City Code

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I. CITY CODE

TITLE 100. GENERAL PROVISIONS

Chapter 101. ADOPTION OF CITY 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 ("the Code") 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 as of the date of this revised document.

101.020. Repeals.

A. The repeal of any provision shall not be construed to abate, annul, or otherwise affect any proceeding that commenced under that provision before repeal and the same shall be effectual as if the said provision had not been repealed.

B. The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution, or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance repealed.

C. All chapters, sections, divisions, or provisions, desired to be repealed must be specifically repealed by chapter number, section number, division/sub-division identifier, etc. as the case may be.

D. When subsequent ordinances repeal any chapter, section or sub-section or any portion thereof, such repealed text portions may be excluded from the Code by the omission thereof from reprinted pages.

E. When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, such repeal shall not be construed to revive such former ordinance, clause, or provision unless it shall be therein so expressly provided.

101.030. Amendments to the 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 the 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 title, chapter, section, subdivision, subpart, or provision of this Code is declared separable from every other title, chapter, section, subdivision, subpart, or

provision. If any title, chapter, section, subdivision, subpart, or provision herein shall be declared invalid, it shall not affect any other title, chapter, section, subdivision, subpart, or provision contained herein.

101.060. Preservation of Existing Rights. Text incorporated into Section 101.020 Repeals.

101.070. Effective Date. The law will take effect at 12:01 a.m. on the day following the enactment date of the ordinance, unless a specific effective date or different time is provided in the Code.

Chapter 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:

1) Correct obvious grammatical, punctuation, and spelling errors;
2) Change reference numbers to conform with applicable sections of the Code;
3) Substitute figures or tables for written words and vice versa; and
4) Take other similar actions to ensure a uniform Code of ordinances if such actions do not alter the meaning of the ordinances enacted.

Chapter 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". The City of Willernie, located in Washington County, Minnesota, including all territory lying within its boundaries.

2) "Clerk". The Willernie City Clerk.

3) "Code" or "City Code". The Willernie City Code or Willernie Code of Ordinances.

4) "Council" or "City Council". The City Council of the City of Willernie.

5) "County". Washington County, Minnesota.

6) "This ordinance". The chapter or section in which it appears and related sections, subdivisions, subparts, and paragraphs under the same section or chapter.

7) "Person". 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". The state of Minnesota.

9) "Police Department". The law enforcement agency charged with serving as the police department for the City.

10) "Vehicle" and "Motor Vehicle". A thing used for transporting people or goods. This definition includes, but is not limited to the following: snowmobiles, trailers (open-bed and enclosed), recreational vehicles (RV)/motorhomes, campers, storage trailers, ice houses, automobiles, all-terrain vehicles (ATV), utility terrain vehicles (UTV), motorcycles, storage pods and any other machine or device that is on wheels, motorized, or pulled by motorized vehicles.

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.

Chapter 104. PENALTY FOR VIOLATION OF CODE PROVISIONS (Deleted)

104.010. Misdemeanor. Deleted.
Deleted 06/18/2025. See Title 110

104.020. Petty Misdemeanor. Deleted.
Deleted 06/18/2025. See Title 110

104.030. Official Duties. Deleted.
Deleted 06/18/2025. See Title 110

Chapter 105. FEE AND SERVICE CHARGES

105.010. Purpose

The purpose of this Chapter is to establish regulations that provide for levying fees, service charges, and penalties, including expenses incurred by the City on behalf of permit applicants, license renewals, and other City services.

105.020. Fees and Charges

A. General Provisions. There are specific fees and penalties and other charges that may be incurred when the City processes an application or provides a service. These costs shall include, but are not limited to: parcel searches, publication and mailing of notices, engineering review, inspection, planning, legal costs, recording fees, and other services related to the processing of applications. The Council may also establish charges for public hearings, special meetings, or other such Council or Planning Commission actions as are necessary to process applications.

B. Escrows.

1) An escrow fee in an amount as established by ordinance may be required on building, construction, demolition, or right of way projects. The escrow fee shall be paid before a permit is issued.

2) The City Building Official or the acting Zoning Administrator shall have discretion to increase the amount of the escrow for any application at any time if the City's potential costs are reasonably expected to exceed the minimum amount. The City Building Official or the acting Zoning Administrator shall also have discretion to require an escrow deposit even where no minimum amount is specified.

3) Unused escrow amounts, if any, will be returned to the permit applicant when all conditions and approvals of the process are met. No interest shall be paid on escrow deposits.

C. Building and Construction Permits.

1) Building and Construction permit and related fees are defined in the Fee Schedule.

2) *Project Valuation Determination*. 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 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.

3) *Work Without a Permit*. Work commenced without a permit may result in additional fees as specified in MN Rules 1300.0160. Investigative fees are specified in the City Fee Schedule.

4) *Validity, Expiration and Suspension or Revocation of Permits*. The validity, expiration, and suspension or revocation of permits shall be as provided by MN Rules 1300.0120 Permits, Subparts 10,11, and 12.

D. Refunds

1) *Application Fee Refunds*. In general, application fees are not refundable once an application has been approved.

2) *Rejected Application Fee Refunds*. Upon rejection of any application for a license or permit, the City shall refund the amount paid subject to the following:

a) See Building Permit Fee Refund policy.

b) Specific license application fees for which work was performed for the application shall not be refunded.

3) *Permit Fee Refunds*.

a) Building and Construction Permits.

The City may refund up to 80% of the building construction permit fees in which no work has been done and no inspections have been made. Requests for refunds must be made by the permit applicant in writing within 180 days of issuance. Within 10 business days of receipt, the Building Official must review the refund request and determine the amount to be refunded or deny the refund request for cause.

No refunds will be approved or granted for the following:

i. plan review fees,
ii. state surcharge fees,
iii. re-inspection fees,
iv. investigative fees, or
v. any other services that have previously been rendered.

b) All other Permits.

Fees for permits other than building and construction are not refundable.

4) *License fees*. License fees, once paid, are not refundable unless approved by the City Council. In addition, specific license fees for which work was performed, such as a background investigation, shall not be refunded.

5) *Revoked or Suspended License and Permit Fee Refunds*. Fees for revoked or suspended licenses and revoked or suspended permits are not refundable.

6) *Penalty Violation Fees*. Violation penalty fees are not refundable.

7) *Late Fees*. A late fee for any license, permit, fine, or violation is not refundable.

105.030. Fee and Charge Processing

A. Application fees are due when an application is submitted. Further charges may be incurred and assessed as an application is being processed.

B. Administrative fees and charges are due and payable when performing the related service or when a citation is issued.

C. Unless further defined in other chapters of the City Code, license fees are annually based fees with an effective end date of December 31st of the year. Permit fees and permit related fees have an effective date as specified in the terms of the permit.

D. Licenses, permits, variances, or use permits are formally approved when application forms (if any are required), are approved, when funds are processed, and when the license, permit, variance, or use permit is approved by the City Council. In addition, selected specific licenses may also require further approval from other County or State agencies.

E. All funds shall be payable to the City of Willernie and delivered to the City Clerk along with any related application forms and supporting documentation. All funds collected by the City Clerk will be deposited in the City's accounts.

F. The preferred form of payment is in the form of a cashier's check, certified check, or personal check payable to the City of Willernie. The City does not accept credit or debit card payments.

G. If a check is returned by a financial institution for any reason:

   a) Any related application, permit, or license will be considered null and void; and

   b) Any penalty or fine will be considered still outstanding and due; and

   c) A returned check fee will be charged to the party submitting the payment.

Chapter 106. FEE SCHEDULE

106.010. Purpose

A. The purpose of this Chapter is to provide a single and convenient location for a list of fees, service charges, and penalties levied by the City. This schedule repeals and replaces all existing fees, service charges, and penalties in prior fee schedules. Any other fees or charges imposed by the City which do not appear on the Fee Schedule below will remain in full force and effect.

B. A municipality may adopt a fee schedule under MN Statutes 462.353 Subd 4a by ordinance or resolution following publication of notice of proposed action on a fee schedule at least ten days prior to a public hearing held to consider action on or approval of the fee schedule.

C. This schedule may be revised and readopted on an annual basis or as the Council deems necessary.

106.020. Administration Fees

Fee Description	Amount
Paper copies (black & white) per page (City business only)	$0.25 one sided $0.50 two sided
Paper copies (color) per page (City business only)	$2.00
Printed City Code Book Copy	$100.00
Printed Comprehensive Plan	$50.00
Election Candidate Filing Fee	$2.00
Returned check	$30.00 each

106.030. Animal Control Fees

Fee Description	Amount
Animal License – every two calendar years in January. New licenses in mid-year count as the first year.	$5.00 per animal
Late Fee	$5.00 per animal
Duplicate License	$3.00 per animal
For licensed or unlicensed animals when claimed at impound:	
Animal Impound Fees: - Daily boarding fee	 $22.00 per day
- Necessary veterinary services	Actual cost
- Impound fee	$90.00
For unlicensed animals in violation and not sent to the impound	See penalty section
All fees incurred by the City for an animal are the responsibility of the owner and shall be paid by the animal owner.	

106.040. Business License Fees

Fee Description (expire 1 yr after issue date except as noted)	Amount
ALCOHOL Licensing:	
Investigation Initial Fee (in-state)	$500.00
Investigation Initial Fee (out-state)	$10,000.00
Investigation Annual Renewal Fee	$250.00
On-sale	$1,700.00
On-sale Sunday	$200.00
Off-sale	$100.00
Temporary on-sale (up to 4 consecutive days, no more than 10 days per year	$100.00 per day
On-sale 3.2% malt liquor	$200.00
Off-sale 3.2% malt liquor	$100.00
On-sale wine/culinary	$200.00
On-sale brewer, distillery	$1,700.00
Off-sale brewer, distillery	$200.00
Consumption & display (expires Mar 31st each year)	$250.00 + $250.00 payable to AGED (MN Alcohol Gambling Enforcement Dept)
2 AM On-sale	$200.00 + $200.00 payable to AGED
BOWLING ALLEY License	$15.00/alley
ANIMAL KENNEL License	$100.00
CANNABINOID PRODUCT Licensing:	
Investigation Fee	$200.00
Cannabinoid Product Retail Sale per location	$500.00 initial, $1,000.00 renewal
Cultivator per location	$500.00 initial, $1,000.00 renewal
Manufacturer, wholesaler, testing facility per location	$500.00 initial, $1,000.00 renewal
Lower potency edible hemp product manufacturer per location	$500.00 initial, $500.00 renewal
Lower potency edible hemp product retailer per location	$125.00 initial, $125.00 renewal
CHARITABLE GAMBLING Licensing:	
Initial investigation fee	$100.00
License fee	No charge
GENERAL BUSINESS License – general exchange of goods and services – Chapter 1001	$100.00
SOLICITOR/PEDDLER/TRANSIENT MERCHANT Licensing:	
Application fee	$1.00
License fee	$200.00
THERAPUETIC MASSAGE Licensing:	
Initial investigation fee	$275.00
License fee	$200.00
Therapist Individual License	$50.00

106.050. Land Use Planning and Zoning Fees

Fee Description	Amount	Escrow
EXCEPTION PERMITS		
Conditional Use Permit Application	$200.00 + recording fee	variable*
Special Use Permit Application	$200.00	variable*
Variance Application	$200.00 + recording fee	variable*
Conditional Use Permit/Variance Recording Fee (document filed by City Clerk)	Washington County Recorder fee schedule	
Rezoning Change Application	$200.00	variable*
PLANNED UNIT DEVELOPMENT		
Preliminary review plan	$300.00	
Application permit	$650.00	variable*
Amending Application	$300.00	variable*
MISCELLANEOUS ZONING FEES		
Comprehensive Plan Amendment	$1,000.00	variable*
Street Vacation fee	$200.00	
Storm Water Management plan	$100.00	
CITY STAFF & CONSULTANT BILLING		
Escrow for professional & legal consulting		variable*
Time and expenses for consultant or legal professional, administrative expenses.	Application fees plus actual expenses	
GRADING PLAN REVIEW FEES		
100 cubic yards or less	No charge	
101 – 1,000 cubic yards	$40.00	
1,001 – 10,000 cubic yards	$50.00	
10,001 – over	$300.00	
RENTAL DWELLING LICENSES		
Single family	$200.00/ 2 yr license	
Two family	$300.00/ 2 yr license	
3+ units	$500.00/ 2 yr license	
Inspection fee	$150.00	
License reinstatement fee	$100.00	
SIGN PERMITS		
Sign (permanent)	$10.00 or $0.10 per sq ft of sign area, whichever amount is larger	

* amount determined by City Council, also see Section 106.110 Escrow

106.060. Utility Fees

Fee Description	Amount
Curb turn on/off	$100.00
Unlawful turning water on again	$100.00 including any back charges
Utility location – line, device, etc.	$100.00
Failure to repair a leak within 24 hours after notice given	$100.00

106.070. Right of Way Permit Fees

Fee Description	Amount
Small wireless facility permit fees: • Up to 5 small wireless facilities • Each additional small wireless facility after 5 • New wireless support structure	 • $500.00 installed on existing structures • $100.00 installed on existing structures • $1,000.00 per structure
Small wireless collocation fees: • Rent to collocate on the City structure • Maintenance associated with the collocation • Monthly fee for electrical service	 • Up to $150.00 per year • $25.00 per year • $73.00 per radio node less than or equal to 100 maximum watts; or $182.00 per radio node over 100 maximum watts; or the actual costs of electricity, if the actual cost exceeds the foregoing
Obstruction Permit	$50.00/week or any part thereof
Right-of-way & Utility Easement Permit: • Distribution System permit • Hole • Trench • Boring • Extension of permit	 • System escrow $5,000.00 * Repair escrow $2,000.00 * • $200.00 per hole • $200.00 + $0.50 per lineal foot of trench • $200.00 + $0.50 per lineal foot of trench • $25.00 + $25.00 per week of extension
Degradation - estimates for bituminous street • New street 0-5 years • Existing street • Street to be constructed in the next 5 years	To be calculated by the City • $4.00 per square foot • $2.00 per square foot • $1.00 per square foot
Delay penalty: Time Delay	$60.00/day plus $20.00/day each day late over 3 days

* amount determined by City Council

106.080. Fire Department Fees

Fee Description	Amount
Fire Department call – billed to property owner	Actual Fire Department charges
Fire Department call – billed to City, obligation of property owner	Actual Fire Department charges

106.090. Building Permit Fees

Project Valuation	Fee
$1.00 to $500.00	$23.50
$501.00 - $2,000.00	$23.50 for first $500.00 plus $3.05 per additional $100.00, or fraction thereof, to and including $2,000.00
$2,001.00 - $25,000.00	$69.25 for first $2,000.00 plus $14.00 per additional $1,000.00, or fraction thereof, to and including $25,000.00
$25,001.00 - $50,000.00	$391.75 for first $25,000.00 plus $10.10 per additional $1,000.00, or fraction thereof, to and including $50,000.00
$50,001.00 - $100,000.00	$643.75 for first $50,000.00 plus $7.00 per additional $1,000.00, or fraction thereof, to and including $100,000.00
$100,001.00 - $500,000.00	$993.75 for first $100,000.00 plus $5.60 per additional $1,000.00, or fraction thereof, to and including $500,000.00
$500,001.00 - $1,000,000.00	$3,233.75 for first $500,000.00 plus $4.75 per additional $1,000.00, or fraction thereof, to and including $1,000,000.00
$1,000,001.00 and greater	$5,608.75 for first $1,000,000.00 plus $3.65 per additional $1,000.00, or fraction thereof,

State Surcharge Valuation Table	Fee applied to flat rate or value-based projects
$1,000,000 or less	$0 base fee + 0.0005 x project valuation
$1,000,0001 - $2,000,000	$500.00 base fee + 0.0004 x (project valuation - $1,000,000)
$2,000,001 - $3,000,000	$900.00 base fee + 0.0003 x (project valuation - $2,000,000)
$3,000,001 - $4,000,000	$1,200.00 base fee + 0.0002 x (project valuation - $3,000,000)
$4,000,001 - $5,000,000	$1,400.00 base fee + 0.0001 x (project valuation - $4,000,000)
greater than $5,000,00	$1,500.00 base fee + 0.00005 x (project valuation - $5,000,000)

106.100. Mechanical & Plumbing Permit Fees

	Fee Description	Amount
Residential	Mechanical (includes HVAC system, mechanical ventilation system, and gas lines)	$74.50 +$1.00 surcharge per dwelling unit
	Plumbing	$74.50 +$1.00 surcharge per dwelling unit
Commercial	Mechanical (includes HVAC system, mechanical ventilation system, and gas lines)	$124.00 +$1.00 surcharge per structure
	Plumbing	$124.00 +$1.00 surcharge per structure

106.110. Other Building and Construction Related Fees

Fee Description	Amount
Plan review fee for all permits	sixty-five percent (65%) of the relevant building permit fee
Additional plan review required by changes, additions, or revisions to previously approved plans	$47.00 per hour, minimum charge = ½ hour
Fireplace: • gas • wood	 • $74.50 +$1.00 surcharge per dwelling unit • Permit valuation based
Escrow amount for additions, garages, accessory structures, possible planner fee	$3,000.00 * * amount determined by City Council
Inspections: • outside of normal business hours • where no fee is specifically indicated • Re-inspection fees (Note: Re-inspection will not be done until the re-inspection fee is paid.)	 • $47.00/hour, minimum charge 2 hours * • $47.00/hour, minimum charge ½ hour * • $47.00/hour, minimum charge 1 hour * * Or the total cost to the City whichever is greater. Cost shall include supervision, overhead, equipment, hourly wages, fringe benefits of employees involved.
Investigative Fee, "Work commencing before permit issuance"	In addition to the required permit fee, but may not exceed the permit fee. See penalty fee below.
Use of outside consultants for plan checking and inspections, or both	Actual costs, includes administrative and overhead costs.
Demolition	$100.00

106.120. Penalties

Penalty Fine Description	Amount
ADMINISTRATIVE VIOLATIONS	
PUBLIC HEALTH	
Section 601.020 - Nuisances affecting Health, Comfort	$300.00
Illicit discharge ordinance violations	$100.00
Sewage/water ordinance violations	$300.00
Outside storage, including but not limited to inoperable or unlicensed vehicles, materials, supplies, equipment	$100.00
PUBLIC SAFETY	
Animal control	$150.00
Disorderly Conduct, breach of peace	$300.00
Falsely reporting a fire/false alarm	$300.00
Fire Code violations	$100.00
Firearms/Weapons Violations	$300.00 and/or imprisonment up to 30 days
Section 601.040 - Nuisances affecting Public Peace and Safety	$300.00
Traffic regulations	$300.00
Right-of-Way ordinance violations	$100.00/occurrence
Parking Violations – per offense within a 24-hour period	$100.00 + towing fee if used
Vehicle impoundment storage per vehicle	$250.00 + towing fee if used
MISDEMEANORS	
• Petty Misdemeanor • Misdemeanor	• $300.00 • $300.00, max $1,000.00
BUSINESS LICENSE VIOLATIONS	
Alcohol violations for licensees: Minimum penalty within any 3-yr period • 1st violation • 2nd violation • 3rd & subsequent violations Maximum penalty	 • $500.00 • $1,000.00 • $2,000.00 Up to $2,000.00 per violation
Cannabinoid violations for licensees: • 1st violation • 2nd violation 2 times within 36 months • 3rd violation 3 times within 36 months • 4th violation within 36 months	 • $500.00 • $1,000.00 • $2,000.00 + 1 day license suspension • License revoked
Cannabinoid violations for individuals: Sale to an individual under the age of 21	$50.00
Gambling violations for licensees	$300.00, max $1,000.00
Operating a business without a license	Double the license fee
Peddler/solicitation violations	$300.00

Penalty Fine Description	Amount
ZONING, LAND USE, BUILDING VIOLATIONS	
Zoning ordinances /enforcement	$300.00
Building codes	$300.00
Failure to follow a stop work order issued by the City Building Official	$300.00
Emergency situations when a condition exists that requires immediate action to protect the public health, safety, and welfare.	$300.00
Starting work without an approved permit	Double the permit fee
Fence violations	$200.00
PUD violations	$300.00
Building/Property Maintenance and Appearance	$300.00

TITLE 110. ADMINISTRATIVE CITATIONS AND CIVIL PENALTIES

Chapter 111. GENERAL PROVISIONS

111.010. Findings and Purpose.

A. The City Council hereby finds that there is a need for an alternative method of enforcement for violators of the City Code. The City Council further finds that an appropriate method for enforcement for violation is a uniform administrative citation program that will reduce the burden on the judicial system while providing full due process for those cited.

B. The procedures established in this Chapter are in addition to criminal, civil, or other legal remedies that may be available to the City to enforce violations of the City Code.

C. The City Council finds and determines that enforcement of the provisions of the Willernie City Code are municipal affairs as well as matters of purely local concern to the citizens of Willernie.

D. The City Council finds that adoption and implementation of the administrative citation program is within the power and authority of the City of Willernie and will achieve the following goals:

1) Promote and protect the public, safety, and welfare of the citizens of the City of Willernie;

2) Help ensure compliance with the City Code, ordinances, and regulations in a timely and efficient manner;

3) Provide for an administrative process to appeal the imposition of administrative citation and fines that will fully comport with due process and provide those cited with the right to a fair review at minimal expense;

4) Provide a method to hold parties responsible when they fail or refuse to comply with the provisions of the Municipal Code in the City of Willernie;

5) Reduce the burden on the judicial system and minimize the time and expense of defending the citation on the part of the person cited.

E. Use of this Code title shall be at the sole discretion of the City of Willernie. Nothing herein is intended or shall require the City to utilize the administrative citation process or otherwise pursue the remedies outlined. The City retains the right to pursue any and all other remedies authorized by law to enforce the City Code or penalize violations of City ordinances, including, but not limited to, issuance of a stop work order, abatement, criminal prosecution, and/or application for civil penalties or injunctive relief.

111.020. Definitions.

1) “Abatement.” Includes, but is not limited to the removal, stoppage, extermination, eradication, cleaning, cutting, mowing, grading, repairing, draining, securing, barricading, fencing, demolishing, or destroying that which causes or constitutes a nuisance.

2) "Administrative Citation". Any citation issued pursuant to this title by an enforcement officer to any person or responsible person for violation of the City Code.

3) “Administrative Citation Process”. Administrative abatement, summary abatement, civil penalties, administrative citations, and recordation of notices of violation, as contained and provided for in the City Code.

4) “Administrative Costs”. The administrative citation fines and civil penalties assessed, all costs incurred by the City from first discovery of the violations through the appeal process and until compliance is achieved, including but not limited to staff time in inspecting the property, sending notices, preparing and attending any citation appeal hearing, and all legal costs associated with obtaining compliance.

5) “Administrative Offense”. Any violation of any section or chapter of the City Code, and any violation of the terms and/or conditions of any license, permit, or other approval issued pursuant to the City Code.

6) “Appeal”. An application to the City for a citation or determination to be reversed.

7) “Appellant”. A person who applies to the City requesting a citation or determination to be reversed.

8) "City". The City of Willernie.

9) “Civil Penalty”. A civil penalty or civil fine is a financial penalty, as defined in the City Fee Schedule, which is imposed by the City as restitution for an administrative offense.

10) "Code". Any and all codes and ordinances adopted by the City.

11) “Emergency Abatement”. The abatement of the nuisance by the City, or a contractor employed by the City, by removal, repair or other acts without notice to the owner, agent, or occupant of the property except for the notice required by this Code.

12) "Enforcement Officer". Any officer or individual employed or otherwise charged by the City to enforce codes, ordinances, mandates, regulations, resolutions, rules or other laws adopted by the City. Examples are, but not limited to: City Mayor, peace officers and part-time peace officers, City Council member, zoning administrator, building official, designated City Fire Chief/Marshal, parking Enforcement Officers, City Clerk, City Engineer.

13) "Hearing". A scheduled oral proceeding before a hearing officer where parties may present testimony and question witnesses and the City Council related to a specific Administrative Citation.

14) “Hearing Officer”. Any person as defined by Minnesota Statute (M.S.) § 609.415 and selected by the City Council or their designee to hear and determine a matter for which an administrative appeal hearing is requested.

15) "Responsible person". Any individual who is the owner or occupant of real property, owner or authorized agent of any business, company, trust or entity, or the parent or legal guardian of any person under the age of eighteen years, any contract for deed holder, any mortgagee or vendee in possession, any lessee, any corporation, association, organization, estate, trust, group, combination acting as a group, or any officer, agent, trustee or employee of any of the foregoing, that causes, permits or maintains a violation of the City Code.

111.030. General Violation Provisions of the Code.

A. Misdemeanor. A misdemeanor is a crime for which a sentence of not more than ninety (90) days or a fine of not more than the amount specified in the fee schedule, or both, may be imposed. Any person who violates any provision of this Code for which another penalty is not specifically provided shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime that is a misdemeanor under this Code, including state statutes specifically adopted by reference, shall include a sentence of a fine or jail or both, up to the maximum authorized by law.

B. 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 and subject to the penalty amount specified in the fee schedule. The penalty which may be imposed for any violation 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.

C. Costs of Prosecution. Pursuant to Minn. Stat. § 631.48, in either the case of a misdemeanor or a petty misdemeanor, prosecution costs may be added.

Chapter 112. ADMINISTRATIVE CITATIONS

112.010. Authority and fines.

A. Any person or entity violating any provision of the City Code may be issued a Code Compliance Courtesy letter and/or notice of administrative citation by an enforcement officer as provided in this title. A violation of this Code includes, but is not limited to, all violations of the City Code and any codes adopted by reference by the City Council, including state codes, county codes, and Uniform Codes.

B. Every violation of a provision of the City Code shall be subject to a civil penalty. The provisions of this Chapter are in addition to all other legal remedies, criminal or civil, which may be pursued by the City. Violations of this Chapter alone may not be prosecuted as a criminal violation.

C. Continuing Violations. Except where noted in the Fee Schedule where violations are tracked by day or occurrence, each and every day a violation of the Code exists

constitutes a separate and distinct offense. The City Council may exercise discretion in imposing an administrative fine for more than one day of a continuing offense or increasing the amount for a repeat offender.

D. Official Duties.

1) The failure of any enforcement officer of the City to perform any official duty imposed by this Code shall not subject the officer to the penalty imposed for a violation of any provision of this Code.

2) The Washington County Sheriff's Department, or person designated by the City Council, may enforce the provisions in this Title of the Code. 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 violations. 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 violations 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.

E. A civil penalty shall be assessed by means of an administrative citation issued by the enforcement officer and shall be payable directly to the City of Willernie.

F. Administrative Costs. Administrative costs may be assessed when a violation has occurred and compliance has not been achieved within the time specified in the compliance order. The administrative costs include any and all costs incurred by the City as well as, but not limited to, costs of investigation, staffing costs incurred in preparation for the citation appeal hearing and for the appeal hearing itself, attorney fees and costs for all re-inspections to enforce the compliance order.

G. Recovery of Civil Penalties.

1) If a civil penalty is not paid within the time specified in the administrative citation or in the decision on appeal, it shall constitute, at the option of the City one, or more, of the following options:

a) A special assessment charge imposed on real property; or

b) A personal obligation of the violator in all other situations.

2) Assessment Procedure. A special assessment charge may be collected through property tax payments.

a) Whenever the amount of any civil penalty and/or administrative cost imposed by the City Council pursuant to this Chapter in connection with real property has not been satisfied in full within ninety (90) calendar days and/or has not been successfully appealed pursuant to the procedure set forth herein, this outstanding obligation may constitute an assessment against the real property on which the violation occurred. 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 (10), as the City Council may determine in each case.

3) Personal Obligation. A personal obligation may be collected by any appropriate legal means.
   a) 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) Failure to pay the obligation may result in further penalties, and/or legal action.

4) Late Fee. For unpaid violation fees, liens, or personal obligation remedies, a late payment fee of ten percent (10%) of the fine may be assessed for each thirty (30) day period, or part thereof, that the fine remains unpaid after the due date.

H. Penalties Cumulative. Nothing in this Chapter shall prevent the City from taking such other actions as are permitted under law, and the penalties provided here shall be cumulative.

112.020. Method of Code Enforcement

A. Authority to issue compliance letters and administrative citations. Any enforcement officer or any duly authorized representative thereof is authorized to issue compliance letters and administrative citations for violations of the City Code.

B. Delivery of Letters and Citations. Any and all letters or citations required to be given by the provisions of this Chapter shall be served on the property owner by registered or certified mail, return receipt requested, or by posting a copy in a conspicuous place in or about the building or property affected by the letter. The notices or decisions shall be addressed to the property owner or license owner at the last known legal address. Personal service delivery may be substituted for mailed notices. Actual notice shall be deemed adequate notice regardless of the method of service. Failure to receive any notice shall not affect the validity of any proceedings conducted hereunder.

C. Compliance letter.

1) *Contents of compliance letter*. If it is determined that a City Code violation has occurred, when appropriate, a compliance letter shall be issued. The compliance letter shall contain the following information:

   a) A description or address of the property on which the City Code violation has occurred;

b) The nature of the violation, including a reference to the appropriate authority;
c) The steps required to abate the violation.
d) A compliance deadline, providing a reasonable time for compliance based on the nature of the violation; and
e) a statement that failure to correct the violation may result in the imposition of an administrative citation, including a civil penalty and stating the amount of the penalty as provided in the City Fee Schedule.

2) *Reasonable extensions*. Following service of the compliance letter, the City shall attempt to work to resolve the violation, including, but not limited to, offering reasonable extensions for compliance.

3) *Exceptions to issuance of a compliance letter.* For violations of any of the following sections, the City shall not be required to issue a compliance letter and may proceed directly to issuance of an administrative citation as provided in Subsection F of this Section.

a) Repeat offender. If the same offender commits a subsequent violation within 12 months after a compliance letter has been issued for a same or similar offense.
b) License violations. For any license violations, including, but not limited to, not having a license.
c) Fire prevention violations.
d) Animal violations.
e) Traffic or parking violations.
f) Noise violations.
g) Emergency situations. When a condition exists that requires immediate action to protect the public health, safety, and welfare. See subsection D of this Section.
h) Disorderly conduct. Disorderly conduct or other similar behavior that tends to disrupt, injure or annoy a reasonable person for which a compliance letter would be moot, as the conduct or behavior has terminated.

D. Emergency Procedure. In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in subsections C and F 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 the emergency abatement, the enforcement 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 enforcement 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 F 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.

E. 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.

F. Administrative Citation.
Upon the failure to correct the violation specified in the compliance letter within the time frame established in the compliance letter or any extension thereof granted by the City, or for any offense for which a compliance letter is not required, an administrative citation may be issued. The administrative citation shall be served by certified mail, regular mail or by personal service to the last known legal address and shall contain the following information:

1) A description or address of the property on which the City Code violation has occurred.

2) Reference to the City Code chapter or section that is alleged to be violated.

3) The amount of the administrative civil penalty for the specific City Code violation, as shown in the City Fee Schedule, which shall be due and payable to the City within thirty (30) calendar days of the date the citation is mailed or personally served.

4) A statement that the violation must be corrected or one or more of the following steps will be taken:
   a) a subsequent administrative or a criminal citation may be issued
   b) the City may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement
   c) the City will obtain an administrative search and seizure warrant and abate the nuisance.

5) The steps required to abate the violation.

6) A statement that the City Code violation and the amount of the administrative civil penalty may be contested to be heard before the City Council by notifying the City Clerk in writing within ten (10) calendar days after the citation was mailed or personally served; and

7) A statement that failure to pay the administrative civil penalty may result in it being assessed against the property as provided in Minn. Stat. Chapter 429, as it may be amended from time to time, and as stated in Section 112.010 G.

G. Alternative Responses to Administrative Citations.

1) *Payment of penalty and correction of violation.* If the offender pays the administrative civil penalty and corrects the City Code violation, no further action will be taken for that same violation. Payment of the civil penalty shall be deemed to be an admission of the Code violation.

2) *Payment of penalty without correction of violation.* If the offender pays the administrative civil penalty but fails to correct the City Code violation, the City may issue a subsequent administrative citation, initiate criminal proceedings or initiate any other proceedings or remedies available in order to enforce correction of the City Code violation. Payment of the civil penalty shall be deemed to be an admission of the Code violation.

3) *No payment of penalty and no correction of violation.* If the offender fails to pay the administrative civil penalty and fails to correct the City Code violation, the City may do any of the following, or any combination thereof:

   a) Assess the administrative civil penalty against the property pursuant to Minn. Stat. Chapter 429, as it may be amended from time to time;
   b) Issue a subsequent administrative citation, thereby commencing a new administrative penalties process;
   c) Initiate criminal proceedings; and/or
   d) Initiate other enforcement action authorized by law
   e) Revoke or suspend any license.

4) *Failure to pay.* Failure to pay an administrative citation penalty, within the time specified in the citation, for which the costs cannot be assessed shall be a misdemeanor and punishable in accordance with state law unless:

   a) the matter is appealed to the City as provided herein, OR
   b) the matter, after an unsuccessful appeal decision by the Hearing Officer, is subsequently appealed to the district court as provided herein.

112.030. Appeal of the Administrative Citation.

A. An offender receiving an administrative citation may contest, i.e. appeal, the alleged City Code violation and the amount of the administrative civil penalty. In order to contest any part of the administrative citation, the offender must notify the City Clerk in writing within ten (10) calendar days after the citation is mailed or personally served, stating that the offender contests the alleged violation, the amount of the penalty or both.

B. Independent Hearing Officer

   The position of a Hearing Officer is hereby created to preside over appeal hearings.

   1) The City Council, or their designee, may, at their discretion, contract with a third party for Hearing Officer services as contained in this Chapter and set the compensation rates for those services. The Hearing Officer shall be an individual trained in law but not be required to be currently licensed to practice law in the State of Minnesota.

   2) The City Council will periodically approve a list of qualified individuals from which the City Clerk will randomly select a Hearing Officer best suited to hear and determine a matter for which the hearing is requested.

3) The competency criteria for the Hearing Officer will be determined by the City Council based on the nature of the violation, the accused violator comments, or City staff knowledge.

4) The Hearing Officer must not be a City employee.

C. Appeal Hearing

1) *Scheduling the hearing.* Upon receipt of such written appeal notice, the City Clerk shall schedule the appeal hearing before the Hearing Officer within forty-five (45) calendar days from the date of such notice. Notice of the time and place of said appeal hearing shall be mailed to the appealing party no later than ten (10) calendar days prior to the appeal hearing date. The appeal hearing may be in-person at the Willernie City Hall or a virtual meeting.

2) Hearing fee:
   a) A fee will be assessed to cover the administrative cost of the hearing.
   b) The fee amount will be determined by the City Council based on the designated Hearing Officer requirements and any administrative costs required for the hearing.
   c) The hearing fee will be refunded if the administrative citation is dismissed but not if the citation is affirmed or modified.

3) *Hearing Office Responsibilities*. The Hearing Officer has the responsibility to:
   a) Set dates and hear all contested cases;
   b) Take testimony from all interested parties;
   c) Examine all facts, evidence, and testimony as presented;
   d) Make a complete record of all proceedings and conclusions; and
   e) Affirm, dismiss, or modify the original Administrative Citation.

4) *Authority of the Hearing Officer*. The Hearing Officer has the authority to do any of the following, or a combination thereof:
   a) Make a finding that a violation has occurred;
   b) Reduce, stay, or waive a scheduled administrative civil penalty either unconditionally or upon compliance with reasonable conditions;
   c) Require compliance with the City Code within a specified time frame; and/or
   d) Make a finding that no violation has occurred and dismiss the administrative citation.

   When imposing a penalty for a violation, the Hearing Officer may consider any or all of the following factors:
   a) The duration of the violation;
   b) The frequency or reoccurrence of the violation;
   c) The seriousness of the violation;
   d) The history of the violation;
   e) The violator's conduct after issuance of the notice of appeal hearing;
   f) The good faith effort by the violator to comply;
   g) The economic impact of the penalty on the violator;

h) The impact of the violation upon the community; and
i) Any other factors appropriate to a just result,

5) *Appeal Hearing Process*. The appellant will be heard by the Hearing Officer. At the hearing~~,~~ the parties will have an opportunity to present testimony and documentary evidence and question witnesses, but strict compliance with Minnesota Rules of Evidence will not be required. The City will have the burden of proving the existence of a violation and the reasonableness of any required corrective action by a preponderance of the evidence.

6) *Decision and Order*

a) The Hearing Officer shall issue its findings of fact and conclusions, in writing, within thirty (30) calendar days following the hearing.

b) The Hearing Officer, upon finding that an administrative citation was justified, may uphold the citation as issued or may amend the penalties, subject to the maximum amounts provided in the City's fee schedule.

c) If the Hearing Officer finds that the administrative citation was not justified, it may overturn the citation and take any other action it deems reasonably necessary.

d) The City may suspend or revoke a City-issued license, permit, or other approval associated with the violation, subject to any applicable procedural requirements contained in the City Code. Suspension or revocation of a license, permit or other approval is authorized regardless of whether additional penalties (such as administrative fines) are imposed for the violation.

7) *Failure to appear*. Failure to attend the appeal hearing constitutes a waiver of the violator's rights to a subsequent review and an admission of the violation. The Hearing Officer may waive this result upon a showing of good cause. Examples of "good cause" are: death or incapacitating illness of the accused; a court order requiring the accused to appear for another hearing at the same time; and lack of proper service of the citation or notice of the citation appeal hearing. "Good cause" does not include forgetfulness and intentional delay.

8) *Appeal.* The decision of the Hearing Officer is final without any further right of administrative appeal. An aggrieved party may obtain judicial review of the decision of the Hearing Officer by a court of competent jurisdiction.

TITLE 200. CITY ORGANIZATION AND PROCEDURE

Chapter 201. ELECTION DATE

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

Chapter 202. ADMINISTRATIVE ORGANIZATION AND PROCEDURE

202.010. Council Meetings.

1) Regular Meeting. The City Council shall hold one regular meeting on the third Wednesday of each month.

2) Special Meeting.

   a) 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.

   b) 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 or 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.

   c) 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.

   d) 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.

Chapter 203. PLANNING COMMISSION

203.010. 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 is almost fully developed, the City Council shall act as the Planning Commission when action by a planning commission is required by law.

Chapter 204. MAYOR AND COUNCILPERSON SALARIES

204.010. Salaries. The Mayor of the City 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.

Chapter 205. BUILDING DEPARTMENT

205.010. Creation of the 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.

Chapter 206. REIMBURSEMENT FOR EXPENSES

206.010. 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) "Owner". Any person, firm, or corporation.

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

3) "Development". 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 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 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 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 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 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 shall not pay interest on the monies deposited in the escrow fund.

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TITLE 300. ZONING

Chapter 301. ZONING CODE

301.010. Intent and Purpose. This Code 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.
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 Code 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 Code 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 Title that are inconsistent with the City's Comprehensive Plan.

301.030. Scope.

A. **Jurisdiction**. This Code 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 Code 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 Code, 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 Code relating to non-conformities.

301.040. Severability. Every section or subdivision of this Code 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 is divided into the following distinct Zoning Districts:

- Residential R
- Commercial C-I
- Commercial C-II
- Wetlands, Soil Erosion, Restrictive Soils Overlay

A. **Overview of Lot Requirements**.

District	See Section 301.080 Minimums		See Section 301.100 Setbacks		
	Lot Area Sq ft	**Lot Avg Feet Width**	**Front**	**Side**	**Rear**
R	6,400	80	20	5	5
C-I	6,400	80	20	5	5
C-II	6,400	80	20	5	5
Overlay	12,800		• All structures shall be set back at least 150 feet from the wetland or the ordinary highwater level. • Maximum impervious surface coverage — 30 percent • All distances shall be measured from the nearest point of the building to the applicable property line or street. • Also see Title 1800		

B. **Permitted Uses by District**

ZONING DISTRICT	PERMITTED USES
Residential R	Single-family residences, playgrounds, parks, churches, public libraries or museums.

ZONING DISTRICT	PERMITTED USES
Commercial C - I	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. 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 incidental to a use authorized in this Title.

ZONING DISTRICT	PERMITTED USES
Commercial C - 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.
Wetlands, Soil Erosion, Restrictive Soils Overlay	a) No filling, grading, dredging, draining, excavation, hardcover, temporary or permanent structures, obstructions, septic systems, wells or other alteration shall be allowed within a wetland district or on land abutting said district, if such activity upon those adjacent districts is incompatible with the purpose and intent of this ordinance as specified in Chapter 1801

301.060. Zoning Permit. Permits are required to ensure conformance with the Zoning Code. 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.

1) 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 Code have been met in a particular case:

a) 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.

b) A site plan indicating location, size and placement of proposed structures, parking and loading facilities, vehicular access and egress, or pedestrian walkways.

c) 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.

1) 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 Code are shown on the map published herewith and made a part of this Code 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 Code 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.

301.100. Setbacks. All structures not in the overlay district shall be set back a minimum of twenty (20) feet from any street, five (5) feet from the rear lot line and five (5) feet from any side yard lot line. Structures in the overlay district shall be set back in accordance with Chapter 301 and 1801. All distances shall be measured from the nearest point of the building to the applicable property line or street.

301.110. Detached Garages.

1) Purpose. The City Council of the City of Willernie finds that oversized detached garages contribute to problems with obstructing traffic visibility, air circulation, light access and unauthorized living quarters. Furthermore, the City finds that large detached garages contribute to unauthorized commercial uses in a residential area. The City Council finds that it is necessary to limit the size and height of detached garages within the City.

2) Limitations. Detached garages within the City shall be limited to one floor and shall be 1000 square feet or less in size. A maximum side wall height for any proposed detached garage shall be twelve (12) feet.

3) Denial of Permit. The building inspector shall not issue a building permit for any proposed detached garage which does not meet the requirements of this Chapter.

4) Unlawful Construction. It shall be unlawful for any person to build, rebuild or expand any detached garage which does not comply with the requirements of Chapter.

5) Violation. A violation of this Section shall be punishable as a misdemeanor under state law. At its option the City may seek injunctive relief requiring modification or removal of any structure built, re-built or expanded in violation of this ordinance subsequent to its enactment.

301.120. Variance Procedure.

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

B. Review Process.

1) Initiation. Initiation of a variance may be made upon application of the property owner or their designated agent.

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

3) A description of the proposed use and how it varies from the applicable provisions of the Zoning Code;

4) A legal description of the property, including plot and parcel number;

5) A site plan showing the location and extent of the proposed building, parking, loading, access drives, landscaping and any other improvements;

6) A statement of the applicant, referring to specific facts, describing the following:

   a) 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;

   b) The practical difficulty to the applicant if the variance is not granted;

   c) 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:

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

1) 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 four-fifths (4/5) vote of the Council, unless extended pursuant to Minnesota State Statute 15.99.

2) 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.

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

4) 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 Code.

5) 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 (1) 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 Code 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:

1) 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 Code were to be carried out.

2) 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.

3) The purpose of the variance is not based exclusively upon a desire to increase the value or income potential of a parcel of land.

4) The alleged practical difficulties are caused by this Code and have not been created by any persons presently having an interest in the parcel of land.

5) 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.

6) The proposed variance is in keeping with the spirit and intent of the Code.

7) 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.

8) 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.

301.130. Rezoning.

A. Applicability.

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.

1) Initiation. A Zoning Map Amendment may be initiated by any of the following:
   a) The property owner or their designated agent;
   b) The City Council; or
   c) The Zoning Administrator or other Authorized Agent.
2) Application Submittal. A complete application shall be submitted to the City Clerk or other Authorized Agent;
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;
   c) Review the application, considering the approval criteria and prepare a report to the City Council 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 Zoning Map, unless extended pursuant to Minnesota State Statute 15.99: Time Deadline for Agency Action
   b) Approval, or approval with conditions, shall require a four-fifths (4/5) vote of the City Council, unless otherwise required by State Law.
   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 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 Code.

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.

301.140. Zoning Ordinance Text Amendment.

A. Applicability. The text of the Zoning Code 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 Code 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; and
   b) The precise wording of any proposed amendment to the text of this Code; 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 Code Text, unless extended pursuant to Minnesota State Statute 15.99: Time Deadline for Agency Action.

b) Approval, or approval with conditions, shall require a four-fifths (4/5) 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 Title.

C. Approval Criteria. In determining whether to approve, approve with conditions, or deny an application for a text amendment to the Zoning Code, 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.

301.145. Special Use Permit.

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

1) Multi-family homes

2) Duplexes

3) Twin homes

4) Short-term or long-term rental homes

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

C. General provisions. Special uses may be allowed by permit as follows:
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 Title 1400.

1) 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.

2) 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 301.050 Permitted Uses Commercial II Section (d).

a) Manufacture of baked goods.

b) Carpet, bag and rug cleaning establishments.

c) Light assembly businesses.

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 three hundred fifty (350) feet of the property to which the interim use is related at least ten (10) days prior to the Meeting. The City 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. A special 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.

301.150. 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 sixty (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 three hundred fifty (350) feet of the property to which the interim use is related at least ten (10) days prior to the Meeting. The City 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.

301.160. 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 three hundred fifty (350) feet of the property to which the conditional use is related at least ten (10) days prior to the Meeting. The City shall be responsible for mailing such notices.

3) Approval of a request shall require passage by a majority vote of the City Council.

4) The approved conditional use permit will be filed with the Washington County Recorder office and the applicant will pay the County recording fee as part of the permit fee.

Chapter 302. PARKING ON COMMERCIAL LOTS OR NEW CONSTRUCTION

302.010. Purpose.

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

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 Code, 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 Code shall not subsequently be reduced to an amount less than that required under this Code for a similar new building or use. Off street parking facilities provided to comply with the provisions of this Code shall not subsequently be reduced below the requirements of this Code. 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 one hundred eighty (180) square feet excluding access drives, a width of not less than nine (9) feet, and a depth of not less than twenty (20) feet. Each space shall be adequately served by access drives of not more than twenty-four (24) feet in width

at the property line for residential lots and not more than thirty-two (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 (30) feet of any street right-of-way or within five (5) 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 Code.

I. Screening**.** When a parking area designed for five (5) spaces or more abuts a more restrictive zoning district, a fence, not over five (5) 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. Schedule of Parking Requirements for New Construction or New Commercial Uses.*

USE	PARKING SPACES REQUIRED
Single Family House	4 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.

302.020. Parked Vehicle Regulations.

A. 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.

B. 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.

C. Sidewalks. No person shall drive or park any vehicle upon any sidewalk or within the intersection of any streets.

D. 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.

E. 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.

F. Restricted Parking Violation is a Petty Misdemeanor. Any violation of the restricted parking Code provisions of this Section 302.020 shall constitute a petty misdemeanor violation as defined by Minnesota Statutes Section 609.02, and shall pay a penalty fee as shown in the Fee Schedule.

Chapter 303. LANDSCAPING

303.010. Purpose. The purpose of this Code is to provide minimal reasonable regulations as to landscaping requirements for new construction or new commercial uses within the City.

303.020. Landscaping.

A. Intent

1) It is the policy of the City 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.

2) Landscape Plan Required: A landscape plan shall be provided for all new residential or commercial construction and change of commercial uses within the City. 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.

B. General Requirements, All Districts

1) 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.

Chapter 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 Code to regulate the message displayed on any sign; nor is it the purpose or intent of this Chapter to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building. The purpose and intent of this Chapter 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 Code, 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 Code.

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 Code.

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 Code.

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

304.030. Definitions.
The following words and terms, when used in this Sign Code, 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 ore rearrange only once in a twenty-four (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 Council of Willernie.

22) "Legally established nonconforming sign". Any sign and its support structure lawfully erected prior to the effective date of this Code which fails to conform to the requirements of this Code. A sign which was erected in accordance with a variance granted prior to the adoption of this Code and which does not comply with this Code 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 Code, 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 of

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:

   i. 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.

   ii. The size and content of the display message shall relate to pedestrians and not be designed to convey information to vehicular traffic.

   iii. No electrical connections can be used with the portable menus board sign.

   iv. Sign display is only permitted during the business hours of the subject business.

   v. 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:

1) names and addresses of the owners of the display structure and property;

2) the address at which any signs are to be erected;

3) the lot, block and addition at which the signs are to be erected and the street on which they are to front;

4) 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;

5) the cost of the sign;

6) type of sign (i.e. wall sign, roof sign, etc.);

7) certification by applicant indicating the application complies with all requirements of the Sign Code; and

8) 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 sixty (60) days from the receipt of the complete application, including applicable fee. All permits not approved or denied within sixty (60) days shall be deemed approved. If the permit is denied, the issuing authority shall prepare a written notice of within ten (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 Code or any other law or ordinance regulating the same.

1) 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.

2) 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 sixty (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 one hundred (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:

1) 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.

2) All off-premise signs displayed when the business or activity is not open or occurring.

3) 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.

4) Portable signs displayed when the business or activity is not open or occurring.

5) Changeable copy signs.

6) Abandoned signs.

7) Advertising signs.

8) Flashing signs.

9) Motion signs. No signs are allowed which contain moving sections or intermittent or flashing lights, except for intermittent display of time and temperature.

10) Painted wall signs actually painted on the permanent exterior wall surface.

11) Permanent pennants.

12) Posted bills or signs placed on public right-of-way or any improvement within the public right-of-way.

13) Roof signs.

14) 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.

15) 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.

16) 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.

304.130. Setbacks.

1) 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.

Yard	Residential	Commercial C- I	Commercial C-II
Front	5 feet	10 feet	1 foot
Side	5 feet	5 feet	0 feet
Rear	5 feet	5 feet	10 feet

304.140. Area.

The area within the frame shall be used to calculate the square footage except that the width of a frame exceeding twelve (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.

1) an awning, canopy, or marquee may not project into the public right-of-way nearer than thirty (30) inches to the street curb or curb line;

2) awnings, canopies, or marquees may have no part of the structure other than supports nearer the ground surface than seven (7) feet;

3) the architectural style of the awning, canopy, or marquee may be consistent with the building being served;

4) awnings, canopies, or marquees projecting into the required yards may not be enclosed except with a transparent material permitting through vision; and

5) 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 thirty-five (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 thirty-five (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 Code 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 Code, 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.

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

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

2) The following types of signs are not permitted in residential zoning districts:
   a) Awning signs
   b) Canopy signs
   c) Flashing signs
   d) Marquee signs
   e) Pole signs
   f) Pylon signs

304.210. Non-conforming Uses.

It is recognized that signs exist within the zoning districts which were lawful before this Sign Code 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 Code 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 Code to permit legal nonconforming signs existing on the effective date of this Sign Code, 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 one hundred eighty (180) days of when the property was damaged, it shall not be reconstructed except in conformity with the provisions of this Code.

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 Code 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.

1. 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.

2. 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.

3. Condition. All signs must be maintained in a neat and clean condition, having no chipping or peeling paint, faded letters, or deteriorating backboards.

4. 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.

5. Electrical Under Grounding. All free-standing signs shall have underground electrical wiring in compliance with the building and electrical codes.

6. 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.

Chapter 305. PLANNED UNIT DEVELOPMENT

305.010. Intent.

It is the intent of this planned unit development Chapter to provide design flexibility by allowing substantial variances from the provisions of this Chapter including uses,

setbacks, height, and similar regulations, but not including parking requirements, off-street loading, or necessary screening. The variances, if granted, shall be fully consistent with the general intent and purposes of this Chapter. It is not the intent of this Chapter to increase overall density beyond the limits imposed by the other Ordinances of this City.

305.020. Definition.

Planned unit developments shall include all developments having two (2) or more principal uses or structures on a single parcel of land; and may include townhouses, apartment projects involving more than one building, residential subdivision submitted under cluster zoning provisions, multi-use structures such as an apartment building with retail at ground floor level, commercial type developments, industrial type developments, mixed residential and commercial type developments, and similar projects. Such developments may be excluded from certain requirements of this Chapter providing:

1) A General Plan is submitted to the Planning Commission showing the location of all proposed structures, driveways, landscaping, parking, screening, sidewalks, access drives, land uses, and such other information as may be requested.

2) The Planning Commission shall find that the proposed development is fully consistent with the purposes of this Chapter and in conformity to the Comprehensive Plan. Prior to the establishment of a Planning Commission, all duties and responsibilities delegated to the Commission under this Chapter shall be carried out by the City Council.

3) The development shall conform to the Comprehensive Plan as filed with the City of Willernie.

4) A Special Use Permit is granted.

305.030. Preliminary Review.

1) Application. The applicant shall apply for a permit to submit a preliminary review. The preliminary review fee is specified in the Fee Schedule. The applicant shall prepare and submit the following information to the Planning Commission, which is designed to provide a basis for an initial review concerning the property, developer and ownership requirements, at least ten (10) days before a regularly scheduled meeting.

2) Site Information. A sketch plan shall be submitted showing the location of the site, size of the site, utilization of land adjacent to the site, existing buildings of the site, significant topological and physical features of the site, proposed general street layout, and proposed general lot layout.

3) Existing Buildings and Adjacent Uses. If the developer contemplates the retention of existing buildings of extension of facilities or utilities serving adjacent uses, these facts shall be documented.

4) Developer Information. The following information shall be submitted.
   a) Ownership. The developer shall have a property interest in the site which shall consist of a fee simple title, or an option to acquire a fee simple title within a specified time period, or a leasehold interest in excess of thirty

(30) years, or a substantial interest in a joint venture agreement, real estate investment trust or other real estate syndication which has or can obtain fee simple title, or a marketable title subject to certain restraint which will not substantially restrict its development within a reasonable time. All mortgages including purchase money mortgages, all easements restricting land use, all liens, and all judgments which may affect the site shall be documented.

The applicant shall supply proof of existing ownership consisting of an abstract of title, certified currently, a current Certificate of Title or an attorney's title opinion based thereon, together with any unrecorded documents whereby the applicant acquires a legal or equitable property interest.

b) Development Experience. The developer shall submit information of personal experience in real estate development to include all corporations now or formerly in existence in which the developer exercised substantial control. If the developer has not had any previous experience in real estate development, he shall submit such evidence as is necessary to demonstrate his competence to undertake the proposed development.

c) Financial Capability. The developer shall submit certified evidence of present financial position to include existing or proposed credit sources for land acquisition, construction, and permanent financing. No developer shall be approved unless it can be shown that he possesses or has the ability to acquire sufficient funds for the development of the site.

d) Neighboring Landowners. The applicant shall submit a licensed abstractor's certificate showing the names and addresses of the record owners of all the property located within a minimum of three hundred fifty (350) feet of all the contiguous property in which the applicant has legal or equitable property interest.

e) Acceptance or Denial of the Application. Within thirty (30) days following the first regular meeting after the application for a Preliminary Review has been submitted, the Planning Commission shall either accept or reject the Preliminary Review. If additional information is desired the Planning Commission shall make a request for such information within five (5) days after the first regular meeting following submission of the application, and the Planning Commission shall accept or reject the Preliminary Review within twenty-five (25) days following such request. If the Preliminary Review is rejected, the Planning Commission shall forward the application to the City Council. At the first scheduled meeting of the City Council following the forwarding of the application, the Council shall vote either to uphold the Planning Commission's rejection or to accept the Preliminary Review. Should the City Council vote to accept the Preliminary Review, their acceptance overrides any previous rejection by the Planning Commission. Where the Planning Commission accepts the Preliminary Review, it shall not be necessary to forward the application to the City Council for their approval. If a Preliminary Review is accepted, the developer may apply for a permit for the PUD. No application which has

been denied shall be re-submitted for a period of ninety (90) days from the date of denial.

305.040. Application for PUD Permit.

1) Fees. The fee for a PUD permit is set forth in the City Fee Schedule.

2) Preliminary Review. The application shall submit a Preliminary Review which has been approved by the Planning Commission within the previous year.

3) Information Required. The applicant shall submit the information required in 305.030.

4) Referrals. Upon receipt of all the required information, the Planning Commission shall refer the applicable portions to the Fire Department, City Engineer, Building Official, Washington County Soil and Water Conservation Service, and other such public bodies, agencies, or officials as the Planning Commission may deem necessary or beneficial. Reports on those aspects of the proposed plan which concern the applicable department or body must be submitted to the Planning Commission within twenty-five (25) days of the receipt of such applicable portion.

5) Action by Planning Commission. The Planning Commission shall thereafter recommend approval of the application as submitted, approval of the application subject to specified modification or conditions, or recommend denial of the application. Such recommendation must be within sixty (60) days of receipt of the PUD application. Prior to the recommendation, a public hearing shall be held concerning the granting of the particular permit. At least ten (10) days published notice of said hearing shall be given. Prior to said meeting, the Planning Commission may request modification of the application or additional information.

6) Action by City Council. The application for a PUD permit shall be placed on the agenda of the City Council within one hundred twenty (120) days of application for permit. The City Council shall vota on the application within sixty (60) days after the application has been placed on the agenda. If it grants the permit, the City Council may impose conditions, including time limits, it considers necessary. If it shall determine by resolution that the proposed use will not be detrimental to the health, safety, morals, or general welfare of the City and that said use is in harmony with the general purpose and intent of this Chapter and the Comprehensive Plan, the City Council may grant such permits.

7) Method of Withdrawing an Application for a Permit. Any application for a PUD permit may be withdrawn by the applicant at any time prior to filing the required final plat thereof, or if no platting is required in connection with the PUD application, then at any time prior to physical implementation of the approved permit, such as the commencement of construction on the permit site.

8) Method of Amending a PUD Permit. Any desired change involving structural alteration, enlargement or intensification of use not specifically allowed by a particular PUD permit, or any request for a variance from the specific terms of a previously issued PUD permit, shall require that an application be filed for an

amended permit and all procedures shall then apply as if a new permit was applied for.

9) Method of Cancellation for a PUD Permit. Any existing approved PUD permit shall be deemed to be cancelled if the owner of the land involved in the permit applies for and receives a re-zoning with respect to said property prior to the time that there is any physical implementation of the matters covered by the previously approved PUD permit. In addition, an existing PUD permit shall be deemed to be automatically cancelled in the event that a final plat, if the same be required in connection with the permit, is not filed as required within one hundred twenty (120) days following final approval of the PUD permit by the City Council. In all other situations an existing PUD permit shall be cancelled and revoked, short of expiring according to its own terms, only upon the event of the City acting in accordance with law and due process, taking some rezoning action which supersedes the PUD permit.

305.050. Requirements of General Development Plan.

1) Regional Location Component Map. A map shall be submitted showing all property owners within three hundred (300) feet of the development site.

2) Land Evaluation Component. The Land Evaluation Component shall consist of a map or maps and accompanying report setting forth the natural limitations on land development including slopes, drainage systems, vegetation, soil types, soil quality, and how these limitations are incorporated in the development plan. Said Land Evaluation Component shall also contain a descriptive statement of objectives, principles, and standards used for its formulation.

3) Land Use Component. The Land Use Component shall consist of a map or maps and report setting forth the distribution, location and extent of the acres of land devoted to each category of land use proposed as part of the General Plan of Development. Said Land Use Component shall also contain a descriptive statement of objectives, principles, and standards used in its formulation.

4) Circulation Component. The Circulation Component shall consist of a map or maps and report setting forth the general location, extent, and nature of all transportation facilities proposed as part of the General Plan of Development, all proposed points of inter-connecting access to existing transportation facilities, and the present use and design capacities of existing transportation facilities. Proposed transportation facilities information shall include:

    a) Location of paths or bikeways;

    b) Location of major and local thoroughfares;

    c) Location and definition of trash removal system; Location and definition of industrial and commercial delivery areas and systems;

    d) Identification by function of, limited access highway, distribution loops, feeder streets, and local streets;

    e) Location and function of one-way street systems, divided roads, left-turn lanes, and such other matters as may be related to the provision for the circulation of traffic within the planned area.

The following information pertaining to parking areas shall be shown:

a) Paved areas for all parking compounds;

b) Landscaped areas contained within- parking areas;

c) Service estimates which show the number of residential units or gross flow area and the number of parking spaces for each area.

Said Circulation Component shall also contain a descriptive statement of objectives, principles and standards used for its formulation.

5) Services and Service Facilities Component. The Services and Facilities Component shall contain a map or maps setting forth the general location and extent of any and all existing and proposed systems for sewage, domestic water supply and distribution, refuse disposal, drainage, local utilities and right-of-way, easements, facilities and appurtenances necessary therefore Said Services and Facilities Component shall also contain a descriptive statement setting forth objectives, principles and standards used for its formulation, as well as a detailed statement describing the proposed ownership, method of operation, and maintenance of each such service and facility.

6) Open Space and Community Facilities Component. The Open Space and Community Facilities Component map and report shall show all land dedicated or deed restricted, for public or common use showing major trails, acreage and proposed use. The report shall contain an explanation of how the common open space shall be maintained including an estimate of additional charges or costs to be paid by each housing unit. The method by which citizen participation is provided in the maintenance of these facilities shall be specified. All improvements, to be placed as fixtures upon the land shall be described.

7) Land Coverage and Drainage Component. A Land Coverage and Drainage Component map or maps shall include the location and square feet of all areas of the site to be covered by paving or building roofs, the proportion of each as related to the total site, and the relation to each watershed existing on an off-site location prior to proposed development.

All areas of the site in which the natural vegetative cover will be altered shall be identified and the proportion by type of change shall be identified with the amount of area in acres and the proportion of each as related to the total site shall be indicated on the map legend.

All drainage areas which occupy five percent (5%) or more of the site shall be identified with the amount in acres and the proportion of each as related to the total site shall be indicated on the map legend.

All natural drainage swales, all streams and their opposite watershed shall be identified with the maximum area shown to be covered by water resulting from a rainfall of fifteen (15) and one hundred (100) year storms.

All improvements including retention basins, pond, culverts, dams, storm water pipes in excess of six (6) inches shal1 be located by type.

The report shall contain certified copies of all necessary easement deeds required for the drainage of storm water onto off-site locations.

This report shall contain an analysis of all improvements including off-site conditions to facilitate the flow of storm water which are included in the Land Coverage and Drainage Map. Construction processes shall be specified for systems. Said Component shall also contain a descriptive statement of objectives, principles, and standards used for its formulation.

8) Building Quality Component. A Building Quality component shall be submitted consisting of a map or maps, schematic drawings, and report showing locations of all buildings with floor elevations, typical building types to illustrate architectural intent and character, and the name, address, and certification of the architect approving the exhibit.

9) Legal Submissions Component. A Legal Submissions Component shall be submitted consisting of the following:

   a. The articles of incorporation and by-laws for any homeowner's association, condominium association or other form of non-profit corporation to maintain or advise in the operation of any common space.

   b. Any agreement by which an organization is to serve in the capacity of a trustee.

   c. A signed statement regarding the rights of the municipality to substitute for the organization to maintain common open space and to collect the necessary funds.

   d. Copies of all existing or proposed easements and covenants to permit other persons to utilize portions of land or to maintain facilities and/or utility service lines.

   e. Copies of all declarations, restrictions, and covenants imposed upon the land including reservations in favor of any homeowner association.

10) Construction Order Component. A Construction Order Component shall contain a map or maps setting forth the proposed chronological order of construction or other authority to occupy complete structures so as to provide a basis for determining the adequacy of the related services and facilities for each separate construction phase. Those facilities which would not require a variance under existing zoning. Said component shall also contain a descriptive statement of objectives, principles, and standards used for its formulation.

11) Financial Impact Component. A financial impact component shall be submitted consisting of a report demonstrating the additional taxes generated by the PUD for the City and School District, the additional financial burden generated by the PUD on the school system, fire department, police department, road maintenance and other increased financial burden on the City. Said component shall also contain a descriptive statement of objectives, principles, and standards used for its formulation.

12) Air Pollution Component. The Air Pollution Component shall consist of a map and report setting forth the location of all air pollution sources including areas of heavy traffic, parking lots, incinerators, and smokestacks. The report shall include the amount of pollution expected from each source, and the abatement procedures to be used to control such air pollution. Said component shall also contain a descriptive statement setting forth objectives, principles, and standards used for its formulation.

13) Air Conditioning Water Component. The Air Conditioning Water Component shall consist of a report setting forth the source and discharge of any water used for air conditioning.

14) Energy Component. The Energy Component shall consist of a report setting forth the total amount of energy to be used by the PUD, the relative amount provided from each source, the relative amount utilized by each requirement, and those design features which will promote energy conservation. Said component shall also contain a descriptive statement setting forth the objectives, principles, and standards used for its formulation.

15) Additional Components. The General Plan of Development may include as additional Components: A Recreation Component, a Public Building Component; a Social Environment Component; and other additional component or information contained in any component enumerated in 302.010 (A)-(M) which the Planning Commission deems necessary. The Planning Commission may also require an Environmental Impact Study Report.

16) Population 'Component. The population Component shall contain a report of the standards of population density and building intensity for the various proposed land uses, including estimates of future population, age, and economic characteristics and change within the planned community correlated with the other Components of the General Plan of Development. The supporting date shall include, but not be limited to, dwelling (housing) units per acre for the various residential uses proposed; and square footage by type for the various non-residential facilities including sufficient data to calculate traffic generation, parking requirements, water consumption, sewage needs and the necessary capacity of related utilities and services traditionally rendered by public or private organizations for a population of such size as is projected for the completed, planned development. Any public and/or subsidized housing shall be identified to include an explanation of the assistance· program and the number of units effected. Said Population Composition shall also contain a descriptive statement of objectives, principles and standards used for its formulation.

305.060. General.

1) Records. The Planning Commission shall maintain a record of all permits issued including information on the use, locations, conditions imposed, time limits, review dates, and such other information as may be appropriate.

2) Certification of Plans Required. Any plan submitted shall be certified as follows:

a) Mechanical systems, electrical systems, and all structural systems shall be designed and certified by a registered professional engineer and

b) All building and site plans shall be designed and certified by a registered architect or registered engineer. The site plans may be prepared by a professional site planner but a registered architect or engineer must certify that he has reviewed the site and designed the proposed buildings in accordance with the site plans, the terrain and neighboring conditions and in accordance with the State Building Code.

3) Time Limits. No application which was subsequently denied shall be resubmitted for a period of six (6) months from the date of said order of denial. If a time limit or periodic review is included as a condition by which a permit is granted, the permit shall be reviewed at the specified time, at a public hearing with notice of said hearing published at least ten (10) days prior to the review. It shall be the responsibility of the Planning Commission to schedule such public hearings and the permittee shall be required to pay for said review.

4) Bonding to Assure Conformance to General Plan of Development and Agreements. To assure that any improvements specified as part of the General Plan of Development (or necessary as a prerequisite to a utility release) are completed under the terms of said plan or each phase as outlined in the Construction Order Component or in any agreements executed according to the provisions of this Chapter; the applicant shall post a corporate surety bond or cash bond guaranteeing the faithful performance of the work or agreements and the payment of any costs in a sum equal to the total as recommended by the Planning Commission not to exceed one hundred twenty percent (120%) of expected cost of improvements. Furthermore, prior to certification of the Site Plans required by this Chapter, the Planning Commission shall also determine the amount of corpora e surety bond or cash bond as required by this Chapter. Said corporate surety bond or cash bond shall cover each separate facility, landscaping, or utility required as part of each phase of development as outlined in the approved Construction Order Component and in the General Plan of Development, as the case may be; provided, however, that part of the corporate surety bond or cash bond may be released when any specific part of each phase is completed.

5) Effect of Minimum Area Requirements on Conveyed Lots or Building Sites. In the event any real property in the approved permit is conveyed in total or in part, the buyers thereof shall be bound by the provisions of the PUD permit and the General Development Plan constituting a part thereof; provided, however, that nothing herein shall be construed to create non-conforming lots, building sites, building or uses by virtue of any such conveyance of a lot, building, building site, or part of the development created pursuant to and in conformance with the PUD permit. Subsequent structural additions or alterations may be made provided the provisions of the PUD permit, this Chapter, and other applicable Chapters are adhered to.

6) Final Plat. Unless the requirement for a final plat be waived, all applicants for a PUD permit shall be required to file with the appropriate governmental recording agency a plat of said PUD complying with all of the requirements of the Subdivision Ordinance except to the extent that the Planning Commission may have given specific permission to the effect that specific portions of the Subdivision Ordinance need not be complied with. Such required plats shall

contain on their face a cross-reference to the final approved PUD permit (and General Plan of Development made a part thereof on file and shall be filed within one hundred twenty (120) days after the date of the action giving final approval to the PUD permit.

7) Private Streets. Whenever it does not contradict the provisions of this Chapter as it relates to an adopted transportation plan or the protection of opportunities for reasonable development of surrounding land adjacent to a development proposed in a PUD application, streets which are intended to be kept continuously closed to public travel or are at all times posted as private streets may be retained as private streets and so reflected upon the final plat made a part of the PUD permit; provided an agreement is entered into between the owner of said private streets and the community assuring that the construction, operation and maintenance of said streets will be accomplished in accordance with approved standards.

8) Staged Developments. It is recognized that certain PUD permits may involve construction over a long period of time. If it is proposed to develop a project during a period which will exceed two (2) years, the applicant may request permission to submit detailed information respecting only the first state or stages of the project. If permission pursuant to such a request is granted, a separate public hearing shall nevertheless be required respecting each successive stage of the project as the same is reached, and detailed plans shall be submitted in accordance with the approved Construction Order Component forming a part of the PUD permit.

305.070. Site Plans and Building Plans.

1) Requirements for Site Plans. Prior to the final issuance of the PUD permit, or prior to specific building permits being issued in the case of an approved staged development PUD permit, the applicant shall file five (5) complete and detailed site plans for which building requirements will be required. Each such site plan shall include refinements of all pertinent data required as a part of the General Plan of Development constituting a part of the PUD application and, as well as all pertinent data required by the Minnesota State Building Code, including but not limited to:

   a) Identification of the use of each structure and reference to the supplementary data pertinent to each use and contained within the relative Component of the General Plan of Development along with appropriate additional data.

   b) Provisions for off-street parking, vehicle storage, internal and external circulation, and reference to supplementary traffic date.

   c) Type and placement of signs, other than street name signs.

   d) Type and location of fire-fighting facilities.

   e) Nature and extent of cut and fill and degree of soil compaction along with related engineering date.

   f) Plans and specifications for facilities for drainage of the lots, if any, and the sites, streets, highways and alleys, including provisions of storm drainage, culverts, bridges and appurtenant structures.

   g) Plans and specifications for distribution and service lines for public water

supply to each lot, if any, or building site, wells or other sources of supply, reservoirs, pumping station; and, if a private facility, a proposed agreement to assure continued operation and maintenance in accordance with Chapter 4 of the Washington County Development Code.

h) Plans and specifications for sewage and all liquid or solid waste storage and disposal facilities, including main and secondary collection lines and stub-offs from the secondary collection lines to the property line of each potential lot, if any, or building site and pumping station.

i) Type, placement, and number of street name and signs and traffic safety signs.

j) Type, placement, and number of street, highway, and alley lighting devices.

k) Barricades and other safety devices.

l) Type of fencing along any lot or site abutting a river, creek, open storm drain, lake, or other body of water or channel and its appurtenant works.

m) Such other information as the Planning Commission may require.

2) Procedure for Approval of Site Plans. Upon receipt of site plans the Planning Commission shall refer copies of the same to such departments as appropriate. Within twenty (20) days each of said departments shall certify in writing to the Planning Commission whether said site plans are in conformance with the approved General Plan of Development made a part of the PUD application, in accordance with the approved chronological order of construction, and in accordance with the provisions of all applicable Ordinances insofar as the same fall within the jurisdiction of each such particular department. Upon receipt of said certifications from the aforementioned departments, the Planning Commission shall in turn make its decision respecting said site plans, and shall thereafter act upon the same.

3) Building Permits. Following approval of the site plans, building permits may be issued for proposed structures within the approved PUD permit area, provided:

a) that the same appear to be in conformance with the final approved PUD permit and the integral General Development Plan made a part of said permit, and with the approved site plans;

b) that the necessary bonds have been acquired as provided in this Section;

c) that the proposed improvement or building construction is in accordance with the approved order of construction as per the Construction Order Component or other specific terms of the approved PUD permit as may be in any way involved respecting a Staged Development;

d) that any final plat as may be required by the terms of this Chapter has been filed with the appropriate governmental recording agency; and

e) that the proposed structure meets the requirements of applicable codes.

305.080. Enforcement. (Deleted)
Deleted 06/18/2025 See Title 110.

TITLE 400. BUILDING CODE

Chapter 401. BUILDING CODE

401.010. 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.

401.020. Enforcement. The City 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 or cause the same to be done, contrary to or in violation of any of the provisions of said Building Code.

Chapter 402. PERMITS

402.010. 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 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) or 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 as determined from time to time by resolution of the City Council.

402.030. Assumptions. Nothing in this Title 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.

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 one hundred twenty

(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 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.

Chapter 403. FEES

403.010. 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 Fees. Plan review fees shall be sixty five percent (65%) of the relevant 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 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.

Exceptions: Building permit valuations for the following structures shall be based on the valuation of on-site work only:

1. Manufactured homes containing a Housing and Urban Department (HUD) certification label
2. Prefabricated buildings with a Department of Labor and Industry prefabrication label
3. Industrialized/modular buildings with an Industrialized Building Commission (IBC) label"

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. See Section 105.020 D 3).

Chapter 404. SWIMMING POOLS

404.010. 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/drain field 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. Safety Fencing. In all districts, it is required that 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.

404.030. Pool Drainage. In all districts, the drainage of pools into public streets or other public drainageways shall require written permission of the appropriate local public officials.

TITLE 500. WATER SYSTEMS

Chapter 501. MUNICIPAL WATER SYSTEMS

501.010. Control of Water System. The Water Works System of the City 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 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 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 three-quarter (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 (2%) on a flow equal to one-eighth (1/8) 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 a five (5) 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 (10) 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 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 $7,500.00 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 Code 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 thirty (30) days after such date, a ten percent (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 (2) 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 Code, it shall not be turned on again until the related utility Fee Schedule amount 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 the related Fee Schedule amount.

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 twenty-four (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 related utility Fee Schedule amount 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 (3) 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 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 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 Code 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 Code. Any person who shall do or commit any act which is forbidden by this Code or who shall obstruct the observance of the provisions herein, shall be punished as for a misdemeanor under State law.

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TITLE 600. MISCELLANEOUS NUISANCES

Chapter 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:

1) 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;

2) Interferes with, obstructs, or renders dangerous for passage any public highway or right-of-way, or waters used by the public; or

3) 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. 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.

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

1) Decayed Food**.** Exposed accumulation of decayed or unwholesome food or vegetable matter;

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

3) 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).

4) 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.

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

6) 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.

7) Lack of Basic Facilities. Whenever a dwelling unit, structure or any portion thereof which can be occupied as a separate living quarters, lacks water service; a hot water source; approved electrical source; heating source; sewage disposal capacity; garbage and recycling containers or where the existing electrical, heating or sewage disposal systems are unsafe for continued operation, such dwelling shall be deemed uninhabitable.

The owner of any structure deemed uninhabitable by the City Council shall be given thirty (30) days written notice to abate the violation by installation, repair or reinstatement of any basic facilities causing the uninhabitable status, or vacate the property.

No person shall occupy, temporarily or permanently, an uninhabitable property which remains uninhabitable more than thirty (30) days after written notice to the owner of the property as described above

8) Violation of any provision of this Section, including maintaining a nuisance after being notified in writing of a violation of any provision of his Title, shall be a misdemeanor.

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

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

2) Betting**.** Betting, bookmaking, and all apparatuses used in such occupations;

3) 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."

4) 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 one-half percent (½%) alcohol by volume.

5) Violation of any provision of this Section, including maintaining a nuisance after being notified in writing of a violation of any provision of this Section, shall be a misdemeanor.

6) Cannabis, Tobacco, and Nicotine use in Certain Public Places Prohibited**.**

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

i. "Public Place". Property owned, leased, or controlled by the City. 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.

ii. "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.

iii. "Tobacco Products" and "Nicotine Solution Products" shall have the meanings as defined in Minn. Stat. § 297F.01.

b) 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.

c) Penalty. A Violation of any provision of this Section, including maintaining a nuisance after being notified in writing of a violation of any provision of this Section, shall be a petty misdemeanor.

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

1) All snow and ice not removed from public sidewalks twelve (12) hours after the snow or other precipitation causing the condition has ceased to fall;

2) All snow plowed or shoveled into the public street;

3) All trees, hedges, billboards, or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;

4) 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;

5) 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;

6) 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;

7) 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 fifty (50) feet if the source is located outside a structure or building shall be prima facie evidence of violation of this Section;

8) 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;

9) 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;

10) Radio aerials, satellite discs, or television antennae erected or maintained in a dangerous manner;

11) 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;

12) 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;

13) 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;

14) Any barbed wire fence less than six (6) feet above the ground and within three (3) feet of a public sidewalk or way;

15) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;

16) Waste water cast upon or permitted to flow upon streets or other public properties;

17) 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;

18) 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;

19) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch with trash of other materials;

20) 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;

21) The depositing of garbage or refuse on a public right-of-way or on adjacent private property;

22) All other conditions or things which are likely to cause injury to the person or property of anyone.

23) Noises prohibited.

a) *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.

b) *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.

c) *Loading, unloading, unpacking.* No person shall create loud or excessive noise in loading, unloading, or unpacking any vehicle.

d) *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 fifty (50) feet if the source is located outside a structure or building, shall be prima facie evidence of a violation of this Section.

24) Hourly restriction of certain operations.

a) *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.

b) *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.

c) *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.

25) 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.

26) Reflected glare or light from private exterior lighting exceeding one-half (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.

27) Operation of Snowmobiles Within the City.

a) The City Council has become aware of repeated instances of damage to private and public property caused by snowmobile operation on private property not owned by the operator or owner of the snowmobile and damage to public property caused by snowmobile operation in City parks or on public land within the City. It is the purpose of this Section to provide for the public safety by regulating the manner in which snowmobiles arc operated.

b) Adoption of State regulations. The regulations regarding snowmobiles provided for by Minn. Stats. §§ 84.81--84.89 are hereby adopted and made a part of this Section by reference as if fully set forth herein.

c) Unlawful operation. It shall be unlawful for any person to operate a snowmobile on private property of another without permission of the owner or person in control of said property.

d) Traffic ordinances. Traffic ordinances shall apply to the operation of snowmobiles upon streets and highways, except for those relating to required equipment, and except those which by their nature have no application.

e) Prohibited places. No person shall operate a snowmobile in any of the following places:

(l) Upon any property owned by the City unless said property has been clearly marked with signs erected by authority of the City Council permitting snowmobile operation and such operation shall then be limited to the area so designated.

(2) Within one hundred (l00) feet of any fisherman, pedestrian, skating rink, or sliding area where the operation would conflict with the use or endanger other persons or property.

28) Emergency Securing of Hazardous and Substandard Buildings

a) The City Council has determined that a problem exists with vacant or abandoned buildings within presenting an immediate danger to the health and safety of persons in the community due to trespass and/or the condition of the property.

b) Pursuant to the authority granted in Minnesota Statutes Section 463.251, the City has the authority to enact an ordinance authorizing it to secure such buildings on an emergency basis where there is immediate danger to the public.

c) Definitions.

1) "Secure". May include but is not limited to, installing locks, repairing windows and doors, boarding windows and doors, posting "No Trespassing" signs, installing exterior lighting , fencing the property or installing an alarm or security system.

2) "City" The City of Willernie.

d) Enactment.

When the City Council determines that:

1) A building has become vacant or unoccupied and that the building is open to trespass and has not been secured and further determines that the building could be made safe by securing the building; and

2) That the public will be endangered by failure to take immediate action to secure the building; and that reasonable efforts have been made to notify the property owner or lienholders of the condition of the building.

The City Council may direct agents or employees to secure the building by reasonable means until such time as the owner secures the property or alleviates the conditions causing the danger. In the process of securing the building, agents or employees of the City may enter onto the property for the sole purpose of determining that the property is vacant at the time security measures are implemented.

The cost of securing the property may be assessed against the property in the manner set forth in Minnesota Statute Section 463.21.

Violation of any provision of this Section, including maintaining a nuisance after being notified in writing of a violation, shall be a misdemeanor.

Chapter 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:

1) obstructs views on streets and private property,
2) creates cluttered and otherwise unsightly areas,
3) prevents the full use of residential streets for residential parking,
4) introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited,
5) decreases adjoining landowners' and occupants' enjoyment of their property and neighborhood, and
6) otherwise adversely affects property values and neighborhood patterns.

602.020. Unlawful Parking and Storage.

1) Definitions
   "Vehicle" and "Motor Vehicle". A thing used for transporting people or goods. This definition includes, but is not limited to the following: snowmobiles, trailers (open-bed and enclosed), recreational vehicles (RV)/motorhomes, campers, storage trailers, ice houses, automobiles, all-terrain vehicles (ATV), utility terrain vehicles (UTV), motorcycles, storage pods, and any other machine or device that is on wheels, motorized, or pulled by motorized vehicles.

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 (4) 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 (1) 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 sightly and sanitary condition.

Violation of any provision of this Section, including maintaining a nuisance after being notified in writing of a violation, shall be a misdemeanor.

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.

Violation of any provision of this Section, including maintaining a nuisance after being notified in writing of a violation, shall be a misdemeanor.

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 percent (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.

Violation of any provision of this Section, including maintaining a nuisance after being notified in writing of a violation, shall be a misdemeanor.

602.050. Duties of City Officers. Deleted
Deleted 06/18/2025 See Title 110.

602.060. Abatement. Deleted
Deleted 06/18/2025 See Title 110.

602.070. Recovery of Costs. Deleted
Deleted 06/18/2025 See Title 110.

Chapter 603. SEASONAL PARKING

603.010. 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 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:

1. **"**Snowfall" means a ground accumulation of snow of one (1) inch or more within a twenty-four (24) hour period. The twenty-four (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 (1) inch.

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

3. “Vehicle” and “Motor Vehicle”. A thing used for transporting people or goods. This definition includes, but is not limited to the following: snowmobiles, trailers (open-bed and enclosed), recreational vehicles (RV)/motorhomes, campers, storage trailers, ice houses, automobiles, all-terrain vehicles (ATV), utility terrain vehicles (UTV), motorcycles, storage pods, and 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 Code shall be punishable in the same manner as a misdemeanor under State statute. Furthermore the City Council of the City finds that vehicles parking in violation of any provision of this Code 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 the misdemeanor Fee Schedule amount.

Chapter 604. PLACING OF NUMBERS ON BUILDINGS IN THE CITY

604.010. Numbering System. A numbering system is hereby established for the City 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.

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

Such numbers shall be at least six (6) 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 one hundred twenty (120) days after the Code is effective, the City will purchase and mount same and bill residence with total charges on the next water bill.

604.030. Penalty. Violation of any provision of this Chapter, including maintaining a nuisance after being notified in writing, shall be a misdemeanor.

Chapter 605. JUVENILE CURFEW

605.010. Findings and Purpose.

1) 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 Section.

2) 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.

3) 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.

1) "Emergency". A circumstance or combination of circumstances requiring an immediate action to prevent property damage, serious bodily injury, or loss of life.

2) "Establishment". Any privately owned place of business to which the public is invited, including, but not limited to, any place of amusement, entertainment or refreshment.

3) "Juvenile". A person under the age of seventeen (17) except persons who are legally married or have been legally emancipated.

4) "Parent". Biological parents, adoptive parents, and step-parents.

5) "Proprietor". Any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes members or partners of an association or partnership and the officers of the corporation.

6) "Public Place". 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.

7) "Serious bodily injury". Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any body part or organ.

605.030. Prohibited Acts.

1) It shall be unlawful for a juvenile under the age of seventeen (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:

a) accompanied in close proximity by the juvenile's parent, step-parent, foster parent or guardian;

b) engaged in lawful employment activity;

c) involved in an emergency situation requiring immediate action to prevent property damage, serious bodily injury or loss of life; or

d) going to or returning home from an official school, religious or other recreational activity sponsored by a public entity or a civic organization

2) 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 Chapter.

3) 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 Chapter.

4) The provisions in this Code Chapter 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.

Violation of any provision of this Chapter shall be punishable as a misdemeanor.

Chapter 606. LURKING

606.010. 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 without the permission of the owner of such property.

Chapter 607. TREES

607.010. Declaration of Purpose. The City has determined that there are many trees growing on public and private premises within the City, the loss of which would substantially depreciate the value of public and private premises, and impair the safety, good order, general welfare, and convenience of the public. The City Council has determined that the health and life of such trees is threatened by fatal diseases and insects such as Dutch Elm, Oak Wilt, and Emerald Ash Borer. The City Council hereby declares its intention to control and prevent the spread of such diseases and the insect pests and vectors that carry such disease and declares them a public nuisance.

607.020. Intent Declared; Authority; Coordination of Program. It is the intention of the City Council to adopt and enforce regulations to control and prevent the spread of plant pests and diseases pursuant to the authority granted by Minnesota Statutes Section 18G.13. These regulations are directed specifically at the control and elimination of Dutch Elm Disease, Oak Wilt, and Emerald Ash Borer and other epidemic diseases and infestations of shade trees. The City shall act as coordinator between the MN Commissioner of Agriculture and the City Council in the enforcement of these regulations.

607.030. Nuisances Declared. The following things are public nuisances whenever they may be found within the City:

1) Any living or standing Elm tree or part thereof infected with the Dutch Elm disease fungus, Ceratocystis Ulmi (Buisam) Moreau; or which harbors any of the Elm Bark Beetles, Scolytus Multistriatus (Eich.) or Hylurgopinus Rufipes (Marsh.);
2) Any living or standing Oak tree or part thereof infected to any degree with the Oak Wilt fungus, Ceratocysitis Fagacerarum.
3) Any dead Elm or Oak tree or part thereof, including logs, branches, stumps, firewood or other material from which the bark has not been removed and burned.
4) Any living or dead Fraxinus spp tree or part thereof infested to any degree with the insect Emerald Ash Borer (Agrilus Planipennis)

607.040. Inspection and Investigation. The City Council may designate a qualified and approximately licensed Tree Inspector who shall inspect all premises and places within the City as often as practical or necessary to determine whether any condition described in Section 607.030 exists thereon. He/she shall investigate all suspected or reported incidents of infestation. The Person or persons so designated by the Council may enter upon private premises at any reasonable time for the purpose of carrying out the duties assigned under this Chapter. That person or persons shall upon finding conditions indicating an infestation, confirm disease using commonly accepted field symptoms, have appropriate specimens or samples analyzed by a qualified laboratory as needed, or take such other steps for diagnosis as may be appropriate.

607.050. Authority to Take Specimens. Whenever necessary to determine the existence of infestations as described in 607.030 in any tree, the City or authorized agent may remove or cut specimens from the tree as may be necessary or desirable for diagnosis. The City or authorized agent may forward such specimens to a lab approved by the Minnesota Department of Agriculture for analysis to determine the presence of such disease or infestation. No action to remove living trees or wood shall be taken by the City until diagnosis of the disease or infestation has been made by detection by the City or authorized agent of commonly recognized symptoms, by lab tests, or written consent to the action is obtained from the property owner.

607.060. Abatement and Removal.

1) When the presence of Elm Bark Beetles has been discovered in or upon any living Elm tree but the presence of Dutch Elm Disease fungus is not then or thereafter diagnosed, the City will require that the tree be treated in a manner that will effectively destroy and prevent the spread of the insect as much as possible. If the City or authorized agent deems that such treatment is not, or because of the extent of the infestation, cannot be effective, the tree must be removed and destroyed.

2) When the presence of Emerald Ash Borer has been discovered in or upon a living Fraxinus (Ash) tree, the City will require that the tree be treated in a manner which will effectively destroy and prevent the spread of the insect as much as possible. If the City or authorized agent deems that such treatment is not or, because of the extent of infestation, cannot be effective, the tree must be removed and destroyed.

3) Standing dead Elm and Ash trees and Elm and Ash logs, branches, stumps, firewood or other raw material from which the bark has not been removed and which are not

infected or infested with Dutch Elm Disease fungus or Emerald Ash Borer must have their bark removed or destroyed or must be treated in a manner which will effectively destroy and prevent as much as possible the spread of the Elm Bark Beetle or the Emerald Ash Borer. If such treatment is not effective, or, because of the extent of infection or infestation, cannot be effective, the trees, logs, branches, stumps, firewood or other raw material must be removed and destroyed.

607.070. Abatement Procedure; Collection of Costs.

1) Whenever the City or authorized agent has reason to believe that a nuisance as defined in 607.030 exists on any private property in the City, the City or authorized agent shall report all findings to the City Council. If the City Council determines that a nuisance exists, the owner or person in control of such property on which the nuisance is found shall be notified by administrative citation which will direct that the nuisance be removed or otherwise effectively treated in an approved manner by such owner or person in charge within the time specified in the citation. The citation shall also state that if such nuisance is not abated within the time provided, nor provision for the abatement satisfactorily made, the City may abate the nuisance at the expense of the owner and that the unpaid charge or a portion thereof for such work will be made a special assessment against the property concerned as defined in Section 112.010 G.
2) If the abatement is performed by the City, as soon as the abatement has been completed by the City and the cost determined, the City or authorized agent shall prepare an invoice and mail it to the owner, and thereupon the amount shall be due and payable at the City Hall within thirty (30) days of the date of the invoice. If the invoice is not paid within thirty (30) days, the City Council may specially assess the costs against the property as defined in Section 112.010 G.

607.080. Interfering with Enforcement. It is unlawful for any person to prevent, delay or interfere with the City or authorized agent while he or she is engaged in the performance of duties imposed.

607.090. Penalty. Any person found in violation of the Chapter shall be guilty of a misdemeanor.

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TITLE 700. LIQUOR REGULATIONS

Chapter 701. GENERAL REGULATIONS

701.010. 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:

1) "Liquor". As used in this Chapter, without modification by the words "intoxicating" or "3.2 percent (3.2%) malt," includes both intoxicating liquor and 3.2 percent (3.2%) malt liquor.

2) "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.

1) 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.

2) 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.

3) 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 (3.2%) malt liquor license or the imposition of a civil penalty under the provisions of § 703.010(B).

701.050. Consumption In Public Places. No person shall consume intoxicating liquor or 3.2 percent (3.2%) 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.

Chapter 702. LICENSING

702.010. 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 (1) 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.

1) 3.2 percent (3.2%) 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 (3.2%) malt liquor with the incidental sale of

tobacco and soft drinks.

2) 3.2 percent (3.2%) malt liquor off-sale license.

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

4) 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 the related alcohol licensing Fee Schedule amount or a greater amount which may be permitted by M.S. § 340A.408, Subd. 3, as it may be amended from time to time.

5) 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 veteran's 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.

6) 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 thirty (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 the related alcohol licensing Fee Schedule amount, or the maximum amount provided by M.S. § 340A.504, Subd. 3(b), as it may be amended from time to time.

7) Combination on-sale/off-sale intoxicating liquor licenses.

8) 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 (4) consecutive days, and the City shall issue no more than twelve (12) days' worth of temporary licenses to any one organization in one (1) calendar year.

9) On-sale wine licenses, with the approval of the Commissioner of Public Safety to: theaters, restaurants that have facilities for seating at least twenty-five (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 (½) 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 (3.2%) malt liquor license is authorized to sell malt liquor with a content over 3.2 percent (3.2%). i.e. strong beer, without an additional license.

10) A one-day consumption and display permit 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.

11) 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 the related alcohol licensing Fee Schedule amount, 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.

12) 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 (6) ounces of wine or twelve (12) ounces of intoxicating malt liquor, during and as part of the class, for consumption on the licensed premises only.

13) Brew pub on-sale intoxicating liquor or on-sale 3.2 percent (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 three thousand five hundred (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 three thousand five hundred (3,500) barrels per year, provided that off-sales may not total more than five hundred (500) barrels.

14) 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 five hundred (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 three thousand five hundred (3,500) barrels per year, provided that off-sales may not total more than five hundred (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 five hundred (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.

15) 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 three thousand five hundred (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.

16) 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 two hundred fifty thousand (250,000) barrels of malt liquor annually or a winery that produces more than two hundred fifty thousand (250,000) gallons of wine annually. Within ten (10) 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.

17) A cocktail room license may be issued to the holder of a state micro distillery license. A micro distillery 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 micro distillery cocktail room license may also hold a license to operate a restaurant at the distillery. No more than one (1) cocktail room license may be issued to any distiller and a micro distillery 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 micro distillery cocktail room and taproom license and a micro distillery cocktail room and taproom license may not be co-located. Within ten (10) days of the issuance of a micro distillery 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 micro distillery cocktail room license transfer, cancellation, suspension, or revocation during the license period.

18) A micro distiller off-sale license may be issued to the holder of a state micro distillery license. A micro distiller off-sale license authorizes off-sale of one (1) three hundred seventy-five (375) milliliter bottle per customer per day of product manufactured on-site provided the product is also available for distribution to wholesalers.

19) A micro distiller temporary on-sale intoxicating liquor license may be issued to the holder of a state micro distillery license. A micro distillery temporary on-sale intoxicating liquor license authorizes on-sale of intoxicating liquor in connection with a social event within the City sponsored by the micro distillery.

702.040. License Fees; Pro Rata.

(A) No license or other fee established by the City shall exceed any limit established by MN Statute Chapter 340A, as it may be amended from time to time, for a liquor license.

(B) The Council may establish, in the City Fee Schedule, 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 thirty (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 sixty (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 thirty (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.

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 ninety (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.

702.090. 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.

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, as shown in the alcohol licensing Fee Schedule, which shall be in addition to any license fee. If the cost of the preliminary investigation is less than the liquor investigation Fee Schedule amount, 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. For in-state investigations, the related investigation fee, as shown in the alcohol licensing Fee Schedule, for this comprehensive background and financial investigation shall be paid by the applicant, less any amount paid for the initial investigation. For out-state investigations, the related investigation fee, as shown in the alcohol licensing Fee Schedule, shall be paid by the applicant, less any amount paid for the initial investigation. 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.

1) Each license shall be issued only to the applicant for the premises described in the application.
2) Not more than one (1) license shall be directly or indirectly issued within the City to any one person.
3) No license shall be granted or renewed for operation on any premises on which

taxes, assessments, utility charges, service charges, or other financial claims of the City are delinquent and unpaid.

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

5) No license shall be granted within five hundred (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.

6) Penalty. See Section 703.010.

702.130. Conditions on License. The failure of a licensee to meet any one (1) of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

1) Within ninety (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.

2) 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.

3) 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.

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

5) Compliance with financial responsibility requirements of state law and of this Chapter is a continuing condition of any license.

6) 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).

702.140. Hours and Days of Sale.

1) 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.

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

occur.

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

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

5) Any violation of any condition of this Section may be grounds for revocation or suspension of the license.

702.150. Minors on Premises.

(A) No person under the age of eighteen (18) years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2 percent (3.2%) malt liquor are sold at retail on sale, except that persons under the age of eighteen (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 (3.2%) malt liquor are sold at retail on sale.

(B) No person under the age of twenty-one (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.

(C) Penalty. See Section 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.

702.170. Suspension and Revocation.

(A) The Council shall either suspend for a period not to exceed sixty (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. See the appeal hearing Section 112.030.

(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 (3.2%) 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 affect 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 City Clerk, a hearing shall be granted within ten (10) 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.

Chapter 703. PENALTY

703.010. Penalty.

(A) Any person violating the provisions of this Title 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 the maximum amount listed in the alcohol violation penalty schedule 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 minimum schedule of presumptive civil penalties, which must be imposed in addition to any suspension unless the license is revoked, is shown in the alcohol violation penalty Fee Schedule.

(C) The term "violation" as used in this Title includes any and all violations of the provisions of this Title, 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 sixty (60) days following a violation for which revocation is imposed.

TITLE 800. MISCELLANEOUS CRIMINAL CODE

Chapter 801. GUNS, WEAPONS AND FIREARMS

801.010. Definitions.

1) "Weapon". 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.

2) "Concealed (as in weapon)". 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:

1) To have under his control for sale any weapon within the City, except as provided in Section 801.050 of this Code.

2) To fire, discharge, release, throw, or in any other manner propel, a weapon within the City.

3) To wear under one's 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.

1) 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.

2) 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.

3) In addition to any confiscation and forfeiture under Section 801.040A, violation of this Code shall be a misdemeanor and result in a fine or imprisonment as authorized by the Code.

801.040. Exceptions. The prohibitions of this Code shall not apply to:

1) 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.

2) 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.

3) 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.

4) 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 considers necessary, grant or deny the license applied for.

801.100. Term. The license shall run for the period of one (1) calendar year commencing January 1st. If application is made after January 1st, the license fee shall not be prorated and the license shall expire on December 31st.

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 Municipal Code or other ordinance or State Law.

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

2) 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.

Chapter 802. MINORS

802.010 Carry and Use. 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 any weapon as defined by the Code.

802.020 Penalty. 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.

Chapter 803. OPEN BOTTLES

803.010. Definitions.

1) "Intoxicating liquor" shall mean any beverage having an alcoholic content.

2) "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.

3) "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.

1) It shall be unlawful to be in possession of an open bottle of intoxicating liquor on a public place.

2) 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.

1) The City Council of the City may issue a special permit not to exceed ninety (90) days waiving any provisions of this Code when it deems such waivers to be consistent with public welfare and safety.

2) Such permit must describe with specificity the conditions under which the permit is issued including:

    a) Public place which is covered by the permit.

    b) The person to whom the permit is issued.

    c) 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.

Chapter 804. GRAFFITI AND DAMAGE TO PROPERTY

804.010. 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.

1) "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.

2) "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 thirty (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 thirty (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 thirty (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 recover costs as described in Section 112.010.

(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.

TITLE 900. ANIMALS

Chapter 901. DEFINITIONS

901.010. Definitions. For the purpose of this Code, 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, including but not limited to any skunk (whether or not de-scented), 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 (6) 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 as shown in the animal control Fee Schedule, 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 as shown in the Fee Schedule. Dog tags shall not be transferable from one dog to another

3) 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 (3) 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 (7) 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.

901.030. 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 thirty (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.

901.040. Farm Animals. Farm animals shall only be kept on a residential lot of at least ten (10) acres in size provided that no animal shelter shall be within three hundred (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.

901.050. 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 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 (5) regular business days, unless the animal is a dangerous animal as defined in this Code in which case it shall be kept for seven (7) 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.

901.060. Kennels.

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 (4) 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 Code. The license holder must comply with all City Zoning Code and Minnesota Statutes.

901.070. 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 (5) minutes with less than one (1) 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.

901.080. 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 (1) 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.

901.090. 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.

901.100. 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 twenty-five (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 one hundred forty-four (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 (8) 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 (2) 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.

Chapter 902. MISCELLANEOUS

902.010. 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.

The provisions of M.S. § 343.31, as it may be amended from time to time, are adopted

herein by reference.

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.

1) Definitions.

a) **"**Feed or Feeding". 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" An unlicensed domestic or feral dog or cat running at large and unaccompanied or controlled by an owner.

2) 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.

3) No person shall feed or allow the feeding of any stray cat or dog within the City.

4) 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.

Chapter 903. PET WASTE

903.010. 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:

1) *"*Animal". A dog, cat, or other animal kept for amusement or companionship.
2) "Owner/Custodian". Any person who harbors, feeds, boards, possesses, keeps or has custody of an animal.
3) "Immediately". At once, without delay.
4) "Soil/defile". To make unclean from excrement
5) "Waste*". S*olid matter expelled from the bowels of the pet; excrement

903.020. Waste Deposit on Property. 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.

903.030. Removal of Waste. 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.

903.040. Failure To Remove. 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.

903.050. Disposal of Waste.

1) 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.

2) Disposal of animal waste in storm drains is prohibited.

3) Disposal of animal waste in public compost is prohibited.

903.060. Animal Exceptions. 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.

903.070. Authority to Cite. Any duly authorized agent of the City should be responsible for issuing the citations.

Chapter 904. PENALTY

904.010. Penalty.

Any person violating the provisions of this Title is guilty of a misdemeanor and upon conviction shall be enforced using the process described in Title 110 of this Code.

1) Separate offenses. Deleted 06/18/2025 See Title 110.

2) Misdemeanor. Deleted 06/18/2025 See Title 110.

3) Petty Misdemeanor. Deleted 06/18/2025 See Title 110.

4) Deleted 06/18/2025 See Title 110.

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TITLE 1000. BUSINESS LICENSING

Chapter 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:

1) For sign and billboard erecting.

2) For the trade or business of a second-hand dealer.

3) 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.

4) 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.

5) For the trade or business of an automobile service station, including, among other things, gasoline sales, car maintenance and repair.

6) 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.

7) For the operation of any barber shop, salon, massage parlor, or nail salon.

8) For the operation of any small manufacturing activity.

9) For the operation of any consultant firms, including but not limited to real estate firms, law firms, and insurance agencies.

10) 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.

Chapter 1002. Special License for Bowling Alleys

1002.010. Application and Fees.
No person shall own or operate any bowling alley which is to be used by the public until and unless it has been licensed by the City Council. An applicant for such license shall state, in writing, the name and address of the owner(s) of the property in which the bowling alley is located, the names and addresses of the persons who operate the bowling alley, the location of said bowling alley, and a general description thereof. If the City Council shall find that the owner(s) and operator of the bowling alley are persons of good moral character and that the operation of the bowling alley will be carried on in conformity with all of the laws and ordinances applicable thereto and that the operation of the bowling alley at the place indicated is consistent with the character of the community immediately surrounding it, then it may be granted a license which will expire on December 31st next following. The annual fee for such license is shown in the business license Fee Schedule.

If the owner(s) or operator shall be convicted of any violation of any of the Ordinances of the City, or laws of the State in connection with the operation of said bowling alley, or for good cause shown, the City Council may revoke said license or may cause the same to be suspended for a time to be determined by the City Council.

Chapter 1003. SPECIAL LICENSE FOR MASSAGE BUSINESSES & MASSAGE THERAPISTS

1003.010. Massage Business and Massage Therapist Licenses.

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”. 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”. A professional Massage program accredited by the Commission on Massage Therapy Accreditation (COMTA) or a

similar organization.

C. “Clean”. The absence of dirt, grease, rubbish, garbage, and other offensive, unsightly, or extraneous matter.

D. “Good Repair”. 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”. The City Council.

F. “Massage or Massage Services” 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 ofthe soft tissues, active assistive and resistive movement, and stretching.

G. “Massage Therapist”. 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 one million dollars ($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 five hundred (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". To own, manage, or conduct, or to have control, charge, or custody over.

I. "Person". Any individual, firm, entity, association, partnership, corporation, joint venture, or combination of individuals.

J. "Massage Business". 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". 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 one hundred fifty (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 outwear 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.

Chapter 1004. CANNABINOID PRODUCTS

1004.010 Purpose. The purpose of this Chapter 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 twenty-one (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 Chapter, 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 twenty-one (21) years of age.

1004.020. 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:

1) “Background Investigation”. 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.

2) “Cannabidiol/CBD”. Any non-intoxicating cannabidiol not containing tetrahydrocannabinol (THC).

3) “Cannabinoid”. Any edible cannabinoid product or nonedible cannabinoid product authorized for sale in the state statutes.

4) “Cannabinoid-related device”. 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.

5) “Certified hemp”. 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.

6) “Compliance check”. 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 twenty-one (21) as authorized by this Chapter. Compliance checks shall also mean the use of persons under the age of twenty-one (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.

7) “Delivery sale”. 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.

8) “Consumable cannabinoid product”. 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.

9) "Exclusive cannabinoid/tobacco store". 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 twenty-one (21) years of age except as provided herein.

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

11) "Hemp". 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.

12) "Label". The meaning given in M.S. § 151.01, subd. 18.

13) "Labeling". All labels and other written, printed, or graphic matter that are:
    a) Affixed to the immediate container in which a product regulated under this Chapter is sold;
    b) Provided, in any manner, with the immediate container, including but not limited to outer containers, wrappers, package inserts, brochures, or pamphlets; or
    c) Provided on that portion of a manufacturer's website that is linked by a scannable barcode or matrix barcode.

14) "Licensed product". Consumable Cannabinoid Products and Cannabinoid-related devices.

15) "Licensee". A human person licensed under this Chapter.

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

17) "Marijuana". 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.

18) “Matrix barcode”. 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.

19) “Minor”. Any person who has not yet reached the age of eighteen (18) years.

20) “Moveable place of business”. 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.

21) “Nonedible cannabinoids” includes, 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.

22) “Nonintoxicating cannabinoid”. Substances extracted from certified hemp plants that do not produce intoxicating effects when consumed by any route of administration.

23) “Retail establishment”. 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.

24) “Sale”. Any transfer of goods for money, trade, barter or other consideration.

25) “Sampling”. The introduction or promotion licensed products by offering single or partial servings for no or minimal fee.

26) “Self-service merchandising”. 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.

27) “Vending machine”. 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.

1004.030. Scope.

A. This Chapter applies to the sale of any cannabinoid product.

B. This Chapter does not apply to the sale of any cannabidiol/CBD product as defined by this Chapter.

C. This Chapter does not apply to any product dispensed by a registered medical cannabis manufacturer pursuant to M.S. §§ 152.22—152.37.

1004.040. 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 (5%) 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 address at which the applicant and on-site manager or agent lived during the preceding ten (10) years;

e. Names, addresses, and date of the applicant's and on-site manager's or agent's employers for the preceding ten (10) 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 (5%) 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 Chapter, 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 (1) 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 Chapter may be revoked or suspended as provided in Section 1004.120.

F. Transfers. All licenses issued under this Chapter 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 thirty (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 Chapter.

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 twenty-one (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 Chapter 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 five hundred (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 Chapter shall be refunded except in the following instances upon application to the City within thirty (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:

1) The business ceases to operate because of destruction or damage;

2) The licensee dies;

3) The business ceases to be lawful for a reason other than a license revocation;

4) The licensee ceases to carry on the licensed business under the license; or

5) 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.

1004.050. Basis for Denial of License. The following shall be grounds for denying the issuance or renewal of a license under this Chapter; 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 twenty-one (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 (5%) 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 (5) years of the date of application; and/or

2) Three (3) 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 (10) 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 twelve (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. Washington County already has at least one (1) active registration per twelve thousand five hundred (12,500) residents for a cannabinoid business. This is a basis for denial pursuant to Minnesota Statute § 342.13 (h) (2023).

K. Other unforeseen circumstances or conditions exist such that the issuance of a license may unreasonably endanger the health, safety, and welfare of the public.

1004.060. Prohibited Acts.

A. In general. It shall be a violation of this Chapter 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 eighteen (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 twenty-one (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 relates shelving, posting, advertising, or display at the location where the item is sold or offered for sale, including all applicable taxes.

1004.070. Storage and Display. It shall be unlawful for a licensee under this Chapter 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.

1004.080. Responsibility. All licensees under this Chapter 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 Chapter, state or federal law, or other applicable law or regulation.

1004.090. 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.

1004.100. 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 eighteen (18), but under the age of twenty-one (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 Chapter 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.

1004.110. Criminal Acts. Unless otherwise provided, the following acts shall be a misdemeanor.

A. Sales. It shall be a violation of this Chapter for any person to sell any cannabinoid products to any person under the age of twenty-one (21).

B. Possession. It shall be a violation of this Chapter for any person under the age of twenty-one (21) to have in his or her possession any cannabinoid product. This subdivision shall not apply to persons under the age of twenty-one (21) lawfully involved in a compliance check.

C. Use. It shall be a violation of this Chapter for any person under age twenty-one (21) to use any cannabinoid product.

D. Procurement. It shall be a violation of this Chapter for any person under age twenty-one (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 Chapter for any person to purchase or sell to or otherwise obtain such items on behalf of a person under the age of twenty-one (21). It shall further be a violation for any person to coerce or attempt to coerce a person under the age of twenty-one (21) to illegally purchase or otherwise obtain or use any cannabinoid product. This subdivision shall not apply to persons under the age of twenty-one (21) lawfully involved in a compliance check.

1004.120. 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 twenty-one (21) or violates any other provision of this Chapter, the licensee shall be subject to an administrative penalty. If a retail establishment has its license suspended pursuant to this Chapter, that retail establishment shall, during the period of suspension, remove all licensed products away from public view. Penalties occurring within a twenty-four (24) month period are shown in the cannabinoid violation penalty Fee Schedule.

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 twenty-one (21) may be charged an administrative fine as shown in the cannabinoid violation penalty Fee Schedule. 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. 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 Chapter, any person, firm, or corporation violating any of the provisions of this Chapter shall be guilty of a misdemeanor. Nothing in this Chapter shall prohibit the City from seeking prosecution as a misdemeanor in district court for any violation of this Chapter, 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 Chapter for a person to have reasonably relied on proof of age as described by state law.

1004.130. 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 a hearing before the City's selected impartial hearing officer. See Section 112.030.

1004.140. Severability. If any Section or provision of this Code 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.

1004.150. 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.

C. Duration of Moratorium on Cannabis Businesses. This Code 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. Deleted 02/19/2025.

E. General Provisions of Moratorium on Issuance of Licenses. Deleted 02/19/2025.

F. Duration of Moratorium on Issuance of Licenses. Deleted 02/19/2025.

G. Moratorium of Hemp Businesses. Deleted 02/19/2025.

H. Duration of Moratorium on Hemp Businesses. Deleted 02/19/2025.

I. Enforcement. Violation of any portion of this Code shall be a misdemeanor punishable by imprisonment for up to ninety (90) days and the misdemeanor fine as shown in the Fee Schedule 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 Code by mandamus, injunction or any other appropriate civil remedy in any court of competent jurisdiction.

Chapter 1005. PEDDLING AND SOLICITING

1005.010. Definitions. For the purposes of this Chapter, the terms defined in this Section have the meanings ascribed to them.

1) "Peddler". Any person or organization who goes from house to house, from place to place, or from street to street, carrying or transporting goods, wares, merchandise or services, and offering or exposing the same for sale, or making unsolicited sales and deliveries to purchasers.

2) "Solicitor". Any person or organization who goes from house to house, from place to place, or from street to street soliciting or taking or attempting to take orders for any goods, wares, merchandise, or services, including books, periodicals, magazines, or personal property of any nature whatsoever for future delivery.

3) "Transient merchant". Any person, firm, or corporation who engages temporarily in the business of selling and delivering goods, wares, merchandise, or services within the City, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, vacant lot, motor vehicle, or trailer.

1005.020. License Required. No peddler, solicitor or transient merchant shall sell or offer for sale any goods, wares, merchandise, or services within the City unless a license therefor shall first be secured as provided in this Ordinance.

1005.030. Application and Issuance. Application for such license shall be made to the City Clerk on a form supplied by the City. The application shall state:

(1) the name and address of the applicant and of all persons associated with applicant in applicant's business;

(2) the type of business for which the license is desired;

(3) in case of transient merchants, the place where the business is to be carried on;

(4) the length of time for which the license is desired;

(5) the general description of the items or products to be sold or solicited;

(6) the places of residence of the applicant for the five years preceding the date of application.

Blank applications shall be issued on payment of the related application fee, as shown in the business license Fee Schedule, which amount shall be credited on the license fee if the license is granted. Every application shall bear the written report and recommendation of the City Clerk or Mayor after an investigation of the moral character of the applicant. The completed application shall be presented to the City Council for its consideration; and if granted by the City Council, a license shall be issued by the City Clerk upon payment of the required fee, as may be determined by the City Council from time to time.

1005.040. License Restrictions. No activity under any license issued, or any activity conducted by any person or organization exempted from the licensing requirement, shall be carried out except between the hours of 9:00 a.m. and 7:00 p.m. Monday through Saturday.

At all times a true and legible copy of the license shall be in the possession of the person conducting such activity. In the case of an organization or person exempted from licensing requirements, such person shall have in bis or her possession proof of registration with the City for the activity being conducted.

All persons conducting such activity within the City shall have in his or her possession a photograph bearing identification card or current driver's license.

All licenses or registrations hereunder shall be effective only for the dates and times shown on the license. Failure by any exempt person or organization to register its intent to conduct activity within the City constitutes a violation of this Section.

1005.050. Exempt Organizations and Persons. The following persons and/or organizations are exempted from the licensing requirements of this Section.

1) Political, religious, and charitable organizations having a tax-exempt certificate from the State of Minnesota or the United States of America.
2) Private farmers having principal residence within the State of Minnesota, while selling their produce or farm products which have been grown upon their own land.

Persons or Organizations exempted from the licensing provisions of this Ordinance must register with the City in advance, identifying all persons who may be conducting activities within the City, the nature of the activity to be conducted, and the dates and times upon which such activity is to be conducted. No such activity may be conducted except between the hours of 9:00 a.m. and 7:00 p.m. Monday through Saturday.

1500.060. Revocation. Any license may be revoked by the City Council for violation of any provision of this Section if the licensee has been given reasonable notice and opportunity to be heard.

1005.070. Practices Prohibited. No peddler, solicitor, or transient merchant shall call attention to his business or to his merchandise, by crying out, by blowing a horn, by ringing a bell, or by any loud or unusual noise.

1005.080. Posting Notice. Any resident of the City who wishes to exclude peddlers, solicitors or transient merchants from premises occupied by him or her may place upon or near the usual entrance to such premises a printed placard or sign bearing the following notice: "No Solicitation Allowed". The provisions of this Section apply to exempt organization and all other persons or organizations conducting such activity within the City.

No peddler or solicitor or transient merchant shall enter in or upon any premises or attempt to enter in or upon any premises, where such placard or sign is placed and maintained. This prohibition will extend as well to persons or organizations which are exempted from the licensing requirements of this Section.

No person other than the person occupying such premises shall remove, injure or deface such placard or sign.

1005.090. Violation. Any person who violates any provision of this Section is guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding the limits for a misdemeanor or under state law or by imprisonment for a period not exceeding ninety (90) days, or both plus in either case, the costs of prosecution.

TITLE 1100. GARBAGE AND REFUSE

Chapter 1101. PURPOSE

1101.010. Purpose. The purpose of this Code is to maintain and protect the public health and sanitation by the removal of garbage and rubbish from residences in the City; 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 Code 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.

Chapter 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 (3) feet in diameter by three (3) feet high, measuring from the ground to the top of the flames, and has had the ground five (5) 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.

Chapter 1103. WASTE AND REFUSE

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

1) "Refuse". 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.

2) "Designated Recycling Program". A program for the collection and recycling of recyclable materials which is instituted, sponsored, authorized, or controlled by the City.

3) "Commercial". Any business, firm, corporation, public or non-profit entity.

4) "Recycler". An authorized recycler with which the City holds a valid recycling contract.

5) "Multiple Family Dwelling". A dwelling containing three (3) or more dwelling units designed for occupancy by three (3) or more families living independently of each other.

6) "Recyclable Materials". Materials that are separated from refuse for the purpose of recycling.

7) "Residence". Any single family or two (2) family dwelling designed exclusively for occupancy by one (1) or two (2) families living independently of each other.

8) "Scavenging". The unauthorized collection of recyclable materials that have been set out by a person specifically for curbside recycling pickup.

9) "Compost". A mixture of decayed organic material.

10) "Composting". 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.

11) "Garden". Aground area for cultivation of flowers, vegetables, or shrubs.

12) "Rear Yard". 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

13) "Yard Waste". 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.

14) "Refuse Hauler". A person or company holding a valid license from the City for the purpose of collecting refuse.

1103.020. 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:

1) Refuse must be drained of liquids, bagged, and placed in containers for collection by a licensed refuse hauler.

2) Yard waste must be placed in bags or bundles not exceeding three (3) feet in any dimension and securely fastened to avoid spillage.

3) No person shall place explosives, highly flammable materials, or hazardous waste in refuse containers.

C. Storage and Disposal of Refuse.

1) 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.

2) 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.

3) 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 5:00p.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.

1) Regulation of Collection. All refuse in the City shall be collected and removed under the supervision of the licensed refuse hauler.

2) 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 Licensing.

1) 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.

2) 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.

3) 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).

4) 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.

1) Accumulation. No person shall allow or permit any accumulation of refuse on their premises.

2) 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.

3) Burying of Refuse. No person shall bury any refuse on any public or private property except in an approved sanitary landfill.

4) 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:

1) 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.

2) 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.

3) 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.

4) 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.

5) 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.

H. Recycling.

1) 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.

2) Designated Residential Recycling Program. The City shall contract within one recycler for the collection of recyclables from all single-family homes.

3) 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.

4) 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.

5) 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.

6) 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.

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TITLE 1200. SEWER AND UTILITY ACCOUNTS, RATES, DELINQUENT CHARGE COLLECTION

Chapter 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.

Chapter 1202. PERMITS AND CONNECTIONS 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.

Chapter 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.

Chapter 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.

Chapter 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 (4) inches in diameter and clay sewer pipe shall be at least six (6) inches in diameter. In case the grade of the pipe is less than one-eighth (1/8) inch per foot, the minimum diameter of the pipe shall be six (6) 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 two percent (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 forty-five (45) degrees, and no more than two (2) 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 (20) 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.

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 augured, the drive pipe shall be at least one (1) size lager 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 Code 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 one hundred (100) feet or more from the foundation to the public sewer main, an accessible cleanout must be installed, every one hundred (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 the sewer system. If said matter is left in any pipe, the cost of removing such shall be charged against the person obtaining the permit and considered improper work under the provisions of this Code.

Chapter 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.

Chapter 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.

Chapter 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 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 in the amount established by Resolution of the City Council.

1208.060. Term. Each license is in effect for one (1) year and expires one (1) 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 Code.

A revoked permit shall not be reinstated in any manner for a period of six (6) months.

The failure to pay, within sixty (60) days, any legitimate claim the City may have against a Contractor shall constitute cause for Revocation of permit.

Chapter 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 Code.

1209.020. Connections with Sewer Required.

1) 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.

2) All buildings hereafter constructed within the City 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.

3) 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.

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 one hundred fifty (150) degrees F.

2) Any water or waste containing more than one hundred (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.

1) 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.

2) 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 shall be connected to the municipal sanitary sewer system unless express authorization therefore is obtained from the Council of the City.

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.

Chapter 1210. CITY WATER AND SEWER ACCOUNTS, RATES, DELINQUENT CHARGE COLLECTION

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 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 Code, the following capitalized terms listed in alphabetical order shall have the following meanings:

1) "Account". A record of utility services used by each property and the periodic costs for those utility services.

2) "City". The City of Willernie, County of Washington, State of Minnesota.

3) "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.

4) "Utility Rate Schedule". A schedule of all utility rates and charges set by ordinance of the City.

5) "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.

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

2) The City Council Code 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.

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

2) 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 (10) 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 thirty (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 Code if any person, firm or corporation fails to comply with any provision or this Code, 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 Code, 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,

1) 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.

2) 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 (15) 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 Code if any person, firm or corporation fails to comply with any provision of this Code, 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 Code.

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.

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TITLE 1300. CHARITABLE GAMBLING

Chapter 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 Code 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 Code 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 Code, additional restrictions on gambling within its limits beyond those contained in Minn. Stat. Section 349, as it may be amended from time to time.

Chapter 1302. Charitable Gambling

1302.010 Purpose.

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

1302.020 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 Code:

1) "Board". The State of Minnesota Gambling Control Board.
2) "City". The City of Willernie.
3) "Council". The City Council of the City of Willernie.
4) "Licensed Organization". An organization licensed by the Board.
5) "Local Permit". A permit issued by the City.
6) "Trade Area". Activities and/or Organizations within the boundaries of the cities of Willernie and Mahtomedi.

1302.030. Applicability.

This Code 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.

1302.040. 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 Code.

1302.050. 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 Code and state law.

1302.060. Application and Approval of Permits.

1) Any organization seeking to obtain a permit shall file with the City Clerk an executed, complete application.

2) 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.

3) Organizations applying for a permit shall pay the City a gambling investigation fee as shown in the business license section of the Fee Schedule.

4) 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.

5) The applicant shall be notified in writing of the date on which the Council will consider the recommendation.

6) The Council shall by resolution approve or disapprove the application within 60 days of receipt of the application.

7) The Council shall deny an application for issuance or renewal of a premises permit for any of the following reasons:

    a. Violation by the gambling organization of any state statute, state rule, or City ordinance relating to gambling within the last three (3) years.

    b. 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.

    c. Lawful gambling would be conducted at premises other than those for which an on-sale liquor license has been issued.

    d. An organization would be permitted to conduct lawful gambling activities at more than one (1) premises in the City.

    e. No more than one licensed organization would be permitted to conduct

lawful gambling activities at one (1) premises.

f. Failure of the applicant to pay the investigation fee provided by Section 1302.060 3) within the prescribed time limit.

g. Operation of gambling at the site would be detrimental to health, safety, and welfare of the community.

8) First priority shall be given to organizations whose main office location is within the corporate limits of the City.

1302.070. 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 Code.

1302.080. Issuance or Renewal of Permit.
Applications for issuance or renewal of a permit shall contain the following information:

1) Name and address of the organization requesting the permit.
2) Name and address of the officers and person accounting for receipts, expenses, and profits for the event.
3) Dates of gambling occasion for which permit is requested.
4) Address of premises where event will occur.
5) Copy of rental or leasing arrangement, if any, connected with the event, including rent to be charged to the organization.
6) Estimated value of prizes to be awarded.

1302.090. Grounds to Deny Issuance or Renewal of a Permit.
1) The Council shall deny an application for issuance or renewal of a permit for any of the following reasons:

a) Violation by the gambling organization of any state statute, state rule, or City ordinance relating to gambling within the last three (3) years.

b) 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.

c) The organization has not been in existence for at least three (3) consecutive years prior to the date of application.

d) The organization does not have at least fifteen (15) active and voting members.

e) Exempted or excluded lawful gambling will not take place at a premises the

organization owns or rents.

f) Exempted or excluded lawful gambling will not be limited to a premises for which an on-sale liquor license has been issued.

g) An organization will have a permit to conduct exempted or excluded lawful gambling activities on more than one (1) premises in the City.

h) More than one licensed, qualified organization will be conducting exempted or excluded lawful gambling activities at any one (1) premises.

i) Failure of the applicant to pay the permit fee provided by Section 1302.060 3) within the prescribed time limit.

j) Operation of gambling at the site would be detrimental to health, safety, and welfare of the community.

1302.100. Term of Permits.
Local permits shall be valid for one (1) year after the date of issuance unless suspended or revoked.

1302.110. 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.

1) 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.

1302.120. Display.
All permits issued under state law or this Code shall be prominently displayed during the permit year at the premises where gambling is conducted.

1302.130. 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.

1302.140. 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

Code. Payment under this Section shall be made on the last day of each month.

1302.150. 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 Code.

1302.160. 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.

1302.170. Hours of Operation.
Lawful gambling shall not be conducted between 2 a.m. and 8 a.m. on any day of the week.

1302.180. Penalty.
Any person who violates any provision of this Title, 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 the misdemeanor fine as shown in the Fee Schedule or imprisonment for a term not to exceed ninety (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.

1302.190. Severability.
If any provision of this Code is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

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TITLE 1400. RENTAL DWELLING LICENSING

Chapter 1401. PURPOSE, SCOPE, AND DEFINTIONS

1401.010. Purpose and Scope. It is the purpose of this Chapter to assure that rental housing in the City 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:

1) "Agent". A person designated in writing by the Owner as the Owner's representative.
2) "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.
3) "City Designated Agent". City Building Inspector.
4) "Dwelling Unit". A residential accommodation which is arranged, designed, used, or intended for use exclusively as living quarters for one (1) family, whether a building or a portion thereof.
5) "Family". For purposes of this Section, Family means an individual, or two (2) 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 (6) persons not so related, who maintain a common household.
6) "Occupant". A person who lives or sleeps in a dwelling unit.
7) "Owner". A person who is the recorded or unrecorded owner of the dwelling unit.
8) "Person". An individual, firm, corporation, association, partnership, business, government agency, or any other legal entity.
9) "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 (4) months during one (1) year does constitute "renting" under this Section.

Chapter 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 City 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 (2) 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.

Chapter 1403. CONDITION OF LICENSE

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 Code, 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 eighteen (18) years of age, currently occupying the dwelling unit.

Chapter 1404. CONDUCT, FIRE SAFETY, AND RETALIATION

1404.010. 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.

1404.020. Fire Safety. The Owner or its Agent is responsible to comply with the provisions of State and local Fire Codes.

1404.030. 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.

Chapter 1405. RENTAL DENSITY LIMITATION ON RESIDENTIAL DWELLING UNITS

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 Code, 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 ninety (90) days if the property has changed ownership, and the previous owners reside in the dwelling unit.

Chapter 1406. LICENSE SUSPENSION, REVOCATION, DENIAL, AND NON-RENEWAL

1406.010. Suspension and Violation of this Title.

A. Every license issued under the provisions of this Title 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 Title shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not more than a misdemeanor fine as shown in the Fee Schedule 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.

B. Suspension**,** revocation, or non-renewal may be under either this Section or a violation of the Conduct on Premises Section, or both.

C. 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.

D. The City Council may suspend, revoke, deny or not renew a license for part of or the entire rental dwelling unit.

E. 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 of 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 reapplication. All new applications must be accompanied by a reinstatement fee, as specified by City Council resolution, in addition to all other fees required under this Chapter.

1406.030. 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 Code, 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.

1406.040. 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.

1406.050. 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.

1406.060. 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 Title. 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 Title, 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.

1406.070. 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 Title.

TITLE 1500. UTILITY

Chapter 1501. UTILITY

1501.010. Purpose. The purpose of this Title 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.

1501.020. Definitions. The definitions contained in this Title shall apply:

1) "Changed Pipeline". Any Pipeline which is filled with Natural Gas.

2) "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.

3) "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.

4) "Natural Gas". A product in gaseous form designed and used for the purpose of combustion in furnaces and appliances.

5) "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.

6) "Public Land". Land owned by the City for park, open space, or similar purpose, which is held for use in common by the public.

7) "Public Way". All roads, streets, alleys, public rights-of-way, utility easements, and public grounds of the City to which it has the right to grant the use to a Utility.

8) "Service Connection/Service Line". The connection and line from a Utility's Distribution System to a Single Customer's dwelling or building.

9) "City Utility System". The facilities used for providing sewer or any other public Utility service owned or operated by the City or agency thereof.

10) "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).

1501.030. All Utilities Subject to This Title.

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 Title.

1501.040. 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.

1) Distribution System Permits.

   a. 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 account 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.

   b. 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.

   c. Construction shall not commence until the Utility has deposited a letter of credit or cash escrow with City, in an amount of one hundred twenty-five percent (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 as shown in the right-of-way fee section of the Fee Schedule unless a different amount is recommended by the City Engineer.

2) 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.

3) Repair or Maintenance Permits.

a. 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.

b. Construction shall not commence until the Utility has deposited a letter of credit or cash escrow with City, in an amount as shown in the right-of-way repair section of the Fee Schedule, to ensure completion of Restoration Work as outlined in Section 1500.05 herein. In the event the escrow amount is insufficient to complete Restoration Work the process outlined in Section 1500.05 shall be followed

4) 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:

a. Shall include the Utility's certification that the repaired line has not been relocated; or

b. Shall include map(s) and schematic(s) to show the relocation of the repaired line or equipment.

1501.050. 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.

1501.060. Relocation of Utilities.

1) 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 Chapter requires the 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 reasonably 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.

2) 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.

1501.070. 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 1501.07, 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.

1501.080. Street Improvements, Paving or Resurfacing.

1) 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.

2) 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.

1501.090. Location of Facilities.

1) 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 passenger 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.

2) 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.

3) Licensee's Annual Report. The Utility company shall provide an annual revised City map showing location of its Distribution System in the City.

1501.100. Utility Permit Required; Application.

1) 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.

2) 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:

    a) The name and address of the utility to be performing the installation.

    b) A general description of the work to be performed and the method used for placement.

    c) The location of the proposed utility installation and shown on a Utilities Placement Map.

    d) The proposed time frame for beginning and completing the work.

    e) Description of restoration work any trimming.

3) 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.

4) 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 thirty (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.

1501.110. Miscellaneous Provisions.

1) Notice.
   a) 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.

   b) 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.

2) Severability. If any portion of this Chapter is found to be invalid for any reason whatsoever, the validity of the rest of this Chapter shall not be affected.

3) Penalty. Any person, firm, or corporation violating any provision of this Chapter 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.

TITLE 1600. ILLICIT DISCHARGE

Chapter 1601. Adoption of Standards of the Minnesota Pollution Control Agency

1601.010 The City hereby adopts and incorporates by reference the standards established by the Minnesota Pollution Control Agency's NPDES/SDS Construction Stormwater General Permit MNRl0000l (CSW Permit) as amended in its entirety as now constituted and from time to time amended.

Chapter 1602. Illicit Discharge and Connection

1602.010. Purpose/Intent. The purpose of this Code isto 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 Code 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 Section 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 Code.

1602.020. Definitions. For the purposes of this Code, the following shall mean:

1) "Authorized Enforcement Agency". Employees or designees of the director of the municipal agency designated to enforce this Code.
2) "Best Management Practices (BMPs)". Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
3) "Clean Water Act". The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
4) "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.

5) “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.

6) “Illegal Discharge”. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 1602.070 A. 1) of this Code.

7) “Illicit Connections”. An illicit connection is defined as either of the following:

   a) 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

   b) 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.

8) “Industrial Activity”. Activities subject to NPDES Industrial Permits as defined in 40 CPR, Section 122.26 (b)(14).

9) “National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit” A permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § l342(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.

10) “Non-Storm Water Discharge”. Any discharge to the storm drains system that is not composed entirely of storm water.

11) “Person”. 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.

12) “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.

13) “Premises”. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

14) “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.

15) "Storm Water". Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

16) "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.

17) "Wastewater". Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

1602.030. Applicability. This Code 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 Code. 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 Code are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Code 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 Code.

1602.060. Ultimate Responsibility. The standards set forth herein and promulgated pursuant to this Code are minimum standards; therefore this Code 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.

A. 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:

1) The following discharges are exempt from discharge prohibitions established by this Code: 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 wetland flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), firefighting activities, and any other water source not containing pollutants.

2) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.

3) Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.

4) 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.

B. Prohibition of Illicit Connections.

1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

2) 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.

3) A person is considered to be in violation of this Code if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

1602.080. Suspension of MS4 Access.

A. 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.

B. Suspension due to the Detection of Illicit Discharge

Any person discharging to the MS4 in violation of this Code 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.
   1) The City Council or its authorized agent shall be permitted to enter and inspect facilities subject to regulation under this Code as often as may be necessary to determine compliance with this Code. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
   2) Facility operators shall allow the City 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.
   3) 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.
   4) 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.
   5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the City Council or its authorized agent and shall not be replaced. The costs of clearing such access shall be borne by the operator.
   6) 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 Code. 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 Code.

7) 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 Code, 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 Code 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. 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 (SWPP) as necessary for compliance with requirements of the NPDES permit.

1602.120. Watercourse Protection.

Every person owning or such person's lessee, property through which a watercourse passes, 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 Code, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

1) The performance of monitoring, analyses, and reporting;

2) The elimination of illicit connections or discharges;

3) That violating discharges, practices, or operations shall cease and desist;

4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and

5) Payment of a fine to cover administrative and remediation costs; and

6) 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 thirty (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 fifteen (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 thirty (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 thirty (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 fourteen (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 Code shall become liable to the City by reason of such violation. The liability shall be paid in not more than twelve (12) equal payments. Interest at the rate of five percent (5%) 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 Code. If a person has violated or continues to violate the provisions of this Code, 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 Code, 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 Code 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 Code shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to the illicit discharge penalty amount as shown in the Fee Schedule per violation per day and/or imprisonment for a period of time not to exceed thirty (30) days.

The authorized enforcement agency may recover all attorney's fees court costs and other expenses associated with enforcement of this Code, including sampling and monitoring expenses.

1602.220. Remedies Not Exclusive.

The remedies listed in this Code 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.

TITLE 1700. STORM WATER MANAGEMENT

Chapter 1701. Storm Water Management Practices

1701.010. Statutory Authorization.
This Chapter is adopted pursuant to Minnesota Statutes Section 462.351.

1701.020. Findings.
The City hereby finds that uncontrolled and inadequately planned use of wetlands, woodlands, natural habitat areas, areas subject to soil erosion and areas containing restrictive soils adversely affects the public health, safety, and general welfare by impacting water quality and contributing to other environmental problems, creating nuisances, impairing other beneficial uses of environmental resources and hindering the ability of the City to provide adequate water, sewage, flood control, and other community services. In addition, extraordinary public expenditures may be required for the protection of persons and property in such areas and in areas which may be affected by unplanned land usage.

1701.030. Purpose.
The purpose of this Title is to promote, preserve and enhance the natural resources within the City and protect them from adverse effects occasioned by poorly sited development or incompatible activities by regulating land disturbing or development activities that would have an adverse and potentially irreversible impact on water quality and unique and fragile environmentally sensitive land; by minimizing conflicts and encouraging compatibility between land disturbing and development activities and water quality and environmentally sensitive lands; and by requiring detailed review standards and procedures for land disturbing or development activities proposed for such areas, thereby achieving a balance between urban growth and development and protection of water quality and natural areas.

1701.040. Definitions.
For the purposes of this Title, the following terms, phrases, words, and their derivatives shall have the meaning stated below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directive.

1) “Applicant”. Any person who wishes to obtain a building permit, zoning, or subdivision approval.

2) “Control measure”. A practice or combination of practices to control erosion and attendant pollution.

3) “Detention facility”. A permanent natural or man-made structure, including wetlands, for the temporary storage of runoff which contains a permanent pool of water.

4) “Flood fringe”. The portion of the floodplain outside of the floodway.

5) “Floodplain”. The areas adjoining a watercourse or water basin that have been or may be covered by a regional flood.

6) “Floodway”. The channel of the watercourse, the bed of water basins, and those portions of the adjoining floodplains that are reasonably required to carry and discharge floodwater and provide water storage during a regional flood.

7) “Hydric soils”. Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

8) “Hydrophytic vegetation”. Macrophytic plant life growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

9) “Land disturbing or development activities”. Any change of the land surface including removing vegetative cover, excavating, filling, grading, and the construction of any structure.

10) “Person”. Any individual, firm, corporation, partnership, franchisee, association, or governmental entity.

11) “Public waters”. Waters of the state as defined in Minnesota Statutes; Section 1030.005, subdivision 15.

12) “Regional flood”. A flood that is representative of large floods known to have occurred· generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of a one hundred (100) year recurrence interval

13) “Retention facility”. A permanent natural or man-made structure that provides for the storage of storm water runoff by means of a permanent pool of water

14) “Sediment”. Solid matter carried by water, sewage, or other liquids.

15) “Structure”. Anything manufactured, constructed or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas

16) “Wetlands”. Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes:

    a) Have a predominance of hydric soils;

    b) Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and

    c) Under normal circumstances support a prevalence of such vegetation.

1701.050. Scope and Effect.

1) Applicability. Every applicant for a building permit, subdivision approval, or a permit to allow land disturbing activities must submit a storm water management plan to the City Council. No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until approval of the storm water management plan or a waiver of the approval requirement has been obtained in strict conformance with the provisions of this Title. The provisions of this Title apply to all land, public or private, located within the City.

2) Exemptions. The provisions of this Title do not apply to:

   a) Any part of a subdivision if a plat for the subdivision has been approved by the City Council on or before the effective date of this Title;

   b) Any land disturbing activity for which plans have been approved by the watershed management organization within six (6) months prior to the effective date of this Title;

   c). A lot for which a building permit has been approved on or before the effective date of this Title;

   d) Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles; or

   e) Emergency work to protect life, limb, or property.

3) Waiver. The City Council, upon recommendation of the Planning Commission, may waive any requirement of this Title upon making a finding that compliance with the requirement will involve an unnecessary hardship and the waiver of such requirement will not adversely affect the standards and requirements set forth in Section 1701.060. The City Council may require as a condition of the waiver, such dedication or construction, or agreement to dedicate or construct as may be necessary to adequately meet said standards and requirements

1701.060. Storm Water Management Plan Approval Procedures.

1) Application. A written application for storm water management plan approval, along with the proposed storm water management plan, shall be filed with the City Council and shall include a statement indicating the grounds upon which the approval is requested, that the proposed use is permitted by right or as an exception in the underlying zoning district, and adequate evidence showing that the proposed use will conform to the standards set forth in this Section 1701.070 (5). Prior to applying for approval of a storm water management plan, an applicant may have the storm water management plans reviewed by the appropriate departments of the City.

   Two sets of clearly legible blue or black lined copies of drawings and required information shall be submitted to the City Council and shall be accompanied by a receipt from the City Clerk evidencing the payment of all required fees for processing and approval as set forth in Section 7.5, and a bond when required by Section 1701.070 (4) in the amount to be calculated in accordance with that Section. Drawings

shall be prepared to a scale appropriate to the site of the project and suitable for the review to be performed. At a minimum, the scale shall be one (1) inch equals one hundred (100) feet.

2) Storm water management plan. At a minimum, the storm water management plan shall contain the following information.

a) Existing site map. A map of existing site conditions showing the site and immediately adjacent areas, including:

i. The name and address of the applicant, the section, township and range, north point, date and scale of drawing and number of sheets;

ii. Location of the tract by an insert map at a scale sufficient to clearly identify the location of the property and giving such information as the names and numbers of adjoining roads, railroads, utilities, subdivisions, towns, and districts, or other landmarks;

iii. Existing topography with a contour interval appropriate to the topography of the land but in no case having a contour interval greater than two (2) feet.

iv. A delineation of all streams, rivers, public waters and wetlands located on and immediately adjacent to the site, including depth of water, a description of all vegetation which may be found in the water, a statement of general water quality and any classification given to the water body or wetland by the Minnesota Department of Natural Resources, the Minnesota Pollution Control Agency, and/or the United States Army Corps of Engineers.

v. Location and dimensions of existing storm water drainage systems and natural drainage patterns on and immediately adjacent to the site delineating in which direction and at what rate storm water is conveyed from the site, identifying the receiving stream, river, public water, or wetland, and setting forth those areas of the unaltered site where storm water collects.

vi. A description of the soils of the site, including a map indicating soil types of areas to be disturbed as well as a soil report containing information on the suitability of the soils for the type ofdevelopment proposed and for the type of sewage disposal proposed and describing any remedial steps to be taken by the developer to render the soils suitable.

vii. Vegetative cover and clearly delineating any vegetation proposed for removal; and

viii. 100-year floodplains, flood fringes and floodways

b) Site construction plan. A site construction plan including

i. Locations and dimensions of all proposed land disturbing activities and any phasing of those activities;

ii. Locations and dimensions of all temporary soil or dirt stockpiles

iii. Locations and dimensions of all constructions site erosion control measures necessary to meet the requirements of this Title

iv. Schedule of anticipated starting and completion date of each land disturbing activity including the installation of construction site erosion control measures needed to meet the requirements of this Title; and

v. Provisions for maintenance of the construction site erosion control measures during construction.

c) Plan of final site conditions. A plan of final site conditions on the same scale as the existing site map showing the site changes including:

i. Finished grading shown at contours at the same interval as provided above or as required to clearly indicate the relationship of proposed changes to existing topography and remaining features;

ii. A landscape plan, drawn to an appropriate scale, including dimensions and distances and the location, type, size, and description of all proposed landscape materials which will be added to the site as part of the development;

iii. A drainage plan of the developed site delineating in which direction and at what rate storm water will be conveyed from the site and setting forth the areas of the site where storm water will be allowed to collect;

iv. The proposed size, alignment, and intended use of any structures to be erected on the site

v. A clear delineation and tabulation of all areas which shall be paved or surfaced, including a description of the surfacing material to be used; and

vi. Any other information pertinent to the particular project which in the opinion of the applicant is necessary for the review of the project.

1701.070. Plan Review Procedure.

1) Process. Storm water management plans meeting the requirements of Section 1701.060 shall be reviewed by the City Council in accordance with the standards of Section 1701.080 at its next available meeting. City Council action on the storm water management plan must be accomplished within one hundred twenty (120) days following the date the application for approval is filed with the City Council.

2) Duration. Approval of a plan submitted under the provisions of this Title shall expire one (1) year after the date of approval unless construction has commenced in accordance with the plan. However, if prior to the expiration of the approval, the applicant makes a written request to the City Council for an extension of time to commence construction setting forth the reasons for the requested extension, the City Council may grant one (1) extension of not greater than one (1) single year. Receipt of any request for an extension shall be acknowledged by the City Council within 15 days. The City Council shall make a decision on the extension within thirty (30) days of receipt. Any plan may be revise in the same manner as originally approved.

3) Conditions. A storm water management plan may be approved subject to compliance with conditions reasonable and necessary to ensure that the requirements contained in this Title are met. Such conditions may, among other matters, limit the size, kind or character of the proposed development, require the construction of structures, drainage facilities,

storage basins and other facilities, require replacement of vegetation, establish required monitoring procedures, stage the work over time, require alteration of the site design to ensure buffering, and require the conveyance to the City or other public entity of certain lands or interests therein.

4) Performance bond. Prior to approval of any storm water management plan, the applicant shall submit an agreement to construct such required physical improvements, to dedicate property or easements, or to comply with such conditions as may have been agreed to. Such agreement shall be accompanied by a bond to cover the amount of the established cost of complying with the agreement. The agreement and bond shall guarantee completion and compliance with conditions within a specific time, which time may be extended in accordance with Section 1701.070 2) above.

   The adequacy, conditions and acceptability of any agreement and bond shall be determined by the City Council or any official of the City as may be designated by resolution of the City Council.

5) Fees. All applications for storm Water management plan approval shall be accompanied by the storm water management plan fee as shown in the Fee Schedule.

1701.080. Approval Standards.

1) No storm water management plan which fails to meet the standards contained in this Section shall be approved by the City Council.

2) Site dewatering. Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, up-flow chambers, hydro-cyclones, swirl concentrators, or other appropriate controls as appropriate. Water may not be discharged in a manner that causes erosion or flooding of the site or receiving channels or a wetland.

3) Waste and material disposal. All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials or hazardous materials) shall be properly disposed of off-site and not allowed to be carried by runoff into a receiving channel or storm sewer system.

4) Tracking. Each site shall have graveled roads, access drives, and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday.

5) Drain inlet protection. All storm drain inlets shall be protected during construction until control measures are in place with a straw bale, silt fence, or equivalent barrier meeting accepted design criteria, standards and specifications contained in the MPCA publication "Protecting Water Quality in Urban Areas."

6) Site erosion control. The following criteria (a. through d.) apply only to construction activities that result in runoff leaving the site.

   a) Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as described below. Sheet flow runoff from adjacent areas greater than ten thousand (10,000) square feet in area shall also be diverted around disturbed areas, unless shown to have resultant runoff rates of less than one-half (0.5) ft./sec. across the disturbed

area for the one (1) year storm. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels.

b) All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time.

c) Runoff from the entire disturbed area on the site shall be controlled by meeting either subsections 1 and 2 or 1 and 3.

1) All disturbed ground left inactive for fourteen (14) or more days shall be stabilized by seeding or sodding (only available prior to September 15) or by mulching or covering or other equivalent control measure.

2) For sites with more than ten (10) acres disturbed at one time, or if a channel originates in the disturbed area, one or more temporary or permanent sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least one percent (1%) of the area draining to the basin and at least three (3) feet of depth and constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of three (3) feet. The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.

3) For sites with less than ten (10) acres disturbed at one time, silt fences, straw bales, or equivalent control measures shall be placed along all side slope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, silt fences shall be placed along the channel edges to reduce sediment reaching the channel. The use of silt fences, straw bales, or equivalent control measures must include a maintenance and inspection schedule.

d) Any soil or dirt storage piles containing more than ten (10) cubic yards of material should not be located with a downslope drainage length of less than twenty-five (25) feet from the toe of the pile to a roadway or drainage channel. If remaining for more than seven (7) days, they shall be stabilized by mulching, vegetative cover, tarps or other means. Erosion from piles which will be in existence for less than seven (7) days shall be controlled by placing straw bales or silt fence barriers around the pile. In-street utility repair or construction soil or dirt storage piles located closer than twenty-five (25) feet of a roadway or drainage channel must be covered with tarps or suitable alternative control, if exposed for more than seven (7) days, and the storm drain inlets must be protected with straw bale or other appropriate filtering barriers.

7) Storm water management criteria for permanent facilities.

a) An applicant shall install or construct, on or for the proposed land disturbing or development activity, all storm water management facilities necessary to manage increased runoff so that the two-year, ten-year, and l00-year storm peak discharge rates existing before the proposed development shall not be increased and accelerated channel erosion will not occur as a result of the proposed land disturbing or development activity. An applicant may also make an in-kind or monetary contribution to the development and maintenance of community storm water management facilities designed to serve multiple land disturbing and

development activities undertaken by one or more persons, including the applicant.

b) The applicant shall give consideration to reducing the need for storm water management facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales, and depressions as they exist before development to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of the wetland or pond.

c) The following storm water management practices shall be investigated in developing a storm water management plan in the following descending order of preference:

l) Natural infiltration of precipitation on-site;

2) Flow attenuation by use of open vegetated swales and natural depressions;

3) Storm water retention facilities; and

4) Storm water detention facilities.

d) A combination of successive practices may be used to achieve the applicable minimum control requirements specified in subsection (a) above. Justification shall be provided by the applicant for the method selected.

8) Design standards. Storm water detention facilities constructed in the City shall be designed according to the most current technology as reflected in the MPCA publication "Protecting Water Quality in Urban Areas", and shall contain, at a minimum, the following design factors:

a) A permanent pond surface area equal to two (2%) percent of the impervious area draining to the pond or one percent of the entire area draining to the pond, whichever amount is greater.

b) An average permanent pool depth of four (4) to ten (10) feet;

c) A permanent pool length-to-width ratio of 3:1 or greater;

d) A minimum protective shelf extending ten feet into the permanent pool with a slope of 10:1, beyond which slopes should not exceed 3:1;

e) A protective buffer strip of vegetation surrounding the permanent pool at a minimum width of one rod (16.5 feet);

f) All storm water detention facilities shall have a device to keep oil, grease, and other floatable material from moving downstream as a result of normal operations;

g) Storm water detention facilities for new development must be sufficient to limit peak flows in each sub-watershed to those that existed before the development for the ten (10) year storm event. All calculations and hydrologic models-information used in determining peak flows shall be submitted along with the storm water management plan;

h) All storm water detention facilities must have a forebay to remove coarse-grained particles prior to discharge into a watercourse or storage basin.

9) Wetlands.

a) Runoff shall not be discharged directly into wetlands without resettlement of the runoff.

b) A protective buffer strip of natural vegetation at least one rod (16.5 feet) in width shall surround all wetlands. [This width is consistent with the draft rules developed by the Board of Water and Soil Resources under the Wetland Conservation Act of 1991.]

c) Wetlands must not be drained or filled, wholly or partially, unless replaced by restoring or creating wetland areas of at least equal public value. Replacement must be guided by the following principles in descending order of priority:

i) Avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland;

ii) Minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation;

iii) Rectifying the impact by repairing, rehabilitating, or restoring the affected wetland environment;

iv) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity; and

v) Compensating for the impact by replacing or providing substitute Wetland resources or environments.

10) Steep slopes. No land disturbing or development activities shall be allowed on slopes of eighteen (18) per cent or more.

11) Catch basins. All newly installed and rehabilitated catch basins shall be provided with a sump area for the collection of coarse-grained material. Such basins shall be cleaned when they are half filled with material.

12) Drain leaders. All newly constructed and reconstructed buildings will route drain leaders to pervious areas wherein the runoff can be allowed to infiltrate. The flow rate of water exiting the leaders shall be controlled so no erosion occurs in the pervious areas.

13) Inspection and maintenance. All storm water management facilities shall be designed to minimize the need of maintenance, to provide access for maintenance purposes and to be structurally sound. All storm water management facilities shall have a plan of operation and maintenance that assures continued effective removal of pollutants carried in storm water runoff. The director of public works, or designated representative, shall inspect all storm Water management facilities during construction, during the first year of operation, and at least once every five (5) years thereafter. The inspection records will be kept on file at the public works department for a period of six (6) years.

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TITLE 1800. ENVIRONMENTAL MANAGEMENT

Chapter 1801. WETLANDS, SOIL EROSION, SEDIMENT CONTROL AND RESTRICTIVE SOILS

1801.010. Definitions.

1) "Development". The construction, installation, or alteration of any structure, the extraction, clearing, or other alteration of terrestrial or aquatic vegetation, land or the course current or cross section of any water body or water course, or the division of land into parcels.
2) "Dimensional requirements". A minimum/maximum setback, yard requirement, or structure height or size.
3) "Ordinary High Water". Ordinary highwater mark means a mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high-water mark is commonly that point where the natural vegetation changes from predominately aquatic to predominately terrestrial.
4) "Person". Any individual firm, corporation, partnership, association, or other private or governmental entity.
5) "Poorly drained Soils". Soils with a seasonal high-water table three (3) feet or less from the soil surface.
6) "Shallow Soils". Soils located over bedrock which lies 0-5 feet below soil surface.
7) "Soils with Low Permeability". Soils which have a permeability rate greater than sixty (60) minutes per inch.
8) "Soils with Rapid Permeability". Soils which have a permeability rate less than three (3) minutes per inch.
9) "Steep slopes". Slopes greater than twelve percent (12%),
10) "Structure". Anything manufactured, constructed, or erected on the ground, including but not limited to, buildings, fences, sheds, portable structures, stockpiles, culverts, and other similar items.
11) "Wetland". The areas delineated on the "City of Willernie Wetland Zoning District Map" as derived from data contained in the Comprehensive Plan of the City.
12) "Wetland Buffer Area". Areas abutting and within one hundred fifty (150) feet of a wetland.
13) "Wetland Drainage District". That area tributary to the Wetland Zoning District as delineated on the "City of Willernie Wetland Zoning District Map".
14) "Wetland Zoning District". The areas delineated on the "City of Willernie Wetland Zoning District Map" which include the wetlands and wetland buffer areas.

1801.020. Title, Council Findings, Policy, Purposes, and Means.

A. Citation. This Chapter may be cited as the "Wetlands Soil Erosion, Sediment Control and Restrictive Soils Ordinance".

B. Findings and Purpose. The Council finds that wetlands within the City, as part of the ecosystem, are critical to the present and future health, safety, and general

welfare of the land, animals, and people within the City, as well as within the Rice Creek Watershed District; that existing and potential development within the City and Rice Creek Watershed District poses increasing ecological and economic problems and demands, having the effect of potentially despoiling, polluting, accelerating the aging, eliminating or negatively and irretrievably altering both the wetlands and their functions (and the processes associated therewith) which, if conserved and maintained, constitute important physical, educational, ecological, aesthetic, recreational, and economic assets for existing and future residents of the community and the Rice Creek Watershed District. The City Council has in mind its statutory obligation to comply with Chapters 112 and 105.485 of Minnesota State Law, the regulations of Rice Creek Watershed District, regulations of the Department of Natural Resources, including provisions for protected waters, Public Law 92-500 (Federal Water Pollution Control Act), open space policies of the Metropolitan Council and its guidelines encouraging protection of marshes, wetlands in the flood plain area, and the public interest in preventing irreparable destruction of valuable natural resources. Therefore, recognizing the obligation to protect these assets and natural resource gifts from destruction and pollution of all kinds, the purposes of this Title are:

1) To preserve wetlands in as natural a state as possible to serve as natural retention and detention areas for surface waters; to regulate the use of areas adjacent to the wetlands in order to protect the natural function of the wetlands; to provide for the protection, preservation, proper maintenance and use of wetland zoning districts; to minimize the disturbance to them and to prevent damage from excessive sedimentation, eutrophication, or pollution; to prevent loss of beneficial aquatic organisms, wildlife, and vegetation or the habitats of the same; to provide for the protection of fresh water supplies from the danger of drought, overdraft, pollution, or mismanagement; to secure safety from floods; to reduce the financial burdens imposed upon the community through rescue and relief efforts occasioned by the occupancy or use of areas subject to periodic flooding; to prevent loss of life, property damage, and the losses and risks associated with flood conditions; to reduce the financial burdens imposed the community correction of erosion problems that, with proper foresight, could be avoided; to avoid the financial burden of the need for the community to reclaim its water quality; and to preserve the location, character, and extent of natural drainage courses.

2) The public interest necessitates sound land use development, as land is a limited and irreplaceable resource, and the land within the municipality is a resource to be developed in a manner which will result in minimum damage to the quality of life and to property and threat to health and reduction of private and economic loss caused by drainage problems.

C. Means. It is furthermore the intent of the City to effectuate the purpose of this Title through the following means:

1) Adopt an official map designating existing functioning wetlands that are to be protected from alterations, including:

Block 11 – entire block
Block 12, Lots 1 – 12
Block 13, Lots 1-10
Block 14 – entire block
Block 15 – entire block
Block 16 – entire block
Block 21, Lots 9-23
Block 22, Lots 9-16
Block 23, Lots 5-13, 17-25
Block 25, lots 1-4
Block 26, Lots 1-3, 20-21
Block 28, Lots 1-3
Block 29 – entire block
Block 30, Lots 1-4
Block 31, Lots 1-11
Block 32 – entire block
Block 33 – entire block
Block 34, Lots 1-3,8-10
Block 35, Lots 1-2,16-18
Block 36, Lots 1-2
Block 37 – entire block
Block 38 – entire block
Block 39 – entire block
Block 40 – entire block
Block 41 – entire block
Block 42 – entire block
Block 43 – entire block
Block 44 – entire block
Block 45 – entire block

2) To preserve and enhance the existing condition of wetlands within the community through implementation of development regulations that will ensure the design and construction of adequate on-site storm water sedimentation and holding basins, flow control devices, and implementation of effective erosion control techniques.

3) To apply techniques such as density transfers to development proposals in order to minimize ratios of impermeable surface to open space, and to preserve wetlands in their natural state.

4) To establish means by which certain wetlands may be placed in the public domain for purposes of preservation, protection, and maintenance.

5) To provide means by which the developer and the City will routinely obtain

advice and input from various governmental, agencies and professionals.

6) To establish a system of permits and enforcement to effectuate the intent of this Title.

1801.030. Wetland Zoning Districts.

This Section shall apply to wetland districts which are specifically identified on the zoning map entitled "City of Willernie Wetland Zoning District Map", an official copy of which shall be on file in the office of the Clerk and shall be available for inspection and copying upon the terms and conditions as established by the City. This district may be amended by four-fifths affirmation vote of the Council after Public hearing and notice as set out in legal requirements, but wetland districts may not be removed from the map unless it can be shown that the original designation is in error or that conditions have changed.

1801.040. Scope.

The wetland zoning district shall overlay the zoning districts previously established or as amended, so that any parcel of land lying in a wetland zoning district shall also lie in one or more of the established zoning districts. Lands lying within a wetland zoning district shall be subject to the requirements established in this Title, as well as restrictions and requirements established by other applicable ordinances and regulations of the City. Within each wetland zoning district, all use: shall be permitted in accordance with the regulations for the underlying zoning district, provided, however, that such uses must also satisfy the additional requirements established in this Title.

1801.050. Wetland Zoning District Regulations.

A. Except as hereinafter specifically permitted, no filling, grading, dredging, draining, excavation, hardcover, temporary or permanent structures, obstructions, septic systems, wells or other alteration shall be allowed within a wetland district or on land abutting said district, if such activity upon those adjacent districts is incompatible with the purpose and intent of this Title and the preservation and/or enhancement of the wetlands of the City, without first having obtained a wetland alteration permit from the City.

B. Notwithstanding the provisions of the present zoning ordinance of this Code, the following shall apply to all lands proposed to be developed and lying within a wetland zoning district.

1) Minimum lot size – twelve thousand eight hundred (12,800) square feet. '

2) All structures shall be set back at least one hundred fifty (150) feet from the wetland or the ordinary highwater level.

3) Maximum impervious surface coverage - 30 percent (30%).

1801.060. Permits.

A. The following activities in or upon a wetland zoning district shall district shall require a wetland alteration permit:

1) The digging, dredging, filling, draining or in any other may altering or removing any material from a wetland.

2) The removal of vegetation within the wet ii or the removal of vegetation within

fifty (50) feet of the wetland, except to abate a public nuisance.

3) The construction, alteration, or removal of any structure.

4) The altering of any embankment or pending area, or the changing of the flow of water or pending capacity.

5) Permanently storing materials.

6) Disposing of waste materials including, but not limited to, sewage, garbage, rubbish, and other discarded materials.

7) Installation or maintenance of essential services.

B. In consideration of an application for the issuance for a wetland alteration permit, the City shall require that the applicant furnish and supply such information as required in Section 1801.070, sub-section D, sub-division 2**.** In acting upon a wetland alteration permit application, the City shall consider all relevant factors specified in other stations of this Title, including:

1) The potential danger to life and property due to increased flood heights or velocities caused by encroachments.
2) The relationship of the proposed use to the Comprehensive Plan and the impact of the proposed use on the wetlands in the surrounding arca.
3) The impact of the proposed wetland alteration on of the nutrient stripping capacity of the wetland.

C. Permit Standards. No permit shall be issued unless the Council finds aid determines that the proposed development complies with the following standards:

1) Filling.
A minimum amount of filling may be allowed when necessary for the use of property but only when it will not have a substantially or significantly adverse effect as determined by the Council, upon the ecological and hydrological characteristics of the wetland; however, in no case shall the restrictions set out below on total amount of filling be exceeded. Since the total amount of filling which can be permitted is limited, the Council when considering permit application shall consider the equal apportionment of fill opportunity to wetland zoning district property.

   a) Any filling shall ICC cause the total natural flood storage capacity of the wetland to fall below the projected volume of runoff from the whole developed wetland drainage district generated by a six (6) inch rainfall in twenty-four (24) hours.

   b) Total filling shall not cause the total natural phosphorus stripping capacity, as established by the Washington County Soil and Water Conservation District and Rice Creek Watershed District, or as amended per provisions of this Title, of the wetland to fall below the nutrient production of the wetland watershed for its projected development.

c) Only fill substantially free of chemical pollutants and organic wastes as determined by the Council shall be used.

d) Filling shall be carried out so as to maximize the impact on vegetation.

2) Dredging.
Dredging may be allowed only when it will not-have a substantially or significantly adverse effect upon the ecological and hydrological characteristics of the wetland as determined by the Council. Dredging, when allowed, shall be limited as follows:

a) It shall be located so as to minimize the impact on vegetation.

b) It shall not significantly change the water flow characteristics as determined by the Council.

c) The size of the dredged area shall be limited to the maximum required for the proposed action.

d) Disposal of the dredged material within the wetland zoning district shall not result in a significant change in the current flow or ponding, or insubstantial destruction of vegetation, fish spawning areas, or water pollution as determined by the Council.

e) Work in the wetland will not be performed during the breeding season of waterfowl or fish spawning season.

3) Discharges.
a) Erosion control measures or retention facilities shall be put in place prior to commencement of each development construction site so as to limit soil loss from the development site to not more than five (5) tons per acre per year.

b) Sediment yield from construction sites adjacent to wetlands shall not be more than two (2) tons per acre per year.

c) The applicant for the wetland alteration permit shall be required to demonstrate that after the development is completed, the conditions on the site will be stabilized such that the yearly soil lots from the sift will not be greater than one-half (0.5) tons per acre per year.

4) Storm Water Runoff.
A minimum increase in volume of storm water runoff to a wetland from a development over the natural volume of runoff may be allowed when necessary for use of property but only when it will not have a substantially or significantly, as determined by the Council, adverse effect upon the ecological and hydrological characteristics of the wetland; however, in no case shall the restrictions on runoff set out below be exceeded. Since the total increase in runoff which can be permitted is limited, the Council when considering permit applications shall consider the equal apportionment of runoff increase opportunity to wetland property within the same wetland zoning district.

a) Storm water runoff from a development may be directed to the wetland only when substantially free of silt, debris, and chemical pollutants, and only at rates which will not substantially disturb vegetation or increase turbidity.

b) The proposed action shall not cause storm water runoff from the wetland to take place at a rate which would exceed the natural rats of runoff.

c) The quality of water infiltrated to the water table or aquifer shall remain substantially unchanged by the development of the site.

d) The allowed total increase in runoff, in combination with total fill allowed, shall not cause the total natural flood storage capacity of the wetland to fall below the projected volume of runoff from the whole developed wetland watershed generated by a six (6) inch rainfall in twenty-four (24) hours.

e) The allowed total increase in runoff, in combination with the total fill allowed, shall not cause total natural nutrient stripping capacity of the wetland to fall below the projected nutrient production from the whole developed wetland watershed.

5) Building Constraints

a) The lowest floor elevation of buildings permitted in a wetland shall be at least four feet above the elevation of the adjacent wetland boundary.

b) No development shall be allowed which will endanger the health, safety, or welfare of persons, or which may result in unusual road maintenance costs or utility line breakages due to soil limitations, including high frost action.

6) Vegetation.

Removal of vegetation within a wetland zoning district shall be permitted only when such work has been approved by the City in accordance with the standards of this Title, and only when reasonably required for the placement of structures and use of property.

D. Conditions.

1)

a) A wetland alteration permit may be approved subject to compliance with conditions reasonable and necessary to ensure compliance with the requirements contained in Subdivision 1,2, and 3. Such conditions may, among other matters, limit the size, kind, or character of the proposed work, require the construction of storm water detention facilities or other structures, require replacement of vegetation, establish required monitoring or maintenance procedures including the payment of costs for such procedures, stage the work over time and increments of land to be developed, require the alteration of the site design to ensure buffering, require the provision of performance bond or require the conveyance to the City of lands or interest therein. The dimensional requirements of the underlying zoning ordinance may be modified in furtherance of the purpose of this Title by express condition contained in the permit.

b) Except as otherwise provided in this Title, the permit application shall be processed according to the procedure specified for the processing of conditional use permits set forth. Upon the payment of the application fee, the application shall be directed to the Council, who may refer it to the Planning Commission or the City staff for review and report, Upon approval of the application for the permit, the Council may establish such terms and conditions, in addition to those specifically cited in this Title, as it deems necessary to protect the public health, safety, and welfare, including the posting of sufficient surety to guarantee conformance to the purposes of the

permit and all laws regulating the activity. The development controls provided for may also be required.

2) The following drawings and exhibits shall be included with a permit application:
   a) The name and address of the subdivision, developer, and owner.
   b) A legal description of the proposed site with a map showing its location with indications of private access roads, existing or proposed public roadways within and surrounding the development site.
   c) A full and adequate description of all phases of the operation and/or proposed physical changes.
   d) A soil survey map of the proposed development site.
   e) A topographic map of the area with contour information at two (2) foot intervals at a horizontal scale of one inch to one hundred (100) feet or larger.
   f) A detailed site plan of the proposed showing proposed drainage, grading, and landscaping.
   g) A site design map showing the location of existing and future man-made features within the site and to a distance of five hundred (500) feet surrounding the site when applicable.
   h) Information on existing drainage and vegetation of all lands within the site and to a distance of five hundred (500) feet surrounding the site when applicable.
   i) The time period for commencement and completion of the development, including timing for staging of development, if applicable.
   j) Design specifications for all sediment and erosion control measures as well as all grading and drainage appurtenances and practices.

E. Time of Permit - Extensions and Renewals.
A permitee shall begin the work authorized by the permit within ninety (90) days from the date of issuance of the permit unless a different date from the commencement of work is set forth in the permit. The permitee shall complete the work authorized by the permit, which shall in no event exceed more than twelve (12) months from the date of issuance unless such time limit is extended by the Council. The permitee shall notify the City Engineer at least forty (40) hours prior to the commencement of work, Should the work not be commenced as specified herein, the permit shall be void.

1801.070. Exceptions: Permit.

A. Emergencies. Upon the declaration of an emergency by the Council and the issuance of a permit by the Council, emergency work necessary to preserve life or property shall be permitted in a wetland zoning district.

B. Repairs. Upon application and approval by the Council, a person may repair or maintain any lawful use of land existing on the date of adoption of this Title.

1801.080. Acquisition of Interest in Land.

The Municipality may acquire, pursuant to law, for title or easement rights, by dedication, gift, purchase, eminent domain, tax forfeiture, leasehold estates, part or all of any wetlands,

for the purpose of preserving such lands and protecting the public health, safety, and welfare. The Council may abate those taxes and assessments within wetlands as authorized by law.

1801.090. Responsibility.
Neither the issuance of a permit nor compliance with the conditions thereof, nor with the provisions of the Title, shall relieve any person from any responsibility otherwise imposed by law for damages top persons or property; nor shall the issuance of any permit hereunder serve to impose any liability on the municipality or its officers or employees for injury or damage to persons or property. A permit issued pursuant to this Title shall not relieve the permittee of the responsibility of complying with any other requirements established by law, regulation or ordinance.

1801.100. Penalty.
Any person who violates the provision of this Title shall be guilty of a misdemeanor which is enforced using the process described in Title 110 of this Code. Any person who, in violation of this Title, alters, changes, or modifies any wetlands shall restore such wetlands to their original condition.

1801.110. Severability.
If any part of this Title is held to be unconstitutional or otherwise illegal, the remainder of this Title shall be deemed and held to be valid and remain in force and effect as if such portion had not been included herein. If this Title or any provision herein is held to be inapplicable to any person, property or work, such holding shall not affect the applicability hereof to any other person's property or work.

1801.120. Variance.

A. The Council by a four-fifths (4/5) vote may authorize, in extraordinary cases following appeal and hearing, a variance from the provisions of this Title where the literal application of the Title would result in a substantial inequitable hardship to an applicant property owner. Economic considerations shall not constitute a hardship.

B. A variance shall be granted in writing accompanied by specific findings of fact as to the necessity for the grant of the variance and its specific provisions and conditions.

C. No variance may be granted which would allow any use that is prohibited in the zoning district in which the property is located or which will:

1) Result in incompatible land uses or which would be detrimental to the protection of surface and ground water supplies.
2) Increase the financial burdens imposed on the community through increasing floods and overflow of water onto land areas within this City.
3) Be not in keeping with land use plans and planning objectives for the City or which will increase or cause danger to life or property.
4) Be inconsistent with the objectives of encouraging land uses compatible with the preservation of the natural land forms, vegetation and the marshes and wetlands within the City.
5) Includes development of land and water areas essential to continue the temporary withholding of rapid runoff of surface water which presently contributes to

downstream flooding or water pollution or for land and water areas which provide ground water infiltration which diminishes the land area necessary to carry increased flows or storm water following periods of heavy precipitation.

D. No permit or variance shall be issued unless the applicant, in support of his application, shall submit engineering data, surveys, site plans and other information as the City may require it order to determine the effects of such development on the affected land and water areas.

1801.130. Wetland Zoning District.

A. Wetland Zoning District Map. The wetland zoning districts delineated in the referenced wetland zoning district map arc hereby established.

B. Wetland Zoning District by Legal Description. The following described properties are hereby designated as wetlands:

Block 11 – entire block
Block 12, Lots 1 – 12
Block 13, Lots 1-10
Block 14 – entire block
Block 15 – entire block
Block 16 – entire block
Block 21, Lots 9-23
Block 22, Lots 9-16
Block 23, Lots 5-13, 17-25
Block 25, lots 1-4
Block 26, Lots 1-3, 20-21
Block 28, Lots 1-3
Block 29 – entire block
Block 30, Lots 1-4
Block 31, Lots 1-11
Block 32 – entire block
Block 33 – entire block
Block 34, Lots 1-3,8-10
Block 35, Lots 1-2,16-18
Block 36, Lots 1-2
Block 37 – entire block
Block 38 – entire block
Block 39 – entire block
Block 40 – entire block
Block 41 – entire block
Block 42 – entire block
Block 43 – entire block
Block 44 – entire block
Block 45 – entire block

C. Inclusive. The wetland zoning district designated in Subdivisions A and B above are hereby established as wetland zoning districts for the municipality.

1801.140. General Standards, Soil Erosion and Sediment Control.

1. All development shall conform to the natural limitations presented by the topography and soils.

2. Slopes over 12-16% shall be severely restricted, 6-12% shall be carefully reviewed.

3. On lots exceeding two (2) acres in size, the only erosion and sediment control measure necessary is: any exposed slopes be stabilized within sixty (60) days by vegetative or other means. Said time period may be extended at the option of the City Council.

4. Development on slopes with grades exceeding six percent (6%) shall be carefully reviewed to ensure adequate measures have been taken to prevent erosion and sedimentation.

5. Erosion and sediment control measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to and during development to ensure that gross soil losses shall not exceed five (5) tons/acres/year during grading and construction or two (2) tons/acres/year during grading and construction when the site is adjacent to a waterbody or water course; and one-half (½) ton/acre/year after construction activities are completed.

6. Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.

7. Erosion protection measures shall make maximum use of natural in-place vegetation rather than the placing of new vegetation on-site as erosion control devices.

8. The proposed development will treat and/or otherwise control the quality and rate of runoff to avoid any serious deleterious effects

9. All erosion and sediment control practices and storm water management practices that are applied shall meet the Washington County Soil and Water Conservation District standards.

1801.150. Maintenance of Erosion and Sediment Control Systems.
The erosion ns sediment control structures shall be maintained in a condition that will insure continuous function according to the provisions of this Code. The areas utilized for erosion and sediment control structures shall not be allowed to exist in an unsightly condition. Erosion and sediment control structures shall be maintained. Prior to the approval of any plat for development, the developer shall make provisions for continued maintenance on the erosion and sediment control systems.

1801.160. Soil Erosion Overlay District.

1) The City finds that there are areas within the City which, due to steep slopes or unstable soils, create ecological problems including siltation and pollution of water bodies and streams due to excessive erosion and runoff and present threats to the public safety in the form of landslide and mudslide dangers.

2) Therefore, the purpose of this Title is to promote the public safety by minimizing the hazards of steep slopes and unstable soils and promote public health by reducing the

siltation and pollution of water bodies and streams, and promote the general welfare by preserving significant features of the natural character of slopes and conditioning development in a manner that minimizes the above enumerated threats to the health, safety, and welfare of the citizens of the City.

1801.170. Restrictive Soils Overlay District.

1) The City finds that areas within the City are characterized by certain soil types, slopes, and water levels which, without proper corrective action, are unsuitable for development; inappropriate development in those areas increases soil erosion and sedimentation, the introduction of toxic materials into groundwater encourages pollution, destroys ecological and natural resources, and requires expenditures of public funds to correct deficiencies.

2) To provide for the regulation of development on restrictive soils in such a way as to minimize the risk of environmental damage and to protect private home owners and governmental units from incurring high maintenance and capital costs resulting from the necessity to correct deficiencies encountered as a result of development on poorly suited soils.

1801.180. Overlay District Administration.

A. Administration. Excerpt as hereinafter provided in this Title, no person: shall perform any development in a Wetlands, Soil Erosion, or Restrictive Soils Overlay District without first having demonstrated that the proposed activity will meet or exceed the additional performance standards contained in this Title. Any application for a development permit on land which is covered, all or in part, by this Title shall include a site plan. Other engineering data, such as surveys, soil studies, and other descriptive information may also be required at the direction of the City Council. A specific description of the type, amount, and location of the development, and a description of the ecological characteristics of the natural features contained on the parcel in question, as well as the conservation plan describing actions to be taken to mitigate detrimental effects of development may also be required. when the proposed development includes the construction or alteration of a structure, ten (10) sets of plans thereof shall be submitted with the application.

B. Exceptions.

1) Emergency work necessary to preserve life or property. When emergency work is performed under this Section, the person performing said work shall report the pertinent facts relating to the work to the Commissioner of Public Works prior to the commencement of work. The City shall review the facts and determine whether an emergency exists and shall be written memorandum authorize the commencement of the emergency exception. A person commencing emergency work shall, within ten (10) days following the commencement of that activity, submit a site plan for review along with any other information necessary to determine if the performance standards contained in this Title will be met. If upon this review it is determined that all of the performance standards can and will be met, an emergency work permit will be granted. If, however, this review reveals that the proposed activity has the potential for serious and permanent impairment of natural systems, the activity will be subject to the issuance of a Conditional Use Permit. If no reasonable conditions of approval can be made to correct said impairment to the protected natural resource, the City Council will deny the

Conditional Use Permit and order the activity stopped.

2) The repair or maintenance of any lawful use of land existing on the date of adoption of this Title.

C. Wetlands Overlay District Standards. No permit shall be issued unless the City Council finds and determines that the proposed development complies with the following standards:

1) FILLING: A minimum amount of filling may be allowed when necessary but in no case shall the following restrictions or total amount of filling be exceeded. Since the total amount of filling which can be permitted is limited, the City Council when considering permit applications shall consider the equal apportionment of fill opportunity to riparian land owners.

a) Total filling shall not cause the total natural flood storage capacity of the wetland to fall below that which is identified in the City's Comprehensive Storm Drainage Plan.

b) Total filling shall not cause the total natural nutrient stripping capacity of the wetland to fall below the nutrient production of the wetland watershed for its projected development.

c) Only fill free of chemical pollutants and organic wastes may be used.

d) Wetlands shall not be used for solid waste disposal.

e) The edge of the wetland defined by any proposed grading construction limits shall be stabilized with indigenous ground, shrub, and overstory plant material.

2) DREDGING. Dredging may be allowed only when a boat channel is required for access to navigable waters or a marina or when it will not have a substantial or significantly adverse effect upon the ecological and hydrological characteristics of the wetland. Dredging when allowed shall be limited as follows:

a) It shall be located so as to maximize the activity in the areas of lowest vegetation density.

b) It shall not significantly change the water flow characteristics.

c) The size of the dredged area shall be limited to the absolute minimum.

d) The boundaries of the dredged area shall be stabilized with indigenous ground cover, shrub, and overstory plant materials.

e) Work in the wetland will not be performed during the breeding season of water fowl or fish spawning season.

f) Only one boat channel or marina shall be allowed per large scale development;

g) Disposal of dredge materials shall not result in a significant change in the current flow, or in substantial destruction of vegetation, fish spawning area, or water pollution.

h) The width of any boat channel to be dredged shall be no more than the minimum required for the safe operation of boats at a minimum operating

speed.

3) DISCHARGES
   a) Organic waste which would normally be discharged into a sewage disposal system or sewer shall not be directly or indirectly discharged to the wetland.
   b) Storm water runoff from construction sites may be directed to the wetland only when substantially free of silt, debris, and chemical pollutants and only at rates which will not disturb vegetation or increase turbidity.

4) BU1LD1NG CONSTRAINTS
Development which will result in unusual road maintenance costs or utility line breakages due to soils limitations, or including high frost action, shall not be permitted.

5) VEGETATION
No wetland vegetation may be removed or altered except as deemed reasonably required for the placement of structures and use of property.

1801.190. Soil Erosion Overlay District Standards.
No permit shall be issued unless the City Council finds and determines that the proposed development complies with the following requirements:

1) No development shall be permitted on very steep slopes of eighteen (18) percent or more.
2) Development activities shall be conducted and staged to minimize soil erosion; the smallest increment of land shall be developed at any one time, and that increment shall be subjected to erosion for the shortest practical period of time, not to exceed a single construction season.
3) During construction and until such time as final control measures are fully implemented and established, adequate development practices will be maintained to insure that gross soil losses (expressed in terms of tons per acre per year) shall not exceed five (5) tons per acre per year during construction or two (2) tons per acre per year during construction when the site is adjacent to a water body or water courses; and one-half (½) ton per acre per year after the construction activities are completed as calculated in accordance with the following Universal Soil Loss Equation:

   The Universal Soil Loss Equation is represented as follows:

   A = R x C x K x LS
   where:
   R = the amount of rainfall energy available in one average year
   C = the effect vegetation has in restraining soil loss.
   K = the ability particular soil types have to resist the energy of flowing water.
   LS = the length and percent of the slope.
   A = the net average annual soil loss.

4) During construction, wetlands and other water bodies shall not be used as sediment traps.
5) Erosion protection measures shall make maximum use of natural in-place vegetation rather than the placing of new vegetation on-site as erosion control devices. The use of natural erosion control devices shall be preferred to the maximum extent over the

construction of artificial drainage devices, including culverts, hold ponds, and ditches.

6) The proposed development will treat and/or otherwise control the quality and rate of runoff to avoid any serious deleterious effects. drainage and storm water retention plans will be subject to the approval of the City Engineer.

7) The permit applicant shall demonstrate that following completion development, conditions or the site will be stabilized within thirty (30) days following completion of the work such that the yearly gross soil loss from the site will be less than one-half (½) ton per acre year.

8) The development shall be located in such a manner as to minimize the removal of vegetation and alteration of natural topography.

9) A forty (40) foot building setback shall be maintained along bluffs. The bluffing is defined as the point at which the slope gradient exceeds forty (40) percent.

1801.200. Other Conditions.

1) A permit may be approved subject to compliance with reasonable conditions which are specifically set forth in the permit and are necessary to ensure compliance with the requirements contained in this Title. Such conditions may, among other matters, limit the size, kind, or character of the proposed work, require the construction of other structures, require replacement of vegetation, establish required monitoring procedures and maintenance activity, stage the work over time, require the alteration of the site design to ensure buffering, require the provision of a performance bond, or require the conveyance to the City or another public entity of certain lands or interests therein. The dimensional requirements of the underlying zoning district (s) may be modified in furtherance of the purpose of this Title by expressed conditions contained in the permit.

2) A permittee shall begin the work authorized within sixty (60) days from the date of issuance of the permit unless a different date for the commencement of work is set forth in the permit. The permittee shall complete the work authorized within the time limits specified in the approval which in no event shall exceed twelve (12) months from the date of issuance. The permittee shall notify the Public Works Commissioner at least forty-eight (48) hours prior to the initial commencement of work. Should the work not be commenced as specified herein, the permit shall become void; provided, however, that if prior to the date established for commencement of work, the permittee makes written request to the Public Works Commissioner for an extension of time to commence the work setting forth the reasons for the required extension, the Commissioner may grant such extension. A permit which has become void may be renewed at the discretion of the City Council upon payment of a renewal fee. If the City Council does not grant such renewal, a permit for such work may be granted only upon compliance with the procedures herein established for an original application.

3) Notice of Completion A permittee shall notify the Public Works Commissioner in writing when he has finished the work. No work shall be deemed to have been completed until approved in writing by the Public Works Commissioner following such written notification.

4) Inspection The Commissioner may cause inspections of the work to be made periodically during the course thereof by himself or a member of the engineering staff

and shall cause a final inspection to be made following completion of the work. The permittee shall assist the Commissioner in making inspections.

5) Responsibility: Effect.
   A. Responsibility. Neither the issuance of a permit nor compliance with the conditions thereof, nor with the provisions of this Title shall relieve any person from any responsibility otherwise imposed by law for damage to persons or property. A permit issued pursuant to this Title shall not relieve the permittee of the responsibility of complying with any other requirements established by law, regulation, or ordinance.
   B. Penalty. Any person who violates the provision of this Title shall be guilty of a misdemeanor.
   C. Severability. If any part of the Title is held to be unconstitutional or otherwise illegal, the remainder of this Title shall be deemed and held to be valid and remain in force and effect as if such portion had not been included therein. If this Title or any provision herein is held to be inapplicable to any person, property, or work such holding shall not affect the applicability hereof to any other person's property or work.
   D. Variance. The City Council may authorize, in specific casts following appeal and hearing, a variance from the provisions of this Title would result is a substantial inequitable hardship to an applicant property owner. In assessing hardship, the City Council shall balance the severity of the physical, social, and economic effects of the literal application against the interests of the citizens of Willernie in effecting the purpose of this Title as expressed above. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of this Title. No variance may be granted which would allow any use that is prohibited in the zoning districts (s) in which the subject property is located. A variance shall be granted in writing accompanied by specific findings of fact as to the necessity for the granting of the variance and its specific provisions or conditions.
   E. Inter-Community Review. In all cases where any proposed development or action abuts an adjacent community, that municipality shall be formally notified of the proposed development or action and given the opportunity to review and comment on the proposal. Such notification shall be mailed to the City Clerk of the abutting municipality.

1801.210. Restrictive Soils.

A. No building permit shall be issued unless the City Council finds and determines that the proposed development complies with the following requirements:

1) No residential development shall be permitted on poorly drained soils, shallow soils or steep slopes unless the applicant proves construction techniques capable of overcoming the restrictive condition will be utilized.

2) Industrial uses requiring the bulk storage of chemicals will not be allowed on wet soils, shallow soils, or soils with rapid permeability areas.

B. The certification of plans and specifications as adequate to overcome the restrictive condition by a professional engineer, registered in the State of Minnesota, and experienced and knowledgeable in soils and soils mechanics shall be acceptable as evidence with regard to the City and the landowner’s or developer’s meeting of requirement 1 above.

TITLE 1900. FRANCHISES

Chapter 1901. ELECTRIC ENERGY FRANCHISE

The City of Willernie, Minnesota grants to Northern States Power Company, a Minnesota corporation, DBA Excel Energy, its successors and assigns, permission to construct, operate, repair, and maintain in the City of Willernie, an electric distribution system and transmission lines, including necessary poles, lines, fixtures, and appurtenances, for the furnishing of electric energy to the City, its inhabitants, and others, and to use the public grounds and public ways of the City for such purposes.

1901.010. Definitions.

For purposes of this Chapter, the following terms shall have the following meanings:

1) "City". The City of Willernie, County of Washington, State of Minnesota.

2) "City Utility System". Facilities used for providing non-energy related public utility service owned or operated by City or agency thereof, including sewer and water service, but excluding facilities for providing heating, lighting, or other forms of energy.

3) "Commission". The Minnesota Public Utilities Commission, or any successor agency or agencies, including an agency of the federal government, which preempts all, or part of the authority to regulate electric retail rates now vested in the Minnesota Public Utilities Commission.

4) "Company". Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy, its successors and assigns.

5) "Electric Facilities". Electric transmission and distribution towers, poles, lines, guys, anchors, conduits, fixtures, and necessary appurtenances owned or operated by Company for the purpose of providing electric energy for public use.

6) "Notice". A written notice served by one party on the other party referencing one or more provisions of this Chapter. Notice to Company shall be mailed to the General Counsel, 414 Nicollet Mall, 5th Floor, Minneapolis, MN 55401. Notice to the City shall be mailed to the City Administrator, City Hall, 111 Wildwood Road, P.O. Box 487, Willernie, Minnesota 55090-0487. Either party may change its respective address for the purpose of this Chapter by written notice to the other party.

7) "Public Ground". Land owned by the City for park, open space or similar purpose, which is held for use in common by the public.

8) "Public Way". Any street, alley, walkway, or other public right-of-way within the City.

1901.020. Adoption of Franchise.

A. Grant of Franchise. City hereby grants Company, for a period of twenty (20) years from the date passed and approved by the City, the right to transmit and furnish electric energy for light, heat, power and other purposes for public and private use

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

B. Effective Date; Written Acceptance**.** This franchise agreement shall be in force and effect from and after passage of this Chapter, its acceptance by Company, and its publication as required by law. The City, by Council resolution, may revoke this franchise agreement if Company does not file a written acceptance with the City within ninety (90) days after publication.

C. Service and Rates**.** The service to be provided and the rates to be charged by Company for electric service in City are subject to the jurisdiction of the Commission. The area within the City in which Company may provide electric service is subject to the provisions of Minnesota Statutes, Section 216B.40.

D. Publication Expense**.** The expense of publication of this Chapter will be paid by City and reimbursed to City by Company.

E. Dispute Resolution**.** If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within thirty (30) days of the written notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used, or if the parties are unable to resolve the dispute within thirty (30) days after first meeting with the selected mediator, either party may commence an action in District Court to interpret and enforce this franchise or for such other relief as may be permitted by law or equity for breach of contract, or either party may take any other action permitted by law.

1901.030. Location, Other Regulations.

A. Location of Facilities**.** Electric Facilities shall be located, constructed, and maintained so as not to interfere with the safety and convenience of ordinary travel along and over Public Ways and so as not to disrupt normal operation of any City Utility System previously installed therein. Electric Facilities shall be located on Public Grounds as determined by the City. Company's construction, reconstruction, operation, repair, maintenance and location of Electric Facilities shall be subject to permits if required by separate ordinance and to other reasonable regulations of the City to the extent not inconsistent with the terms of this franchise agreement. Company may abandon underground Electric Facilities in place, provided at the City's request, Company will remove abandoned metal or concrete encased conduit interfering with a City improvement project, but only to the extent such conduit is uncovered by excavation as part of the City improvement project.

B. Field Locations**.** Company shall provide field locations for its underground Electric Facilities within City consistent with the requirements of Minnesota Statutes, Chapter 216D.

C. Street Openings. Company shall not open or disturb any Public Ground or Public Way for any purpose without first having obtained a permit from the City, if required by a separate ordinance, for which the City may impose a reasonable fee. Permit conditions imposed on Company shall not be more burdensome than those imposed on other utilities for similar facilities or work. Company may, however, open and disturb any Public Ground or Public Way without permission from the City where an emergency exists requiring the immediate repair of Electric Facilities. In such event, Company shall notify the City by telephone to the office designated by the City as soon as practicable. Not later than the second (2^{nd}) working day thereafter, Company shall obtain any required permits and pay any required fees.

D. Restoration**.** After undertaking any work requiring the opening of any Public Ground or Public Way, Company shall restore the same, including paving and its foundation, to as good a condition as formerly existed, and shall maintain any paved surface in good condition for two (2) years thereafter. The work shall be completed as promptly as weather permits, and if Company shall not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and put the Public Ground or Public Way in the said condition, the City shall have, after demand to Company to cure and the passage of a reasonable period of time following the demand, but not to exceed five (5) days, the right to make the restoration at the expense of Company. Company shall pay to the City the cost of such work done for or performed by the City. This remedy shall be in addition to any other remedy available to the City for noncompliance with this Section 3.4, but the City hereby waives any requirement for Company to post a construction performance bond, certificate of insurance, letter of credit, or any other form of security or assurance that may be required, under a separate existing or future ordinance of the City, of a person or entity obtaining the City's permission to install, replace, or maintain facilities in a Public Way.

E. Avoid Damage to Electric Facilities. Nothing in this Chapter relieves any person from liability arising out of the failure to exercise reasonable care to avoid damaging Electric Facilities while performing any activity.

F. Notice of Improvements**.** The City must give Company reasonable notice of plans for improvements to Public Grounds or Public Ways where the City has reason to believe that Electric Facilities may affect or be affected by the improvement. The notice must contain:

1) the nature and character of the improvements,
2) the Public Grounds and Public Ways upon which the improvements are to be made,
3) the extent of the improvements,
4) the time when the City will start the work, and

5) if more than one Public Ground or Public Way is involved, the order in which the work is to proceed. The notice must be given to Company a sufficient length of time in advance of the actual commencement of the work to permit Company to make any necessary additions, alterations or repairs to its Electric Facilities.

G. Shared Use of Poles**.** Company shall make space available on its poles or towers for City fire, water utility, police, or other City facilities upon terms and conditions acceptable to Company whenever such use will not interfere with the use of such poles or towers by Company, by another electric utility, by a telephone utility, or by any cable television company, or other form of communication company. In addition, the City shall pay for any added cost incurred by Company because of such use by City.

1901.040. Relocations.

A. Relocation of Electric Facilities in Public Ways. If the City determines to vacate a Public Way for a City improvement project, or at City's cost to grade, regrade, or change the line of any Public Way, or construct or reconstruct any City Utility System in any Public Way, it may order Company to relocate its Electric Facilities located therein if relocation is reasonably necessary to accomplish the City's proposed public improvement. Except as provided in Section 4.3, Company shall relocate its Electric Facilities at its own expense. The City shall give Company reasonable notice of plans to vacate for a City improvement project, or to grade, regrade, or change the line of any Public 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 Electric Facilities, which was made at Company expense, the City shall reimburse Company for non-betterment costs on a time and material basis, provided that if a subsequent relocation is required because of the extension of a City Utility System to a previously unserved area, Company may be required to make the subsequent relocation at its expense. Nothing in this Chapter requires Company to relocate, remove, replace or reconstruct at its own expense its Electric Facilities where such relocation, removal, replacement, or reconstruction is solely for the convenience of the City and is not reasonably necessary for the construction or reconstruction of a Public Way or City Utility System or other City improvement.

B. Relocation of Electric Facilities in Public Ground**.** City may require Company, at Company's expense, to relocate or remove its Electric Facilities from Public Ground upon a finding by City that the Electric Facilities have become or will become a substantial impairment to the existing or proposed public use of the Public Ground.

C. Projects with Federal Funding**.** Relocation, removal, or rearrangement of any Company Electric Facilities made necessary because of the extension into or through City of a federally-aided highway project shall be governed by the provisions of Minnesota Statutes, Section 161.46, as supplemented or amended. It is understood that the right herein granted to Company is a valuable right. City shall not order Company to remove or relocate its Electric Facilities when a Public Way is vacated, improved, or realigned because of a renewal or a redevelopment plan which is financially subsidized in whole or in part by the Federal Government

or any agency thereof, unless the reasonable non-betterment costs of such relocation and the loss and expense resulting therefrom are first paid to Company, but the City need not pay those portions of such for which reimbursement to it is not available.

D. No Waiver**.** The provisions of this franchise apply only to facilities constructed in reliance on a franchise from the City and shall not be construed to waive or modify any rights obtained by Company for installations within a Company right-of-way acquired by easement or prescriptive right before the applicable Public Ground or Public Way was established, or Company's rights under state or county permit.

1901.050. Tree Trimming.

Company may trim all trees and shrubs in the Public Grounds and Public Ways of City to the extent Company finds necessary to avoid interference with the proper construction, operation, repair, and maintenance of any Electric Facilities installed hereunder, provided that Company shall save the City harmless from any liability arising therefrom, and subject to permit or other reasonable regulation by the City.

1901.060. Indemnification.

A. Indemnity of City. Company shall indemnify, keep and hold the City free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, inspection, the issuance of permits, or the operation of the Electric Facilities locate d in the Public Grounds and Public Ways. The City shall not be indemnified for losses or claims occasioned through its own negligence except for losses or claims arising out of or alleging the City's negligence as to the issuance of permits for, or inspection of, Company's plans or work. The City shall not be indemnified if the injury or damage results from the performance in a proper manner, of acts reasonably deemed hazardous by Company, and such performance is nevertheless ordered or directed by City after notice of Company's determination.

B. Defense of City. In the event a suit is brought against the City under circumstances where this agreement to indemnify applies, Company at its sole cost and expense shall defend the City in such suit if written notice thereof is promptly given to Company within a period wherein Company is not prejudiced by lack of such notice. If Company is required to indemnify and defend, it will thereafter have control of such litigation, but Company may not settle such litigation without the consent of the City, which consent shall not be unreasonably withheld. This Section is not, as to third parties, a waiver of any defense or immunity otherwise available to the City and Company, in defending any action on behalf of the City, shall be entitled to assert in any action every defense or immunity that the City could assert in its own behalf.

1901.070. Vacation of Public Ways.

The City shall give Company at least two (2) weeks prior written notice of a proposed vacation of a Public Way. Except where required for a City improvement project, the vacation of any Public Way, after the installation of Electric Facilities, shall not operate to deprive Company of its rights to operate and maintain such Electric Facilities, until the reasonable cost of relocating the same and the loss and expense resulting from such

relocation are first paid to Company. In no case, however, shall City be liable to Company for failure to specifically preserve a right-of-way under Minnesota Statutes, Section 160.29.

1901.080. Change in Form of Government.
Any change in the form of government of the City shall not affect the validity of this Chapter. Any government al unit succeeding the City shall, without the consent of Company, succeed to all of the rights and obligations of the City provided in this Chapter.

1901.090. Provisions of Chapter.

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

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

1901.100. Amendment Procedure.
Either party to this franchise agreement may at any time propose that the agreement be amended to address a subject of concern, and the other party will consider whether it agrees that the amendment is mutually appropriate. If an amendment is agreed upon, this Chapter may be amended at any time by the City passing a subsequent ordinance declaring the provisions of the amendment, which amendatory ordinance shall become effective upon the filing of Company's written consent thereto with the City Clerk within ninety (90) days after the date of final passage by the City of the amendatory ordinance.

1901.110. Previous Franchises Superseded.
This franchise supersedes any previous electric franchise granted to Company or its predecessor.

Chapter 1902. GAS ENERGY FRANCHISE

The City of Willernie, Minnesota grants to Northern States Power Company, a Minnesota corporation, DBA Excel Energy, its successors and assigns, permission to erect a gas distribution system for the purposes of constructing, repairing, and maintaining in the City of Willernie, the necessary gas pipes, mains, and appurtenances, for the transmission or distribution of gas to the City, its inhabitants, and others, and transmitting gas into and through the City and to use the public grounds and public ways of the City for such purposes.

1902.010. Definitions.
For purposes of this Chapter, the following terms shall have the following meanings:

1) “City”. The City of Willernie, County of Washington, State of Minnesota.

2) “City Utility System”. Facilities used for providing non-energy related public utility service owned or operated by City or agency thereof , including sewer and water

service, but excluding facilities for providing heating, lighting, or other forms of energy.

3) "Commission". The Minnesota Public Utilities Commission, or any successor agency or agencies, including an agency of the federal government, which preempts all, or part of the authority to regulate Gas retail rates now vested in the Minnesota Public Utilities Commission.

4) "Company". Northern States Power Company, a Minnesota corporation, d/b/a Xcel Energy its successors and assigns.

5) "Gas". "Gas" as used herein shall be held to include natural gas, manufactured gas, or other form of gaseous energy.

6) "Gas Facilities". Pipes, mains, regulators, and other facilities owned or operated by Company for the purpose of providing gas service for public use.

7) "Notice". A written notice served by one party on the other party referencing one or more provisions of this Chapter. Notice to Company shall be mailed to the General Counsel, 414 Nicollet Mall, 5th Floor, Minneapolis, MN 55401. Notice to the City shall be mailed to the City Administrator, 111 Wildwood Road, P.O. Box 487, Willernie, Minnesota 55090-0487. Either party may change its respective address for the purpose of this Chapter by written notice to the other party.

8) "Public Ground". Land owned by the City for park, open space, or similar purpose, which is held for use in common by the public.

9) "Public Way". Any street, alley, walkway, or other public right-of-way within the City.

1902.020. Adoption of Franchise.

A. Grant of Franchise. City hereby grants Company, for a period of twenty (20) years from the date passed and approved by the City, the right to transmit and furnish Gas energy for light, heat, power, and other purposes for public and private use within and through the limits of the City as its boundaries now exist or as they may be extended in the future. For these purposes, Company may construct, operate, repair and maintain Gas Facilities in, on, over, under, and across the Public Grounds and Public Ways of City, subject to the provisions of this Chapter. Company may do all reasonable things necessary or customary to accomplish these purposes, subject, however, to such reasonable regulations as may be imposed by the City pursuant to ordinance and to the further provisions of this franchise agreement.

B. Effective Date; Written Acceptance. This franchise agreement shall be in force and effect from and after passage of this Chapter, its acceptance by Company, and its publication as required by law. The City by Council resolution may revoke this franchise agreement if Company does not file a written acceptance with the City within 90 days after publication.

C. Service and Rates. The service to be provided and the rates to be charged by Company for Gas service in City are subject to the jurisdiction of the Commission.

D. Publication Expense. The expense of publication of this Ordinance will be paid by City and reimbursed to City by Company.

E. Dispute Resolution. If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within thirty (30) days of the written notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used or if the parties are unable to resolve the dispute within thirty (30) days after first meeting with the selected mediator, either party may commence an action in District Court to interpret and enforce this franchise or for such other relief as may be permitted by law or equity for breach of contract, or either party may take any other action permitted by law.

1902.030. Location, Other Regulations.

A. Location of Facilities. Gas Facilities shall be located, constructed, and maintained so as not to interfere with the safety and convenience of ordinary travel along and over Public Ways and so as not to disrupt normal operation of any City Utility System previously installed therein. Gas Facilities shall be located on Public Grounds as determined by the City. Company's construction, reconstruction, operation, repair, maintenance, and location of Gas Facilities shall be subject to permits if required by separate ordinance and to other reasonable regulations of the City to the extent not inconsistent with the terms of this franchise agreement. Company may abandon underground gas facilities in place, provided, at City's request, Company will remove abandoned metal pipe interfering with a City improvement project, but only to the extent such metal pipe is uncovered by excavation as part of the City's improvement project.

B. Field Locations. Company shall provide field locations for its underground Gas Facilities within City consistent with the requirements of Minnesota Statutes, Chapter 216D.

C. Street Openings. Company shall not open or disturb any Public Ground or Public Way for any purpose without first having obtained a permit from the City, if required by a separate ordinance, for which the City may impose a reasonable fee. Permit conditions imposed on Company shall not be more burdensome than those imposed on other utilities for similar facilities or work. Company may, however, open and disturb any Public Ground or Public Way without permission from the City where an emergency exists requiring the immediate repair of Gas Facilities. In such event Company shall notify the City by telephone to the office designated by the City as soon as practicable. Not later than the second working day thereafter, Company shall obtain any required permits and pay any required fees.

D. Restoration. After undertaking any work requiring the opening of any Public Ground or Public Way, Company shall restore the same, including paving and its foundation, to as good a condition as formerly existed, and shall maintain any paved surface in good condition for two (2) years thereafter. The work shall be completed as promptly as weather permits, and if Company shall not promptly perform and complete the

work, remove all dirt, rubbish, equipment, and material, and put the Public Ground or Public Way in the said condition, the City shall have, after demand to Company to cure and the passage of a reasonable period of time following the demand, but not to exceed five days, the right to make the restoration at the expense of Company. Company shall pay to the City the cost of such work done for or performed by the City. This remedy shall be in addition to any other remedy available to the City for noncompliance with this Section 3.4, but the City hereby waives any requirement for Company to post a construction performance bond, certificate of insurance, letter of credit, or any other form of security or assurance that may be required, under a separate existing or future ordinance of the City, of a person or entity obtaining the City's permission to install, replace or maintain facilities in a Public Way.

E. Avoid Damage to Gas Facilities. Nothing in this Chapter relieves any person from liability arising out of the failure to exercise reasonable care to avoid damaging Gas Facilities while performing any activity.

F. Notice of Improvements. The City must give Company reasonable notice of plans for improvements to Public Grounds or Public Ways where the City has reason to believe that Gas Facilities may affect or be affected by the improvement. The notice must contain:

1) the nature and character of the improvements,
2) the Public Grounds and Public Ways upon which the improvements are to be made,
3) the extent of the improvements,
4) the time when the City will start the work, and
5) if more than one Public Ground or Public Way is involved, the order in which the work is to proceed. The notice must be given to Company a sufficient length of time in advance of the actual commencement of the work to permit Company to make any necessary additions, alterations or repairs to its Gas Facilities.

1902.040. Relocations.

A. Relocation of Gas Facilities in Public Ways. If the City determines to vacate a Public Way for a City improvement project, or at City's cost to grade, regrade, or change the line of any Public Way, or construct or reconstruct any City Utility System in any Public Way, it may order Company to relocate its Gas Facilities located therein if relocation is reasonably necessary to accomplish the City's proposed public improvement. Except as provided in Section 4.3, Company shall relocate its Gas Facilities at its own expense. The City shall give Company reasonable notice of plans to vacate for a City improvement project, or to grade, regrade, or change the line of any Public 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 Gas Facilities, which was made at Company expense, the City shall reimburse Company for Non-Betterment Costs on a time and material basis, provided that if a subsequent relocation is required because of the extension of a City Utility System to a previously unserved area, Company may be required to make the subsequent relocation at its expense. Nothing in this Chapter requires Company to relocate, remove, replace, or reconstruct at its own expense its Gas

Facilities where such relocation, removal, replacement or reconstruction is solely for the convenience of the City and is not reasonably necessary for the construction or reconstruction of a Public Way or City Utility System or other City improvement.

B. Relocation of Gas Facilities in Public Ground. City may require Company at Company's expense to relocate or remove its Gas Facilities from Public Ground upon a finding by City that the Gas Facilities have become or will become a substantial impairment to the existing or proposed public use of the Public Ground.

C. Projects with Federal Funding. Relocation, removal, or rearrangement of any Company Gas Facilities made necessary because of the extension into or through City of a federally-aided highway project shall be governed by the provisions of Minnesota Statutes, Section 161.46, as supplemented or amended. It is understood that the right herein granted to Company is a valuable right. City shall not order Company to remove or relocate its Gas Facilities when a Public Way is vacated, improved or realigned because of a renewal or a redevelopment plan which is financially subsidized in whole or in part by the Federal Government or any agency thereof, unless the reasonable non-betterment Costs of such relocation and the loss and expense resulting therefrom are first paid to Company, but the City need not pay those portions of such for which reimbursement to it is not available.

D. No Waiver. The provisions of this franchise apply only to facilities constructed in reliance on a franchise from the City and shall not be construed to waive or modify any rights obtained by Company for installations within a Company right-of-way acquired by easement or prescriptive right before the applicable Public Ground or Public Way was established, or Company's rights under state or county permit.

1902.050. Tree Trimming.

Company is also granted the permission and authority to trim all shrubs and trees, including roots, in the Public Ways of City to the extent Company finds necessary to avoid interference with the proper construction, operation, repair and maintenance of Gas Facilities, provided that Company shall save City harmless from any liability in the premises.

1902.060. Indemnification.

A. Indemnity of City. Company shall indemnify, keep and hold the City free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, inspection, the issuance of permits, or the operation of the Gas Facilities located in the Public Grounds and Public Ways. The City shall not be indemnified for losses or claims occasioned through its own negligence except for losses or claims arising out of or alleging the City's negligence as to the issuance of permits for, or inspection of, Company's plans or work. The City shall not be indemnified if the injury or damage results from the performance in a proper manner of acts reasonably deemed hazardous by Company, and such performance is nevertheless ordered or directed by City after notice of Company's determination.

B. Defense of City. In the event a suit is brought against the City under circumstances

where this agreement to indemnify applies, Company at its sole cost and expense shall defend the City in such suit if written no tice thereof is promptly given to Company within a period wherein Company is not prejudiced by lack of such notice. If Company is required to indemnify and defend, it will thereafter have control of such litigation, but Company may not settle such litigation without the consent of the City, which consent shall not be unreasonably withheld. This Section is not, as to third parties, a waiver of any defense or immunity otherwise available to the City and Company, in defending any action on behalf of the City shall be entitled to assert in any action every defense or immunity that the City could assert in its own behalf.

1902.070. Vacation of Public Ways.

The City shall give Company at least two (2) weeks prior written notice of a proposed vacation of a Public Way. Except where required for a City improvement project, the vacation of any Public Way, after the installation of Gas Facilities, shall not operate to deprive Company of its rights to operate and maintain such Gas Facilities, until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to Company. In no case, however, shall City be liable to Company for failure to specifically preserve a right-of-way under Minnesota Statutes, Section 160.29.

1902.080. Change in Form of Government.

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

1902.090. Provisions of Chapter.

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

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

1902.100. Amendment Procedure.

Either party to this franchise agreement may at any time propose that the agreement be amended to address a subject of concern and the other party will consider whether it agrees that the amendment is mutually appropriate. If an amendment is agreed upon , this Chapter may be amended at any time by the City passing a subsequent ordinance declaring the provisions of the amendment, which amendatory ordinance shall become effective upon the filing of Company's written consent thereto with the City Clerk within ninety (90) days after the date of final passage by the City of the amendatory ordinance.

1902.110. Previous Franchises Superseded.

This franchise supersedes any previous Gas franchise granted to Company or its predecessor.

Chapter 1903. CABLE TV FRANCHISE

1903.005. Statement of Intent

A. The City of Willernie, Minnesota ("City"), pursuant to applicable federal and state law, is authorized to grant one (1) or more nonexclusive cable television franchises to construct, operate, maintain and reconstruct cable television systems within the City limits.

B. Comcast of Minnesota, Inc., a Pennsylvania corporation ("Grantee") has operated a Cable System in the City, under a cable television franchise granted pursuant to a Cable Television Franchise Ordinance approved in 1999.

C. Negotiations between Grantee and the City have been completed and the franchise renewal process followed in accordance with Minnesota Statutes Chapter 238 and the Cable Act (47 U.S.C. §546).

D. The City has determined that it is in the best interest of the City and its residents to renew the cable television franchise with Grantee.

E. The Franchise granted to Grantee by the City is nonexclusive and complies with existing applicable Minnesota Statutes, federal laws and regulations.

F. The City has exercised its authority under Minnesota law to enter into a Joint and Cooperative Agreement with other cities authorized to grant cable communications franchises, and has delegated authority to the Ramsey Washington Counties Suburban Cable Communications Commission II to make recommendations to the City regarding this Franchise and to be responsible for the ongoing administration and enforcement of this Franchise as herein provided.

G. The City hereby grants a franchise to Comcast of Minnesota, Inc. to operate and maintain a Cable System in the City upon the following terms and conditions. This franchise agreement replaces the City and Grantee prior agreement.

1903.010. Definitions

For the purpose of this Franchise, the following terms, phrases, words, derivations and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. The word "may" is directory and discretionary and not mandatory.

1) "Affiliate". Any Person controlling, controlled by or under common control of Grantee.

2) "Applicable Law(s)". Any law, statute, charter, ordinance, rule, regulation, code, license, certificate, franchise, permit, writ, ruling, award, executive order, directive, requirement, injunction (whether temporary, preliminary or permanent), judgment, decree or other order issued, executed, entered, or deemed applicable by any governmental authority of competent jurisdiction.

3) "Basic Cable Service". Any service tier which includes the lawful retransmission of local television broadcast, as set forth in Applicable Law, currently 47 U.S.C. §522(3).

4) "Cable Act". The Cable Communications Policy Act of 1984, 47 U.S.C. §§ 521 et seq., as amended by the Cable Television Consumer Protection and Competition Act of 1992, as further amended by the Telecommunications Act of 1996, as further amended from time to time.

5) "Cable Service".

a) the one-way transmission to Subscribers of (i) Video Programming or (ii) other programming service, and

b) Subscriber interaction, if any, which is required for the selection or use of such Video Programming or other programming service, as set forth in Applicable Law, currently 47 U.S.C. § 522(6). For the purposes of this definition, "other programming service" means information that a cable operator makes available to all Subscribers generally.

6) "Cable System" or "System". A facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within a community, but such term does not include:

(a) a facility that serves only to retransmit the television signals of one (1) or more television broadcast stations;

(b) a facility that serves Subscribers without using any Streets;

(c) a facility of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. § 201 et seq., except that such facility shall be considered a Cable System (other than for purposes of 47 U.S.C. § 541(c)) to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services;

(d) an open video system that complies with 47 U.S.C. § 573; or

(e) any facilities of any electric utility used solely for operating its electric utility system.

Unless otherwise specified, it shall in this Chapter refer to the Cable System constructed and operated in the City under this Franchise.

7) "Channel". A portion of the electromagnetic frequency spectrum which is used in a Cable System and which is capable of delivering a television channel as defined by the FCC by regulation, as set forth in Applicable Law, currently 47 U.S.C. § 522(4).

8) "City". The City of Willernie, a municipal corporation in the State of Minnesota, acting by and through its City Council, or its lawfully appointed designee.

9) "City Code". The Municipal Code of the City of Willernie, Minnesota, as may be amended from time to time.

10) "Commission". The Ramsey Washington Counties Suburban Cable Communications Commission II or its successors, delegations, or its lawfully appointed designee, including representatives of the Member Cities as may exist pursuant to a then valid and existing Joint and Cooperative Agreement among Member Cities.

11) "Converter". An electronic device, including Digital Transport Adapters, which converts signals to a frequency not susceptible to interference within the television receiver of a Subscriber, and by an appropriate Channel selector also permits a Subscriber to view all Cable Service signals.

12) "City Council". The governing body of the City of Willernie, Minnesota.

13) "Day". A calendar day, unless otherwise specified.

14) "Drop". The cable that connects the Subscriber terminal to the nearest feeder cable of the cable in the Street and any electronics on subscriber property between the Street and the Subscriber terminal.

15) " Effective Date". April 1, 2021.

16) "FCC". The Federal Communications Commission and any legally appointed, designated, or elected agent or successor.

17) "Franchise". The right granted by this Franchise Ordinance and the regulatory and contractual relationship established hereby.

18) "Franchise Area". The entire geographic area within the City as it is now constituted or may in the future be constituted.

19) "Franchise Fee". The fee assessed by the City to Grantee, in consideration of Grantee' s right to operate the Cable System within the City's Streets, determined in amount as a percentage of Grantee's Gross Revenues and limited to the maximum percentage allowed for such assessment by federal law. The term Franchise Fee does not include the exceptions noted in 47 U.S.C. §542(g)(2)(A-E).

20) "GAAP". Generally accepted accounting principles as promulgated and defined by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF") and/or the U.S. Securities and Exchange Commission ("SEC").

21) "Gross Revenues". Shall be construed broadly to include, all revenues derived directly or indirectly by Grantee and/or an Affiliated Entity that is the cable operator of the Cable System, from the operation of Grantee's Cable System to provide Cable Services within the City. Gross Revenues include, by way of illustration and not limitation:

(a) monthly fees for Cable Services, regardless of whether such Cable Services are provided to residential or commercial customers, including revenues derived from the provision of all Cable Services (including but not limited to pay or premium Cable Services, pay-per-view, pay-per-event, and video-on-demand Cable Services);

(b) fees paid to Grantee for Channels designated for commercial/leased access use and shall be allocated on a pro rata basis using total Cable Service Subscribers within the City;

(c) Converter, digital video recorder, remote control, and other Cable Service equipment rentals, leases, or sales;

(d) installation, disconnection, reconnection, change-in service, "snow-bird" fees;

(e) Advertising Revenues as defined herein;

(f) late fees, convenience fees, and administrative fees;

(g) other service fees such as HD fees, convenience fees, broadcast fees, regional sports fees, home tech support fees, bill payment fees for in-person or phone payments, additional outlet fees, and related charges relating to the provision of Cable Service;

(h) revenues from program guides and electronic guides;

(i) Franchise Fees;

(j) FCC regulatory fees;

(k) except as provided in subsection (ii) below, any fee, tax or other charge assessed against Grantee by municipality, which Grantee chooses to pass through and collect from its Subscribers; and

(l) commissions from home shopping channels and other Cable Service revenue sharing arrangements, which shall be allocated on a pro rata basis using total Cable Service Subscribers within the City.

(i) "Advertising Revenues" shall mean revenues derived from sales of advertising that are made available to Grantee's Cable System Subscribers within the City and shall be allocated on a pro rata basis using total Cable Service Subscribers reached by the advertising. Additionally, Grantee agrees that Gross Revenues subject to Franchise Fees shall include all commissions, representative fees, Affiliated Entity fees, or rebates paid to National Cable Communications and Comcast Spotlight or their successors associated with sales of advertising on the Cable System within the City allocated according to this paragraph using total Cable Service Subscribers reached by the advertising.

(ii) "Gross Revenues" shall not include:

1. actual bad debt write-offs, except any portion which is subsequently collected, which shall be allocated on a pro rata basis using Cable Services revenue as a percentage of total Subscriber revenues within the City; and

2. unaffiliated third-party advertising sales agency fees which are reflected as a deduction from revenues.

Grantee shall allocate fees and revenues generated from bundled packages and services to cable revenues pro rata based on the current published rate card for the packaged services delivered on a stand-alone basis as follows:

(i) To the extent revenues are received by Grantee for the provision of a discounted bundle of services which includes Cable Services and non-Cable Services, Grantee shall calculate revenues to be included in Gross Revenues using a GAAP methodology that allocates revenue, on a pro rata basis, when comparing the bundled service price and its components to the sum of the published rate card, except as required by specific federal, state or local law (for example, it is expressly understood that equipment may be subject to inclusion in the bundled price at full rate card value). The City reserves its right to review and to challenge Grantee's calculations.

(ii) Grantee reserves the right to change the allocation methodologies set forth in this Section in order to meet the standards required by governing accounting principles as promulgated and defined by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF") and/or the U.S. Securities and Exchange Commission ("SEC"). Grantee will explain and document the required changes to the City upon request or as part of any audit or review of Franchise Fee payments, and any such changes shall be subject to the next subsection below.

(iii) Resolution of any disputes over the classification of revenue should first be attempted by agreement of the parties, but should no resolution be reached, the parties agree that reference shall be made to GAAP as promulgated and defined by the Financial Accounting Standards Board ("FASB"), Emerging Issues Task Force ("EITF") and/or the U.S. Securities and Exchange Commission ("SEC"). Notwithstanding the foregoing, the City reserves its right to challenge Grantee's calculation of Gross Revenues, including the interpretation of GAAP as promulgated and defined by the FASB, EITF and/or the SEC.

Notwithstanding the above provisions, Grantee will calculate Franchise Fees using the same methodology it uses for all Twin Cities Region franchising authorities with respect to the allocation of revenues among Cable and non-cable Services. Upon written notice by City to Grantee showing that Grantee has afforded more favorable treatment with respect to the allocation of revenues among Cable and non-cable Services to a local franchising authority elsewhere in the Twin Cities Region, City will get the same favorable treatment Grantee provides to such local franchising authority. Specifically, this methodology is intended to provide City with equivalent treatment of revenues earned from multi-service (for example late fees, nonsufficient-funds fees) and convenience fees assessed on customers to service bundles that include non-cable services. This "most favored nations" provision will not apply where Grantee settles a franchise fee dispute which does not address the treatment of multi-service fees, bundled revenues or GAAP. However, this "most favored nations" provision will apply in the event of any order or judgment resolving a dispute regarding treatment of multi-service fees, bundled

revenues, or GAAP between Grantee and a local franchising authority in the Twin Cities Region which results in more favorable treatment with respect to the allocation of revenues among Cable and non-cable Services to the local franchising authority than that afforded by Grantee to City.

22) "Member Cities". Those cities that are parties to a then valid and existing joint powers agreement which, at the time of granting this Franchise, include Birchwood Village, Dellwood, Grant, Lake Elmo, Mahtomedi, Oakdale, White Bear Lake, White Bear Township, and Willernie.

23) "Normal Business Hours". Those hours during which most similar businesses in the City are open to serve customers. In all cases, "Normal Business Hours" must include some evening hours, at least one (1) night per week and/or some weekend hours.

24) "Normal Operating Conditions". Those Service conditions which are within the control of Grantee. Those conditions which are not within the control of Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System.

25) "PEG". Public, education and government.

26) "Person". Any natural person and all domestic and foreign corporations, closely-held corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, businesses, common law trusts, societies and/or any other legal entity.

27) "Street". The area on, below, or above a public roadway, highway, street, cartway, bicycle lane, and public sidewalk in which the City has an interest, including other dedicated rights-of-way for travel purposes and utility easements. A Street does not include the airwaves above a public right-of-way with regard to cellular or other non-wire telecommunications or broadcast service.

28) " Subscriber". A Person who lawfully receives Cable Service.

29) "Twin Cities Region". Shall mean the cities in Minnesota wherein Grantee or Affiliate hold a franchise agreement to provide Cable Service.

30) " Video Programming". Programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

31) "Wireline MVPD". Any entity, including the City, that utilizes the Streets to install cable or fiber and is engaged in the business of making available for purchase, by Subscribers, multiple Channels of Video Programming in the City, which could also include the City. For purposes of this Franchise, the term "Wireline MVPD" shall not be limited to entities defined by the FCC as "multichannel video programming distributors" and shall include entities that provide multiple Channels of Video Programming via open video systems, as defined by the FCC, but it is the intent of the Grantee and the City that the term Wireline MVPD shall not include small cell providers, unless the City has the legal authority under Applicable Law to regulate or to impose cable franchise obligations

upon such small cell providers.

1903.020. Franchise

1) Grant of Franchise. The City hereby authorizes Grantee to occupy or use the City's Streets subject to:

a) the provisions of this non-exclusive Franchise to provide Cable Service within the City; and

b) all applicable provisions of the City Code.

Unless this Franchise has expired pursuant to Section 1903.020 8) herein or this Franchise is otherwise terminated pursuant to Section 1903.110 2) herein, this Franchise shall constitute both a right and an obligation to provide Cable Services as required by the provisions of this Franchise.

Nothing in this Franchise shall be construed to prohibit Grantee from:

a) providing services other than Cable Services to the extent not prohibited by Applicable Law; or

b) challenging any exercise of the City's legislative or regulatory authority in an appropriate forum.

The City hereby reserves all of its rights to regulate such other services to the extent not prohibited by Applicable Law and no provision herein shall be construed to limit or give up any right to regulate. Except as expressly provided herein, in granting this Franchise, City and Commission release Grantee from any claims they have or could have asserted with respect to underpayment of franchise or other fees through March 31, 2021, under the previous franchise, assuming that the fees owed through March 31, 2021, but not yet paid, are calculated in the same manner that they have been calculated and paid in 2020 (without offsets), and assuming that the fees are timely paid (e.g., the last franchise fee payment under the old franchise must be paid by May 15, 2021). The parties do not waive any rights the parties may have under the previous franchise regarding Grantee' s compliance with all applicable obligations governing Grantee's facilities in Streets, the duty to indemnify, and the duty to repair or pay for damages to public or private property.

Conversely, claims that (1) arise before April 1, 2021, and (2) that do not relate to Grantee' s compliance with all applicable obligations governing Grantee 's facilities in Streets, the duty to indemnify, and the duty to repair or pay for damages to public or private property, are not expressly preserved. A condition that violates this Franchise does not "arise before" April 1, 2021, if that violation exists after April 1, 2021, even if it was also present before the renewal.

2) Reservation of Authority. The Grantee specifically agrees to comply with the lawful provisions of the City Code and applicable regulations of the City. Subject to the police power exception below, in the event of a conflict between A) the lawful provisions of the City Code or applicable regulations of the City and B) this Franchise, the express provisions of this Franchise shall govern. Subject to express federal and state preemption, the material terms and conditions contained in this Franchise may not be unilaterally altered by the City through subsequent amendments to the City Code, ordinances or any regulation of City, except in the lawful exercise of City's police power. Grantee acknowledges that the City may modify its regulatory policies by lawful exercise of the City' s police powers

throughout the term of this Franchise. Grantee agrees to comply with such lawful modifications to the City Code; however, Grantee reserves all rights it may have to challenge such modifications to the City Code whether arising in contract or at law. The City reserves all of its rights and defenses to such challenges whether arising in contract or at law. Nothing in this Franchise shall (A) abrogate the right of the City to perform any public works or public improvements of any description, (B) be construed as a waiver of any codes or ordinances of general applicability promulgated by the City, or (C) be construed as a waiver or release of the rights of the City in and to the Streets.

3) Franchise Term. The term of this Franchise shall be ten (10) years from the Effective Date, unless renewed, amended or extended by mutual written consent in accordance with Section 1903.170 8) or terminated sooner in accordance with this Franchise.

4) Franchise Area. This Franchise is granted for the Franchise Area defined herein. Grantee shall extend its Cable System to provide Service to any residential unit in the City in accordance with Section 1903.060 6) herein.

5) Franchise Nonexclusive. The Franchise granted herein shall be nonexclusive. The City specifically reserves the right to grant, at any time, such additional franchises for a Cable System as it deems appropriate provided, however, such additional grants shall not operate to materially modify, revoke, or terminate any rights previously granted to Grantee other than as described in Section 1903.170 20). The grant of any additional franchise shall not of itself be deemed to constitute a modification, revocation, or termination of rights previously granted to Grantee. Any additional cable franchise grants shall comply with Minn. Stat. § 238.08 and any other applicable federal level playing field requirements.

6) Periodic Public Review of Franchise. The City may conduct a public review of the Franchise. The purpose of any such review shall be to ensure, with the benefit of full opportunity for public comment, that the Grantee continues to effectively serve the public in accordance with Applicable Law, and considering any new cable technology, Grantee's performance with the requirements of this Franchise, local regulatory environment, community needs and interests, and other such factors. So long as Grantee receives reasonable notice, Grantee shall cooperate in good faith. The review shall not operate to modify or change any provision of this Franchise without mutual written consent in accordance with Section 1903.170 8) of this Franchise. The City and Grantee shall each be responsible for their own costs regarding the conduct of, or cooperation with, any such periodic review.

7) Transfer of Ownership.

(a) A sale or transfer of this Franchise, including a sale or transfer by means of a "fundamental corporate change," as defined in Minn. Stat. § 238.083 Subd. I, or the sale or transfer of stock in Grantee so as to create a new "controlling interest," as defined in Minn. Stat. § 238.083 Subd. 6, in the Cable System, shall require the written approval of the City. Grantee shall submit a written request to the City for the City's approval, provided, however, that said approval shall not be required where Grantee grants a security interest in its Franchise and assets to secure an indebtedness. The written approval of the City shall not be required under this Section for internal corporate reorganizations involving Affiliates or pledges of the Franchise as collateral or security for any loan or other debt instrument.

(b) City shall approve or deny in writing the sale or transfer request. City shall set forth in writing with particularity its reason(s) for denying approval. City shall not unreasonably withhold its approval.

(c) Any sale or transfer of stock in Grantee so as to create a new controlling interest in the System shall be subject to the requirements of this Section 1903.020 7). The term "controlling interest" as used herein is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.

(d) In no event shall a transfer or assignment of ownership or control be approved without the transferee becoming a signatory to this Franchise and assuming all rights and obligations thereunder, and assuming all other rights and obligations of the transferor to the City.

(e) In accordance with Minn. Stat.§ 238.084, Subd. l(y), the City shall have the right to purchase the System in the event the Franchise or System is proposed to be transferred or sold on the same terms and conditions as the offer pursuant to which transfer notice was provided pursuant to this Section. The City shall have thirty (30) days from receipt of an application for consent under this Section 2.7 in which to give notice of its intention to consider exercising such right.

(f) If the City has issued a written notice of franchise violation in accordance with the terms of this Franchise, the transfer may be conditioned upon the transferee agreeing to a mutually acceptable remediation plan. The approval of any transfer of ownership pursuant to this Section shall not be deemed to waive any rights of the City to subsequently enforce noncompliance issues relating to this Franchise even if such issues predated the approval, whether known or unknown to the City.

8) Expiration. Upon expiration of the Franchise, the City shall have the right at its own election and subject to Grantee's rights under Section 626 of the Cable Act to:

(a) extend the Franchise, though nothing in this provision shall be construed to require such extension;

(b) renew the Franchise, in accordance with Applicable Laws;

(c) invite additional franchise applications or proposals;

(d) terminate the Franchise subject to any rights Grantee has under Section 626 of the Cable Act; or

(e) take such other action as the City deems appropriate.

9) Right to Require Removal of Property. At the expiration of the term for which this Franchise is granted, provided no renewal is granted, or upon its forfeiture or revocation as provided for herein, the City shall have the right to require Grantee to remove at Grantee's own expense all or any part of the Cable System from all Streets and public ways within the Franchise Area within a reasonable time. If Grantee fails to do so, the City may perform the work and collect the cost thereof from Grantee. However, Grantee shall have no obligation to remove the Cable System where it utilizes the system to provide other non-Cable Services and has any other authority under Applicable Law to maintain facilitates in the

public rights-of-way, or where Grantee is able to find a purchaser of the Cable System who holds such authorization.

10) Continuity of Service Mandatory. It shall be the right of all Subscribers to receive Cable Service in accordance with the terms of this Franchise and Applicable Law. In the event that Grantee elects to overbuild, rebuild, modify, or transfer the system in accordance with Section 1903.020 7), or the City revokes or fails to renew the Franchise, Grantee shall make its best effort to ensure that all Subscribers receive continuous uninterrupted service, regardless of the circumstances, while the Franchise remains effective. In the event of expiration, revocation/termination, purchase, lease-purchase, condemnation, acquisition, taking over or holding of plant and equipment, sale, lease, or other transfer to any other Person, including any other grantee of a cable communications franchise, the current Grantee shall cooperate fully to operate the system in accordance with the terms and conditions of this Franchise for a temporary period sufficient in length to maintain continuity of service to all Subscribers.

1903.030. Operation in Streets and Rights-of-Way

1) Use of Streets.

(a) Grantee may, subject to the terms of this Franchise and the City Code, erect, install, construct, repair, replace, reconstruct and retain in, on, over, under, upon, across and along the Streets within the City such lines, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of a Cable System within the City. Without limiting the foregoing, Grantee expressly agrees that it will construct, operate and maintain its Cable System in compliance with, and subject to, the requirements of the City Code, including by way of example and not limitation, those requirements governing the placement of Grantee's Cable System; and with other applicable City Codes, and will obtain, pay for, and maintain all permits and bonds required by the City Code in addition to those required in this Franchise.

(b) All wires, conduits, cable, and other property and facilities of Grantee shall be so located, constructed, installed, and maintained as not to endanger or unnecessarily interfere with the usual and customary trade, traffic and travel upon, or other use of the Streets of City. Grantee shall keep and maintain all of its property in good condition, order, and repair so that the same shall not menace or endanger the life or property of any Person. Grantee shall keep accurate maps and records of all of its wires, conduits, cables, and other property and facilities located, constructed and maintained in the City.

(c) All wires, conduits, cables, and other property and facilities of Grantee, shall be constructed and installed in an orderly and professional manner in accordance with all applicable requirements of the City Code and Applicable Law. All wires, conduits and cables shall be installed, where possible, parallel with electric and telephone lines. Multiple cable configurations shall be arranged in parallel and bundled with due respect for engineering considerations.

(d) Nothing in this Franchise shall be construed to prevent the City from constructing, maintaining, repairing or relocating sewers; grading, paving,

maintaining, repairing, relocating and/or altering any Street; constructing, laying down, repairing, maintaining or relocating any water mains; or constructing, maintaining, relocating, or repairing any sidewalk or other public work.

2) Construction or Alteration**.** Grantee shall in all cases comply with applicable sections of the City Code, City resolutions and City regulations regarding the acquisition of permits and/or such other items as may be reasonably required in order to construct, alter or maintain the Cable System. Grantee shall, upon request, provide information to the City regarding its progress in completing or altering the Cable System.

3) Non-Interference. Grantee shall exert its best efforts to construct and maintain a Cable System so as not to interfere with other use of Streets. Grantee shall, where possible in the case of above ground lines, make use of existing poles and other facilities available to Grantee. When residents receiving underground service or who will be receiving underground service will be affected by proposed construction or alteration, Grantee shall provide such notice as set forth in the permit or in City Code of the same to such affected residents.

4) Consistency with Designated Use. Notwithstanding the above grant to use Streets, no Street shall be used by Grantee if the City, in its sole opinion, determines that such use is inconsistent with the terms, conditions or provisions by which such Street was created or dedicated, or presently used under Applicable Laws.

5) Undergrounding.

(a) Grantee shall place underground all of its transmission lines which are located or are to be located above or within the Streets of the City in the following cases:

(i) all other existing utilities are required to be placed underground by statute, resolution, policy or other Applicable Law;

(ii) Grantee is unable to get pole clearance;

(iii) underground easements are obtained from developers of new residential areas; or

(iv) utilities are overhead but residents prefer underground (undergrounding provided at cost paid by benefitted residents).

(b) If an ordinance is passed which involves placing underground certain utilities including Grantee's cable plant which is then located overhead, Grantee shall participate in such underground project and shall remove poles, cables and overhead wires if requested to do so and place facilities underground. The City and Grantee shall comply with the provisions of Minn. Rules, Chapter 7819.3100 governing the relocation of existing facilities. Nothing in this Franchise shall mandate that City provide reimbursement to Grantee for the costs of such relocation and removal, and the Grantee shall not seek damages or other compensation from the City for such compliance, unless reimbursement is mandatory under Minn. Rules, Chapter 7819.3100. However, if the City makes available funds for the cost of placing facilities underground, nothing herein shall preclude the Grantee from participating in such funding to the extent consistent with the City Code or Applicable Laws. If non-City funds, such as funds from residents or state or federal

grant funding, are made available to place electric or telephone lines underground, nothing herein shall prohibit Grantee from participating in such funding.

(c) Grantee shall use conduit or its functional equivalent to the greatest extent possible for undergrounding, except for Drops from pedestals to Subscribers' homes and for cable on other private property where the owner requests that conduit not be used. Cable and conduit shall be utilized which meets the highest industry standards for electronic performance and resistance to interference or damage from environmental factors. Grantee shall use, in conjunction with other utility companies or providers, common trenches for underground construction wherever available.

6) Maintenance and Restoration.

(a) Restoration. In case of disturbance of any Street, public way, paved area or public improvement, Grantee shall, at its own cost and expense and in accordance with the requirements of the City Code restore such Street, public way, paved area or public improvement to substantially the same condition as existed before the work involving such disturbance took place. All requirements of this Section pertaining to public property shall also apply to the restoration of private easements and other private property. Grantee shall perform all restoration work within a reasonable time and with due regard to seasonal working conditions. If Grantee fails, neglects or refuses to make restorations as required under this Section and any applicable City Code provision, then the City may do such work or cause it to be done, and the cost thereof to the City shall be paid by Grantee. If Grantee causes any damage to private property in the process of restoring facilities, Grantee shall repair such damage.

(b) Maintenance. Grantee shall maintain all above ground improvements that it places on City Streets pursuant to the City Code and any permit issued by the City. In order to avoid interference with the City's ability to maintain the Streets, Grantee shall provide such clearance as is required by the City Code and any permit issued by the City. If Grantee fails to comply with this provision, and by its failure, property is damaged, Grantee shall be responsible for all damages caused thereby.

(c) Disputes. In any dispute over the adequacy of restoration or maintenance relative to this Section, final determination shall be the prerogative of the City, Department of Public Works and consistent with the City Code and any permit issued by the City.

(d) Grantee will verify that prior to the end of 2021 it provided its technicians (whether employees or independent contractors) with a training update on system maintenance standards and practices, including those for identifying and reporting system issues.

7) Work on Private Property. Grantee, with the consent of property owners, shall have the authority, pursuant to the City Code, to trim trees upon and overhanging Streets, alleys, sidewalks, and public ways so as to prevent the branches of such trees from coming in contact with the wires and cables of Grantee, except that at the option of the City, such trimming may be done by it or under its supervision and direction at the reasonable expense of Grantee.

8) Relocation.

c) Public Property. Grantee shall relocate its System and facilities in accordance with the City Code. In addition, if, during the term of the Franchise, the City or any government entity elects or requires a third party to alter, repair, realign, abandon, improve, vacate, reroute or change the grade of any Street or other public property; or to construct, maintain or repair any public improvement; or to replace, repair, install, maintain, or otherwise alter any cable, wire conduit, pipe, line, pole, wire-holding structure, structure, or other facility, including a facility used for the provision of utility or other services or transportation of drainage, sewage or other liquids, for any public purpose, Grantee shall, upon request, except as otherwise hereinafter provided, at its sole expense remove or relocate as necessary its poles, wires, cables, underground conduits , vaults, pedestals, manholes, and any other facilities which it has installed.

The City and Grantee shall comply with the provisions of Minn. Rules, Chapter 7819.3100 governing the relocation of existing facilities. Nothing in this Franchise shall mandate that the City provide reimbursement to Grantee for the costs of such relocation and removal, and the Grantee shall not seek damages or other compensation from the City for such compliance, unless reimbursement is mandatory under Minn. Rules, Chapter 7819.3100. However, if the City makes available funds for the cost of placing facilities underground, nothing herein shall preclude the Grantee from participating in such funding to the extent consistent with the City Code or Applicable Laws. If non-City funds, such as funds from residents or state or federal grant funding, are made available to place electric or telephone lines underground, nothing herein shall prohibit Grantee from participating in such funding.

d) Utilities and Other Franchisees. If, during the term of the Franchise, another entity which holds a franchise or any utility requests Grantee to remove or relocate such facilities to accommodate the construction, maintenance or repair of the requesting party' s facilities, or their more efficient use, or to "make ready" the requesting party's facilities for use by others, or because Grantee is using a facility which the requesting party has a right or duty to remove, Grantee shall do so. The companies involved may decide among themselves who is to bear the cost of removal or relocation, pursuant to City Code, and provided that the City shall not be liable for such costs.

e) Notice to Remove or Relocate. Any Person requesting Grantee to remove or relocate its facilities shall give Grantee no less than forty-five (45) days advance written notice advising Grantee of the date or dates removal or relocation is to be undertaken, provided that no advance written notice shall be required in emergencies or in cases where public health and safety or property is endangered.

f) Failure by Grantee to Remove or Relocate. If Grantee fails, neglects or refuses to remove or relocate its facilities as directed by the City; or in emergencies or where public health and safety or property is endangered, the City may do such work or cause it to be done, and the cost thereof to the City shall be paid by Grantee. If Grantee fails, neglects or refuses to remove or relocate its facilities as directed by another franchisee or utility, that franchisee or utility may do such work or cause it

to be done, and if Grantee would have been liable for the cost of performing such work, the cost thereof to the party performing the work or having the work performed shall be paid by Grantee.

g) Procedure for Removal of Cable. Grantee shall not remove any underground cable or conduit which requires trenching or other opening of the Streets along the extension of cable to be removed, except as hereinafter provided. Grantee may remove any underground cable from the Streets which has been installed in such a manner that it can be removed without trenching or other opening of the Streets along the extension of cable to be removed. Subject to Applicable Law, Grantee shall remove, at its sole cost and expense, any underground cable or conduit by trenching or opening of the Streets along the extension thereof or otherwise which is ordered to be removed by the City based upon a determination, in the sole discretion of the City, that removal is required in order to eliminate or prevent a hazardous condition. Underground cable and conduit in the Streets which is not removed shall be deemed abandoned and title thereto shall be vested in the City.

h) Movement of Buildings. Grantee shall, upon request by any Person holding a building moving permit, franchise or other approval issued by the City, temporarily remove, raise or lower its wire to permit the movement of buildings. The expense of such removal, raising or lowering shall be paid by the Person requesting same, and Grantee shall be authorized to require such payment in advance. The City shall require all building movers to provide not less than fifteen (15) days' notice to the Grantee to arrange for such temporary wire changes.

1903.040. Removal or Abandonment of System

1) Removal of Cable System. In the event that: (1) the use of the Cable System is discontinued for any reason for a continuous period of twelve (12) months; or (2) the Cable System has been installed in a Street without complying with the requirements of this Franchise or the City Code, Grantee, at its expense shall, at the demand of the City remove promptly from the Streets all of the Cable System other than any which the City may permit to be abandoned in place. In the event of any such removal Grantee shall promptly restore the Street to a condition as nearly as possible to its prior condition or other public places in the City from which the System has been removed. However, Grantee shall have no obligation to remove the Cable System where it utilizes the system to provide other non-Cable Services and has any other authority under Applicable Law to maintain facilities in the Street, or where Grantee is able to find a purchaser of the Cable System who holds such authorization.

2) Abandonment of Cable System. In the event of Grantee's abandonment of the Cable System, City shall have the right to require Grantee to comply with the state right-of-way rules, Minn. Rules, Chapter 7819. The Cable System to be abandoned in place shall be abandoned in the manner prescribed by the City. Grantee may not abandon any portion of the System without having first given three (3) months written notice to the City. Grantee may not abandon any portion of the System without compensating the City for damages resulting from the abandonment.

3) Removal after Abandonment or Termination. If Grantee has failed to commence removal of System, or such part thereof as was designated by the City, within thirty (30)

days after written notice of the City' s demand for removal consistent with Minn. Rules, Ch. 7819, is given, or if Grantee has failed to complete such removal within twelve (12) months after written notice of the City's demand for removal is given, the City shall have the right to apply funds secured by the Bond toward removal and/or declare all right, title, and interest to the Cable System for the City with all rights of ownership including, but not limited to, the right to operate the Cable System or transfer the Cable System to another for operation by it.

4) City Options for Failure to Remove Cable System. If Grantee has failed to complete such removal within the time given after written notice of the City's demand for removal is given, the City shall have the right to exercise one of the following options:

(a) Declare all right, title, and interest to the System for the City or its designee with all rights of ownership including, but not limited to, the right to operate the System or transfer the System to another for operation by it; or

(b) Declare the System abandoned and cause the System, or such part thereof as the City shall designate, to be removed at no cost to the City. The cost of said removal shall be recoverable from the security fund, indemnity and penalty section provided for in this Franchise or from Grantee directly.

(c) Upon termination of service to any Subscriber, Grantee shall promptly remove all facilities and equipment from within the dwelling of a Subscriber who owns such dwelling upon his or her written request, except as provided by Applicable Law. Such Subscribers shall be responsible for any costs incurred by Grantee in removing the facilities and equipment.

5) System Construction and Equipment Standards. The Cable System shall be installed and maintained in accordance with standard engineering practices and shall conform, when applicable, with the National Electrical Safety Code, the National Electrical Code and the FCC's rules and regulations.

6) System Maps and Layout. In addition to any generally applicable mapping requirements included in the City Code and required of other utilities, Grantee shall maintain complete and accurate system maps, which shall include trunks, distribution lines, and nodes. Such maps shall include up-to-date route maps showing the location of the Cable System adjacent to the Streets. Grantee shall make all maps available for review by the appropriate City personnel.

1903.050. System Design and Capacity

1) Availability of Signals and Equipment.

(a) The Cable System utilizes a fiber to the fiber node architecture, with fiber optic cable deployed from Grantee's headend to Grantee' s fiber nodes, tying into Grantee' s coaxial Cable System serving Subscribers. The System shall pass a minimum of 750 MHz (with a minimum passband of between 50 and 750 MHz) and shall be maintained to provide to Subscribers a minimum of at least two hundred (200) or more activated downstream video Channels, or such comparable video viewing capability as is provided in light of developing technologies and video distribution practices in the future.

(b) The entire System shall be technically capable of transmitting industry-standard digital television signals in a manner and quality consistent with applicable FCC regulations.

(c) Grantee agrees to maintain the Cable System in a manner consistent with, or in excess of the specifications in Section 1903.050. 1) (a) and (b) throughout the term of the Franchise with sufficient capability and technical quality to enable the implementation and performance of all requirements of this Franchise, including the exhibits hereto, and in a manner which meets or exceeds FCC technical quality standards at 47 C.F.R. § 76 Subpart K, regardless of the particular format in which a signal is transmitted.

2) Equal and Uniform Service**.** Grantee shall provide access to equal and uniform Cable Service throughout the City consistent with Applicable Law.

3) System Specifications.

(a) System Maintenance. In all construction and service provision activities, Grantee shall meet or exceed the construction, technical performance, extension and service requirements set forth in this Franchise.

(b) Emergency Alert Capability. At all times during the term of this Franchise, Grantee shall provide and maintain an Emergency Alert System (EAS) consistent with Applicable law and regulations including 47 C.F.R., Part 11, and any Minnesota State Emergency Alert System requirements. The City may identify authorized emergency officials for activating the EAS insofar as the City's process is consistent with the Minnesota State Emergency Statewide Plan ("EAS Plan "). The City may also develop a local plan containing methods of EAS message distribution, insofar as the local plan is consistent with Applicable Laws and the EAS Plan.

(c) Standby Power. Grantee shall provide standby power generating capacity at the Cable System control center and at all hubs. Grantee shall maintain standby power system supplies, rated for at least two (2) hours' duration, throughout the trunk and distribution networks. In addition, Grantee shall have in place throughout the Franchise term a plan, and all resources necessary for implementation of the plan, for dealing with outages of more than two (2) hours.

(d) Technical Standards. The technical standards used in the operation of the Cable System shall comply, at minimum, with the technical standards promulgated by the FCC relating to Cable Systems pursuant to Title 47, Section 76, Subpart K of the Code of Federal Regulations, as may be amended or modified from time to time, which regulations are expressly incorporated herein by reference. The Cable System shall be installed and maintained in accordance with standard engineering practices and shall conform with the National Electrical Safety Code and all other Applicable Laws governing the construction of the Cable System.

(e) System Upgrades. The Cable System will be upgraded consistent with future System upgrades performed in Grantee's other Twin Cities Cable Systems, when any other of Grantee's Cable Systems in Ramsey County or Washington County also receives a System upgrade.

4) Performance Testing. Grantee shall perform all system tests at the intervals required by the FCC, and all other tests reasonably necessary to determine compliance with technical standards required by this Franchise. These tests may include, at a minimum:

(a) Initial proof of performance for any construction;

(b) Tests in response to Subscriber complaints; and

(c) Tests reasonably requested by the City to demonstrate Franchise compliance.

(d) Written records of all system test results performed by or for Grantee shall be maintained, and shall be available for City inspection upon request.

5) Special Testing.

(a) Throughout the term of this Franchise, City shall have the right to inspect all construction or installation work performed pursuant to the provisions of the Franchise. In addition, City may require special testing of a location or locations within the System if there is a particular matter of controversy or unresolved complaints regarding such construction or installation work or pertaining to such location(s). Demand for such special tests may be made on the basis of complaints received or other evidence indicating an unresolved controversy or noncompliance. Such tests shall be limited to the particular matter in controversy or unresolved complaints. City shall endeavor to so arrange its request for such special testing so as to minimize hardship or inconvenience to Grantee or to the Subscribers impacted by such testing.

(b) Before ordering such tests, Grantee shall be afforded thirty (30) days following receipt of written notice to investigate and, if necessary, correct problems or complaints upon which tests were ordered. City shall meet with Grantee prior to requiring special tests to discuss the need for such and, if possible, visually inspect those locations which are the focus of concern. If, after such meetings and inspections, City wishes to commence special tests and the thirty (30) days have elapsed without correction of the matter in controversy or unresolved complaints, the tests shall be conducted at Grantee' s expense by Grantee' s qualified engineer. The City shall have a right to participate in such testing by having an engineer of City's choosing, and at City's expense, observe and monitor said testing.

1903.060. Programming and Services

1) Categories of Programming Service. Grantee shall provide video programming services in at least the following broad categories subject to Applicable Law:

a) Local Broadcast (subject to federal carriage requirements)
b) Public Broadcast News and Information Sports
c) General Entertainment
d) Arts,Performance,Humanities,Science,Technology,Children,Family,Seniors

e) Foreign Language/Ethnic Programming
f) PEG Programming (to the extent required by the Franchise) Movies
g) Leased Access

2) Changes in Programming Services. Grantee shall provide at least thirty (30) days prior written notice to Subscribers and to the City of Grantee' s request to effectively delete any broad category of programming or any Channel within its control, including all proposed changes in bandwidth or Channel allocation and any assignments including any new equipment requirements that may occur as a result of these changes.

3) Parental Control Device or Capability. Upon request by any Subscriber, Grantee shall make available a parental control or lockout device or functionality that will enable the Subscriber to block all access to any and all Channels without affecting those not blocked. Grantee shall inform Subscribers of the availability of the lockout device or functionality at the time of original subscription and annually thereafter.

4) FCC Reports. The results of any tests required to be filed by Grantee with the FCC shall also be copied to City within ten (10) days of the conduct of the tests.

5) Annexation. Unless otherwise provided by Applicable Law, including the City Code, upon the annexation of any additional land area by City, the annexed area shall thereafter be subject to all the terms of this Franchise upon sixty (60) days written notification to Grantee of the annexation by City. Unless otherwise required by Applicable Laws, nothing herein shall require the Grantee to expand its Cable System to serve, or to offer Cable Service to any area annexed by the City if such area is then served by another Wireline MVPD franchise to provide multichannel video programming.

6) Line Extension.
Grantee shall construct and operate its Cable System so as to provide Cable Service within the Franchise Area where there exists a density equivalent of twenty-five (25) dwelling units per mile of feeder cable as measured from the nearest active plant of the Cable System if the extension is to be constructed using existing aerial plant, and thirty (30) dwelling units per mile of feeder cable as measured from the closest existing distribution plant capable of supporting the extended distance if the extension is to be constructed using underground plant. The twenty-five (25) dwelling units per mile aerial and thirty (30) dwelling units per mile underground standards will be applied proportionately. The City, for its part, shall endeavor to exercise reasonable efforts to require developers and utility companies to provide the Grantee with at least fifteen (15) days advance notice of an available open trench for the placement of necessary cable.

(a) Except for the areas set forth in Exhibit A, the Cable System shall be further extended to Franchise Areas within the City that do not meet the 25-dwelling-units and 30-dwelling-units density requirements set forth above upon the request from the City based upon the following:

(i) "Total Construction Costs." Grantee shall first determine the total construction costs of the extension. "Total construction costs" ("TCC") is defined as the actual turnkey cost to construct the entire extension from the existing trunk and distribution system that is required to serve the Person(s) requesting Cable Service including electronics, pole make-ready charges, labor and reasonable associated overhead, but not the cost of the Drop. TCC shall

include existing plant modifications needed to support the extension (such as node splits and fiber extensions).

(ii) "Grantee Contribution." Grantee shall then determine its contribution ("GC") toward the construction costs per participating dwelling unit by dividing the TCC by twenty-five (25) in the case of aerial construction, or by thirty (30) in the case of underground construction , which are the density thresholds specified in Section 1903.060 6) (a).

$$GC = \frac{TCC}{\text{Density Threshold}}$$

For illustration, if the TCC in the area to be extended is $50,000, GC is $2,000 per dwelling unit for aerial construction, and $1,667 per participating dwelling unit for underground construction.

(iii) "Participating Dwelling Unit" is a residential dwelling unit owner who requests and has signed a contract to receive Cable Service.

(iv) "Third Party Contribution" ("TPC") means the TCC less the product of the Grantee Contribution and the number of PDUs.

$$TPC = TCC - (GC \times PDUs)$$

For illustration, using the TCC and GC values from subparagraph (b)(ii) above, if there are 16 PDUs, the TPC would be $18,000 for an aerial construction project, and $23,328 for underground construction.

(b) Grantee shall provide a construction credit of Two Hundred Fifty Thousand ($250,000) (the "Construction Credit") restricted solely for the purpose of making a TPC as defined in Section 1903.060 6) (a)(iv). The Commission and not Grantee will have the responsibility of determining how the Construction Credit should be allocated. The Construction Credit must be used within five (5) years after the Effective Date of the Franchise or it will be forfeited by the Commission and City.

(c) Subject to the limitations, conditions, and restrictions set forth in Exhibit A, Grantee will also extend its Cable System in the Franchise Area to the developments listed on Exhibit A.

(d) Grantee and the Commission will collaborate directly with the Member Cities on applications for federal or state grants to extend buildouts. Comcast will reasonably amend this agreement to eliminate a condition that affects eligibility for grant funding for broadband deployment within the boundaries of the Commission unless that amendment would require Grantee to materially alter its rights and obligations under this Franchise.

(e) Any residential unit located within one hundred and twenty-five (125) feet from the nearest point of access on the Street from which the Cable System is designed to serve the site shall be connected to the Cable System at no charge other

than the standard installation charge. Grantee shall, within fifteen (15) days request by any potential Subscriber residing in City beyond the one hundred and twenty-five (125) foot limit, provide a quote identifying the costs and construction schedule associated with extending service to such Subscriber. Grantee shall perform the extension of service as soon as reasonably possible and in no event later than the date committed in the quote, excluding events covered by Section 1903.170 10) herein. The Subscriber shall pay the net additional Drop costs, unless the Grantee agrees to waive said costs. To the extent consistent with Applicable Laws, Grantee agrees that it shall impose installation costs for non-standard installations in a uniform and nondiscriminatory manner throughout the City.

(f) Upon request from the City (made before all Third-Party Contributions are made), Grantee will explain how it arrived at its calculation of Total Construction Costs.

7) Nonvoice Return Capability. Grantee is required to use cable and associated electronics having the technical capacity for nonvoice return communications.

8) Services to Public Buildings. The provision of Cable Service and phase out of dark fiber services to public buildings is set forth in Exhibit B.

1903.070. Local PEG Programming

1) Number of PEG Channels.

(a) Upon the Effective Date of this Franchise, Grantee will make available a minimum of four (4) PEG Channels in addition to channels required by the State of Minnesota, such as regional channel 6. Throughout the term of this Franchise, Grantee shall provide the PEG Channels on the Basic Cable Service tier or such other most subscribed tier of Cable Service (within the Franchise Area) as may be offered by Grantee in accordance with Applicable Law.

(b) For purposes of this Franchise, a high definition ("HD") format or signal refers to a PEG signal delivered by Grantee to subscribers in a resolution that is either: (i) the same as received by Grantee from City or the entity from which Grantee received the PEG signal, or (ii) the highest resolution used for the delivery of the primary signals of local broadcast stations, if lower than the level described in subparagraph (b)(i).

2) HD PEG Channels.

(a) No later than one year after the Effective Date of this Franchise, and upon 90 days written notice to Grantee, Grantee shall provide four (4) HD PEG Channels that are simulcasted in Standard Definition ("SD") until SD is no longer offered. At the Commission's discretion, two of the four PEG Channels may be narrowcast channels. At any time 24 months after Effective Date of this Franchise, the Commission may require additional Channels if it satisfies the standards set out in Minn. Stat.§ 238.084. The parties agree that PEG funding may be used to support streaming of PEG programming, provided the Commission or City does not permit PEG funding to be used for operational expenses except as permitted by law. Grantee may propose dedicated streaming options as an alternative to the additional linear channels.

(b) The City acknowledges that receipt of an HD format PEG Channel may require Subscribers to buy or lease special equipment or pay additional HD charges applicable to all HD services.

(c) The Commission shall pay for and be responsible for all HD playback servers to be located at 2460 East County Road F, Suite A, White Bear Lake, MN 55110 ("Playback Facility"). Grantee agrees that it shall be responsible for costs associated with the provision of encoders or other equipment necessary to receive HD/SD signals at the headend, and to convert PEG HD signals to SD consistent with the historic practice between the parties.

3) Control of PEG Channels. The control and administration of the PEG Channels shall rest with the City. The City may delegate, from time to time over the term of this Franchise, such control and administration to various entities as determined in City' s sole discretion. As of the Effective Date of this Franchise the City has delegated control of the PEG Channels to the Commission.

4) Transmission of PEG Channels. PEG Channels may be used for transmission of non-video signals in compliance with Applicable Laws. This may include downstream transmission of data using a protocol such as TCP/IP or current industry standards. Should Grantee develop the capability to provide bi-directional data transmission, spectrum capacity shall be sufficient to allow Subscribers to transmit data to PEG facilities.

5) PEG Channel Locations.

(a) Grantee shall continue cablecasting PEG programming on the Cable System on the same Channel locations as such programming is cablecast within the City as of the Effective Date. Current SD PEG Channel locations as of the Effective Date as well as the location of the four (4) HD PEG Channels to be provided under Section 1903.070 2) are listed on Exhibit C. Grantee agrees not to change these PEG Channel locations more than two (2) times during the term of this Franchise unless required by law for other programmers with specific Channel number rights or pursuant to an overall Channel reorganization of the entire Channel lineup. In no event shall any PEG Channel relocations be made prior to ninety (90) days written notice to the City by Grantee, except for circumstances beyond Grantee's control. If relocated, Grantee will work in good faith with the City to identify new Channel locations such that the PEG Channels will be located within reasonable proximity to other broadcast or news Channels where available Channel numbers allow.

(b) Grantee agrees not to encrypt the PEG Channels differently than other commercial Channels available on the Cable System.

(c) In the event Grantee requires relocation of a PEG Channel pursuant to Section 1903.070 5) (a), Grantee shall provide a rebranding reimbursement grant of One Thousand Five Hundred and No/100 Dollars ($1,500) per relocated Channel.

6) Navigation to PEG Channels and Electronic Programming Guide. Grantee agrees that if it utilizes any navigation interfaces, the PEG Channels shall be treated in a nondiscriminatory fashion consistent with Applicable Laws so that Subscribers will

have ready access to PEG Channels. Grantee will maintain the existing ability of the City to place PEG Channel programming information on the interactive Channel guide via the electronic programming guide ("EPG") vendor ("EPG provider") that Grantee utilizes to provide the guide service. PEG Channel programming provided by the City shall appear on the EPG for each channel carried in all Member Cities. Grantee will be responsible for providing the designations and instructions necessary for the PEG Channels to appear on the EPG. Each programming stream will not be individually listed for narrowcast channels unless technically feasible. All costs and operational requirements of the EPG provider shall be the responsibility of the City. City acknowledges that the EPG may not be technically possible for all PEG programming, and that Grantee is not responsible for operations of the EPG provider.

7) Ownership of PEG Channels. Grantee does not relinquish its ownership of or ultimate right of control over a Channel by designating it for PEG use. A PEG access user - whether an individual, education or government user - acquires no property or other interest by virtue of the use of a Channel position so designated. Grantee shall not exercise editorial control over any public, education, or government use of a Channel position, except Grantee may refuse to transmit any public access program or portion of a public access program that contains obscenity, indecency, or nudity in violation of Applicable Law.

8) PEG Monitoring. Grantee shall continue to provide the capability, without charge, for Commission representatives at the Member City locations and the Commission's master control facility listed in Exhibit D, to monitor and verify the audio and visual quality of PEG Channels received by Subscribers as well as the existing connections and equipment at the Commission's master control facility. This will include equipment comparable to that deployed to residential cable Subscribers that will allow the Commission to verify the accuracy of EPG listings for the PEG Channels consistent with what is currently provided. Grantee shall also maintain one (1) feed to the Commission office to provide the ability to monitor Subscriber services and address Subscriber concerns which feed shall include all cable boxes and platforms (i.e., Xfinity XI).

9) PEG Transport. During the term of this Franchise, Grantee will provide PEG transport as follows:

(a) The Commission may transmit signals for the PEG Channels in "real time" upstream from the nine (9) locations listed in Exhibit D to the Commission's playback facility currently located at 2460 East County Road F Suite A, White Bear Lake, MN 55110 ("Playback Facility") to Grantee's hub and headend using existing fiber connections without additional charge or offsets from Grantee. Grantee shall continue to provide, without charge or offsets, fiber backhaul and transmitter/receiver equipment for PEG programming as is the practice on the Effective Date of this Franchise. The Commission must be able to simultaneously program all PEG channels with signals originating from a central playback facility, designated by the Commission, and from the nine (9) remote locations specified in Exhibit D. Each connection shall be bidirectional and satisfy the requirements of this Section.

(b) Grantee may invoice the Commission for any actual, incremental cost of maintenance, and agrees to cap any return line maintenance charges at ten thousand dollars ($10,000) per year for the nine (9) permanent return line sites. This will allow the Commission to continue cablecasting PEG programming from the locations listed in Exhibit D and maintain connections from the Commission's master control to Grantee' s

hub and headend without additional charge or offsets. Grantee will replace PEG transport fiber for the nine (9) sites if any such fiber is destroyed or if the Cable System has moved. If one of the nine (9) sites moves, Grantee is required by this Franchise to serve that new location at its cost if no new fiber construction in the Street is required to serve that new location. If one of the nine (9) sites moves and new fiber construction in the Street is required to serve that new location, Grantee may require the City to reimburse Grantee for reasonable construction costs as a condition to serving that new location. Grantee shall also make any capital improvements required to maintain upstream transmission without significant deterioration at no cost. Should a member of the Commission choose to depart from the Commission, the Commission may terminate the obligation to maintain any return line from the departing community, in which case, the fees for maintenance will be reduced proportionately.

(c) For all of the PEG origination points identified in Exhibit E, Grantee must either provide permanent fiber connections for PEG transport to replace the coaxial connections, or it may provide for an alternative solution acceptable to the Commission. As an alternative solution acceptable to the Commission, the parties agree to the following: All PEG origination points identified on Exhibit E will be served by a portable cable-modem solution for transport of PEG programming. The cable modem service shall include all the equipment needed to use Comcast's business class internet service. The Commission shall be responsible for renting necessary modems from Comcast, and providing encoders, decoders, or similar devices. In the event that Commission equipment causes interference with the Grantee's delivery of Cable Service, the source of the interference shall be removed and the parties will cooperate to determine and rectify the cause of the interference. If the Commission requests that a new site be added to Exhibit E, Grantee will provide the portable cable modem connection to the subscriber network if technologically and economically feasible. In connection with the use of cable modems or substitute equipment under this paragraph:

(i) Grantee will provide to Commission, and the Commission shall be responsible for purchasing, a subscription to a Comcast Business Class Internet account including cable modem (or an equivalent commercial broadband service however named by Grantee in the future) at a price per account per year equivalent to the lowest price at which Grantee offers the closest equivalent service on a commercial basis. The Commission may determine the number of accounts with cable modems to purchase and may add or terminate use of all or any of the accounts at any time without penalty or additional charge.

(ii) The Commission shall, at its expense, provide any necessary encoders, decoders or similar devices and shall configure equipment and connections so that signals can be transmitted to the Playback Facility. Grantee does not sell and is not required to provide such devices.

(iii) Grantee may request that the Commission remove an encoder, or similar device if it technically interferes with Grantee's delivery of Cable Service.

PEG transport, however provided, shall be reliable and permit continuous programming of a quality such that the Commission may deliver to Comcast signals equivalent or better in quality to the PEG signals that Comcast may be required to deliver to subscribers.

10) Interconnection with other Twin Cities PEG Stations. Grantee shall continue to make the metro area fiber ring known as the PRISMA Ring available to the City, without charge, as long as the PRISMA Ring remains serviceable. The City may use the PRISMA Ring (or its equivalent) to send and receive live and recorded programming to/from other Twin Cities PEG stations for as long as the network remains viable. Grantee shall provide City access to the PRISMA Ring at an agreed upon demarcation point. Grantee will provide use of and maintain the PRISMA Ring without charge, but Grantee will not be obligated to replace network equipment on the PRISMA Ring or for any equipment on the City's side of the demarcation point. Grantee agrees to continue to provide, without charge or offsets, use of Grantee's Converged Regional Area Network (C- RAN) for delivery of live and recorded programming to and from the entities listed on Exhibit F limited to six (6) multi-cast IP Channels. This obligation shall terminate if Grantee no longer utilizes the C-RAN for its own business purposes. Grantee shall have no obligation to replace any network equipment currently located in its headend facility or at the City or Commission facility necessary to deliver or receive such programming over the C-RAN. Replacement of any decoding equipment necessary to receive the programming via the C-RAN will be the responsibility of the City and will require Grantee's approval to ensure equipment compatibility. If there are incremental equipment and maintenance costs specific to the PEG use of the C-RAN, Grantee will notify the City of such costs and allow the City the option of reimbursing Grantee for such costs or to cease using the C-RAN. Grantee shall not be responsible for providing a specific performance level over the C-RAN or resolving any transmission issues caused by incompatibility of audio or video file formats with interconnected equipment.

11) Future PEG Transport. At such time that the City determines:

(a) that the City desires the capacity to allow Subscribers in the City to receive PEG programming (video or character generated) which may originate from schools, City facilities, other government facilities or other designated facilities (other than those indicated in paragraph 1903.070. 9); or

(b) that the City desires to establish or change a location from which PEG programming is originated; or

(c) that the City desires to upgrade the connection to Grantee from an existing signal point of origination, the City will give Grantee written notice detailing the point of origination and the capability sought by the City. After receipt of such notice by Grantee, Grantee and the City may enter into an agreement which compensates Grantee in accordance with Applicable Law, for new sites added or upgraded connections. After such an agreement has been executed, Grantee will implement any necessary Cable System changes within a reasonable period of time. Nothing herein prevents the City, or a private contractor retained by the City, from constructing said connection, as long as such connection does not interconnect with Grantee's Cable System without Grantee's consent or interfere with Grantee's Cable System.

12) PEG Channel Carriage.

(a) The City or its designee shall be responsible for developing, implementing, interpreting and enforcing rules for PEG Channel use.

(b) The Grantee shall monitor the PEG Channels for technical quality to ensure that they meet FCC technical standards including those applicable to the carriage of PEG Channels, provided however, that the Grantee is not responsible for the production quality of PEG programming productions. The City, or its designee, shall be responsible for the production and quality of all PEG programming. Grantee shall carry all components of the SD/HD PEG Channel(s) including, but not limited to, closed captioning, stereo audio and other elements associated with the programming.

13) PEG Programming Financial Support.

(a) In accordance with the schedule below, during the term of the Franchise, Grantee shall pay quarterly to the Commission a public, educational, and governmental programming capital support fee (herein the "PEG Fee") in an amount equal to the following percentages of its quarterly Gross Revenues:

Beginning April I, 2021 (expected effective date of renewed franchise)	3.25% of gross revenue
Beginning April I, 2022	3% of gross revenue
Beginning April 1, 2023 through remaining term of franchise, which will end on April 1, 2031.	2.75% of gross revenue

Payments pursuant to this subsection shall be paid to the Commission on the same schedule and including the same payment worksheets as the Franchise Fee payments set forth in Section 1903.160 l) (a-c) of this Franchise.

(b) The PEG Fee may be used by City and Commission to fund PEG expenditures in accordance with Applicable Law. Grantee agrees not to contest the internal accounting treatment (whether operating or capital support) of the Commission's use of PEG funding for the purchase of cable modem services (as described in Section 1903.070 9) (c) or dark fiber institutional network services (as described in Exhibit B) from Grantee on the basis that this reflects a compromise of the Commission' s claim that it could request permanent facilities that would qualify as capital if not for these alternative solutions.

(c) The PEG Fee is not part of the Franchise Fee and instead falls within one or more of the exceptions in 47 U.S.C. § 542, unless the PEG Fee is used by City or Commission in violation of Applicable Law. The PEG Fee may be categorized , itemized, and passed through to Subscribers as permissible, in accordance with 47 U.S.C. § 542 or other Applicable Laws.

(d) After December 31, 2021, Grantee is no longer responsible for lease payments for the Commission ' s PEG facilities (including studio, administrative, and business office space), and the Commission shall assume sole responsibility for the lease of its PEG facilities (including studio, administrative, and business office space).

14) PEG Technical Quality and Support.

(a) Grantee shall not be required to carry a PEG Channel in a higher quality format than that of the Channel signal delivered to Grantee, but Grantee shall not implement a change in the method of delivery of PEG Channels that results in a material degradation of signal quality or impairment of viewer reception of PEG Channels, provided that this requirement shall not prohibit Grantee from implementing new technologies also utilized for commercial Channels carried on its Cable System. Grantee shall meet FCC signal quality standards when offering PEG Channels on its Cable System and shall continue to comply with closed captioning pass-through requirements . There shall be no significant deterioration in a PEG Channel signal from the point of origination upstream to the point of reception (hub or headend) or downstream to the Subscriber on the Cable System.

(b) Grantee shall provide a local (Twin Cities) response phone number, cell number, and e-mail address for local (Twin Cities) technical support staff who are trained to effectively respond to and resolve PEG related issues. For urgent issues (such as signal problems during live programs) the Grantee will respond as soon as possible. For non-urgent tech support requests the Grantee will respond within three (3) hours or forty-eight (48) hours, depending upon the response time needed. Commission technical staff will determine what requests are urgent or non-urgent. The Commission agrees to use best efforts to verify that the issue is not on the Commission's side of the demarcation point before a call is made to Grantee.

(c) Grantee agrees to continue its practice of providing to the Commission two (2) satellite feeds identified on Exhibit G from Grantee's headend facility and/or hub site locations directly to the Commission' s Playback Facility without charge to Commission. The Commission shall be responsible for obtaining any necessary carriage and license agreements for the programming aired on its PEG Channels to the extent the content providers require such agreements. The Commission shall pay any license fees, copyright fees and other costs of the programming provider. If Grantee receives a demand to cease and desist from providing any programming content to the Commission under this Section or the source of the programming ceases to operate, Grantee may terminate such programming immediately without prior notice, but will provide notice that such programming has been terminated as soon as possible. If Grantee ceases to maintain the satellite reception facility through which the programming is received, Grantee will give the Commission sixty (60) days prior notice of the discontinuation to allow the Commission to obtain the programming from another source.

15) Change in Technology. In the event Grantee makes any change in the Cable System and related equipment and facilities or in its signal delivery technology, which requires the City to obtain new equipment in order to be compatible with such change for purposes of transport and delivery of the PEG Channels, Grantee shall, at its own expense and without charge to the City or its designated entities, purchase such equipment as may be necessary to facilitate the cablecasting of the PEG Channels in accordance with the requirements of the Franchise.

16) Relocation of Grantee's Headend. In the event Grantee relocates its headend, Grantee will be responsible for replacing or restoring the existing dedicated fiber

connections at Grantee' s cost so that all functions and capacity remain available, operate reliably and satisfy all applicable technical standards and related obligations of the Franchise without charge to the City or its designated entities.

17) Regional Channel Six. Grantee shall make available Regional Channel Six as long as it is required to do so by Applicable Law.

18) Compliance with Minnesota Statutes Chapter 238. In addition to the requirements contained in this Section 1903.070 of this Franchise, Grantee and City shall comply with the PEG requirements mandated by Minn. Stat. § 238.084.

1903.080. Regulatory Provisions

1) Intent. The City shall have the right to administer and regulate activities under the Franchise to the full extent permitted by Applicable Law. The City may delegate to any other body or Person authority to administer the Franchise and to monitor the performance of Grantee pursuant to the Franchise. Grantee shall cooperate with any such delegates of the City.

2) Delegation of Authority to Regulate. The City reserves the right to delegate its regulatory authority wholly or in part to another governmental entity, including, but not limited to, an entity which may be formed to regulate several franchises in the region in a manner consistent with Applicable Laws. As of the Effective Date of this Franchise, the Commission shall have continuing regulatory jurisdiction and supervision over the Cable System and Grantee's operation under the Franchise.

3) Regulation of Rates and Charges.

(a) Right to Regulate. The City reserves the right to regulate rates or charges for any Cable Service within the limits of Applicable Law, to enforce rate regulations prescribed by the FCC, and to establish procedures for said regulation or enforcement.

(b) Notice of Change in Rates and Charges. Throughout the term of this Franchise, Grantee shall give the City and all Subscribers within the City at least thirty (30) days' notice of any intended modifications or additions to Subscriber rates or charges. Nothing in this subsection shall be construed to prohibit the reduction or waiving of rates or charges in conjunction with promotional campaigns for the purpose of attracting Subscribers or users.

(c) Rate Discrimination Prohibited. Within any category of Subscribers, Grantee shall not discriminate among Subscribers with regard to rates and charges made for any service based on considerations of race, color, creed, sex, marital or economic status, national origin, sexual preference, or (except as allowed by Applicable Law) neighborhood of residence, except as otherwise provided herein; and for purposes of setting rates and charges, no categorization of Subscribers shall be made by Grantee on the basis of those considerations. Nevertheless, Grantee shall be permitted to establish:

(1) discounted rates and charges for providing Cable Service to low-income, disabled, or low-income elderly Subscribers,
(2) promotional rates, and

(3) bulk rate and package discount pricing.

1903.090. Bond

1) Performance Bond.

(a) Upon the Effective Date of this Franchise and at all times thereafter until the Grantee has liquidated all of its obligations under this Franchise, the Grantee shall furnish and file with Commission, on behalf of all Member Cities, a bond in the sum of One Hundred Thousand and No/100 Dollars ($100,000.00) in such form and with such sureties as shall be acceptable to the Commission ("Bond"). The Bond shall be conditioned upon the faithful performance by Grantee of this Franchise and upon the further condition that in the event Grantee shall fail to comply with any law, ordinance or regulation, there shall be recoverable jointly and severally from the principal and surety of the Bond, any damages or losses suffered by City as a result, including the full amount of any compensation, indemnification or cost of removal of any property of Grantee, including a reasonable allowance for attorneys' fees and costs (with interest at prime rate plus two percent (2%)), up to the full amount of the Bond, and which Bond shall further guarantee payment by Grantee of all claims and liens against City, or any public property, and taxes due to City, which arise by reason of the construction, operation, maintenance, or use of the Cable System.

2) Rights. The rights reserved by City with respect to the Bond are in addition to all other rights the City may have under this Franchise or any other law.

3) Reduction of Bond Amount. City may, in its sole discretion, reduce the amount of the Bond.

4) Procedure to Draw on Bond.

(a) The parties shall follow the procedure set forth in Section 1903.110 of this Franchise regarding any draw on the Bond.

(b) In the event this Franchise is terminated in accordance with the procedure set forth in Section 1903.110, the City shall be entitled to collect from the Bond that amount which is attributable to any damages sustained by the City as a result of said violation.

(c) Grantee shall be entitled to the return of the Bond, or portion thereof, as remains one hundred and twenty (120) days after the expiration of the term of the Franchise or termination for violation thereof, provided the City has not notified Grantee of any actual or potential damages incurred as a result of Grantee's operations pursuant to the Franchise or as a result of said violation.

(d) The rights reserved to the City with respect to the Bond are in addition to all other rights of the City whether reserved by this Franchise or authorized by law, and no action, proceeding or exercise of a right with respect to the Bond shall affect any other right the City may have.

1903.100. Security Fund

1) Security Fund. Within thirty (30) days of the Effective Date, Grantee shall establish and provide to the City or the Commission, on behalf of the City, as security for the faithful performance by Grantee of all provisions of this Franchise, an irrevocable letter of credit from a financial institution satisfactory to the City or the Commission in the amount of Twenty-Five Thousand and No/100 Dollars ($25,000.00) ("Security Fund"). Failure to post the Security Fund shall constitute a material violation of this Franchise. The Security Fund shall serve as security for the faithful performance by Grantee of all the provisions of this Franchise and compliance with all orders, permits and directions of the City and the payment by Grantee of any claim, liens, costs, expenses and taxes due the City which arise by reason of the construction, operation or maintenance of the Cable System. The obligation to establish the Security Fund required by this paragraph is unconditional. If Grantee fails to establish the Security Fund as required, the City may take whatever action is appropriate to require the establishment of that Security Fund and may recover its costs, reasonable attorneys' fees, and an additional penalty of Five Thousand Dollars ($5,000) in that action.

2) Withdrawal of Funds. The Security Fund shall permit the City to withdraw funds upon demand (sight draft). Grantee shall not use the Security Fund for other purposes and shall not assign, pledge or otherwise use this Security Fund as security for any other purpose.

3) Liquidated Damages. Subject to Section 1903.100 5) and 1903.100 11), in addition to recovery of any monies owed by Grantee to City or damages to City as a result of any acts or omissions by Grantee pursuant to the Franchise, City in its sole discretion may charge to and collect from the Security Fund the following liquidated damages:

(a) For failure to provide data, documents, reports or information or to cooperate with City during an application process, audit, or System review, the liquidated damage shall be Two Hundred Fifty Dollars ($250.00) per Day for each Day, or part thereof, such failure occurs or continues.

(b) For failure to comply with any of the provisions of this Franchise for which a penalty is not otherwise specifically provided pursuant to this Section 1903.100 3), the liquidated damage shall be Two Hundred Fifty Dollars ($250.00) per Day for each Day, or part thereof, such failure occurs or continues.

(c) For failure of Grantee to comply with construction, operation or maintenance standards, the liquidated damage shall be Five Hundred Dollars ($500.00) per Day for each Day, or part thereof, such failure occurs or continues.

(d) For failure to provide the services Grantee has proposed, including but not limited to the implementation and the utilization of the PEG Channels, the liquidated damage shall be Two Hundred Fifty Dollars ($250.00) per Day for each Day, or part thereof, such failure occurs or continues.

4) Each Violation a Separate Violation. Each violation of any provision of this Franchise shall be considered a separate violation for which separate liquidated damages can be imposed. However, to the extent City remains a Member City of Commission, liquidated damages under Section 1903.100 3) for a violation of each Member City franchise shall be calculated by the Commission as one violation, and not as multiple

violations (one violation for each individual Member City franchise). For example, liquidated damages per Day under Section 1903.100 3)(a) would equal Two Hundred Fifty Dollars ($250.00), not One Thousand Seven Hundred Fifty Dollars ($1,750) (seven times the per Day liquidated damages amount).

5) Maximum Draw Per Violation. Any liquidated damages for any given violation shall be imposed upon Grantee for a maximum of Twenty-Five Thousand Dollars ($25,000). If after that amount of draw from the Security Fund Grantee has not cured or commenced to cure the alleged breach to the satisfaction of the City, the City may pursue all other remedies.

6) Withdrawal of Funds to Pay Taxes. If Grantee fails to pay to the City any taxes due and unpaid; or fails to repay to the City, any damages, costs or expenses which the City shall be compelled to pay by reason of any act or default of the Grantee in connection with this Franchise; or fails, after thirty (30) days' notice of such failure by the City to comply with any provision of the Franchise which the City reasonably determines can be remedied by an expenditure of the Security Fund, the City may then draw from the Security Fund. Payments are not Franchise Fees as defined in Section 1903.160 of this Franchise.

7) Procedure for Draw on Security Fund. The parties shall follow the procedure set forth in Section 1903.110 of this Franchise regarding any withdrawal from the Security Fund.

8) Grantee's Right to Pay Prior to Security Fund Draw. Grantee shall have the opportunity to make prompt payment of any assessed liquidated damages and if Grantee fails to promptly remit payment to the City, the City may resort to a draw from the Security Fund in accordance with the terms of this Franchise.

9) Failure to Establish Security Fund. City may draw on said Security Fund for the whole amount thereof and hold the proceeds, without interest, and use the proceeds to pay costs incurred by City in performing and paying for any or all of the obligations, duties and responsibilities of Grantee under this Franchise that are not performed or paid for by Grantee pursuant hereto, including attorneys' fees incurred by the City in so performing and paying. The failure to establish a Security Fund under Section 1903.100 1) may also, at the option of City, be deemed a violation by Grantee under this Franchise. The drawing on the Security Fund by City, and use of the money so obtained for payment or performance of the obligations, duties and responsibilities of Grantee which are in default, shall not be a waiver or release of such violation.

10) Replenishment of Security Fund. If Commission or City exhaust the Security Fund under Section 1903.100 5) during a given violation proceeding, Grantee shall have no obligation to replenish the Security Fund for such violation proceeding. However, Grantee must replenish the Security Fund as security for any future franchise violation. If the amount of the Security Fund established under Section 1903.100 1) is not enough to secure the performance of the obligations described in Section 1903.100 1), then the City or the Commission must resort to the Bond provided in Section 1903.090 or other enforcement mechanisms provided under Section 1903.110.

11) Collection of Funds Not Exclusive Remedy. The collection by City of any damages or monies from the Security Fund shall not affect any other right or remedy available to City, nor shall any act, or failure to act, by City pursuant to the Security Fund,

be deemed a waiver of any right of City pursuant to this Franchise or otherwise. Notwithstanding this Section, however, should the City elect to impose liquidated damages, that remedy shall remain the City' s exclusive remedy for one hundred twenty (120) days or for the period needed for the Security Fund draw to reach the maximum in Section 1903.100 5), whichever is less.

1903.110. Violation Procedure

1) Basis for Violation. City or Commission shall give written notice to Grantee if City, in its sole discretion, determines that Grantee has:

(a) Violated any material provision of this Franchise or the acceptance hereto;

(b) Violated any law, ordinance, rule, order, regulation, or determination of the City, state or federal government, not in conflict with this Franchise;

(c) Attempted to evade any provision of this Franchise or the acceptance hereof;

(d) Practiced any fraud or deceit upon City or Subscribers;

(e) Made a material misrepresentation of fact in the application for or negotiation of this Franchise; or

2) Violation Procedure . The written notice shall describe in reasonable detail the alleged violation so as to afford Grantee an opportunity to remedy the violation.

(a) Grantee shall have thirty (30) days subsequent to receipt of the notice in which to correct the violation (or if such violation is of such a character as to require more than thirty (30) days within which to cure the same, and Grantee fails to commence to cure the same within said thirty (30) day period and thereafter fails to use reasonable diligence, in City's sole opinion, to cure such violation as soon as possible).

(b) Grantee may, within ten (10) days of receipt of notice, notify the City that there is a dispute as to whether a violation or failure has, in fact, occurred. Such notice by Grantee shall specify with particularity the matters disputed by Grantee and shall stay the running of the above-described time until the Commission or City issues final findings of fact with respect to the violation. However, all penalties shall accrue from the date of the notice of violation until the Commission or City issues final findings of fact with respect to the violation.

(c) The City or Commission shall hear Grantee' s dispute at the next regularly scheduled or specially scheduled meeting. Grantee shall have the right to speak and introduce evidence. The City or Commission shall determine whether Grantee has committed a violation and shall make written findings of fact relative to its determination.

(d) If after hearing the dispute, the violation is upheld by the City or Commission, then Grantee shall have thirty (30) days within which to remedy the violation.

(e) If Grantee fails to cure the violation within thirty (30) days, such violation shall be a substantial breach and City may elect to terminate the Franchise or establish and draw on the Bond or Security Fund as provided in Sections 1903.090 or 1903.100.

(f) The City may place the issue of termination of this Franchise before the governing body of City at a regular meeting. If City decides there is cause or reason to terminate, the following procedure shall be followed:

(i) City shall provide Grantee with a written notice of the reason or cause for proposed termination and shall allow Grantee a minimum of thirty (30) days subsequent to receipt of the notice in which to correct the violation.

(ii) Grantee shall be provided with an opportunity to be heard at a public hearing prior to any decision to terminate this Franchise.

(iii) If, after notice is given and an opportunity to cure, at Grantee' s option, a public hearing is held, and the City determines there was a violation, breach, failure, refusal or neglect, the City may declare by resolution the Franchise terminated and of no further force and effect unless there is compliance within such period as the City may fix, such period may not be less than thirty (30) days. No opportunity for compliance need be granted for fraud or misrepresentation.

3) Failure to Enforce. Grantee shall not be relieved of any of its obligations to comply promptly with any provision of the Franchise by reason of any failure of the City to enforce prompt compliance, and City's failure to enforce shall not constitute a waiver of rights or acquiescence in Grantee's conduct.

4) Compliance with the Laws.

(a) If any federal or state law or regulation shall require or permit City or Grantee to perform any service or act or shall prohibit City or Grantee from performing any service or act which may be in conflict with the terms of this Franchise, then as soon as possible following knowledge thereof, either party shall notify the other of the point in conflict believed to exist between such law or regulation. Grantee and City shall conform to state laws and rules regarding cable communications not later than one (1) year after they become effective, unless otherwise stated, and shall conform to federal laws and regulations regarding cable as they become effective.

(b) If any term, .condition or provision of this Franchise or the application thereof to any Person or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition or provision to Persons or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Franchise and all the terms, provisions and conditions hereof shall, in all other respects, continue to be effective and complied with, provided the loss of the invalid or unenforceable clause does not substantially alter the agreement between the parties. In the event such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision which had been held invalid or modified is no longer

in conflict with the law, rules and regulations then in effect, said provision shall thereupon return to full force and effect and shall thereafter be binding on Grantee and City.

1903.120. Foreclosure and Receivership

1) Foreclosure. Upon the foreclosure or other judicial sale of the Cable System, Grantee shall notify the City of such fact and such notification shall be treated as a notification that a change in control of Grantee has taken place, and the provisions of this Franchise governing the consent to transfer or change in ownership shall apply without regard to how such transfer or change in ownership occurred.

2) Receivership. The City shall have the right to cancel this Franchise subject to any applicable provisions of state law, including the Bankruptcy Act, one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of Grantee, whether in receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days, or unless:

(a) Within one hundred twenty (120) days after his election or appointment, such receiver or trustee shall have fully complied with all the provisions of this Franchise and remedied all defaults thereunder; and,

(b) Such receiver or trustee, within said one hundred twenty (120) days, shall have executed an agreement, duly approved by the Court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this Franchise.

1903.130. Reporting Requirements

1) Quarterly Reports. Within thirty (30) days after the end of each calendar quarter, Grantee shall submit to the City along with its Franchise Fee payment, a report showing the basis for computation of the Franchise Fee and PEG Fee payments signed by an authorized representative of Grantee in form and substance substantially equivalent to Exhibit H attached hereto. This report shall separately indicate Grantee's Gross Revenues within the City including, but not limited to such items as listed in the definition of "Gross Revenues" at Section 1903.010 21) of this Franchise. Nothing in the Franchise Fee payment worksheet form set forth in Exhibit H shall be construed to modify the definition of "Gross Revenues" set forth in Section 1903.010 21) of this Franchise.

2) Monitoring and Compliance Reports. Upon request, but no more than once a year, Grantee shall provide a written report of any and all FCC technical performance tests for the residential network required in FCC rules and regulations as now or hereinafter constituted.

3) Monthly Subscriber Data Report. Every other month starting in January, Grantee shall provide the City with a Subscriber data report consistent with the format set forth in Exhibit I attached hereto, separately delineating, for each month within that two-month period, the responsive information. In the event technical or programming changes require changes to the format of the report, the City and Grantee shall work in good faith to make

such changes without the need to amend this Franchise. The Commission reserves the right to request and receive from Grantee greater detail regarding Subscriber data provided in the form attached as Exhibit I in order to better understand differences in or trends regarding that data or in Franchise Fee report data.

4) Other Reports. Upon request of the City and in no event later than thirty (30) days from the date of receipt of such request, Grantee shall, without charge, prepare and furnish to the City, at the times and in the form prescribed, such additional reports with respect to its operation, affairs, transactions, or property, as may be reasonably necessary to ensure compliance with the terms of this Franchise. Grantee and City may in good faith agree upon taking into consideration Grantee' s need for the continuing confidentiality as prescribed herein. Neither City nor Grantee shall unreasonably demand or withhold information requested pursuant with the terms of this Franchise.

5) Confidential and Trade Secret Information. Grantee acknowledges that information submitted by Grantee to the City may be subject to the Minnesota Government Data Practices Act ("MGDPA") pursuant to Minn. Stat. Chapter 13. The Commission shall follow all Applicable Laws and procedures for protecting any confidential and trade secret information of Grantee that may be provided to Commission. Grantee acknowledges that the Commission shall at all times comply with the Minnesota Data Practices Act ("MDPA") related to the release of information and nothing herein shall be read to modify the Commission' s obligations under the MDPA.

6) Communications with Regulatory Agencies.

(a) Upon written request (unless service of copies is otherwise mandated by Applicable Law) Grantee shall submit to City copies or online links to copies of any pleading, applications, notifications, communications and documents of any kind, submitted by Grantee or its Affiliates to any federal, state or local courts, regulatory agencies and other government bodies if such documents directly relate to the operations of Grantee' s Cable System within the Franchise Area. Grantee shall submit such documents to City no later than thirty (30) days after receipt of City's request. Grantee and City shall comply with all Applicable Law governing confidential, privileged or proprietary rights to such documents.

(b) In addition, Grantee and its Affiliates, City and Commission shall, within ten (10) days of any communication to or from any judicial or regulatory agency regarding any alleged or actual violation of this Franchise, City regulation or other requirement relating to the System, use its best efforts to provide the other party a copy of the communication, whether or not specifically requested to do so.

1903.140. Customer Service Policies

1) Response to Customers and Cooperation with City and Commission. Grantee shall promptly respond to all requests for service, repair, installation and information from Subscribers. Grantee acknowledges the City's interest in the prompt resolution of all cable complaints and shall work in close cooperation with the City to resolve complaints. Grantee shall provide the Commission and the City with the name, address and telephone number of an office that will act as the Grantee's agent to receive complaints, regarding quality of service, equipment malfunctions, billings, and similar matters. Grantee will

maintain an "escalated complaint process" to address unresolved complaints from Subscribers. A team of specifically identified employees of Grantee shall be available to the City and the Commission via email and telephone for reporting issues. These specifically identified employees of Grantee will have the ability to take actions to resolve Subscriber complaints relating to billing, property or service restoration, technical appointments, or any other Subscriber matters when necessary. Grantee will follow-up with the City or the Commission in writing by email (and by phone when necessary) with a summary of the results of the complaint(s).

2) Customer Service Agreement and Written Information. Grantee shall provide to Subscribers access to their service agreement and the following information if not included in the service agreement:

(a) Services to be provided and rates for such services.

(b) Billing procedures.

(c) Service termination procedure.

(d) Change in service notifications.

(e) Converter/Subscriber terminal equipment policy.

(f) How complaints are handled including Grantee' s procedure for investigation and resolution of Subscriber complaints.

(g) The name, address, and phone number of the Person identified by the City as responsible for handling cable questions and complaints for the City. This information shall be prominently displayed and Grantee shall submit the information to the City for review and approval as to its content and placement on Subscriber billing statements. A copy of the written information shall be provided to each Subscriber at the time of initial connection and any subsequent reconnection.

3) Customer Service Standards.

(a) The City hereby adopts the customer service standards set forth in Part 76, §76.309 of the FCC' s rules and regulations, as amended.

(b) Grantee shall provide City with information demonstrating Grantee's compliance with each and every term and provision of Section 1903.140 5).

(c) Grantee shall comply in all respects with the customer service requirements established by the FCC and those set forth herein. The City reserves the right to enact additional consumer protection laws or requirements to the extent such requirements are not inconsistent with , and preempted by, the FCC's customer service standards.

4) Local Office. Grantee shall maintain a convenient, reasonably accessible, local customer service and bill payment location for matters such as receiving Subscriber payments, handling billing questions, equipment replacement and customer service

information. Grantee's customer service offices in Vadnais Heights and Woodbury (or reasonably accessible alternative locations) are deemed to satisfy this requirement for a convenient, reasonably accessible local customer service office.

5) Cable System office hours and telephone availability. Grantee shall comply with the standards and requirements for customer service set forth below during the term of this Franchise.

(a) Grantee will maintain a local, toll-free telephone access line which will be available to its Subscribers twenty-four (24) hours a Day, seven (7) days a week.

(i) Trained Grantee representatives will be available to respond to customer telephone inquiries during Normal Business Hours.

(ii) The access line may be initially answered by an interactive voice response system but a Subscriber, under Normal Operating Conditions, shall have the option to speak to a trained Grantee representative during Normal Business Hours. Inquiries received after Normal Business Hours must be responded to by a trained Grantee representative on the next business day.

(b) Under Normal Operating Conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety percent (90%) of the time under Normal Operating Conditions, measured on a quarterly basis.

(c) Grantee shall not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

(d) Under Normal Operating Conditions, the customer will receive a busy signal less than three percent (3%) of the time.

(e) Customer service center and bill payment locations will be open at least during Normal Business Hours and will be conveniently located.

(f) The Grantee shall utilize such equipment and software and keep such records as are necessary or required to enable the City and Commission to determine whether the Grantee is complying with all telephone answering standards required by applicable customer service regulations and laws, as amended from time to time. The Grantee shall provide the Commission with a quarterly report documenting Grantee's compliance with this Section 1903.140 5) as is the current practice.

6) Installations, Outages and Service Calls. Under Normal Operating Conditions, each of the following standards will be met no less than ninety-five percent (95%) of the time measured on a quarterly basis:

(a) Standard Installations will be performed within seven (7) business days

after an order has been placed. "Standard" Installations are those that are located up to one hundred twenty-five (125) feet from the existing distribution system as more specifically set forth in Section 1903.060 6)(e).

(b) Excluding conditions beyond the control of Grantee, Grantee will begin working on "service interruptions" promptly and in no event later than twenty-four (24) hours after the interruption becomes known. Grantee must begin actions to correct other Service problems the next business day after notification of the Service problem.

(c) The "appointment window" alternatives for installations, Service calls, and other installation activities will be either a specific time or, at maximum, a four (4) hour time block during Normal Business Hours. (Grantee may schedule Service calls and other installation activities outside of Normal Business Hours for the express convenience of the customer.)

(d) Grantee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

(e) If Grantee's representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

7) Communications between Grantee and Subscribers.

(a) Refunds. Refund checks will be issued promptly, but no later than either:

(i) The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or

(ii) The return of the equipment supplied by Grantee if Cable Service is terminated.

(b) Credits. Credits for Cable Service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

8) Billing:

(a) Consistent with 47 C.F.R. § 76.1619, bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, Basic Cable Service and premium Cable Service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates, and credits.

(b) In case of a billing dispute, Grantee must respond to a written complaint from a Subscriber within thirty (30) days.

9) Subscriber Information.

(a) Grantee will provide Subscribers access to the following information at any

time:

(i) Products and Services offered;

(ii) Prices and options for programming services and conditions of subscription to programming and other services;

(iii) Installation and Service maintenance policies;

(iv) Instructions on how to use the Cable Service;

(v) How to find or purchase programming carried on the System;

(vi) Billing and complaint procedures, including the address and telephone number of the Commission's office; and

(vii) A copy of its refund policy for Cable Services.

(b) Subscribers shall be advised of the procedures for resolution of complaints about the quality of the television signal delivered by Grantee, including contact information for the City and the Commission. Subscribers will be notified of any changes in rates or programming or Channel positions as soon as possible in writing. Notice must be given to Subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of Grantee. In addition , Grantee shall notify Subscribers thirty (30) days in advance of any significant changes in the information required by this Section 1903.140 9).

10) Notice of Rate or Programming Changes. Grantee shall give thirty (30) days written notice to both Subscribers and the City before implementing any rate or Service change within the control of Grantee. For the purpose of this Section a "Service change" shall not include channel additions or moves that do not impact rates. Such notice shall state the precise amount of any rate change and briefly explain in readily understandable fashion the cause of the rate change. When the change involves the deletion of Channels, each Channel deleted must be separately identified.

11) Subscriber Contracts. Grantee shall, upon written request, provide the Commission with any standard form residential Subscriber contract utilized by Grantee. If no such written contract exists, Grantee shall file with the City a document completely and concisely stating the length and terms of the Subscriber contract offered to customers. Grantee shall provide City a list of Grantee's current Subscriber rates and charges for Cable Service and a current Channel line-up showing all Channels available in the City. Grantee shall also provide on a monthly basis a copy of a sample Subscriber Bill to the Commission.

12) Refund Policy. If a Subscriber's Cable Service is interrupted or discontinued, without cause, for twenty-four (24) or more consecutive hours, Grantee shall, upon request by the Subscriber, credit such Subscriber pro rata for such interruption. For this purpose, every month will be assumed to have thirty (30) days.

13) Late Fees. Grantee shall comply with all applicable state and federal laws with respect to any assessment, charge, cost, fee or sum, however characterized, that Grantee

imposes upon a Subscriber for late payment of a bill. The City reserves the right to enforce Grantee's compliance with all Applicable Laws to the maximum extent legally permissible.

14) Disputes. All Subscribers and members of the general public may direct complaints, regarding Grantee's Service or performance to the chief administrative officer of the City or the chief administrative officer' s designee, which may be a board or a commission of the City.

15) Subscriber Bills. Subscriber bills shall be designed in such a way as to present the information contained therein clearly and comprehensibly to Subscribers, and in a way that (A) is not misleading and (B) does not omit material information. Grantee may, in its sole discretion, consolidate costs on Subscriber bills as may otherwise be permitted by Section 622(c) of the Cable Act (47 U.S.C. § 542(c)).

16) Failure to Resolve Complaints. Grantee shall resolve a complaint within thirty (30) days in a manner deemed reasonable by the City under the terms of the Franchise.

17) Notification of Complaint Procedure. Grantee shall have printed clearly and prominently on each Subscriber bill and in the customer service agreement provided for in Section 1903.140 2), the twenty-four (24) hour Grantee phone number for Subscriber complaints. Additionally, Grantee shall provide information to customers concerning the procedures to follow when they are unsatisfied with measures taken by Grantee to remedy their complaint. This information will include the phone number of the City office or Person designated to handle complaints. Additionally, Grantee shall state that complaints should be made to Grantee prior to contacting the City.

18) Subscriber Privacy.

(a) To the extent required by Minn. Stat. § 238.084 Subd. l(s) Grantee shall comply with the following:

(i) No signals including signals of a Class IV Channel may be transmitted from a Subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the Subscriber. The request for permission must be contained in a separate document with a prominent statement that the Subscriber is authorizing the permission in full knowledge of its provisions. Such written permission shall be for a limited period of time not to exceed one (1) year which may be renewed at the option of the Subscriber. No penalty shall be invoked for a Subscriber's failure to provide or renew such permission. The permission shall be revocable at any time by the Subscriber without penalty of any kind whatsoever.

(ii) No information or data obtained by monitoring transmission of a signal from a Subscriber terminal, including but not limited to lists of the names and addresses of Subscribers or any lists that identify the viewing habits of Subscribers shall be sold or otherwise made available to any party other than to Grantee or its agents for Grantee's business use, and also to the Subscriber subject of that information, unless Grantee has received specific written permission from the Subscriber to make such data available. The request for permission must be contained in a separate document with a

prominent statement that the Subscriber is authorizing the permission in full knowledge of its provisions. Such written permission shall be for a limited period of time not to exceed one (1) year which may be renewed at the option of the Subscriber. No penalty shall be invoked for a Subscriber's failure to provide or renew such permission. The permission shall be revocable at any time by the Subscriber without penalty of any kind whatsoever.

(iii) Written permission from the Subscriber shall not be required for the conducting of system wide or individually addressed electronic sweeps for the purpose of verifying System integrity or monitoring for the purpose of billing. Confidentiality of such information shall be subject to the provision set forth in subparagraph (ii) of this Section.

19) Grantee Identification. Grantee shall provide all customer service technicians and all other Grantee employees entering private property with appropriate picture identification so that Grantee employees may be easily identified by the property owners and Subscribers.

1903.150. Subscriber Practices

1) Subscriber Rates. There shall be no charge for disconnection of any installation or outlet. If any Subscriber fails to pay a properly due monthly Subscriber fee, or any other properly due fee or charge, Grantee may disconnect the Subscriber's service outlet, provided, however, that such disconnection shall not occur until after the later of: (i) forty-five (45) days after the original due date of said delinquent fee or charge; or (ii) ten (10) days after delivery to Subscriber of written notice of the intent to disconnect. If a Subscriber pays before expiration of the later of (i) or (ii), Grantee shall not disconnect. After disconnection, upon payment in full of the delinquent fee or charge and the payment of a reconnection charge, Grantee shall promptly reinstate the Subscriber's Cable Service.

2) Refunds to Subscribers. Refunds to Subscribers shall be made or determined in the following manner:

(a) If Grantee fails, upon request by a Subscriber, to provide any service then being provided to the Subscriber, Grantee shall promptly refund all deposits or advance charges paid for the service in question by said Subscriber. This provision does not alter Grantee's responsibility to Subscribers under any separate contractual agreement or relieve Grantee of any other liability that may be available under Applicable Law.

(b) If any Subscriber terminates any monthly service because of failure of Grantee to render the service in accordance with this Franchise, Grantee shall refund to such Subscriber the proportionate share of the charges paid by the Subscriber for the services not received. This provision does not relieve Grantee of liability established in other provisions of this Franchise.

1903.160. Compensation and Financial Provisions

1) Franchise Fees. During the term of the Franchise, Grantee shall pay quarterly to the City or its delegate a Franchise Fee in an amount equal to five percent (5%) of its quarterly

Gross Revenues. If any such law, regulation or valid rule alters the five percent (5%) Franchise Fee ceiling established by the Cable Act, then the City shall have the authority to (but shall not be required to) increase the Franchise Fee accordingly, provided such increase is for purposes not inconsistent with Applicable Law.

(a) Franchise Fees shall be paid quarterly not later than forty-five (45) days following the end of each quarter. Grantee shall include with each quarterly payment a Franchise Fee payment worksheet signed by an authorized representative of Grantee. No acceptance of any payment shall be construed as an accord that the amount paid is, in fact, the correct amount, nor shall such acceptance of payment be construed as a release of any claim which the City may have for further or additional sums payable under the provisions of this Section.

(b) Neither current nor previously paid Franchise Fees shall be subtracted from the Gross Revenue amount upon which Franchise Fees are calculated and due for any period, unless otherwise required by Applicable Law.

(c) Any Franchise Fees owing pursuant to this Franchise which remain unpaid after the due dates specified herein shall be delinquent and shall immediately begin to accrue interest at twelve percent (12%) per annum or two percent (2%) above prime lending rate as quoted by the Wall Street Journal, whichever is greater.

2) Auditing and Financial Records. Throughout the term of this Franchise, the Grantee agrees that the City or its designee, upon reasonable prior written notice of twenty (20) days to the Grantee, may review such of the Grantee's books and records regarding the operation of the Cable System and the provision of Cable Service in the Franchise Area which are reasonably necessary to monitor and enforce Grantee's compliance with the provisions of this Franchise.

Grantee shall provide such requested information as soon as possible and in no event more than twenty (20) days unless Grantee explains that it is not feasible to meet this timeline and provides a written explanation for the delay and an estimated reasonable date for when such information will be provided. All such documents pertaining to financial matters that may be the subject of an inspection by the City shall be retained by the Grantee for a minimum period of seven (7) years. The Grantee shall not deny the City access to any of the Grantee's records on the basis that the Grantee's records are under the control of any parent corporation, affiliated entity or a third party. The City may request in writing copies of any such records or books that are reasonably necessary, and the Grantee shall provide such copies within thirty (30) days of the receipt of such request. One (1) copy of all reports and records required under this or any other Section shall be furnished to the City at the sole expense of the Grantee. If the requested books and records are too voluminous, or for security reasons cannot be copied or removed, then the Grantee may request, in writing within ten (10) days of receipt of such request, that the City inspect them at the Grantee's local offices or at one of Grantee's offices more convenient to City or its duly authorized agent. If any books or records of the Grantee are not kept in such office and not made available in copies to the City upon written request as set forth above, and if the City determines that an examination of such records is necessary for the enforcement of this Franchise, then all reasonable travel expenses incurred in making such examination shall be paid by the Grantee.

3) Review of Record Keeping Methodology. Upon request, Grantee agrees to meet with a representative of the City or its designee to review its methodology of record-keeping, financial reporting, computing Franchise Fee obligations, and other procedures the understanding of which the City deems necessary for understanding the meaning of reports and records.

4) Audit of Records. The City or its authorized agent may at any time and at the City's own expense conduct an independent audit of the revenues of Grantee in order to verify the accuracy of Franchise Fees or PEG Fees paid to the City under this Franchise. Grantee and each parent company of Grantee shall cooperate fully in the conduct of such audit. In the event it is determined through such audit that Grantee has underpaid Franchise Fees in an amount of five percent (5%) or more than was due the City, then Grantee shall reimburse the City for the entire cost of the audit within thirty (30) days of the completion and acceptance of the audit by the City. Notwithstanding the foregoing rights, and consistent with the release under Section 1903.020 1), City and the Commission shall not conduct an audit of franchise fees or other fees paid under the previous franchise except for the purpose of determining whether franchise fees paid for the first quarter of 2021 under the previous franchise were calculated in the same manner calculated and paid in 2020.

5) Records to be reviewed. The City agrees to request access to only those books and records, in exercising its rights under this Section, which it deems reasonably necessary for the enforcement and administration of the Franchise.

6) Indemnification by Grantee. Grantee shall, at its sole expense, fully indemnify, defend and hold harmless the City and Commission, and in their capacity as such, the officers, agents and employees thereof (collectively the "Indemnified Parties"), from and against any and all claims, suits, actions, demands, liability and judgments for damage or otherwise except those arising wholly from negligence on the part of the Indemnified Parties; for actual or alleged injury to Persons or property, including loss of use of property due to an occurrence, whether or not such property is physically damaged or destroyed, in any way arising out of or through or alleged to arise out of or through the acts or omissions of Grantee or its officers, agents, employees, or contractors or to which Grantee's or its officers, agents, employees or contractors acts or omissions in any way contribute, and whether or not such acts or omissions were authorized or contemplated by this Franchise or Applicable Law; arising out of or alleged to arise out of any claim for damages for Grantee's invasion of the right of privacy, defamation of any Person, firm or corporation, or the violation of infringement of any copyright, trademark, trade name, service mark or patent, or of any other right of any Person, firm or corporation; arising out of or alleged to arise out of Grantee's failure to comply with the provisions of any Applicable Law. Nothing herein shall be deemed to prevent the Indemnified Parties from participating in the defense of any litigation by their own counsel at such parties' expense. Such participation shall not under any circumstances relieve Grantee from its duty of defense against liability or of paying any judgment entered against the Indemnified Parties.

7) Grantee Insurance. Upon the Effective Date, Grantee shall, at its sole expense, take out and maintain during the term of this Franchise public liability insurance with a company licensed to do business in the State of Minnesota with a rating by A.M. Best & Co. of not less than "A -" that shall protect the Gran tee, City and its officials, officers, directors, employees and agents from claims which may arise from operations under this Franchise, whether such operations be by the Grantee, its officials, officers, directors, employees and agents or any subcontractors of Grantee. This liability insurance shall include, but shall not

be limited to, protection against claims arising from bodily and personal injury and damage to property, resulting from Grantee' s vehicles, products and operations. The amount of insurance for single limit coverage applying to bodily and personal injury and property damage shall not be less than Three Million Dollars ($3,000,000).

The liability policy shall include:

(a) The policy shall provide coverage on an "occurrence" basis.

(b) The policy shall cover personal injury as well as bodily injury.

(c) The policy shall cover blanket contractual liability subject to the standard universal exclusions of contractual liability included in the carrier' s standard endorsement as to bodily injuries, personal injuries and property damage.

(d) Broad form property damage liability shall be afforded.

(e) City and Commission shall be named as an additional insured on the policy.

(f) An endorsement shall be provided which states that the coverage is primary insurance with respect to claims arising from Grantee's operations under this Franchise and that no other insurance maintained by the City will be called upon to contribute to a loss under this coverage.

(g) Standard form of cross-liability shall be afforded.

(h) An endorsement stating that the policy shall not be canceled without thirty (30) days' notice of such cancellation given to City.

(i) City reserves the right to adjust the insurance limit coverage requirements of this Franchise no more than once every three (3) years. Any such adjustment by City will be no greater than the increase in the State of Minnesota Consumer Price Index (all consumers) for such three (3) year period.

(j) Upon the Effective Date, Grantee shall submit to City a certificate documenting the required insurance, as well as any necessary properly executed endorsements. The certificate and documents evidencing insurance shall be in a form acceptable to City and shall provide satisfactory evidence that Grantee has complied with all insurance requirements. Renewal certificates shall be provided to City prior to the expiration date of any of the required policies. City will not be obligated, however, to review such endorsements or certificates or other evidence of insurance, or to advise Grantee of any deficiencies in such documents and receipt thereof shall not relieve Grantee from, nor be deemed a waiver of, City's right to enforce the terms of Grantee's obligations hereunder. City reserves the right to examine any policy provided for under this paragraph or to require further documentation reasonably necessary to form an opinion regarding the adequacy of Grantee's insurance coverage.

1903.170. Miscellaneous Provisions

1) Posting and Publication. Grantee shall assume the cost of posting and publication of this Franchise as such posting and publication is required by law and such is payable upon Grantee's filing of acceptance of this Franchise.

2) Guarantee of Performance. Grantee agrees that it enters into this Franchise voluntarily in order to secure and in consideration of the grant from the City of a ten (10) year Franchise. Performance pursuant to the terms and conditions of this Franchise is guaranteed by Grantee.

3) Entire Agreement. This Franchise contains the entire agreement between the parties and supersedes all prior agreements or proposals except as specifically set forth herein.

4) Consent. Wherever the consent or approval of either Grantee or the City is specifically required in this agreement, such consent or approval shall not be unreasonably withheld.

5) Prior Franchise Terminated. The cable television franchise originally granted by Ordinance No. 99-10 is hereby terminated.

6) Prior Regulatory Agreements Terminated. The Memorandum of Understanding and Regulatory Agreement dated March 9, 1995 (herein "MOU"), the March 10, 2014 Settlement Regarding PEG Capacity (herein "2014 Settlement Agreement"), and any other prior settlement agreements or memorandums of understanding are terminated and of no further effect. Grantee releases any claims it has against City and the Commission with respect to its asserted rights to offset past payments made to the Commission pursuant to the MOU and the 2014 Settlement Agreement against Franchise Fees, and any claim of overpayment of franchise fees or other fees.

7) Franchise Acceptance. No later than thirty (30) days following City Council approval of this Franchise, Grantee shall execute and return to the City three (3) original franchise agreements. The executed agreements shall be returned to the City accompanied by performance bonds, security funds, and evidence of insurance, all as provided in this Franchise. In the event Grantee fails to provide the required executed Franchise, insurance certificate as required by Section 1903.160 7)(j) and the Bond, this Franchise shall be null and void. The Grantee agrees that despite the fact that its written acceptance may occur after the Effective Date, the obligations of this Franchise shall become effective on the Effective Date.

8) Amendment of Franchise. Grantee and City may agree, from time to time, to amend this Franchise. Such written amendments may be made to address technology changes or advances subsequent to a review session pursuant to Section 1903.020 6) or at any other time if City and Grantee agree that such an amendment will be in the public interest or if such an amendment is required due to changes in federal, state or local laws; provided, however, nothing herein shall restrict City's exercise of its police powers.

9) Notice. All notices, reports, or demands required to be given in writing under this Franchise shall be deemed to be given when delivered personally to any officer of the Grantee or the City's administrator of this Franchise during Normal Business Hours or forty-eight (48) hours after it is deposited in the United States mail in a sealed envelope, with

registered or certified mail postage prepaid thereon, addressed to the party to whom notice is being given, as follows:

If to City:
City Administrator/Clerk City of Willernie
Willernie City Hall
111 Wildwood Road
Willernie, MN 55090

If to Commission:
Executive Director
Ramsey Washington Counties Suburban Cable Communications Commission
2460 East County Road F
White Bear Lake, MN 55110

If to Grantee:
General Manager
Comcast
10 River Park Plaza
St. Paul, MN 55107

Such addresses may be changed by either party upon notice to the other party given as provided in this Section.

Recognizing the widespread usage and acceptance of electronic forms of communication, emails will be acceptable as formal notification related to the conduct of general business amongst the parties to this contract, including but not limited to programming and price adjustment communications required under Section 1903.140 10). Such communication should be addressed and directed to the Person of record as specified above.

10) Force Majeure. In the event that either party is prevented or delayed in the performance of any of its obligations under this Franchise by reason of acts of God, floods, fire, hurricanes, tornadoes, earthquakes, or other unavoidable casualties, insurrection, war, riot, vandalism, strikes, delays in receiving permits where it is not the fault of Grantee, public easements, sabotage, acts or omissions of the other party, or any other similar event beyond the reasonable control of that party, it shall have a reasonable time under the circumstances to perform such obligation under this Franchise, or to procure a substitute for such obligation to the reasonable satisfaction of the other party.

11) Work of Contractors and Subcontractors. Work by contractors and subcontractors is subject to the same restrictions, limitations and conditions as if the work were performed by Grantee. Grantee shall be responsible for all work performed by its contractors and subcontractors, and others performing work on its behalf as if the work were performed by it and shall ensure that all such work is performed in compliance with this Franchise, the City Code and other Applicable Law, and shall be jointly and severally liable for all damages and correcting all damage caused by them. It is Grantee's responsibility to ensure that contractors, subcontractors or other Persons performing work on Grantee's behalf are familiar with the requirements of this Franchise, the City Code and other Applicable Laws governing the work performed by them.

12) Governing Law. This Franchise is made pursuant to Minnesota Statutes Chapter 238 and the City Code and is intended to comply with all requirements set forth therein. This Franchise shall be deemed to be executed in the State of Minnesota, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the State of Minnesota, as applicable to contracts entered into and performed entirely within the State.

13) Commission. In the event the City lawfully withdraws from the Commission, any reference to the Commission in this Franchise shall thereafter be deemed a reference to the City and the rights and obligations related thereto shall, where possible, accrue to the City unless or until a new franchise is executed between Grantee and City. Nothing herein shall in any way modify or alter any rights or obligations the City or Commission may have under the Joint and Cooperative Agreement between the parties. In the event that the Commission lawfully merges with another commission, it would not be deemed by the Grantee a withdrawal for purposes of this franchise.

14) Nonenforcement by City. Grantee shall not be relieved of its obligation to comply with any of the provisions of this Franchise by reason of any failure of the City or to enforce prompt compliance.

15) Captions. The paragraph captions and headings in this Franchise are for convenience and reference purposes only and shall not affect in any way the meaning or interpretation of this Franchise.

16) Calculation of Time. Where the performance or doing of any act, duty, matter, payment or thing is required hereunder and the period of time or duration for the performance is prescribed and fixed herein, the time shall be computed so as to exclude the first and include the last Day of the prescribed or fixed period or duration of time. When the last Day of the period falls on Saturday, Sunday or a legal holiday that Day shall be omitted from the computation and the next business Day shall be the last Day of the period.

17) No Waiver. All rights and remedies given to the City by this Franchise or retained by the City herein shall be in addition to and cumulative with any and all other rights and remedies, existing or implied, now or hereafter available to the City, at law or in equity, and such rights and remedies shall not be exclusive, but each and every right and remedy specifically given by this Franchise or otherwise existing or given may be exercised from time to time and as often and in such order as may be deemed expedient by the City and the exercise of one or more rights or remedies shall not be deemed a waiver of the right to exercise at the same time or thereafter any other right or remedy.

18) Grantee Acknowledgment of Validity of Franchise. Grantee acknowledges that it has had an opportunity to review the terms and conditions of this Franchise and that under current law Grantee believes that said terms and conditions are not unreasonable or arbitrary, and that Grantee believes the City has the power to make the terms and conditions contained in this Franchise.

19) Survival of Terms. Upon the termination or forfeiture of the Franchise, Grantee shall no longer have the right to occupy the Streets for the purpose of providing Cable Service. However, Grantee' s obligations to the City (other than the obligation to provide service to Subscribers) shall survive according to their terms.

20) Competitive Equity.

(a) The Grantor has the authority to grant franchises that allow entities to construct and operate facilities in the Public Rights-of-Way that may be used to provide video programming services to residences that compete with Grantee's services. If Grantor grants such a franchise to an entity that provides competitive video programming services to residences that contains material terms and conditions that differ from Grantee's material obligations under this Franchise, then the parties agree that the processes and provisions of this Section will apply.

(b) If Grantor grants a franchise to an entity that provides competitive video programming services to residences that contains material terms and conditions that differ from Grantee's material obligations under this Franchise, the Grantor and Grantee will either negotiate the terms of this Franchise to include any material terms or conditions that the Grantor imposes upon the new entrant, or negotiate amendments to the Franchise to insure that the regulatory and financial burdens on each Grantee are materially equivalent. "Material terms and conditions" include franchise provisions related to: Franchise fees and Gross Revenues; Operation in Streets and Rights-of-Way (Section 1903.030), number of Public, Education and Government Access Channels and their funding; customer service standards; required reports and related record keeping; and liquidated damages. The parties agree that this provision shall not require an identical franchise or authorization for a competitive entity so long as the regulatory and financial burdens in their entirety on each entity are materially equivalent.

(c) Exemptions. The following are exempt from this Section:

(i) video programming services delivered over wireless networks, unless the state or FCC has determined that these are subject to City franchising authority;

(ii) video programming services delivered via means over systems that are not subject to the Grantor's franchising authority or upon which the Grantor may not impose similar requirements, under state or federal law, including a system described in 47 U.S.C. § 65l(a)(2);

(iii) telecommunication services;

(iv) interstate information services;

(v) any new franchise that is issued for less than 10% of the territory of the City. For the avoidance of doubt, this exemption is not intended to preclude the Grantee' s pursuit of any remedies it may have under Minn. Stat. § 238.08, Subd. 1.

(d) Limits on Relief. The parties agree that:

(i) Grantee may not withhold, delay or enjoin any performance or otherwise refuse to comply with its obligations whether or not it believes it is entitled

to relief under this Section;

(ii) Any relief shall be prospective only, and limited to the relief agreed upon, or the modifications obtained through any renewal of this Franchise;

(iii) Grantor will not be liable for any damages to Grantee for any breach of this provision; and

(iv) Grantee may not obtain any relief from non-franchise obligations it may have under settlements or other contracts with the Grantor via this provision.

(e) Modifications Process, Initiation. The modifications process provided for herein shall only be initiated by written notice provided by Grantee to Grantor regarding specified franchise obligations. Grantee's notice must:

i. identify the specific terms or conditions in the competitive cable services franchise which are materially different from Grantee's obligations under this Franchise;

ii. identify the Franchise terms and conditions for which Grantee is seeking amendments;

iii. provide text for any proposed Franchise amendments to the Grantor with a written explanation of why the proposed amendments are necessary and consistent; and

iv. confirm whether Grantee is willing to accept any additional obligations that may be contained within the modified franchise that are not contained within its franchise.

(f) Negotiation. Upon receipt of Grantee' s written notice as provided under subsection (e) above, Grantor and Grantee agree that they will use best efforts in good faith to negotiate the proposed Franchise modifications to achieve competitive equity of regulatory and financial burdens, and that such negotiation will proceed and conclude within a one hundred and eighty (180) day period, unless that time period is reduced or extended by mutual agreement of the parties. If Grantor and Grantee reach agreement on the Franchise modifications pursuant to such negotiations, then Grantor shall amend this Franchise to include the modifications insofar as permitted under City law. If the Grantor and Grantee fail to reach agreement in such negotiations, Grantee may elect to shorten the remaining term of this Franchise to not more than thirty-six (36) months, and Grantee may pursue non-monetary equitable relief it deems necessary to enforce its rights under this Section. If Grantee elects to shorten the term of this Franchise pursuant to this Section, Grantee shall be deemed to have timely invoked the formal renewal rights and procedures set forth in Section 626 of the Federal Cable Act.

(g) Actual Providers. Notwithstanding anything contained herein to the contrary, Grantor shall not be obligated to amend this Franchise unless the new entrant is actually providing video programming services under a franchise granted by Grantor.

21) Treatment of negotiated provisions.

For the term of this Franchise any costs incurred by Grantee pursuant to Sections 1903.070 2)(c), 1903.070 5)(c), 1903.070 8), 1903.070 9), 1903.070 10), 1903.070 12), 1903.070 14), 1903.070 15), 1903.070 16), 1903.130 1), 1903.130 2), 1903.130 3), and 1903.130 4) shall be treated by Grantee as Grantee's business expense and not a Franchise Fee under Sections 1903.010 19) and 1903.160 1) of this Franchise or as a PEG Fee under Section 1903.070 13) of this Franchise. Grantee reserves any rights it may have to recover from Subscribers, as a separate line item from the PEG Fee in Section 1903.070 13) of this Franchise, any PEG capital costs set forth in Section 1903.070 2)(a) and (c), 1903.070 8), 1903.070 9), 1903.070 10), 1903.070 11), and 1903.070 16) as may be permitted by Applicable Law as of the Effective Date.

1903.180. Exhibit A – Buildout Commitment

1) Regarding the subdivisions on the list below, for those which the developer or builder has not given another provider exclusive access or refused to provide access to the property and for those not already built out, Grantee agrees (for underground developments) to extend its Cable System promptly when the utility easement trenches are open for all companies to enter, and (for above ground developments) when other utilities such as telephone or electricity are provided to the site, provided all necessary permits are issued and the developer or the Member City imposes no Unusual Conditions on such permits, or on Grantee's use of such trenches. If the subdivision is already served by utilities, Grantee will build it out promptly. "Unusual Conditions" means a condition imposed by City or developer that requires conditions for cost sharing that are extraordinary to the area.

   Grantee will provide an annual update on its progress on each development listed below.

   <u>Constructed within 12 months of Franchise Agreement effective date:</u>

   1. Easton Village
   2. Wildflower at Lake Elmo
   3. Village Preserve
   4. Southwind Diedrich-Reider
   5. Hunters Crossing
   6. Inwood
   7. Hammes Estates
   8. Boulder Ponds
   9. Savona
   10. White Oaks Savannah (Grant)
   11. Gateway (Grant)
   12. Hidden Meadows Phase I
   13. Legacy at North Star
   14. Northport
   15. Royal Golf Club
   16. Union Park (if developer actually starts this project)

   <u>Constructed within 36 months of Franchise Agreement effective date:</u>
   Build-out to these sites is contingent upon the developer's schedule:
   1. Hidden Meadows Phase
   2. Wyndham Village (if developer actually starts this project)

   The following projects on the RWSCC list will not be included in this Exhibit because the developer has an exclusive contract or bulk contract with another service provider:
   1. Fields of Arbor Glen
   2. Springs Apartment

2) Special Language for the City of Grant Franchise

In accordance with and subject to the procedures below, Grantee agrees to work with the City of Grant to identify a build-out area within the City of Grant. The City of Grant, at its sole cost and discretion, will solicit written expressions of interest in subscribing to Grantee's services from residents within the area depicted on the map above, describing those parts of the buildout that the resident will be required to fund. The City of Grant will provide Grantee a list of addresses of responding residents who have expressed interest. The City of Grant has the discretion to determine which residential properties within the area depicted on the map above it will include in any solicitation of written expressions of interest. Grantee will then provide the City of Grant a written estimate of the portion of the cost to each such resident of building out the Cable System to serve that customer. In its cost estimate, Grantee will itemize the cost of the Drop, the cost of the line extension, and the cost of any line extension that must occur on the resident's property in order to provide Cable Service to that resident. Grantee's estimates will be based on cost.

The City of Grant may direct Grantee to build out to those residential properties identified in Grantee's written estimates. Grantee shall bear the cost of construction up to $2,600 per home passed. Grantee is not required to build out to any home directed by the City of Grant to be built out unless, for that home, there is a secure commitment to fund all construction costs (including the node splits and fiber extensions) in excess of $2,600 per home through any combination of funds from the potential subscribers, a grant commitment, or a commitment of any portion of the Construction Credit provided in Section 1903.060 6)(b) of the Franchise.

For places within the targeted buildout area on private property with one or more existing poles that are not currently usable by Grantee because of trees, brush, or both, but that could be made usable, the City of Grant or property owner can, at their own choice and not under the direction or request of Grantee, cut back the trees or brush at its own expense, or in combination with the expense of the benefitted property owner(s), to make the existing pole(s) usable by Grantee.

1903.190. Exhibit B - Cable Service and Phase Out of Dark Fiber Services to Public Buildings

1) One or more Member Cities may request basic cable service at those locations attached to this Exhibit B that were receiving complimentary services and equipment under the previous franchise. Each location includes one drop, one activated outlet, and one cable box and remote control (if required). Grantee, City, and the Commission agree that under the FCC Section 621 Order, Third Report and Order in MB Docket No. 05-311 adopted by the FCC on August 1, 2019 (currently pending appeal), complimentary accounts are not a condition of the Franchise. Grantee will charge fair market value prices for former complimentary service locations (current pricing is attached to this Exhibit B) and accounts shall be subject to Grantee's regular, nondiscriminatory rate adjustments. On the Effective Date of the Franchise, for those locations attached to this Exhibit B already receiving complimentary services and equipment, Grantee will continue to provide the outlets, equipment and the remote controls, if any, subject to the provisions of this Exhibit B.

2) Additional subscriber network Drops and/or outlets will be installed at designated institutions by Grantee at the cost of Grantee's time and material, or such other price as may be required to comply with Applicable Law. Alternatively, said institution may add outlets at its own expense as long as such installation meets Grantee's standards. Grantee will complete construction of the additional Drop and outlet within three (3) months from the date of City's designation of additional institution(s) unless weather or other conditions beyond the control of Grantee requires more time. The communities may substitute locations listed on the attachment to this Exhibit B subject to the new location being within two hundred fifty (250) feet of existing distribution lines (if further than two hundred fifty (250) feet from existing distribution lines, communities must pay the additional actual cost of installing a longer drop).

3) The City or the locations will pay the service rate for each location set forth on the attachment to this Exhibit B commencing sixty (60) days after notification from Grantee. Grantee will notify the City of any locations for which it elects at its sole discretion not to impose a charge within thirty (30) days of the effective date of the franchise. Commission/City or former Complimentary Service recipients (schools, libraries, et al.) have the right to choose to retain Cable Service at the rates listed on the municipal pricing sheet or terminate Cable Service to their Location. Each location identified on the attachment to this Exhibit B that chooses to retain Cable Service shall receive one Drop, one activated outlet, and one cable box and remote control (if required) as part of the rate listed on the attachment to this Exhibit B. Additional tiers of cable service and equipment may be purchased at rate card rates.

4) In the event there is a change in Applicable Law, and franchise-mandated complimentary services to public buildings are no longer considered to be "franchise fees" under 47 USC §542, then for the remaining Franchise term Commission/City may require Comcast to provide basic Cable Service to the former Complimentary Service Locations attached to this Exhibit B at an adjusted rate or on a complimentary basis consistent with such change in Applicable Law.

5) Comcast will agree to continue to make dark fiber connections now available to the Commission and City, and to repair and maintain those connections so that the fiber connections satisfy manufacturer's specifications. For twenty-four (24) months after the

Effective Date of the Franchise, there will be no charge to Commission or City for the connections; thereafter, Grantee will charge $330 per site per month for the initial term of this Franchise. Commission and City may terminate use of the dark fiber at any time. Grantee agrees not to contest the internal accounting treatment (whether operating or capital support) of the Commission's use of PEG funding for the payment of the charges under this paragraph. Nothing herein prevents Commission or City from entering into a different arrangement for dark fiber or for managed services, including, for example, long-term contracts at discounted rates. By December 1, 2022, Grantee will provide the City and Commission a proposed Comcast Business Services agreement for dark fiber services at the monthly pricing set forth above. The parties may negotiate other terms and conditions to be included in the Comcast Business Services agreement, other than the monthly recurring charge. If the parties are unable to reach agreement on other terms and conditions included in the Comcast Business Services agreement prior to the end of the twenty-four (24) month period above, Comcast's obligation to continue providing dark fiber services shall terminate at the end of the twenty-four (24) month period, and the City or Commission may purchase dark fiber or managed services from a different provider. This shall not affect the City's right to terminate use of the dark fiber at any time, or its right to terminate use of the dark fiber for some but not all of the buildings within its jurisdiction that use it.

EXHIBIT B, Continued.

Location	Address	City
CITY HALL BIRCHWOOD	207 BIRCHWOOD AVE	BIRCHWOOD
HIGH SCHOOL MAHTOMEDI	8000 75TH ST N	MAHTOMEDI
FIRE DEPT, LAKE ELMO	3510 LAVERNE AVE N	LAKE ELMO
MAINTENANCE BUILDING, LAKE ELMO	4259 JAMACA AVE N	LAKE ELMO
FIRE DEPT, LAKE ELMO	4059 JAMA CA AVE N	LAKE ELMO
CITY OF LAKE ELMO	3800 LAVERNE AVE N APT B	LAKE ELMO
ELEMENTARY, O.H. MAHTOMEDI	666 WARNER AVES	MAHTOMEDI
MIDLE SCHOOL, MAHTOMEDI	1520 MAHTOMEDI AVE	MAHTOMEDI
SCHOOL,ST. JUDE	600 MAHTOMEDI AVE	MAHTOMEDI
PUBLIC WORKS, MAHTOMEDI	30 LONG LAKE RD	MAHTOMEDI
FIRE DEPT, MAHTOMEDI	800 STILLWATER RD	MAHTOMEDI
CITY HALL, OAKDALE	1584 HADLEY AVE N	OAKDALE
ELEMENTAYR, EAGLE PT	7850 15TH ST N	OAKDALE
CHURCH, HOLY CROSS	635S 10TH ST N	OAKDALE
HIGH SCHOOL,TARTAN	828 GREENWAY AVE N	OAKDALE
ELEMENTARY SCHOOL, CASTLE	6675 50TH ST N	OAKDALE
FIRE DEPT,OAKDALE	6633 15TH ST N	OAKDALE
ICE ARENA.TARTAN	740 GREENWAY AVEN	OAKDALE
CHURCH, HOUSE OF PRAYER	6039 40TH ST N	OAKDALE
FIREDEPT, OAKDALE	5000 HADLEY AVE N	OAKDALE
SCHOOL, TRANSFIGURATION	6133 1STH ST N	OAKDALE
ELEMENTARY, SKYVIEW COMM	1100 HERON AVE N	OAKDALE
PUBLIC WORKS, OAKDALE	1900 HADLEY AVE N STE 1	OAKDALE
MIDDLE SCHOOL,SKYVIEW	1100 HERON AVE N	OAKDALE
COLLEGE, EAST CENTURY	3300 CENTURY AVE N	WHITE BEAR LAKE
SCHOOL,CENTRAL MIDDLE	4857 BLOOM AVE	WHITE BEAR LAKE
POLICE,WHITE BEAR	4701 HIGHWAY 61 N	WHITE BEAR LAKE
ELEMENTARY, BIRCH LAKE	1616 BIRCH LAKE AVE	WHITE BEAR LAKE
SCHOOL, ST MARY OF THE LAKE	4690 BALD EAGLE AVE	WHITE BEAR LAKE
ELEMENTARY, LAKE AIRES	3963 VAN DYKE ST	WHITE BEAR LAKE
ELEMENTARY, W1LLOWLN	3375 WILLOWAVE	WHITE BEAR LAKE
HIGH SCHOOL, WBL	3551 MCKNIGHT RD N	WHITE BEAR LAKE
ELEMENTARY, LINCOLN	196 16TH ST	WHITE BEAR LAKE
AREA LEARNING, WHITE BEAR LAKE	2449 ORCHARD LN	WHITE BEAR LAKE
FIRE DEPT,W HITE BEAR LAKE	3595 MCKNIGHT RD N	WHITE BEAR LAKE
ELEMSCHOOL, PARKVIEW	2530 SPRUCE PL	WHITE BEAR LAKE
WATER PLANT, WHITE BEAR LAKE	2401 ORCHARD LN	WHITE BEAR LAKE
PUBLIC WORKS, WHITE BEAR	4200 HOFFMAN RD	WHITE BEAR LAKE
SPORTS CTR, WBL	1328 HIGHWAY 96 E	WHITE BEAR LAKE
CABLECOMM , RAMSEY·WASH	2460 COUNTY ROAD F E STE A	WHITE BEAR LAKE
MIDDLE SCHOOL, SUNRISE	2399 CEDAR AVE	WHITE BEAR LAKE
FIRE, WBL	4701 HIGHWAY 61 N	WHITE BEAR LAKE
CITY HALL,WBL	4701 HIGHWAY 61 N	WHITE BEAR LAKE
PUBLIC WORKS, WHITE BEAR	3950 HOFFMAN RD	WHITE BEAR LAKE
CITY OF, WHITE BEAR TOWNSHIP	1281 HAMMOND RD	WHITE BEAR TOWNSHIP
COUNSELING CENTER,WHITE BEAR	1280 BIRCH LAKE BLVD	WHITE BEAR TOWNSHIP
HALL, HERITAGE	4200 OTTER LAKE RD	WHITE BEAR TOWNSHIP
PUBLIC WORKS, WHITE BEAR TOWNSHIP	1281 HAMMOND RD	WHITE BEAR TOWNSHIP
CITY HALL,WILLERNIE	111 WILDWOOD RD	WILLERNIE
CITY HALL,MAHTOMEDI	600 STILLWATER RD	MAHTOMEDI

1903.200. Exhibit C - SD/HD PEG Channel Numbers

	Channel Name	SD Channel#	HD Channel#
1.	Government	16	799
2.	Global	18	TBD
3.	Local Community Events	19	801
4.	Educational	20	TBD

1903.210. Exhibit D – List of Permanent PEG Transport Sites

1. White Bear Lake City Hall, 4701 Highway 61 N, White Bear Lake
2. White Bear Lake Township City Hall, 1281 Hammond Rd., White Bear Township
3. Lake Elmo City Hall, 3800 Laverne Ave. N., Lake Elmo
4. Oakdale City Hall, 1584 Hadley Ave. N., Oakdale
5. Birchwood Village qty Hall, 207 Birchwood Ave., Birchwood
6. Mahtomedi City Hall, 600 Stillwater Rd., Mahtomedi
7. Willernie City Hall (Dellwood and Grant share the Willernie City Hall connection), 111 Wildwood Rd., Willernie
8. sec Studio, 2460 East County Road F Suite A, White Bear Lake
9. Heritage Hall, 4200 Otter Lake Rd., White Bear Township

Notwithstanding Section 1903.070 9)(b), which requires the City to reimburse Grantee for reasonable construction costs for new fiber construction in the Street necessary to provide PEG transport services in the event one of the above nine (9) sites moves to a new location, Comcast has agreed to pay for the cost of moving the Lake Elmo City Hall from its current location at 3800 Laverne Ave. to its new location at 3880 Laverne Ave. without seeking reimbursement from City or Commission.

1903.220. Exhibit E – Cable Modem Service Sites

CABLE MODEM SERVICE SITES		
Location	Address	Currently Served by Coax I-NET Connection
1. White Bear Township Admin	1281 Hammond Rd, White Bear Township	X
2. Otter Lake Elementary	1401 County Rd H2 E, White Bear Lake	X
3. Birchlake Elementary	1616 Birch Lake Ave, White Bear Lake	X
4. Gospel Fellowship Church	1685 County Hwy 96, White Bear Lake	X
5. White Bear Lake North Campus	5045 Division Ave, White Bear Lake	X
6. Central Middle School	4857 Bloom Ave, White Bear Lake	X
7. White Bear Lake Library	2150 2nd St, White Bear Lake (4698 Clark Av)	X
8. White Bear Lake City Hall	4701 Hwy 61 N, White Bear Lake	X
9. White Bear Lake Police & Fire Station #910	4701 Hwy 61 N, White Bear Lake (4700 Miller Ave)	X
10. White Bear Unitarian Church	328 Maple St, Mahtomedi	X
11. Mahtomedi District Office (Board meetings telecast in DEC Community Room)	1520 Mahtomedi Ave, Mahtomedi	X
12. Wildwood Elementary	8698 75th St N, Mahtomedi (formerly 535 N Warner Rd)	X
13. Mahtomedi Middle School	8100 75th St N, Mahtomedi	X
14. Mahtomedi High School	8000 75th St N, Mahtomedi	X
15. Mahtomedi City Hall	600 Stillwater Rd, Mahtomedi	X
16. Mahtomedi City Fire	800 Stillwater Rd, Mahtomedi	X
17. Wildwood Library	763 Stillwater Rd, Mahtomedi	X
18. Willernie City Hall (Dellwood, Grant, Willernie offices; meeting room for Dellwood and Willernie councils)	111 Wildwood Rd, Willernie	X

19. OH Anderson Elementary	666 Warner Ave S, Mahtomedi	X
20. South Shore Trinity Church	2480 S Shore Blvd, White Bear Lake	X
21. RWSCC Master Control	2460 East County Road F, White Bear Lake	X
22. Bellaire Education Center (formerly Bellaire Elementary)	2540 County Rd F East, White Bear Lake	X
23. Lakeaires Elementary School	3963 Van Dyke St, White Bear Lake	X
24. Matoska International IB World School (formerly Parkview Elementary)	2530 Spruce Place, White Bear Lake	X
25. First Lutheran Church	4000 Linden St, White Bear Lake	X
26. Birchwood City Hall	207 Birchwood Ave, Birchwood	X
27. Sunrise Park Middle School	2399 Cedar Ave, White Bear Lake	X
28. Redeemer Lutheran Church	3770 Bellaire Ave, White Bear Lake	X
29. White Bear Lake District Center (School board meetings telecast in Community Room)	4855 Bloom Avenue, White Bear Lake (formerly 3554 N White Bear Av)	X
30. White Bear Lake Fire Station #920	2240 E County Road E	X
31. White Bear Lake Area High School - South Campus and Northeast Metro 916 Intermediate School District South Campus Education Center	3551 McKnight Rd N, White Bear Lake	X
32. White Bear Lake Area Learning Center (formerly Golfview School)	2449 Orchard Ln, White Bear Lake	X
33. Willow Lane Elementary	3375 Willow Ave, White Bear Lake	X
34. Century College West Campus	3401 E County Line N, White Bear Lake	X
35. Century College East Campus & and Northeast Metro 916 Career and Tech Center	3300 Century Ave N White Bear Lake	X
36. Castle Elementary	6675 50th St N, Oakdale	X
37. Oakdale Fire Station 1 (North Station)	5000 Hadley Avenue, Oakdale (formerly 6279 N 50th St)	X
38. Oakdale Discovery Nature Center	4444 Hadley Ave N, Oakdale	X
39. Oakdale City Hall & Police	1584 Hadley Avenue N, Oakdale	X

40. Eagle Point Elementary	7850 15th St N, Oakdale	X
41. Washington County Library Oakdale	1010 Heron Ave N, Oakdale	X
42. Skyview Elementary/Middle School	1100 Heron Avenue North Oakdale	X
43. Oakdale Fire Station 2 (South Station)	6633 15th Street, Oakdale	X
44. Tartan High School	828 Greenway Avenue North, Oakdale	X
45. Tartan Ice Arena	740 Greenway Ave N, Oakdale	X
46. Oakdale Elementary	821 Glenbrook Avenue North, Oakdale	X
47. Oakdale Fiber Hub	7245 Stillwater Blvd N Oakdale	X
48. Lake Elmo Fire Station #2 (Lake Elmo Maintenance)	4259 Jamaica Ave. N, Lake Elmo	X
49. Lake Elmo City Hall	3800 Laverne Avenue North, Lake Elmo	X
50. Lake Elmo Elementary	11030 Stillwater Blvd N Lake Elmo	X
51. Lake Elmo Library	3537 Lake Elmo Avenue North Lake Elmo (formerly 3459 Lake Elmo Av N)	X
52. Lake Elmo Park and Rec	11194 Upper 33rd, Lake Elmo	X
53. Lake Elmo Fire Station #1	3510 Laverne Ave N, Lake Elmo	X
54. Oak-Land Middle School	820 Manning Ave. N. Lake Elmo	X
55. River of God Church (formerly Northwoods Church) *	2490 7th Ave E, North St. Paul	X
56. Oakdale Public Works	1900 Hadley Ave N, Oakdale	X
57. Frassati Catholic Academy (formerly St. Mary's School)	4690 Bald Eagle Ave, White Bear Lake	X
58. White Bear Armory	2228 4th St, White Bear Lake	X
59. Normandy Park Education Center (White Bear Area Senior Program & White Bear Lake Area Schools Early Childhood Program)	2482, 2484 E County Rd F, White Bear Lake	X
60. Lake Elmo City Admin Offices/Brookfield Building	3800 Laverne Ave. N., and upon relocation 3880 Laverne Ave. N., Lake Elmo	
61. Aldrich Arena	1850 White Bear Ave.	

1903.230. Exhibit F – Programming on C-RAN

Delivery of live and recorded programming to and from below listed entities on C-RAN

1. St. Paul SPNN (1 receive channel and 1 send channel)
2. Town Square Television (1 receive channel and 1 send channel)
3. Coon Rapids (1 receive channel and 1 send channel)
4. Central St. Croix- Valley Access (1 receive channel and 1 send channel)
5. South Washington - SWC-TV (1 receive channel and 1 send channel)
6. Hastings-HCTV (1 receive channel and 1 send channel)

Subject to economic and technical feasibility, the Commission reserves the right to reassign these entities as needed during the term of the Franchise, in response to changing circumstances regarding such programming providers.

1903.240. Exhibit G – Satellite Programming

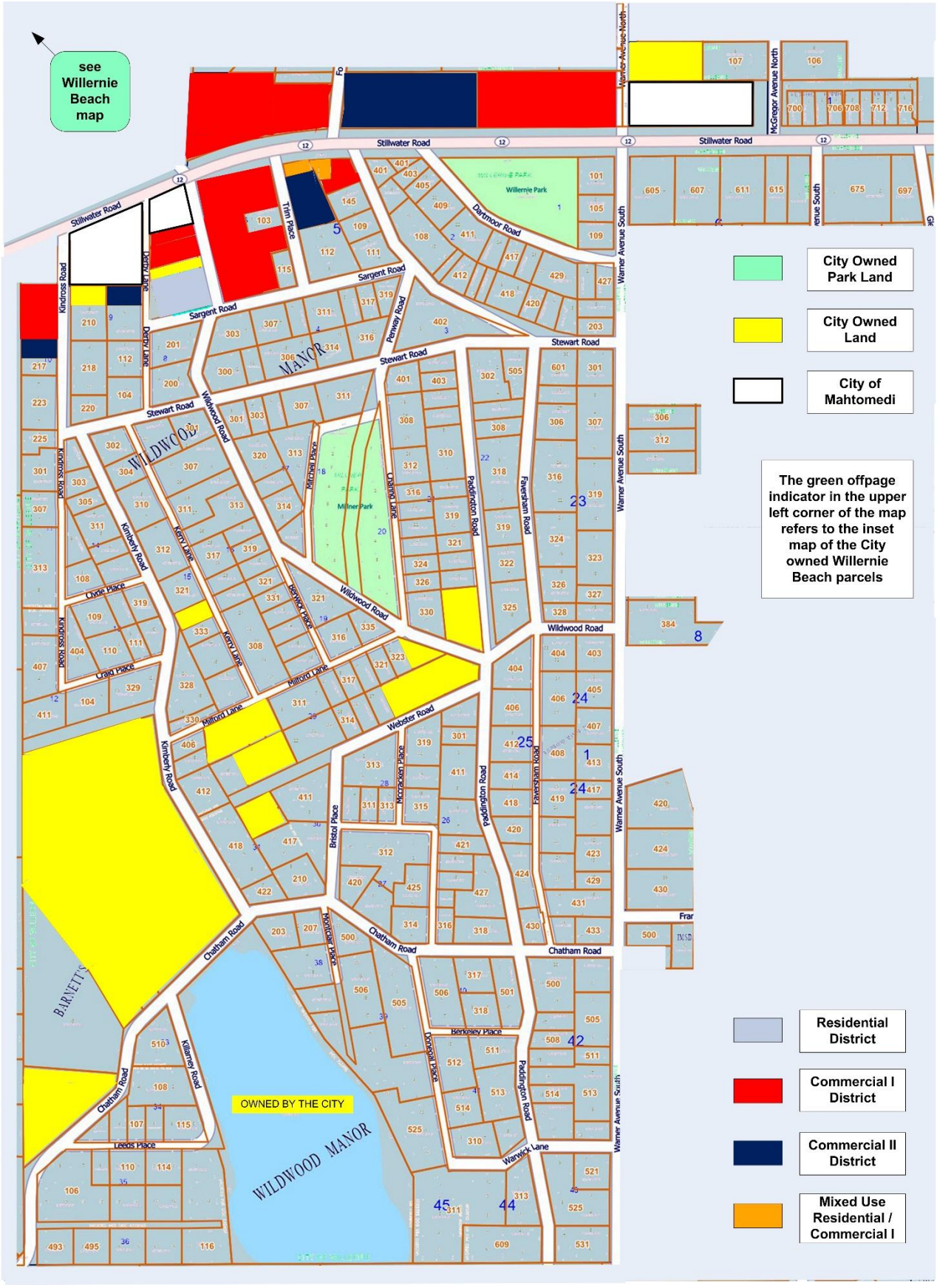
Existing Satellite Fed Programming as of Effective Date

1. NASA
2. Deutsche Welle

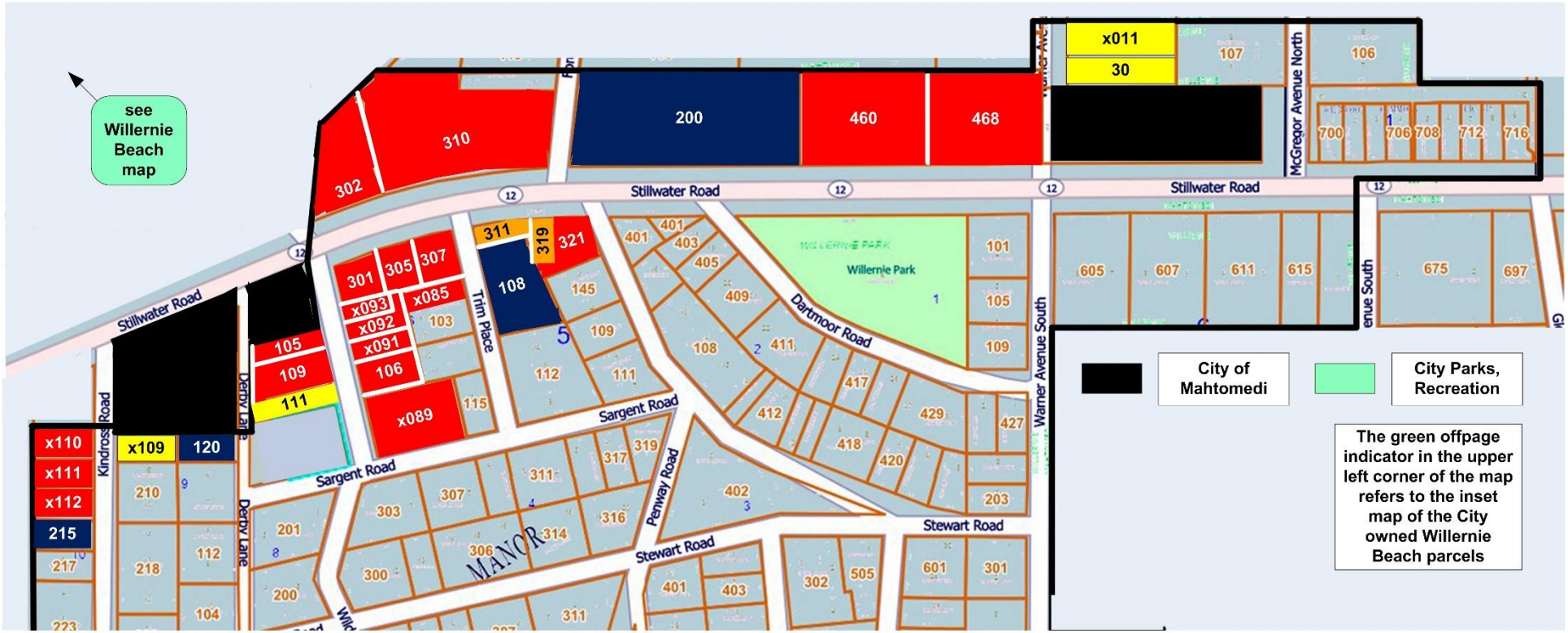
In the event these programmers change their satellite delivery such that it is no longer receivable by Comcast at the Region headend, the obligation ends.

II. SUPPLEMENTAL INFORMATION

II.A. Overview - Residential, Commercial District Map as of Mar 19, 2025

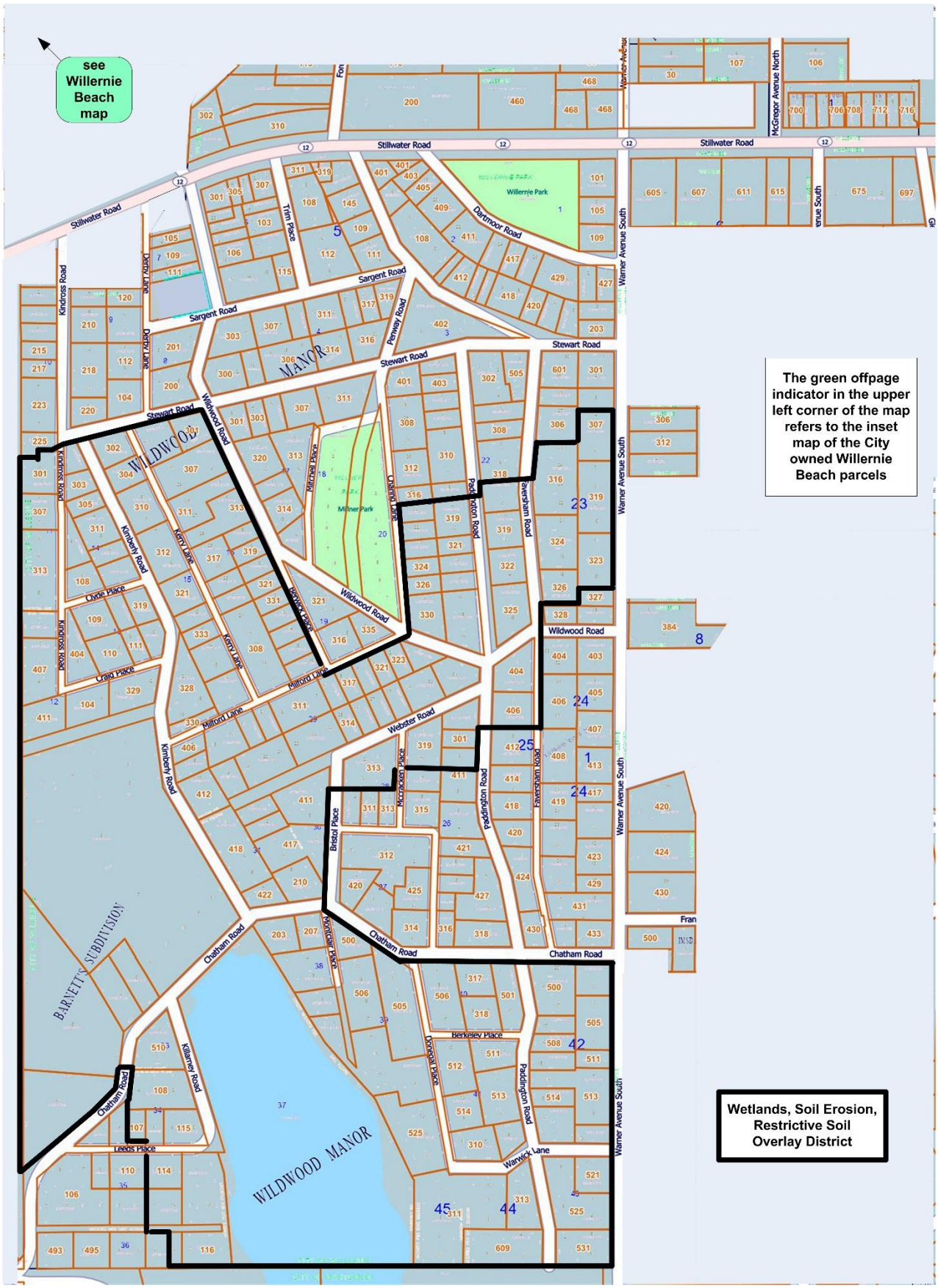


II.B. Inset - Residential, Commercial District Map as of Mar 19, 2025

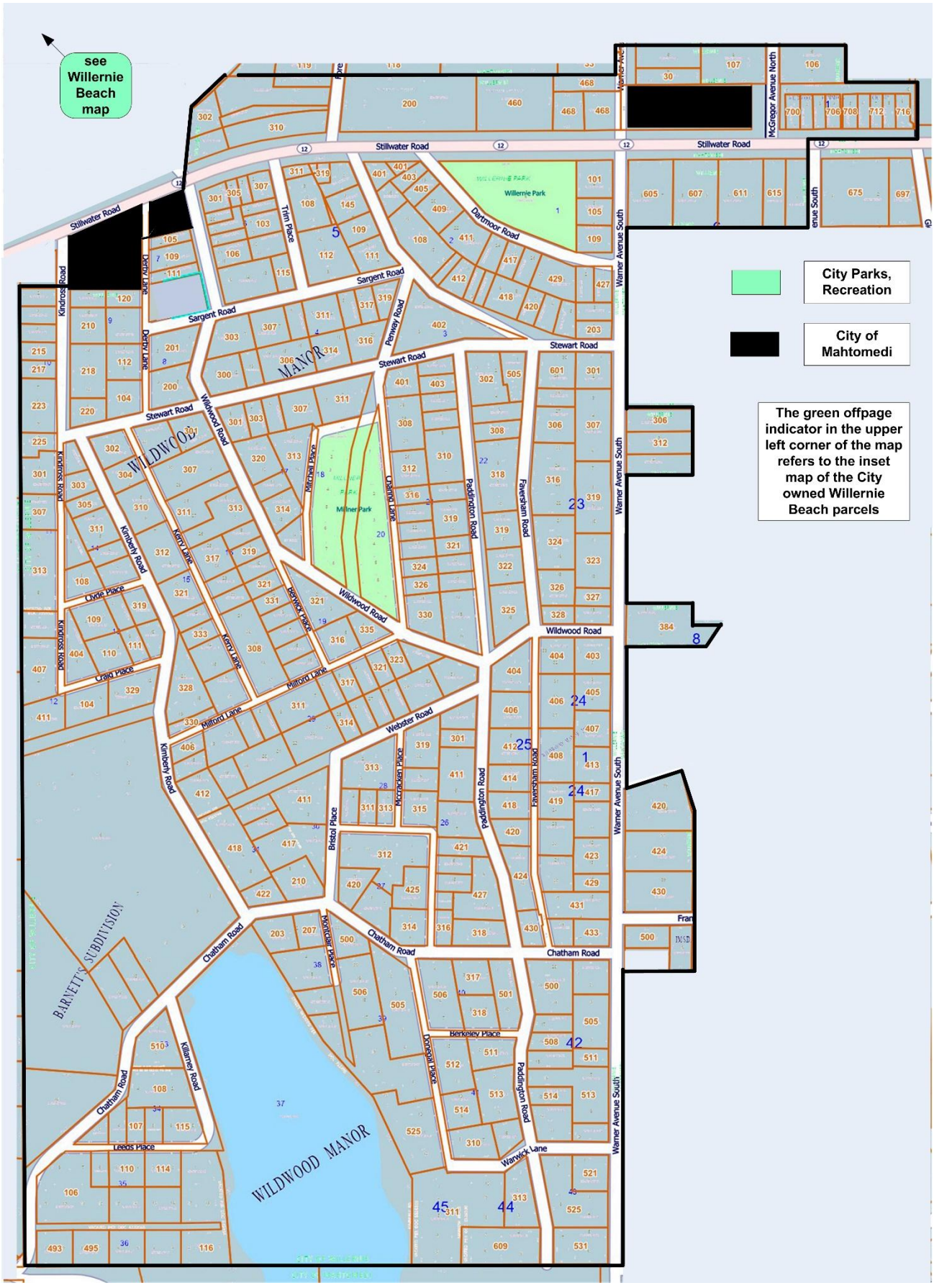


	Commercial I District	- Bldg# 105, 106, 109, 301, 302, 305, 307, 310, 321, 460, 468 - Kindross Rd parcel# 2903021310110 (x110), 2903021310111 (x111), 2903021310112 (x112) - Wildwood Rd parcel# 2903021310089 (x089), 2904032420091(x091), 2903021310092 (x092), 2903021310093 (x093) - Trim Place parcel# 2903021310085 (x085)
	Commercial II District	Bldg# 108, 120, 200, 215
	Mixed Use Residential /Commercial I	Bldg# 311, 319
	City Owned Land	Bldg# 30, 111 Warner Ave N parcel# 2903021130011 (x011) Kindross Rd parcel# 2903021310109 (x109)

II.C. Wetlands, Soil Erosion, Restrictive Soils Overlay District Map as of Mar 19, 2025



II.D. City Political Boundary Map as of Mar 19, 2025



II.E. Inset - Willernie City Beach Map as of Mar 19, 2025

City Parks, Recreation

Willernie Beach consists of two parcels (29.030.21.23.0003 & 29.030.21.23.0027) which are owned by the City. They are surrounded by City of Mahtomedi parcels. The beach has access to White Bear Lake. It is a private beach intended for Willernie City residents.

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III. CITY CODE REVISION HISTORY

Any changes to the City Code going forward must be documented and approved by the City Council. As this document is revised going forward, a revision history list, as shown below, will be used to track changes. Wherever a chapter or section is deleted by a new resolution or ordinance, the title will remain along with the text "Deleted" and a deleted date notation.

Adoption Date	Legislation	General Subject	Title/Chapter /Section
12/27/1973	ORD#68	Planned Unit Development	Chap 305
12/19/1984	ORD#100	Wetlands, Soil Erosion, Sediment Control	Title 1800
08/20/1986	ORD#100-A	Amendment to ORD#100	Title 1800
05/20/1987	ORD#102	Size & height of detached garages	Sec 301.110
06/01/1995		Juvenile Curfew	Chap 605
09/20/1995	ORD#95-1	Cable Franchise	Chap 1903
07/15/1998	ORD#98-1	Termination date amendment to Cable TV franchise	Chap 1005
	ORD#99-10	Cable Franchise	Chap 1903
02/21/2001		Construction Activity on Right of Way Utility	Chap 1501
06/15/2005	ORD#99-1	Storm Water Management	Title 1700
06/15/2005	ORD#99-2	Tree Disease Control and Prevention	Chap 607
02/18/2009	ORD#2009-1	Gas Energy Franchise	Chap 1902
04/15/2009	ORD#2009-2	Electric Energy Franchise	Chap 1901
02/17/2010		Operation of Snowmobiles	Sec 601.040
07/21/2010		Securing Hazardous & Substandard Housing	Sec 601.040
07/18/2012		Lack of Basic Facilities	Sec 601.020
02/19/2014		Peddling and Soliciting	Chap 1005
01/17/2018		Parked Vehicle Regulations	Sec 302.020
02/19/2020	ORD#300 ORD#400	Zoning Code Building Code Water System Accounts	Title 300 Title 400 Sec 501.230
06/29/2020	ORD#600	Nuisances	Title 600
11/18/2020	ORD#700 ORD#800 ORD#900	Liquor Regulations Misc Criminal Code Animals	Title 700 Title 800 Title 900
03/17/2021	ORD#1600	Cable Franchise	Chap 1903
04/21/2021	ORD#1400	Rental Dwelling Licensing	Title 1400
10/20/2021	ORD#200 ORD#1000 ORD#1100	City Organization Business Licensing Garbage	Title 200 Title 1000 Title 1100
04/22/2022	ORD#500 ORD#1200	Municipal water systems Zoning Amendments Sewer & Water	Title 500 Sec 301.140 Title 1200
06/15/2022	RES#22-05 ORD#1003	Massage Business Licensing	Chap 1003
10/19/2022	ORD#900 ORD#1600	Animals Illicit Discharge	Title 900 Title 1600
12/21/2022	ORD#204.010 ORD#1400 ORD#1600	Councilperson Salaries Rental Dwelling Licensing Illicit Discharge	Sec 204.010 Title 1400 Title 1600

Adoption Date	Legislation	General Subject	Title/Chapter /Section
. 09/20/2023	RES#2023-5 RES#2023-3 RES#2023-6	Miscellaneous Nuisances Nuisance Parking and Storage Cannabinoid Products	Sec 601.030 Sec 602.030 Chap 1004
02/21/2024	ORD#1500	Utility	Title 1500
05/29/2024	ORD#1210.140 ORD#1304 ORD#1307	City Water and Sewer Charitable Gambling Application and Approval of Permits	Sec 1210.140 Chap 1304 Chap 1307
02/19/2025	RES#2025-01	Delete selected Basis of Denial of License and Moratorium sections.	1004.050 1004.150
05/21/2025	RES#2025-04	Republished version of entire Code, no changes to regulations except for adding Section 101.020 Repeals. New digital versions of City District Maps, no changes to districts	All titles II. Supplemental Information
05/21/2025	ORD#1 ORD#2	Added Fee & Service Charge Regulations, including New Fee Schedule Delete specific fee amount references in sections.	Chapter 105, 106, All sections.
06/19/2025	ORD#3	Add Administrative Citations Title 110, amend references to violations in the City Code	Chapter 111, 112 All chapters