Conditional Use Permit for Adjustment to Standards.** In cases where extraordinary limitations are imposed on a lot due to topography, unusually lot shape, placement of existing structures, and similar conditions, adjustments in the standard regulations will be made by issuance of a conditional use permit.

304.050 PERMIT REQUIRED

No sign shall be erected, altered, reconstructed, maintained or moved in the city without first securing a permit from the city. The content of the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit. Application for a permit shall be in writing addressed to the issuing authority and shall contain the following information:

- a. names and addresses of the owners of the display structure and property;
- b. the address at which any signs are to be erected;
- c. the lot, block and addition at which the signs are to be erected and the street on which they are to front;
- d. a complete set of plans showing the necessary elevations, distances, size and details to fully and clearly represent the construction and place of the signs;
- e. the cost of the sign;
- f. type of sign (i.e. wall sign, roof sign, etc.);
- g. certification by applicant indicating the application complies with all requirements of the sign ordinance; and
- h. if the proposed sign is along a road otherwise regulated by the State or County, and the regulatory body requires a permit, the application shall be accompanied by proof that the applicant has obtained a permit from the state for the sign.

The issuing authority shall approve or deny the sign permit in an expedited manner no more than 60 days from the receipt of the complete application, including applicable fee. All permits not approved or denied within 60 days shall be deemed approved. If the permit is denied, the issuing authority shall prepare a written notice of within 10 days its decision, describing the applicant's appeal rights under Section 525.15, and send it by certified mail, return receipt requested, to the applicant.

304.060 EXEMPTIONS.

The following signs shall not require a permit. These exemptions, however, shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance, and its compliance with the provisions of this ordinance or any other law or ordinance regulating the same.

- a. The changing of the display surface on a painted or printed sign only. This exemption, however, shall apply only to poster replacement and/or on-site changes involving sign painting elsewhere than directly on a building.
- b. Signs six (6) square feet or less in size.

304.070 FEES

Permit fees are as adopted by resolution of the City Council and shall accompany the permit application.

304.080 REPAIRS

Any sign located in the city which may now be or hereafter become out of order, rotten or unsafe, and every sign which shall hereafter be erected, altered, resurfaced, reconstructed or moved contrary to the provisions of this section, shall be removed or otherwise properly secured in accordance with the terms of this section by the owners thereof or by the owners of the grounds on which said sign shall stand, upon receipt of proper notice to do so, given by the issuing authority. No rotten or other unsafe sign shall be repaired or rebuilt except in accordance with the provisions of this section and upon a permit issued by the issuing authority.

304.090 REMOVAL

In the event of the failure of the owner or person, company or corporation having control of any sign, or the owner of the ground on which the sign is located, to remove or repair said sign within 60 days after the use is terminated, a notice shall be given and the sign may be removed by the city at the expense of the owner or manager of the sign, or the owner of the ground upon which the sign stands.

304.100 VIOLATIONS

Violation of this section is a misdemeanor. Each day that the violation continues is a separate offense.

304.110 SIZE

No sign shall exceed 100 square feet in area.

304.120 UNAUTHORIZED SIGNS

The following signs are unauthorized signs, except under the conditions which may be imposed pursuant to Signs in Commercial District(s), as provided herein:

- a. Any sign, signal, marking or device which purports to be or is an imitation of or resembles any official traffic control device or railroad sign or signal, or emergency vehicle signal, or which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.
- b. All off-premise signs displayed when the business or activity is not open or occurring.
- c. Signs painted, attached or in any other manner affixed to trees, rocks, or similar natural surfaces, or attached to public utility poles, bridges, towers, or similar public structures.
- d. Portable signs displayed when the business or activity is not open or occurring.
- e. Changeable copy signs.
- f. Abandoned signs.
- g. Advertising signs.
- h. Flashing signs.
- i. Motion signs. No signs are allowed which contain moving sections or intermittent or flashing lights, except for intermittent display of time and temperature.
- j. Painted wall signs actually painted on the permanent exterior wall surface.
- k. Permanent pennants.
- l. Posted bills or signs placed on public right-of-way or any improvement within the public right-of-way.
- m. Roof signs.

- n. Signs which obstruct traffic visibility. No signs shall be erected or maintained in such place and manner as obstructs driver vision, or is noxious, annoying or hazardous because of method or lighting, illumination, reflection or location.
- o. Signs on parked vehicles. Signs affixed to vehicles and/or trailers which are parked on a public right-of-way, public property, private property so as to be visible from a public right-of-way, where the apparent purpose is to advertise a product or direct people to an activity located on the same or a nearby property shall be prohibited. Signs affixed to vehicles where the sign is incidental to the use of the vehicle are not prohibited.
- p. Signs within the public right-of-way. Signs shall not be permitted within the public right-of-way or easements reserved by the City except for governmental signs installed by the City of Willernie.

304.130 SETBACKS

A) **Yards.** Signs shall conform to building yard regulations for the zoning district in which the signs are located except as otherwise specified in this Section.

Commercial I	
Front Yard	10'
Side Yard	5'
Rear Yard	5'
Commercial II	
Front Yard	1'
Side Yard	0'
Rear Yard	10'
Residential	
Front Yard	5'
Side Yard	5'
Rear Yard	5'

304.140 AREA

The area within the frame shall be used to calculate the square footage except that the width of a frame exceeding 12 inches shall constitute sign face, and if such letters or graphics be mounted directly on a wall or fascia or in such way as to be without a frame the dimensions for calculating the square footage shall be the area extending six inches beyond the periphery formed around such letters or graphics in a plane figure bounded by straight lines connecting the outermost points thereof. Each surface utilized to display a message or to attract attention shall be measured as a separate sign and shall be calculated in the overall square footage. Symbols, flags, pictures, wording, figures or other forms of graphics painted on or attached to windows, walls, awnings, free-standing structures, suspended by balloons, or kites or on persons, animals, or vehicles are considered a sign and are included in calculating the overall square footage.

304.150 **CANOPIES, MARQUEES, AND FIXED AWNINGS**

Canopies, marquees and fixed awnings are an integral part of the structure to which they are attached. They are allowed in the Commercial Districts if they meet following requirements and the applicable square footage requirements.

- a. an awning, canopy or marquee may not project into the public right-of-way nearer than 30 inches to the street curb or curb line;
- b. awnings, canopies or marquees may have no part of the structure other than supports nearer the ground surface than seven feet;
- c. the architectural style of the awning, canopy or marquee may be consistent with the building being served;
- d. awnings, canopies or marquees projecting into the required yards may not be enclosed except with a transparent material permitting through vision; and
- e. awnings, canopies or marquees built over the public right-of-way must be included in a liability insurance policy holding the city free of all responsibility.

304.160 **ILLUMINATION**

External illumination for signs shall be so constructed and maintained that the source of light is not visible from the public right-of-way or residential property.

304.170 **HEIGHT**

The top of a sign, including its superstructure, if any, shall be no higher than the roof of the building to which such sign may be attached or 35 feet above ground level, whichever height is less; except that the height of any changeable sign which is attached to or an integral part of a functional structure, such as a water tower, smoke stack, radio or TV transmitting tower, beacon or similar structure shall be no higher than such structure. Signs, including any superstructure standing or erected free of any building or other structure, shall not exceed an overall height of 35 feet from ground level and shall be located on land in an area which is landscaped or if such land is part of an approved parking area, it shall be surfaced or paved as required in the zoning code.

304.180 **RETROACTIVE EFFECT**

This sign ordinance shall apply to all sign applications applied for and/or pending prior to its enactment.

304.190 **NON-COMMERCIAL SPEECH**

Notwithstanding any other provisions of this sign ordinance, all signs of any size containing Non-Commercial Speech may be posted from August 1 in any general election year until ten (10) days following the general election and thirteen (13) weeks prior to any special election until ten (10) days following the special election.

304.200 **PERMITTED SIGNS BY DISTRICT**

A) Within residential zoning districts, signs are permitted as follows:

<u>District</u>	<u>Maximum sign area of single sign</u>	<u>Total area of all signs</u>
Residential	8 square feet per surface	16 square feet

B) The following types of signs are not permitted in residential zoning districts:

1. Awning signs;
2. Canopy signs;
3. Flashing signs;
4. Marquee signs;
5. Pole signs; and
6. Pylon signs.

304.210 **NON-CONFORMING USES**

It is recognized that signs exist within the zoning districts which were lawful before this sign ordinance was enacted, which would be prohibited, regulated or restricted under the terms of this chapter or future amendments. It is the intent of this sign ordinance that nonconforming signs shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other signs or uses prohibited elsewhere in the same district. It is further the intent of this sign ordinance to permit legal nonconforming signs existing on the effective date of this sign ordinance, or amendments thereto, to continue as legal nonconforming signs provided such signs are safe, are maintained so as not to be unsightly, and have not been abandoned or removed subject to the following provisions:

- a. No sign shall be enlarged or altered in a way which increases its nonconformity.
- b. Should such sign or sign structure be destroyed by any means to an extent greater than fifty (50) percent of its replacement cost and no building permit has been applied for within 180 days of when the property was damaged, it shall not be reconstructed except in conformity with the provisions of this ordinance.

- c. Should such sign or sign structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.
- d. No existing sign devoted to a use not permitted by the zoning code in the zoning district in which it is located shall be enlarged, extended or moved except in changing the sign to a sign permitted in the zoning district in which is it located.
- e. When a structure loses its nonconforming status, all signs devoted to the structure shall be removed and all signs painted directly on the structure shall be repainted in a neutral color or a color which will harmonize with the structure.

304.220 SUBSTITUTION CLAUSE

The owner of any sign which is otherwise allowed by this sign ordinance may substitute noncommercial copy in lieu of any other commercial or non-commercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any more specific provision to the contrary.

304.230 STRUCTURAL REGULATIONS AND MAINTENANCE

- A. **Material.** All permanent signs shall be constructed of permanent materials versus temporary materials. Examples of permanent materials are brick, concrete, steel, aluminum, treated lumber, etc. Temporary materials are considered to be plywood, untreated wood products, etc.
- B. **Area Around Sign.** The owner or lessee of any sign, or owner of the land on which the sign is located shall keep the grass, weeds or other growth cut and the area free from refuse between the sign and the street and also for a distance of six (6) feet behind and at the ends of said sign.
- C. **Condition.** All signs must be maintained in a neat and clean condition, having no chipping or peeling paint, faded letters, or deteriorating backboards.
- D. **Construction and Erection of Signs.** All signs shall be constructed and erected in a quality manner of sound and sufficient materials so as to ensure the safety of the public and in accordance with all reasonable standards employed by professional sign makers.
- E. **Electrical Under Grounding.** All free-standing signs shall have underground electrical wiring in compliance with the building and electrical codes.
- F. **Unsafe and Unlawful Signs.** If the City Building Official shall find that any sign regulated herein is unsafe or loose, or has been constructed or erected in violation

of the safety or structural provisions of this section, the official shall give written notice to the permittee. If the permittee fails to remove or alter the structure so as to comply with the standards herein set forth within thirty (30) days after such notice, such sign may be removed or altered to comply by the building inspector at the expense of the permittee or owner of the property upon which it is located or the inspector may cite the owner or permittee for violations of this code. No permit shall be issued to any applicant for a sign which is an immediate peril to person or property, such signs shall be subject to removal without notice.

400 BUILDING CODE

401 BUILDING CODE

402 PERMITS

403 FEES

404 SWIMMING POOLS

401 BUILDING CODE

401.10 **State Building Code Adopted.** The Minnesota State Building Code, established pursuant to Minnesota Statutes 326B.101, *et seq.*, one copy of which is on file with the City Clerk, is hereby adopted and shall be in full force and effect in the City of Willernie.

401.020 **Enforcement.** The City of Willernie and duly appointed representatives thereof shall be authorized and directed to enforce all provisions of the said Building Code.

401.030 **Violations.** It shall be unlawful for any person firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy, or maintain any building or structure in the City of Willernie or cause the same to be done, contrary to or in violation of any of the provisions of said Building Code.

402 PERMITS

402.10 **Fences, Retaining Walls-Obstruction of Road Right of Way.** No retaining wall, fence, structure, or personal property may be built with a height above four (4) feet without a permit issued by the City or its authorized agent. No retaining wall, fence, structure or personal property may be built or placed within ten feet (10 feet) of any roadway, existing or platted, within the City; and no plants, trees, or shrubs shall be planted within ten feet (10 feet) of any roadway, existing or platted, within the City except by permit issued by the City or its authorized agent.

402.020 **Permits.** The City or its agent shall not issue a permit for the purposes described above unless it finds that the proposed wall, fence, structure, personal property,

plat, trees or shrub will not interfere with the City's maintenance of its roadway and utilities or with sight lines for traffic moving within the City. The City may impose a reasonable charge for permits issued under this section in an amount to determined from time to time by resolution of the City Council.

402.030 Nothing in this section shall be construed to allow any building or structure which would otherwise be prohibited by the Building Code in effect in the City.

402.040 **Exterior Finish.** All residential buildings shall have the exterior finished within one (1) year of the date the permit was issued.

402.050 **Exterior Storage Buildings.** No more than one (1) exterior storage building under 120 square feet and of a type not requiring a permit under the state building code may be constructed, kept, or stored on any contiguous property of one owner within the City of Willernie.

This provision shall not increase the number of exterior storage buildings allowed under any provision of the State Building Code or this Code.

Any exterior storage building shall meet the setback requirements for all other buildings within the City.

Fish houses may be stored outside, but only between February 15, and December 15, of each year. Fish houses stored pursuant to this section shall be less than 120 square feet in size, and shall be allowed only if they are stored no closer to the street than the front of the house.

402.060 **Survey Required.** Before issuance of any building permit for a new residence, the applicant shall provide the City Clerk with a certified survey of the property on which the residence is to be located and showing all setbacks from streets and neighboring property lines and a grading plan.

402.070 **Expiration of Permits.** A building permit shall become null and void if authorized work is not started within one hundred and eighty (180) days after the date of issuance of the permit, or if work is suspended or abandoned for one hundred eighty (180) days or more after work is started.

403 **FEES**

403.10 **Building Permit Fees.** The issuance of permits and the collection of fees shall be as authorized in Minnesota Statutes Section 326B.121, subdivision 2, and per Minnesota Rules Part 1300.0160.

(1) Permit Fees. Permit fees shall be assessed for work governed by the Building Code in accordance with the City's Fee Schedule.

(2) Plan Review. Plan review fees shall be as required by the State of Minnesota. The plan review fee for dwellings, apartment houses and their accessory structures shall be fifty percent (50%) of the relevant building

permit fee. The plan review fee for commercial building permits shall be sixty-five percent (65%) of the building permit fee. The plan review fee for submitted documents approved as similar plans under Minnesota Rules Part 1300.0160, subp. 6 shall not exceed twenty-five percent (25%) of the building permit fee.

(3) State Surcharge Fees. In addition to the permit fee, all municipal permits issued for work under the Building Code are subject to a state surcharge as established by Minnesota State Statutes Section 326B.148.

403.020 **Valuation.** The City and its authorized representatives shall utilize the Building Valuation Data Chart published annually by the Minnesota Department of Administration State Building Codes and Standards Division to compute building valuations for the purpose of establishing the City of Willernie permit fees. Permit valuation shall include the total value of all construction work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing equipment and permanent systems.

403.030 **Investigation Fee.** Whenever any work for which a permit is required by the Building Code is commenced and the required permit(s) were not obtained prior to the commencement of such work, a special investigation shall be made before a permit may be issued for such work. An investigation fee, in addition to the permit fee, shall be collected for the investigation equal to the amount of the required permit fee.

403.040 **Fee Refunds.** The City and its authorized representatives may authorize the refund of any fee paid herein which was erroneously paid or collected. The city may authorize the refund of not more than eighty (80) percent of the permit fee paid when no work has been done under a permit issued in accordance with the Building Code. When plan review services have been provided, the plan review fee portion of the permit fee shall not be refunded. The City shall not authorize the refund of any fee paid unless a written request for a refund from the original permittee is submitted to the City Clerk within one hundred eighty (180) days of the date of the fee payment.

404 **SWIMMING POOLS**

404.10 **Above and Below Ground Pools.** In all districts where single family dwellings, duplexes, multi-family dwellings, and rentals, are permitted uses, the following standards apply:

- (1) A certificate of compliance shall be required for any swimming pool with a capacity of over three thousand (3,000) gallons and /or with a depth of over three and one-half (3 ½) feet of water.
- (2) An application for a certificate of compliance shall include a site plan showing: The type and size of pool, location of pool, location of house, garage, fencing and other improvements on the lot, location of structures on all adjacent lots, location of filter unit, pump and writing indicating the type of such units, location of back-flush and drainage outlets, grading

plan, finished elevations and final treatment (decking, landscaping, etc.) around the pool, location of existing overhead and underground wiring, utility easements, trees and similar features, and location of any water heating unit, as well as name of contractor building the pool.

- (3) Pools shall not be located within twenty (20) feet of any septic tank/drainfield nor within six (6) feet of any principal structure or frost footing. Pools shall not be located within any required front or side yard setbacks, and there should be a minimum of ten (10) feet from the property line to the water.
- (4) Pools shall not be located beneath overhead utility lines nor over underground utility lines of any type.
- (5) Pools shall not be located within any private or public utility, walkway, drainage or other easement.
- (6) In the case of underground pool, the necessary precautions shall be taken during construction, to:
 - (a) Avoid damage, hazards or inconvenience to adjacent or nearby property.
 - (b) Assure that proper care shall be taken in stockpiling excavated material to avoid erosion, dust or other infringements upon adjacent property.
- (7) All access for construction shall be over the owner's land and due care shall be taken to avoid damage to public streets and adjacent private or public property.
- 8) To the extent feasible, back-flush water or water from pool drainage shall be directed onto the owner's property or into approved public drainageways. Water shall not drain onto adjacent or nearby private land.
- (9) The filter unit, pump, heating unit and any other noise-making mechanical equipment shall be located at least twenty (20) feet from any adjacent or nearby residential structure and not closer than two (2) feet to a lot line.
- (10) Lighting for the pool shall be directed toward the pool and not toward adjacent property.
- (11) A structure or safety fence of a non-climbable type at least five (5) feet in height shall completely enclose the pool, but shall not be located within any required yard areas.
- (12) Water in the pool shall be maintained in a suitable manner to avoid health hazards of any type. Such water shall be subject to periodic inspection.
- (13) All wiring, installation of heating units, grading, installation of pipes and all other installations and construction shall be subject to inspection.

- (14) Any proposed deviation from these standards and requirements shall require a variance in accordance with normal zoning procedures.

404.020

IN ALL ZONING DISTRICTS

- 1) Required structure or safety fencing shall be completely installed within three (3) weeks following the installation of the pool and before any water is allowed in the pool. Safety fence to be on job after hole is dug.
- (2) Drainage of pools into public streets or other public drainageways shall require written permission of the appropriate local public officials.
Backwash to street.

500 WATER SYSTEMS

501 MUNICIPAL WATER SYSTEMS

- 501.010** **Control of Water System.** The Water Works System of the City of Willernie shall be under the immediate direction and control of the City Council, who shall have authority to do everything pertaining to said system that may be necessary for the management and protection thereof.
- 501.020** **Appointment of Superintendent and his/her Duties.** The City Council may appoint a Superintendent of the Water Works System who shall have charge of the operation, maintenance and repair thereof subject to the direction of the City Council. The Superintendent of Water Works System shall have immediate control and custody of all the property of the system, and see that all such property is properly stored and cared for and that a full and complete record and inventory of the same is kept. Said Superintendent shall see that the hydrants, valves and other parts of the system are in order and that all leaks are promptly repaired and that full and accurate reports are kept of all work done, the cost of the same, the names and time of the people employed, and any other information and records that may be required by the City Council.
- 501.030** **Superintendent – Maps and Records.** The Superintendent shall keep a full set of records and maps which shall show in detail the location and measurement for all water pipes, hydrants, valves, taps, shut-off boxes, T's and such other records and measurements as may be necessary. The Superintendent shall not remove or change the location of any fire hydrant valve, water main or any other permanent improvement without first obtaining authority so to do from the City Council.
- 501.040** **Superintendent – Accounts, Bills, Permits, etc.** The City Clerk or such other person as the City of Willernie may designate, shall keep a complete set of books, which shall at all times show the distribution of accounts of the Water System; submit all bills, payrolls and accounts to the City Council quarterly to be by it considered and approved; shall keep a correct account of all receipts, make out all bills for water service or materials and labor furnished and performed, collect the same and deposit the money so collected to the credit of the Water Works Fund. The Clerk shall then issue all permits for tapping mains, except when mains to be tapped are not on streets adjoining the property to be served. In such cases he/she shall refer the application to the City Council. The Clerk shall keep a record of all taps and services, their size, and location. The Clerk shall exhibit the accounts to the City Council whenever it so requests.

501.050 **Application for Water Service.** Any person desiring a connection with the City of Willernie shall apply to the Metropolitan Council therefor, or in a process as may be provided by the City.

501.060 **Permit issued by City Clerk – Cost.** The Clerk, upon receiving notice of such application as provided in Section 501.060 hereof, if the same is in proper form, shall issue to the person or persons applying for the same, a permit to connect with the City water mains, and the applicant shall pay a fee in the amount determined by the Metropolitan Council and/or the City.

501.070 **Furnishing of Water Meters.** Meter will be furnished to the consumer by the City at its cost for a ¾ inch meter. For all meters installed after the original installation, the then current cost thereof shall be charged to the consumer.

501.080 **Meters – Location – Defective Meters.** Water will be supplied only through meters furnished, owned, or leased by the City and for which a suitable meter box and location shall be provided by consumer. Should any meter be found defective, it will immediately be changed, repaired and replaced. Repairs to meters necessitated by ordinary wear and usage will be made by the City without additional charge; but, the cost of repairs necessitated because of freezing, hot water or other carelessness, or negligence on the part of the owner or occupant of the premises or their agents will be charged to and collected from said owner or occupant in the same manner that water bills are collected.

Meters shall not henceforth be placed in inaccessible places. The City will have the right to approve the placing of any meter.

In case a meter fails to register the quantity of water used, the amount to be paid for by such consumer for water during such period shall be ascertained by the amount registered during the corresponding period in a previous month, quarter, or year.

501.090 **Testing Meters.** At the written request of any owner or consumer, the City will test the meter supplying the owner's or consumer's premises. A deposit in an amount determined by resolution of the City Council will be required before the meter is disconnected, which will be returned if the meter is not found to be registering correctly within two percent on a flow equal to one-eighth of the diameter of the service, or in favor of the consumer; otherwise, the deposit will be retained to cover the cost of the test.

The owner or consumer may, if desired, be present at the time the test is made. The result of the test will be reported to the owner or consumer in every case.

If the testing of a meter, as herein before provided shows that it fails to register correctly, the charge to the consumer shall be on the basis for the corresponding period of the previous year. If the meter has not been in service for a year, or if

for any other reason the charge for the corresponding period of the previous year cannot be justly corrected, the charge shall be equitably adjusted by the City Clerk.

Any other adjustment of charges for water supplied through meters shall be made by resolution of the City Council.

- 501.100** **Meters to be Sealed.** All meters and couplings on all meters in service shall be properly sealed, and no one other than authorized officials or employees of the City shall interfere, tamper or repair any water meter or break any seal thereon while such meter is used in connection with the City water system.
- 501.110** **Access to and Inspection of Meters etc.** Authorized City officers, superintendent or City employees shall have right of access to any consumer's premises at all reasonable hours for the purpose of reading, inspecting or repairing meters, pipes, hydrants, and valves used in connection with the water service and for any other purpose proper in the operation of the water system.
- 501.120** **New Connection – Cost.** Only City employees or duly authorized licensed plumbers shall tap water mains, lay pipe from main to property line and install shut-off boxes, the cost of which, including both material and labor, shall hereafter be paid by the consumer requesting the same, who has not been specially assessed.
- 501.130** **Separate Shut-offs and Service Connections.** Unless special permission is granted by the City Council, each premises shall have a separate and distinct service connection, shut-off box, wheel handled service stop and a shut-off valve on each side of the meter and water meter. All valves shall be not less than the size of the service connection.
- 501.140** **Make and Depth of Service Pipes.** All service pipes shall be Type K Copper or HD Polyethylene. All service pipes shall be laid not less than seven (7) feet below the established grade, and all service pipes shall be laid not less than eight (8) feet under a driveway.
- 501.150** **Shut-Off Boxes and Their Location.** There shall be a shut-off box to every service pipe attached to the mains, the same to be placed as near as possible to the street or alley line. Stop cocks shall be so constructed so as to be self-draining when closed. Any connection discontinued shall require five-day notice to the City and removal of the water meter.

- 501.160** **Check Valves.** Check valves are required on all connections to steam boilers or on any other connection which the City Council may deem to require one. Safety and relief valves shall be placed on all boilers or other steam apparatus connected with the water system where the steam pressure may be raised in excess of seventy-five (75) pounds per square inch.
- 501.170** **Cost of Service Installation Beyond Shut-Off Box.** The cost of installation of all plumbing between the shut-off box and any service devices maintained by consumer, and all extensions made to such service pipes, as well as all repairs to the same, shall be borne entirely by the consumer. However, such service pipes and devices shall at all reasonable hours be subject to inspection by the Superintendent or authorized City representative or employee.
- 501.180** **Excavations to be Guarded and Properly Backfilled.** No excavations made by plumbers in public ground shall be kept open longer than is absolutely necessary to make the required connections, and while open, shall be protected by suitable barriers, guards and lights as provided as recommended or required by OSHA standards or through the ordinances of this City. Backfilling shall be thoroughly compacted and left in a condition satisfactory to the City Council. Where excavations are unsatisfactorily filled, the City Council shall cause them to be placed in a satisfactory condition, and the cost thereof shall be charged to such plumber making the same, and the privilege of such plumber doing further work in connection with the City water system be suspended until such charge is paid. Such plumber shall be given notice thereof and ten days within which to pay such charge.
- 501.190** **Only Licensed Plumbers with Permit and Liability Insurance and Employees to Work on Water System.** No one other than duly licensed plumbers of the State of Minnesota shall make any repair or perform any work upon any part of the municipal water works system except as the Council may by resolution designate. This shall not prevent any consumer from making any necessary repairs or alterations on premises owned by him or occupied by him as a tenant. Such plumber shall, before excavating in any City street for the purpose of making a new connection or for making repairs, file a written application, on such form as the Council may from time to time prescribe, with the City Clerk of the City of Willernie for a permit to make such connection or repair. Before such permit shall be issued by the City Clerk, satisfactory showing must be made that such plumber is carrying liability insurance in an accredited company with the City as one of the assureds in such policy insuring the City against loss in the sum of \$7500.00 and \$10,000.00 as customarily provided in such policies. Plumbers shall post a proper bond and show evidence of a state license.

- 501.200** **Payment of Water Bills.** Water charges for water service furnished by the City Water Works System shall become due and payable quarterly on the first days of January, April, July and October, except as in this ordinance otherwise specifically provided. Water bills shall be paid at the office of the City Clerk on or before the first day of the month next following the date of bill. The water service of any consumer failing to pay his or her water bill within 30 days after such date, a 10% penalty will be imposed on the outstanding balance. The City may also turn off the water service to the property. However, such payment by the owner, in case of a dispute, shall not constitute a waiver of his or her right to demand and recover a return of any erroneous or excessive charge. No exception shall be made except upon authority from the City Council.
- 501.210** **Water Rates.** The rate due and payable to the City by each water user for water taken from the Water System shall be that rate established by the City Council by resolution and amended resolution.
- 501.220** **Two or More Consumers on Same Line.** Where two or more consumers take water from the same service line, and any of them neglect to pay the water charges when due, the water shall be turned off for all.
- 501.230** **Accounts Carried in Name of Owner.** All accounts carried upon the books of the City Water system shall be with the owner of the property served, and the owner of the property served shall at all times be liable for water used upon such premises, whether occupied by him/her or not.
- 501.240** **Fee for Turning Water On and Off.** In all cases where the water has been turned off for non-payment of water rent, or for violation of this ordinance, it shall not be turned on again until a fee of \$100.00 is paid together with all water charges that may be due.
- 501.250** **Unlawfully Turning Water on Again.** If it is found that the water has been turned on again without having complied with the preceding requirements, it shall be lawful to cause the ferrule to be drawn; or water service otherwise disabled and it shall not be inserted again until all back charges have been paid together with \$100.00 additional for drawing and replacing the ferrule.
- 501.260** **Notice of Leaks – Penalty.** In case of failure on the part of any consumer or owner to repair any leak occurring upon his service pipe within 24 hours after verbal or written notice has been given upon the premises, the water will be shut off from the same and will not be turned on until the sum of \$100.00 has been

paid to the City. When the waste of water is great, or when damage is likely to result from the leak, the water will be turned off if the repair is not proceeded with immediately upon the giving of such notice.

- 501.270** **Water Funds to be Deposited to Special Fund.** All fees, water rents and charges and any other money received in connection with the water system shall be deposited with the City Clerk within three weeks after their receipt and credited to the Enterprise Fund of said City.
- 501.280** **Expenses Payable out of Enterprise Fund.** All expenses and costs incurred in the operation and maintenance of the Water Works System together with the Water Works bonds and interest thereon shall be paid out of the Enterprise Fund.
- 501.290** **Liability of the City for Turning Off Water.** The City of Willernie shall not be liable for any deficiency or failure to the supply of water to consumers, whether occasioned by shutting off the water for the purpose of making repairs or connections, or for any other cause whatsoever. In case of fire or alarm of fire, or in making repairs, or constructing new works, the water may be shut off any time for such period as may be deemed necessary.
- 501.300** **Unlawful Use of Water.** It is unlawful for any person, firm, or corporation to take water from the City water system, except that water be drawn through a meter owned or approved by the City, or to take any water from premises not owned by him/her without permission of the owner.
- 501.310** **Tampering with Water System.** It shall be unlawful for any person to turn on any shut off box or to open or interfere with any of the hydrants, valves, or to tamper with any part of the water works system, except the Superintendent, members of the fire department and employees and persons authorized by the City Council.
- 501.320** **Mahtomedi Water Agreement Applicable.** All the provisions of that certain Agreement, entered into between the City of Mahtomedi and the City of Willernie for the sale and supplying of water by Mahtomedi to Willernie for resale through Willernie's water distribution system, shall be observed and enforced the same as through said Agreement were incorporated herein, and said Agreement and any Amendments thereof hereafter made, are hereby made a part of this Ordinance by reference.
- 501.330** **Maintenance of Water Connections.** It shall be the responsibility of the consumer or property owner of record to properly maintain the water service from the main to the house or building. Frozen, damaged, obliterated, clogged, or

otherwise defective service lines and appurtenances thereto shall be restored to a proper functional condition within a reasonable time set by the City. Failure to repair or restore the service connection shall be cause for the City to perform the work and charge the cost to the property served.

501.340 **Penalties for Violation of Ordinance.** Any person who shall do or commit any act which is forbidden by this ordinance or who shall obstruct the observance of the provisions herein, shall be punished as for a misdemeanor under State law.

601 – MISCELLANEOUS NUISANCES

601.010 **PROHIBITION.** A person must not act, or fail to act, in a manner that is or causes a public nuisance. For purpose of this chapter, a person who does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

- A) Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public;
- (B) Interferes with, obstructs or renders dangerous for passage any public highway or right-of-way, or waters used by the public; or
- (C) Does any other act or omission declared by law or §§ 601.020, 601.030, or 601.040, or any other part of this code to be a public nuisance and for which no sentence is specifically provided. Penalty, see § 604.040

601.020 **Public Nuisances Affecting Health, Comfort or Repose.** The following are hereby declared to be public nuisances affecting health, comfort or repose:

A. Decayed Food. Exposed accumulation of decayed or unwholesome food or vegetable matter;

B. Carcasses. Carcasses of animals not buried or destroyed within twenty-four (24) hours after death;

C. Accumulation of Refuse and Debris. An accumulation of refuse, rubbish or garbage or debris of any nature or description (excluding the waste and recycle bins provided by the City's waste company).

D. Pollution of Wells or Public Water. Causing or suffering the pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances.

E. Smoke and Fumes. Dense smoke, noxious fumes, gas and soot, or cinders in unreasonable quantities.

F. Other Acts Detrimental to Health. All other acts, omission of acts, occupations and uses of property which are determined by the City Council to be a menace to health of the inhabitants of the City or considerable number thereof.

Penalty, see § 604.040.

(601.030 amended 9/20/23)

601.030 **Public Nuisances Affecting Morals and Decency.** The following are hereby declared to be public nuisances affecting public morals and decency:

A. Gambling Devices. All gambling devices, slot machines and punch boards, except as authorized under state statute.

B. Betting. Betting, bookmaking, and all apparatuses used in such occupations;

C. Window Peeping. The looking into or peeping through doors, windows, or openings or private homes by methods of stealth and without proper authority and by surreptitious methods, or what is commonly known as “window peeping.”

D. Intoxicating Liquor. All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place. For the purposes of this section “intoxicating liquor” shall mean any ethyl alcohol, distilled, fermented, spirituous, vinous or malt beverage containing more than ½% alcohol by volume.

Penalty, see § 604.040.

E. Cannabis, Tobacco, and Nicotine use in Certain Public Places Prohibited.

1. *Definitions.* For purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PUBLIC PLACE. Property owned, leased, or controlled by the City of Willernie. Public Places include but are not limited to: City buildings and all the land thereon, parking lots, parks, beaches, pathways and trails, and city rights-of-way consisting of both the traveled portion and the abutting boulevard, sidewalks and trails, and any City personal property, such as motor vehicles, city equipment, and the like. Public Place does not include: (1) a private residence, including the person’s curtilage or yard; (2) private property not generally accessible to the public, unless the person is explicitly prohibited from consuming cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products on the property by the owner of the property; or (3) the premises of an establishment or event licensed to permit on-site consumption.

CANNABIS FLOWER, CANNABIS PRODUCT, LOWER-POTENCY HEMP EDIBLES, and HEMP-DERIVED CONSUMER PRODUCTS shall have the meanings as defined in Minn. Stat. §342.01 (enacted under Minnesota Laws

2023).

TOBACCO PRODUCTS and NICOTINE SOLUTION PRODUCTS shall have the meanings as defined in Minn. Stat. § 297F.01.

2. *Prohibition.* No person shall smoke, vape, consume, or otherwise use cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place. No person shall smoke or vape any tobacco products or nicotine solution products in a public place.
3. *Penalty.* A violation of this section is a petty misdemeanor.

601.040 **Public Nuisances Affecting Peace and Safety.** The following are declared to be Nuisances affecting peace and safety:

- A. All snow and ice not removed from public sidewalks 12 hours after the snow or other precipitation causing the condition has ceased to fall;
- B. All snow plowed or shoveled into the public street;
- C. All trees, hedges, billboards or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;
- D. All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;
- E. All obnoxious noises in violation of Minn. Rules Ch. 7030, as they may be amended from time to time which are hereby incorporated by reference into this code;
- F. The discharging of the exhaust or permitting the discharging of the exhaust of any stationary internal combustion engine, motor boat, motor vehicle, motorcycle, all terrain vehicle, snowmobile or any recreational device except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations;
- G. Operation of any device referred to above between the hours of 11:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of violation of this section;
- H. No person shall participate in any party or other gathering of people giving

rise to noise, unreasonably disturbing the peace, quiet, or repose of another person. When a police officer determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered by a police officer to do so. Every owner or tenant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped;

- I. Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks or public grounds except under conditions as are permitted by this code or other applicable law;
- J. Radio aerials, satellite discs, or television antennae erected or maintained in a dangerous manner;
- K. Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk;
- L. All hanging signs, awnings and other similar structures over streets and sidewalks, so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;
- M. The allowing of rain water, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;
- N. Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way;
- O. All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
- P. Waste water cast upon or permitted to flow upon streets or other public properties;
- Q. Accumulations not completely enclosed within a permanent structure of discarded or disused machinery, household appliances or parts thereof, automobile bodies or parts thereof, trailers which contain refuse and discarded materials, discarded building materials, or other material in a manner conducive to the harboring of rats, mice, snakes or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or safety hazards from accumulation;

- R. Any well, hole or similar excavation which is left uncovered or in another condition as to constitute a hazard to any child or other person coming on the premises where it is located;
- S. Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch with trash or other materials;
- T. The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles or other substance which may injure any person or animal or damage any pneumatic tire when passing over the substance;
- U. The depositing of garbage or refuse on a public right-of-way or on adjacent private property;
- V. All other conditions or things which are likely to cause injury to the person or property of anyone.
- W. Noises prohibited.
 - 1) General prohibition. No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person or precludes their enjoyment of property or affects their property's value. This general prohibition is not limited by the specific restrictions of this section.
 - 2) Defective vehicles or loads. No person shall use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise.
 - 3) Loading, unloading, unpacking. No person shall create loud or excessive noise in loading, unloading, or unpacking any vehicle.
 - 4) Speakers, amplifiers, radios, paging systems, and the like. No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, speaker, amplifier, machine or other device for the production or reproduction of sound in a distinct and loudly audible manner as to unreasonably disturb the peace, quiet, and comfort of any person nearby. Operation of any such set, instrument, speaker, machine or other device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent, or at a distance of 50 feet if the source is located outside a structure or building, shall be prima facie evidence of a violation of this section.

X. Hourly restriction of certain operations.

- 1) Domestic power equipment. No person shall operate a power lawn mower, compressor, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill or other similar domestic power maintenance equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday. Snow removal equipment and generators if needed due to electricity shortage are exempt from this provision.
- 2) Refuse hauling. No person shall collect or remove garbage or refuse in any residential district except between the hours of 6:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.
- 3) Construction activities. No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas-powered machine or other power equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

Y. Noise impact statements. The Council may require any person applying for a change in zoning classification or a permit or license for any structure, operation, process, installation or alteration or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the Council. It shall evaluate each such statement and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning change requested.

Z. Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel, and one footcandle when abutting any commercial or industrial parcel.

Penalty, see § 604.040.

602 Nuisance Parking and Storage

602.010 Declaration of nuisance. The outside parking and storage on residentially-zoned property of large numbers of vehicles and vehicles, materials, supplies or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it

- a. obstructs views on streets and private property,
- b. creates cluttered and otherwise unsightly areas,
- c. prevents the full use of residential streets for residential parking,
- d. introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited,
- e. decreases adjoining landowners' and occupants' enjoyment of their property and neighborhood, and
- f. otherwise adversely affects property values and neighborhood patterns.

602.020 Unlawful Parking and Storage

- (1) "Vehicle," as used in this Section and throughout the Code, is defined as a thing used for transporting people or goods. This definition includes, but is not limited to the following: snowmobiles, trailers (open-bed and enclosed), RVs/motorhomes, campers, storage trailers, ice houses, automobiles, ATVs, UTVs, motorcycles, any other machine or device that is on wheels, motorized or pulled by motorized vehicles, including storage pods.
- (2) A person must not place, store, or allow the placement or storage of pipe, firewood in excess of three chords, steel, machinery, or similar materials, including all materials used in connection with a business, outside on residential property.
- (3) A person must not cause, undertake, permit or allow the outside parking and storage of vehicles on residential property unless it complies with the following requirements:
 - a. No more than four vehicles per lawful dwelling unit may be parked or stored anywhere outside on residential property, except as otherwise permitted or required by the city because of nonresidential characteristics of the property. This maximum number does not include vehicles of occasional guests who do not reside on the property. A vehicle which is placed on a trailer may be counted as one total vehicle, per the discretion of a designated person of the City Council.
 - b. Automobiles, trucks, and motorhomes that are parked or stored outside must be on a concrete, paved asphalt, or gravel driveway.
 - c. Vehicles, watercraft and other articles stored outside on residential property must be owned by a person who resides on that property. Students who are away at school for periods of time but still claim the property as their legal residence will be considered residents on the property.
- (4) A nuisance may still exist under this section if the stored materials or vehicles are covered or partially covered under a tarp or similar covering. Tarp or similar materials may only be used if maintained in a slightly and sanitary condition.

Penalty, see § 604.040.

(602.030 amended 9/20/23)

602.030 Inoperable Motor Vehicles

- (1) Declaration of a nuisance. Any motor vehicles described in this section constitute a hazard to the health and welfare of the residents of the community in that such vehicles can harbor noxious diseases, furnish a shelter and breeding place for vermin and present physical danger to the safety and well-being of children and citizens; and vehicles containing fluids which, if released into the environment, can and do cause significant health risks to the community.
- (2) It shall be unlawful to keep, park, store or abandon any motor vehicle which is not in operating condition, or that is in need of repair before it can be driven/moved, partially dismantled, used for repair of parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling or salvage of any kind, or which is not properly licensed and insured for operation with the state. Vehicles must also have current registration.
- (3) This section does not apply to a motor vehicle enclosed in a building.

Penalty, see § 604.040.

602.040 Building and Property Maintenance and Appearance

- (1) Declaration of nuisance. Buildings, fences, landscaping, retaining walls, driveways, and other structures that have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood are declared to be public nuisances because they (a) are unsightly, (b) decrease adjoining landowners and occupants' enjoyment of their property and neighborhood, and (c) adversely affect property values and neighborhood patterns.
- (2) Standards. A building, fence or other structure is a public nuisance if it does not comply with the following requirements:
 - a. No part of any exterior surface may have deterioration, holes, breaks, gaps, loose or rotting boards or timbers.
 - b. Every exterior surface that has had a surface finish such as paint applied must be maintained to avoid noticeable deterioration of the finish. No wall or other exterior surface may have peeling, cracked, chipped or otherwise deteriorated surface finish on more than 20% of:
 - i. Any one wall or other flat surface; or
 - ii. All door and window moldings, eaves, gutters, and similar projections on any one side or surface.
 - c. No glass, including windows and exterior light fixtures, may be broken or cracked, and no screens may be torn or separated from moldings.
 - d. Exterior doors and shutters must be hung properly and have an operable mechanism to keep them securely shut or in place.
 - e. Cornices, moldings, lintels, sills, bay or dormer windows and similar

projections must be kept in good repair and free from cracks and defects that make them hazardous or unsightly.

- f. Roof surfaces must be tight and have no defects that admit water. All roof drainage systems must be secured and hung properly.
- g. Chimneys, satellite dishes, antennae, air vents, and other similar projections must be structurally sound and in good repair. These projections must be secured properly, where applicable, to an exterior wall or exterior roof.
- h. Foundations must be structurally sound and in good repair.

Penalty, see § 604.040603.010.

602.050

Duties of City Officers. For purposes of §§ 602.060 and 602.070, the Washington County Sheriff's Department, or person designated by the City Council, may enforce the provisions relating to nuisances. Any peace officer or designated person shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances. Except in emergency situations of imminent danger to human life and safety, no peace officer or designated person shall enter private property for the purpose of inspecting or preventing public nuisances without the permission of the owner, resident or other person in control of the property, unless the officer or person designated has obtained a warrant or order from a court of competent jurisdiction authorizing the entry.

602.060

Abatement

- A. Notice. Written notice of violation; notice of the time, date, place and subject of any hearing before the City Council; notice of City Council order; and notice of motion for summary enforcement hearing shall be given as set forth in this section.
 - 1) Notice of violation. Written notice of violation shall be served by a peace officer or designated person by the City Council on the owner of record or occupant of the premises either in person or by mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of violation, notice of violation shall be served by posting it on the premises.
 - 2) Notice of City Council hearing. Written notice of any City Council hearing to determine or abate a nuisance shall be served on the owner of record and occupant of the premises either in person or by mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of the City Council hearing, notice of City Council hearing shall be served by posting it on the premises.
 - 3) Notice of City Council order. Except for those cases determined by the city to require summary enforcement, written notice of any City Council order shall be made as provided in M.S. § 463.17 (Hazardous and Substandard Building

Act), as it may be amended from time to time.

- 4) Notice of motion for summary enforcement. Written notice of any motion for summary enforcement shall be made as provided for in M.S. § 463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time.

- B. Procedure. Whenever a peace officer or designated person by the City Council determines that a public nuisance is being maintained or exists on the premises in the city, the officer or person designated may notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the officer or designated person shall report that fact forthwith to the City Council. Thereafter, the City Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the city may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement or obtain an administrative search and seizure warrant and abate the nuisance.
- C. Emergency procedure; summary enforcement. In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in divisions (A) and (B) of this section will permit a continuing nuisance to unreasonably endanger public health safety or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the officer or designated person shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement of the nuisance will unreasonably endanger public health, safety or welfare. The officer or designated person shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the city's intention to seek summary enforcement and the time and place of the City Council meeting to consider the question of summary enforcement. The City Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in division (A) of this section, and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.
- D. Immediate abatement. Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition which poses an imminent and

serious hazard to human life or safety.

Penalty, see § 604.040.

602.070 Recovery of Cost

- A. Personal liability. The owner of premises on which a nuisance has been abated by the city or a person who has caused a public nuisance on a property not owned by that person shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Clerk or other official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the City Clerk.
- B. Assessment. After notice and hearing as provided in M.S. § 429.061, as it may be amended from time to time, if the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the City Clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other charges as well as other charges for current services to be assessed under M.S. § 429.101 against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.
- Penalty, see § 604.040.

603 SEASONAL PARKING

603.10 Declaration of Purpose. To ensure the public health, convenience and safety of the people of Willernie during the wintertime and at such time as snow accumulates on the public streets of Willernie, it is necessary and expedient for the City of Willernie to plow snow off its streets. The presence of motor vehicles, boats or trailers on streets to be plowed presents a hazard to the operator of the plowing vehicle, impedes and frustrates plowing efforts, and the plowed-in vehicles further restrict the usable portion of the street thereby creating a greater hazard to the public health, safety and convenience.

603.020 Definitions. The following definitions shall apply herein:

Snowfall means a ground accumulation of snow of one inch or more within a 24-hour period. The 24-hour period shall be counted back from 8:00 o'clock a.m. of a given day in determining whether there is an accumulation of one inch.

Registered owner of motor vehicle and trailer means the owner and address as shown by the records in the office of motor vehicle registration of the Minnesota Department of Transportation.

Motor Vehicle is defined as a thing used for transporting people or goods. This definition includes, but is not limited to the following: snowmobiles, trailers (open and enclosed), RVs/motorhomes, campers, storage trailers, ice houses, automobiles, ATVs, UTVs, motorcycles, any other machine or device that is on wheels, motorized or pulled by motorized vehicles.

603.030 Parking After Snowfall. After any snowfall, it shall be unlawful to park any motor vehicle upon a public street within the City until after the street has been plowed. Upon direction of the law enforcement officer, the owner shall move his motor vehicle to permit street plowing, and if the owner cannot be located at his residence within the City or if the registered owner of a motor vehicle is a non-resident of the City, the law enforcement officer is authorized to ticket and move such motor vehicle or to store the same at the owner's expense.

603.040 Penalty. The violation of any provision of this Ordinance shall be punishable in the same manner as a misdemeanor under state statute. Furthermore the City Council of the City of Willernie finds that vehicles parking in violation of any provision of this Ordinance constitute a nuisance and as such may be removed and towed away under direction of the authorized agent of the City Council. Vehicles towed for illegal parking shall be stored in a safe place and returned to the owner upon advance payment of a reasonable fee.

604 PLACING OF NUMBERS ON BUILDINGS IN THE CITY

604.10 Numbering System. A numbering system is hereby established for the City of Willernie so that each building shall have a number placed and kept thereon. It shall be the duty of the Clerk to maintain a map and to assign numbers so as to avoid duplication and have available an assigned number for each building now in existence or that may be built within the limitations of the City of Willernie.

604.020 Owners of all residences shall place thereon and maintain thereon the numbers assigned by the Clerk.

Such numbers shall be at least six inches high and of a surface that will reflect light directed on them during darkness and shall be so placed that they can be read from the edge of the street on which a building faces.

If the number is used from a cross street, then the street name must appear beneath.

Numbers and background shall be contrasting.

If numbers are not in place 120 days after Ordinance is effective, the City of Willernie will purchase and mount same and bill residence with total charges on the next water bill.

604.030 Effective Date. This Ordinance shall take effect and be enforced from and after its passage and publication according to law.

604.040 Penalty. Violation of any provision of this Chapter, including maintaining a nuisance after being notified in writing of a violation of any provision of this chapter, shall be a misdemeanor and punished as provided in Willernie Code Section 104.010.

605 JUVENILE CURFEW

605.10 Findings and purpose.

A. In recent years there has been a significant increase in juvenile victimization and crime. At the same time, the crimes committed by and against juveniles have become more violent. A significant percentage of crime occurs during the curfew hours established by this code provision.

B. Because of their lack of maturity and experience, juveniles are particularly susceptible to becoming victims of older perpetrators. The younger a person is, the more likely he or she is to be a victim of crime.

C. While parents have the primary responsibility to provide for the safety and welfare of juveniles, Willernie also has a substantial interest in the safety and welfare of juveniles as well as an interest in preventing juvenile crime, promoting parental supervision and providing for the well being of the public.

605.020 Definitions

- A. “Juvenile” means a person under the age of seventeen (17) except persons who are legally married or have been legally emancipated.
- B. “Parent” means biological parents, adoptive parents, and step-parents.
- C. “Public Place” means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, parking lots and retail establishments.
- D. “Establishment” means any privately owned place of business to which the public is invited, including, but not limited to, any place of amusement, entertainment or refreshment.

605.030 Prohibited Acts

- A. It shall be unlawful for a juvenile under the age of 17 to be present in any public place or establishment within Willernie any time between 10:00 p.m. and 5:00 a.m. of the following day unless the juvenile is:
 - i) accompanied in close proximity by the juvenile’s parent, step-parent, foster parent or guardian;
 - ii) engaged in lawful employment activity;
 - iii) involved in an emergency situation requiring immediate action to prevent property damage, serious bodily injury or loss of life; or
 - iv) going to or returning home from an official school, religious or other recreational activity sponsored by a public entity or a civic organization
- B. It is unlawful for the parent or guardian of a juvenile knowingly, or through negligent supervision, to permit a juvenile to be in any public place or establishment within Willernie during the hours prohibited by this section 605.
- C. It shall be unlawful for the proprietor of an establishment within Willernie to knowingly permit a juvenile to remain in the establishment or on the establishment’s property during the hours prohibited by this section 605.
- D. The provisions in this code section shall be in addition to any curfew limitations contained in the ordinances of Washington County or the laws of the State of Minnesota.

605.040 Violation

A. Violation of any provision of this section shall be punishable as a misdemeanor under state law.

606 LURKING

606.10 Prohibited Acts.

It shall be unlawful for any person to lie in wait or be concealed in any house or other building, or in any yard, or premises within the City of Willernie without the permission of the owner of such property.

LIQUOR REGULATIONS

701.10 **Adoption of State Law by Reference.** The provisions of M.S. Ch. 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2 percent malt liquor are hereby adopted by reference and are made a part of this Chapter as if set out in full. It is the intention of the City Council that all future amendments to M.S. Ch. 340A are hereby adopted by reference or referenced as if they had been in existence at the time this Chapter is adopted.

701.020 **City may be more restrictive than state law.** The Council is authorized by the provisions of M.S. § 340A.509, as it may be amended from time to time, to impose, and has imposed in this chapter, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in M.S. Ch. 340A, as it may be amended from time to time.

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

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

RESTAURANT. An eating facility, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, where full waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served and consumed while seated at a single location. To be a “restaurant” as defined by this section, an establishment shall have a license from the state as required by M.S. § 157.16, as it may be amended from time to time, and meet the definition of either a “small establishment,” “medium establishment” or “large establishment” as defined in M.S. § 157.16, Subd. 3(d), as it may be amended from time to time. An establishment which serves prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served, shall not be considered to be a restaurant for purposes of this chapter unless it meets the definitions of “small establishment”, “medium establishment” or “large establishment.”

701.040 **Nudity on the premises of licensed establishments prohibited.**

(A) The City Council finds that it is in the best interests of the public health, safety, and general welfare of the people of the city that nudity is prohibited as provided in this section on the premises of any establishment licensed under this chapter.

This is to protect and assist the owners, operators, and employees of the establishment, as well as patrons and the public in general, from harm stemming from the physical immediacy and combination of alcohol, nudity, and sex. The Council especially intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, including prostitution, sexual assault, and disorderly conduct. The Council also finds that the prohibition of nudity on the premises of any establishment licensed under this chapter, as set forth in this section, reflects the prevailing community standards of the city.

(B) It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material.

(C) A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or 3.2 percent malt liquor license or the imposition of a civil penalty under the provisions of § 703.010(B).

Penalty, see § 703.010

701.050 **Consumption in public places.** No person shall consume intoxicating liquor or 3.2 percent malt liquor in a public park, on any public street, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment licensed under this chapter, in a municipal liquor dispensary if one exists in the city, or where the consumption and display of liquor is lawfully permitted.
Penalty, see § 703.010.

702 **LICENSING**

702.10 **Number of licenses which may be issued.** State law establishes the number of liquor licenses that a city may issue. However, the number of licenses which may be granted under this chapter is limited to the number of licenses which were issued as of the effective date of this chapter, even if a larger number of licenses are authorized by law or election. The Council in its sound discretion may provide by ordinance that a larger number of licenses may be issued up to the number of licenses authorized by M.S. Ch. 340A, as it may be amended from time to time. If a larger number of licenses in a particular category has been authorized by a referendum held under the provisions of M.S. § 340A.413, Subd. 3, as it may be amended from time to time, but not all of them have been issued, the larger number of licenses is no longer in effect until the Council by ordinance determines that any or all of the licenses may be issued. The Council is not required to issue the full number of licenses that it has available.

702.020

Term and expiration of licenses. Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on December 31 of each year unless another date is provided by ordinance. All licenses shall expire on the same date. Temporary licenses expire according to their terms. Consumption and display permits issued by the Commissioner of Public Safety, and the accompanying city consent to the permit, shall expire on March 31 of each year.

702.030

Kinds of Liquor Licenses. The Council of a city that does not have a municipal liquor store is authorized to issue the following licenses and permits, up to the number specified in this Code. The Council of a city which has a municipal liquor store is authorized to issue only those licenses specified in § 701.55.

(A) 3.2 percent malt liquor on-sale licenses, which may be issued only to golf courses, restaurants, hotels, clubs, bowling centers, and establishments used exclusively for the sale of 3.2 percent malt liquor with the incidental sale of tobacco and soft drinks.

(B) 3.2 percent malt liquor off-sale license.

(C) Temporary 3.2 percent malt liquor licenses which may be issued only to a club, charitable, religious, or nonprofit organization.

(D) Off-sale intoxicating liquor licenses, which may be issued only to exclusive liquor stores or drug stores that have an off-sale license which was first issued on or before May 1, 1994. The fee for an off-sale intoxicating liquor license established by the Council under Section **702.040** shall not exceed \$240 or a greater amount which may be permitted by M.S. § 340A.408, Subd. 3, as it may be amended from time to time.

(E) On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by M.S. § 340A.101, as it may be amended from time to time, and this chapter: hotels, restaurants, bowling centers, theaters, clubs or congressionally chartered veterans organizations, and exclusive liquor stores. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the Council shall not exceed the amounts provided for in M.S. § 340A.408, Subd. 2(b), as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of M.S. § 340A.404, Subd. 4(b), as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of M.S. § 340A.404, Subd. 4(a), as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating

liquor to any person attending or participating in an amateur athletic event being held on the premises.

(F) Sunday on-sale intoxicating liquor licenses, only after authorization to do so by voter approval at a general or special election as provided by M.S. § 340A.504, Subd. 3, as it may be amended from time to time. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant as defined in 701.030, club, bowling center, or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The maximum fee for this license, which shall be established by the Council under the provisions of Section **702.040** shall not exceed \$200, or the maximum amount provided by M.S. § 340A.504, Subd. 3(b), as it may be amended from time to time.

(G) Combination on-sale/off-sale intoxicating liquor licenses.

(H) Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three years; a political committee registered under state law; or a state university. No license shall be for longer than four consecutive days, and the city shall issue no more than 12 days' worth of temporary licenses to any one organization in one calendar year.

(I) On-sale wine licenses, with the approval of the Commissioner of Public Safety to: theaters, restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of M.S. § 340A.404, Subd. 5, as it may be amended from time to time, and which meet the definition of restaurant in 701.030; and to licensed bed and breakfast facilities which meet the criteria in M.S. § 340A.4011, Subd. 1, as it may be amended from time to time and to theaters that meet the criteria in M.S. § 340A.404 Subd. 1(b). The fee for an on-sale wine license established by the Council under the provisions of Section **702.040** shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who also holds an on-sale 3.2 percent malt liquor license is authorized to sell malt liquor with a content over 3.2 percent (strong beer) without an additional license.

(J) One day consumption and display permits with the approval of the Commissioner of Public Safety to a nonprofit organization in conjunction with a social activity in the city sponsored by the organization.

(K) Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person who has been issued a consumption and display permit under the provisions of Section **702.040** shall not exceed \$300, or the maximum amount permitted by M.S. § 340A.414, Subd. 6, as it may be

amended from time to time. Consumption and display permits shall expire on March 31 of each year.

(L) Culinary class limited on-sale licenses may be issued to a business establishment not otherwise eligible for an on-sale intoxicating liquor license that, as part of its business, conducts culinary or cooking classes for which payment is made by each participant or advance reservation required. The license authorizes the licensee to furnish to each participant in each class, at no additional cost to the participant, up to a maximum of six ounces of wine or 12 ounces of intoxicating malt liquor, during and as part of the class, for consumption on the licensed premises only.

(M) Brew pub on-sale intoxicating liquor or on-sale 3.2% malt liquor licenses, with the approval of the Commissioner of Public Safety, may be issued to brewers who operate a restaurant in their place of manufacture and who meet the criteria established at M.S. § 340A.24, as it may be amended from time to time. Sales under this license at on-sale may not exceed 3,500 barrels per year. If a brew pub licensed under this section possesses a license for off-sale under division (N) below, the brew pub's total combined retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off-sales may not total more than 500 barrels.

(N) Brewer off-sale malt liquor license, with the approval of the Commissioner of Public Safety, may be issued to a brewer that is a licensee under division (M) above and otherwise meets the criteria established as M.S. § 340A.24, as it may be amended from time to time. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the city. Malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. All malt liquor sold under this license shall be packaged in the manner required by M.S. § 340A.301, Subd. 7 as it may be amended from time to time. Sales under this license may not exceed 500 barrels per year. If a brewer licensed under this section possesses a license under division (M) above, the brewer's total retail sales at on-sale or off-sale may not exceed 3,500 barrels per year, provided that off- sales may not total more than 500 barrels.

Brewer off-sale malt liquor licenses may also be issued, with approval of the Commissioner, to a holder of a brewer's license under Minn. Stat. § 340A.301, subd. 6(C), (I) or (j) and meeting the criteria established by Minn. Stat. § 340A.28 as may be amended from time to time. The amount of malt liquor sold at off-sale may not exceed 500 barrels annually. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the jurisdiction in which the brewer is located, and the malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. Packaging of malt liquor for off-sale under this license must comply with section 340A.285.

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

(P) Brewer taproom license, may be issued to the holder of a brewer's license under M.S. § 340A.301 Subd. 6(c), (I) or (j) as it may amended from time to time. A brewer's taproom license authorizes on-sale of malt liquor produced by the brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer. A brewer may have only one taproom license and may not have an ownership interest in a brewer licensed under M.S. § 340A.301 Subd. 6(d) as it may be amended from time to time. A brewer taproom license may not be issued to a brewer that brews more than 250,000 barrels of malt liquor annually or a winery that produces more than 250,000 gallons of wine annually. Within ten days of issuing a brewer taproom license the City Clerk will inform the Commissioner of Public Safety of the licensee's name, address, trade name and the effective date and expiration date of the license. The City Clerk will inform the Commissioner of Public Safety of a license transfer, cancellation, suspension, or revocation during the license period.

(Q) A cocktail room license may be issued to the holder of a state microdistillery license. A microdistillery cocktail room license authorizes on-sale of distilled liquor produced by the distiller for consumption on the premises of or adjacent to one distillery location owned by the distiller. The holder of a microdistillery cocktail room license may also hold a license to operate a restaurant at the distillery. No more than one cocktail room license may be issued to any distiller and a microdistillery cocktail room license may not be issued to any person having an ownership interest in a distillery licensed under M.S. § 340A.301 subd. 6 (a). No single entity may hold both a microdistillery cocktail room and taproom license and a microdistillery cocktail room and taproom license may not be co-located. Within ten days of the issuance of a microdistillery cocktail room license, the city shall inform the commissioner of public safety of the licensee's name and address and trade name, and the effective date and expiration date of the license. The city shall also inform the commissioner of public safety of a microdistillery cocktail room license transfer, cancellation, suspension, or revocation during the license period.

(R) A microdistiller off-sale license may be issued to the holder of a state microdistillery license. A microdistiller off-sale license authorizes off-sale of one 375 milliliter bottle per customer per day of product manufactured on-site provided the product is also available for distribution to wholesalers.

(S) A microdistiller temporary on-sale intoxicating liquor license may be issued to the holder of a state microdistillery license. A microdistillery temporary on-sale intoxicating liquor license authorizes on-sale of intoxicating liquor in connection with a social event within the city sponsored by the microdistillery.

702.040

License Fees; Pro Rata.

(A) No license or other fee established by the city shall exceed any limit established by M.S. Ch. 340A, as it may be amended from time to time, for a liquor license.

(B) The Council may establish from time to time in the Ordinance Establishing Fees and Charges the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this chapter. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing.

(C) The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a quarterly basis.

(D) All license fees shall be paid in full at the time the application is filed with the city. If the application is denied, the license fee shall be returned to the applicant.

(E) A refund of a pro rata share of an annual license fee may occur only if authorized by M.S. § 340A.408, Subd. 5, as it may be amended from time to time.

(F) Off-sale intoxicating liquor licensees may request a reduction in their annual license fee by the amount specified in M.S. § 340A.408 if at the time of initial application or renewal they:

(1) Agree to have a private vendor approved by the city train all employees within 60 days of hire and annually thereafter in laws pertaining to the sale of alcohol, the rules for identification checks, and the responsibilities of establishments serving intoxicating liquors;

(2) Post a policy requiring identification checks for all persons appearing to be 30 years old or less;

(3) Establish a written cash award and incentive program to award employees who catch underage drinkers and a written penalty program to punish employees in the event of a failed compliance check;

(4) Failure to abide by the provisions of this division may result in suspension of the license until the conditions of the fee reduction are met and may result in suspension and/or revocation of the license pursuant to 702.170 of this chapter.

702.050

Council discretion to grant or deny a license. The Council in its sound discretion may either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has a right to a license under this chapter.

702.060

Application for License.

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

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

Penalty, see § 703.010.

702.070

Description of Premises. The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk.

702.080

Applications for Renewal. At least 90 days before a license issued under this chapter is to be renewed, an application for renewal shall be filed with the city. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee has a right to have the license renewed.

702.09

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

Penalty, see § 703.010.

702.100

Investigation.

(A) *Preliminary background and financial investigation.* On an initial application for a license, on an application for transfer of a license and, in the sound discretion of the Council that it is in the public interest to do so, on an application for renewal of a license, the city shall conduct a preliminary background and financial investigation of the applicant or it may contract with the Commissioner of Public Safety for the investigation. The applicant shall pay with the application an investigation fee of \$500 which shall be in addition to any license fee. If the cost of the preliminary investigation is less than \$500, the unused balance shall be returned to the applicant. The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

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

702.110

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

702.120

Restrictions on Issuance.

(A) Each license shall be issued only to the applicant for the premises described in the application.

(B) Not more than one license shall be directly or indirectly issued within the city to any one person.

(C) No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the city are delinquent and unpaid.

(D) No license shall be issued for any place or any business ineligible for a license under state law.

(E) No license shall be granted within 500 feet of any school or church. The distance is to be measured from the closest side of the school or church to the closest side of the structure on the premises within which liquor is to be sold. Penalty, see § 703.010.

702.130

Conditions on License. The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

(A) Within 90 days after employment, every person selling or serving liquor in an establishment which has an “on-sale” license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the Council. Proof of training shall be provided by the licensee.

(B) Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this chapter and the law equally with the employee.

(C) Every licensee shall allow any peace officer, health officer, city employee or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.

(D) No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

(E) Compliance with financial responsibility requirements of state law and of this chapter is a continuing condition of any license.

(F) Failure by an off-sale intoxicating liquor licensee who has received a fee reduction pursuant to 702.040 (F) of this chapter to abide with the provisions of § 702.040 (F).

Penalty, see § 703.010

702.140 Hours and Days of Sale.

(A) The hours of operation and days of sale shall be those set by M.S. § 340A.504, as it may be amended from time to time, except that the City Council may, by resolution or ordinance, provide for more restrictive hours than state law allows.

(B) No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2 percent malt liquor in an on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

(C) No on-sale licensee shall permit any glass, bottle, or other container containing intoxicating liquor or 3.2 percent malt liquor to remain upon any table, bar, stool, or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.

(D) No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

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

Penalty, see § 703.010

702.150 Minors on Premises.

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

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

Penalty, see § 703.010

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

Penalty, see § 703.010

702.170 Suspension and Revocation.

(A) The Council shall either suspend for a period not to exceed 60 days or revoke any

liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this chapter relating to liquor. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, M.S. §§ 14.57 to 14.70, as it may be amended from time to time. The Council may act as the hearing body under that act, or it may contract with the Office of Hearing Examiners for a hearing officer.

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

(1) For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2 percent malt liquor, or violation of § 701.04, the license shall be revoked.

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

(a) For the first violation within any three-year period, at least one day suspension in addition to any criminal or civil penalties which may be imposed.

(b) For a second violation within any three-year period, at least three consecutive days suspension in addition to any criminal or civil penalties which may be imposed.

(c) For the third violation within any three-year period, at least seven consecutive days suspension in addition to any criminal or civil penalties which may be imposed.

(d) For a fourth violation within any three-year period, the license shall be revoked.

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

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

(D) The provisions of § 703.010 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this chapter.

Penalty, see § 703.010

703 PENALTY

703.10 Penalty.

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

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

- (1) For the first violation within any three-year period, \$500.
- (2) For the second violation within any three-year period, \$1,000.
- (3) For the third and subsequent violations within any three-year period, \$2,000.

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

800 MISCELLANEOUS CRIMINAL CODE

801 GUNS, WEAPONS AND FIREARMS

802 MINORS

803 OPEN BOTTLES

804 DAMAGE TO PROPERTY, GRAFFITI

801 GUNS, WEAPONS AND FIREARMS

801.10 DEFINITIONS.

A. Weapon means any gun, pistol, revolver, sling-shot, sand club, metal, knuckles, daggers, dirk, bowie knife, razor, air rifle, air gun, B-B gun, spring gun, bow and arrow, switch blade, firearm or any similar device for the propulsion of shot or other metal pellet by whatever means, and any other dangerous or deadly weapon or instrument. Person means any person, firm, partnership, or corporation.

B. A weapon is “concealed” within the meaning of this ordinance whenever the fact that a person is carrying a weapon is not readily ascertainable upon observing the person.

801.020 UNLAWFUL ACTS. Except as otherwise provided herein, it shall be unlawful for any person:

- A. To have under his control for sale any weapon within the City of Willernie, except as provided in Section 801.050 of this Ordinance.
- B. To fire, discharge, release, throw, or in any other manner propel a weapon within the City of Willernie.
- C. To wear under ones clothes or conceal about one’s person any weapon, or to carry a loaded weapon in any bag, sack, box, knapsack, purse, or other such carrying device which hides the presence of the weapon.

801.030 **SEIZURE, CONFISCATION, PENALTY.**

- A. If any law enforcement officer personally observes conduct in violation of 801.030, the weapon may be immediately seized and held in the custody of the City Law Enforcement Agency pending appropriate court action.
- B. If the court determines a violation of Section 801.030 has occurred, the weapon involved in such violation shall be forfeited to and confiscated by the City of Willernie.
- C. In addition to any confiscation and forfeiture under Section 801.040A, violation of this ordinance shall be a misdemeanor and result in a fine or imprisonment as authorized by the Code.

801.040 **EXCEPTIONS.** The prohibitions of this ordinance shall not apply to:

- A. **Police Officers.** Duly authorized law enforcement officers of the City when in the course and scope of their duties, nor to any officer of any court whose duty shall be to serve warrants or to make arrests, nor to persons who shall have obtained from the City Council or some other appropriate governmental agency, a license or permit to handle or have in his or her possession or control any weapon.
- B. **Encased Weapons.** Persons in possession of any weapon that is unloaded and properly encased and/or is being stored, transported, or displayed within a residence.
- C. **Sale Not in Regular Course of Business.** Persons in possession or control of any weapon for the purpose of the sale of the weapon as long as the sale is not in the regular course of said persons' business.
- D. **Licensed Person.** Persons licensed pursuant to Sections 801.060 to 801.140.

801.050 **LICENSE REQUIRED.** No persons shall deal in or sell at retail or wholesale without a license, any gun, pistol, revolver, bow and arrow, or knife.

801.060 **APPLICATION.** Application for such license shall be made in writing and filed with the Clerk and shall state the full name, age, and address of applicant, the location where the business is to be carried on, the owner of the premises, and such other information as the City Council.

801.070 **FEE.** The fee for every such license shall be set by resolution of the City Council.

801.080 **INSPECTION.** Applicant shall permit the officers of the City to inspect the place of business described in the application and refusal by an applicant to permit such inspection shall be grounds for the Council to refuse the license.

801.090 **GRANTING OF LICENSE.** The Council may, after such investigation as it consider necessary, grant or deny the license applied for.

801.100 **TERM.** The license shall run for the period of one calendar year commencing January 1st. If application is made after January 1st, the license fee shall not be pro-rated and the license shall expire December 31st following.

801.110 **CONDITIONS OF LICENSE.** Every license shall be granted subject to the following conditions and all other provisions of this and any other Chapter of the City of Willernie Municipal Code or other ordinance or State Law.

A. No license shall be effective beyond the compact and contiguous space named in the license.

B. No weapon of any sort shall be sold or furnished to any person under Eighteen (18) years of age.

801.120 **REGULATIONS.** All persons licensed, and all persons required by this chapter to be licensed, shall comply with the following regulation:

A permanent written record of every sale of weapons must be kept. The name, age and address of the purchaser, the date of sale, a description and identification of the item, or items sold and the purchase price must be included in this record. City officers shall have the right to inspect this record.

801.130 **REVOCATION.** Violation of any provision of this chapter shall be grounds for revocation of such license.

802 **MINORS**

802.10 It shall be unlawful for the parent, guardian or other adult person having the care and custody of a minor to permit such minor to carry or use within the City of Willernie any weapon as defined by the Code.

802.020 Any parent, guardian or other adult person having the care and custody of a minor who shall violate the provisions of 802.010 hereof, shall, be guilty of a misdemeanor.

803 OPEN BOTTLES

803.10 Definitions.

- A. “Intoxicating liquor” shall mean any beverage having an alcoholic content.
- B. “Public place” shall mean any land owned by any governmental unit or over which are governmental unit has an easement, including but not limited to streets, sidewalks and parks.
- C. “Open bottle” shall mean any container containing intoxicating liquor, except such original container which seal has never been opened. Any glass or other receptacle into which intoxicating liquor has been poured and is contained is an open bottle.

803.020 Violation.

- A. It shall be unlawful to be in possession of an open bottle of intoxicating liquor or a public place.
- B. It shall be unlawful to consume intoxicating liquor in any motorized vehicle or any passenger carrying appurtenance thereto, including but not limited to trailers or campers attached to pickup trucks or any other motorized vehicles except a motorized vehicle in which consumption of intoxicating liquor is allowed under state law while such vehicle is parked in a public place.

803.030 Special Permit

- A. The City Council of the City of Willernie may issue a special permit not to exceed ninety (90) days waiving any provisions of this ordinance when it deems such waivers to be consistent with public welfare and safety.
- B. Such permit must describe with specificity the conditions under

which the permit is issued including:

1. Public place which is covered by the permit.
2. The person to whom the permit is issued.
3. Any other conditions or restrictions that the City Council deems necessary to adequately provide for the public welfare and safety, including restrictions as to the type of intoxicating liquor which may be consumed and the hours in which such liquor may be served.

804 GRAFFITI AND DAMAGE TO PROPERTY

804.10 DAMAGE TO PROPERTY; GRAFFITI.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GRAFFITI. In addition to its usual and customary meaning of defacing walls or structures with messages or slogans, *GRAFFITI* shall also mean any letter, numeral, figure, emblem, insignia, picture, outline, character, spectacle, delineation, announcement, word, phrase, diagram, symbol, sketch, inscription or representation, wherein the contents thereof are visible to any member of the general public and which contains references to sexual activity, diagrams relating to sexual activity or sexual organs, references to criminal activities or groups which promote or are involved in criminal activity, swearing or fighting words, defamatory materials about any person, references to relationships, or any marking of any kind whatsoever which results in damage to, defacing of, marring of, or discoloring of any sidewalk, street, or other public surface, any vehicle, any equipment, lamp, lamp post or other city property, or of the exterior surface of a wall, fence, door, building or other structure, whether publicly or privately owned.

OWNER. Means and includes the owner of record of the subject property, whether public or private, at the time of the placement or discovery of the graffiti or at a subsequent time, the beneficial owner under a land trust, the contract purchaser, or that person or persons or trust in whose name the general taxes for the last preceding year were paid, except that *OWNER* shall not include the city.

(B) *Conduct prohibited.*

(1) It is unlawful for any person to inscribe, draw, or otherwise place or cause to be placed any graffiti upon the surface of any building, structure, wall or surface of other property that is publicly or privately owned.

(2) It shall be unlawful for any parent or legal guardian to knowingly permit any minor child in his or her custody or control to violate division (B)(1) of this section.

(3) The parent or legal guardian of a minor defendant who resides with the parent or legal guardian at the time of the offense may be held liable for any fine or

condition of restitution or reparation imposed by a court upon a minor for violation of this section; provided, that minor has not paid the fine or made restitution or reparation within the time ordered by the court; and further provided that the parent or legal guardian has been served with summons or notice to appear whether in the original cause or in any subsequent proceedings arising therefrom, including sentencing or collection actions, as provided by law.

(C) *Removal by owner.*

(1) *Owner's responsibility.* It shall be the duty of the owner of the structure or wall or other private property upon which any graffiti is placed or made to remove, eradicate, or eliminate the inscription or representation within 30 days of the occurrence unless granted additional time by the City Council.

(2) *Notice to remove graffiti.* In the event the owner has failed to eliminate the graffiti, the owner shall be notified by certified mail or personal notice that he or she has 30 days from the date of the notice in which to remove the graffiti. In the event that charges have been filed against the person believed responsible for placement of the graffiti and the owner can show to the city that there is a reasonable likelihood that the person will be required to make restitution or restore the premises to its previous condition, the owner may be given additional time to meet the removal requirements. In no event shall the owner be granted more than a total of six months' time to remove graffiti, but any extensions shall be based solely upon a reasonable likelihood of apprehension and conviction of the person responsible. In the absence of the reasonable likelihood, the owner is responsible for removal within the time allowed in divisions (C)(1) and (2) of this section.

(3) *List of contractors and cleaning materials.* The city may make available a list of contractors in the business of removing graffiti and list of cleaning materials generally recognized in the industry as effective in the removal of graffiti. By providing lists of contractors and cleaning materials, the city does not guarantee the quality or adequacy of work performed by anyone selected by owner or the effectiveness or safety of the materials listed, and the city expressly disclaims responsibility or liability for the quality or adequacy of the work or materials or any claims for damage or injury arising therefrom.

(D) *Removal by the city.*

(1) The city shall have the right but not the duty to remove graffiti from the exterior of private property if the owner informs the city of the presence of the graffiti and of the owner's inability to remove it. Prior to the city entering any private property to remove graffiti, the owner must sign a statement authorizing removal by the city and agreeing to pay the reasonable costs of the removal and to allow the recording of a lien against the real estate upon which the work was performed if the cost is not paid to the city within 30 days of the date of the invoice sent to the owner. The owner must also sign a release holding the city harmless from any claims or suits brought for damages pursuant to any adverse or injurious effects of such chemicals or from the actions taken by the city or its employees to remove the graffiti prior to the city commencing work on the property. If the property owner does not remove the graffiti within the time specified or extended

time requested and granted by the city or if the city is unable to perform the work at the request of the owner, the owner shall be subject to the penalties listed in division (E) of this section.

(2) If the city performs the graffiti removal pursuant to division (D)(1) of this section, it shall be entitled to a lien and to file a notice of lien against the property upon which the work was performed for the cost of the removal.

(E) *Penalty.*

(1) Upon a finding of guilty for violation of division (B) of this section, an offender shall be punished as provided in this Code. Additionally, the court may, as a condition of probation, supervision, or conditional discharge, require that the party guilty of violating the provisions of division (B) of this section make full and complete restitution to the owner of the property for expenses incurred in the removal of the graffiti or, with the consent of the owner, restore the structure, wall, building or surface to its previous condition. In addition, the court may order as a further penalty community service in the form of time to be spent in cleaning property that has been defaced by graffiti in any location in the city.

(2) Upon a finding of guilty for violation of division (C)(1) of this section, an offender shall be punished as provided in § 130.99. Each and every day that graffiti is permitted to remain beyond the time specified in division (C)(2) of this section shall constitute a separate violation.

(F) *Compliance by the city.*

(1) It is the intention of the city that graffiti discovered upon city property or public property under the jurisdiction and control of the city will be removed within the time periods for graffiti removal imposed upon other governmental bodies and owners of private property under this section. The City Council shall have the authority to order and direct the removal of graffiti.

(2) A designated city officer, or his or her designee, shall provide, no less than semi-annually, a written report to the City Council of graffiti incidents involving city property and removal efforts by the city. The report shall include at a minimum the location of the graffiti, charges filed against or convictions of offenders where relevant, the date and methods of graffiti removal undertaken by the city and the cost of the removal.

900 ANIMALS

901 DEFINITIONS

901.10 **Definitions.** For the purpose of this Ordinance, the terms defined herein shall have the following meaning ascribed to them.

- A. **Animal.** Any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom. Animals shall be classified as follows:
- (1) *Domestic Animals.* Those animals commonly accepted as domesticated household pets. Unless otherwise defined, domestic animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.
 - (2) *Farm Animals.* Those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, farm animals shall include members of the equine family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, ratitae (ostriches and emus), farm raised cervidae (caribous and mule deer), llamas and alpacas and other animals associated with a farm, ranch, or stable.
 - (3) *Non-domestic Animals.* Those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, non-domestic animals shall include:
 - (a) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.
 - (b) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.
 - (c) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.
 - (d) Any member or relative of the rodent family, and any skunk (whether or not descended), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets.

- (e) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles, and alligators.
 - (f) Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this section, including but not limited to bears, deer, monkeys, and game fish.
- B. **At Large.** Off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain, or otherwise restrained or confined.
 - C. **Cat.** Both the male and female of the felidae species commonly accepted as domesticated household pets.
 - D. **Dog.** Both the male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.
 - E. **Owner.** Any person or persons, firm, association or corporation owning, keeping, or harboring an animal.
 - F. **Release Permit.** A permit issued by an Animal Control Officer or other person in charge of the pound for the release of any animal that has been taken to the pound. A release permit may be obtained upon payment of a fee to the City Clerk in accordance with the regular license requirement if the animal is unlicensed, payment of a release fee, and any maintenance costs incurred in capturing and impounding the animal. The release fee shall be as established in the by Resolution of the City Council, as it may be amended from time to time

901.020 Dogs and Cats.

- A. **Running at large prohibited.** It shall be unlawful for the dog or cat of any person who owns, harbors, or keeps a dog or cat, to run at large. A person, who owns, harbors, or keeps a dog or cat which runs at large shall be guilty of a misdemeanor. Dogs or cats on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person, so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the city has posted an area with signs reading “Dogs or Cats Prohibited.”
- B. **License required.**
 - 1. All dogs over the age of six months kept, harbored, or maintained by their owners in the city, shall be licensed and registered with the city. Dog licenses shall be issued by

the City Clerk upon payment of the license fee as established by Resolution of the City Council from time to time. The owner shall state, at the time application is made for the license and upon forms provided, his or her name and address and the name, breed, color, and sex of each dog owned or kept by him or her. No license shall be granted for a dog that has not been vaccinated against distemper and rabies, as evidenced by a certificate by a veterinarian qualified to practice in the state in which the dog is vaccinated.

2. It shall be the duty of each owner of a dog subject to this section to pay to the City Clerk the license fee of \$3.00, or as otherwise established by Resolution of the City Council.
3. Upon payment of the license fee, the Clerk shall issue to the owner a license certificate and metallic tag for each dog licensed. The tag shall have stamped on it the year for which it is issued and the number corresponding with the number on the certificate. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are constantly worn. In case a dog tag is lost or destroyed, a duplicate shall be issued by the City Clerk. A charge shall be made for each duplicate tag in an amount of \$1.00 or as otherwise established by Resolution of the City Council. Dog tags shall not be transferable from one dog to another and no refunds shall be made on any dog license fee or tag because of death of a dog or the owner's leaving the city before the expiration of the license period.
4. The licensing provisions of this division (B) shall not apply to dogs whose owners are nonresidents temporarily within the city. Service animals do not require a license.

C. **Cats.** Cats shall be included as controlled by this division insofar as running-at-large, pickup, impounding, boarding, licensing and proof of anti-rabies vaccine is concerned. All other provisions of this section shall also apply to cats unless otherwise provided.

D. **Vaccination.**

1. All dogs and cats kept harbored, maintained, or transported within the city shall be vaccinated at least once every three years by a licensed veterinarian for:
 - a. Rabies - with a live modified vaccine; and
 - b. Distemper.
2. A certificate of vaccination must be kept on which is stated the date of vaccination, owner's name and address, the animal's name (if applicable), sex, description and weight, the type of vaccine, and the veterinarian's signature. Upon demand made by the City Clerk, an Animal Control Officer or a police officer, the owner shall present for examination the required certificate(s) of vaccination for the animal(s). In cases where certificates are not presented, the owner or keeper of the animal(s) shall have seven days in which to present the certificate(s) to the City Clerk or officer. Failure to do so shall be deemed a violation of this section.

Penalty, see § 903.010

901.020 **Non-Domestic Animals.** Except as provided in M.S. § 346.155, as it may be amended from time to time, it shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic animal within the city. Any owner of a non-domestic animal at the time of adoption of this code shall have 30 days in which to remove the animal from the city after which time the city may impound the animal as provided for in this section. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

Penalty, see § 903.010

901.030 **Farm Animals.** Farm animals shall only be kept on a residential lot of at least ten acres in size provided that no animal shelter shall be within 300 feet of an adjoining piece of property. An exception shall be made to this section for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

901.040 **Impounding.**

- A. **Running at large.** Any unlicensed animal running at large is hereby declared a public nuisance. Any Animal Control Officer or police officer may impound any dog or other animal found unlicensed or any animal found running at large and shall give notice of the impounding to the owner of the dog or other animal, if known. The Animal Control Officer or police officer shall not enter the property of the owner of an animal found running at large or the owner of an unlicensed animal unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction to search for and seize the animal. In case the owner is unknown, the officer shall post notice at the city office that if the dog or other animal is not claimed within the time specified in division (C) of this section, it will be sold or otherwise disposed of. Except as otherwise provided in this section, it shall be unlawful to kill, destroy, or otherwise cause injury to any animal, including dogs and cats running at large.

- B. **Biting Animals.** Any animal that has not been inoculated by a live modified rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be impounded for a period of not less than ten days, at the expense of the owner. The animal may be released at the end of the time if healthy and free from symptoms of rabies, and by the payment of all costs by the owner. However, if the owner of the animal shall elect immediately upon receipt of notice of need for the confinement by the officer to voluntarily and immediately confine the animal for the required period of time in a veterinary hospital of the owner's choosing, and provide immediate proof of confinement in the manner as may be required, the owner may do so. If, however, the animal has been inoculated with a live modified rabies vaccine and the owner has proof of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog or other animal to the owner's property.

C. **Reclaiming.** For the purposes of this section regular business day means a day during which the establishment having custody of the animal is open to the public at least four consecutive hours between 8:00 a.m. and 7:00 p.m. All animals conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least five regular business days, unless the animal is a dangerous animal as defined in this Code in which case it shall be kept for seven regular business days or the times specified, and except if the animal is a cruelly-treated animal in which case it shall be kept for ten regular business days, unless sooner reclaimed by their owners or keepers as provided by this section. In case the owner or keeper shall desire to reclaim the animal from the pound, the following shall be required, unless otherwise provided for in this code or established from time to time by resolution of the City Council:

1. Payment of the release fee and receipt of a release permit as established by Resolution of the City Council from time to time.
2. Payment of maintenance costs, as provided by the pound, per day or any part of day while animal is in the pound; and
3. If a dog is unlicensed, payment of a regular license and valid certificate of vaccination for rabies and distemper shots is required.

D. **Unclaimed animals.** At the expiration of the times established in division (C) of this section, if the animal has not been reclaimed in accordance with the provisions of this section, the officer appointed to enforce this section may dispose of the unclaimed animal in a manner permitted by law. Any money collected under this section shall be payable to the City Clerk.

Penalty, see § 903.010

901.50 Kennels.

- A. Every person, group of persons or corporation engaged in the commercial business of buying, selling and/or boarding and who owns, harbors or keeps four or more dogs or cats in a kennel shall pay a kennel license fee as established from time-to time by resolution of the City Council provided, however, that any persons operating such kennel must license individual dogs or cats owned by them as provided in this Ordinance. The license holder must comply with all City Zoning Ordinances and Minnesota Statutes.

Penalty, see § 903.010

901.060 Barking, Crying, Whining Dogs.

- A. **Habitual barking.** It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking for repeated

intervals of at least five minutes with less than one minute of interruption. The barking must also be audible off of the owner's or caretaker's premises.

- B. Damage to property. It shall be unlawful for any person's dog or other animal to damage any lawn, garden, or other property, whether or not the animal's owner has knowledge of the damage.
- C. Cleaning up litter. The owner of any animal or person having the custody or control of any animal shall be responsible for cleaning up any feces of the animal and disposing of the feces in a sanitary manner whether on their own property, on the property of others, or on public property.
- D. Warrant required. The Animal Control Officer or police officer shall not enter the property of the owner of an animal described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction to search for and seize the animal.

901.070 Seizure of Animals. Any police officer or Animal Control Officer may enter upon private property and seize any animal with the permission of the owner of the property, if that person is also the owner of the animal, provided that the following exist:

- A. There is an identified complainant other than the police officer or Animal Control Officer making a contemporaneous complaint about the animal;
- B. The officer reasonably believes that the animal meets either the barking dog criteria set out in this Code or the criteria for cruelty set out in this Code; or the criteria for an at large animal set out in this Code.
- C. The officer can demonstrate that there has been at least one previous complaint of a barking dog; inhumane treatment of the animal; or that the animal was at large at this address on a prior date;
- D. The officer has made a reasonable attempt to contact the owner of the animal and the property to be entered and those attempts have either failed or have been ignore;
- E. The Animal Control Officer or police officer shall not enter the property of the owner of an animal described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction. If the officer has the permission of the owner, a property manager, landlord, or other authorized person to enter the property or has obtained a pass key from a property manager, landlord, or other authorized person to have that key shall not be considered unauthorized entry, and a warrant to search for and seize the animal need not be obtained; and
- F. Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the animal is not possible.

901.080 Dangerous and Potentially Dangerous Dogs. *Adoption by reference.* Except as otherwise provided, the regulatory and procedural provisions of M.S. §§ 347.50 to 347.565 (commonly referred to as the "Dangerous Dog Regulations"), are adopted by reference.

901.090 Basic Care

- A. All animals shall receive from their owners or keepers kind treatment, housing in the winter, and sufficient food and water for their comfort. Any person not treating their

pet in a humane manner will be subject to the penalties provided in this section.

B. Dogs and cats. Dogs and cats must be provided the following basic care:

1. *Food.* Dogs and cats must be provided with food of sufficient quantity and quality to allow for normal growth or the maintenance of body weight.
2. *Water.* Dogs and cats must be provided with clean, potable water in sufficient quantity to satisfy the animal's needs or supplied by free choice. Snow or ice is not an adequate water source.
3. *Transportation and shipment.* When dogs or cats are transported in crates or containers, the crates or containers must be constructed of nonabrasive wire or a smooth, durable material suitable for the animals. Crates and containers must be clean, adequately ventilated, contain sufficient space to allow the animals to turn around, and provide maximum safety and protection to the animals.
4. *Shelter size.* A confinement area must provide sufficient space to allow each animal to turn about freely and to easily stand, sit, and lie in a normal position. Each confined animal must be provided a minimum square footage of floor space as measured from the tip of its nose to the base of its tail, plus 25%, expressed in square feet. The formula for computing minimum square footage is: (length of animal plus 25%) times (length of animal plus 25%), divided by 144. A shaded area must be provided sufficient to protect the animal from the direct rays of the sun at all times during the months of May to October.
5. *Exercise.* All dogs and cats must be provided the opportunity for periodic exercise, either through free choice or through a forced work program, unless exercise is restricted by a licensed veterinarian.
6. *Group housing and breeding.* Animals housed together must be kept in compatible groups. Animals must not be bred so often as to endanger their health.
7. *Temperature.* Confinement areas must be maintained at a temperature suitable for the animal involved.
8. *Ventilation.* An indoor confinement area must be ventilated. Drafts, odors, and moisture condensation must be minimized. Auxiliary ventilation, such as exhaust fans, vents, and air conditioning, must be used when the ambient temperature rises to a level that may endanger the health of the animal.
9. *Lighting.* An indoor confinement area must have at least eight hours of illumination sufficient to permit routine inspection and cleaning.
10. *Confinement and exercise area surfaces.* Where applicable, the interior surfaces of confinement and exercise areas, including crates or containers, must be

constructed and maintained so that they are substantially impervious to moisture and may be readily cleaned. They must protect the animal from injury and be kept in good repair.

11. *Drainage.* Where applicable, a suitable method must be used to rapidly eliminate excess fluids from confinement areas.

12. *Sanitation.* Food and water receptacles must be accessible to each animal and located so as to minimize contamination by excreta. Feeding and water receptacles must be kept clean. Disposable food receptacles must be discarded when soiled. Measures must be taken to protect animals from being contaminated with water, wastes, and harmful chemicals. Wastes must be disposed of properly. Where applicable, flushing methods and a disinfectant must be used periodically. Bedding, if used, must be kept clean and dry. Outdoor enclosures must be kept clean and base material replaced as necessary.

C. *Birds, rodent other animals.* Basic care provided to pet and companion animal birds, rodents and other shall be consistent with M.S. § 346.40, § 346.41 and § 346.42, as those statutes may be amended from time to time.

D. *Dogs and cats in motor vehicles.*

1. *Unattended dogs or cats.* A person may not leave a dog or a cat unattended in a standing or parked motor vehicle in a manner that endangers the dog's or cat's health or safety.

2. *Removal of dogs or cats.* A peace officer, as defined in M.S. § 626.84, as it may be amended from time to time, a humane agent, a dog warden, or a volunteer or professional member of a fire or rescue department of the city may use reasonable force to enter a motor vehicle and remove a dog or cat which has been left in the vehicle in violation of (D)(1). A person removing a dog or a cat under this division shall use reasonable means to contact the owner of the dog or cat to arrange for its return home. If the person is unable to contact the owner, the person may take the dog or cat to an animal shelter.

E. *Dog houses.* A person in charge or control of any dog which is kept outdoors or in an unheated enclosure shall provide the dog with shelter and bedding as prescribed in this section as a minimum.

1. *Building specifications.* The shelter shall include a moisture proof and windproof structure of suitable size to accommodate the dog and allow retention of body heat. It shall be made of durable material with a solid, moisture proof floor or a floor raised at least two inches from the ground. Between November 1 and March 31 the structure must have a windbreak at the entrance. The structure shall be provided with a sufficient quantity of suitable bedding material consisting of hay, straw, cedar shavings, blankets, or the equivalent, to provide insulation and protection against cold and dampness and promote retention of body heat.

2. *Shade*. Shade from the direct rays of the sun, during the months of May to October shall be provided.
3. *Farm dogs*. In lieu of the requirements of (E)(1) and (E)(2), a dog kept on a farm may be provided with access to a barn with a sufficient quantity of loose hay or bedding to protect against cold and dampness.

902 MISCELLANEOUS

902.10 Breeding Moratorium.

Every female dog or female cat in heat shall be confined in a building or other enclosure in a manner that it cannot come in contact with another dog or cat except for planned breeding. Upon capture and failure to reclaim the animal, every dog or cat shall be neutered or spayed prior to being transferred to a new owner.

902.020 Enforcing Officer.

The Council is hereby authorized to appoint an animal control officer(s) to enforce the provisions of this section. In the officer's duty of enforcing the provisions of this section, he or she may from time to time, with the consent of the City Council, designate assistants.

902.030 Pound.

The Council may designate an official pound to which animals found in violation of this chapter shall be taken for safe treatment, and if necessary, for destruction.

902.040 Fighting Animals.

- A. The provisions of M.S. § 343.31, as it may be amended from time to time, are adopted herein by reference.
- B. No person shall:
 - a. Promote, engage in, or be employed in the activity of cockfighting, dogfighting, or violent pitting of one pet or companion animal as defined in M.S. § 346.36, Subd. 6, as it may be amended from time to time, against another of the same or a different kind;
 - b. Receive money for the admission of a person to a place used, or about to be used, for that activity;
 - c. Willfully permit a person to enter or use for that activity premises of which the permitter is the owner, agent, or occupant; or
 - d. Use, train, or possess a dog or other animal for the purpose of participating in, engaging in, or promoting that activity.
 - e. Purchase a ticket of admission or otherwise gain admission to the activity of cockfighting, dogfighting, or violent pitting of one pet or companion animal against another of the same or a different kind.

902.050 Feeding Stray Cats and Dogs.

- A. *Definitions.*
 - a. **Feed** or **Feeding** means the placing of dog or cat food, or similar food products or consumable materials attractive to dogs and cats, which may result in dogs and cats congregating thereon on a regular basis, placed on the ground, in an obviously

intended feeder, or in a feeder at a height accessible to cats and dogs.

- b. ***Stray*** means an unlicensed domestic or feral dog or cat running at large and unaccompanied or controlled by an owner.

- B. ***Policy and purpose.*** High populations of stray dogs and cats pose a hazard to human health and safety, as such animals provide a fruitful breeding ground for infectious disease, including but not limited to rabies and distemper, and may otherwise bite or attack humans and domestic animals. In addition, food provided for stray animals is often attractive to wild animals such as raccoons and rodents and may create nuisance conditions such as a rat harborage or other wild animal infestation.

- C. No person shall feed or allow the feeding of any stray cat or dog within the city.

- D. ***Exceptions.*** Veterinarians and persons who, acting within the scope of their employment with any governmental entity non-profit, or humane society has custody of or manages stray dogs and cats are not subject to the prohibitions of this section.

903.010 Penalty.

- A. ***Separate offenses.*** Each day a violation of this chapter is committed or permitted to continue shall constitute a separate offense and shall be punishable under this section.

- B. ***Misdemeanor.*** Any person, firm, or corporation who violates any provision of this Section for which another penalty is not specifically provided, shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both.

- C. ***Petty Misdemeanor.*** Any person, firm or corporation who violates any provision of this Section, including Minnesota Statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a sentence of a fine of not more than \$300.

- D. Pursuant to M.S. § 631.48, as it may be amended from time to time, in either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

904 Pet Waste.

904.010 Definitions.

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

- A) *Animal*: A dog, cat or other animal kept for amusement or companionship.
- B) *Owner/Custodian*: Any person who harbors, feeds, boards, possesses, keeps or has custody of an animal.
- C) *Immediately*: at once, without delay.
- D) *Soil/defile*: to make unclean from excrement
- E) *Waste*: solid matter expelled from the bowels of the pet; excrement

904.020 No owner or custodian of any animal shall cause or allow such animal to soil, defile or defecate on any public property or upon any street, sidewalk, public way, play area, or upon private property other than that of the owner, unless such owner immediately removes and disposes of all feces deposited by such animal in a sanitary manner.

904.030 It is unlawful for any person owning, keeping or harboring an animal to cause or permit said animal to be on any public or private property not owned or possessed by such person, without having in his/her immediate possession a device for the removal of feces and depository for the transmission of excrement to a proper receptacle located on the property owned or possessed by such person.

904.040 It is unlawful for any person in control of, causing or permitting any animal to be on any public or private property not owned or possessed by such person, to fail to remove feces left by such animal and dispose of it properly as described in section 904.030.

904.050 Proper disposal of animal waste shall be limited to burial where lawfully permitted, flushing in the toilet, bagging for disposal in the owner or keeper's waste receptacle, and bagging for disposal in a waste receptacle in a public park or park area.

904.060 Disposal of animal waste in storm drains is prohibited.

904.070 Disposal of animal waste in public compost is prohibited.

904.080 The provisions of this section shall not apply to the ownership or use of any properly identified service animals, animals when used for police activities, or tracking animals when used by or with the permission of the appropriate authorities.

904.090 Any duly authorized agent of the City should be responsible for issuing the citations.

904.100 The penalties set forth in Section 903.010 shall be applicable this Section.

904.110 Adoption of Ordinance. This ordinance shall be in full force and effect this 19th day of October, 2022. All prior ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

1000 BUSINESS LICENSING

1001 MANNER OF LICENSING

1001.010 **Purpose.** For the purpose of protecting public and private property and for the benefit of residents, trade and commerce, and for the general welfare of the community, and pursuant to the powers vested in it by Chapter 412 of the Minnesota Statutes, as amended, the City Council of the City of Willernie, Washington County, Minnesota, has found it necessary to provide for the licensing of businesses, the regulation of certain business activities, and to provide penalties for the violation thereof.

1001.020 **Necessity of License.** Before any person, firm or corporation shall engage in any business, trade, occupation, or profession or perform any of the various types of work hereinafter listed, they shall first obtain a license to do so as hereinafter provided:

- A. For sign and billboard erecting.
- B. For the trade or business of a second-hand dealer.
- C. For the trade or business of restaurants, cafes, or bars where food or drink is offered for public sale and consumed on or about the premises.
- D. For the trade or business of operating, managing, or maintaining any one or more of the following: A grocery store, meat market, confectionery shop or dairy store.
- E. For the trade or business of an automobile service station, including, among other things, gasoline sales, car maintenance and repair.
- F. For the trade, business, operation, management or maintenance of a pool hall, bowling alley, dance hall, carnival, circus, or other amusements provided for public or private entertainment.
- G. For the operation of any barber shop, salon, massage parlor, or nail salon.
- H. For the operation of any small manufacturing activity.
- I. For the operation of any consultant firms, including but not limited to real estate firms, law firms, and insurance agencies.

J. For any and all types of businesses which exchange goods or services for compensation.

- 1001.030** **Where Obtained.** All licenses shall be obtained from the Clerk of the City. Application for licenses shall be filed with the Clerk on the forms furnished by the City. The fee for each license shall be as established from time to time by Resolution of the City Council.
- 1001.040** **Expiration.** All licenses shall expire on the June 30 of the year following the date of issuance, unless sooner revoked or forfeited. If a license granted hereunder is not renewed previous to its expiration, then all rights granted by such license shall cease, and any work performed after the expiration of the license shall be in violation of this code.
- 1001.050** **Partial License Prohibited.** Persons, firms, or corporations renewing their licenses after the expiration date shall be charged the full annual license fee. No prorated license fee shall be allowed for renewals.
- 1001.060** **Qualification.** Each applicant for a license shall satisfy the Council that the applicant is competent by reason of education, special training, experience and that he or she is equipped to perform the work for which a license is requested in accordance with all state laws and city ordinances.
- 1001.070** **Suspension or Revocation.** The Council shall have the power to suspend or revoke the license of any person, partnership, firm or corporation, licensed under the regulations of this Code, whose operation, management, or maintenance is found to be improper or defective, unsafe, or against the public interest as to jeopardize life or property, or which is found to create a public nuisance, providing the person holding such license is given twenty (20) days' notice and granted the opportunity to be heard before such action is taken. If the licensee fails to appear at the said hearing, the license shall be automatically suspended or revoked five (5) days after the date of hearing.
- 1001.080** **Term of Suspension.** When a license is suspended, the period of suspension shall not be less than thirty (30) days, nor more than one (1) year. Such period shall be determined by the City Council.

SPECIAL LICENSE FOR MASSAGE BUSINESSES AND MASSAGE THERAPISTS.

1. Purpose. The purpose of this section of the City Code is to prohibit the operation of Massage Businesses and the offering of Massage Services to the public except by those licensed as Massage Businesses and Massage Therapists pursuant to this section. The licensing regulations prescribed herein are necessary in order to protect legitimate businesses, to prevent criminal activity, and to protect the health and welfare of the community. The purpose of this section is not to impose restrictions or limitations on the freedom of protected speech or expression.
2. Findings of the City Council. The City Council makes the following findings regarding the need to license Massage Businesses and Massage Therapists and to prohibit all other types of Massage businesses and services to the public:
 - A. Persons who have bona fide and standardized training in Therapeutic Massage, health, and hygiene can provide a legitimate and necessary service to the general public.
 - B. Health and sanitation regulations governing Massage Businesses and therapists can minimize the risk of the spread of communicable diseases and can promote overall health and sanitation.
 - C. Establishing license qualifications for Massage Businesses and Massage Therapists can minimize the risk that such businesses and persons will facilitate prostitution and other criminal activity in the community.
 - D. Massage Businesses which employ persons with no specialized and standardized training can tax law enforcement services because such businesses are more likely to be operated as fronts for prostitution and other criminal activity than operations established by persons with standardized training.
 - E. The training of professional Massage Therapists at accredited institutions is an important means of ensuring the fullest measure of protecting the public health, safety, and welfare.
3. Definitions. The following words and terms when used in this section shall have the following meanings unless the context clearly indicates otherwise:
 - A. *Accredited Institution* means an educational institution which is either licensed or registered with the Minnesota Office of Higher Education or accredited by a federally recognized accrediting agency.
 - B. *Accredited Program* means a professional Massage program accredited by the Commission on Massage Therapy Accreditation (COMTA) or a similar organization.

- C. *Clean* means the absence of dirt, grease, rubbish, garbage, and other offensive, unsightly, or extraneous matter.
- D. *Good Repair* means free of corrosion, breaks, cracks, chips, pitting, excessive wear and tear, leaks, obstructions, and similar defects so as to constitute a good and sound condition.
- E. *Issuing Authority* means the City Council.
- F. *Massage or Massage Services* means the manual manipulation of the soft tissue of the body to promote, maintain, and restore health and well-being, and may use any of the following techniques: stroking, gliding, lifting, kneading, jostling, vibration, percussion, compression, friction, holding, passive stretching within a person's range of motion, movement or manipulation of the soft tissues, active assistive and resistive movement, and stretching.
- G. *Massage Therapist* means an individual who practices or administers Massage to the public who can demonstrate to the Issuing Authority that he or she:
 - i. Has current insurance coverage of \$1,000,000.00 for professional liability in the practice of Massage;
 - ii. Is affiliated with, employed by, or owns a Massage Business licensed by the City; and
 - iii. Provides proof that the applicant has met the academic requirements of the Issuing Authority by providing both of the following:
 - a. A certified copy of a transcript of academic record from an Accredited Program or Accredited Institution; and
 - b. A copy of the diploma or certificate of graduation from an Accredited Program or Accredited Institution. The Accredited Program or Accredited Institution must confirm that the applicant has successfully completed at least 500 hours of certified therapeutic Massage training with content that includes the subjects of anatomy, physiology, hygiene, ethics, Massage theory and research, and Massage practice from the same Accredited Program or Accredited Institution.
 - iv. In lieu of the academic requirement in subpart G, provision iii above, the applicant may provide proof of passage of the National Certification Exam offered by the National Certification Board for Therapeutic Massage and Bodywork and a minimum of seven (7) years of full-time work experience as a Massage Therapist within the United States. The applicant is still required to provide proof of compliance with subpart G, provisions i and ii.
- H. *Operate* means to own, manage, or conduct, or to have control, charge, or custody over.

- I. *Person* means any individual, firm, entity, association, partnership, corporation, joint venture, or combination of individuals.
- J. *Massage Business* means a place of business where Massage Services are provided to the public for a fee. This term includes businesses which rent/lease space to an independent licensed Massage Therapist. The owner/operator of a Massage Business need not be licensed as a Massage Therapist if he or she does not at any time practice or administer Massage Services to the public. A Massage Business may employ other individuals such as cosmetologists and estheticians, and these individuals are not required to have a Massage Therapist license as long as they are not providing Massage Services to the public.
- K. *Within the City* means includes physical presence as well as telephone referrals such as phone-a-massage operations in which the business premises, although not physically located within the City, serves as a point of assignment of employees who respond to requests for the provision of Massage services to various locations within the City.

4. License Required.

- A. Massage Business License. It shall be unlawful for any person to own, operate, engage in, or carry on, within the City, any type of Massage Business without first having obtained a Massage Business license from the City pursuant to this section.
- B. Massage Therapist License. It shall be unlawful for any person to practice, administer, or provide Massage Services to the public for compensation within the City without first having obtained a personal Massage Therapist license from the City pursuant to this section.
- C. Licensing Compliance. Notwithstanding any other provision of this Section, Massage Therapy Businesses and Massage Therapists shall have until July 1, 2022 to obtain the required Massage Therapy Business and Massage Therapist licenses.

5. Exceptions.

A Massage Business or Massage Therapist license is not required for the following persons and places:

- A. Persons duly licensed by this state to practice medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry, provided the Massage is administered by the individual in the regular course of the medical business and not provided as part of a separate and distinct Massage Business.

- B. Persons duly licensed by this state as cosmetologists, estheticians, nail technicians, or barbers, provided such persons do not hold themselves out as giving Massage Services and provided the Massage by cosmetologists and estheticians is limited to the head, neck, hands, and feet; Massage by barbers is limited to the head and neck; and Massage by nail technicians is limited to the hands, feet, and lower arms and legs.
 - C. Persons hired or employed by a person duly licensed by this state pursuant to Minnesota Statutes Chapters 147, 148, or a dental professional licensed under Chapter 150A. Such persons shall only be authorized to provide Massage Services on the business premises of the employer.
 - D. Places duly licensed or operating as a hospital, nursing home, hospice, sanitarium, or group home established for the hospitalization or care of human beings.
 - E. Students of an accredited institution who are performing Massage Services in the course of a clinical component of an accredited program of study, provided that the students are performing the Massage Services at the location of the accredited institution and provided the students are identified to the public as students of Massage therapy. Students of an accredited institution may perform Massage Services at clinics or other facilities located outside of the accredited institution provided that they have at least 150 hours of certified therapeutic Massage training at the accredited institution prior to performing the therapy outside of the institution, have proof of liability insurance, and are identified to the public as a student of Massage therapy.
 - F. Persons or organizations providing temporary Massage Services such as “chair massages” provided the following requirements are met:
 - i. The Massage is provided in a place of business where the Massage can easily be seen by any employee or visitor on the premises;
 - ii. The location does not hold a license to sell alcoholic beverages;
 - iii. Massages are offered at the location no more than ten (10) days per calendar year;
 - iv. Each recipient of a Massage remains in an upright position, either sitting or standing; and
 - v. Each recipient of a Massage remains in the normal daytime attire worn when entering the business and does not remove any clothing except outerwear such as a coat or jacket.
6. License Application. All applicants shall complete and submit the requisite license application form provided by the City and provide all information required therein, as well as comply with providing the following information:
- A. Massage Business License Application. An application for a Massage Business

license shall be made on a form supplied by the City Clerk and shall request the following information:

i. All Applicants. For all applicants:

- a. The legal description of the premises to be licensed together with a plan of the area showing dimensions, location of buildings, street access, and parking facilities.
- b. The floor number, street number, suite number(s) and rooms where the Massage services are to be conducted.
- c. Whenever the application is for premises either planned or under construction or undergoing substantial alteration, the application shall be accompanied by a set of preliminary plans showing the design of the proposed premises to be licensed. If the plans for design are on file with the City's building and inspection department, no plans need be submitted to the Issuing Authority.
- d. All applications for licenses, whether business or individual applications, shall be signed and notarized. If the application is that of a natural person, it shall be signed and notarized by such person; if by a corporation, by an officer thereof; if by an incorporated association, by the manager or officer thereof; if by a limited liability company (LLC), by a member thereof. Any falsification of information on the license application shall result in the denial, suspension or revocation of the license.
- e. Whether the applicant has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, business, firm, or other entity, a Massage license that was revoked or suspended within the last five (5) years of the date the license application is submitted to the Issuing Authority.
- f. Such other information as City staff or the City Council shall require.

ii. Individuals. For applicants who are individuals:

- a. Whether the applicant is currently licensed in other communities to perform Massage Services, and if so, where.
- b. Names and addresses and contact information including phone numbers and email addresses of the applicant's employers for the preceding five (5) years and dates for such employment.
- c. Whether the applicant has ever been convicted of any felony, crime, or violation of any ordinance other than a minor traffic offense. If so, the

applicant shall furnish information as to the time, place and offense for each conviction.

- d. Whether the applicant has ever been engaged in the operation of a Massage Business or worked as a Massage Therapist. If so, applicant shall furnish information as to the name, place and length of time of the involvement in such an establishment and list any current and prior Massage Business or Massage Therapist licenses.

iii. Partnerships. For applicants that are partnerships: the names and addresses of all general and limited partners and all information concerning each general partner as is required in provision ii of this section. The managing partners shall be designated and the interest of each general and limited partner in the business shall be disclosed. A true copy of the partnership agreement shall be submitted with the application, and if the partnership is required to file a certificate as to a trade name under Minn. Stat. § 333.02, a certified copy of such certificate shall be submitted. The license shall be issued in the name of the partnership.

iv. Corporations and Other Organizations or Entities. For applicants that are corporations or other types of organizations:

- a. The name of the organization, and if incorporated, the state of incorporation.
- b. A true copy of the certificate of incorporation, and, if a foreign corporation, a certificate of authority as described in Minn. Statutes Chapter 303.
- c. The name of the general manager, corporate officers, proprietor, and other person in charge of the premises to be licensed, and all the information about said persons as is required in subpart A, provision ii, of this subdivision.
- d. A list of all persons who own or control an interest in the corporation or organization or who are officers of said corporation or organization, together with their addresses and all the information regarding such persons as is required in subpart A, provision, of this subdivision.

B. Massage Therapist License Application. An application for a Massage Therapist license shall be made on a form supplied by the City Clerk and shall request the following information:

- i. The applicant's home telephone and cell phone number.
- ii. The applicant's physical description, including weight, height, color of eyes, and color of hair. The applicant shall provide a color photocopy of the applicant's driver's license or state-issued I.D. front and back, or any other

government-issued I.D.

- iii. Whether the applicant has ever been convicted of any felony, crime, or violation of any ordinance other than a minor traffic offense and, if so, the time, place, and offense for each conviction.
 - iv. Whether the applicant has had an interest in, as an individual or as part of a corporation, partnership, association, enterprise, entity, business or firm, a Massage license that was revoked or suspended within the last five (5) years of the date the license application is submitted to the Issuing Authority.
 - v. The names, residential and business addresses, and current contact information, including a phone number, for three (3) residents within the metropolitan area, of good moral character, not related to the applicant or financially interested in the premises of the business, who may be referred to attest to the applicant's character.
 - vi. Proof that the applicant has met the definition of a Massage Therapist in this section.
 - vii. Whether the applicant is currently licensed in other communities to perform Massage services, and if so, where.
 - viii. Whether the applicant has ever been engaged in the operation of a Massage Business or offered Massage Services, and if so, information as to the name, place, dates and length of time of the involvement in such an establishment or provision of Massage Services, including a list of all current and prior Massage Business or Massage Therapist licenses.
 - ix. Such other information as the City shall require.
7. License Fee. The fees for Massage Business and Massage Therapist licenses shall be as set forth in the City's fee schedule. An investigation fee shall be charged for Massage Business licenses and individual Massage Therapist licenses. Each application for a license shall be accompanied by payment in full of the required license and investigation fees. An application shall be deemed incomplete unless it is accompanied with the required fees, all documentation required by this section, and is completed in its entirety.
 8. License Application Investigation. A background investigation is required prior to the issuance of any license. No investigation fee in part or whole shall be refunded. The City Council may order and conduct such additional investigation as it deems necessary. Upon receipt of a complete license application and completion of the investigation by the Washington County Sheriff's Office, the council shall approve or deny the license.
 9. Inspections. In light of the high risk of involvement with illegal conduct an establishment providing Massage Therapy poses to the general public, City staff

and/or the Washington County Sheriff's Office shall have the right to enter, inspect, and search the licensed premises during the hours in which the licensed premises is open for business to ensure compliance with all provisions of this section. Any search of the licensed premises is subject to reasonableness standards as recognized by the courts; search warrants will be secured when applicable. Any entry into a private residence will require consent, exigent circumstances, or a search warrant.

10. Denial, Suspension or Revocation. In addition to the grounds found elsewhere in the City Code, the following reasons may be grounds for the denial, suspension, or revocation of a Massage Therapist or Massage Business license:
 - A. The applicant has been convicted of criminal prostitution, similar sex offenses, or other crimes directly related to the offering of Massage Services or the running of a Massage Business.
 - B. The applicant is a partnership, corporation, or other entity which has in its employ or is owned by any persons convicted of criminal prostitution, similar sex offenses, or other crimes directly related to the offering of Massage Services or the running of a Massage Business.
 - C. The owner, manager, lessee or any of the employees are found to be in control or possession of any alcoholic beverages, narcotic drugs or controlled substances, as defined by state statutes, on the premises of the Massage Business.
 - D. If the holder of a business license fails to maintain with the Issuing Authority a current list of all employees of such licensed premises. The list shall include all Massage Therapists licensed under this section.
 - E. A material variance in the actual plan and design of the premises from the plans submitted.
 - F. There is any fraud, deception, or misstatement on the license application.
 - G. The owner, manager, lessee, or their employees or any Massage Therapist, are convicted of any ordinance violation or crime occurring on the licensed premises.
 - H. The licensed premises are not located in an approved zoning district or otherwise do not meet the health and safety standards found within the City Code for the licensed premises.
 - I. The applicant is delinquent upon its payment to the City of taxes, fines, or penalties assessed or imposed against the applicant.
 - J. The licensed activity is conducted in such a manner as to constitute a breach of the peace, a menace to the health, safety, or welfare of the public, or a disturbance of the peace or comfort of the residents of the City, upon

recommendation of the Washington County Sheriff's Office or an appropriate City official.

- K. The licensee fails to continuously comply with all conditions required as precedent to approval of the license of the requirements of this section of the City Code.
- L. Based on the findings of a background investigation, granting a license would be a menace to the safety, health, morals, or welfare of the public.
- M. The applicant or licensee is not of good moral character.
- N. The applicant has had an interest in, as an individual or as part of a partnership, corporation, or other entity, a Massage Business or individual Massage Therapist license that was denied, revoked, suspended, recommended for denial, or not renewed by any issuing authority, including other cities or states, within ten (10) years from the date the license application was submitted to the City.

11. License Restrictions.

A. Posting of License.

- i. Business License. A Massage Business license must be posted in a conspicuous place on the premises for which it is issued.
- ii. Massage Therapist License. A person licensed as a Massage Therapist shall post the Massage Therapist license, along with a color photo, in a conspicuous place on the premises at which the therapist is associated. A Massage Therapist shall have readily available at all times that Massage Services are rendered a government-issued photo identification card.

B. Licensed Premises.

- i. Business License. A Massage Business license is only effective for the compact and contiguous space specified in the approved license application. If, following issuance of the license, the licensed premises is enlarged, altered, or extended, the licensee shall inform the City Clerk of the same within ten (10) business days of the enlargement, alteration, or extension. The licensee shall meet with designated City staff who shall confirm that the enlarged, altered, or expanded space is in full compliance with all City regulations, including the building code. If the enlarged, altered, or expanded space is in full compliance with all City regulations, the business license shall be amended to encompass the larger space. A massage business license shall be valid, unless earlier revoked or suspended, for a period of one (1) year from the date of issuance.

- ii. Massage Therapist License. A Massage Therapist license shall entitle the licensed therapist to perform on-site Massage at a business, public gathering, private home, or other site not on the Massage Business premises. It shall be the continuing duty of each licensee to notify the City Clerk, within ten (10) business days, of any change in the information or facts required to be furnished on the application for license and failure to comply with this section shall constitute cause for revocation or suspension of such license. A massage business license shall be valid, unless earlier revoked or suspended, for a period of one (1) year from the date of issuance.

- C. Affiliation with Business Required. A Massage Therapist shall be employed by, affiliated with, or own a Massage business licensed by the City, unless a person or place is specifically exempted from obtaining a Massage Business license pursuant to this section.

- D. Employment of Unlicensed Massage Therapists Prohibited. No Massage Business shall employ or use any person to perform Massage Services who is not licensed as a Massage Therapist under this section, unless the person is specifically exempted from obtaining a Massage Therapist license pursuant to this section.

- E. Coverage of Genitals During Massage. The licensee shall require that the person who is receiving the Massage shall at all times have his or her genitals covered with non-transparent material or clothing.

- F. Therapist Dress Requirements. Any Massage Therapist performing Massage Services shall at all times be dressed professionally.

- G. Massage of Certain Body Parts Prohibited. At no time shall the Massage Therapist intentionally Massage or offer to Massage the penis, scrotum, mons veneris, vulva, breasts, or vaginal area of a person.

- H. Restrictions Regarding Hours of Operation. No Massage Business shall be open for business, nor will any Massage Therapist offer Massage Services, before 8:00 a.m. or after 10:00 p.m. any day of the week. No customers or patrons shall be allowed to remain upon the licensed premises after 10:30 p.m. and before 8:00 a.m. daily. Support activities such as cleaning, maintenance and bookkeeping are allowed outside of business hours.

- I. Illegal Activities. In addition to the license restrictions set forth in this section, any advertising by a licensee of any potential unlawful or erotic conduct at the licensed establishment or by a licensed Massage Therapist shall be prohibited. A licensee under this section shall be strictly responsible for the conduct of the business being operated in compliance with all applicable law and ordinances, including the actions of any employee or agent of the licensee on the licensed premises.

- J. Restrictions Involving Minors. No person under the age of eighteen (18) shall be permitted at any time to be in or on the licensed premises as a massage customer, guest, or employee, unless accompanied by his/her parent or guardian.
 - K. Restrictions Involving Habitation. The premises of a licensed Massage Business, other than a massage business legally conducted as a home occupation, shall not contain sleeping quarters or living spaces of any kind intended for habitation. In all Massage Businesses, including Massage Businesses legally conducted as a home occupation, no beds, cots, futons, or mattresses shall be located in any area where massage services are provided.
 - L. Equipment. All massage services shall be provided on a raised massage therapy table or chair or on a mat similar to those used in yoga.
 - M. Posting of Rates and Licenses. Massage Businesses shall post rates for all massage services offered at the business as well as the Massage Business license and individual massage therapist licenses in a prominent location on the business premises.
 - N. Compliance with Building and Fire Codes. Massage Business premises shall comply with all applicable fire and building code requirements.
12. Restrictions Regarding Sanitation, Health and Safety.
- A. Toilet Room Requirements. A licensed Massage Business shall be equipped with adequate and conveniently located toilet rooms for the accommodation of its employees and patrons. The toilet room shall be well ventilated by natural or mechanical methods and be enclosed with a door. The toilet room shall be kept Clean and in good repair and shall be adequately lighted.
 - B. Paper/Linen Requirements. A licensed Massage Business shall provide single-service disposal paper or clean linens to cover the table, chair, furniture, or area on which the patron receives the Massage; or in the alternative, if the table, chair, or furniture on which the patron receives the Massage is made of material impervious to moisture, such table, chair, or furniture shall be properly sanitized after each Massage.
 - C. Washing of Hands Required. The licensed business premises shall contain an on-site sink. The Massage Therapist shall wash his or her hands and arms with water and soap, anti-bacterial scrubs, alcohol, or other disinfectants prior to and following each Massage service performed.
 - D. Door Latches and Locks. Doors on Massage Therapy rooms shall not be locked or capable of being locked. Locks, latches or other devices intended to secure a door so as to prevent it from being opened by any person from either side of the door with or without a key cannot be present on any doors of rooms intended for Massage Therapy. The front door of any Massage Business shall remain

unlocked during all hours of operation, except that interior and exterior doors may remain locked when the business is open if the only persons at the business are a single massage therapist providing massage services and customers receiving massages, and the door is able to be opened without a key from inside by way of a crash bar or other mechanism that allows anyone to open the door without a key from inside of the room where the door is located.

Section Two. Effective Date. This Ordinance shall be in full force and effect upon its passage and publication as provided by law. Notwithstanding the foregoing, the effective date of the licensing requirements herein shall be July 1, 2022.

(1004 passed in 7/19/23 and amended 9/20/23)

1004 CANNABINOID PRODUCTS

1004.001 **Purpose.** The purpose of this article is to regulate the sale of legalized adult-use of cannabinoid products and that meets the requirements to be sold for human or animal consumption under M.S. § 151.72 for the following reasons:

- A. The city recognizes that, based on the most reliable and up-to-date scientific evidence, the rapid introduction of newly legalized adult-use THC products, presents a significant potential threat to the public health, safety, and welfare of the residents of the city, and particularly to youth.
- B. The city has the opportunity to be proactive and make decisions that will mitigate this threat and reduce exposure of young people to the products or to the marketing of these products and improve compliance among cannabinoid product retailers with laws prohibiting the sale or marketing of cannabinoid products to minors.
- C. A local regulatory system for cannabinoid product retailers is appropriate to ensure that retailers comply with cannabinoid product laws and business standards of the city to protect the health, safety, and welfare of our youth and most vulnerable residents.
- D. State law requires cannabinoid product retailers to check the identification of purchasers to verify that they are at least 21 years of age (M.S. § 151.72, subd. 3(d)), comply with certain packaging and labeling requirements to protect children and youth (M.S. § 151.72, subd. 5), and meet certain potency and serving size requirements (M.S. § 151.72, subd. 5a).
- E. State law authorizes the board of pharmacy to adopt product and testing standards in part to curb the illegal sale and distribution of cannabinoid products and ensure the safety and compliance of commercially available cannabinoid products in the state.

- F. State law does not preempt the authority of a local jurisdiction to adopt and enforce local ordinances to regulate cannabinoid product businesses including, but not limited to, local zoning and land use requirements and business license requirements.
- G. A requirement for a cannabinoid product retailer license will not unduly burden legitimate business activities of retailers who sell or distribute cannabinoid products to adults but will allow the city to regulate the operation of lawful businesses to discourage violations of state and local cannabinoid product-related laws.

In making these findings and enacting this article, it is the intent of the city council to ensure responsible cannabinoid product retailing, allowing legal sale and access without promoting increases in use, and to discourage violations of cannabinoid product related laws, especially those which prohibit or discourage the marketing, sale or distribution of cannabinoid products to youth under 21 years of age.

1004.002 **Definitions and interpretations.** Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice-versa. The term "shall" means mandatory and the term "may" means permissive. The following terms shall have the definitions given to them:

Background Investigation means the investigation conducted by the police department of all licensed product applicants, all parties having any formal or informal ownership stake in the business, and any person(s) identified as a manager of the proposed retail establishment. The purpose of the background investigation is to determine if there are any disqualifying factors that would preclude the issuance of a license to the applicant or the proposed retail establishment location.

Cannabidiol/CBD means any non-intoxicating cannabidiol not containing tetrahydrocannabinol (THC).

Cannabinoid means any edible cannabinoid product or nonedible cannabinoid product authorized for sale in the state statutes.

Cannabinoid-related devices means any equipment, products or materials of any kind which are used, intended for use, or designed for use in repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body.

Certified hemp means hemp plants that have been tested and found to meet the requirements of M.S. ch. 18K and the rules adopted thereunder by the state.

Compliance checks means the process or protocols the city uses to investigate and ensure that those authorized to sell cannabinoid products are following and complying with the requirements of law. Compliance checks shall involve the use of persons under the age of 21 as authorized by this article. Compliance checks shall also mean the use of persons under the age of 21 who attempt to purchase cannabinoid products for educational research and training

purposes as authorized by state and federal law. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate federal, state or local laws and regulations relating to cannabinoid products.

Delivery sale means the sale of any cannabinoid products to any person for personal consumption and not for resale when the sale is conducted by any means other than an in-person, over-the-counter sales transaction in a licensed retail establishment. Delivery sale includes, but is not limited to, the sale of any cannabinoid products when the sale is conducted by telephone, other voice transmission, mail, the internet, or app-based service. Delivery sale includes delivery by licensees or third parties by any means, including curbside pick-up.

Consumable cannabinoid product means any product authorized for sale under Minn. Stat. 151.72, which may be amended from time to time, and including edible cannabinoid product and nonintoxicating cannabinoid product as defined therein, that is intended to be eaten or consumed as a beverage by humans, contains a consumable cannabinoid in combination with food ingredients, and is not a drug. Consumable cannabinoid product does not include medical cannabis as defined in Minnesota Statutes Section 152.22, subd. 6, as may be amended from time to time.

Exclusive cannabinoid/tobacco store means a brick and mortar retail store which derives a majority of its revenue from tobacco, tobacco products, CBD, and/or cannabinoid products and which cannot be entered at any time by persons younger than 21 years of age except as provided herein.

Exclusive liquor store means an establishment that meets the definition of exclusive liquor store in M.S. § 340A.101, subd. 10.

Hemp means the plant *Cannabis sativa* L. and any part of the plant, whether growing or not, including the plant's seeds, and all the plant's derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a Delta-9 Tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis. Industrial hemp is not marijuana as defined in M.S. § 152.01, subd. 9.

Label means the meaning given in M.S. § 151.01, subd. 18.

Labeling means all labels and other written, printed, or graphic matter that are:

- (1) Affixed to the immediate container in which a product regulated under this article is sold;
- (2) Provided, in any manner, with the immediate container, including but not limited to outer containers, wrappers, package inserts, brochures, or pamphlets; or
- (3) Provided on that portion of a manufacturer's website that is linked by a scannable barcode or matrix barcode.

Licensed product. Consumable Cannabinoid Products and Cannabinoid-related devices.

Licensee means a human person licensed under this article.

Licensee's employee means a person employed by a licensee to work at a sales or service counter or otherwise make sales to the licensee's customers.

Marijuana means all parts of the plant of any species of the genus *Cannabis*, including all agronomical varieties, whether growing or not; the seeds thereof; the resin extracted from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

Matrix barcode means a code that stores data in a two-dimensional array of geometrically shaped dark and light cells capable of being read by the camera on a smartphone or other mobile device.

Minor means any person who has not yet reached the age of 18 years.

Moveable place of business means any form of business operated out of a truck, van, automobile, trailer, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

Nonedible cannabinoids include, but are not limited to tablets, capsules, solutions, tinctures, or other products meant for oral administration/ingestion; creams, lotions, ointments, salves, or other products meant for topical administration; products meant to be inhaled, smoked, vaped, sprayed into nostrils, or insufflated (sniffed); and hemp flowers and buds.

Nonintoxicating cannabinoid means substances extracted from certified hemp plants that do not produce intoxicating effects when consumed by any route of administration.

Retail establishment means any place of business where cannabinoid products or cannabinoid-related devices are available for sale to the general public. The phrase shall include but not limited to, grocery stores, convenience stores, restaurants and drugstores.

Sale means any transfer of goods for money, trade, barter or other consideration.

Sampling means the introduction or promotion licensed products by offering single or partial servings for no or minimal fee.

Self-service merchandising means open displays of licensed product in any manner where any person shall have access to the licensed product without the assistance or intervention of the licensee or the licensee's employee. Such assistance or intervention shall involve the actual physical exchange of the licensed product between the customer and the licensee or employee. Self-service sales are interpreted as being any sale where there is not an actual physical exchange of the product between the clerk and the customer. "Self-service merchandising" shall not include vending machines.

Vending machine means any mechanical, electric or electronic, or other type of self-service device which, upon the insertion of money, tokens or other form of payment, dispenses the licensed product and includes vending machines equipped with manual, electric or electronic locking devices.

1004.003 **Scope.**

- A. This article applies to the sale of any cannabinoid product.
- B. This article does not apply to the sale of any cannabidiol/CBD product as defined by this article.
- C. This article does not apply to any product dispensed by a registered medical cannabis manufacturer pursuant to M.S. §§ 152.22—152.37.

1004.004 **License.** No person shall sell or offer to sell any cannabinoid products or cannabinoid-related devices without first having obtained a license to do so from the city. No transfer of any license to another location or person shall be valid.

- A. *Application.* An application for a license to sell cannabinoid products or cannabinoid-related devices shall be made on a form provided by the city and filed, along with all required fees, with the city clerk. The investigation fee is applied to the city's costs of the background investigation of the retail establishment and all person or entities that have at least a five percent financial interest in the retail establishment. The property must be in compliance with all applicable laws and ordinances. The public safety department shall conduct the background investigation before consideration by the city. All applications shall thereafter be considered and approved or denied by the city council. If the City Clerk determines that an application is incomplete, the application shall be returned to the applicant with notice of the information necessary to make the application complete.
 - 1. *All applicants:*
 - a. Whether the applicant/owner is an individual, corporation, partnership, or other form of organization;
 - b. Full name, address, date and place of birth, and telephone number of the applicant, all owners and operators, including the designated on-site manager or agent of the applicant;
 - c. The address of the premises where the retail establishment is to be located if proposed to have a fixed location in which the retail services are provided and if the applicant does not own the premises, a copy of the lease agreement to occupy the premises;
 - d. Statement of whether all taxes and special assessments due and owing on the premises on which the applicant proposes to operate the licensed business are current, and if taxes are delinquent, the years for which the taxes on the premises are delinquent (this information is required by the applicant only if the applicant or other entity in which the applicant has an interest has the legal duty to pay said property taxes or assessments due and owing);

- e. The name of the business if the business is to be operated under a name or designation other than the name of the applicant. This shall be accompanied by a certified copy of the certificate required by M.S. §§ 333.01 and 333.02;
- f. Proof of general liability insurance;
- g. The applicant shall produce at time of filing application the applicant's proof of identification which may be established only by one of the following:
 - (i) A valid driver's license or identification card issued by Minnesota, another state, or a province of Canada, and including the photograph and date of birth of the license person;
 - (ii) A valid military identification card issued by the United States Department of Defense;
 - (iii) A valid passport issued by the United States; or
 - (iv) In the case of a foreign national, by a valid passport.
 For purposes of proof of identification, the "applicant" shall mean the on-site manager or agent for a retail establishment filing the application and the natural person signing the application for a cannabinoid product license;
- h. The application shall identify the full name, address, date and place of birth, and telephone number of the natural person, designated by the applicant as the cannabinoid product business's on-site manager or agent, along with the notarized written consent of such a person to:
 - (i) Take full responsibility for the conduct of the license premises operation; and
 - (ii) Serve as agent for service of notices and other process relating to the licenses.
- i. With respect to the owner, operator, or any person who has a five percent financial interest in the proposed licensed cannabinoid product sales business and the appointed on-site manager or agent of the applicant, information as to any and all criminal convictions of any state, county, or local law or regulation;
- j. Proof of workers' compensation insurance as required by state law; and
- k. Information as to any and all criminal conviction(s) of any state, county, or local law or regulation;
- l. Such other information as the city shall require.

2. *Individual(s) (sole proprietor):*

- a. The full name, address, date and place of birth, and telephone number of the applicant;
- b. Whether the applicant and on-site manager or agent have ever used or have been known by a name other than his or her name on the application, and if so, the name or names used and information concerning dates and places were used;
- c. Whether the applicant is a United States citizen or is legally permitted to be in the United States and providing proof thereof;
- d. The street and city addresses at which the applicant and on-site manager or agent lived during the preceding ten years;
- e. Names, addresses, and date of the applicant's and on-site manager's or agent's employers for the preceding ten years;
- f. Whether the applicant and on-site manager or agent have ever been engaged in the operation of cannabinoid and/or tobacco product sales. If so, they shall

furnish information as to the name, place, and length of time of the involvement in such an establishment; and
g. Such other information as the city shall require.

3. *Partnerships:*

- a. The full name(s), address(s), date and place of birth, financial interest of all general partners and all of the information concerning each general partner that is required of applicants in subsection b above;
- b. The full names(s), addresses, date and place of birth, and telephone number of the manager partner(s) and the interest of each managing partner in the business;
- c. A copy of the partnership agreement shall be submitted with the application. The license shall be issued in the name of the partnership; and
- d. Such other information as the city shall require.

4. *Corporations and other organizations:*

- a. The name of the corporation or business firm, and if incorporated, the state of incorporation;
- b. A copy of the certificate of incorporation shall be attached to the application. If the applicant is a foreign corporation, a certificate of authority as required by M.S. § 303.06, shall be attached;
- c. The name of the manager(s), proprietor(s) or other agents(s) in charge of the business and all of the information concerning each manager, proprietor, or agent that is required of applicants in subsection b above;
- d. A list of all persons who own or have a five percent or more interest in the corporation or organization or who are officers of said corporation or organization, together with their addresses and all the information regarding such persons as is required in subsection b above; and
- e. Such other information as the city shall require.

B. *Action.* The council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the council shall approve the license, the city clerk shall issue the license to the applicant. If the council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the council's decision.

C. *License period and renewal.* A license issued under this chapter shall be an annual license, expiring on December 31 of each year.

Any existing business selling cannabinoid products within the city as of the effective date of this article, shall file all required license applications hereunder, along with the license and investigation fees, no later than September 30, 2022.

A license may be annually renewed, provided the licensee complies with the renewal application process as follows:

1. The licensee shall complete the renewal application materials provided by the city;

2. The completed renewal application materials, along with the license fee, shall be filed with city clerk no later than November 30 of the renewal year;
3. The licensee shall provide all information regarding business ownership interest. If ownership interests have changed, an additional investigation fee is required.

D. *License and investigation fees.* The license and investigation fees shall be determined by the city council as set forth in this Code.

All licenses shall expire on the last day of December in each year. Each license shall be issued for a period of one year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rata fee. In computing such fee, any unexpired fraction of a month shall be counted as one month.

E. *Revocation or suspension.* Any license issued under this article may be revoked or suspended as provided in section 11-522 violations and penalties, of this article.

F. *Transfers.* All licenses issued under this article shall be valid only on the premises for which the license was issued and only for the person(s) or entity to whom the license was issued. Any attempt at transfer to another location, person, or entity shall invalidate the license.

It is the duty of each business licensee to notify the city in writing of any change in ownership in the business. Any change in the ownership or control of the business shall be deemed equivalent to an attempt to transfer the license, and any such license shall be revoked 30 days after any such change in ownership or control unless the licensee has notified the city of the change in ownership by submitting a new license application for the new owners, and the council has approved the new license.

Any time an additional investigation is required because of a change in ownership or control of a business, the licensee shall pay an additional investigation fee to be determined by the city. The city may at any reasonable time examine the transfer records and minute books of any business licensee to verify and identify the owners, and the city may examine the business records of any other licensee to the extent necessary to disclose the interest which persons other than the licensee have in the licensed business. The council may revoke any license issued upon its determination that a change of ownership of a licensee has actually resulted in the change of control of the licensed business so as materially to affect the integrity and character of its management and its operation, but no such action shall be taken until after a hearing by the council on notice to the licensee.

G. *Moveable place of business.* No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this article.

H. *Home business.* No license shall be issued to a home business.

- I. *Display of license.*
 - a. The license of the cannabinoid product sales establishment shall be displayed in an open and conspicuous place on the premises and shown to law enforcement officers upon request.
 - b. All exclusive cannabinoid/tobacco store establishments shall post a notice prohibiting the entering of the store by persons under 21 years of age which notice shall be in plain view of the general public on the licensed public on the licensed premises. The notice shall be at least 8½-inch by 11-inch in size.
- J. *Issuance as privilege and not a right.* The issuance of a license issued under this article shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.
- K. *Exclusive liquor store.* Pursuant to M.S. § 340A.412, subd. 14, no license shall be issued to an exclusive liquor store.
- L. No license shall be granted for any business which principal building is within 500 feet of any school, licensed day care center, park, or playground.
- M. No license will be approved unless the premises proposed to be licensed complies with all applicable zoning requirements.
- N. *Refunds.* No part of the fee paid for any license issued under this article shall be refunded except in the following instances upon application to the city within 30 days from the happening of the event. Upon written request, a pro rata share, based on the number of months the business ceases to conduct business, of an annual license fee for a retail license, may be refunded to the licensee or to the licensee's estate if:
 - a. The business ceases to operate because of destruction or damage;
 - b. The licensee dies;
 - c. The business ceases to be lawful for a reason other than a license revocation;
 - d. The licensee ceases to carry on the licensed business under the license; or
 - e. The business ceases to operate, or is unable to fully use its license to operate, because of a declared local, state or national emergency. A written request by the licensee is not required.

1004.005 **Basis for denial of license.** The following shall be grounds for denying the issuance or renewal of a license under this article; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this section.

- A. The applicant or owner(s) is under the age of 21 years.
- B. The applicant, owner(s), the appointed on-site manager or agent of the applicant, or any person who has at least five percent interest in the proposed licensed business has a:

1. Conviction for, or was charged with, but convicted of a lesser charge of a crime, or is under a stay of adjudication from a charge involving a violation of any cannabinoid and/or tobacco related regulation in any other jurisdiction, theft, felony drug offense, any crime of violence as defined by state statutes, or any other similar crime or offense within five years of the date of application; and/or
 2. Three or more license violations, citations, fines, or administrative penalties issued by the city or any other jurisdiction within the preceding five years relating to cannabinoids, tobacco, or alcohol related ordinances, laws, or regulations for a business owned or operated by the applicant, owners, manager, or agent.
- C. The applicant or owner(s) has had a license to sell cannabinoid and/or tobacco products suspended or revoked, in the city or in any other place, within the preceding ten years of the date of application.
- D. The applicant or owners(s) fails to provide any information required on the application, or provides false or misleading information.
- E. The cannabinoid sales business is proposed to be operated on premises on which property taxes, assessments, or other financial claims by the state, county or city are due, delinquent, and unpaid, provided the applicant or owner(s) or other entity in which the applicant or owner(s) has an interest has the legal duty to pay said taxes, assessments, or claims due and owing.
- F. The applicant or owner(s) was charged with a crime that if convicted would render them ineligible for a license under this chapter but entered into a plea agreement providing for the continuance of the charge for dismissal or other delayed disposition. In such case the applicant shall be disqualified and ineligible for a license under this chapter until such time as the charge is finally dismissed.
- G. The applicant or owner(s) has been denied a license under this chapter within the preceding 12 months.
- H. The applicant is a business that does not have an operating officer or manager who is eligible pursuant to this chapter.
- I. The application is for a home business or a moveable place of business.
- J. Other unforeseen circumstances or conditions exist such that the issuance of a license may unreasonably endanger the health, safety, and welfare of the public.

1004.006 Prohibited acts.

- A. *In general.* It shall be a violation of this article for any person to sell or offer to sell any cannabinoid products or cannabinoid-related devices:
- (1) By means of any type of vending machine.
 - (2) By means of self-service merchandising.
 - (3) From any form of movable place of business.

- (4) Containing controlled substances as defined in M.S. ch. 152.
 - (5) By delivery sale.
 - (6) By any employee under the age of 18.
 - (7) To an obviously intoxicated person.
 - (8) By any other means or to any other person, prohibited by federal, state, or other local law, ordinance, provision, or other regulation.
- B. *Legal age.* No person shall sell any cannabinoid products or cannabinoid-related devices to any person under the age of 21 years.
- (1) Proof of age for purchasing or consuming cannabinoid products or cannabinoid-related devices may be established only by that allowed by state statute including but not limited to a valid driver's license or state identification card, a valid military identification card issued by the United States Department of Defense, or by a valid passport.
 - (2) Signage. Notice of the legal sales age and age verification requirement must be posted prominently and in plain view at all times at each location where licensed products are offered for sale. The required signage, which will be provided to the licensee by the city, must be posted in a manner that is clearly visible to anyone who is or is considering making a purchase.
- C. *Samples prohibited.* No person shall distribute samples of any licensed product free of charge or at a nominal cost. The distribution of cannabinoid products as a free donation is prohibited.
- D. *Hours of sales.* No sales of cannabinoid products will be allowed at the licensed premises after 10:00 p.m. and before 8:00 a.m. daily.
- E. *Self-checkout.* No sales of cannabinoid products or cannabinoid-related devices may be completed through self-checkout. A licensee or licensee's clerk must process each transaction at a point of sale.
- F. *Pricing and discounts.* No person shall accept or redeem any coupon, price promotion, or the instrument or mechanism, whether in paper, digital, electronic, mobile, or any other form, that provides any licensed product to a consumer at no cost or at a price that is less than the non-discounted standard price listed by a retailer on the item or on any related shelving, posting, advertising, or display at the location where the item is sold or offered for sale, including all applicable taxes.

1004.007 **Storage and display.** It shall be unlawful for a licensee under this article to allow the sale of cannabinoid products or cannabinoid-related devices by any means where by a customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the cannabinoid product or cannabinoid-related devices between the licensee or his clerk and the customer. All cannabinoid product or cannabinoid-related devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. This section does not apply to exclusive cannabinoid/tobacco stores.

1004.008 **Responsibility.** All licensees under this article shall be responsible for the actions of their employees in regard to the sale, offer to sell, and furnishing of licensed products on the licensed premises, and the sale of such an item by an employee shall also be considered a sale by the license holder.

Nothing in this section shall be construed as prohibiting the city from also subjecting the clerk to whatever penalties are appropriate under this article, state or federal law, or other applicable law or regulation.

1004.009 **Pricing and discounting.**

A. *Prohibition on the sale of cannabinoid products for less than the listed price.* No cannabinoid retailer shall:

- (1) Honor or accept a price reduction instrument in any transaction related to the sale of cannabinoid products to a consumer;
- (2) Sell or offer for sale cannabinoid products through any multi-package discount or otherwise provide a consumer any cannabinoid products for less than the listed price in exchange for the purchase of any other cannabinoid product;
- (3) Sell, sell at a discount, offer for sale, or otherwise provide any product other than cannabinoid products in exchange for or in consideration of the purchase of cannabinoid products;
- (4) Sell for a nominal price or provide free of charge any cannabinoid product or cannabinoid-related devices; or
- (5) Otherwise sell, offer for sale, or provide cannabinoid products for less than the listed price. In addition, cannabinoid retailers must sell, offer for sale, or provide cannabinoid products for the same listed price every day of the week in a given week.

1004.010 **Compliance checks and inspections.** All licensed premises must be open to inspection by the city police or other authorized city official during regular business hours. Unannounced compliance checks will be conducted at least once each calendar year at each location where licensed products are sold to test compliance. Compliance checks must involve persons over the age of 18, but under the age of 21 who attempt to purchase licensed products under the direct supervision of a law enforcement officer or an employee of the licensing authority. The Washington County Sheriff's Department is responsible for meeting the requirements of this section. No person used in compliance checks will attempt to use a false identification misrepresenting the person's age, and all persons lawfully engaged in a compliance check must answer all questions about the person's age asked by the licensee or their employee and must produce any identification, if any exists, for which they are asked. Nothing in this article prohibits compliance checks authorized by state or federal laws for educational, research, or training purposes or required for the enforcement of state or federal law.

1004.011 **Criminal acts.** Unless otherwise provided, the following acts shall be a misdemeanor.

- A. *Sales.* It shall be a violation of this article for any person to sell any cannabinoid products to any person under the age of 21.
- B. *Possession.* It shall be a violation of this article for any person under the age of 21 to have in his or her possession any cannabinoid product. This subdivision shall not apply to persons under the age of 21 lawfully involved in a compliance check.
- C. *Use.* It shall be a violation of this article for any person under age 21 to use any cannabinoid product.
- D. *Procurement.* It shall be a violation of this article for any person under age 21 to purchase or sell or attempt to purchase or sell or otherwise obtain any cannabinoid product and it shall be a violation of this article for any person to purchase or sell to or otherwise obtain such items on behalf of a person under the age of 21. It shall further be a violation for any person to coerce or attempt to coerce a person under the age of 21 to illegally purchase or otherwise obtain or use any cannabinoid product. This subdivision shall not apply to persons under the age of 21 lawfully involved in a compliance check.

1004.012 Violations.

- A. *Administrative penalties.*
 - (1) Licensees. If a licensee, any employee of a licensee, or any other person representing the licensed premises sells licensed products to an individual under the age of 21 or violates any other provision of this article, the licensee shall be subject to an administrative penalty. If a retail establishment has its license suspended pursuant to this article, that retail establishment shall, during the period of suspension, remove all licensed products away from public view. Penalties occurring within a 24-month period will be presumed as follows:
 - (i) *First violation.* Any licensee found to have violated this Chapter shall be charged an administrative penalty of five hundred dollars (\$500.00).
 - (ii) *Second violation.* Any licensee found to have violated this Chapter two (2) times within a thirty-six (36) month period shall be subject to a one thousand dollar (\$1,000.00) administrative penalty.
 - (iii) *Third violation.* Any licensee found to have violated this Chapter three (3) times within a thirty-six (36) month period shall be subject to a two thousand dollar (\$2,000.00) administrative penalty. In addition, a one (1) day suspension of the license shall be imposed.
 - (iv) *Fourth violation.* Any licensee found to have violated this Chapter four (4) times within a thirty-six (36) month period shall have their license revoked. No revocation, suspension or penalty may take effect until the licensee has received notice either personally or by mail of the alleged violation and has been afforded an opportunity for a hearing.

The administrative penalties described above are only presumed and any violation may be subject to stricter penalties when in the judgment of the City Council it is appropriate to do so. Any violation may also be subject to lesser penalties when in the judgment of the City Council it is appropriate to do so. Other mandatory requirements may be made of any penalized establishment, including but not limited to, imposition of license conditions, meetings with the

police department staff to present a plan of action to assure that the problem will not continue, mandatory education sessions with crime prevention staff, or other actions that the City Council deems appropriate.

2. Individuals. A person who sells licensed products to an individual under the age of 21 may be charged an administrative fine of \$50.00. No fine may be imposed until the individual has received notice, served personally or by mail, of the alleged violation and was provided an opportunity for a hearing before the City Council. A decision that a violation has occurred must be in writing.
 3. Fines Established. The fines for violations as listed above may be amended from time to time by the City Council.
- B. *Criminal Penalty.* In addition to any administrative penalties under this article, any person, firm, or corporation violating any of the provisions of this article shall be guilty of a misdemeanor. Nothing in this article shall prohibit the city from seeking prosecution as a misdemeanor in district court for any violation of this article, or in the case of minors, referring the matter to juvenile court.
- C. *Continued violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.
- D. *Defenses.* It shall be an affirmative defense to the violation of this article for a person to have reasonably relied on proof of age as described by state law.

1004.013 Appeal.

- A. *Notice of action.* If the city clerk or designee denies the issuance of a license or revokes a license that has been issued, the applicant must be notified in writing of the decision the reasons for the denial or revocation and the applicant's right to appeal the denial or revocation by requesting, within 20 days of receiving notice of the denial or revocation, a hearing before the city's selected impartial examiner. The city's selected impartial examiner shall hear the appeal within 20 days of the date of the request. The decision of the city's selected impartial examiner can be appealed by petitioning the state court of appeals for a writ of certiorari.

1004.014 Severability. If any section or provision of this ordinance is held invalid, such invalidity will not affect other sections or provisions that can be given force and effect without the invalidated section or provision.

1004.015 Effective date. This article shall take effect from and after its passage and publication as required by law.

1004.016 Interim Moratorium Ordinance.

- A. *Purpose of Moratorium of Cannabis Businesses.* Pursuant to Minnesota Statute Section 342.13 (e), an interim ordinance is hereby adopted authorizing the City to conduct a study regarding the impacts of Cannabis Businesses and uses to determine whether and what revisions to the Willernie City Code of Ordinances or other regulations on the time, place, and manner of

Cannabis Business operations are warranted for the purpose of protecting the planning process and the health, safety, and welfare of the citizens of Willernie.

- B. *General Provisions of Moratorium on Cannabis Businesses.* The interim ordinance prohibits the operation of Cannabis Business within the City of Willernie.
- C. *Duration of Moratorium on Cannabis Businesses.* This ordinance will be effective until January 1, 2025, pursuant to Minnesota Statute Section 342.13 (e).
- D. *Moratorium of Issuance of Licenses for Willernie Code Chapter 1004.* Pursuant to Minnesota Statute Section 462.355 subd. 4, an interim ordinance is hereby adopted authorizing the City to conduct a study regarding the impacts of issuing Cannabinoid Product Business Licenses and uses to determine whether and what revisions to the Willernie City Code of Ordinances or other regulations on the time, place, and manner of Cannabinoid Product Business operations are warranted for the purpose of protecting the planning process and the health, safety, and welfare of the citizens of Willernie.
- E. *General Provisions of Moratorium on Issuance of Licenses.* The interim ordinance prohibits the issuance of licenses under Willernie City Code Chapter 1004.
- F. *Duration of Moratorium on Issuance of Licenses.* This ordinance will be effective until September 20, 2024, pursuant to Minnesota Statute Section 462.355 subd. 4.
- G. *Moratorium of Hemp Businesses.* Pursuant to Minnesota Statute Section 462.355 subd. 4, an interim ordinance is hereby adopted authorizing the City to conduct a study regarding the impacts of Hemp Businesses and uses to determine whether and what revisions to the Willernie City Code of Ordinances or other regulations on the time, place, and manner of Hemp Business operations are warranted for the purpose of protecting the planning process and the health, safety, and welfare of the citizens of Willernie.
- H. *Duration of Moratorium on Hemp Businesses.* This ordinance will be effective until September 20, 2024, pursuant to Minnesota Statute Section 462.355 subd. 4.
- I. *Enforcement.* Violation of any portion of this ordinance shall be a misdemeanor punishable by imprisonment for up to 90 days and a fine of \$1,000.00 or both, plus the costs of prosecution. Each day that a violation occurs shall be considered a separate offense. The City may enforce any provision of this ordinance by mandamus, injunction or any other appropriate civil remedy in any court of competent jurisdiction.
- J. *Separability.* Every section, provision or part of this ordinance is declared separable from every section, provision or part of this ordinance. If any section, provision, or part of this ordinance is adjudged to be invalid by a court of competent jurisdiction, such judgment shall not invalidate any other section, provision, or part of this ordinance.

1004.017 Moratorium Effective Date. This ordinance shall be in full force and effect from and after its passage and publication according to law.

GARBAGE AND REFUSE

1101 PURPOSE

1102 BURNING PROHIBITED

1103 WASTE AND REFUSE

1101 PURPOSE

1101.010 PURPOSE. The purpose of this Ordinance is to maintain and protect the public health and sanitation by the removal of garbage and rubbish from residences in the City of Willernie; to prevent the unregulated and unrestricted hauling of garbage and rubbish by other means than through the garbage and rubbish collection system established by this Ordinance so as to eliminate the dispersal of garbage and rubbish along with streets, roads and other properties in and near the City; and to protect the public health, safety, welfare and convenience within the City by prohibiting open burning within the City.

1102 BURNING PROHIBITED

1102.010 GENERAL PROHIBITION ON BURNING. All burning outdoors of any kind, manner and form is prohibited with the exception of recreational fires. A recreational fire is defined as a fire set for cooking, warming, or ceremonial purposes, which is not more than three feet in diameter by three feet high, measuring from the ground to the top of the flames, and has had the ground five feet from the base of the fire cleared of all combustible material.

1102.020 PROHIBITION ON BURNING CERTAIN MATERIALS. It is unlawful to engage in or allow the outdoor burning of any material, waste, product, yard waste, leaves, grass, or fuel except propane, butane, kerosene, natural gas or charcoal when used for heating, cooking, or construction purposes, or firewood as defined below when used for recreational purposes.

1102.030 OUTDOOR BURNING ALLOWED. Firewood is defined as untreated or uncoated natural wood, which is greater than two (2) inches and less than eight (8) inches in diameter, and less than twenty (20) inches in length. Firewood may be burned outdoors subject to the following conditions:

- A. Firewood may only be burned within a non-combustible containment less than three (3) feet in diameter, not less than eight (8) inches in depth or height.
- B. A means of controlling or extinguishing the fire (including an approved fire extinguisher, water supply or ample supply of sand) must be immediately available.

- C. The fire must be constantly supervised by an adult until fully extinguished.
- D. The fire may not be within fifteen (15) feet of a structure, property line, or combustible material.
- E. The fire may not be lit after 11:00 p.m. Sunday through Thursday, after midnight on Fridays, Saturdays, and national holidays.
- F. Any outdoor burning which imposes smoke into a neighboring structure shall be extinguished.

1103 WASTE AND REFUSE

1103.010 **DEFINITIONS.** The following words and phrases are defined for the purposes of this Section:

- A. “Refuse” means all waste products which are wholly or partly composed of such materials as garbage, rubbish, waste materials, or any other such substance which may become a nuisance and/or a health hazard.
- B. “Designated Recycling Program” means a program for the collection and recycling of recyclable materials which is instituted, sponsored, authorized, or controlled by the City of Willernie.
- C. “Commercial” means any business, firm, corporation, public or non-profit entity.
- D. “Recycler” means an authorized recycler with which the City holds a valid recycling contract.
- E. “Multiple Family Dwelling” means a dwelling containing three (3) or more dwelling units designed for occupancy by three (3) or more families living independently of each other.
- F. “Recyclable Materials” means materials that are separated from refuse for the purpose of recycling.
- G. “Residence” means any single family or two (2) family dwelling designed exclusively for occupancy by one (1) or two (2) families living independently of each other.
- H. “Scavenging” means the unauthorized collection of recyclable materials that have been set out by a person specifically for curbside recycling pickup.

I. "Compost" means a mixture of decayed organic material.

J. "Composting" means any above ground microbial process that converts yard waste to organic soil amendment or mulch by decomposition of material through an aerobic process providing adequate oxygen and moisture.

K. "Garden" means a ground area for cultivation of flowers, vegetables, or shrubs.

L. "Rear Yard" means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building

M. "Yard Waste" means grass/lawn clippings, leaves, weeds, garden, soft-bodied, small non-woody shrub trimmings or twigs that are 1/4 inch diameter or less, pine cones, and needles.

N. "Refuse Hauler" means a person or company holding a valid license from the City for the purpose of collecting refuse.

1102.030

REFUSE

- A. Disposal of Refuse. Every owner or occupant of a residence, or the owner, manager, or occupant of a multiple family dwelling or commercial building must utilize the refuse hauler licensed and contracted to do business in the City for collection and disposal of refuse.
- B. Preparation of Refuse for Disposal. Refuse must be prepared for disposal in the following manner:
- i. Refuse must be drained of liquids, bagged, and placed in containers for collection by a licensed refuse hauler.
 - ii. Yard waste must be placed in bags or bundles not exceeding three (3) feet in any dimension and securely fastened to avoid spillage.
 - iii. No person shall place explosives, highly flammable materials, or hazardous waste in refuse containers.
- C. Storage and Disposal of Refuse.
- i. Storage of Refuse in Containers.

- a. Every person is responsible for the storage of all refuse accumulated at his or her residence or building. Such refuse shall be stored in a container fulfilling the requirements of this Section.
- b. Every owner of a multiple family dwelling and every occupant of a single family or two-family dwelling shall supply facilities for the sanitary and safe storage of waste.

ii. Container Requirements.

- a. Type. All refuse shall be stored in the containers provided by the hauler licensed and contracted by the City. Property owners and occupants must keep the containers in good condition, or request replacement containers if needed from the licensed hauler.
- b. Size. Refuse haulers shall provide variable volume/weight- based service with container options.
- c. Condition. All containers shall be maintained in such a manner as to prevent the creation of nuisances, pollution, insect breeding, or menaces to public health or safety. Containers that are broken or otherwise fail to meet the requirements of this provision must be replaced with acceptable containers.
- d. Exception. Yard waste may be stored in closed containers that do not meet the requirements of this provision as long as such yard waste is not creating a public nuisance.

iii. Placement. Every property owner or occupant shall maintain its refuse and recycling containers as follows:

- a. The containers must be kept on the owner or occupant's property. The containers must be kept upright and in a manner to prevent public nuisance. For collection purposes, the container(s) shall be placed immediately behind the street edge at the front property line after 5:00 p.m. the night before collection and shall be removed by 11:00 p.m. the day of collection.

- b. Exception. Nothing in this subdivision is intended to supersede any other requirement in the City Code for the placement, storage, and screening of refuse and recycling containers on commercial and multi-family properties.

D. Collection of Refuse.

- i. Regulation of Collection. All refuse in the City shall be collected and removed under the supervision of the licensed refuse hauler.
- ii. Collection Times and Scheduling. The collection of refuse shall be made only between the hours of 6:00 a.m. and 6:00 p.m. Monday through Saturday. No collection shall be made on Sunday. Each licensed refuse hauler shall consent to and follow the schedule outlined herein.

E. Refuse Hauler License Licensing.

- i. License Required. It shall be unlawful for any person to collect refuse in the City without having first secured from the City Council a license to do so.
- ii. Application for License.
 - a. An applicant for a refuse hauler's license shall apply for the license on the form provided by the City Clerk.
 - b. The applicant must agree to:
 - 1. Follow a long-range plan of disposal in conformity with State pollution control agency regulations;
 - 2. Use tandem axels or flotation tires to reduce the per-axel weight of all trucks for collection of refuse;
 - 3. Provide maps of service routes configured so that customers on load-sensitive streets will be among the first served on such routes;
 - 4. Provide collection containers as required under this Section;

5. Provide collection of yard waste to customers upon their request;
6. Provide information that may be required of the City by county, metropolitan, state, or federal government requirements; and
7. Provide a covered truck so constructed that the contents will not leak or spill from it in which all refuse collected shall be conveyed to an approved disposal facility. The truck used shall be kept clean and as free from offensive odors as possible.

iii. Insurance. An applicant for a refuse hauler license shall provide a certificate of public liability insurance in the amounts specified in this section for collecting refuse. Such insurance policy shall be subject to the approval of the City Clerk. The applicant must also provide a comprehensive general policy of liability insurance with minimum coverages as stated. At a minimum, the insurance policies shall conform to the following requirements:

a. General liability in the following amounts:

1. Bodily injury per occurrence, or combined single limit, five hundred thousand dollars (\$500,000.00); and
2. Property damage, two hundred and fifty thousand dollars (\$250,000.00).

b. Auto liability in the following amounts:

1. Property damage or combined single limit, five hundred thousand dollars (\$500,000.00); and
2. Bodily injury in the following amounts:
 - A. Per person, two hundred and fifty thousand dollars (\$250,000.00); and
 - B. Per occurrence, five hundred thousand dollars (\$500,000.00).

iv. Approval of License. The application shall be submitted to the City Clerk with the license fee as provided in the Fee Schedule set by Resolution of the City Council. Upon finding that the applicant

has complied with all the requirements of this Section and has paid the requisite license fee, the license shall be granted to the applicant.

F. Prohibitions.

- i. Accumulation. No person shall allow or permit any accumulation of refuse on their premises.
- ii. Littering. No person shall place, throw, or deposit any refuse in any street, alley, public or private property, or in any body of water, or in such a manner that it may be carried or deposited by the elements upon any public or private property located within the City with the exception of composting as permitted in Subpart G.
- iii. Burying of Refuse. No person shall bury any refuse on any public or private property except in an approved sanitary landfill.
- iv. Unauthorized Deposit of Refuse. No person shall deposit refuse into a refuse container owned by another without the other's permission.

G. Composting. Composting is permitted only in residential properties with the following conditions:

- i. Permitted Materials. Persons shall only use the following materials when engaged in composting: yard waste, straw, fruit and vegetable scraps, coffee grounds, eggshells, and commercially available composting ingredients. All composting materials, other than commercially available composting ingredients, must be generated from the site on which the composting is located. It is unlawful to use any other material for composting.
- ii. Composting Container Requirements. All composting materials shall be contained in a closed container constructed of wood, wire mesh, a combination of wood and wire mesh, or commercially fabricated compost bins designed to contain composting materials.
- iii. Composting Container Size. Composting on lots of ten thousand four hundred (10,400) square feet or less shall be conducted in containers which do not exceed a total of one hundred and fifty (150) cubic feet in volume and five (5) feet in height. Composting on lots greater than ten thousand four hundred (10,400) square feet shall be conducted in containers which do not exceed a total

of two hundred and fifty (250) cubic feet in volume and five (5) feet in height.

- iv. Location. Composting containers shall be located in the rear yard of the property, and be at least two (2) feet from the property line and no closer than fifty (50) feet to any adjacent habitable building, other than the lot owner's own home.
- v. Maintenance. The compost must be periodically mixed and moistened to incorporate air, properly mix wet and dry material, to promote rapid biological degradation, to provide for adequate air circulation, and to prevent objectionable odors to adjacent properties.

1. Recycling.

- A. Every owner or occupant of a residence, or the owner, manager, or occupant of a multiple family dwelling or commercial building must utilize the recycling hauler licensed and contracted to do business in the City for collection and disposal of refuse.
- B. Designated Residential Recycling Program. The City shall contract within one recycler for the collection of recyclables from all single-family homes.
- C. Commercial and Multiple Family Dwelling Recycling. The owner of a multiple family dwelling or a commercial building shall provide occupants of such buildings with the opportunity to recycle recyclable materials. Refuse haulers servicing commercial and multiple family dwellings shall provide at least monthly recycling services to the buildings that they service.
- D. Containers.
 - i. Provision. Every person providing recycling services to a building in the City shall supply one or more containers sufficient to hold all recyclable materials which may accumulate between the times of collection at the building.
 - ii. Placement. All containers shall be located and stored in the same manner as refuse containers.
- E. Ownership of Recyclable Materials. All recyclable materials placed in an alley or at a curb for collection shall be owned by the person(s) or

household(s) who placed the recyclable materials for collection by a recycler until the materials are collected by the recycler, at which time they become the property of the recycler.

F. Scavenging.

- i. Purpose. This Subpart is designed to prevent the unauthorized collection of recyclable materials which are set out as part of a designated recycling program. Unauthorized collection or “scavenging” may reduce the volume of material collected as part of a designated program and thereby threaten the economic viability of the authorized program. Scavenging may also cause confusion among participating residents and thereby disrupt the publicity and educational processes of an authorized program.
- ii. Unauthorized Collection. No person other than an authorized provider of recycling services shall take or collect recyclable materials set out for collection as part of a designated recycling program.
- iii. Penalty. The first violation of this section shall constitute a petty misdemeanor. The second and subsequent violations shall be misdemeanors.

- 1200 SEWER REGULATIONS AND UTILITY ACCOUNTS, RATES, COLLECTION OF DELINQUENT CHARGES
- 1201 SUPERVISION AND PLUMBING STANDARDS
- 1202 PERMITS AND CONNECTION CHARGE
- 1203 BOND
- 1204 PERMIT
- 1205 CONSTRUCTION REQUIREMENTS
- 1206 INDEPENDENT SYSTEMS
- 1207 REPAIR OF PUBLIC RIGHT-OF-WAY
- 1208 LICENSING/PERMITTING
- 1209 OPERATION OF SYSTEM
- 1210 CITY WATER AND SEWER ACCOUNTS, RATES, COLLECTION OF DELINQUENT CHARGES
- 1201 SUPERVISION AND PLUMBING STANDARDS
- 1201.010 **Inspection.** The City Plumbing Inspector shall supervise all house sewer connections made to the municipal sanitary sewer system and excavations for the purpose of installing or repairing the same.
- 1201.020 **Plumbing Code.** Except as specifically stated herein, the City Plumbing Inspector shall follow and enforce the provisions of the Minnesota Plumbing Code as adopted by the Minnesota State Board of Health July 20, 1927, together with all amendments thereto.
- 1202 PERMITS AND CONNECTION CHARGE
- 1202.010 **Permit Application.** Any person desiring a connection to the municipal sanitary sewer system for property not previously connected with the system shall apply to the City for a permit therefor. The application shall be submitted on a form furnished by the City Plumbing Inspector and shall be accompanied by plans, specifications and such other information as is desired by the City Plumbing Inspector, together with a permit and

inspection fee as set from time to time by Resolution of the City Council. All costs and expenses incident to the installation and connections shall be borne by the owner and the owner shall indemnify the City for any loss or damage that may, directly or indirectly, be occasioned by the installation of the sewer connection, including restoring streets and street surfaces.

1202.020 **Permit Eligibility.** Permits shall be issued only to such persons who are duly licensed by the State to engage in the business of plumbing who have filed with the municipality the bond and insurance certificates required herein, provided, however, that permit may be issued to any person who is duly licensed by the State as a House Sewer Contractor and who has filed with the municipality the bonds and insurance certificates required herein for building and repairing that portion of the house or building sewer extending from the property line to the main sewer or other outlet.

1203 **BOND**

1203.010 **Bond Required.** Before any permit required hereunder is issued, the licensee applying therefore shall file with the City Clerk the bond and insurance certificate as required by the schedule as established by Resolution of the City Council from time to time.

1204 **PERMIT**

1204.010 **Expiration of Permit.** If construction is not commenced within 60 days after the issuance of the permit, said permit shall be cancelled and the permit fee forfeited.

1204.020 **Connection Charge.** A connection charge with the amount to be determined from time to time by the City Council and/or the Metropolitan Council payable on or before issuance of a permit shall be required for each sewer service connection.

1205 **CONSTRUCTION REQUIREMENTS**

The following materials and construction methods, and none other, shall be used in making sewer connection to the municipal sewer system.

1205.010 **Materials.** All pipe shall conform to federal standards and shall meet current Minnesota Code. All pipe shall be at least four inches in diameter and clay sewer pipe shall be at least six inches in

diameter. In case the grade of the pipe is less than 1/8 inch per foot, the minimum diameter of the pipe shall be six inches irrespective of the type of pipe used.

1205.020 **Joints and Connections.**

Allowed materials:

- (a) Cast Iron Pipe;
- (b) Plastic Pipe.

1205.030 **Grades.** Unless otherwise authorized, all house sewers shall have a grade of not less than 2% per foot. The contractor shall check grades before construction proceeds. Wherever possible, the connecting sewer shall join the building at an elevation which is below the basement floor of such building.

1205.040 **Alignment.** No connecting sewer shall contain bends or a combination of bends which at any point shall be greater than 45 degrees, and no more than two bends, regardless of angle, shall be permitted in any single house connection, except where manholes or cleanouts are constructed at such points and in such manner as directed by the City Inspector. No connecting sewer shall be laid parallel to any bearing wall or footing unless further distant than three feet from any such bearing wall or footing. No connecting sewer shall be laid within twenty feet of any existing wall.

1205.050 **Trenching and Backfilling.** All excavations shall be open trench work unless otherwise authorized by the City Inspector. The foundation in the trench shall be formed to prevent any subsequent settlement of the pipes.

If the foundation is good and firm earth, the earth shall be pared or molded to give a full support to the lower third of each pipe. Bell holes shall be dug to provide ample space for pouring of joints. Care must be exercised in backfilling below the centerline of the pipe in order to give it proper support. Backfilling shall not be done until the section to be backfilled has been inspected, air tested, and approved by the City Inspector.

1205.060 **Use of Old House Sewers.** Old house sewers or portions thereof may be approved for use by the City Inspector. The City Inspector may request that the old sewer be excavated for the purpose of facilitating inspection. No cesspool or septic tank shall be connected to any portion of a house sewer that is also laid across or over any existing cesspool or septic tank, the existing cesspool or septic tank shall first be pumped clean and filled with earth to the surrounding ground level.

1205.070 **Connections at WYE Only.**

- (a) Every connecting sewer shall be connected to the municipal sewer system at the WYE designated for the property served by the connection, except where otherwise expressly authorized by the City Inspector. All connections made at points other than the designated WYE shall be made only under the direct supervision of the City Inspector and in such manner as directed.

1205.080 **Tunneling.** Tunneling is permissible in yards, courts or driveways of any building site. When pipes are driven, jacked, or augered, the drive pipe shall be at least one size larger than the pipe to be laid.

1205.090 **Existing Drainage and Plumbing Systems.** Prior to connection to the public sanitary sewer system, the plumbing inspector shall examine the existing drainage system and the interior plumbing system. All such systems shall conform to the requirements of this ordinance and the requirements of the Minnesota Plumbing Code. In the event that such drainage system or plumbing system is determined to be nonconforming to the above requirements, the contractor or owner shall do whatever corrective work may be necessary before final hookup to the public sanitary sewer system is made. The decision of the plumbing inspector, as to the extent of corrective work to be done in each individual case to conform to the above requirement, shall be final.

1205.100 **Cleanouts.** If any sewer service shall be 100 feet or more from the foundation to the public sewer main, an accessible cleanout must be installed, every 100 feet of the total lay of the sewer.

All workmanship shall be of good quality and no solid matter shall be left in any pipe where it may enter sewer system and if so left the cost of removing such shall be charged against the person obtaining the permit and considered improper work under the provisions of this Ordinance.

1206 **INDEPENDENT SYSTEMS**

1206.010 **Separate Systems.** The drainage and plumbing system of each new building and of new work installed in an existing building shall be separate from and independent of that of any other building except where provided in Section 1206.020 hereof, and every building shall have an independent connection with a public sewer when such is available.

1206.020 **Exception.** Where one building stands to the rear of another building 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 drain from the front building may be extended to the rear building and the whole will be considered as one building drain, after approval by the City and Inspector. Where such a building drain is extended, a cleanout shall be provided immediately outside the rear wall of the front building unless otherwise authorized.

1207 REPAIR OF PUBLIC RIGHT-OF-WAY

1207.010 **Restoration.** No connection to the municipal sanitary sewer system shall be finally approved until all streets, pavements, curbs and boulevards or other public improvements thereon have been restored to their former condition to the satisfaction of the City Inspector.

1208 LICENSING/PERMITTING

1208.010 **Issuance.** All matters pertaining to the permits for house sewer contractors shall be vested in the City Council and any such agent which the Council may from time to time appoint, which shall hereafter conduct such examinations and the City Clerk shall issue such permits as are hereinafter provided.

1208.020 **Definition.** The term “House Sewer Contractor” shall be understood to indicate any person engaged in the business of building or repairing that portion of the house or building sewer extending from the property line to the main sewer or other outlet, provided, however, a licensed house sewer contractor under the supervision of a licensed master plumber may also build and repair that portion of the house building sewer extending from the property line to the house or building upon the property.

1208.030 **Examination.** Any person desiring a permit to perform as a House Sewer Contractor in the City of Willernie shall make application to the City Clerk and shall, at such time and place as the City Council may designate, be required to submit to such examination as to qualifications to work at or engage in the business as a House Sewer Contractor as the Board may deem advisable.

1208.040 **Method of Examination.** The said appointed agent shall examine the applicant as to his/her practical knowledge of the work incidental to the construction of house sewer connections and, if satisfied as to the competency of such Applicant, the agent may recommend to the City Council that a permit

be issued.

The said agent shall determine that the applicant has a state license or is the owner of the property before the permit shall be issued. The permit issued to said applicant shall authorize him/her in the business of house sewer contracting; provided, however, that any duly licensed master plumber who has carried on this trade as master plumber for a period of three years, may upon application to the City Council, without examination, be granted a permit upon payment of the regular license fee and the execution and filing of the required bond, and insurance certificate.

1208.050 **Bond.** A House Sewer Contractor, before he or she shall be allowed to engage in business, shall give a surety to the City of Willernie in the amount established by Resolution of the City Council.

1208.060 **Term.** Each license is in effect for one year and expires one year from the date it is issued.

1208.070 **Non-Transferable.** Permits are non-transferable. No person holding a license shall allow his name to be used by any other person for the purpose of obtaining permits or to do any of the work for which said license is issued.

1208.080 **Revocation.** The City Council shall have power to revoke any permit upon satisfactory proof that the holder of said license has willfully violated any of the provisions of this ordinance.

A revoked permit shall not be reinstated in any manner for a period of six months.

The failure to pay, within sixty days, any legitimate claim the City of Willernie may have against a Contractor shall constitute cause for Revocation of permit.

1209 OPERATION OF SYSTEM

1209.010 **General Operation.** The entire municipal sanitary sewer system shall be operated as a public utility and convenience from which revenues will be derived, subject to the provisions of this Ordinance.

1209.020 **Connections with Sewer Required**

- (a) Per Minnesota Code, any building(s) or structure(s) used for human habitation and located on property adjacent to a sewer main, or in a block through which the system extends, shall be connected to the municipal sanitary sewer system.
- (b) All buildings hereafter constructed within the City of Willernie on property adjacent to a sewer main or in a block through which the system extends, shall be provided with a connection to the municipal sanitary sewer system for the disposal of all human wastes.
- (c) It shall be the responsibility of the consumer or property owner of record to properly maintain the sewer service from the sewer main to the house or building. Frozen, damaged, obliterated, clogged, or otherwise defective service lines and appurtenances thereto shall be restored to a proper functional condition within a reasonable time set by the City. Failure to repair or restore the service connection shall be cause for the City to perform the work and charge the cost to the property served.

1209.030 Types of Wastes Prohibited

- (a) Except as hereinafter provided, it shall be unlawful to discharge any of the following described waters or wastes into the municipal sanitary sewer system:
 - (1) Any liquid or vapor having a temperature higher than 150 degrees F.
 - (2) Any water or waste containing more than 100 parts per million by weight of fat, oil or grease.
 - (3) Any gasoline, benzene, naphtha, fuel oil or other inflammable or explosive liquid, solid or gas.
 - (4) Any garbage\.
 - (5) Any wipes (even if advertised as “flushable” or “disposable”), ashes, cinders, sand, mud, straw, shavings, metal, diapers, glass, rags, feather, plastic, wood, paunch manure, or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewer system.
 - (6) Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process or which constitutes a hazard to humans or animals or creates any hazard in the

receiving waters of the sewage treatment plant.

- (7) Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.
- (8) Any noxious or malodorous gas or substance capable of creating a public nuisance.
- (9) Grease, oil and sand interceptors shall be provided when, in the opinion of the City Engineer, they are necessary for the proper handling of liquid wastes containing grease in excessive amount or any inflammable wastes, sand or other harmful ingredients; except that such interceptors shall be of substantial constructions, watertight and equipped with easily removable covers which, when bolted in place, shall be gas-tight and water-tight. All grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times.

1209.040 Discharge of Surface Waters Prohibited.

- (a) It shall be unlawful to discharge or cause to be discharged into municipal sewer system, either directly or indirectly, any roof, storm, surface or ground water of any type, or kind, or water discharged from any air conditioning unit or system.
- (b) If a sewer service connection is such that gravity flow can be had to the public sewer main and a sump pump is presently used, said sump pump shall be disconnected, discontinued and removed from service.

1209.050 Tampering With Municipal Sewer System Prohibited.

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 municipal sewer system.

1209.060 Certain Connections Prohibited.

No buildings located on property lying outside the limits of the City of Willernie shall be connected to the municipal sanitary sewer system unless express authorization therefore is obtained from the Council of the City of Willernie.

1209.070 **Entry Upon Private Property.**

The City Engineer and other duly authorized agents of the City bearing proper credentials and identification shall at reasonable times be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing in connection with the operation of the municipal sanitary sewer system.

1210 **CITY WATER AND SEWER ACCOUNTS, RATES, COLLECTION OF DELINQUENT CHARGES**

1210.010 **Purpose**

For the purpose of providing funds to meet the cost of administering, operating and maintaining water mains, sewers, water and sewer systems and other facilities for the providing of water and disposing of sewage and industrial waste, and to pay for the construction, reconstruction, repair, enlargement, improvement, or other obtainment of same, the City of Willernie will levy and assess upon each lot, parcel of land, building, or premises having connection with the public water main and/or sewer system of the City as provided herein.

1210.020 **Definitions.**

For the purposes of this Ordinance, the following capitalized terms listed in alphabetical order shall have the following meanings:

- (a) **Account.** A record of utility services used by each property and the periodic costs for those utility services.
- (b) **City.** The City of Willernie, County of Washington, State of Minnesota.
- (c) **City Utility System.** Facilities used for providing public utility service owned or operated by City or agency thereof, including sewer, storm sewer and water service.
- (d) **Utility Rate Schedule.** A schedule of all utility rates and charges set by ordinance of the City.
- (e) **Waterworks System.** Water and sewer transmission pipes, lines, fixtures, meters and all necessary equipment and appurtenances owned or operated by the City utility system for the purpose of providing water and sewer services for public or private use.

1210.030 **Accounts.**

All accounts shall be carried in the name of the owner who personally applied for such service. The owner shall be liable for water and sewer services supplied to the property, whether he or she is occupying the property or not, and any unpaid charges shall be a lien upon the property. All unpaid balances will be certified to County taxes if not paid by December 28th of each year.

1210.040. Billing.

Water, sanitary sewer, and storm sewer charges shall be billed on one bill as applicable to each account. All charges for water, sanitary sewer, and storm sewer shall be due upon receipt and considered delinquent after the tenth day of the following month. All bills shall contain the title, address and telephone number of the official in charge of billing; the title, address and phone number shall be clearly visible and easily readable. Bills shall be mailed to the customers on or before the fifth day of January, April, July, and October of each year and specify the water consumed and the sanitary sewer, and storm sewer charges in accordance with the current fee schedule set by ordinance of the City council.

1210.050 Utility Rate Schedule.

(a) The utility rate schedule shall be adopted annually by ordinance of the City Council.

(b) The City Council ordinance setting out the utility rate schedule shall also establish the number of certification cycles per year. At least one certification cycle will be timed each year to coincide with Washington County's requirements for certification to the following year's taxes. Additional certification cycles may be set in the annual rate schedule ordinance. Each year, the council shall establish one or more certification cut-off dates. All city utility accounts, unless exempt for other legal reason, which have been billed a delinquent bill and remain unpaid as of the certification cut-off date shall have the balance on the account including in a preliminary certification list.

1210.060 Delinquent Accounts.

(a) **Penalties.** A late payment penalty of 10% percent shall be assessed on a cumulative basis on all accounts with a past due balance.

(b) **Shut-off for nonpayment.** Water shall not be shut-off until notice and an opportunity for a hearing before the city council or an employee designated by the city council have provided to the occupant and owner of the premises involved.

If any bill is not paid by the due date listed on the bill, a second bill will be mailed and shall state that if payment is not made within ten days of the mailing of the second bill, water service to the premises may be shut off for nonpayment.

The second bill and shut-off notice contain the title, address and telephone number of the official in charge of billing; the title, address and phone number shall be clearly visible and easily readable.

The notice shall also state that the any occupant or owner has the right to a hearing before the water service is shut off. The owner or occupant may be represented in person and by counsel or any other person of his or her choosing. The owner or occupant may present orally or in writing his or her complaint to the city official in charge of utility billing. This official shall be authorized to order continuation of the customer's service and shall have the authority to adjust the customer's bill or enter into a mutually agreeable payment plan.

If an occupant or owner requests a hearing, the water shall not be shut off until the hearing process is complete.

If a customer fails to pay and fails to request a hearing under this part, service will be shut off at the time specified in the notice but not until the charges have been due and unpaid for at least 30 days.

1210.070 **Certification for collection with taxes.** Unpaid charges on sewer and water accounts shall not be certified to the county auditor until notice and an opportunity for a hearing have been provided to the owner of the premises involved. The notice shall be sent by first class mail and shall state that if payment is not made before the date for certification, the entire amount unpaid plus penalties will be certified to the county auditor for collection as other taxes are collected. The notice shall also state that the occupant may, before such certification date, attend or schedule a hearing on the matter to object to certification of unpaid utility charges.

In addition to any penalties provided for in this ordinance if any person, firm or corporation fails to comply with any provision or this ordinance, the Council or any city official designated by it, may institute appropriate proceedings at law or at equity to procure payment.

1210.080 **Optional payment before certification.** The owner of the property shall have the option of paying the balance due on the account until the date the notice of the certification hearing is mailed. After the date the notice of certification hearing is mailed, payments will still be accepted but will include unpaid penalties.

1210.090 **Hearing required.** A hearing shall be held on the matter by the City Council. Property owners with unpaid utility charges shall have the opportunity to object to the certification of unpaid charges to be collected as taxes are collected. If, after the hearing, the City Council finds that the amounts claimed as delinquent are actually due and unpaid and that there is no legal reason why the unpaid charges should not be certified for collection with taxes in accordance with this ordinance, the City may certify the unpaid charges to the county auditor for collection as other taxes are collected.

1210.100 **Hearing options.** For each certification sustained, the property owner shall have the following options after the hearing,

(a) To pay the certified delinquent amount after the hearing date, but before the county certification deadline, with interest at the rate set in the adopted rate schedule.

(b) To pay the certified charges as billed to them by Washington County on their property tax statement with a collection term of one year.

1210.110 **Delivery to County.** Fifteen days after the hearing, the certified roll, minus any payments, shall be delivered to Washington County.

1210.120 **Other Remedies.**
In addition to any procedures or penalties provided for this ordinance if any person, firm or corporation fails to comply with any provision of this ordinance, the council or any city official designated by it may institute appropriate proceedings at law or at equity to procure payment and or enforce the provisions of this ordinance.

1210.130 **Property Outside City.** In the event any lot, parcel of land, building or premises discharging sanitary sewage, industrial wastes, water or other liquids into the sewer system, directly or indirectly, is situated outside of the City limits, then in each such case the sewer service charge shall be fixed and determined by the City Council in such manner and by such method as they may find to be just, equitable and practicable in the light of attendant conditions and circumstances in each case.

1210.140 **Special Meter.** When any lot, parcel of land, building or premises discharging sanitary sewage, industrial wastes, water or other liquids, directly or indirectly, in the sewer system, is not a user of water supplied from the City water system, the amount of water used thereon or therein shall be measured by a meter acceptable to the City.

Chapter 1300

1300. CHARITABLE GAMBLING

1301. Adoption of State Code by Reference. The provisions of Minn. Stat. Section 349, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, provisions relating to sales, and all other matters pertaining to lawful gambling are hereby adopted by reference and are made a part of this ordinance as if set out in full. It is the intention of the Council that all future amendments of Minn. Stat. Section 349, are hereby adopted by reference or referenced as if they had been in existence at the time this ordinance was adopted.

The Council is authorized by the provisions of Minn. Stat. § 349.213, as it may be amended from time to time, to impose, and has imposed in this ordinance, additional restrictions on gambling within its limits beyond those contained in Minn. Stat. Section 349, as it may be amended from time to time.

1302. Purpose. The purpose of this ordinance is to regulate lawful gambling within the City of Willernie, to prevent its commercialization, to ensure the integrity of operations, and to provide for the use of net profits only for lawful purposes.

1303. Definitions. In addition to the definitions contained in Minn. Stat. § 349.12, as it may be amended from time to time, the following terms are defined for purposes of this ordinance:

- a. *BOARD*, as used in this ordinance, means the State of Minnesota Gambling Control Board.
- b. *CITY*, as used in this ordinance, means the City of Willernie.
- c. *COUNCIL*, as used in this ordinance, means the City Council of the City of Willernie.
- d. *LICENSED ORGANIZATION*, as used in this ordinance, means an organization licensed by the Board.
- e. *LOCAL PERMIT*, as used in this ordinance, means a permit issued by the city.
- f. *TRADE AREA*, as used in this ordinance, means activities and/or Organizations within the boundaries of the cities of Willernie and Mahtomedi.

1304. Applicability. This ordinance shall be construed to regulate all forms of lawful gambling within the city except bingo conducted within a nursing home or a senior citizen housing project or by a senior citizen organization if the prizes for a single bingo game do not exceed \$10, total prizes awarded at a single bingo occasion do not exceed \$200, only members of the organization, residents of the nursing home or housing project, and their guests, are allowed to play in a bingo game, no compensation is paid for any persons who conduct the bingo, and a manager is appointed to supervise the bingo.

1305. Lawful Gambling Permitted. Lawful gambling is permitted within the city provided it is conducted in accordance with Minn. Stat. §§ 609.75-.763, inclusive, as they may be amended from time to time; Minn. Stat. §§ 349.11-.23, inclusive, as they may be amended from time to time; and this ordinance.

1306. City Council Approval. Lawful gambling authorized by Minn. Stat. §§ 349.11-.23, inclusive, as they may be amended from time to time, shall not be conducted unless approved by the Council, subject to the provisions of this ordinance and state law.

1307. Application and Approval of Permits.

- a. Any organization seeking to obtain a permit shall file with the city clerk an executed, complete application.
- b. Upon receipt of an application for issuance of a permit, the city clerk shall contact the Minnesota Board of Gambling Control to confirm that the applicant is in good standing with the Board, and/or confirm that the applicant does not have any prior license revocations by the Board.
- c. Organizations applying for a permit shall pay the City a \$100 investigation fee. This fee shall be refunded if the application is withdrawn before the investigation is commenced. If approved by the City Council, a licensed organization will be responsible for an annual investigative fee for conducting lawful gambling within the city.
- d. The applicant shall be notified in writing of the date on which the Council will consider the recommendation.
- e. The Council shall by resolution approve or disapprove the application within 60 days of receipt of the application.
- f. The Council shall deny an application for issuance or renewal of a premises permit for any of the following reasons:
 - (i) Violation by the gambling organization of any state statute, state rule, or city ordinance relating to gambling within the last three (3) years.
 - (ii) Violation by the on-sale establishment or organization leasing its premises for gambling of any state statute, state rule, or city ordinance relating to the operation of the establishment, including, but not limited to, laws relating to alcoholic beverages, gambling, controlled substances, suppression of vice, and protection of public safety within the last three (3) years.
 - (iii) Lawful gambling would be conducted at premises other than those for which an on-sale liquor license has been issued.

- (iv) An organization would be permitted to conduct lawful gambling activities at more than one (1) premises in the city.
 - (v) No more than one licensed organization would be permitted to conduct lawful gambling activities at one (1) premises.
 - (vi) Failure of the applicant to pay the investigation fee provided by Subdivision D within the prescribed time limit.
 - (vii) Operation of gambling at the site would be detrimental to health, safety, and welfare of the community.
- g. First priority shall be given to organizations whose main office location is within the corporate limits of the City.

1308. Permit Required. No organization shall conduct lawful gambling excluded or exempted from state licensure requirements by Minn. Stat. § 349.166, as it may be amended from time to time, without a valid permit issued by the Council. This section shall not apply to lawful gambling exempted from local regulation by this ordinance.

1309. Applications for issuance or renewal of a permit shall contain the following information:

- a. Name and address of the organization requesting the permit.
- b. Name and address of the officers and person accounting for receipts, expenses, and profits for the event.
- c. Dates of gambling occasion for which permit is requested.
- d. Address of premises where event will occur.
- e. Copy of rental or leasing arrangement, if any, connected with the event, including rent to be charged to the organization.
- f. Estimated value of prizes to be awarded.

1310. Grounds to Deny Issuance or Renewal of a Permit.

- a. The Council shall deny an application for issuance or renewal of a permit for any of the following reasons:
 - (i) Violation by the gambling organization of any state statute, state rule, or city ordinance relating to gambling within the last three (3) years.
 - (ii) Violation by the on-sale establishment, or organization leasing its premises for gambling, of any state statute, state rule, or city ordinance relating to the operation of the establishment, including, but not limited to, laws relating to

the operation of the establishment, laws relating to alcoholic beverages, gambling, controlled substances, suppression of vice, and protection of public safety within the last three (3) years.

- (iii) The organization has not been in existence for at least three (3) consecutive years prior to the date of application.
- (iv) The organization does not have at least fifteen (15) active and voting members.
- (v) Exempted or excluded lawful gambling will not take place at a premises the organization owns or rents.
- (vi) Exempted or excluded lawful gambling will not be limited to a premises for which an on-sale liquor license has been issued.
- (viii) An organization will have a permit to conduct exempted or excluded lawful gambling activities on more than one (1) premises in the city.
- (ix) More than one licensed, qualified organization will be conducting exempted or excluded lawful gambling activities at any one (1) premises.
- (x) Failure of the applicant to pay the permit fee provided by subdivision 3 within the prescribed time limit.
- (xi) Operation of gambling at the site would be detrimental to health, safety, and welfare of the community.

1311. Term of Permits. Local permits shall be valid for one (1) year after the date of issuance unless suspended or revoked.

1312. Revocation and Suspension of Local Permit. A local permit may be revoked or temporarily suspended for a violation by the gambling organization of any state statute, state rule, or city ordinance relating to gambling.

- a. A license shall not be revoked or suspended until written notice and an opportunity for a hearing have first been given to the permitted person. The notice shall be personally served or sent by certified or registered mail. If the person refuses to accept notice, notice of the violation shall be served by posting it on the premises. Notice shall state the provision reasonably believed to be violated and shall also state that the permitted person may demand a hearing on the matter, in which case

the permit will not be suspended until after the hearing is held. If the permitted person requests a hearing, the Council shall hold a hearing on the matter at least one week after the date on which the request is made. If, as a result of the hearing, the Council finds that an ordinance violation exists, then the Council may suspend or revoke the permit.

- 1313. Display.** All permits issued under state law or this ordinance shall be prominently displayed during the permit year at the premises where gambling is conducted.
- 1314. Notification of Material Changes to Application.** An organization holding a state-issued premises permit or a local permit shall notify the city within ten (10) days in writing whenever any material change is made in the information submitted on the application.
- 1315. Contribution of Net Profits to Fund Administers by City.** Each organization licensed to conduct lawful gambling within the City pursuant to Minn. Stat. § 349.16, as it may be amended from time to time, shall contribute ten percent (10%) of its net profits derived from lawful gambling in the city to a fund administered and regulated by the City. The City shall disburse the funds for charitable contributions as defined by Minn. Stat. § 349.12, subd. 7a, as it may be amended from time to time to activities and/or Organizations within the boundaries of the Trade Area as defined in this Ordinance. Payment under this section shall be made on the last day of each month.
- 1316. Expenditure Within Trade Area.** An organization which receives a permit for lawful gambling within the City shall expend sixty percent (60%) of its expenditures for lawful purposes on lawful purposes conducted or located within the City's Trade Area as defined in this Ordinance.
- 1317. Records and Reporting.** Organizations conducting lawful gambling shall file quarterly (January 1, April 1, July 1, October 1) with the city clerk one copy of all records and reports required to be filed with the Board pursuant to Minn. Stat. 349, as it may be amended from time to time, and rules adopted pursuant thereto, as they may be amended from time to time. The records and reports shall be filed on or before the day they are required to be filed with the Board.
- 1318. Hours of Operation.** Lawful gambling shall not be conducted between 2 a.m. and 8 a.m. on any day of the week.
- 1319. Penalty.** Any person who violates any provision of this ordinance; Minn. Stat. §§ 609.75-609.763, inclusive, as they may be amended from time to time; or Minn. Stat. §§ 349.11-349.21, as they may be amended from time to time; or any rules promulgated under those sections, as they may be amended from time to time, shall be guilty of a misdemeanor and subject to a fine of not more than \$1,000 or imprisonment for a term not to exceed 90 days, or both, plus in either case the costs of prosecution. In addition,

violations shall be reported to the Board and recommendation shall be made for suspension, revocation, or cancellation of an organization's license.

1320. Severability. If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

RENTAL DWELLING LICENSING

1401 PURPOSE, SCOPE, AND DEFINITIONS

1401.010 Purpose and Scope. It is the purpose of this Chapter to assure that rental housing in the City of Willernie is decent, safe, and sanitary and is operated and maintained in accordance with the City's regulations and ordinances. The implementation of a rental dwelling licensing program is a mechanism to ensure that rental housing will not become a nuisance to the neighborhood, will not foster blight and deterioration, and/or will not create a disincentive to reinvestment in the community. The operation of rental housing entails certain responsibilities. Owners of rental housing are responsible to take the reasonably necessary steps to ensure that the citizens who occupy rental dwelling units and the surrounding neighborhoods may pursue the quiet enjoyment of the normal activities of life in the surrounding area that are safe, secure, and sanitary, free from crimes and criminal activity, noise, nuisances or annoyances, free from unreasonable fears about safety of persons and security of property, and suitable for raising children.

1401.020 Definitions. For the purposes of this Chapter, the following terms shall be defined as set forth below:

- A. **Agent.** A person designated in writing by the Owner as the Owner's representative.
- B. **Certificate of Compliance.** A document issued by the City, stating that the dwelling unit has been inspected and is in compliance with applicable property maintenance codes, regulations and ordinances.
- C. **City Designated Agent.** City Building Inspector.
- D. **Dwelling Unit.** A residential accommodation which is arranged, designed, used or intended for use exclusively as living quarters for one family, whether a building or a portion thereof.
- E. **Family.** For purposes of this Section, Family means an individual, or two or more persons each related by blood, marriage, adoption, or foster care arrangement living together as a single household, or a group of not more than six persons not so related, who maintain a common household.
- F. **Occupant.** A person who lives or sleeps in a dwelling unit.
- G. **Owner.** A person who is the recorded or unrecorded owner of the dwelling unit.

- H. Person. An individual, firm, corporation, association, partnership, business, government agency or any other legal entity.
- I. Rent. To permit occupancy of a dwelling unit by a person other than the legal Owner thereof and his/her Family pursuant to a written or unwritten agreement, whether or not a fee is required by the agreement. “Rent” does not mean a housesitting arrangement if the legal Owner has requested the occupant to maintain the dwelling unit during extended periods of the Owner’s absence and the occupant does not pay a fee to the Owner. However, any such housesitting arrangement which exceeds four months during one year does constitute “renting” under this Section.

1402 GENERAL LICENSING PROVISIONS

1402.010 General Licensing Provisions.

- A. License Required. No person shall allow to be rented to another for occupancy any dwelling unit unless the City has issued a rental license for the dwelling unit. The application for a dwelling unit rental license will be reviewed by the City Clerk in accordance with the provisions of this Chapter and other applicable regulations of the municipal code.
- B. License Application. The Owner of a rental dwelling unit shall submit an application for a rental dwelling license on forms provided by the City Clerk. A person who had been issued a rental dwelling license shall give notice, in writing, to the City Clerk, within five (5) business days of any change in the information contained on the license application.
- C. License Fees. Licensing fees shall be prescribed, from time to time, by Council Resolution, and maintained on file in the office of the City Clerk. The required fees shall be submitted along with the application for a new or renewal license. Applications for a renewal license submitted after the license term expiration are subject to a penalty fee as prescribed, from time to time, by Council Resolution.
- D. License Terms. The term of a dwelling unit rental license under this Chapter shall be two years. All dwelling unit rental licenses shall expire on June 1st of the second year following the application, subject to renewal except as otherwise provided herein or in cases of suspension or revocation.
- E. Issuance of License. The City may issue a rental dwelling license only if the dwelling unit is in compliance with the provisions of this Chapter, and the real estate taxes and municipal utility bills for the dwelling unit have been paid. Real estate taxes will not be considered to be due and payable

for the purposes of this Section while a proper and timely appeal of such taxes is pending and is diligently pursued to completion by the licensee.

- F. Renewal of License. A licensee may continue to rent a dwelling unit after the expiration date of the rental license provided the Owner or its Agent had filed with the City Clerk, on or before the expiration date, the appropriate renewal license application and license fee.
- G. Transfer of License. A rental dwelling license shall not be transferable to another person or to another rental dwelling unit.
- H. Resident Agent Required. Owners who do not reside within the counties of Anoka, Carver, Chisago, Dakota, Hennepin, Ramsey, Scott, Washington Counties (the "Metro Area") must appoint an agent who does reside within the Metropolitan area to be responsible for the maintenance of the rental dwelling unit, receipt of service of notice of violation, receipt of compliance order, institution or remedial action to effect such order, and acceptance of all service of process pursuant to law, the City Clerk shall be notified in writing of any change in the identification of the agent within five (5) business days of such change.

1403.010 Condition of License.

- A. Conformance to Laws. No dwelling unit rental license shall be issued or renewed unless the rental dwelling unit and the premises conform to all applicable ordinances of the City. The City Building Inspector is authorized to conduct inspections of rental dwelling units to determine the compliance with the rental housing standards adopted by the City and in accordance with Minnesota law.
- B. Inspections. No Rental dwelling license shall be issued or renewed unless the Owner of the rental unit(s) agrees to permit the inspection of said unit. It shall be the responsibility of the owner or owner's agent to inform tenants of any scheduled inspections. The City reserves the right to perform or require additional inspections if deemed necessary by the City or at the reasonable request of the Tenant.
 - 1. Initial and Routine Inspections. Upon receipt of a complete application for a rental dwelling license, an inspection of the premises shall be conducted thereafter by the City Building Inspector to ensure that the rental dwelling unit and premises is in substantial compliance with all applicable City and State regulations. Prior to conducting an inspection, the City Clerk shall mail notification to the Owner or its Agent and provide reasonable notice of the scheduled inspection date.

2. Complaint-Initiated Inspections. Inspections may be scheduled based on complaints received by the City. The City may conduct inspections based on a complaint received by the City if the substance of the complaint can be verified by a city designated agent or law enforcement.
 - a. Written notification of a complaint-initiated inspection of a property shall be mailed to the owner of the property and/or its agent stating the proposed date and time of the inspection. Such notification shall give a minimum of seven (7) working days' advance notice and the reason for said inspection. Notification shall be sent to the owner and/or its agent of the property via regular mail.
 - b. If the owner and/or agent of the property request a change in proposed date of inspection, such requests must be made within seventy-two (72) hours in advance of the proposed inspection date. It shall be the responsibility of the owner and/or owner's agent to notify the occupants of the property of the scheduled inspection.
 - c. Owner or its agent must be on site at the time of inspection for entry and security purposes.
- C. Access to Premises. Every occupant of a rental dwelling unit shall, upon reasonable notice, give the owner or agent and the City Building Inspector or authorized representative access to any part of the rental dwelling unit or its associated properties at all reasonable times for the purpose of making inspections, repairs, or alterations as are necessary to effect compliance with the provisions of this Code. If any owner, its agent or occupant, or other person in charge of the dwelling refuses to permit free access and entry to the structure or premises under his control for inspection pursuant to this Ordinance, whereupon, the City may seek a court order authorizing such inspection.
- D. Reinspection Fee. There is no fee for an initial inspection to determine the existence of a housing maintenance code violation, nor any fee for the first reinspection to determine compliance with an order to correct a code violation. A fee shall be charged for all subsequent re-inspections when the violation is not corrected by the time specified in the written notice. The fee shall be established by resolution from time to time by the City Council.
- E. Tenant Register. The Owner or its Agent shall keep or cause to be kept, a current register of occupancy for each dwelling unit which shall be provided to the City Clerk, as requested. Said register shall provide, at a

minimum, the following information.

1. Address of dwelling unit;
2. Number of bedrooms in dwelling unit;
3. Number of adults and children (under 18 years of age) currently occupying the dwelling unit.

1404 CONDUCT, FIRE SAFETY, AND RETALIATION

1404.10 Conduct on License premises. It shall be the responsibility of the licensee to see that persons occupying the licensed premises conduct themselves in such a manner as not to cause the premises to be disorderly. For purpose of this Section, a premise is deemed “disorderly” at such time that any of the following activities occur:

1. Minnesota Statute 152.01 et seq. relating to the possession, manufacture, or distribution of controlled substances.
2. Minnesota Statutes 609.72 relating to disorderly conduct.
3. Minnesota Statutes 340A.701, 340A.702 and 340A.703 relating to the sale of intoxicating liquor.
4. Minnesota statutes 609.321, Subdivision 9, relating to prostitution or acts of prostitution.
5. Minnesota Statutes 609.66 et seq. relating to the unlawful use or possession of firearms.
6. Minnesota Statute 609.2242 relating to assault.
7. Minnesota Statute 260C, et seq. relating to contributing to the need for protection or services or delinquency of a minor.
8. Minnesota statute 609.75 through 609.76 relating to gambling.
9. A violation of the Willernie City Code.

1404.20 Fire Safety. The Owner or its Agent is responsible to comply with the provisions of State and local Fire Codes.

1404.21 Retaliation. No licensee shall evict, threaten to evict or take any other punitive action against any tenant by reason of good faith calls made by such tenant to law enforcement agencies relating to criminal activity, suspected criminal activity, suspicious occurrences or public safety concerns. This section shall not prohibit 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 the lawful contact of law enforcement agencies.

1405 RENTAL DENSITY LIMITATION

1405.010 Rental Density Limitation on Residential Dwelling Units

- A. The purpose of this section is to limit the number of rental licenses issued in the City.

- B. No more than ten percent (10%) of the single-family homes in the City shall be eligible to obtain a rental license, unless a temporary license is granted by the City Council as provided herein.
- C. If the number of rental properties meets or exceeds the permitted number of rental properties per this Section on the effective date of this ordinance, no additional rental licenses shall be approved by the City, unless a temporary license is granted by the City Council as provided herein. Existing rental licenses may be renewed; however, should a rental license not be renewed, terminated due to the sale of a property by the current license holder, transfer of property ownership occurs, or if the rental license is revoked, suspended, or lapses, the rental license shall not be reinstated unless it is in conformance with this Section and other applicable sections of this Code.

1405.020 Temporary Rental Licenses

A temporary license may be granted by the City for unlicensed properties to an owner of a property for a period not to exceed 90 days if the property has changed ownership, and the previous owners reside in the dwelling unit.

1406 License Suspension, Revocation, Denial, and Non-Renewal

1406.010 Suspension and Violation of this Chapter

- A. Every license issued under the provisions of this Article is subject to suspension and/or revocation by the Building Official.
- B. In the event that a license is suspended or revoked by the Building Official, it shall be unlawful for the owner or the owner's duly authorized agent to thereafter permit any new occupancy of vacant or thereafter vacated rental units until such time as the Building Official has restored a valid license.
- C. Any person violating this Chapter shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not more than one thousand dollars (\$1000) or by imprisonment not to exceed ninety (90) days or both, together with the costs of prosecution. Each day of each violation shall constitute a separate punishable offense.

1406.020 Suspension, Revocation, Non-Renewal, and Compliance Orders

- A. The Building Official or City Council may suspend, revoke, or decline to renew any license issued under this Chapter upon any of the following grounds:
 - 1. False statements on any application or other information or report required under this Chapter to be given by the applicant or licensee.
 - 2. Failure to pay any application, penalty, re-inspection or other fee required by this Chapter and City Council resolution.
 - 3. Failure to correct deficiencies noted on a Compliance Order in the time specified in that notice.
 - 4. Failure to operate or maintain the licensed premises in conformity with all applicable state laws and codes and this Code of Ordinances.
 - 5. Any other violation of this Chapter.

- D. Suspension, revocation, or non-renewal may be under either this section or a violation of the Conduct on Premises section, or both.
- E. A decision to suspend, revoke, deny or not renew a license shall be preceded by written notice to the applicant or licensee specifying the grounds for such suspension, revocation, denial or non-renewal. The applicant or licensee will be given an opportunity for a hearing before the City Council before final action to suspend, revoke, deny or not renew a license. Provided, the applicant or licensee has submitted a written application for appeal within 10 days after the decision, notice or order was served. The City Council shall give due regard to the frequency and seriousness of the violations, the ease with which such violations could have been cured or avoided and good faith efforts to comply and shall issue a decision to suspend, revoke, deny, or not renew a license.
- F. The City Council may suspend, revoke, deny or not renew a license for part of or the entire rental dwelling unit.
- G. Licenses may be suspended for up to ninety (90) days and may, after the period of suspension, be re-instated subject only to compliance with this Chapter and any other conditions imposed by the Building Official or City Council at the time of the suspension. Licenses that are revoked will not be re-instated until the owner has re-applied with licensing and displayed compliance with all relevant requirements to the level required under this Chapter, including all conditions imposed at the time of revocation. A decision not to renew a license may take the form of a suspension or revocation. A decision to deny an initial application for a new rental dwelling facility will not take the form of a suspension or revocation unless the applicant in connection with the application has made false statements. A decision to deny an initial application shall state the conditions of re-application. All new applications must be accompanied by a re-instatement fee, as specified by City Council resolution, in addition to all other fees required under this Chapter.

1406.060 **Compliance Order.** If the initial, routine or complaint-initiated inspection or tenant conduct incidents indicates that the Owner is not in compliance with this Section, the City shall send a compliance order to the Owner and/or its Agent.

- A. **Content of Order.** The Compliance Order shall:
 - 1. Be in writing.
 - 2. Describe the location and nature of the violations of this code.
 - 3. Establish a reasonable time period for the correction of such violation.
 - 4. Be served upon the Owner or its Agent and/or occupant, as the case may require. Such notice shall be deemed to be properly served if a copy thereof is:
 - a. Personally served on Owner or its Agent, or
 - b. Sent by registered or certified mail to Owner's or its Agent's last known address, or
 - c. Upon failure to affect notice through (a) or (b) above, notice may be posted at the main entrance to the dwelling

unit.

- B. **Tenant Conduct Violations.** If the compliance order specifies tenant conduct violations, the following additional regulations shall apply:

1. Upon determination by the City that a rental dwelling unit on the licensed premises was used in a disorderly manner, as described in this ordinance, the City shall give written notice to the Owner or its Agent of the violation as provided in this Section and direct the owner/licensee to take steps to prevent further violations. An action to deny, revoke, suspend, or not renew a license under this section may be initiated by the City who must give the Owner or its agent written notice of a hearing before the City Council to consider such denial, revocation, suspension or non-renewal, as set forth in this Section.

1406.080 Conduct Pending Eviction. No adverse license action shall be imposed where the instance or disorderly use of a licensed premises occurred during the pendency of eviction proceedings (unlawful detainer) or within thirty (30) days of notice given by the Owner or its Agent to a tenant to vacate the premises, where the disorderly use was related to conduct by the tenant or by other occupants or guests of the tenant's unit. Eviction proceedings shall not be a bar to adverse license action, however, unless they are diligently pursued by the Owner or its Agent. Further, an action to deny, revoke, suspend, or not renew a license based upon violations of this section may be postponed or discontinued at any time it appears that the Owner or its Agent has taken appropriate measures which will prevent further instances of disorderly use.

1406.090 Posted to Prevent Occupancy. Whenever any rental dwelling unit has not obtained the required rental dwelling license, or has been denied a license, or has had its rental dwelling license suspended or revoked or is deemed unfit for human habitation, it shall be posted with a placard by the City to prevent further occupancy.

1406.100 Failure to Obtain License. If the city determines that a dwelling unit is being rented without a valid license, the City reserves the right to conduct an immediate inspection with proper notice in accordance with this section. It shall be unlawful for an owner, designated agent or operator, after notice, to continue operation of a rental dwelling unit without submitting an application for a license under this Chapter, along with the necessary license fee. Once an application has been made, it shall be unlawful for the owner or its duly authorized agent, to permit any new occupancies of vacant, or thereafter vacated rental units until such time as the license is issued.

1406.110 Liability. Neither the City nor its employees or agents shall be deemed liable for damages to a third person or property by reason of this Chapter.

1500: REGULATIONS OF UTILITY

Section 1500.01: **Purpose.** The purpose of this Article is to provide minimal reasonable regulations as to the location and construction of public utilities facilities within any public easement, road easement or right-of-way within the City of Willernie.

Section 1500.02 **Words and Phrases Defined.** The definitions contained in this Article shall apply to this Article.

- (a) **Changed Pipeline.** Any Pipeline which is filled with Natural Gas.
- (b) **Distribution System.** All of the facilities, lines, pipes, equipment, and fixtures of a Utility which are designed for distribution of the Utility's services to more than one customer, or to construction of a new home or building.
- (c) **Electric Facilities.** Electric transmission and distribution towers, poles, lines, guys, anchors, ducts, fixtures, and necessary appurtenances owned or operated by an Electric Utility for the purpose of providing electric energy for public use.
- (d) **Natural Gas.** A product in gaseous form designed and used for the purpose of combustion in furnaces and appliances.
- (e) **Pipeline.** Any Pipeline, above-ground or underground, which has been installed by any party for the purpose of transmitting Natural Gas, including mains and lines connecting mains to individual buildings.
- (f) **Public Land.** Land owned by the City for park, open space or similar purpose, which is held for use in common by the public.
- (g) **Public Way.** All roads, streets, alleys, public right-of-ways, Utility easements and public grounds of the City to which it has the right to grant the use to a Utility.
- (h) **Service Connection/Service Line.** The connection and line from a Utility's Distribution System to a Single Customer's dwelling or building.

- (i) City Utility System. The facilities used for providing sewer or any other public Utility service owned or operated by the City or agency thereof.
- (j) Utility. Any publicly or privately owned or operated system which publicly provided energy services (electric, Natural Gas, liquid petroleum, and other), communication services (telephone, cable TV, and Other), or water and sewer services (potable water, sanitary sewer, storm sewer and others).

Section 1500.03 **All Utilities Subject to This Article**

All utilities operating or maintaining lines, facilities or equipment within a City street right-of-way or upon Public Land are subject to the regulations of this Article.

Section 1500.04 **Construction Permits**

No Utility company shall open, excavate, or disturb the surface of any public ground or right-of-way for any purpose without first having obtained a construction permit from the City Clerk. The City Clerk shall require proof of workers' compensation insurance coverage from either the Utility or its subcontractor prior to issuance of any construction permit.

The Utility shall indemnify and hold harmless the City against liability, claims and lawsuits of any kind, arising directly or indirectly from any act of the contractor, its agents, suppliers, employees or subcontractors in the course of the work.

- (a) Distribution System Permits.
 - (1) Prior to construction of any lines, equipment, facilities, or other parts of a Distribution System, a Utility shall first obtain a construction permit from the City. The application for a permit shall be submitted in duplicate to the City. The application shall include: a scale area map showing the proposed location of the lines or equipment to be constructed; depictions and specifications for lines, cables, equipment or facilities to be installed and a road cross-sectional schematic showing the proposed location of any buried lines or cables. The application shall be accompanied by a fee in an amount determined

from time to time by the City Council to cover the cost to the City for City expenses including but not limited to engineering and legal review.

- (2) The complete application shall be forwarded to the City Engineer for review. The City Clerk shall not issue the permit until the City Engineer has approved the application in writing and until the City has been reimbursed by the applicant for its actual expenses incurred in reviewing the application, including all professional consulting fees, including engineering fees, by the utility or they will be deducted from the escrow amount prior to the return of the escrow deposit, and approval by the City Council.
 - (3) Construction shall not commence until the Utility has deposited a letter of credit or cash escrow with City, in an amount of 125% of the total cost of the restoration as estimated by the City Engineer and held until released by the City to assure that restoration will be completed equal to or better than the conditions which existed prior to the start of installation. The escrow amount shall be \$5,000.00 unless a different amount is recommended by the City Engineer.
- (b) Service Connection Permits. Prior to any construction or relocation and reconstruction of any Service Connection, a Utility shall first obtain a construction permit from the City Clerk. The application shall be accompanied by a map showing the address and location of the Service Line to be installed or reconstructed. The City Clerk may issue the permit upon receipt of the completed application. The purpose of the permit is to provide the City with information regarding the location, time and extent of the construction or excavation activity.
- (c) Repair or Maintenance Permits.
- (1) Prior to any excavation or construction to repair or maintain any portion of a Distribution System, a Utility shall first obtain a construction permit from the City Clerk. The application shall be accompanied by a map showing the location of the equipment or line to be repaired or excavated. The City Clerk may issue the permit upon receipt of the completed Application, and approval by the

City Council. The purpose of the permit is to provide the City with information regarding the location, time and extent of the construction or excavation activity.

- (2) Construction shall not commence until the Utility has deposited a letter of credit or cash escrow with City, in an amount of \$2,000.00 to ensure completion of Restoration Work as outlined in Section 1500.05 herein. In the event \$2,000.00 is insufficient to complete Restoration Work the process outlined in Section 1500.05 shall be followed.

(d) Emergencies. A Utility may excavate or perform other work without a permit where an emergency exists requiring the immediate repair of its lines or facilities. Within three (3) working days after effecting emergency repairs, the Utility, if not owned by the City, shall make application for the appropriate permit. For emergency repair to a Distribution System, the permit:

- (1) Shall include the Utility's certification that the repaired line has not been relocated; or
- (2) Shall include map(s) and schematic(s) to show the relocation of the repaired line or equipment.

Section 1500.05

Restoration Work

After undertaking any work requiring the opening of any Public Way or Public Ground the Utility shall restore the same, including paving and its foundation, to as good condition as formerly existed, and shall maintain the same in good condition. The Restoration shall be completed no later than thirty (30) days after the utility work is completed, weather permitting. If the Utility has not performed and completed the work, remove all dirt, rubbish, equipment and material, and put the Public Way, or Public Ground in the said condition, the City shall have, after demand to the Utility to cure and the passage of a reasonable period of time following the demand, but not to exceed five (5) days, the right to make the restoration at the expense of the utility. The Utility shall pay to the City the cost of such work done for or performed by the City, including its administrative expense and overhead, plus ten percent (10%) additional as liquidated damages. This remedy shall be in addition to any other remedy available to the City.

Section 1500.06 **Relocation of Utilities**

- (a) Relocation of Utilities in Public Ways. If the City determines to vacate for a City improvement project, or to grade, regrade, or change the right-of-way lines of any Public Way, or construct or reconstruct any Utility System and Public Way, it may order the utility to relocate its Facilities presently therein. The City shall give the utility reasonable notice of plans to vacate for a City improvement project, or to grade, regrade, or change the line of any right-of-way or to construct or reconstruct any City Utility System. If a relocation is ordered within five (5) years of a prior relocation of the same Facilities at Utility expense, the City shall reimburse for non-betterment expenses on a time and material basis, unless a subsequent relocation is required because of the extension of a City Utility System to a previously unserved area. Service to previously unserved areas shall be at the Utility's expense. Nothing in this Article requires Utility to relocate, remove, replace or reconnect at its own expense its facilities where such relocation, removal replacement or reconstruction is solely for the convenience of the City and is not reasonable necessary for the construction or reconstruction of a Public Way or City Utility System or other City improvement. In no case shall the City be liable to the utility for failure to specifically preserve right-of-way under Minnesota Statute 160.29.
- (b) Relocation of Utility in Public Ground. The City may require the Utility to relocate or remove its Facilities from Public Ground upon a finding by the City that the facilities have become or will become a substantial impairment of the public use to which the Public Ground is or will be located. The relocation or removal shall be at the Utility's expense.

Section 1500.07 **Relocation When Public Ground Vacated**

The vacation of any Public Ground shall not deprive the Utility of the right to operate and maintain its facilities therein. Unless ordered under 1500.07, the utility need not relocate until the reasonable cost of relocating and the loss and expense resulting from such relocation are first paid to the utility. When the vacation is for the benefit of the City in the furtherance of public purpose, the Utility shall relocate at its own expense.

Section 1500.08 **Street Improvements, Paving or Resurfacing**

- (a) The City shall give the Utility reasonable written notice of plans for street improvements where paving or resurfacing of a permanent nature is involved. The notice shall contain the nature and character of the improvements, the streets upon which the improvements are to be made, the extent of the improvements and the time when the City will start the work, and, if more than one street is involved, the order in which this work is to proceed. The notice shall be given to the utility a sufficient length of time, considering reasonable working conditions, in advance of the actual commencement of the work to allow the Utility to make any additions, alterations or repairs to its facilities the Utility deems necessary.

- (b) In cases where streets are at final width and grade and the City has installed underground sewer mains and Service Connections to the property line abutting the streets prior to a permanent paving or resurfacing of such streets, and the Utility's main is located under such street, the Utility may be required to install Service Connections prior to such paving or resurfacing, whenever it is apparent that service will be required during the five (5) years following the paving or resurfacing.

Section 1500.09 **Location of Facilities**

- (a) Location of Above-Ground Facilities. Above ground Utilities shall be located and constructed so as not to interfere with the safety and convenience of ordinary travel along and over Public Ways. A permit to construct facilities on Public Grounds or Public Ways may be disallowed by the City Council upon finding that the proposed facility constitutes a hazard in the right-of-way. A "hazard in the right-of-way" is any construction, at any location within the full width of the right-of-way, which because of position, site and proximity to the traveled portion of the right-of-way and because of strength, density and mass of construction would be the kind of impediment to a motor vehicle traveling at the posted speed limit sufficient to cause bodily harm to a vehicle passengers when impacted by said vehicle after it has left the traveled portion of the right-of-way. Upon such a finding, the Utility shall be required to construct its facility outside of

the right-of-way. The Utility's construction, reconstruction, operation, repair, maintenance and location of above-ground facilities shall be subject to other reasonable regulations of the City.

- (b) Field Location. The Company shall provide field locations for any of its underground facilities within a reasonable period of time on request by the City. The period of time will be considered reasonable if it compares favorably with the average time required by the municipalities in the same county to locate municipal underground facilities for the utility.
- (c) Licensee's Annual Report. The Utility company shall provide an annual revised City map showing location of its Distribution System in the City.

Section 1500.10

Utility Permit Required; Application

- (a) Permit Required. Prior to utility installation, with the City road rights-of-way, a utility company shall first obtain a Utility Permit from the City.
- (b) Permit Application. Application for the Utility Permit shall be made by completing a form provided by the City. The permit shall contain the following information:
 - (1) The name and address of the utility to be performing the installation.
 - (2) A general description of the work to be performed and the method used for placement.
 - (3) The location of the proposed utility installation and shown on a Utilities Placement Map.
 - (4) The proposed time frame for beginning and completing the work.
 - (5) Description of restoration work any trimming.
- (c) Restoration. City road rights-of-way shall be restored to the same or better condition as they were immediately prior to the placement of the utility.

- (d) Resident Complaints Against Utilities. Upon notification from the utility company of completion of the project, the City Clerk will put a notice of same on the City Bulletin Board and the City website. Any resident with a complaint regarding the installation or restoration may notify in writing the City Clerk who in turn will notify the Utility. The Utility will have (30) days to correct this problem and notify the City in writing of its actions. If the problem is not resolved, to the City's satisfaction, the City shall use the escrow funds to correct the problem. All costs incurred by the City for this procedure shall be paid by the Utility.

Section 1500.11

Miscellaneous Provisions

- (a) Notice.
- (1) No work for which a construction permit is required shall be commenced by a utility until it has made reasonable efforts to notify owners of property abutting the proposed construction area of the purpose of the construction activity and the time frame during which the construction activity will occur.
 - (2) No escrow will be released until the Utility has provided proof of reasonable efforts to notify owners of the property abutting the construction area that the Utility is completed.
- (b) Severability. If any portion of this Article is found to be invalid for any reason whatsoever, the validity of the rest of this Article shall not be affected.
- (c) Penalty. Any person, firm, or corporation violating any provision of this Article and upon conviction thereof, shall be guilty of a misdemeanor and punishable by a fine not exceeding the maximum fine for a misdemeanor under state law or imprisonment for a term not exceeding the maximum term allowed by state law or both.

1600

1601 Adoption of Standards of the Minnesota Pollution Control Agency

1601.010 The City of Willernie hereby adopts and incorporates by reference the standards established by the Minnesota Pollution Control Agency's NPDES/SDS Construction Stormwater General Permit MNR100001 (CSW Permit) as amended in its entirety as now constituted and from time to time amended.

1602 Illicit Discharge and Connection

1602.010 **Purpose/Intent.** The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of Willernie through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

The objectives of this ordinance are:

- (1) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user;
- (2) To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system;
- (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance.

1602.020 Definitions. For the purposes of this ordinance, the following shall mean:

Authorized Enforcement Agency: employees or designees of the director of the municipal agency designated to enforce this ordinance.

Best Management Practices (BMPs): schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity. Activities subject to NPDES Construction Permits. Currently these include construction projects resulting in land disturbance of 5 acres or more. Beginning in March 2003, NPDES Storm Water Phase II permits will be required for construction projects

resulting in land disturbance of 1 acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal Discharge. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section X of this ordinance.

Illicit Connections. An illicit connection is defined as either of the following:

Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,

Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial Activity. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-Storm Water Discharge. Any discharge to the storm drain system that is not composed entirely of storm water.

Person. means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm Drainage System. Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Storm Water. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater Pollution Prevention Plan. A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

Wastewater means any water or other liquid, other than uncontaminated storm water, discharged from a facility.

1602.030 Applicability. This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

1602.040 Responsibility for Administration. The City Council shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Director of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

1602.050 Severability. The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

1602.060 Ultimate Responsibility. The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

1602.070 Discharge Prohibitions.

Prohibition of Illegal Discharges.

No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any

pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- (a) The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), fire fighting activities, and any other water source not containing Pollutants.
- (b) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
- (c) Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
- (d) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

Prohibition of Illicit Connections.

- (a) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- (b) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (c) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

1602.080 Suspension of MS4 Access.

Suspension due to Illicit Discharges in Emergency Situations

The City Council or its authorized agent may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or

welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

Suspension due to the Detection of Illicit Discharge

Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the authorized enforcement agency.

1602.090 Industrial or Construction Activity Discharges. Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City Council or its authorized agent prior to the allowing of discharges to the MS4.

1602.100 Monitoring of Discharges.

- A. Applicability. This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.
- B. Access to Facilities.
 - (a) The City Council or its authorized agent shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
 - (b) Facility operators shall allow the City Council or its authorized agent ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

- (c) The City Council or its authorized agent shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water discharge.
- (d) The City Council or its authorized agent has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- (e) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City Council or its authorized agent and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (f) Unreasonable delays in allowing the City Council or its authorized agent access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.
- (g) If the City Council or its authorized agent has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

1602.110 Requirement to prevent, control, and reduce storm water pollutants by the use of best management practices.

The City may adopt requirements identifying Best Management Practices (“BMPs”) for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

1602.120 Watercourse Protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

1602.130 Notification of Spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City Council or its authorized agent within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

1602.140 Enforcement.

A. Notice of Violation.

Whenever the City Council or its authorized agent finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) That violating discharges, practices, or operations shall cease and desist;
- (d) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
- (e) Payment of a fine to cover administrative and remediation costs; and
- (f) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

1602.150 Appeal of Notice of Violation.

Any person receiving a Notice of Violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within 30 days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

1602.160 Enforcement Measures After Appeal.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 30 days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

1602.170 Cost of Abatement of the Violation.

Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 14 days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to the city by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the rate of 5 percent per annum shall be assessed on the balance beginning on the first day following discovery of the violation.

1602.180 Injunctive Relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. If a person has violated or continues to violate the provisions of this ordinance, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

1602.190 Compensatory Action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this ordinance, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

1602.200 Violation Deemed a Public Nuisance

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

1602.210 Criminal Prosecution.

Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of \$100 dollars per violation per day and/or imprisonment for a period of time not to exceed thirty days.

The authorized enforcement agency may recover all attorney's fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

1602.220 Remedies Not Exclusive.

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

1602.230 Adoption of Ordinance. This ordinance shall be in full force and effect this 21 day of December, 2022. All prior ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.