

**LYND CITY CODE
ADOPTED OCTOBER
15, 2024**

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CHAPTER 1, GENERAL PROVISIONS

1.01. Adoption. This code containing Chapters 1 to 19 inclusive is a complete and comprehensive revision and compilation of the ordinances not previously published, and shall be known and may be cited as "The Lynd City Code of 2023." All previously passed ordinances not included herein are hereby repealed.

1.02. Amendments. Any additions or amendments to this code are incorporated herein so that a reference to the Lynd City Code of 2032 includes such additions and amendments.

1.03. Ordinances. All general ordinances hereafter enacted shall contain before the enacting clause a designation of the chapter and section numbers added, repealed, or amended, and each paragraph thereof shall be numbered in conformity with this code.

1.04. Separability. Each section, paragraph, sentence, clause and provision of this code is separable and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this code.

1.05. Interpretation. Provisions of this code shall be liberally construed to affect the well-being of the City and to promote good government at a minimum of expense.

1.06. Preservation of Rights. The repeal of any ordinance or portion thereof shall not affect or impair any proceeding suit or prosecution had or commenced in any cause before such repeal shall take effect, but every such act done, or right vested or accrued, or proceeding, suit or prosecution had or commenced shall remain in full force and effect to all intents and purposes as if such ordinance or part thereof so repealed had remained in force. No offense committed and no liability, penalty or forfeiture either civilly or criminally incurred prior to the time when any such ordinance or part thereof shall be repealed or altered by the City of Lynd shall be discharged or affected by such repeal or alteration; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted and proceeded with in all respects as if such prior ordinance or part thereof had not been repealed or altered.

1.07. Publication of Code and Effective Date.

This ordinance, the Lynd City Code of 2023, together with such indexes, supplements, appendices or other material as the Council may designate shall be published in book form and a substantial quantity of copies shall be printed and available at the office of the Clerk for general distribution to the public. The Lynd City Code shall become

operative and effective upon its passage and as soon as the Clerk shall publish a notice for two (2) successive weeks in the official newspaper of the City of Lynd, stating that the printed copies of the Lynd City Code are available at the office of the Clerk for general distribution.

1.100 CITATION AND PURPOSE

1.101. Citation. This code, which represents a revision and codification of the ordinances of the City of Lynd, Minnesota, shall be known as the "ALynd City Code of 2023" and may be referred to by that name in all proceedings and actions. Reference to a portion thereof may be by chapter, section or subsection by using the following symbols:

- for chapter: ACh.@ plus the chapter number
- for section: ASec.@ plus the section number
- for subsection: Indicating section as above,
 immediately followed by subsection
 number in parentheses.

1.102. Purpose. It is the intention of the Council that this code will serve as a modernized and streamlined version of the ordinances of the City, presented in an orderly manner, with obsolete and unneeded ordinances and portions thereof deleted.

1.200 EFFECT OF ORGANIZATION AND IDENTIFYING DESIGNATIONS

1.201. Organization and Designation a Part of Code. The organization of this code is an integral part thereof, and chapters, subchapters and portions thereof, section numbers and section headnotes are hereby made a part of this code, and may be amended and revised in the same manner as are the provisions of this code.

1.202. Effect of Organization and Designation. The organization of this code and chapter, portions thereof, section numbers and section headnotes may be considered in ascertaining the intent of the City Council in enacting provisions of this code, but in case of conflict the provisions of any section control over organization and designation, and specific designation control over general designation.

1.203. Table of Contents, Appendix and Index. The Table of Contents, all Appendices, and Index and other supplemental materials not expressly made a part of this code and not a part of the code and do not form any part of it.

1.300 CONSTRUCTION OF PROVISIONS

1.301. Construction of Words and Phrases. In construing this code, the following canons of interpretation are to govern, unless their observance would involve a construction inconsistent with the manifest intent of the City Council, or be repugnant to the context of the relevant provisions of this code:

1.301.1. Words and phrases are construed according to rules of grammar and according to their common and approved usage; but technical words and phrases and such others as have acquired a special meaning or are defined in this Code are construed according to such special meaning or definition.

1.301.2 The singular includes the plural, and the plural includes the singular.

1.301.3. Words in the masculine, feminine or neuter gender include all other genders.

1.301.4. Words used in the past or present tense include the future.

1.301.5. General words are restricted in meaning by particular words.

1.302. Construction of May and Shall. As used in this code, *shall* is always mandatory and *may* is permissive.

1.303. Grammar and Punctuation. Grammatical errors shall not vitiate any provision of this code. A transposition of words and clauses may be resorted to when a sentence is without meaning as it stands. Punctuation shall not control over the intention of the City Council in the enactment of a provision. Words and phrases which do not conflict with the obvious purpose and intent of a provision nor in any way affect its scope and operation may be added when necessary to the proper interpretation of the provision.

1.304. Special Provisions.

1.304.1 If a special provision is in irreconcilable conflict with a general provision, the special provision will prevail and be construed as an exception to the general provision unless the general provision has been enacted later and shows a manifest intention of the Council that the general provision shall prevail.

1.304.2 If enacted at different times, the latest in date of enactment will prevail.

1.304.3 If part of the same provision or set of provisions, the provision or portion or clause thereof last in position shall prevail.

1.400 DEFINITIONS OF WORDS AND PHRASES

1.401. Definitions. When used in this code, the following words, terms and phrases shall have the meaning given to them in this section, except as further defined in relation to specific provisions of this code, or unless another intention clearly appears.

1.401.1. ACity@ means the City of Lynd, Lyon County, Minnesota. (AVillage@ if so described).

1.401.2. ACode@ means the Lynd City Code of 2023, as amended.

1.401.3. AClerk@ means the clerk of the City of Lynd, Lyon County, Minnesota.

1.401.4. ATreasurer@ means the treasurer of the City of Lynd, Lyon County, Minnesota.

1.401.5. ACouncil@ means the City Council of the City of Lynd, Lyon County, Minnesota.

1.401.6. APerson@ means any natural person of either sex, a co-partnership, a corporation, an association of person, and an agent or manager of any of the aforesaid.

1.500 FORM OF GOVERNMENT

1.501. Optional Plan AA@ in Effect. In accordance with Minnesota Statutes 2022, sections 412.541 to 412.571 and other applicable provisions of law, and an election has as required thereunder, the City shall be governed under the plan of government known in such statutes as Optional Plan AA@. As provided by the statutes, the City shall be governed by a City Council composed of a mayor and four members of the Council, elected as required by law.

1.600 SEVERABILITY: EFFECT OF REPEALS

1.601. Severability of Provisions. Every chapter, subchapter, or part thereof of this code shall be severable. If any part of any chapter, subchapter, or part thereof is found by a court of competent jurisdiction to be unconstitutional and void, the remaining

unless otherwise expressly provided.

1.708. Repeal Or Modification Of Ordinance.

1.708.1. Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the publication of the ordinance repealing or modifying it when publication is required to give effect to it, unless otherwise expressly provided.

1.708.2. No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

1.708.3. When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

1.709. Ordinances Which Amend Or Supplement Code.

1.709.1. If the City Council shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

1.709.1. Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to this indication as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

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

1.711 Adoption Of Statutes And Rules And Supplements By Reference. It is the intention of the Lynd City Council that, when adopting the Lynd Code, all future amendments to any state or federal rules and statutes adopted by reference in this code or referenced in this code are hereby adopted by reference or referenced as if they had been in existence at the time this code was adopted, unless there is clear intention expressed in this code to the contrary.

1.712 Enforcement.

1.712.1. The County Sheriff, or any Deputy Sheriff shall have the authority to enforce any provision of this code.

1.712.2. As permitted by M.S. § 626.862, as it may be amended from time to time, the City Administrator shall have the authority to administer and enforce this code. In addition, under that statutory authority, certain individuals designated within the code or by the Administrator or City Council shall have the authority to administer and enforce the provisions specified. All and any person or persons designated may issue a citation in lieu of arrest or continued detention to enforce any provision of the code.

1.712.3. The City Administrator and any city official or employee designated by this code who has the responsibility to perform a duty under this code may with the permission of a licensee of a business or owner of any property or resident of a dwelling, or other person in control of any premises, inspect or otherwise enter any property to enforce compliance with this code.

1.712.4. If the licensee, owner, resident, or other person in control of a premises objects to the inspection of or entrance to the property, the City Administrator, Peace Officer, or any employee or official charged with the duty of enforcing the provisions of this code may, upon a showing that probable cause exists for the issuance of a valid search warrant from a court of competent jurisdiction, petition and obtain a search warrant before conducting the inspection or otherwise entering the property. This warrant shall be only to determine whether the provisions of this code enacted to protect the health, safety and welfare of the people are being complied with and to enforce these provisions only, and no criminal charges shall be made as a result of the warrant. No warrant shall be issued unless there be probable cause to issue the warrant. Probable cause occurs if the search is reasonable. Probable cause does not depend on specific knowledge of the condition of a particular property.

1.712.5. Every licensee, owner, resident or other person in control of property within the city shall permit at reasonable times inspections of or entrance to the property by any authorized city officer or employee only to determine whether the provisions of this code enacted to protect the health, safety and welfare of the people are being complied with and to enforce these provisions. Unreasonable refusal to permit the inspection of or entrance to the property shall be grounds for termination of any and all permits, licenses or city service to the property. Mailed notice shall be given to the licensee, owner, resident or other person in control of the property, stating the grounds for the termination, and the licensee, owner, resident or other person in control of the property shall be given an opportunity to appear before the City Administrator to object to the termination before it occurs, subject to appeal of the Administrator's decision to the City Council at a regularly scheduled or special meeting.

1.712.6. Nothing in this section shall be construed to limit the authority of the City to enter private property in urgent emergency situations where there is an imminent danger in order to protect the public health, safety and welfare.

1.713. Supplemental Administrative Penalties.

1.713.1. In addition to those administrative penalties established in this code and the enforcement powers granted in 1.712, the City Council is authorized to create by resolution, adopted by a majority of the members of the Council, supplemental administrative penalties. Such resolution may not proscribe administrative penalties for traffic offenses designated by M.S. § 169.999.

1.713.2. These administrative penalty procedures in this section are intended to provide the public and the city with an informal, cost effective and expeditious alternative to traditional criminal charges for violations of certain provisions of this code. The procedures are intended to be voluntary on the part of those who have been charged with those offenses.

1.713.3. Administrative penalties for violations of various provisions of the code, other than those penalties established in the code or in statutes that are adopted by reference, may be established from time to time by resolution of a majority of the members of the City Council. In order to be effective, an administrative penalty for a particular violation must be established before the violation occurred.

1.713.4. In the discretion of the peace officer, City Administrator, or other person giving notice of an alleged violation of a provision of this code, in a written notice of an alleged violation, sent by first class mail to the person who is alleged to have violated the code, the person giving notice may request the payment of a voluntary administrative penalty for the violation directly to the City within 14 days of the notice of the violation. In the sole discretion of the person giving the notice of the alleged violation, the time for payment may be extended an additional 14 days, whether or not requested by the person to whom the notice has been given. In addition to the administrative penalty, the person giving notice may request in the notice to the alleged violator to adopt a compliance plan to correct the situation resulting in the alleged violation and may provide that if the alleged violator corrects the situation resulting in the alleged violation within the time specified in the notice, that the payment of the administrative penalty will be waived.

1.713.5. At any time before the payment of the administrative penalty is due, the person who has been given notice of an alleged violation may request to appear before the City Council to contest the request for payment of the penalty. After a hearing before the Council, the Council may determine to withdraw the request for payment or to renew the request for payment. Because the payment of the administrative penalty is voluntary, there shall be no appeal from the decision of the Council.

1.713.6. At any time after the date the payment of the administrative penalty is due, if the administrative penalty remains unpaid or the situation creating the alleged violation remains uncorrected, the City, through its Attorney, may bring criminal charges in accordance with state law and this code. Likewise, the City, in its discretion, may bring criminal charges in the first instance, rather than requesting the payment of an administrative penalty, even if a penalty for the particular violation has been established by Council resolution. If the administrative penalty is paid, or if any requested correction of the situation resulting in the violation is completed, no criminal charges shall be initiated by the City for the alleged violation.

1.714. General Penalty And Enforcement.

1.714.1. Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided, shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than the maximum penalty, set by the State for misdemeanor offenses, in effect on the date of the alleged offense.

1.714.2. Any person, firm or corporation who violates any provision of this code, including Minnesota Statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a sentence of not more than the maximum penalty, set by the State for petty misdemeanor offenses, in effect on the date of the alleged offense.

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

1.714.1.4. The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for a violation.

1.714.1.5. In addition to any penalties provided for in this section or in 1.713, 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 restrain, correct or abate the violation.

CHAPTER 2, CITY COUNCIL AND LEGISLATION

2.100 CONDUCT OF MEETINGS

2.101. Standing Meetings. The Council shall have regular Council meetings held on the third Tuesday of each calendar month at 6:00 P.M. at the City Council Chambers in the City Hall, the City of Lynd. r. In the event that the regular scheduled meeting shall fall on a holiday, the Council meeting shall be on the next succeeding business day. The Council may also call adjourned and special sessions at such other time as the Council may deem proper.

2.101.1 Initial Meeting. At the first regular City Council meeting in January of each year, the City Council shall:

2.101.1.1. Designate the depositories of city funds;

2.101.1.2. Designate the official newspaper;

2.101.1.3. Choose one of the Council Members as Acting Mayor, who shall perform the duties of the Mayor during the disability or absence of the Mayor from the city or, in case of a vacancy in the office of Mayor, until a successor has been appointed and qualifies;

2.101.1.4. Appoint officers and employees and members of departments, boards, commissions and committees as may be necessary;

2.101.1.5. Establish and appoint Council Members to those City Council committees as are deemed appropriate for the efficient and orderly management of the city.

2.102. Presiding Officer. The mayor shall preside at all meetings of the Council. In the absence of the mayor, the acting mayor shall preside. In the absence of both, the trustees shall elect one of their number as temporary chairman. The acting mayor and temporary chairman when occupying the place of the mayor shall have the same privileges as other members.

2.102.1 Procedure. The presiding officer shall preserve order, enforce any rules of procedure adopted by the City Council, and determine without debate, subject to the final decision of the City Council on appeal, all questions of procedure and order.

2.102.2 Appeal Procedure. Any member may appeal to the City Council a ruling of the presiding officer. If the appeal is seconded, the member may speak once solely on the question involved and the presiding officer may explain the ruling, but no other Council Member shall participate in the discussion. The appeal shall be sustained if it is approved by a majority of the members present, including the presiding officer.

2.103. Quorum.

2.103.1. A quorum shall consist of a majority of the entire City Council, including the Mayor. A quorum shall be necessary to transact the business of the City Council.

2.103.2. If no quorum is present, the City Council shall not thereby stand adjourned, but the members present shall adjourn or recess the City Council by a majority vote of those present.

2.104. Conduct of Meeting. At the hour appointed for meeting, the members shall be called to order by the mayor, and in their absence by the acting mayor, and in the absence of both, by the clerk. The clerk shall call the roll, note the absentees and announce whether a quorum by present. In the absence of the clerk, the mayor shall appoint a secretary protem. Upon the appearance of a quorum, the Council shall proceed to business which shall be conducted in the order set by the Council.

2.105. Mayor's Duties. The mayor shall preserve order and decorum and shall decide questions or order subject to an appeal to the Council. The mayor may make motions, second motions, or speak on any question provided. The mayor shall be entitled to vote like other members of the Council.

2.110. Resolution in Writing. All resolutions shall be in writing.

2.115. Committee Appointments. All committees including standing committees shall be appointed by the City Council.

2.116. Standing Committees. The standing committees shall consist of two members appointed by the city council annually. The standing committees of the Council shall be as established by the Council.

2.117. Committee Action. It shall be the duty of the committees to act promptly and faithfully in matters referred to them, and to make their reports at the next meeting of the Council.

2.118. Ordinances. After an ordinance shall have passed, a complete and accurate copy as amended shall be made by the clerk and shall be signed by the mayor or in their absence by the acting mayor, and deposited with the clerk, who shall attest, and retain the ordinance or an electronic copy thereof in the City Records. The ordinance shall be incorporated into this code as appropriate. All ordinances shall be published and retained in accordance with Minnesota Law.

2.121. Open Meetings and its Committees. All City Council meetings, including special, emergency and adjourned meetings and meetings of City Council committees, as well as meetings of City Commissions and Boards, shall be conducted in accordance with the Minnesota Open Meeting Law, M.S. Ch. 13D, as it may be amended from time to time.

2.123. Suspension of Rules. These rules may be suspended only by a two-thirds vote of the members present and voting. Suspension of the rules does not apply to the Minnesota open meeting law requirements.

2.124. Robert's Rules of Order to Govern. In all points not covered by these rules the council shall be governed in its procedure by Robert's Rules of Order.

2.126. Adjournment. The council may at any time by a majority vote of those present, adjourn from time to time to a specific date, place and hour whether or not a quorum is present.

2.127. Special Meetings. Special meetings may be called by the mayor. Special meetings may be called by two members upon written notice or a telephone call at least three days prior to the time specified for the meeting, unless emergency conditions shall require immediate action. The clerk shall deliver notice at least one day before the meeting in person or by electronic communication to all members or by notice left at the member's usual place of residence with a responsible person of the time and place of the meeting and its purpose Pursuant to M.S. Ch. 13D, as it may be amended from time to time, written notice of any special meeting shall be posted giving the date, time, place and purpose of the meeting at least three days before the meeting. This notice shall be posted on the principal bulletin board at City Hall, located at 111 West Railroad Street, Lynd MN. Written notice shall be mailed at least three days before the meeting to anyone who has filed a written request for notice of special meetings. In calculating the three days, if the last day falls on a Saturday, Sunday or legal holiday, the next regular business day shall be counted as the third day.

2.127.1. Special Meeting by Citizen Request. A person may request the City Council of the City of Lynd to hold a special meeting to hear, conduct, or consider matters which might otherwise be addressed or considered by the City Council. In the event of such a request, the requesting person shall deliver to the

City Clerk a written request for such special meeting in such format as shall be approved by the City. The person shall further tender to the City a sum of money calculated to represent the actual cost to the City of convening such meeting for the convenience of the person. If such payment is not received by the City at the time of the request for meeting, the City will not conduct such special meeting. If such application and payment is received, the Mayor and City Clerk may convene such meeting or may poll the members of the City Council to determine the appropriateness of scheduling such meeting. If no special meeting is held, any monies so tendered by the person shall be returned to such person.

2.127.2. Emergency Meetings. Notice of emergency meetings shall be given as required by M.S. Ch. 13D, as it may be amended from time to time. An emergency meeting is a meeting defined by M.S. Ch. 13D, as it may be amended from time to time.

2.128. Manner of Voting. Votes of the members on any business coming before the council may be by voice vote, standing vote, or in such other manner of voting as may signify the intention of the members. Aye and nay shall be taken upon any motion at the request of one member and the results entered in the minutes. Every member shall vote in such case unless the council by majority vote shall excuse a member from voting.

2.129. Minutes. Approval. The minutes of each meeting shall be reduced to typewritten form, shall be signed by the City Clerk, and copies thereof shall be delivered to each Council Member as soon as practicable after the meeting. At the next regular City Council meeting following the delivery, approval of the minutes shall be considered by the City Council. The minutes need not be read aloud, but the presiding officer shall call for any additions or corrections. If there is no objection to a proposed addition or correction, it may be made without a vote of the City Council. If there is an objection, the City Council shall vote upon the addition or correction. If there are no additions or corrections, the minutes shall stand approved.

2.130. Agenda Items. All persons, including any Council member, desiring to present new business before the City Council shall inform the City Clerk thereof in writing by noon on the Friday prior to the regularly scheduled council meeting. A written agenda for each regular Council meeting shall be prepared by the Clerk and copies of the agenda shall be available by 4:30 P.M. on the Friday prior to the meeting.

2.131. Additions to Agenda. By a majority vote of the members of the council in attendance at the regularly scheduled meeting, additional business may be added to the agenda for consideration at the meeting in session.

2.132. Concerned Citizens. The presiding officer of the council meeting shall at, or as near to 7:30 P.M. as possible, ask for the concerns of any person present. Any person may bring a concern to the council with the understanding that a decision or action may not be made by the council at that time.

2.133. Fees And Charges. The City Council may enact an ordinance establishing those fees and charges that are authorized by this code. Until that ordinance becomes effective, all fees and charges established by ordinance or resolution prior to the adoption of this code shall remain in effect. All fees and charges established by the ordinance establishing fees and charges may be amended from time to time by amendment of that ordinance, or by resolution.

2.134. Application Of State Laws. The provisions of the Government Data Practices Act, M.S. Ch. 13, the Opening Meeting Law, M.S. Ch. 13D, and the laws relating to Gifts to Local Officials, M.S. § 471.895, as these laws may be amended from time to time, apply to the City Council and all boards and commissions of this city and their members.

2.135. Elections. The regular city election shall be held biennially on the first Tuesday after the first Monday in November, in every even numbered year.

CHAPTER 3, OFFICERS AND EMPLOYEES

3.101. Clerk-Treasurer Combined. The offices of Clerk and Treasurer shall be combined into the office of Clerk-treasurer. The Clerk-treasurer shall be responsible for performing all the duties of the office of the Clerk and all the duties of the office of Treasurer including those duties defined in Minn. Stat. 412.141 and 412.151.

3.102. Clerk-treasurer. The Clerk-treasurer shall be appointed by the Council, shall receive such compensation as the Council may fix and shall serve at the pleasure of the Council.

3.103. Duties of the Clerk-treasurer. The Clerk-treasurer shall serve as the Clerk of the City, by custodian of its seal and records, sign its official papers, publish and keep records of notices, ordinances, resolutions and Council proceedings as shall be required by law, shall serve as the bookkeeper of the city, receive and safely keep all monies belonging to the city; maintain a record of all monies received and disbursed; and perform any and all such duties as prescribed by law and as the council may require.

3.104. Fire Chief. A fire chief shall be nominated by the firemen and if approved by the Council, shall be appointed to office by the Council. The fire chief shall receive such compensation as the Council may fix and serve at the pleasure of the Council. The fire chief shall have full control of and over the fire department and serve such other duties and keep such records as the council may require.

3.105. Fire Department. The fire department shall consist of such persons as the council shall select and perform such duties relating to extinguishing and preventing fires and protecting life and property from fire as may be required by the Council.

3.106. Workmen's Compensation Insurance Required. All elected officials of the City of Lynd, including the Mayor and Council Members shall be insured by Workmen's Compensation Insurance.

3.107. Mayor and Council Person Salaries.
The compensation of the Mayor and the compensation of each Council Member shall be established from time to time by City Council ordinance pursuant to M.S. § 415.11, as it may be amended from time to time.

3.108 Compensation. Members of the Lynd Planning and Zoning Commission and members of the Lynd City Council shall each be entitled to compensation at the per diem special meeting rate for City Council persons for their attendance at City meetings

at all properly noticed and called meetings of the Planning Commission, Zoning Board, Economic Development Authority or City Council meetings.

3.200 BACKGROUND INFORMATION.

3.201 Applicants for City employment.

3.201.1. Purpose. The purpose and intent of this section is to establish regulations that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of employment background checks for the positions described in division (2) below.

3.201.2. Criminal history employment background investigations. The City Police Department or County Sheriff's Department is hereby required, as the exclusive entity within the City to do a criminal history background investigation on the applicants for the following positions within the city, unless the city's hiring authority concludes that a background investigation is not needed:

3.201.2.1. Employment positions. All regular part-time or full-time employees of the City and other positions that work with children or vulnerable adults.

3.201.2.2. In conducting the criminal history background investigation in order to screen employment applicants, the Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Police Department or County Sheriff's Department under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the Computerized Criminal History data may be released by the Police Department or County Sheriff's Department to the hiring authority, including the City Council, the City Clerk or other city staff involved in the hiring process.

3.201.3. Before the investigation is undertaken, the applicant must authorize the Police Department or County Sheriff's Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of M.S. Ch. 13, as it may be amended from time to time, regarding the collection, maintenance and use of the information. Except for the positions set forth in M.S. § 364.09, the city will not reject an applicant for employment on the basis of the applicant's prior conviction unless the crime is directly related to the position of employment sought and the conviction is for a

felony, gross misdemeanor, or misdemeanor with a jail sentence. If the City rejects the applicant's request on this basis, the City shall notify the applicant in writing of the following:

3.201.3.1. The grounds and reasons for the denial.

3.201.3.2. The applicant complaint and grievance procedure set forth in M.S. § 364.06.

3.201.3.3. The earliest date the applicant may reapply for employment.

3.201.3.4. That all competent evidence of rehabilitation will be considered upon reapplication.

3.202 Applicants for City licenses.

3.202.1. Purpose. The purpose and intent of this section is to establish regulations that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of licensing background checks.

3.202.2. Criminal history license background investigations. The Police Department or County Sheriff's Department is hereby required, as the exclusive entity within the City, to do a criminal history background investigation on the applicants and their employees for the following licenses or permits within the city: City Licenses: Liquor Licenses, under Chapter 12 of this code, and any applicants under Chapters 13 (Regulation of Business and Trades) or 11 (Morals and Conduct) of this code.

3.202.3. In conducting the criminal history background investigation in order to screen license or permit applicants, the Police Department or Sheriff Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Police Department or Sheriff's Department under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the Computerized Criminal History data may be released by the Police Department to the licensing authority, including the City Council, the City Clerk or other City staff involved in the license approval process.

3.202.4. Before the investigation is undertaken, the applicant must authorize the Police Department or Sheriff's Department by written consent to

undertake the investigation. The written consent must fully comply with the provisions of M.S. Ch. 13 as it may be amended from time to time regarding the collection, maintenance and use of the information. Except for the positions set forth in M.S. § 364.09 as it may be amended from time to time, the city will not reject an applicant for a license on the basis of the applicant's prior conviction unless the crime is directly related to the license sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the City rejects the applicant's request on this basis, the City shall notify the applicant in writing of the following:

3.2.2.4.1. The grounds and reasons for the denial.

3.2.2.4.2. The applicant complaint and grievance procedure set forth in M.S. § 364.06.

3.2.2.4.3. The earliest date the applicant may reapply for the license.

3.2.2.4.4. That all competent evidence of rehabilitation will be considered upon reapplication.

3.300. PLANNING COMMISSION

3.301. Establishment Of The Planning Commission. The City Council may at any time establish a Planning Commission by appointing members to the Planning Commission as provided in 3.302 of this code. To the extent that any provisions of this code are inconsistent with any provisions of Titles XV or XVII, the provisions of those titles shall prevail. The Planning Commission shall be the city planning agency authorized by M.S. § 462.354(1), as it may be amended from time to time.

3.302. Composition.

3.302.1. The Planning Commission shall consist of five members from the resident population of the city to be appointed by the Mayor with the approval of the City Council. The appointees shall be appointed to serve staggered terms of three years, except as noted below, commencing on the first day of January in the year of appointment. Upon expiration of a term, the appointee shall continue until reappointed or a successor is appointed. Absences from any three meetings in a year, unless excused in advance by the Chair, constitutes a vacancy. In the event of any vacancy, the Mayor, with the approval of the City Council, shall appoint a person to complete the unexpired term.

3.302.2. One member may be a Council Member or the City Clerk, to be appointed by the Mayor with the approval of the City Council. This member shall serve for a one year term, to expire on December 31 of each year.

3.302.3. Other persons may serve in an ex officio capacity as the City Council may, in its discretion, deem appropriate.

3.302.4. Each of the five regular Planning Commission members shall have equal voting privileges. Any member may be removed for cause by majority vote of the City Council upon written charge and after a public hearing.

3.303. Organization, Meetings, Minutes And Expenditures.

3.303.1. At the first regular meeting in January, the Planning Commission shall elect a Chairperson, a Vice-Chairperson and a Secretary from among its appointed members, each for a term of one year. The Planning Commission may create and fill other offices as it may determine.

3.303.2. The Planning Commission shall hold at least one meeting each month at the time and place as they may fix by resolution. Special meetings may be called at any time by the Chairperson, or in the case of the Chairperson's absence, by the Vice-Chairperson.

3.303.1. Written minutes of meetings shall be kept and filed with the City Clerk prior to the next regularly scheduled City Council meeting, but shall be subject to the approval at the next Planning Commission meeting.

3.303.1. No expenditures by the Planning Commission shall be made unless and until authorized for the purpose by the City Council.

3.304. Powers And Duties; Comprehensive Plan.

3.304.1. Generally. The Planning Commission shall have the powers and duties given to city planning agencies generally by law, including the authority to conduct public hearings as directed by the City Council or city policy. The Planning Commission shall also exercise the duties conferred upon it by this code. It shall be the purpose of the Planning Commission to prepare and adopt a comprehensive plan for the physical development of the city, including proposed public buildings, street arrangements and improvements, efficient design of major thoroughfares for moving of traffic, parking facilities, public utilities services, parks and playgrounds, a general land use plan and other matters relating to the physical development of the city. This plan may be prepared in sections, each of which shall relate to a comprehensive plan program. After the Planning

Commission has prepared and adopted the comprehensive plan, it shall periodically, but at least every three years, review the comprehensive plan and any ordinances or programs implementing the plan.

3.304.2. Means Of Executing Plan. Upon the adoption of a comprehensive plan or any section thereof, it shall be the concern of the Planning Commission to recommend to the City Council reasonable and practical means for putting into effect the plan or section thereof in order that it will serve as a pattern and guide for the orderly physical development of the city and as a basis for judging the timely disbursements of funds to implement the objective. Means of effectuating the plan shall, among other things, consist of a zoning ordinance, subdivision regulations, capital improvement programming and technical review, and recommendations of matters referred to the Planning Commission by the City Council.

3.304.3. Zoning Ordinance. Pursuant to M.S. § 462.357(4), as it may be amended from time to time, the Planning Commission shall review all proposed amendments to the zoning ordinance, take part in or conduct public hearings as directed by the City Council or city policy, and make recommendations to the City Council as may be prescribed by the zoning ordinance.

3.304.4. Conditional Permits. The Planning Commission may make recommendations on all requests for a conditional use permit under the terms of the zoning ordinance and may conduct public hearings as directed by the City Council or city policy. The Planning Commission shall report its recommendations to the City Council for action.

3.304.5. Subdivision Regulations. The Planning Commission may make recommendations in relation to the subdividing of land as prescribed by the ordinance and may conduct public hearings as directed by the City Council or city policy. The Planning Commission shall report its recommendations to the City Council for action.

3.304.6. Variances. All applications for variances may be referred to the Planning Commission which may conduct public hearings as directed by the City Council or city policy, and forwarded with or without recommendations directly to the City Council, which shall have the powers of a Board of Appeals and Adjustments as provided for in M.S. § 462.357, Subd. 6, as it may be amended from time to time for its decision. The City Council, acting as the Board of Appeals and Adjustments, may hear requests for variances from the literal provisions of the ordinance in instances only where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and may grant variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of the

ordinance. UNDUE HARDSHIP as used in connection with the granting of a variance, means the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance. UNDUE HARDSHIP also includes, but is not limited to inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth-sheltered construction as defined in M.S. § 216C.06, Subd. 14, as it may be amended from time to time, when in harmony with the ordinance. The Board of Appeals and Adjustments may not permit as a variance any use that is not permitted under the ordinance for property in the zone where the affected person's land is located. The Board may permit as a variance the temporary use of a one-family dwelling as a two-family dwelling. The Board may impose conditions in the granting of variances to ensure compliance and to protect adjacent properties. All variances issued shall be filed by the City Clerk with the County Recorder.

3.304.7. Appeals to denials of zoning, land use or building permits based on the official map. All appeals to denials of zoning, land use or building permits based on the official map may be referred to the Planning Commission, and forwarded with or without recommendations directly to the City Council. The City Council shall have the powers of a Board of Appeals and Adjustments as provided for in M.S. 462.359, Subd. 4, as it may be amended from time to time for its decision.

3.304.8. Purchase And Sale Of Real Property. Pursuant to M.S. § 462.356, Subd. 2, as it may be amended from time to time, after adoption of a comprehensive plan, if any, the Planning Commission shall review all proposed acquisitions or disposals of publicly owned interests in real property within the city by the municipality, or any special district or any agency thereof, or any other political subdivision having jurisdiction within the municipality, and make findings as to the compliance of the proposed acquisition or disposal of real property with the comprehensive municipal plan. The City Council may by resolution adopted by two-thirds vote dispense with the requirements of this section when in its judgment it finds that the proposed acquisition or disposal of real property has no relationship to the comprehensive municipal plan.

3.304.9. Capital Improvements. Pursuant to M.S. § 462.356, Subd. 2, as it may be amended from time to time, after adoption of a comprehensive plan, if any, the Planning Commission shall review all proposed capital improvements within the city by the municipality, or any special district or any agency thereof, or any other political subdivision having jurisdiction within the municipality, and make findings, as to the compliance of the proposed capital improvement with

the comprehensive municipal plan. The City Council may by resolution adopted by two-thirds vote dispense with the requirements of this section when in its judgment it finds that the proposed acquisition or disposal of real property has no relationship to the comprehensive municipal plan.

3.304.10. Comprehensive Plan Amendments. Pursuant to M.S. § 462.355, Subds. 2 and 3, as it may be amended from time to time, after adoption of a comprehensive plan, if any, the Planning Commission shall review all proposed amendments to the comprehensive plan, hold at least one public hearing, and make recommendations to the City Council on comprehensive plan amendments and their relation to the city comprehensive plan and other land use controls. The Planning Commission shall report its recommendations to the City Council for action.

CHAPTER 4, UTILITIES

4.400 MUNICIPAL WATER SYSTEM

4.401. Use of water system restricted. No person shall make or use any water service installation connected to the city water system except pursuant to application and permit as provided in this Code. No person shall make or use any such installation contrary to the regulatory provisions of the Lynd City Code.

4.401.1. No unauthorized person shall remove or damage any structure, appurtenance, or part of the water system or fill or partially fill any excavation or move any gate valve used in the water system.

4.401.2. No person, except as specifically authorized by City Maintenance staff, City Administrator or Mayor, shall make any connection of an electrical welder to the city water main, appurtenance or service or use an electric welder for the purpose of thawing frozen water mains, appurtenances or services.

4.402. Each dwelling to have separate curb stop and meter. Each dwelling or other residential unit shall have a separate curb stop valve (stop box) for the shut off of municipal water service. Each separate dwelling or other residential unit must be equipped with a municipal water use meter. Each separate dwelling or separate residential shall have a separate meter. The city shall own all meters used in this capacity and the property owner shall be required to place a meter deposit with the City Clerk-treasurer for the use of said meter. The City Council may, by resolution, adopt, alter or modify the meter deposit fee from time to time. Each connection, disconnection or reconnection to the city water system by means of the curb stop or other means shall be subject to a connection, disconnection or reconnection fee in such an amount as the City Council may from time to time establish by resolution.

4.402.1. **Curbstops.** The curbstop shall be installed on the right-of-way line or easement limits or at such other reasonable location as shall be determined by the City. Curb stop boxes will be installed at an approximate depth of seven feet below the finished ground elevation and the top of the curb stop box shall be adjusted to be flush with the finished ground elevation. Curb stop boxes must be firmly supported by a masonry block. If located upon the property of the homeowner, the homeowner shall be responsible for maintaining the property adjacent to the curbstop in such a manner as to avoid physical damage to the curbstop and city water lines. Damage occurring to the curbstop as a result of vehicle traffic or other action by the homeowner may be repaired by the City without notice to the homeowner, and the cost of such repair included in the utility billing for the premises. The owner or occupant shall not obstruct or

allow anyone else to obstruct the access of the City to the curbstop. Any such obstruction is a misdemeanor offense.
(Ord. 32 2nd S. 5/8/95)

4.402.2. **Connection Procedure**. The property owner seeking or utilizing a connection to the municipal water system shall be responsible for the costs of the installation of a waterline from a City main to the curbstop and from the curbstop to the water meter. The property owner utilizing the connection shall be responsible for all of the costs of connection, maintenance, and repair of such service line. All of the installation of such a service line shall be done at the expense of the owner with either City personnel or personnel approved by the City for such undertaking. All supplies and materials utilized in such a connection shall be approved by the City in advance of installation.

4.402.2.1. Where water mains of the city are in any street or alley adjacent to or outside the corporate limits of the city, the City Council may issue permits to the owners or occupants of properties adjacent or accessible to the water main to make proper water service pipe connections with the water mains of the city and to be supplied with water in conformity with the applicable provisions of this chapter and state law and subject to any contract for the supply of water between the city and any other city. The water meter pit will be in the city limits. The city will own and maintain the water meter. The user will pay for the original meter in the connection fee. The City may require a property owner outside the City Limits to be annexed into the City prior to providing water service to that property owner. Any connection made to a property owner outside the City limits shall be subject to a written contract between the City and the property owner and the City shall set a rate for such water service which may be higher than that charged to residents of the City of Lynd.

4.402.2.2. No water pipe of the water system shall be connected with any pump, well, tank, or piping that is connected with any other source of water supply except to service municipal systems.

4.402.3. **Water Meters**. Except for extinguishment of fires, no person, unless otherwise authorized by the City Council or Public Utilities Department, shall use water from the water system or permit water to be drawn therefrom unless the same be metered by passing through a meter supplied or approved by the city. No person not authorized by the City Council or Utilities Superintendent shall connect, disconnect, take apart, or in any manner change or cause to be changed or interfere with any meter or the action thereof, or break any meter or valve seal.

4.402.3.1. A charge established pursuant 4.403 shall be paid by customers to the city for water meters including installations and check

valves and payment for same shall be made at the time of water service application. This payment shall be made only once, subject to the following.

4.402.3.2. Where a consumer has need for a larger line in addition to his or her domestic line, as in the case of a commercial consumer who needs a one-inch line for normal use and a six-inch or larger line for a fire sprinkler system, he or she will be permitted to run one line into the premises and “Y” off into two lines at the building. When this is done, the meter will be attached to the small or domestic line and a check valve as well as one-inch detection meter shall be put on the large line.

4.402.3.3. The city shall maintain and repair all meters when rendered unserviceable through ordinary wear and tear and shall replace them if necessary. When replacement, repair, or adjustment of any meter is rendered by the act, neglect (including damage from freezing or hot water backup) or carelessness of the owner or occupant of the premises, any expense caused the city thereby shall be charged against and collected from the water consumer.

4.402.3.4. A consumer may, by written request, have his or her meter tested by depositing the amount established pursuant to § 52.51. In case a test should show an error of over 5% of the water consumed, a correctly registering meter will be installed, and the bill will be adjusted accordingly and the testing deposit refunded. This adjustment shall not extend back more than one billing period from the date of the written request.

4.402.3.5. All water meters and remote readers shall be and remain the property of the city.

4.402.3.6. Authorized city employees shall have free access at reasonable hours of the day to all parts of every building and premises connected with the water system for reading of meters and inspections. However, city employees may not enter private property without obtaining the permission of the owner to do so or have obtained a search warrant issued by a court of competent jurisdiction, as provided for in § 10.20.

4.402.3.7. It shall be the responsibility of the consumer to notify the city to request a final reading at the time of the customer's billing change.

4.402.4. Water meter setting. All water meters hereafter installed shall be in accordance with the Minnesota Plumbing Code and any standards established by resolution of the City Council.

4.403. Charges for service connections.

Permit and fee: No connection shall be made to the city water system without a permit from the City Clerk-treasurer. The fee for each such permit shall be established and modified by the City Council by ordinance or resolution from time to time.

(Code of 1980)

4.404. Application and Owner-Customer Responsibility.

4.404.1. Procedure. By their signature, the applicant shall agree to conform to the Lynd City Code and to rules and regulations that may be established by the City as conditions for the use of water. All persons who are presently connected to municipal water service in conformity with the requirements of this Ordinance are deemed to have filed an application and shall be bound by the terms and conditions of this Ordinance.

(Code of 1980)

4.404.2. Unmetered Water: The homeowner shall be responsible for the maintenance, repair, and upkeep of water lines between the curb stop and the water meter. The City may require the homeowner to install a suitable quantity and quality of water line between the curb stop and meter. The City may disconnect the water service in the event that the homeowner fails or refuses to provide an installation which, in the opinion of the City, is suitable.

The applicant and owner are responsible for any water lost or water leakage occurring as a result of damaged, defective, leaking, inadequate water line, or other unmetered water lost between the curb stop and the water meter. In the event of such a loss, the City may estimate the quantity of water lost from other records and information available to the City. Such reasonable estimate shall be paid by the applicant or owner or may, in the discretion of the City, be treated as a delinquency in the utility billing payment for the subject premises.

(Ord. 32, 2nd S. 5/8/95)

4.405. Account in name of owner of real estate. All accounts shall be carried in the name of the owner of the real estate served, who personally, or by their authorized agent, shall apply for such service. The owner shall be liable for water supplied to their real estate, whether he is occupying the real estate or not and any charge or bill unpaid shall be a lien upon the real estate.

(Code of 1980)

4.406. Rate Sheet. The City shall provide each user with a water rate sheet and book or other method for regular payment of the water and utility billing. Each owner and/or resident shall read his or her water meter on or before the 1st day of each month, compute the rate according to the rate sheet provided by the City as of the current time, and remit the amount of the water bill together with all other utility charges to the City Clerk/Treasurer's Office on or before the 15th day of each month. In the event that the utility bill is not paid on or before the 15th day of the month, but is paid before the City Council Meeting for the month, a late payment penalty in the amount set by resolution of the City Council will be imposed. If the utility billing remains unpaid and the service is disconnected for non-payment a late payment and reconnection fee may be imposed consistent with the fees then in effect as set by resolution of the City Council.

4.407. Inspection and Replacement. Each permit granted under Section 4.403 shall require the installation of water lines, curbstops, and water meters by either City staff or a licensed plumber, and shall be subject to an inspection by the city water inspector. The city may, for good cause, waive the inspection requirement. The city retains the right to inspect, replace, and mandate replacement of all water meters and hook-ups for compliance with state law and the terms of this Ordinance or for purposes of updating or changing water meters. This includes, but is not limited to, the right to inspect water meters on an annual or other more frequent basis for the proper water meter reading.

4.4071. **Penalty for non-compliance or failure to cooperate with City Staff.** Each person utilizing a city water connection is required to cooperate with City staff to provide access to their property to install replacement meters, or to arrange for such installation by a licensed plumber with assistance by City staff, in not less than 60 days after notice to the property owner that meter replacement is necessary. Any person not responding to the notice of meter replacement within 30 days of notice will be sent a certified letter, return receipt requested, notifying them that the meter must be replaced in the time remaining from the initial notice. After the passage of 60 days, if the water meter is not replaced, a \$500.00 charge may be imposed by the City. If the meter is not replaced within 90 days of the initial notice to the property owner, the water will be shut off. Prior to reconnection, a meter meeting city specifications must be installed, the property owner must pay all past due amounts including any charge levied under this provision, and the property owner must pay a reconnection fee in accordance with the rate set by resolution of the City Council.

4.408. Delinquent utility bills, shut-off for non-payment.

4.408.1. The City shall endeavor to collect delinquent utility accounts promptly. In any case where satisfactory arrangements for payment have not been made, the City

may, after the procedural requirements of Section 4.408.2 have been complied with, discontinue service to the delinquent customer by shutting off the water at the curb stop. When water service to any premises has been disconnected, service shall not be restored except upon the payment of all delinquent accounts due plus a fee for disconnection and reconnection as set by resolution of the City Council.

4.408.2. Procedure. Water shall not be shut off under Section 4.408.1 until notice and an opportunity for a hearing have first been given to the occupant of the premises involved. The notice shall be personally served or posted on the premises for a period of 7 days and shall state that if payment is not made before the date stated in the notice, but not less than three (3) days after the date on which the notice is given, the water supply to the premises shall be shut off. The notice shall also state that the occupant may, before such date, demand a hearing on the matter, in which case the supply will not be shut off until after the hearing is held. The City Council may, as an alternative, schedule a date, time, and place for hearing and proceed to hearing. If, as a result of a hearing, the City Council finds that the amount claimed to be owing is actually due and unpaid and that there is no legal reason why the water supply to the delinquent customer may not be shut off in accordance with this ordinance, the City may immediately order the shut off of the water supply to the premises. (ord. 45, 2nd S. no date)

4.408.3. Cold Weather Rule. Pursuant to M.S. § 216B.097, as it may be amended from time to time, no service of a residential customer shall be disconnected if the disconnection affects the primary heat source for the residential unit when the disconnection would occur during the period between October 15 and April 15, the customer has declared inability to pay on forms provided by the city, the household income of the customer is less than 185% of the federal poverty level as documented by the customer to the city, and the customer's account is current for the billing period immediately prior to October 15 or the customer has entered into a payment schedule and is reasonably current with payments under the schedule. The City Clerk shall, between August 15 and October 15, of each year, notify all residential customers of these provisions.

4.409. Collection with Taxes. Whether or not the city has initiated action to shut off the water supply, all delinquent accounts shall be certified to by the City Clerk-Treasurer who shall prepare an assessment roll each year providing for assessment of the delinquent amounts against the respective properties served. The assessment roll shall be delivered to the Council for adoption on or before October 1 of each year. Upon such adoption, the Clerk-treasurer shall certify the assessment roll to the County Auditor for collection along with taxes.

4.410. City personnel only to operate curb stop. It shall be a misdemeanor for any person other than an authorized municipal employee to turn on or off a curb stop or

stop box connected to the municipal water system. Each such action shall constitute a separate offense.

It shall be a misdemeanor for any person to fail to comply with or violate Section 4.401, 4.402, 4.403, or 4.404 of this Ordinance. Each separate occurrence shall constitute a separate violation of this Ordinance.

4.411. Definitions.

4.411.1. ACity@ means the City of Lynd or its officers or employees authorized to perform the functions to which there is reference.

4.411.2. APerson@ means an individual, corporation (public or private), partnership or association.

4.411.3. AService@ means connection to the municipal water system and the right to use its facilities whether or not the facilities are, in fact, used.

4.411.4. ACurb stop@ means the stop box or valve connecting the municipal system to a private user's service entrance.

4.411.5. ADwelling or residential unit@ means each separate home, each trailer, each apartment or each dwelling if the structure contains multiple dwellings, as in a duplex, four-plea or other multiple family dwelling.

4.411.6. ACity Clerk-treasurer@ means the regularly appointed City Clerk-treasurer, deputy City Clerk-treasurer, City Water Clerk or such other person as the city shall appoint to serve in the capacity of City Clerk-treasurer as defined by this Ordinance.
(Code of 1980)

4.412. Supervision By Utilities Superintendent; Licensing.

4.412.1. All piping connections from the curb stop box to house supply piping shall be made under the supervision of a licensed plumber subject to inspection by the Utilities Superintendent. The piping connection made to the curb stop box on the house side shall be inspected by the Utilities Superintendent. The water meter installation shall be inspected, tested and the meter sealed by the Utilities Superintendent.

4.412.1.1. No person, firm or corporation shall engage in the business of altering, repairing, installing or constructing municipal water connections within the city without first obtaining a permit.

4.412.1.2. The applicant shall file with the City Administrator evidence of public liability insurance, including products liability insurance with limits of at least \$100,000 per person and \$250,000 per occurrence and property damage insurance with limits of at least \$100,000. Evidence of insurance required pursuant to M.S. § 326B.46, Subd. 2, as it may be amended from time to time, shall satisfy this requirement.

4.412.1.3. The applicant shall file with the City Administrator a surety bond guaranteeing the conformance and compliance of work with this chapter. The bond shall be in the amount of \$2,000. The city shall hold the bond for one year following the license period. Failure to comply with provisions and requirements of this chapter shall result in forfeiture of the bond. The applicant may comply with the requirements of M.S. § 326B.46, Subd. 2, as it may be amended from time to time in lieu of these requirements.

4.412.1.4. Applications for permits shall be filed with the City Administrator and shall be reviewed and subject to approval of the city.

4.412.2. Before any permit issued under the provisions of this section may be revoked or its renewal refused, the licensee shall be given a hearing by the City Council to show cause why the license should not be revoked or refused. Notice of the time, place and purpose of the hearing shall be in writing.

4.413. Powers And Authority Of Inspectors. The Utilities Superintendent and other duly authorized employees of the city, upon proper identification, are authorized, with the permission of the licensee, owner, resident or other person in control of property within the city, to enter upon all properties for the purpose of inspections, observation and testing in accordance with the provisions of this chapter. If the licensee, owner, resident or other person in control of property within the city does not permit the entrance to the property, the city shall obtain an administrative search warrant as provided for in 1.712 before entering the property, except in emergency situations.

4.414. Severability of Provisions. Every Section or Subdivision, or part thereof of this Ordinance shall be severable. If any part of any Section, Subdivision or part thereof is found by a court of competent jurisdiction to be unconstitutional or void, the remaining parts shall remain valid, unless the court finds the valid parts of the Section,

Subdivision or part thereof to be so essentially and inseparably connected with and so dependent upon, the void parts that the court cannot presume the Council would have enacted the remaining valid parts without the void ones, or unless the Court finds the remaining valid parts, standing alone, are incomplete and are incapable of being executed in accordance with the intent of the Council.

(Code of 1980)

4.415. Use Of Water From Fire Hydrants; Temporary Connections.

4.415.1. Use of fire hydrants. Except for extinguishment of fires, no person, unless authorized by the Public Works Director or Public Utilities Department, shall operate fire hydrants or interfere in any way with the water system without first obtaining a permit to do so from the city as follows:

4.415.1.1. A permit to use a fire hydrant shall be issued for each individual job or contract and for a minimum of 30 days and for the additional 30 day period as the city shall determine. The permit shall state the location of the hydrant and shall be for the use of that hydrant and none other.

4.415.1.2. The user shall make an advance cash deposit to guarantee payment for water used and to cover breakage and damage to the hydrant and meter, which shall be refunded upon expiration of the permit, less applicable charges for use.

4.415.1.3. The user shall relinquish the use of the hydrant to authorized city employees in emergency situations.

4.415.1.4. The user shall pay a rental charge as established pursuant to § 52.51 for each day including Sundays and legal holidays, and a fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 30.11 of this code, as that ordinance may be amended from time to time for each 1,000 gallons of water used.

4.415.1.5. Connections to a public water supply to fill tankers must follow backflow prevention standards. The connection will have a reduced pressure zone backflow device.

4.415.2. Temporary connection to fire hydrants. An owner of a private water system may make a temporary above ground connection to a fire hydrant, subject to the time periods, conditions, and payment specified in § 52.51. In addition, the method of connection to the private system shall conform to all existing requirements of this chapter and city ordinance and the type of meter used shall meet the approval of the Utilities Superintendent.

4.416. Water Deficiency, Shut Off And Use Restrictions.

4.416.1. The city shall not be liable for any deficiency or failure in the supply of water to consumers, whether occasioned by shutting the water off for the purpose of making repairs or connections or from any other cause whatsoever. In case of fire, or alarm of fire, or in making repairs of construction of new works, water may be shut off without notice at any time and kept off as long as necessary. In addition, the City Council shall have the right to impose reasonable restrictions on the use of the city water system in emergency situations. For non-payment of charges, water service may be discontinued according to the procedures established in 4.408.

4.416.2. Restricted hours. Whenever Lincoln Pipestone Rural Water informs the City of Lynd that a shortage of water supply threatens the city, the Council may limit the times and hours during which city water may be used for sprinkling, irrigation, car washing, air condition, or other specified uses.

4.417. Water Use Restrictions.

4.417.1 Water Shortages. Whenever the City Council or, on a temporary basis, the Mayor or City Clerk, shall determine that a shortage of the water supply threatens the City, or if water restrictions are imposed by Lincoln Pipestone Rural Water System, use of the City water supply system for lawn sprinkling or irrigation shall be prohibited. Use of water for other non-potable purposes including, but not limited to, garden watering, car washing or other non-potable uses may be further limited or prohibited. Special permit consideration will be given for those property owners with new seed or sod if in the opinion of the public works director sufficient water for such permits is available.

4.417.2. Homeowners or businesses with irrigation systems may water only every other day unless further restrictions are in place pursuant to paragraph 4.417.1 above.

4.417.3. Property owners installing an automatic or underground irrigation system are required to install a rain sensor device. Existing irrigation systems are required to retrofit to install a rain sensor device at such time as improvement or extension of the system valued at or above \$1,000.00, or requiring a building permit are done.

4.417.4. The first and subsequent violations of any water restrictions will result in a surcharge which will be added to the next water bill for the premises. Surcharges will be set out in the City of Lynd Fee Schedule. A property owner may appeal the assessment of a surcharge to the City Council by filing a written objection with the City Clerk within ten days of levy of surcharge, and then attending the next regularly scheduled City Council meeting to address the Council regarding the objection. A decision will be rendered by the City Council at its next regularly scheduled meeting following consideration of the Property Owner's objection.

4.417.5. In the event any surcharge is not paid within three months after the time it is rendered, the City Council may certify the amount due together with penalties to the county auditor to be collected with other real estate taxes levied against the premises served, and may disconnect the Property Owner's water service.

4.418. Repairs

4.418.1. Determination of need for repairs. Based on the information supplied by the property owner or available to the city, the city may make a determination whether a problem exists in that portion of the service which is the city's responsibility. If the problem, appears to exist in the areas for which the city has no responsibility, the private owners will be responsible for correction of the problem.

4.418.2. Thawing of water services. The city may attempt to thaw water services on request of the resident. If the problem is found within that portion of the service for which the private owner is responsible, the private owner thereafter will be responsible for thawing the service and correction of the problem.

4.418.3. Excavation or repair of water service.

4.418.3.1. The city may arrange for the investigative digging up and repair of any water service where the problem apparently exists within that area for which the city has responsibility.

4.418.3.2. Unless it is clearly evident, however, that the problem is the responsibility of the city, the excavation and repair may not be made until the property owner requests the city in writing to excavate or repair the service and agrees to pay the cost.

4.418.3.3. The owner further agrees to waive public hearing and be special assessed the cost of the excavation and repair if the problem is found to be other than the city's responsibility. The city may make the determination for responsibility of the cost of investigation or repair.

4.418.3.4. The matter of whether the dig up is done by city forces or contracted would depend on the urgency or need of repair and the availability of city forces to do the work. Recovery by the city for faulty construction will depend upon the circumstances and the decision of the City Attorney on the likelihood of recovery.

4.418.4. Failure to repair. In case of failure upon the part of any consumer or owner to repair any leak occurring in his or her service pipe within 24 hours after verbal or written notice thereof, the water may be turned off by the city and may not be turned on until the leak has been repaired and a fee pursuant to § 52.51 has been paid to the city.

4.419. Abandoned Or Unused Services.

4.419.1. A premises served by water and a demolition permit has been obtained, then the service may be shut off and billing for the service may stop provided the property owner removes the old water line to the water main, properly caps the connection at the water main, and restores any part of the roadway disrupted by the disconnection. The owner will continue to be billed for service to the property until such time as the requirements of this provision are met.

4.419.2. When new buildings are erected on the site of old ones, and it is desired to increase or change the old water service, no connections with the mains may be made until all the old service has been removed and the main taps plugged or yoked connections installed by the city at the owner's expense.

4.420. Service Pipes. Every service pipe shall be laid so as to allow at least one foot of extra length in order to prevent rupture by settlement. The service pipe must be placed no less than seven feet below the ground and in a manner as to prevent rupture by freezing. Service pipes must extend from the curb stop box to the inside of the building, or if not taken into the building, then to the hydrant or fixtures which it is intended to supply. All tubing and pipes shall conform to the Minnesota Plumbing Code. All underground joints are to be mechanical, except joints under floors shall be soldered in accordance with the Minnesota Plumbing Code, unless otherwise approved by the Utilities Superintendent. Joints of copper tubing shall be kept, to a minimum, and all joints shall conform to the Minnesota Plumbing Code. All joints and connections shall be left uncovered until inspected by the Utilities Superintendent and must comply to the Minnesota Plumbing Code and tested at normal water line pressure. Unions must conform to the Minnesota Plumbing Code. Connections with the mains for domestic supply shall be at least three-quarter inch up to the curb stop box.

4.421. Excavation And Construction Requirements.

4.421.1. No excavation shall be made until a permit for the connection has been issued by the city.

4.421.2. No water service pipe or water connection shall be installed in the same trench or closer than ten feet horizontally to a sewer trench or drain laid, or to be laid, either in the street or in private property, except that the water pipe on private property may be in a common trench with a sewer drain which is of a material that is in conformance with the current Minnesota Plumbing Code, Minn. Rules Ch. 4715, as it may be amended from time to time.

4.421.3. Where it is desired to lay the water service pipe and the building sewer pipe in the same trench, or in separate trenches less than ten feet apart, the

water service pipe shall be above the sewer pipe unless approved by the City Engineer. It shall be placed at least one foot above the sewer and on a solid shelf excavated at one side of the trench. The sewer pipe shall be of a material that is in conformance with the Minnesota Plumbing Code with tested watertight joints. The water service pipe shall be watertight and corrosion resistant. Copper pipe and ductile or cast iron water pipe with specially protected joints is acceptable for this construction. Cast iron pipe shall conform to the American Water Works Association specifications for this pipe. Bell joint clamps with rubber gaskets are provisionally acceptable as extra protection for the joints on cast iron water pipe. In all cases, precautions shall be taken to assure a firm foundation for the pipes. The intervening space between the pipes shall be backfilled with compacted earth.

4.421.4. In case the installation is on a surfaced street, the following shall apply: All backfill materials shall be mechanically compacted in 12-inch layers to the density of the adjacent material in the roadway area and to the existing street grades in accordance with the Minnesota Department of Transportation Standards. Complete surface restoration shall be made.

4.500 MUNICIPAL SEWER SYSTEM

4.501. Use of public sewers. The owner of any property abutting on or adjacent to any street in which sewer and water mains have been laid shall install a toilet in any dwelling or commercial establishment upon such property and connect it with the sewer and water mains, and in default thereof, the City shall provide for the installation of such toilet and charge the cost against the property as a special assessment. The property owner shall have a period of one year from the date that said public sewer is operational to complete the operation before the City shall proceed to make such installation and charge the same against the property tax.

4.501.1. It is unlawful to discharge wastewater or other polluted waters into any natural outlet or private wastewater disposal system within the City of Lynd or in any area under the jurisdiction of the City of Lynd except into the municipal wastewater facility more than one year after the sewer system is operational; except discharge into a private wastewater disposal system is permitted for those properties who are not required, pursuant to Section 4.501 to connect to the municipal wastewater facilities.

4.502. Sump Pump Regulation. Any dwelling, structure or building that has a sump pump discharge system to remove groundwater from its foundation drain must have a permanently installed discharge line. A "permanently installed discharge line" shall be one which provides for year-around discharge capability to either the outside of the dwelling, building or structure, or is connected to the City storm sewer. It shall consist of a rigid discharge line, without valving or quick connections for altering the

path of discharge and, if connected to the City storm sewer line, include a check valve. It shall not be capable of connection or reconnection to the municipal sanitary sewer system.

4.503. Inspection. Every person owning improved real estate, or contractors and builders who are building a structure connected to the City's sanitary sewer system, shall obtain an inspection of each building located on such property by an inspector designated by the City. The purpose of this city inspection shall be to confirm that there is no prohibited discharge into the municipal sanitary sewer system.

This inspection requirement may also be met by having the property owner contract with a licensed plumber to perform the inspection. The plumber must inspect the property's sump pump, sewer service lateral, and groundwater drainage system, and upon completion, return an inspection form provided by the City documenting the results of the inspection. All costs associated with an inspection by a privately retained plumber shall be the responsibility of the property owner.

Unless the property owner already has a valid certificate of compliance issued by the City for the property, the owner or owner's representative is required to complete an inspection and obtain a certificate of compliance issued by the City before such property is offered for sale, gifted or transferred, and before the owner or owner's representative enters into any contract for deed or other transaction changing the party responsible for the property.

A certificate of compliance shall be issued by the city upon successful completion of an inspection. A certificate of compliance shall be valid for ten years.

4.504. Corrections. Upon notice that the discharge of clear water on a property is not in compliance with this ordinance, the owner or occupant of the property shall cease from discharging clear water in violation of this ordinance and shall make the necessary repairs and corrections to discharge the clear water in accordance with this ordinance. Discharge of clear water in compliance with this ordinance

shall be completed within days of the date of notice of noncompliance, or as determined by the public works director. A second inspection of the property will be completed after days following the notice of noncompliance.

4.505. Violations. A monthly surcharge in an amount duly adopted by the City Council and set forth in the City's fee schedule shall be assessed against any property on which clear water is discharged in violation of this ordinance. The monthly surcharge will be charged on the property's municipal utility billing statement if one or more of the following conditions apply: (1) an inspection as required herein has not been allowed by the property owner or occupant or a certificate of compliance has not been issued by

the city within days after the city's notice of inspection; (2) the property owner or occupant fails to make the sewer line cleanout readily available for the inspection; (3) the necessary corrections have not been made within the time specified; and (4) the property owner or occupant reconnects a clear water discharge line to the municipal sanitary sewer system after it has been previously disconnected at the city's or a court's direction. A surcharge will be assessed for every month during which the property is not in compliance.

4.506. Temporary Waivers. The City may grant a temporary waiver from the provisions of this section where strict enforcement would cause a threat of damage or harm to other property, the environment, or public safety because of circumstances unique to the individual property or due to weather conditions. A written request for a temporary waiver must be first submitted to the city administrator specifying the reasons for the temporary waiver.

If a temporary waiver is granted, the property owner shall pay an additional fee for sewage service charges based on the number of gallons discharged into the City's sanitary sewer system as estimated by the public works director.

The public works director may set conditions to the temporary waiver. The public works director may terminate the temporary waiver upon a failure to comply with any conditions imposed on the temporary waiver. The public works director must give a five-day written notice of the termination to the property owner and occupant setting forth the reasons for the termination. After expiration or termination of a temporary waiver, the property owner shall comply with the provisions of this ordinance.

4.507. Appeals. Applications for appeal of any administrative determination made pursuant to this Ordinance shall be addressed in writing to the city administrator within 30 days of the determination.

Applications shall at a minimum identify the property for the appeal is sought, the name of the property owner, and describe in detail the determination which is being appealed. Within 60 days of receipt of the application, the City Council shall make its decision on the matter and send a written copy of such decision to the property owner by mail.

4.601. Permits Required. No person shall connect a private waste water disposal system or a building sewer to a public sewer and no person shall install, alter, repair, or extend any private wastewater disposal system in the City without first obtaining a permit therefor from the City Council or its authorized representative for the specific installation, alteration, repair, or extension. During the first one year that the sewer system is operational, there shall be no fee for such permit. Any person desiring or required to connect to a public sewer more than one year after the sewer system is

operational shall pay a fee as set by Resolution of the City Council. Permits shall be valid for a period of three (3) months from date of issue.

4.602. Applications. Applications for permits shall be made in writing upon printed blanks or forms furnished by the clerk and shall be signed by the applicant.(Ord. 16, 2nd S. 7/14/87)

4.603. Contents. Each application for a permit shall have thereon the correct legal description of the property on which the proposed installation, alteration, repair, or extension is to take place, and each application for a permit shall be accompanied by a plot plan of the land showing the location of any proposed or existing buildings located on the property with respect to the boundary lines of the property and complete plans of the proposed system with substantiating data, if necessary, attesting to the compliance with the minimum standards of this ordinance. A complete plan shall include the location, size and design of all parts of the system to be installed, altered, repaired, or extended. The application shall also show the recent or proposed location of water supply facilities and water supply piping, and the name of the person who is to install the system, and shall provide such further information as may be required by the City Council.

4.603.1. Applications for permit shall be made by the owner or authorized agent and the party employed to do the work, and shall state the location, name of owner, street number of the building to be connected, and how occupied. No person shall extend any private building drain beyond the limits of the building or property for which the service connection permit has been given.
(Ord. 16, 2nd S. 7/14/87)

4.603.2. There shall be two (2) classes of building sewer permits:

4.603.2.1. for residential and commercial service, and

4.603.2.2. for service to establishments producing industrial wastes.

In either case, the application shall be supplemented by any plans, specifications, or any other information considered pertinent in the judgment of the City. The industry, as a condition of permit authorization, must provide information describing its wastewater constituents, characteristics, and type of activity.

4.603.3. All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the City from any loss or damage that may be directly or indirectly occasioned by the installation of the building sewer.

4.603.3.1. No permit shall be issued to any person until a policy of insurance to the city, approved by the Council, is filed with the City Administrator conditioned that the permittee will indemnify and save harmless the city from all suits, accidents and damage that may arise by reason of any opening in any street, alley or public ground made by the licensee or by those in the licensee's employment for any purpose whatever, and that the licensee will replace and restore the street and alley over that opening to the condition existing prior to installation, adequately guard with barricades and lights, and will keep and maintain the same to the satisfaction of the Utilities Superintendent, and shall conform in all respects to any rules and regulations of the Council relative thereto, and pay all fines that may be imposed on the licensee by law.

4.603.4. A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. The building sewer from the front building may be extended to the rear building and the whole considered one building sewer. The City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such connection aforementioned.

4.603.5. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent or their representative, to meet all requirements of this ordinance.

4.604. Construction requirements. Every individual sewage disposal system or connection to the City system installed after the effective date of this ordinance and every alteration, extension, and repair to any system made after that date shall conform to the standards as adopted by the City Council by resolution from time to time.

4.604.1. The size, slopes, alignment, materials of construction of building sewers and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling of the trench, shall all conform to the requirements of the State Building and Plumbing Code or other applicable rules and regulations of the city.

4.604.2. The connection of the building sewer into the public sewer shall conform to the requirements of the State Building and Plumbing Code or other applicable rules and regulations of the city. All connections shall be made gastight and watertight, and verified by proper testing to prevent the inclusion of infiltration/inflow. Any deviation from the prescribed procedures and materials must be approved by the city prior to installation.

4.604.3. Elevation Below Basement Floor. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by the building drain shall be lifted by an approved means and discharged to the building sewer.

4.604.4. Excavations. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

4.605. Inspection. The City shall make such inspection or inspections as are necessary to determine compliance with this ordinance. No part of the system shall be covered until it has been inspected and accepted by the City. It shall be the responsibility of the applicant for the permit to notify the City Clerk that the job is ready for inspection or reinspection, and it shall be the duty of the City to make the indicated inspection within forty-eight (48) hours after notice has been given. It shall be the duty of the owner or occupant of the property to give the City free access to the property at reasonable times for the purpose of making such inspections. Upon satisfactory completion and final inspection of the system, the City shall issue to the applicant a certificate of approval.

If upon inspection the City discovers that any part of the system is not constructed in accordance with the minimum standards provided in this ordinance, the City shall give the applicant written notification describing the defects. The applicant shall pay an additional fee as set by the City Council from time to time for each reinspection that is necessary. The applicant shall be responsible for the correction or elimination of all defects, and no system shall be placed or replaced in service until all defects have been corrected or eliminated.

4.606. Compliance with Rules. The type, capacities, location, and layout of a private wastewater disposal system shall comply with all requirements of MN Rules Part 7080 entitled, "Individual Subsurface Sewage Treatment Systems" (as amended from time to time). No septic tank or cesspool shall be permitted to discharge to any natural outlet.

4.607. Connection to Public Sewer Required. At such time as a public sewer becomes available to a property not served by 1987 construction of a public sewer and serviced by a private wastewater disposal system, a direct connection shall be made to the public sewer within ninety (90) days in compliance with the Ordinance, and within ninety (90) days, any septic tanks, cesspools, and similar private wastewater disposal systems shall be cleaned of sludge, and the tank or pit filled with suitable material.

4.608. Owner's Expense. The owner(s) shall operate and maintain the private waste water disposal facilities in a sanitary manner at all times at no expense to the City.

4.609. State Regulations Govern. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the MPCA or the Department of Health of the State of Minnesota.

4.700 COST OF SEWER SERVICE

4.701. Billings. Bills for Sewer Service Charges shall be paid on a monthly basis for the month succeeding the period for which the service was provided. The monthly charge shall be as set by the City Council pursuant to this Ordinance. The City may provide a monthly bill based upon its calculations or may provide to the 'User' a rate sheet from which the 'User' shall be responsible for calculating the monthly charge. All amounts due hereunder shall be payable to the office of the City Clerk or other designated locations. The sewer user charge shall be included with and as a part of the monthly utility bill for all municipal services provided by the City, including, but not limited to water and garbage service.

4.702. Owner Liability. The owner of the premises shall be liable to pay for the service to such premises, and the service is furnished to the premises by the City only upon the condition that the owner of the premises is liable therefore to the City.

4.703. Additional Costs. Any additional costs caused by discharges to the treatment works of toxic or other incompatible wastes, including the cost of restoring wastewater treatment services, clean up, and restoration of the receiving waters and environs, and sludge disposal, shall be borne by the discharger(s) of said wastes, at no expense to the City.

4.704. Disconnection. It is the policy of the city to discontinue sewer service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The city's form for application for utility service and all bills shall contain, in addition to the title, address, room number, and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect:

4.704.1. That all bills are due and payable on or before the date set forth on the bill;

4.704.2. That if any bill is not paid by or before that date, a notice will be texted, emailed, or mailed containing a cutoff notice that if the bill is not paid within ten days of the mailing of the second bill, service will be discontinued for nonpayment; and

4.704.3. That any customer disputing the correctness of his or her bill shall have a right to a hearing at which time he or she may be represented in person and by counsel or any other person of his or her choosing and may present orally or in writing his or her complaint and contentions to the city official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

4.704.4. When it becomes necessary for the city to discontinue sewer service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, along with a turn-on charge as established by the Ordinance Establishing Fees and Charges adopted pursuant to 2.133 of this Code, as that ordinance may be amended from time to time.

4.705. Late Payments Penalty. At any time that a monthly sewer charge is not paid in a timely manner, the City Council may charge a late payment penalty which shall be such amount as is set by the City Council from time to time by resolution.

4.706. Lien. Each and every sewer service charge levied by and pursuant to the Lynd City Code is hereby made a lien upon the lot or premises served, and all such charges which are on September 30 of each year more than thirty (30) days past due and having been properly mailed to the occupant or owner of the premises, shall be certified by the City Council to the County Auditor, shall specify the amount thereof, the description of the premises, the name of the owner thereof, and the amount so certified shall be extended upon the tax rolls against such premises in the same manner as other taxes, and collected by the County Treasurer and paid to the City along with other taxes.

4.707. Assessments. Nothing in this Ordinance shall be held or construed as in any way stopping or interfering with the right of the City to levy as taxes or assessments against any premises affected any delinquent or past due sewer service charges.

4.708. Civil Action. As an alternative to levying a lien, the City may, at its discretion, file suit in a civil action to collect such amounts as are delinquent and due against the occupant, owner, or user of the real estate, and shall collect as well all attorney's fees incurred by the City in filing the civil action. Such attorney's fees shall be fixed by order of the court.

4.800 RATES

4.801. Sewer Service Charge. The City of Lynd hereby establishes a Sewer Service Charge System whereby all revenue collected from users of the wastewater treatment facilities will be used to affect all expenditures incurred for annual operation, maintenance, and replacement and for debt service on capital expenditure incurred in constructing the wastewater treatment works.

4.802. Users to Pay. Each user shall pay its proportionate share of operation maintenance and replacement costs of the treatment works, based on the users proportionate contribution to the total wastewater loading from all users. The administrative portion of the operation, maintenance, and replacement budget shall be recovered equally from all users.

4.803. Debt Service Charges. Each user shall pay debt service charges to retire local capital costs as determined by the City Council.

4.804. Rates and Charges Established. Sewer Service rates and charges to users of the wastewater treatment facility shall be determined and fixed in a "Sewer Service Charge System" developed according to the provisions of this Ordinance.

4.805. Use of Revenues. Revenues collected for Sewer Service shall be deposited in a separate fund known as "The Sewer Service Fund." Income from revenues collected will be expended to offset the cost of Operation, Maintenance, and equipment replacement for the wastewater treatment facility and to retire the debt for capital expenditure.

Sewer Service Charges and the Sewer Service Fund will be administrated in accordance with the provisions of Section 4.901, et seq.

4.900 CHARGES FOR WASTEWATER TREATMENT SERVICES

4.901. Rates Set by Resolution. Users of the City of Lynd wastewater treatment system shall pay such charges for the availability and/or use of the system in amounts set by resolution of the City Council.

4.905. Additional Assessments. The Sewer Service charges established in this ordinance shall not prevent the assessment of additional charges to users who discharge wastes with concentrations greater than Normal Domestic Strength or wastes of unusual character, or contractual agreements with such users, as long as the following conditions are met:

4.905.1. The user pays Operation, Maintenance, and Replacement costs in proportion to the user's proportionate contribution of wastewater flows and

loadings to the treatment plant, and no user is charged at a rate less than that of "Normal Domestic Strength Wastewater."

4.905.2. The measurements of such wastes are conducted according to the latest edition of Standard Methods for the Examination of Water and Wastewater in a manner acceptable to the City as provided for in this Ordinance.

4.906. Study of Unit Costs. A study of unit costs of collection and treatment processes attributable to Flow, BOD, TSS, and other significant loadings shall be developed for determining the proportionate allocation of costs to flows and loadings for users discharging wastes of greater than normal domestic strength or wastes of unusual character.

4.907. Debt Service Costs. Debt service costs for the wastewater treatment facilities shall be recovered by an annual general property tax levy made by the City Council.

4.908. Connection Fee. In addition to the general property tax levy, those structures which connect to the municipal sewer system more than one year after the date that the system first becomes operational as required by this Ordinance shall pay a fee set by Section 4.601, as and for a connection charge and an inspection permit to the City plus the actual costs of connection and the actual costs of extending the sewer service to their property line if such extension has not previously been installed by the City.

4.1000 ADMINISTRATION

4.1001. The City of Lynd hereby establishes a "Sewer Service Fund" as an income fund to receive all revenues generated by the Sewer Service Charge System and all other income dedicated to the operation, maintenance, replacement and construction of the wastewater treatment works, including taxes, special charges, fees, and assessments intended to retire construction debt.

4.1002. The City also establishes the following accounts as income and expenditure accounts within the Sewer Service Fund:

- a. Operation and Maintenance Account
- b. Equipment Replacement Account
- c. Debt Retirement Account

4.1003. All revenue generated by the Sewer Service Charge system, and all other income pertinent to the treatment system, including taxes and special assessments dedicated to retire construction debt, shall be held by the Clerk separate

and apart from all other funds of the City. Funds received by the Sewer Service Fund shall be transferred to the "Operation and Maintenance Account," the "Equipment Replacement Account," and the "Debt Retirement Account."

4.1004. Revenue generated by the Sewer Service Charge System sufficient to insure adequate replacement throughout the design of useful life, which ever is longer, of the wastewater facility shall be held separate and apart in the "Equipment Replacement Account" and dedicated to affecting replacement costs. Interest income generated by the "Equipment Replacement Account" shall remain in the "Equipment Replacement Account."

4.1005. Revenue generated by the Sewer Service Charge System sufficient for operation and maintenance shall be held separate and apart in the "Operation and Maintenance Account."

4.1006. The Sewer Service Charge System and Sewer Service Fund shall be administrated according to the following provisions:

4.1006.1. The City Clerk shall maintain a proper system of accounts suitable for determining the operation and maintenance, equipment replacement and debt retirement costs of the treatment works, and shall furnish the City Council with a report of such costs annually in August.

4.1006.2. The City Council shall annually determine whether or not sufficient revenue is being generated for the effective operation, maintenance, replacement and management of the treatment works, and whether sufficient revenue is being generated for debt retirement. The Council will also determine whether the user charges are distributed proportionately to each user in accordance with Article II, Section 2 of this Ordinance and Section 204(b)(2)(A) of the Federal Water Pollution Control Act, as amended.

4.1006.3. The City shall thereafter, but not later than the end of the year, reassess, and as necessary revise the Sewer Service Charge System then in use to insure the proportionality of the user charges and to insure the sufficiency of funds to maintain the capacity and performance to which the facilities were constructed, and to retire the construction debt.

4.1006.4. Each user will be notified annually in conjunction with a regular billing of that portion of the Sewer Service Charge attributable to operation, maintenance, and replacement.

4.1006.5. The City Clerk shall be responsible for maintaining all records necessary to document compliance with the Sewer Service Charge System adopted.

4.1100 PROHIBITED USES, PERMITTED USES SYSTEM, AND REGULATION OF THE SEWER

4.1101. It shall be unlawful to discharge to any natural outlet within the City or in any area under the jurisdiction of the City any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Ordinance.

4.1102. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

4.1103. In the event an Owner shall fail to connect to a public sewer in compliance with a notice given under 4.51 of this Ordinance, the City may undertake to have said connection made and shall assess the cost thereof against the benefited property and said assessment shall be a lien against said property.

Such assessment, when levied, shall bear interest at the legal rate for local improvements and shall be certified to the auditor of the County of Lyon and shall be collected and remitted to the City in the same manner as assessments for local improvements. The rights of the City under this subdivision shall be in addition to any other remedial or enforcement provisions of this ordinance.

4.1104. No person shall discharge or cause to be discharged directly or indirectly any storm water, surface water, ground water, roof runoff, subsurface drainage, waste from on-site disposal systems, unpolluted cooling or process water to any sanitary sewer except as authorized in writing.

4.1104.1. No person(s) shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or indirectly to the wastewater disposal system.

4.1104.2. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor in all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

4.1104.3. The connection of the building sewer into the public sewer shall conform to the requirements of the State of Minnesota Building and Plumbing Code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9. All such connections shall be made gastight and watertight, and verified by proper testing to prevent the inclusion of infiltration/inflow. Any deviation from the prescribed procedures and materials must be approved by the City prior to installation.

4.1104.4. All excavations for building sewer installation on any public property shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work, shall be restored in a manner satisfactory to the City.

4.1105. No person shall discharge or cause to be discharged, directly or indirectly, any of the following described substances to any public sewer:

4.1105.1. Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater disposal system or to the operation of the system. Prohibited materials include but are not limited to gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.

4.1105.2. Any water or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the wastewater treatment works.

4.1105.3. Any water or wastes having a pH lower than 5.5 or greater than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater disposal system..

4.1105.4. Solid or viscous substances, either whole or ground, in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper continuation of the wastewater facilities, but not limited to ashes, cinders, disposable diapers, glass grinding or polishing wastes, stone cuttings or polishing wastes, sand, mud straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and sanitary napkins, paper dishes, cups, milk containers, and other paper products.

The following described substances, materials, water, or wastes shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either sewers, the wastewater treatment works treatment process or equipment, will not have an adverse effect on the receiving stream and/or soil, vegetation and ground water, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The City may set limitations lower than limitations established in the regulations below if, in their opinion, such more severe limitations are necessary to meet the above objectives. In forming their opinion as to the acceptability of wastes, the City will give consideration to such factors as the quantity of subject waste in reaction to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, the City's NPDES and/or SDS permit, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the City are as follows:

4.1105.5. Noxious or malodorous liquids, gases or substances which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair.

4.1105.6. Any liquid or vapor having a temperature higher than one hundred fifty degrees F. (65.6 degrees C) or causing, individually or in combination with other wastewater, the influent at the wastewater treatment plant to have a temperature exceeding 104°F (40°C), or having heat in amounts which will inhibit biological activity in the wastewater treatment works resulting in interference therein.

4.1105.7. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) degrees and one hundred fifty degrees (150) degrees F (0 degrees and 65.6 degrees C) and any wastewater containing oil and grease concentrations of mineral origin of greater than 100 mg/l, whether emulsified or not.

4.1105.8. Any garbage that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under flow conditions normally prevailing in public sewers with no particles greater than one-half (2) inch in any dimension.

4.1105.9. Any water or wastes containing strong acid, iron pickling wastes, or concentrated plating solutions, whether neutralized or not.

4.1105.10. Any water or wastes containing phenols or other taste or odor producing substances which constitute a nuisance or hazard to the structures, equipment or personnel of the sewage works, or which interfere with the treatment required to meet the requirements of the State and Federal government and any other public agency with proper authority to regulate the discharge from the sewage treatment plant.

4.1105.11. Radioactive wastes or isotopes of such half-life or concentration that they are in non-compliance with regulations issued by the appropriate authority having control over their use or which have caused or may cause damage or hazards to the treatment works or personnel operating it.

4.1105.12. Any waters or wastes containing the following substances to the degree that any material received in the composite wastewater at the wastewater treatment works is detrimental to treatment process, adversely impacts land application, adversely effects receiving waters, or is in violation of standards pursuant to Section 307(b) of the Act (33 USC 1317(b)): Arsenic, Cadmium, Copper, Cyanide, Lead, Mercury, Nickel, Silver, total Chromium, Zinc and Phenolic compounds which cannot be removed by the city's wastewater treatment system.

4.1105.13. Materials which exert or cause:

4.1105.13.1. Unusual concentration of suspended solids (such as but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

4.1105.13.2. Excessive discoloration (such as, but not limited to, dye wastes and vegetables tanning solutions).

4.1105.13.3. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the wastewater treatment works.

4.1105.13.4. Unusual volume of flow or concentration of wastes constituting slug.

4.1105.13.5. Water or water containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of the

NPDES Permit or requirements of other governmental agencies having jurisdiction over discharge from the sewage treatment plant.

4.1105.14. Wastewater containing inert suspended-solids such as but not limited to fullers earth, lime slurries, and lime residues, or of dissolved solids such as but not limited to sodium chloride and sodium sulfate, in quantities that would cause disruption with the wastewater disposal system.

4.1105.15. Any waters or wastes containing BOD₅ or suspended solids of character and quantity that unusual attention or expense is required to handle the materials at the wastewater treatment works, except as may be permitted by specific written agreement.

4.1105.17. Prohibited wastes shall be regulated in accordance with the City's NPDES Permit, Section 307(a) and 307(b) of the Clean Water Act and all other applicable State and Federal regulations.

4.1105.18. Cost Of Repairing Or Restoring Sewers. In addition to any penalties that may be imposed for violation of any provision of this chapter, the city may assess against any person the cost of repairing or restoring sewers or associated facilities damaged as a result of the discharge of prohibited wastes by that person, and may collect the assessment as an additional charge for the use of the public sewer system or in any other manner deemed appropriate by the city.

4.1106. Discharges Hazardous To Life Or Constitute Public Nuisances. If any water or wastes are discharged, or are proposed to be discharged directly or indirectly to the public sewers, which water or wastes do not meet the standards set out in or promulgated under this Subsection or which in the judgment of the City may have a deleterious effect upon the treatment works, processes, equipment or receiving waters or which otherwise create a hazard to life or constitute a public nuisance, the City may take any or all of the following steps:

- 4.1106.1. Refuse to accept the discharges;
- 4.1106.2. Require control over the quantities and rates of discharge;
- 4.1106.3. Require pretreatment to an acceptable condition for the discharge to the public sewer pursuant to Section 307(b) of the Act (33 USC 1317(b)) and all amendments thereof; or
- 4.1106.4. Require payment to cover the added cost of handling and treatment of the wastes.

The design and installation of the plant and equipment for pretreatment or equalization of wastes flows shall be subject to the review and approval of the City and subject to the

requirements of Section 307(b) of the Clean Water Act and all applicable codes, ordinances, and laws.

4.1107. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Utilities Superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in 4.1105.7, any flammable wastes as specified in § 51.081(A), sand or other harmful ingredients; except that interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of the type to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner shall be responsible for the proper removal and disposal of the captured materials by appropriate means, and shall maintain a record of dates and means of disposal which are subject to review by the Utilities Superintendent. Any removal and hauling of the collecting materials not performed by the owner's personnel must be performed by a currently licensed waste disposal firm.

4.1108. Where preliminary treatment, flow equalizing facilities or interceptors are provided for any water or wastes, they shall be effectively operated and maintained continuously in satisfactory and effective condition by the owner at their expense, and shall be available for inspection by the City at all reasonable times.

No user shall increase the use of process water or, in any manner, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in Section 4.605 ordinance or contained in the National Categorical Pretreatment Standards or any state requirements.

4.1109. When required by the City, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control structure, together with such necessary meters and other appurtenances in the building sewer to facilitate observation sampling, and measurement of the wastes. Such structures and equipment when required shall be construed at the owner's expense in accordance with plans approved by the City and shall be maintained by the owner so as to be safe and accessible at all times.

No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the City of Lynd and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefore by the industrial concern, providing that National Categorical Pretreatment Standards and the City's NPDES and/or State Disposal System Permit limitations are not violated.

4.1109.1. Industrial Wastes; Requirements. The owner of any property serviced by a building sewer carrying industrial wastes may, at the discretion of the city, be required to provide laboratory measurements, tests or analyses of waters or wastes to illustrate compliance with this chapter and any special condition for discharge established by the city or regulatory agencies having

jurisdiction over the discharge. The number, type and frequency of sampling and laboratory analyses to be performed by the owner shall be as stipulated by the city. The industry must supply a complete analysis of the constituents of the wastewater discharge to assure that compliance with federal, state and local standards are being met. The owner shall report the results of measurements and laboratory analyses to the city at times and in the manner as prescribed by the city. The owner shall bear the expense of all measurements, analyses and reporting required by the city. At those times as deemed necessary, the city reserves the right to take measurements and supplies for analysis by an independent laboratory.

4.1110. All measurements, tests, and analyses of the characteristics of water and wastes to which reference is made in this ordinance shall be determined in accordance with Section 307(b) of the Clean Water Act; the latest edition of Standard Methods for the Examination of Water and Wastewater, and shall be determined at the control structure provided, or upon suitable samples taken at said control structures. In the event that no special structure has been required, the control structure shall be considered to be the nearest downstream manhole in the public sewer from the point at which the building sewer is connected.

4.1111. The City may conduct such tests as are necessary to enforce this ordinance, and employees of the City may enter upon any property for the purpose of taking samples, obtaining information or conducting surveys or investigations relating to such enforcement. Entry shall be made during operating hours unless circumstances require otherwise. In all cases where tests are conducted by the City for the purpose of checking to determine if a previously found violation of this ordinance has been corrected, the cost of such tests shall be charged to the user and added to the user's sewer charge. In those cases where the City determines that the nature of volume of a particular user's sewage requires more frequent than normal testing, the City may charge such user for the test, after giving the user ten (10) days' written notice of its intention to do so, and the cost thereof shall be added to the user's sewer charge.

4.1112. Protection From Accidental Discharge Of Prohibited Materials. Where required by the city, the owner of any property serviced by a sanitary sewer shall provide protection from an accidental discharge of prohibited materials or other substances regulated by this chapter. Where necessary, facilities to prevent accidental discharges of prohibited materials shall be provided and maintained at the owner's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Utilities Superintendent for review and approval prior to construction of the facility. Review and approval of the plans and operating procedures shall not relieve any user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. Users shall notify the Utilities Superintendent immediately upon having a slug or accidental discharge of substances of wastewater in violation of this chapter to enable countermeasures to be taken by the

Utilities Superintendent to minimize damage to the wastewater treatment works. The notification will not relieve any user of any liability for any expense, loss or damage to the wastewater treatment system or treatment process, or for any fines imposed on the city on account thereof under any state and federal law. Employers shall ensure that all employees who may cause or discover a discharge are advised of the emergency notification procedure.

4.1112.1. **Permitting Substance Or Matter To Flow Or Pass Into Public Sewers.** No person having charge of any building or other premises which drains into the public sewer shall permit any substance or matter which may form a deposit or obstruction to flow or pass into the public sewer. Within 30 days after receipt of written notice from the city, the owner shall install a suitable and sufficient catch basin or waste trap, or if one already exists, shall clean out, repair or alter the same, and perform other work as the Utilities Superintendent may deem necessary. Upon the owner's refusal or neglect to install a catch basin or waste trap or to clean out, repair, or alter the same after the period of 30 days, the Utilities Superintendent may cause the work to be completed at the expense of the owner or representative thereof.

4.1113. Any new connection(s) to the sanitary sewer system shall be prohibited unless sufficient capacity is available in all downstream facilities including, but not limited to capacity for flow, BOD₅, and Suspended Solids, as determined by the Superintendent.

4.1114. No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City.

4.1115. No person(s) shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under the charge of a misdemeanor.

4.1116. Repairing Service Connection. Whenever any service connection becomes clogged, obstructed, broken or out of order, or detrimental to the use of the public sewer, or unfit for the purpose of drainage, the owner shall repair or cause the work to be done as the Utilities Superintendent may direct. Each day after 30 days that a person neglects or fails to so act shall constitute a separate violation of this section, and the Utilities Superintendent may then cause the work to be done, and recover from the owner or agent the expense thereof by an action in the name of the city.

4.1117. Catch Basin Or Waste Traps Required For Motor Vehicle Washing Or Servicing Facilities. The owner or operator of any motor vehicle washing or servicing facility shall provide and maintain in serviceable condition at all times a catch basin or

waste trap in the building drain system to prevent grease, oil, dirt or any mineral deposit from entering the public sewer system.

4.1118. Special Agreement And Arrangement. No statement contained in this subchapter shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor by the industrial concern; provided, that National Categorical Pretreatment Standards and the city's NPDES/SDS Permit limitations are not violated.

4.1200 DEFINITIONS

4.1201. For the purpose of this ordinance, the following words and terms shall have the meanings set out below, unless the context specifically indicates otherwise.

4.1201.1. "Act" The Federal Water Pollution Control Act also referred to as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

4.1201.2. "BOD" (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biological oxidation of organic matter expressed in milligrams per liter, as determined in accordance with standard laboratory procedure as set out in the latest edition of Standard Methods for the Examination of Water and Wastewater.

4.1201.3. "Building drain" means that part of the lower horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

4.1201.4. "Building sewer" means the extension from the building drain to the public sewer or other place of disposal, also called house connection.

4.1201.5. "City" is the area within the corporate boundaries of the City of Lynd as presently established or as amended by ordinance or other legal actions at a future time. The term "City" when used herein may also be used to refer to the City Council and its authorized representatives.

4.1201.6. "ACOD" (denoting Chemical Oxygen Demand) means the quantity of oxygen utilized in the chemical oxidation of organic matter, expressed in milligrams per liter, as determined in accordance with standard laboratory procedure as set out in the latest edition of Standard methods for the Examination of Water and Wastewater.

4.1201.7. "Combined sewer" means a sewer originally designed and currently designated to receive both surface water runoff and sewage.

4.1201.8. "Garbage" means solid wastes resulting from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage, or sale of meat, fish, fowl, fruit, vegetables, or condemned food.

4.1201.9. "Industrial waste" means the solid, liquid, or gaseous wastes resulting from any industrial or manufacturing processes, trade or business, or from the development, recovery, or processing of natural resources.

4.1201.10. "Normal domestic strength waste" means wastes with a Biological Oxygen Demand Concentration not to exceed 250 milligrams per liter and a Total Suspended Solids Concentration not to exceed 300 milligrams per liter.

4.1201.11. "National pollution discharge elimination system permit(NPDES permit)" means the system for issuing, conditioning and denying permits for the discharge of pollutants from point sources into the navigable waters, the contiguous zone, and the oceans by the Administrator of the Environmental Protection Agency pursuant to Section 402 and 405 of the Federal Water Pollution Control Act Amendment of 1972.

4.1201.12. "Natural outlet" means any outlet into a watercourse? pond, ditch, lake or other body of surface or ground water.

4.1201.13. "Other wastes" shall mean garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, oil, tar, chemicals, offal, and other substances except sewage and industrial wastes.

4.1201.14. "Person" means any individual, firm, company, association, Society, corporation, municipal corporation, governmental unit, or group.

4.1201.15. "ph." means the logarithm of the reciprocal of the concentration of hydrogen ions in grams per liter of solution.

4.1201.16. "Process water" means any water used in the manufacturing, preparation, or production of goods, materials, or food. Process water is an industrial waste.

4.1201.17. "@Public sewer" means any sewer owned or operated by a unit or agency of government.

4.1201.18. "Sanitary sewer" means a sewer which carries sewage and to which storm, surface, and ground water are not intentionally admitted

4.1201.19. "Sewage" or "wastewater" means the water carried waste products from residences, public buildings, institutions, industrial establishments or other buildings including the excrementitious or other discharge from the bodies of human beings or animals, together with such ground water infiltration and storm and surface water as may be present.

4.1201.20. "Sewer" means a pipe or conduit for carrying sewage, industrial waste, or other waste liquids.

4.1201.21. "Sewer system" means pipe lines or conduits, pumping stations, force mains, and all other devices and appliances appurtenant thereto, used for collecting or conducting sewage, industrial wastes or other wastes to a point of ultimate disposal.

4.1201.22. "Shall" is mandatory; "may" is permissive.

4.1201.23. "Slug" means any discharge of water, wastewater, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration of flows during the normal operation.

4.1201.24. "Storm sewer" (sometimes termed "storm drain") means a sewer which carries storm and surface water and drainage but excludes sewage and industrial wastes, other than unpolluted cooling and process water.

4.1201.25. "Suspended solids" means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering, in accordance with the latest edition of Standard Methods of the Examination of Water and Wastewater. ATSS" (denoting Total Suspended Solids) means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering, in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater.

4.1201.26. "Unpolluted water" means clean water uncontaminated by industrial wastes, other wastes, or any substance which renders such water unclean or noxious, or impure so as to be actually or potentially harmful or detrimental or injurious to public health, safety, or welfare to domestic,

commercial, industrial, or recreational use, or to livestock, wild animals, birds, fish, or other aquatic life.

4.1201.27. "Wastewater facilities" means the structures, equipment and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

4.1201.28. "Wastewater treatment works" or "treatment works" or "waste water treatment plant" shall mean an arrangement of devices and structures for treatment of wastewater, industrial waste, and sludge. Sometimes used as synonymous for "waste treatment plant" or "wastewater treatment plant" or "water pollution control plant" or "sewage treatment plant".

4.1201.29. "Capital costs" means all reasonable and necessary costs and expenses incurred by the City in planning, designing, financing, and constructing disposal system facilities, including, but not limited to, costs and expenses for obtaining necessary permits, licenses, approvals and grants for design and construction costs; fees for legal and consulting services; or the acquisition of such facilities.

4.1201.30. "Commercial user" means any place of business including transient lodging, retail and wholesale establishments or places engaged in selling merchandise for personal, household, or industrial consumption which discharges sanitary waste as distinct from industrial wastewater.

4.1201.31. "Compatible pollutant" Biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in the NPDES/SDS Permit if the treatment facilities are designed to treat such pollutants to a degree which complies with effluent concentration limits imposed by the permit.

4.1201.32. "Incompatible pollutant" Any pollutant that is not defined as a compatible pollutant including non-biodegradable dissolved solids.

4.1201.33. "Interference" The inhibition or disruption of the District's wastewater disposal system processes or operations which causes or significantly contributes to a violation of any requirement of the District NPDES and/or SDS permit.

4.1201.34. "National categorical pretreatment standard" federal regulations establishing pretreatment standards for introduction of pollutants in publicly-owned wastewater treatment facilities which are determined to be not susceptible

to treatment by such treatment facilities or would interfere with the operation of such treatment facilities, pursuant to Section 307(b) of the Act.

4.1201.35. "Non-contact cooling water" the water discharged from any use such as air conditioning, cooling or refrigeration, or during which the only pollutant added, is heat.

4.1201.36. "Debt service" means the principal and interest necessary to pay bonded indebtedness.

4.1201.37. "Pretreatment" the treatment of wastewater from industrial sources prior to the introduction of the waste effluent into a publicly - owned treatment works.

4.1201.38. "Properly shredded garbage" the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than 1 inch (1.27 cm) in any dimension.

4.1201.39. "Flow" means the quantity of sewage expressed in gallons or cubic feet per twenty-four (24) hours.

4.1201.40. "State disposal system (SDS) permit" any permit (including any terms, conditions and requirements thereof) issued by the MPCA pursuant to Minnesota Statutes 115.07 for a disposal system as defined by Minnesota Statutes 115.01, Subdivision 8.

4.1201.41. "Governmental user" includes those establishments whose function is the administration and/or execution of governmental programs as well as the offices of executives, legislative bodies, and agencies which provide general support services for government.

4.1201.42. "Industrial user or industries" are:

4.1201.42.1 Entities that discharge into a publicly owned wastewater treatment works, liquid wastes resulting from the processes employed in industrial or manufacturing processes, or from the development of any natural resources. These are identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemental under one of the following divisions:

Division A. Agriculture, Forestry, and Fishing
Division B. Mining

- Division D. Manufacturing
- Division E. Transportation, Communications, Electric, Gas, and Sanitary Sewers
- Division I. Services

For the purpose of this definition, domestic waste shall be considered to have the following characteristics:

BOD5	less than 250 mg/l
Suspended Solids	less than 300 mg/l

4.1201.42.2. Any nongovernmental user of a publicly owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids, or gases, in sufficient quantity either singly or by interaction with other wastes, to contaminate the sludge of any municipal systems, or to injure or to interfere with any sewage treatment process, or which constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.

4.1201.43. "Residential" Shall mean all dwelling units such as detached, semi-detached, and row houses, mobile homes, garden and standard apartments, permanent multi-family dwellings (transient lodging, considered commercial in nature is not included).

4.1201.44. "Load" means quantities of sewage characteristics such as BOD, TSS, and other constituents as expressed in milligrams per liter (mg/l) or pounds per twenty-four (24) hours (lbs/24 hours).

4.1201.45. "Operation and maintenance costs" (O & M Costs) means the expenses related to the costs of the operation, maintenance, replacement and administration of the City facilities.

4.1201.46. "Replacement costs" means costs related to the expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary to maintain the capacity and performance during the useful life of the City facilities for which such facilities were designed and constructed. The term "Operation and Maintenance" includes replacement.

4.1201.47. "Sanitary wastes" mean' the liquid and water carried wastes discharged from sanitary plumbing facilities.

4.1201.48. "Sewer service charge" means the aggregate of all the charges including the user charge, debt service charges, and other sewer related charges that are billed periodically to users of the City facilities.

4.1201.49. "Toxic pollutant" the concentration of any pollutant or combination of pollutants which upon exposure to or assimilation into any organism will cause adverse affects as defined in standards issued pursuant to Section 307(a) of the Act.

4.1201.50. "User" means any person, or corporation, or other entity, whether municipal or otherwise, discharging sewage into the City disposal system facilities.

4.1201.51. "User charge" means a charge levied on users of City facilities for the cost of operation, maintenance, and replacement of such facilities.

4.1201.52. "Public sewer is operational" as provided in Section 4.501 is the date on which the City Council of the City of Lynd accepts the project as complete or such earlier date as they shall, by resolution, determine to be operational.

4.1201.53. AAdministration@ Those fixed costs attributable to administration of the wastewater treatment works (i.e., billing and associated bookkeeping and accounting costs)."

4.1300 POWERS AND AUTHORITY OF INSPECTORS

4.1301. Authorized Employees Permitted To Enter All Properties. The Utilities Superintendent or other duly authorized employees of the city, bearing proper credentials and identification, are authorized, with the permission of the licensee, owner, resident or other person in control of property within the city, to enter all properties for the purpose of inspection, observations, measurement, sampling and testing pertinent to the discharges to the city's sewer system in accordance with the provisions of this chapter. If the licensee, owner, resident or other person in control of property within the city does not permit the entrance to the property, the city shall obtain an administrative search warrant as provided for in § 10.20 before entering the property, except in emergency situations.

4.1302. Authorized Employees Obtaining Information For Industrial Processes. The Utilities Superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the type and source of discharge to the wastewater collection system. An industry may withhold information considered confidential; however, the industry must

establish that the revelation to the public of the information in question might result in an advantage to competitors.

4.1303. Authorized Employees To Observe Safety Rules. While performing necessary work on private properties, the Utilities Superintendent or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company, and the property owner shall be held harmless for injury or death to the city employees and the city shall indemnify the property owner against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as may be caused by negligence or failure of the company to maintain safe conditions as required in § 51.087.

4.1304. Authorized Employees Permitted To Enter All Property With Easements. The Utilities Superintendent or other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of but not limited to inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater facilities lying within the easement. All entry and subsequent work, if any, on the easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

4.1400. PENALTIES

4.1401. Any person found to be violating the provisions of this ordinance shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in the notice, permanently cease all violations.

4.1401.1 Any person who shall continue any violation beyond the time limit provided for in division 4.1301 of this section shall be guilty of a misdemeanor, and on conviction thereof, shall be fined in an amount not exceeding \$1000.00 for each such violation and incarcerated for a period of not more than ninety (90) days. Each day on which such violation shall continue shall be deemed as a separate offense.

4.1402. Any person violating any of the provisions of this ordinance shall become liable to the City for any expense, loss or damage occasioned by the City by reason of such violation.

4.1402.1. Each and every sewer service charge levied by and pursuant to this section is made a lien upon the lot or premises served, and all charges which are on October 31 of each year past due and delinquent shall be certified to the County Auditor by November 30, for collection. Nothing in this section shall be held or construed as in any way stopping or interfering with the right of the city to levy as taxes or assessments against any premises affected any delinquent or past due sewer service charges.

4.1402.2. As an alternative to levying a lien, the city may, at its discretion, file suit in a civil action to collect amounts as are delinquent and due against the occupant, owner or user of the real estate, and shall collect as well all attorney's fees incurred by the city in filing the civil action. Attorney's fees shall be fixed by order of the court.

4.1402.3. In addition to all penalties and costs attributable and chargeable to recording notices of the lien or filing a civil action, the owner or user of the real estate being serviced by the treatment works shall be liable for interest upon all unpaid balances at the rate of 8% per annum.

4.1403. Tampering With Wastewater Facilities. No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under the charge of a misdemeanor.

4.1500 VALIDITY

4.1501. The validity of any section, subdivision, clause, sentence or provision of this ordinance shall not affect the validity of any part of this ordinance which can be given effect without such invalid part or parts.

CHAPTER 5, STREET, SIDEWALK, AND PUBLIC PLACE REGULATIONS

5.100 STREETS AND PUBLIC PLACES

5.101. Obstruction of river, street, sidewalk, alley or highway. No person shall interfere with, obstruct, or cause to be obstructed or render dangerous for passage any river, street, alley, highway or sidewalk. Each day that any obstruction remains upon the public way shall constitute a separate offense.

5.102. Glass and other injurious substance on highways. No person shall throw or deposit, glass, metal, garbage, tin cans, or any similar substance upon any highway, and anyone who drops or throws, or permits to be dropped or thrown any such destructive or injurious substance shall immediately cause the same to be removed. Any wrecked or damaged vehicle on a street shall be removed therefrom without unreasonable delay, and pending removal shall be guarded during the period when lights are required on vehicles with proper lights, equal in intensity to ordinary parking lights, or by red flares; and when removed, no glass or injurious substance shall be left upon the street or roadway by this person removing the vehicle.

5.103. Wires above ground. No person shall string any wires less than 15 feet above the surface of the ground.

5.104. Hanging signs. No person shall allow any hanging signs, awnings or other structure to hang over the streets or sidewalk in a manner that may endanger public safety.

5.105. Excavations. No person shall make any excavation affecting the use by the public of streets, alleys, sidewalks or public grounds without prior approval of the City Council.

5.106. Trees and hedges at intersections. No person shall allow to grow any tree or hedge that will prevent a person from having a clear view of traffic approaching an intersection from cross streets.

5.107. Limbs of trees. No person shall allow to grow any limbs of trees which are not at least eight (8) feet above the surface of any sidewalk or nine (9) feet above the surface of any street.

5.108. Snow removal. Each person shall remove all snow or ice from any public sidewalk abutting their property within 12 hours after the snow or ice is deposited thereon. Each person shall also remove snow not less than three feet around any fire hydrants located on that person's property or on the boulevard adjacent to that person's property.

5.109. Penalty. Any person violating any provision of sections 5.101 to 5.109 shall be guilty of a misdemeanor.

5.201. Definition. The term Acurrent service@ as used in this Section 5.200 et seq. means one or more of the following: snow, ice or rubbish removal from sidewalks; weed elimination from street grass plots adjacent to sidewalks or from private property; removal of grass clippings or similar vegetative clippings blown, placed or deposited onto City streets by a property owner by a lawn mower, leaf blower or by any other means, and the repair of sidewalks and alleys.

5.202. Snow, Ice, Dirt and Rubbish.

5.202.1. Duty of owners and occupants. The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep such walk safe for pedestrians. No such owner or occupant shall allow snow, ice, dirt or rubbish to remain on the walk longer than 12 hours after its deposit thereon.

5.202.2. Prohibition on blowing, placing or otherwise leaving Grass or Vegetative Clippings on City Streets. Grass clippings and similar vegetation deposited on City streets is detrimental to the City storm sewer system. The owner and/or the occupant of any property adjacent to a city street shall not allow grass or vegetative clippings or debris to be blown, placed, deposited or stored on any city street by a lawnmower, leaf blower or any other means. Any clippings blown onto City streets must be immediately removed by the property owner.

5.202.3. Removal by city. The mayor shall remove, or direct city employees or agents to remove, from all public sidewalks all snow, ice, dirt, grass or vegetative clippings, and rubbish as soon as possible beginning 12 hours after any such matter has been deposited thereon or after the snow has ceased to fall. They shall keep a record showing the cost of such removal adjacent to each separate lot and parcel and shall deliver such information to the city clerk.

5.203. Weed Elimination.

5.203.1. Weeds as a nuisance. Any weeds, whether noxious as defined by law or not, growing upon any lot or parcel of land outside the traveled portion of any street or alley in the City of Lynd to a greater height than 12 inches or which have gone or are about to go to seed are a nuisance. The owner and the occupant shall abate or prevent such nuisance on such property and on land outside the traveled portion of the street or alley abutting on such property.

5.303.2. Notice. On or before June 1 of each year, and at such other times as ordered by resolution of the council, the city clerk shall publish once in the official newspaper a notice directing owners and occupants of property within the city to destroy all weeds declared by Subdivision 1 to be a nuisance and stating that if not so destroyed within 10 days after publication of the notice, the weeds will be destroyed by the mayor at the expense of the owner, and that if not paid, the charge for such work will be made a special assessment against the property concerned.

5.203.3. Removal by city. If the owner or occupant of any property in the city fails to comply with the notice within 10 days after its publication, the mayor shall cut and remove such weeds. They shall keep a record showing the cost of such work attributable to each separate lot and parcel, and shall deliver such information to the city clerk.

5.204. Repair of Sidewalks and Alleys.

5.204.1. Duty of owner. The owner of any property within the city abutting a public sidewalk or alley shall keep the sidewalk or alley in repair and safe for pedestrians. Repairs shall be made in accordance with the standard specifications approved by the council and on file in the office of the city clerk.

5.204.2. Inspections; notice. The mayor shall make such inspection as are necessary to determine that public sidewalks and alleys within the city are kept in repair and safe for pedestrians or vehicles. If they find that any sidewalk or alley abutting on private property is unsafe and in need of repairs, they shall cause a notice to be served by registered or certified mail or by personal service upon the record owner of the property and the occupant if the owner does not reside within the city or cannot be found therein, ordering such owner to have the sidewalk or alley repaired and made safe within 20 days, and stating that if the owner fails to do so, the mayor will do so on behalf of the owner, and that if unpaid it will be made a special assessment against the property concerned.

5.204.3. Repair by city. If the sidewalk or alley is not repaired within 20 days after receipt of the notice, the mayor shall report the facts to the council, and the council shall by resolution order the mayor to repair the sidewalk or alley and make it safe or order the work done by contract in accordance with the law. The mayor shall keep a record of the total cost of the repair attributable to each lot or parcel or property and report such information to the city clerk.

5.205. Personal Liability. The owner of property on which or adjacent to which a current service has been performed shall be personally liable for the cost of such service. As soon as the service has been completed and the cost determined, the city

clerk or other designated official shall prepare a bill and mail it to the owner and thereupon the amount shall be immediately due and payable at the office of the city clerk.

5.206. Assessment. On or about September 1 of each year, the clerk shall list the total unpaid charges for each type of current service against each separate lot or parcel to which they are attributable under this ordinance. The council may then spread the charges against property benefitted as a special assessment under Minnesota Statutes, Section 429.101 and other pertinent statutes for certification to the county auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the council may determine in each case.

5.300 SIDEWALKS

5.301. Sidewalks to Conform with City Code. No sidewalks shall be constructed or repaired in the City of Lynd unless it is done in conformity with the City Code.

5.302. Special conditions.

5.302.1. Regulatory requirements. All work shall comply with local ordinances and zoning requirements insofar as they apply.

5.302.2. Inspection and testing. No sidewalk project shall be completed until inspected and approved by the City. The decision as to the quality of materials and the workmanship shall solely be the responsibility of the City. Any portion of the work which is rejected by the City shall be replaced by the owner and/or contractor immediately with approved work.

5.302.3. Responsibility. No inspection, testing or approval by the City will in any way impose upon the City responsibility for the performance of the contractor.

5.302.4. Underground obstructions. No sidewalk shall be installed in such a way as to damage any underground utilities.

5.302.5. Safety. The owner and contractor will be solely and completely responsible for conditions of the job site, including safety of all persons or property during the performance of work.

5.303. Site Work.

5.303.1. Removal. All existing sidewalks shall be removed before the installation of new sidewalk. All earth or other materials shall be excavated to the appropriate subgrade. All such materials removed shall be loaded, hauled and disposed of in a manner or fashion approved by the City.

5.503.2. Subgrade.

5.303.2.1. The subgrade shall be fully compacted.

5.303.2.2. The subgrade shall be maintained in condition until all subsequent work is completed.

5.303.2.3. If unstable soils are encountered they shall be removed and replaced with suitable material.

5.303.2.4. Backfill. A sufficient quantity of top soil free from gravel and other formed materials suitable for growing grass shall be retained from the excavation or provided to the excavation site so that the area adjacent to the new sidewalk can be backfilled and seeded with said material upon completion of the project.

5.304. Materials.

5.304.1. Fine Aggregate. Fine aggregate shall consist of sand composed of clean, hard, durable, uncoated pebbles free from clay, dust, coal, soft or flaky particles, loam, shale, alkali, organic matter or other deleterious materials. Sand shall conform to MnDOT specification (1983) Section 3126.

5.304.2. Coarse Material. Coarse material shall consist of either crushed stone, crushed gravel, gravel or a combination thereof, and be of a uniform size. Be clean, hard and unweathered and uncoated, contain no vegetable matter, and shall conform to MnDOT specification (1982) Section 3137, Class 3.

5.305. Expansion Joints Construction.

5.305.1. Expansion joints shall be placed as appropriate throughout the project.

5.305.2. Concrete shall be composed of Portland cement, fine and coarse aggregate, water and an air entraining agent. The concrete shall be so proportioned and mixed as to produce a workable mixture suitable for the specific conditions of the placement in accordance with the requirements of these specifications.

5.305.3. Ready mix concrete shall conform to ASTM C94.

5.306. Finishing the Concrete.

5.306.1. Concrete shall be struck-off, consolidated, and finished to the sidewalk cross section shown on the standard detail.

5.306.2. Sidewalk cross-slope shall be as shown on the standard details unless otherwise approved by the City.

5.306.3. Final surface of the sidewalk shall be lightly broomed or finished with a wood float to produce a uniform texture.

5.307. Curing. The finished concrete shall be cured with a liquid curing compound or covered with plastic or burlap, or other protective covering. Concrete surfaces, after the curing process has been applied, shall be kept free of any foot and vehicular traffic and all other sources of abrasions for a minimum period of 72 hours.

5.308. Sidewalk Protection.

5.308.1. Contractors shall protect the sidewalk against all damage prior to final acceptance of the work by the City.

5.308.2. Vehicular traffic shall be excluded from the sidewalk by erecting and maintaining barricades until the concrete is at least five days old or for a longer period of time, if directed by the City.

5.308.3. Sufficient burlap, canvas or other approved material shall be kept at hand at all times to prevent concrete being damaged by sudden showers or rainfall.

5.308.4. Failure to properly protect unhardened concrete will constitute cause for rejection of the concrete by the City requiring the removal and replacement of the sidewalk by the property owner.

5.308.5. Sidewalk Thickness. All new sidewalk shall be a minimum of four inches thick. New sidewalk across driveways or driving crossings shall be a minimum of six inches thick.

5.309. Drawings. The attached drawings of three pages demonstrate suitable and approved techniques in the construction of sidewalks.

5.310. Location. The location of sidewalks with reference to the distance from the curb, distance from houses or other structures and width of the sidewalk shall be as determined by the City on a case by case basis upon application to the City by the property owner.

5.311. Elevation. That the elevation of the sidewalk shall be constructed in such a way as to be uniform and regular over the entire length of the sidewalk. The sidewalk shall be constructed in such a manner as to not have standing water existing on the surface of the sidewalk.

5.312. Unloading On Street Or Sidewalk. No person shall unload any heavy material in the streets of the city by throwing or letting the material fall upon the pavement of any street, alley, sidewalk, or other public way, without first placing some sufficient protection over the pavement.

5.313. Street And Sidewalk Obstruction. No person shall obstruct any street, alley, sidewalk, or other public way within the city by erecting thereon any fence or building, or permitting any fence or building to remain thereon. Each day that any fence or building is permitted to remain upon the public way shall constitute a separate offense.

5.314. Materials On Street Or Sidewalk.

5.314.1. No person shall encumber any street, sidewalk, or right-of-way. No owner, occupant, or person having the care of any building or lot of land, bordering on any street, sidewalk, or right-of-way shall permit it to be encumbered with barrels, boxes, cans, articles, or substances of any kind, so as to interfere with the free and unobstructed use thereof.

5.314.2. Except for the actions of the city employees and contractors carrying out their duties, no person shall:

- (1) Obstruct any street or sidewalk by depositing snow or ice thereon;
- (2) Dig any holes in any street, sidewalk or right-of-way;
- (3) Remove any earth, gravel, or rock from any street, sidewalk or right-of-way;
- (4) Obstruct any ditch draining any street or drain any noisome materials into any ditch;

(5) Deface, mar, damage, or tamper with any structure, work, material, equipment, tools, signs, markers, signals, paving, guardrails, drains or any other highway appurtenance on or along any street, sidewalk or right-of-way.

(6) Remove, injure, displace, or destroy right-of-way markers, or reference or witness monuments, or markers placed to preserve section or quarter-section corners;

(7) Drive over, through, or around any barricade, fence, or obstruction erected for the purpose of preventing traffic from passing over a portion of a street or sidewalk closed to public travel or to remove, deface, or damage any such barricade, fence or obstruction.

5.400. RIGHT-OF-WAY CONSTRUCTION REGULATIONS

5.401. Election To Manage The Public Right-Of-Way. In accordance with the authority granted to the city under state and federal statutory, administrative, and common law, the city hereby elects pursuant to this chapter to manage rights-of-ways within its jurisdiction.

5.402. Definitions And Adoption Of Rules By Reference. Minn. Rules Ch. 7819, as it may be amended from time to time, is hereby adopted by reference and is incorporated into this code as if set out in full. The definitions included in M.S. § 237.162, Minn. Rules 7819.0100 subps. 1 through 23, and Minn. Rules 7560.0100 subps. 1 through 12 are hereby adopted by reference and are incorporated into this chapter as if set out in full.

5.403. Permit Requirement.

5.403.1. Permit required. Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way without first having obtained the appropriate permit from the city.

(1) Excavation permit. An excavation permit is required to excavate that part of the right-of-way described in the permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.

(2) Obstruction permit. An obstruction permit is required to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the

duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

5.403.2. Permit extensions. No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless the person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and a new permit or permit extension is granted.

5.403.3. Delay penalty. In accordance with Minn. Rules part 7819.1000 subp. 3, as it may be amended from time to time and notwithstanding division (B) of this section, the city shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by the Ordinance Establishing Fees and Charges, adopted pursuant to Chapter 18 of this code, as it may be amended from time to time.

5.403.4. Permit display. Permits issued under this subchapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the Clerk, Utilities Superintendent or other person designated by the Council.

5.404. Permit Applications. Application for a permit shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

5.404.1. Submission of a completed permit application form, including all required attachments, scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities, and the following information:

- (1) Each permittee's name, gopher one-call registration certificate number, address and e-mail address if applicable, and telephone and facsimile numbers.
- (2) The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.
- (3) A certificate of insurance or self-insurance:
 - (a) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the

state, or a form of self-insurance acceptable to the Clerk, Utilities Superintendent or other person designated by the Council;

(b) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the use and occupancy of the right-of-way by the registrant, its officers, agents, employees, and permittees, and placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees, and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities, and collapse of property;

(c) Naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all coverages;

(d) Requiring that the Clerk, Utilities Superintendent or other person designated by the Council be notified 30 days in advance of cancellation of the policy or material modification of a coverage term;

(e) Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the Clerk, Utilities Superintendent or other person designated by the Council in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this chapter.

(4) The city may require a copy of the actual insurance policies.

(5) If the person is a corporation, a copy of the certificate required to be filed with the Secretary of State.

(6) A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other applicable state or federal agency, where the person is lawfully required to have the certificate from the Commission or other state or federal agency.

5.404.2. Payment of money due the city for:

(1) Permit fees as established by the Ordinance Establishing Fees and Charges adopted pursuant to Chapter 18 of this code, as that ordinance may be amended from time to time, estimated restoration costs and other

management costs;

(2) Prior obstructions or excavations;

(3) Any undisputed loss, damage, or expense suffered by the city because of the applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city; or

(4) Franchise fees or other charges as established by the Ordinance Establishing Fees and Charges adopted pursuant to Chapter 18 of this code, as that ordinance may be amended from time to time, if applicable.

5.405. Issuance Of Permit; Conditions.

5.405.1. Permit issuance. If the applicant has satisfied the requirements of this chapter, the Clerk, Utilities Superintendent or other person designated by the Council shall issue a permit.

5.405.2. Conditions. The director may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use. In addition, a permittee shall comply with all requirements of local, state and federal laws, including but not limited to M.S. § 216D.01 - 09 (Gopher One Call Excavation Notice System) and Minn. Rules Ch. 7560.

5.405.3. Trenchless excavation. As a condition of all applicable permits, permittees employing trenchless excavation methods, including but not limited to Horizontal Directional Drilling, shall follow all requirements set forth in M.S. Ch. 216D and Minn. Rules Ch. 7560, and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the city.

5.406. Permit Fees. Permit fees shall be in an amount established in the Ordinance Establishing Fees and Charges, adopted pursuant to Chapter 18, as it may be amended from time to time.

5.406.1. Excavation permit fee. The city shall establish an excavation permit fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to Chapter 18 of this code, as that ordinance may be amended from time to time, in an amount sufficient to recover the following costs:

(1) The city management costs; and

(2) Degradation costs, if applicable.

5.406.2. Obstruction Permit Fee. The city shall establish the obstruction permit fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to Chapter 18 of this code, as that ordinance may be amended from time to time, and shall be in an amount sufficient to recover the city management costs.

5.406.3. Payment of permit fees. No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction permit fees. The city may allow applicant to pay those fees within 30 days of billing.

5.406.4. Non-refundable. Permit fees as established by the Ordinance Establishing Fees and Charges adopted pursuant to Chapter 18 of this code, as that ordinance may be amended from time to time, that were paid for a permit that the Clerk, Utilities Superintendent or other person designated by the Council has revoked for a breach as stated in 5.414 are not refundable.

5.406.5. Application to franchises. Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

5.406.6. All permit fees shall be established consistent with the provisions of Minn. Rules part 7819.100, as it may be amended from time to time.

5.407. Right-Of-Way Patching And Restoration.

5.407.1. Timing. The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under this subchapter.

5.407.2. Patch and restoration. The permittee shall patch its own work. The city may choose either to have the permittee restore the right-of-way or to restore the right-of-way itself.

(1) City restoration. If the city restores the right-of-way, the permittee shall pay the costs thereof within 30 days of billing. If following the restoration, the pavement settles due to the permittee's improper backfilling, the permittee shall pay to the city, within 30 days of billing, all costs associated with having to correct the defective work.

(2) Permittee restoration. If the permittee restores the right-of-way itself, it may be required at the time of application for an excavation permit to post a construction performance bond or a deposit in accordance with the provisions of Minn. Rules part 7819.3000, as it may be amended from time to time.

5.407.3. Standards. The permittee shall perform patching and restoration according to the standards and with the materials specified by the city and shall comply with Minn. Rules part 7819.1100, as it may be amended from time to time. The Clerk, Utilities Superintendent or other person designated by the Council shall have the authority to prescribe the manner and extent of the restoration, and may do so in written procedures of general application or on a case-by-case basis.

5.407.4. Duty to correct defects. The permittee shall correct defects in patching, or restoration performed by the permittee or its agents. The permittee upon notification from the Clerk, Utilities Superintendent or other person designated by the Council, shall correct all restoration work to the extent necessary, using the method required by the Clerk, Utilities Superintendent or other person designated by the Council. The work shall be completed within five calendar days of the receipt of the notice from the Clerk, Utilities Superintendent or other person designated by the Council, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonal or unreasonable under this subchapter.

5.407.5. Failure to restore. If the permittee fails to restore the right-of-way in the manner and to the condition required by the Clerk, Utilities Superintendent or other person designated by the Council, or fails to satisfactorily and timely complete all restoration required by the Clerk, Utilities Superintendent or other person designated by the Council, the Clerk, Utilities Superintendent or other person designated by the Council at his or her option may do the work. In that event the permittee shall pay to the city, within 30 days of billing, the cost of restoring the right-of-way. If the permittee fails to pay as required, the city may exercise its rights under the construction performance bond.

5.407.6. Degradation fee in lieu of restoration. In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 30.11 of this code, as that ordinance may be amended from time to time. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

5.408. Supplementary Applications.

5.408.1. Limitation on area. A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area make application for a permit extension and pay any additional fees required thereby, and be granted a new permit or permit extension.

5.408.2. Limitation on dates. A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

5.409. Denial Of Permit. The city may deny a permit for failure to meet the requirements and conditions of this chapter or if the city determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

5.410. Installation Requirements. The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minn. Rules part 7819.1100, as it may be amended from time to time and other applicable local requirements, in so far as they are not inconsistent with M.S. §§ 237.162 and 237.163, as they may be amended from time to time.

5.411. Inspection.

5.411.1. Notice of completion. When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance Minn. Rules part 7819.1300, as it may be amended from time to time.

5.411.2. Site inspection. The permittee shall make the work-site available to city personnel and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

5.411.3. Authority of Clerk, Utilities Superintendent or other person designated by the Council.

(1) At the time of inspection, the Clerk, Utilities Superintendent or other person designated by the Council may order the immediate

cessation of any work which poses a serious threat to the life, health, safety, or well-being of the public.

(2) The Clerk, Utilities Superintendent or other person designated by the Council may issue an order to the permittee for any work which does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten days after issuance of the order, the permittee shall present proof to the Clerk, Utilities Superintendent or other person designated by the Council that the violation has been corrected. If proof has not been presented within the required time, the Clerk, Utilities Superintendent or other person designated by the Council may revoke the permit pursuant to § 93.33.

5.412. Work Done Without A Permit.

5.412.1. Emergency situations.

(1) Each person with facilities in the right-of-way shall immediately notify the city of any event regarding its facilities which it considers to be an emergency. The owner of the facilities may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency, the owner shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency.

(2) If the city becomes aware of an emergency regarding facilities, the city will attempt to contact the local representative of each facility owner affected, or potentially affected, by the emergency. In any event, the city may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the person whose facilities occasioned the emergency.

5.412.2. Non-emergency situations. Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit, and as a penalty pay double the normal fee for the permit, pay double all the other fees required by this code, deposit with the city the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this chapter.

5.413. Supplementary Notification. If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, the permittee shall notify the Clerk, Utilities Superintendent or other person designated by the Council of

the accurate information as soon as this information is known.

5.414. Revocation Of Permits.

5.414.1. Substantial breach. The city reserves its right, as provided herein, to revoke any right-of-way permit, without a fee refund if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by the permittee shall include, but shall not be limited, to the following:

(1) The violation of any material provision of the right-of-way permit;

(2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;

(3) Any material misrepresentation of fact in the application for a right-of-way permit;

(4) The failure to complete the work in a timely manner; unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittees control; or

(5) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to § 93.30.

5.414.2. Written notice of breach. If the city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit the city shall make a written demand upon the permittee to remedy that violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the city, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

5.414.3. Response to notice of breach. Within 24 hours of receiving notification of the breach, the permittee shall provide the city with a plan, acceptable to the city, that will cure the breach. The permittee's failure to so contact the city, or the permittee's failure to submit an acceptable plan, or the permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.

5.414.4. Reimbursement of city costs. If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including

restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with the revocation.

5.415. Mapping Data; Information Required.

5.415.1. Information required. Each permittee shall provide mapping information required by the city in accordance with Minn. Rules parts 7819.4000 and 7819.4100, as it may be amended from time to time.

5.415.2. Service laterals. All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minn. Rules 7560.0150, Subp. 2, shall required the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals, and the service lateral vertical locations in those cases where the city reasonably requires it. Permittees or other subcontractors shall submit to the city evidence of the installed service lateral locations. Compliance with this division (B) and with applicable Gopher State One Call law and Minn. Rules governing service laterals installed after December 31, 2005, shall be a condition of any city approval necessary for:

- (1) Payments to contractors working on a public improvement project including those under M. S. Ch. 429;
- (2) City approval of performance under development agreements, or other subdivision or site plan approval under M.S. Ch. 462.

The city shall reasonably determine the appropriate method of providing such information. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or for future permits to the offending permittee or its subcontractors.

5.416. Location Of Facilities.

5.416.1. Compliance required. Placement, location, and relocation of facilities must comply with applicable laws, and with Minn. Rules parts 7819.3100, 7819.5000 and 7819.5100, as they may be amended from time to time, to the extent the rules do not limit authority otherwise available to cities.

5.416.2. Corridors. The city may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities that is or, pursuant to current technology, the city expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the city involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.

5.416.3. Limitation of space. To protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use, the Clerk, Utilities Superintendent or other person designated by the Council shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making those decisions, the Clerk, Utilities Superintendent or other person designated by the Council shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

5.417. Damage To Other Facilities. When the city does work in the right-of-way and finds it necessary to maintain, support, or move facilities to protect it, the Clerk, Utilities Superintendent or other person designated by the Council shall notify the local representative as early as is reasonably possible and placed as required. The costs associated therewith will be billed to that registrant and must be paid within 30 days from the date of billing. Each facility owner shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages. Each facility owner shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the city's response to an emergency occasioned by that owner's facilities.

5.418. Right-Of-Way Vacation. If the city vacates a right-of-way which contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minn. Rules part 7819.3200, as it may be amended from time to time.

5.419. Indemnification And Liability. By applying for and accepting a permit under this chapter, a permittee agrees to defend and indemnify the city in accordance with the provisions of Minn. Rules 7819.1250, as it may be amended from time to time.

5.420. Abandoned Facilities; Removal Of Abandoned Facilities. Any person who has abandoned facilities in any right-of-way shall remove them from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the Clerk, Utilities Superintendent or other person designated by the Council.

5.421. Appeal. A right-of-way user that has been denied registration; has been denied a permit; has had permit revoked; believes that the fees imposed are invalid; or disputes a determination of the city regarding § 93.34(B) of this chapter, may have the denial, revocation, or fee imposition reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting. A decision by the City Council affirming the denial, revocation, or fee as

imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

5.422. Reservation Of Regulatory And Police Powers. A permittees or registrants rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

CHAPTER 6, VEHICLES AND TRAFFIC

GENERAL REGULATIONS

6.100 STATE HIGHWAY TRAFFIC REGULATIONS ADOPTED BY REFERENCE

6.101. The Highway Traffic Regulations Act is hereby adopted by reference. The regulatory provisions of M.S. Chapter 169, as it may be amended from time to time, are hereby adopted as a traffic ordinance regulating the use of highways, streets and alleys within the city and are hereby incorporated in and made a part of this section as completely as if set out in full herein.

6.102. The penalty for violation of the provisions of state statutes adopted by reference in this section shall be identical with the penalty provided for in the statutes for the same offense.

6.400 OPERATION OF VEHICLE

6.401. Speed regulations. No vehicle shall be driven on any street, alley or highway in the City at a speed in excess of 30 miles per hour unless a different speed has been established by the State of Minnesota and in that case such speed limits will prevail. The council shall by resolution have the authority to alter the 30 miles per hour speed limit.

6.402. Stopping a vehicle. No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device in any of the following places:

- (a) On a sidewalk.
- (b) In front of a public or private driveway.
- (c) Within an intersection.
- (d) Within 10 feet of a fire hydrant.
- (e) On a crosswalk.
- (f) Within 20 feet of a crosswalk at an intersection.
- (g) Within 30 feet upon the approach to any flashing beacon, stop sign or traffic control sign located at the side of the roadway.
- (h) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings.
- (i) Within 50 feet of nearest rail or a railroad crossing.

- (j) Within 20 feet of the driveway entrance to any fire station and, on the side of a street opposite the entrance to any fire station, within 75 feet of the entrance when properly sign posted.
- (k) Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic.
- (l) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
- (m) Upon any bridge or other elevated structure upon a highway.
- (n) At any place where official signs prohibit stopping.
- (o) where official signs are erected limiting the parking time thereon, for a period of time in excess of the time as designated by the official signs.

6.403. Time limit and winter parking.

6.403.1 It shall be unlawful for anyone to park motor vehicles, equipment or structures upon any street or alley in any one place for longer than 24 consecutive hours.

6.403.2 It shall be unlawful for anyone to park motor vehicles, equipment, or structures on any street or alley in the city for a period of twelve (12) hours after a snowfall of one (1) or more inches, or until the street has been plowed to full width.

6.403.3 Impoundment. Any policy officer may remove a vehicle from a street to a garage or other place of safety when the vehicle is left unattended and constitutes an obstruction to traffic or hinders snow removal or maintenance operations. Such vehicle shall not be released until the fees for towing and storage are paid in addition to any fine imposed for violation of this ordinance.

6.403.4 Prima Facie violation. The presence of any motor vehicle on any street when standing or parked in violation of the chapter is prima facie evidence that the registered owner of the vehicle committed or authorized the commission of the violation.

6.404. Removal of vehicles parked in violation. The Sheriff or deputy (officer) is authorized to require the person in charge of any vehicle parked in violation of this to code to move said vehicle to a place of safety and upon neglect or failure to do so, or in the case of any motor vehicle being left alone or abandoned in any such position said officer is authorized to provide for the towing of such vehicle to the nearest convenient garage or other place of safe keeping. There shall be an attempt to contact the owner of the motor vehicle and require the owner to immediately move the motor vehicle so as not to be in violation of this section. If the owner does not immediately remove the

motor vehicle or the owner cannot be located, the motor vehicle will be removed at the owner's expense.

6.405. Vehicles displayed for sale. No person shall park any vehicle on any street for the purpose of displaying it for sale.

6.406. House trailer parking. No person shall, for camping purposes, leave or park a house trailer on any street or right-of-way thereof.

6.407. Peace officer authority to direct traffic. No person shall stop or park a vehicle on any street when directed to proceed by any peace officer with authority to direct traffic.

6.409. Other Parking Restrictions.

6.409.1. The City Council may by resolution order the placing of signs, devices or marks, or the painting of streets or curbs prohibiting or restricting the stopping, standing or parking of vehicles on any street where, in its opinion, as evidenced by a finding in its official minutes, the stopping, standing or parking is dangerous to those using the highway, or where the stopping, standing or parking of vehicles would unduly interfere with the free movement of traffic. The signs, devices, marks or painting shall be official signs, devices, marks or painting, and no person shall stop, stand or park any vehicle in violation of the restrictions thereon or as indicated thereby.

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6.409.2. "No parking" signs may be placed by city employees on any street of the city to permit construction, repair, snow removal, street cleaning or similar temporary activities. While the signs are in place, it shall be unlawful to park any vehicle on the streets or portion thereof so posted.

6.409.3. It shall be unlawful for a person to park in an area designated by Council resolution and posted as a fire lane.

6.409.4. It shall be unlawful for a person to park a vehicle or permit it to stand, whether attended or unattended, on an alley within the city, provided that this does not prohibit the parking of vehicles for less than one hour on an alley for the purpose of access to abutting property for loading or unloading merchandise or other material when parking on the property itself is not available.

6.409.5. It shall be unlawful for a person to park a motor vehicle in an area designated by posted signs pursuant to Council resolution for certain types of vehicles, unless the motor vehicle is one of the types of vehicles specifically permitted.

6.409.6. Every vehicle parked upon any street with a curb shall be parked parallel to the curb, unless angle parking is designated by appropriate signs or markings. On streets with a curb, the right-hand wheels of any vehicle parked shall be within one foot of the curb. On streets without a curb, the vehicle shall be parked to the right of the main traveled portion of the street and parallel to it and in such a manner as not to interfere with the free flow of traffic, unless angle parking is designated by appropriate signs or markings.

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6.409.7. Unlicensed or inoperable vehicles cannot be parked on streets or in the front section of lot.

6.409.7.1. Minor repairs and tune-ups, such as replacement of spark plugs, spark plug wires, thermostat, radiator or heater hoses, oil changes and brake jobs shall be permitted on city streets; provided, that they can be accomplished within the same day and completed by 10:00 p.m. All other repairs shall be considered major repairs and shall not be permitted on any city street, unless the repairs are made within an enclosed structure allowed within the zoning district. Damage to city streets because of repairs or lack of repairs shall be charged to the person responsible for the damage to the city streets.

6.410. Cruising Prohibited.

6.410.1. As used in this section, CRUISING means the operation of a motor vehicle as defined in M.S. § 169.011, Subd. 42, as it may be amended from time to time, past a traffic control point as determined by a peace officer on a street in an area designated "No Cruising Zone" by City Council resolution four or more times between the hours of 9:00 p.m. and 3:30 a.m.

6.410.2. The passing of a traffic control point under the conditions previously stated, shall constitute unnecessary repetitive driving and is a violation of this section.

6.410.3. The following use of vehicles shall constitute valid exceptions to this prohibition: taxicabs for hire, buses, authorized emergency vehicle, vehicles

use used by or under contract with any governmental jurisdiction, any vehicle being used to conduct legitimate business activities.

6.410.4. This section may be enforced only in an area that has been posted as a "No Cruising Zone." Signs shall be posted at the beginning and the end of any public street, alley or highway, or portion thereof which is a no cruising zone.

6.411. MOTOR VEHICLE NOISE. Definitions. For the purposes of this section, the following phrases are defined as follows:

6.411.1. ABNORMAL OR EXCESSIVE NOISE:

(A) Distinct and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort and repose of any person or precludes their enjoyment of property or affects their property's value;

(B) Noise in excess of that permitted by M.S. § 169.69, as it may be amended from time to time, which requires every motor vehicle to be equipped with a muffler in good working order; or

(C) Noise in excess of that permitted by M.S. § 169.693 and Minn. Rules parts 7030.1000 through 7030.1060, as this statute and these rules may be amended from time to time, which establish motor vehicle noise standards.

6.411.2. ENGINE-RETARDING BRAKE. A dynamic brake, jake brake, Jacobs brake, C-brake, Paccar brake, transmission brake or other similar engine-retarding brake system which alters the normal compression of the engine and subsequently releases that compression.

6.411.2.1. It shall be unlawful for any person to discharge the exhaust or permit the discharge of the exhaust from any motor vehicle except through a muffler that effectively prevents abnormal or excessive noise and complies with all applicable state laws and regulations.

6.411.2.2. It shall be unlawful for the operator of any truck to intentionally use an engine-retarding brake on any public highway, street, parking lot or alley within the city which causes abnormal or excessive noise from the engine because of an illegally modified or defective exhaust system, except in an emergency.

6.411.2.3. Minnesota Statutes §§ 169.69 and 169.693 (motor vehicle noise limits) and Minn. Rules parts 7030.1000 through 7030.1060, as these statutes and rules may be amended from time to time, are hereby adopted by reference.

6.411.2.4. Signs stating “VEHICLE NOISE LAWS ENFORCED” may be installed at locations deemed appropriate by the City Council to advise motorists of the prohibitions contained in this section, except that no sign stating “VEHICLE NOISE LAWS ENFORCED” shall be installed on a state highway without a permit from the Minnesota Department of Transportation. The provisions of this section are in full force and effect even if no signs are installed.

6.412. Penalty. Any person violating any provision of sections 6.401 to 6.410 shall be guilty of a misdemeanor.

6.500 EMERGENCY VEHICLES

6.501. Speed limitations not applicable to emergency vehicles. The speed limitations of this code shall not apply to vehicles when operated with due regard for safety, under the directions of peace officers in the pursuit or apprehension of violators of the law or persons charged with or suspected of any such violation, or to fire departments or fire patrol vehicles when traveling in response to a fire alarm or to public ambulances in emergency use or service.
(ord. 3, sec. 9, 05/10/54)

6.502. Fire alarms. When a fire alarm shall be sounded or when the warning device of any emergency vehicles shall be sounded, all vehicles upon the streets of the City shall draw to the right side of the street and permit such vehicle to pass. No vehicle of any kind shall precede fire apparatus to a fire using the same street that it is using. No vehicle shall follow fire apparatus closer than 500 feet or be parked within the block where the fire apparatus has stopped in answer to a fire alarm. No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street or private driveway to be used at any fire or alarm of fire, without the consent of the fire department official in command. (ord. 3, sec. 9, 05/10/54)

6.503. Penalty. Any person violating any provision of section 6.501 to 6.503 shall be guilty of a misdemeanor.

6.700 PEDESTRIANS

6.701. Pedestrian Crossings. Pursuant to M.S. § 169.2151, as it may be amended from time to time, the city is authorized to designate pedestrian safety crossings on exclusive city streets where pedestrian safety considerations require extra time for pedestrian crossing in addition to the time recommended under the Minnesota Manual on Uniform Traffic Control Devices for pedestrian signals. The city may provide for timing of pedestrian signals for such crossings, consistent with the recommendations of the uniform manual for pedestrian signal timing at senior citizen and disabled pedestrian crossings. The location of such crossings may be designated by resolution.

6.702. Crossings For Seniors Or Disabled Persons. Pursuant to M.S. § 169.215, as it may be amended from time to time, the city may designate a crossing for senior citizens or disabled persons on any exclusive city street in the vicinity of a senior citizen housing project, senior citizen nursing home, or residential care facility for disabled persons on the basis of an engineering and traffic investigation prescribed by the Commissioner and subject to the uniform specifications adopted by the Minnesota Commissioner of Transportation.

6.800 SNOWMOBILES

6.801. Rules and regulations adopted by reference. It is the intent of this chapter to supplement M.S. §§ 84.81 to 84.915, and M.S. Ch. 169, as these statutes may be amended from time to time and Minn. Rules parts 6100.5000 through 6100.5800, as these rules may be amended from time to time, with respect to the operation of snowmobiles. These statutes and rules are incorporated herein by reference. This section is not intended to allow what the state statutes and rules prohibit, nor to prohibit what the state statutes and rules allow and except as otherwise amended by this code shall regulate the use of snowmobiles in the City.

6.802. Operation of snowmobiles. No person shall operate any snowmobile in any of the following manners:

- (a) At a speed in excess of 15 miles per hour upon a street, alley or thoroughfare in the City.
- (b) Upon the private property of another without the express consent of such other person or in a park or upon public ground other than a street, alley or thoroughfare in the City.
- (c) In such a manner as to annoy or disturb the rest or repose of any number of the public.
- (d) On any street, alley, thoroughfare or other public ground or place in the City unless such person operating the snowmobile holds a valid and current driver's license or if that person has no driver's license that person must be accompanied on the snowmobile by a person 18 years or older holding a current and valid driver's license. A person 14 years of age or older, but less than 18 years of age, may operate a snowmobile on streets

as permitted under this chapter and make a direct crossing of those streets only if he or she has in his or her immediate possession a valid snowmobile safety certificate issued pursuant to M.S. § 84.872, as it may be amended from time to time. No person under 14 years of age shall operate on streets or make a direct crossing of a city street as the operator of a snowmobile.

- (e) Abreast with one or more snowmobiles upon any street, alley or thoroughfare or public ground.
- (f) So as to pass or attempt to pass another moving snowmobile on any street, alley, thoroughfare or public ground.
- (g) While towing a sled, toboggan or other object unless such sled, toboggan or other object is attached to the snowmobile by a rigid towbar.
- (h) After twelve midnight nor before five o'clock A.M. upon any street, alley, thoroughfare or public ground or place in the City.
- (i) No snowmobile shall enter any uncontrolled intersection without making a complete stop. The operator shall then yield the right-of-way to any vehicles or pedestrians at the intersection, or so close to the intersection as to constitute an immediate hazard.

6.803. EQUIPMENT. It is unlawful for any person to operate a snowmobile any place within the limits of the city unless it is equipped with the following:

6.803.1. Standard mufflers which are properly attached and which reduce the noise of operation of the motor to the minimum necessary for operation. No person shall use a muffler cutout, by-pass straight pipe or similar device on a snowmobile motor.

6.803.2. Brakes adequate to control the movement of and to stop and hold the snowmobile under any condition of operation.

6.803.3. A safety or so called deadman throttle in operating condition.

6.803.3. When operated between the hours of one-half hour after sunset to one-half hour before sunrise, or at times of reduced visibility, at least one clear lamp attached to the front, with sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead during the hours of darkness under normal atmospheric conditions. The head lamp shall be so aimed that glaring rays are not projected into the eyes of an oncoming snowmobile operator. It shall also be equipped with at least one red light plainly visible from a distance of 500 feet to the rear during hours of darkness under normal atmospheric conditions.

6.803.4. Snowmobiles shall fly a pennant flag or red or blaze material, of a size not less than 12 inches by 9 inches, at a height of not less than six feet from ground level at any time when the vehicle is operated on public streets.

6.803.5. Reflective material at least 16 square inches on each side, forward of the handlebars and at the highest practical point on any towed object, so as to reflect lights at a 90 degree angle.

6.804. Unattended Snowmobiles. Every person leaving a snowmobile on a public place shall lock the ignition, remove the key and take the same with him or her.

6.805. Emergency Operation Permitted. Notwithstanding any prohibitions in this chapter, a snowmobile may be operated on a public thoroughfare in an emergency during the period of time and at locations where snow upon the roadway renders travel by automobile impractical.

6.806. Other Code Provisions Applicable. The other provisions of the Vehicle and Traffic code shall apply to the operation of snowmobiles upon city streets and alleys, except for those relating to required equipment, and except those which by their nature have no application.

6.807. Penalty. Any person violating any provision of sections 6.801 to 6.806 shall be guilty of a misdemeanor.

6.850 RECREATIONAL AND OTHER VEHICLES

6.850.1. Motorized Golf Cart

6.850.1.1. Adoption By Reference of MN Statute. Except as herein specifically addressed or modified, the provisions of MN Statute Section 169.045 are herewith incorporated by reference.

6.850.1.2. Definitions.

MOTORIZED GOLF CART. A small motorized vehicle, with electric or gas power, designed to carry two golfers and their golf clubs around a golf course between shots.

OTHER MOTORIZED CARTS. Motorized carts such as utility maintenance carts (such as John Deere Gators or similar such models from other manufacturers), and other such motorized carts which in the determination of the City Council are similar to the carts covered in this Ordinance.

6.850.1.3. Authorization To Use Motorized Golf Carts, and Other Motorized Carts. The operation of motorized golf carts, and other motorized carts on designated roadways within the City by persons having a valid permit issued by the City is hereby authorized.

6.850.1.4. Designated Roadways. All City streets, alleys, within City right-of-way, on County roads as shall be permitted by Lyon County, shall be designated motorized golf cart, and other motorized cart routes. No United States or State of Minnesota road shall be a designated roadway for carts.

6.850.1.5. Permit Required. Every person who operates a motorized golf cart, or other motorized cart on any City street or designated roadway shall first obtain a permit from the Lynd City Office. Each application for a permit shall give the name and address of the applicant, evidence of insurance which meets the requirements of Minnesota Statutes Section 65B.48, Subdivision 5, and such other information as the City may require. All permits expire on December 31 of the year printed on the permit license tab. An annual fee shall be established through City Council resolution for all permits issued. When a person purchases a new cart, mid-year, the new cart must be registered at the City Clerk's Office, but there will be no fee for the transfer of the permit from the old cart to the new cart. The permit sticker shall be affixed to the rear of the golf cart, or other motorized cart in a visible location.

6.850.1.6. Insurance. Owners and operators of motorized golf carts, or other motorized carts shall carry liability insurance coverage evidence of insurance in compliance with the provisions of Minnesota Statutes concerning insurance coverage for the golf cart, and carry evidence of such coverage on the cart.

6.850.1.7. Conditions. Operation of motorized golf carts, and other motorized carts on permitted streets within the City is subject to the following conditions:

(1) Motorized golf carts, or other motorized carts may be operated on designated routes from sunrise to sunset. They shall not be operated in inclement weather or when visibility is impaired by weather, smoke, fog, or other conditions, or at any time when there is insufficient light to clearly see persons in vehicles on the roadway at a distance of five hundred feet (500').

(2) Motorized golf carts or other motorized carts shall display a slow moving vehicle emblem provided for in Minnesota Statutes Section 169.522, when operated.

(3) Every person operating a motorized golf cart, or other motorized cart under permit on designated routes has all the rights and duties applicable to the driver of any other vehicle under the provisions of Chapter 169 of Minnesota Statutes, except when those provisions cannot be reasonably applied to motorized golf carts, or other motorized carts, and except as otherwise specifically provided in Minnesota Statutes Section 169.045, Subdivision 7.

(4) Every person operating a motorized golf cart, or other motorized cart must be at least sixteen (16) years of age, and have driving privileges in good standing.

6.850.1.8. Other Requirements for Operation. In addition to the provision of said State Statutes, no person shall drive or operate any motorized golf cart, or other motorized cart in the City of Lynd:

(1) At a speed in excess of 15 miles per hour upon designated routes in the City.

(2) Upon the private property of another without the express written consent of such other person.

(3) In such a manner as to annoy or disturb the rest or repose of any member of the public.

(4) Abreast with one or more motorized golf carts, or other motorized carts upon designated routes in the City.

(5) So as to pass or attempt to pass another moving motorized golf cart, or other motorized cart upon designated routes in the City.

(6) In a careless, reckless or negligent manner to endanger the person or property of another or cause injury or damage thereon.

(7) With an alcohol level of 0.08 percent or greater, or under the influence of a controlled substance.

(8) With no more passengers than there are seats on the motorized golf cart, or other motorized cart to carry them. All passengers shall sit on the seats provided, with no infants or young children riding on laps.

(9) Without a rearview mirror as required under Minnesota Statutes Section 70.

(10) No person shall operate a golf cart, or other motorized cart on a public Sidewalk, public park, or bike trail unless otherwise authorized.

6.850.1.9. Revocation or Denial of Permit.

(1) A permit may be revoked at any time or denied if it is shown that the permittee cannot safely operate the motorized golf cart, or other motorized cart on the designated routes or if the permittee has had a valid driver's license revoked for traffic violations.

(2) Authorized Law Enforcement Officers or the City Council may temporarily revoke the permit for violations of this Ordinance until such time as the City Council makes final determination regarding revocation.

6.850.1.10. Penalty for Operating Motorized Golf Carts, or Other Motorized Carts without a Permit. Any person who operates a motorized golf cart, or other motorized cart without having obtained a permit from the City is guilty of a misdemeanor.

6.850.1.11. Penalty. Any person who violates any provision of this Ordinance is guilty of a misdemeanor.

6.850.1.12. Limitation of Liability. Nothing in this Ordinance shall be construed as an assumption of liability by the City for any injuries to persons or property which may result from the operation of a motorized golf cart, or other motorized carts by a permit holder or the failure by the City to revoke said permit.

6.851 ALL TERRAIN, PIT BIKES, MINI BIKES, AND OTHER VEHICLES

6.851.1. Applicability. This Ordinance applies to the operation of all-terrain vehicles (ATVs), mini-trucks, pit bikes, mini bikes, and utility terrain vehicles (UTVs) on public lands, private property, public rights-of-way within the boundaries of the City of Lynd.

6.851.2. Definitions.

ALL-TERRAIN VECHICLES (ATVs). Class 1 ATVs are motorized flotation-tired vehicles with at least three but no more than six low pressure tires that have an engine displacement of less than 960 cubic centimeters and total dry weight of less than 1000 pounds. Hereinafter referred to as ATVs.

Class 2 ATVs are motorized flotation-tired vehicles with at least three but no more than six low pressure tires that have an engine displacement of less than 960 cubic

centimeters and total dry weight of 1000 to 1800 pounds. Hereinafter referred to as ATVs.

MINI-TRUCKS. Motorized recreational vehicles capable of cross-country travel on natural terrain, such as four-wheel drive trucks, sometimes referred to as off-road vehicles (ORVs). Such vehicles have four wheels, is propelled by an electric motor or an internal combustion engine with an enclosed cabin and a seat for the vehicle operator; commonly resembles a pickup truck or van, including having a cargo area or bed located at the rear of the vehicle; and was not originally manufactured to meet federal motor vehicle safety standards required of motor vehicles in the Code of Federal Regulations, title 49, sections 571.101 to 571.404 and successor requirements.

Mini-truck does not include:

(1) A neighborhood electric vehicle or a medium speed electric vehicle;

Or;

(2) A motor vehicle that meets or exceeds the regulations of the Code of Federal Regulations, title 49, section 571.500, and successor requirements.

UTILITY TERRAIN VEHICLES (UTVs). Also referred to as side-by-sides, a purpose built 4x4 load-carrying working vehicle for off-road work in natural terrain environments. Hereafter referred to as UTVs. Examples of UTVs include Polaris Rangers, Honda Big Reds, Cub Cadet Volunteers, Bristers Trail Wagons, and other similar vehicles.

DESIGNATED ROADWAYS. All City streets, alleys, within City right-of-way, on County roads as approved by Lyon County, shall be designated All-Terrain Vehicle (ATV) routes for use by ATVs, mini-trucks, and UTVs. No United States or State of Minnesota road shall be a designated roadway for ATVs, mini-trucks or UTVs.

6.851.3. Adoption of State Law By Reference. The provisions of Minnesota State Statutes Sections 84.82 through 84.929 are hereby adopted and made a part of this Ordinance as if set out in full. Said Sections define terms used in this Ordinance, require registration and licensing, restrict operation upon state and county highways, regulate necessary equipment and provide penalties for violations thereof.

6.851.4. Authorization To Use ATVs, Mini-Trucks, Pit Bikes, Mini Bikes, and UTVs. The operation of ATVs, mini-trucks, pit bikes, mini bikes, and UTVs on designated roadways within the City by persons having a valid permit issued by the City is hereby authorized.

6.851.5. Permit Required. Every person who operates an ATV (Class 1), mini-truck, pit bike, mini bike, or UTV on any designated roadway in the City shall first obtain a permit from the Lynd City Office. Each application for a permit shall give the name and address of the applicant, evidence of insurance in compliance with the provisions of Minnesota Statutes concerning insurance coverage for the, utility terrain vehicle, all-terrain vehicle, or minitruck., and such other information as the City may require. All permits expire on December 31 of the year printed on the permit license tab. An annual fee shall be established through City Council resolution for all permits issued. When a person purchases a new ATV, mini-truck, pit bike, mini bike, or UTV, (mid-year), the new ATV, mini-truck, pit bike, mini bike, or UTV must be registered at the City Clerk's Office, but there will not be a fee for the transfer of the permit from the old ATV, mini-truck, pit bike, mini-bike, or UTV to the new unit. The permit sticker shall be affixed to the rear of the ATV, mini-truck, pit bike, mini bike, and UTV in a visible location.

6.851.6. License and Safety Certificate Requirement. No person shall permit the operation of an ATV, mini-truck, pit bike, mini bike, or UTV who is under sixteen (16) years of age, and persons born after July 1, 1987, must have successfully completed the ATV Safety Training Course available through the Minnesota Department of Natural Resources, before operating an ATV within the City of Lynd. Mini-truck operators must also possess a valid driver's license.

6.851.7. State Registration. All ATVs, mini-trucks and UTVs operated in the City of Lynd must be registered with the Minnesota Department of Natural Resources (DNR). Each ATV, mini-truck and UTV registered with DNR is issued a registration number and a registration card and decal. The DNR issued registration number and validation decal must be placed on the ATV, mini-truck and UTV.

6.851.8. State Mini-Truck Highway Use Registration Exception. If a mini-truck is licensed for roadway use, a license plate must be displayed on the mini-truck, along with the mini-truck decal in the upper left corner of the rear motor vehicle license plate. Also, a City permit must be displayed on the rear of the vehicle.

6.851.9. Insurance. Owners and operators of ATVs, mini-trucks, pit bikes, mini bikes, and UTVs shall carry liability insurance in compliance with the provisions of Minnesota Statutes concerning insurance coverage for the, utility task vehicle, all-terrain vehicle, or minitruck and carry evidence of such coverage on the permitted vehicle.

6.851.9. Conditions. Operation of ATVs, mini-trucks and UTVs on designated roadways in the City is subject to the following conditions:

- (1) ATVs and UTVs may be operated on designated routes from sunrise to sunset. They shall not be operated in inclement weather or when visibility is impaired by weather, smoke, fog, or other conditions, or at any time when there

is insufficient light to clearly see persons in vehicles on the roadway a distance of five hundred feet (500').

(2) ATVs, mini-trucks, pit bikes, mini bikes, and UTVs shall display a license plate and/or sticker issued by the City when issued a permit by the City.

(3) Every person operating an ATV, mini-truck and UTV under permit on designated routes has all the rights and duties applicable to the driver of any other vehicle under the provisions of Chapter 169 of Minnesota Statutes, except when these provisions cannot be reasonably applied to ATVs and except as otherwise specifically provided in Minnesota Statutes Section 169.045, Subdivision 7.

(4) Every person operating an ATV, mini-truck and UTV must be at least sixteen (16) years of age and hold a valid current Minnesota drivers license or have successfully completed the ATV Safety Training Course through the Minnesota Department of Natural Resources.

(5) Anyone born after July 1, 1987, and who is 16 years or older, must successfully complete the ATV safety training course before operating an ATV within the City.

(6) All ATV operators and passengers under the age of eighteen (18) must wear a helmet.

(7) Class 2 ATV, mini-truck and UTV operators and passengers under the age of eighteen (18) must wear a seatbelt if provided by the machine manufacturer.

6.851.10. Equipment Required. No person shall operate an ATV or UTV on designated roadways for such vehicles, unless equipped with:

(1) Brakes—Brakes adequate to control the movement of and to stop and to hold such vehicle under any conditions of operation.

(2) Mufflers—Standard mufflers which are properly attached and which reduce the noise of operation of the vehicle to the minimum noise necessary for operating the vehicle, and no person shall use a muffler cut-out, bypass or similar device on said vehicles.

(3) Safety Throttle—A safety or "dead man" throttle which is defined as a device which, when pressure is removed from the accelerator or throttle, causes the motor to be disengaged from the driving track.

(4) Lights—Must have working head and tail lights.

(5) Rearview Mirror.

6.851.11. Mini-Truck Equipment Required. Notwithstanding any other law, a mini truck may be operated on designated roadways under permit if it is equipped with:

(1) at least two headlamps;

(2) at least two tail lamps;

(3) front and rear turn-signal lamps;

(4) an exterior mirror mounted on the driver's side of the vehicle and either:

(a) an exterior mirror mounted on the passenger's side of the vehicle; or

(b) an interior mirror.

(5) a windshield;

(6) a seat belt for the driver and front passenger; and

(7) a parking brake.

6.851.12. Unattended Vehicles on Public Property Prohibited. It is unlawful for the owner or operator to leave or allow an ATV, mini-truck or UTV to be or remain unattended on public property, streets or highways, while the motor is running or with the keys to start same in the ignition switch.

6.851.13. Other Requirements for Operation. In addition to the provision of said State Statutes, no person shall drive or operate an ATV, mini-truck, pit bike, mini bike, or UTV in the City of Lynd:

(1) At a speed in excess of 15 miles per hour upon designated routes in the City.

(2) Upon the private property of another without the express written consent of such other person.

(3) In a manner so as to create a loud, unnecessary, or unusual noise which disturbs, annoys, or interferes with the peace and quiet of other persons.

(4) Abreast with one or more ATVs, mini-trucks, pit bike, mini bike, or UTVs while upon any street, alley, or thoroughfare or other place in the City.

(5) So as to pass or attempt to pass another moving ATV, mini-truck, pit bike, mini bike, or UTV upon designated routes in the City.

(6) In a careless, reckless or negligent manner to endanger the person or property of another or cause injury or damage thereon.

(7) With an alcohol level of 0.08 percent or greater, or under the influence of a controlled substance.

(8) With no more passengers than there are seats on the ATV, mini-truck or UTV to carry them. All passengers shall sit on the seats provided, with no infants or young children riding on laps.

(9) Without a rearview mirror as required under Minnesota Statutes Section 169.70.

(10) No person shall operate an ATV, mini-truck, pit bike, mini bike, or UTV on a public sidewalk or trail unless otherwise authorized.

(11) While towing a sled, toboggan, wagon, trailer, or other object unless such sled, toboggan, wagon, trailer or other object is attached to the ATV, mini-truck or UTV by a solid hitch.

6.851.14. Revocation or Denial of Permit.

(1) A permit may be revoked at any time or denied if it is shown that the permittee cannot safely operate an ATV, mini-truck, pit bike, mini bike, or UTV on the designated routes or if the permittee has had a valid driver's license revoked for traffic violations.

(2) Authorized Law Enforcement Officers or the City Council may temporarily revoke the permit for violations of this Ordinance until such time as the City Council makes final determination regarding revocation.

6.851.15. Penalty for Operating ATVs, Mini-trucks, Pit Bike, Mini Bike, or UTVs Without a Permit. Any person who operates an A'TV, mini-truck or UTV, without having obtained a permit from the City is guilty of a misdemeanor.

6.851.16. Penalty. Any person who violates any provision of this Ordinance is guilty of a misdemeanor.

6.851.17. Limitation of Liability. Nothing in this Ordinance shall be construed as an assumption of liability by the City for any injuries to persons or property which may result from the operation of an ATV, mini-truck, pit bike, mini bike, or UTV by a permit holder or the failure of the City to revoke said permit.

6.851.18. Effective Date. This Ordinance becomes effective from and after its passage and publication.

6.852 Bicycles.

6.852.1. For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

BICYCLE. Every device propelled solely by human power upon which any person may ride, having two tandem wheels, except scooters and similar devices, and including any device generally recognized as a BICYCLE though equipped with two front or rear wheels.

6.852.2. Traffic Laws Apply. Every person riding a bicycle on a street or upon any path set aside for the exclusive use of bicycles shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this title, except as to special regulations in this chapter and except as to those provisions of this chapter which by their nature can have no application.

6.852.3. Manner And Number Riding.

6.852.3.1. It is unlawful for any person propelling a bicycle to ride other than upon or astride a permanent and regular seat attached thereto.

6.852.3.2. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped, except on a baby seat attached to the bicycle, provided that the seat is equipped with a harness to hold the child securely in the seat and that protection is provided against the child's feet hitting the spokes of the wheel, or in a seat attached to the bicycle operator.

6.852.4. Hitching Rides. It is unlawful for any person riding upon any bicycle, coaster, roller skates, roller blades, skate board, sled, or toy vehicle to attach the same or themselves to any vehicle upon a street.

6.852.5. Where To Ride.

(A) Every person operating a bicycle upon a street shall ride as near to the right side of the street as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(B) Persons riding bicycles upon a street shall not ride more than two abreast except on paths or parts of streets set aside for the exclusive use of bicycles.

6.852.6. Right-Of-Way; Sidewalks. Whenever a person is riding a bicycle upon a sidewalk, the person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing the pedestrian.

6.852.7. Carrying Articles. It is unlawful for any person operating a bicycle to carry any package, bundle, or article which prevents the driver from keeping at least one hand upon the handlebars.

6.852.8. Lighting And Brake Equipment.

6.852.8.1. Every bicycle, when in use at night time, shall be equipped with, or its operator shall carry a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front, and with a red reflector on the rear of a type approved by the Department of Public Safety which is visible from all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector. No person may, at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet ahead, operate a bicycle unless the bicycle or its operator is equipped with reflective surfaces that shall be visible during the hours of darkness from 600 feet when viewed in front of lawful lower beams of headlamps on a motor vehicle. The reflective surfaces shall include reflective materials on each side of each pedal to indicate their presence from the front or the rear and with a minimum of 20 square inches on each side of the bicycle or its operator of white reflective material. All reflective materials used in compliance with this section shall meet the requirements as prescribed by the Commissioner of Public Safety.

6.852.8.2. Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

6.852.9. Sale With Reflectors. It is unlawful for any person to sell or offer for sale any new bicycle unless it is equipped with such reflectors as are prescribed in 6.852.8. .

6.853. Roller Blades, Roller Skates, Roller Skis And Skateboards

6.853.1. Definitions. For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

BUSINESS DISTRICT. That part of the City so designated by council resolution.

OPERATE. To ride on or upon or control the operation of roller blades, roller skates, or a skateboard.

OPERATOR. Every person who operates or is in actual physical control of roller blades, roller skates, or a skateboard.

ROLLER BLADES/ROLLER SKATES. A shoe with wheels attached or a device with wheels which is designed to be attached to a shoe.

ROLLER SKIS. A pair of skis platformed with wheels attached which is intended to simulate skiing.

SKATEBOARD. A device for riding-upon, usually while standing, consisting of an oblong piece of wood, or of other composition, mounted on skate wheels.

6.853.2. Unlawful Acts.

6.853.2.1. It is unlawful for any person to operate roller blades, roller skates, roller skis or a skateboard under the circumstances set forth hereafter:

(A) On private property of another without the express permission to do so by the owner or occupant of the property; or

(B) In any careless, reckless, or negligent manner so as to endanger or be likely to endanger the safety of any person or property of any other person.

6.853.2.2. It is unlawful for any person operating roller blades, roller skates, roller skis or a skateboard to attach the same, or the person of the operator, to any vehicle upon a street.

6.853.2.3. Every person operating roller blades, roller skates, roller skis or a skateboard upon a street shall ride as close as possible to the right-hand curb or edge of the street.

6.853.2.4. Every person operating roller blades, roller skates, roller skis or a skateboard upon a street shall observe the same rules of the road as required of bicycles, pursuant to M.S. § 169.222.

6.853.3. Right-Of-Way. The operator of roller blades, roller skates, roller skis or a skateboard emerging from any alley, driveway, or building, upon approaching a sidewalk or the sidewalk area extending across any alleyway, shall yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area and upon entering the street shall yield the right-of-way to all vehicles approaching on the street.

6.853.4. Hours of Use. It is unlawful for any person to use roller blades, roller skates, roller skis or a skateboard upon a public street, sidewalk, or other roadway from 10:00 p.m. to 6:00 a.m., except on private property with express permission of owner, and except if the roller blades, roller skates, roller skis, skateboard or operator are equipped with reflective surfaces that shall be visible during the hours of darkness from 600 feet when viewed in front of lawful lower beams of head lamps on a motor vehicle. The reflective material shall be a minimum of 40 square inches. All reflective materials used in compliance with this section shall meet the requirements as prescribed by the Commissioner of Public Safety.

6.853.5. Violations. A person apprehended by a peace officer in violation of the provisions of 6.852 and 6.853 does, by his or her use of the public sidewalks, streets, and public parking lots, consent to the impoundment by a sheriff officer of the bicycle, roller blades, roller skates, roller skis or skateboard for a period of three days upon a first offense, a week upon the second offense and 30 days upon a third or additional offense. Any operator aggrieved by the impoundment of his or her bicycle, roller blades, roller skates, roller skis or skateboard may petition the Council for a hearing thereon at the next regular Council meeting following the impoundment. This provision is in addition to the provisions for fines and penalties as set forth in the Code.

CHAPTER 7, SANITATION AND ENVIRONMENTAL CONTROL

7.100 GARBAGE AND RUBBISH

7.101. Definitions. For the purposes of this chapter, the following words and phrases have the meanings given them in this section.

7.101.1. Garbage means organic waste resulting from the preparation of food and decayed and spoiled food from any source.

7.101.2. Refuse includes garbage and rubbish.

7.101.3. Rubbish means inorganic solid waste such as tin cans, glass, paper, ashes, sweepings, etc.

7.101.4. Service means having available the right to use garbage collections of the City or its contractual agent, whether or not the facilities are, in fact, used.

7.101.5. Contractor means a contractor licensed by the City to collect refuse.

7.101.6. Recyclable Materials means separately sorted, the following items:

- a. All paper products
- b. Newspapers
- c. Magazines
- d. Tin cans and metal items
- e. Aluminum cans and scrap aluminum
- f. Clear glass, bottle grade only
- g. Brown glass, bottle grade only
- h. Green glass, bottle grade only
- i. Commingled plastic food or personal care containers
- j. Cardboard
- k. Paperboard
- l. Clothing
- m. Other items identified by Lyon County as recyclable refuse

7.101.7. Yard Waste means branches, leaves, grass, flowers, or other vegetative materials from the yard or garden.

7.101.8. Prohibited Material means all those items which, by city, county, state, or federal regulation are prohibited from being placed in a landfill and include items which, by law, are required to go to a hazardous waste disposal site or a compost site. Prohibited materials include yard waste, garden waste, paints, oils, thinners, fertilizers, pesticides, automobile batteries, fluorescent tubes, and other items which may from time to time be prohibited by landfill regulations.

7.101.9. Waste Material means refuse, recyclable materials, yard waste and prohibited materials.

7.102 General Regulations.

7.102.1. Prohibited Acts. It shall be unlawful for any person to sweep, throw or deposit any garbage, trash, debris, stagnant water or dead animal into, upon or along any public property, private property of another, except as may be specifically provided by this chapter.

7.102.2. It shall be unlawful for any person owning or otherwise in control of any premises within the city to permit any of the conditions described in division 7.102.1 to exist upon property owned or controlled by him or her after having actual or constructive notice thereof.

7.102.3. Scattering of Waste Material. No person shall deposit anywhere within the city any waste material, garbage, debris, or dead animals in such manner that it may be carried or deposited by the elements upon any public or private premises within the city.

7.102.4. Burying of Waste Material; Composting. No person shall bury any refuse in the city except in an approved sanitary landfill, but leaves, grass, clippings, and easily biodegradable, non-poisonous garbage may be composted on the premises where such refuse has been accumulated. Garbage may be composted only in a rodent-proof structure and in an otherwise sanitary manner and after the council gives its approval to such composting after it finds that the composting will be done in accordance with these standards.

7.102.5. Unauthorized Use of Containers. No person shall utilize any facility or container to dispose of refuse unless either the facility or container is owned by the person making the deposit or the person depositing the refuse in the container or facility has obtained the prior permission to utilize such facility or container from the owner.

7.102.6. Tree Dump. The City, from time to time, may make available to citizens of the City of Lynd an area or location for the composting or depositing of yard waste. The availability of this area or facility shall be in accordance with such regulations, rules, and procedures as shall be adopted by the City Council by resolution from time to time. The area shall be designated as the tree dump site and may accept such yard waste as the city may authorize by resolution.

7.102.6.1. Unauthorized Use. No person shall utilize the tree dump site for any purpose other than the delivery of yard waste, as defined herein. It shall be specifically unlawful and improper to deposit, leave, abandon, dispose of: demolition materials, used construction materials, garbage, rubbish, refuse, or recyclable materials at the tree dump site. All prohibited materials as defined in Section 7.101.8 are prohibited from being deposited, left, abandoned, or disposed of at the tree dump site.

7.102.6.1.1. Repair Costs. Any person found to have violated the provisions of this Section shall be responsible, in addition to criminal penalties, for the costs of clean up and abatement of the condition created by their actions.

7.102.7. Unauthorized Private Collections Prohibited. It shall be unlawful for any homeowner to transport garbage or refuse for hire which has been collected from any premises within the city over any public street within the city.

7.102.7.1. This section shall not apply to any person who at the time of the activity is operating under a valid contract or franchise granted by the city which authorizes that person to use the public streets to conduct that activity.

7.102.8. Removal Of Building Materials. Waste from building operations, rock waste, building materials or other refuse resulting from building or remodeling operations or resulting from a general cleanup of vacant or improved property shall be removed by the building contractor, owner or occupant of the building at his or her own expense. It shall be unlawful for any person to place those materials in any dumpster or other trash receptacle for disposal by the city or any agent or contractor of the city.

7.103. Disposal Required. Every person shall, in a sanitary manner, dispose of refuse that may accumulate upon property owned or occupied by them. Garbage shall be collected, or otherwise lawfully disposed of, at least once each week.

7.104. Containers.

7.104.1. General Requirements. Every householder, occupant, or owner of any residence and any restaurant, industrial establishment, or commercial establishment shall provide on the premises one or more containers to receive and contain all refuse which may accumulate between collections. All normal accumulations of refuse shall be deposited in such containers. Yard waste including leaves, trimmings from shrubs, grass clippings, shavings, excelsior, and other rubbish of similar volume and weight may be stored in other closed containers. (Ord. 30, 2nd S. 8/30/93)

7.104.2 Container Requirements. Each container shall be water-tight, shall be impervious to insects, flies, and rodents, and shall not exceed 32 gallons in capacity, except that any commercial or business establishment having refuse may provide bulk or box-type refuse storage containers of a type approved by the City or City Contractor. Containers shall be maintained in good and sanitary condition. Any container not conforming to the requirements of this chapter or having ragged or sharp edges or any other defect likely to hamper or injure the person collecting the contents shall be promptly replaced after notice by the City or Contractor.

7.104.3. Placement.

1. That on the date identified for garbage collection services for the particular property involved, the container or bags shall be placed either in the alley or at the curb, as directed by the Contractor. Containers for pick up shall not exceed 32 gallons in size or 40 pounds in weight when filled.
2. The resident shall not place any material defined as Prohibited Material for collection by the Contractor. The resident shall not place any yard waste or garden waste for collection by the Contractor. Yard waste may be disposed of at the city compost site by the owner.

7.104.4. Use of Containers. Refuse shall be drained of liquid and household garbage shall be wrapped before being deposited in a container. Highly inflammable, explosive material, burning match, charcoal, or ember shall not be placed in containers. Refuse to be disposed of pursuant to this chapter does not include Prohibited Material, used furniture, appliances, tires, construction debris, used cars, or other similar items. Such refuse must be disposed of, however, and special arrangements in addition to the charges imposed by this ordinance must be made by the resident and the Contractor or otherwise properly disposed of in a manner conforming to State and Local regulations.

7.104.4.1. It shall be unlawful to meddle with garbage cans, trash or rubbish receptacles or in any way pilfer, search or scatter contents of garbage cans or rubbish receptacles in or upon any street or alley within the city limits. This section shall not apply to persons authorized by the city or persons authorized by state or federal law to search or otherwise meddle with trash receptacles.

7.104.5. Volume Based Charges. Charges for refuse services shall be set by the City Council from time to time by ordinance or resolution. The rate shall be based upon the volume of material removed by the Contractor.

7.105. Contract for Refuse Collection.

7.105.1. Council to Let Contract. Subject to the provisions of this Chapter, the council shall grant by contract in accordance with law the authority to collect and dispose of refuse originating within the city.

7.105.2. Liability Insurance. It shall be a condition of the contract that the applicant file with the clerk a current policy of public liability insurance. The limits of coverage of such insurance are at a minimum as follows: (1) each person injured, at least 1,000,000.00; (2) each accident, at least \$2,000,000.00; (3) property damage, at least \$500,000.

7.105.3. Contract Collector. No person shall collect refuse from a residence within the city except a person holding a contract with the city to do so. No person shall permit refuse to be picked up from their premises except by such Contractor.

7.105.4. Responsibility for City System. The Clerk shall supervise and control the collection and disposal of refuse. Subject to council approval, the City Clerk may adopt rules and regulations necessary to supplement the provisions of this ordinance.

7.105.5. License Required to Remove Garbage and Rubbish. No person, firm, or corporation shall collect, gather, or haul garbage or rubbish for hire or compensation of any form without being properly licensed to do so.

7.105.6. The Contract Collector shall fully comply with all provisions of the City Code, all statutes, ordinances and health regulations of the County or State of Minnesota and the United States regarding the pick up, transportation, or disposal of garbage or refuse.

7.106. Service Rates and Charges.

7.106.1. Service Mandatory. All residential dwellings, units, houses, or structures are responsible for a monthly garbage charge. The City has made available service to all such residential facilities and the owner or occupant of the same is deemed to be served by garbage service provided by the City's Contractor.

7.106.2. Schedule. The owner or occupant of any premises served by a city refuse collection Contractor shall pay to the city a service charge assessed by the City as set by resolution of the City Council from time to time.

7.106.3. Billing. The service charge shall be made to the owner or occupant of each residential building or housing unit served. If the building is served by city water or sewer, the refuse collection charge shall be paid as a separate entry on the monthly utility billing for water or sewer service. If the premises are not so served, the refuse collection charge shall be separately paid to the City.

7.106.4. Payment. Service charges shall be payable at the same time as bills for utility service and subject to the same conditions of payment. If any charge is unpaid on September 1 of any year, the council shall levy an assessment equal to the unpaid charge as of that date plus interest from that date. . The clerk shall certify the assessment to the county auditor for collection in the same manner as assessments for local improvements.

7.106.5. Deposit. That any monies deposited with the City, whether they shall be identified as a meter deposit, sewer deposit, garbage deposit, or utility deposit shall be subject to retention by the City in the event that charges for water, sewer, or garbage service are not paid.

7.106.6. Fund. All service charges shall be deposited in a separate account in the general fund.

7.107. Refuse Collection Schedule. Each Contractor shall collect refuse from premises for which they have a collection contract at least weekly.

7.108. Penalty. Any person, firm, or corporation violating any provision of Section 7.101 to 7.108 shall be guilty of a misdemeanor. Such penalty may be imposed in addition to revocation or suspension of license and in addition to the abatement of any nuisance found to exist as the result of any garbage or rubbish.

7.200 ENVIRONMENTAL CONTROL

7.201. Visual Pollution. No person shall be allowed to post handbills on any building or structure within the City limits.

7.202. Exemptions. Persons receiving permission from the owner of the building or structure are exempt from section 7.201.

7.203. Penalty. Any person violating section 7.201 shall be guilty of a misdemeanor.

7.300 STORAGE OF MATERIALS

7.301. Storage. Storage of firewood, deteriorated building supplies, weeds and other refuse. No person shall be allowed to store firewood within the City limits of the City of Lynd unless such firewood shall be elevated from the ground at least a distance of one foot. No person shall be allowed to store partially or wholly deteriorated lumber or building supplies of any sort within the City limits unless such materials shall be stored within a structure having a concrete floor and which structure shall be completely inaccessible to animals of any type. No person shall allow weeds to grow upon their property or other refuse of any sort to be stored upon their property in such a manner as to allow said property to become a habitat for rats or a general health hazard or a nuisance.

7.302. Violation. Not less than 30 days after effective notice of a violation of this statute, which notice shall be sent by certified mail (return receipt requested) to the last known address of the offender, or by publication in the event of the inability to serve notice in the aforementioned manner, such publication to occur once in the legal City newspaper, if such violation is not corrected, the Council of Lynd may authorize such offense corrected and any costs therewith shall be assessed against such property owners or other offenders, such assessment to be a lien against the affected property until paid.

7.303. Penalty. Any person violating any provision of Section 7.301 or 7.302 who interferes with a City employee or other authorized person in the performance of any service authorized under said Section 7.301 hereof shall be guilty of a misdemeanor.

7.400 LITTERING

7.401. No person shall discard, throw, deposit, place, dump, or leave or cause to be discarded, thrown, deposited, placed, dumped, or left, upon any public street,

highway, or public or privately owned land in the City of Lynd any glass, glass bottles, cans, plastic, debris, nails, tacks, wire, garbage, swill, papers, ashes, refuse, trash, or rubbish.

7.402. No person shall permit any accumulation or the discarding, throwing, depositing, placing, dumping, or leaving of any of the items set forth in 7.601 upon their premises except in a container suitable for collection by sanitation officials.

7.403. **Penalty**. Any person violating the provisions of this section is guilty of a petty misdemeanor.

7.500 ABANDONED PROPERTY

7.501. Disposition Of Abandoned Property.

7.501.1. **Procedure**. Except for abandoned and junked vehicles, all property lawfully coming into possession of the city shall be disposed of as provided in this section which is adopted pursuant to M.S. § 471.195, as it may be amended from time to time.

7.501.1. **Storage**. The department of the city acquiring possession of the property shall arrange for its storage. If city facilities are unavailable or inadequate, the department may arrange for storage at a privately-owned facility.

7.501.1. **Claim by owner**. The owner may claim the property by exhibiting satisfactory proof of ownership and paying the city any storage or maintenance costs incurred by it. A receipt for the property shall be obtained upon release to the owner.

7.501.1. **Sale**. If the property remains unclaimed in the possession of the city for 60 days, the property shall be sold to the highest bidder at a public auction conducted by the City Clerk or his or her designee after two weeks' published notice setting forth the time and place of the sale and the property to be sold.

7.501.1. **Disposition of proceeds**. The proceeds of the sale shall be placed in the general fund of the city. If the former owner makes application and furnishes satisfactory proof of ownership within six months of the sale, the former owner shall be paid the proceeds of the sale of the property less the costs of storage and the proportionate part of the cost of published notice and other costs of the sale.

7.502. Abandoned Vehicles. M.S. Ch. 168B, and Minn. Rules Ch. 7035, as

they may be amended from time to time, are hereby adopted by reference. Sections 90.15 through 90.25 of this code are adopted under the authority of M.S. § 168B.09, Subd. 2, as it may be amended from time to time. If any of these provisions are less stringent than the provisions of M.S. § 168B or Minn. Rules Ch. 7035, as it may be amended from time to time, the statute or rule shall take precedence.

7.502.1 Definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED VEHICLE.

(1) A motor vehicle, as defined in M.S. § 169.011, Subd. 42 as it may be amended from time to time, that:

(a) Has remained illegally:

1. For a period of more than 48 hours on any property owned or controlled by a unit of government, or more than four hours on that property when it is properly posted; or

2. On private property for a period of time, as determined under § 90.18(B), without the consent of the person in control of the property; and

(b) Lacks vital component parts or is in an inoperable condition that it has no substantial potential for further use consistent with its usual functions, unless it is kept in an enclosed garage or storage building.

(2) A classic car or pioneer car, as defined in M.S. § 168.10 as it may be amended from time to time, is not considered an abandoned vehicle.

(3) Vehicles on the premises of junk yards and automobile graveyards that are defined, maintained, and licensed in accordance with M.S. § 161.242 as it may be amended from time to time, or that are licensed and maintained in accordance with local laws and zoning regulations, are not considered abandoned vehicles.

(4) A vehicle being held for storage by agreement or being held under sheriff authority or pursuant to a writ or court order is not considered abandoned, nor may it be processed as abandoned while the sheriff hold, writ or court order is in effect.

DEPARTMENT. The Minnesota Department of Public Safety.

IMPOUND. To take and hold a vehicle in legal custody. There are two types of impounds: public and nonpublic.

IMPOUND LOT OPERATOR or OPERATOR. A person who engages in impounding or storing, usually temporarily, unauthorized or abandoned vehicles. OPERATOR includes an operator of a public or nonpublic impound lot, regardless of whether tow truck service is provided.

JUNK VEHICLE. A vehicle that:

- (1) Is three years old or older;
- (2) Is extensively damaged, with the damage including things as broken or missing wheels, motor, drive train or transmission;
- (3) Is apparently inoperable;
- (4) Does not have a valid, current registration plate; and
- (5) Has an approximate fair market value equal only to the approximate value of the scrap in it.

MOTOR VEHICLE or VEHICLE. Has the meaning given “motor vehicle” in M.S. § 169.011, Subd. 42, as it may be amended from time to time.

MOTOR VEHICLE WASTE. Solid waste and liquid wastes derived in the operation of or in the recycling of a motor vehicle, including such things as tires and used motor oil, but excluding scrap metal.

MPCA or AGENCY. The Minnesota Pollution Control Agency.

NONPUBLIC IMPOUND LOT. An impound lot that is not a public impound lot.

PUBLIC IMPOUND LOT. An impound lot owned by or contracting with a unit of government under § 90.24.

UNAUTHORIZED VEHICLE. A vehicle that is subject to removal and impoundment pursuant to § 90.18(B), or M.S. § 168B.035 as it may be amended from time to time, but is not a junk vehicle or an abandoned vehicle.

UNIT OF GOVERNMENT. Includes a state department or agency, a

special purpose district, and a county, statutory or home rule charter city, or town.

VITAL COMPONENT PARTS. Those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including such things as the motor, drive train and wheels.

7.502.2 Violation To Abandon Motor Vehicle. Any person who abandons a motor vehicle on any public or private property, without the consent of the person in control of the property, is guilty of a misdemeanor.

7.502.3. Authority To Impound Vehicles.

7.502.3.1. Abandoned or junk vehicles. The City Clerk or his or her designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any abandoned or junk vehicle if the vehicle is on public property. If the abandoned or junk vehicle is located on private property, the vehicle shall not be removed or impounded until the provisions of § 90.18(C) are complied with.

7.502.3.2. Unauthorized vehicles. The City Clerk, or his or her designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any unauthorized vehicle under M.S. § 168B.035 as it may be amended from time to time. A vehicle may also be impounded after it has been left unattended in one of the following public or private locations for the indicated period of time:

(1) In a public location not governed by M.S. § 168B.035 as it may be amended from time to time:

(a) On a highway and properly tagged by a peace officer, four hours;

(b) Located so as to constitute an accident or traffic hazard to the traveling public, as determined by a peace officer, immediately; or

(c) That is a parking facility or other public property owned or controlled by a unit of government, properly posted, four hours; or

(2) On private property, only with the express permission of the owner of the property, a resident or other person in control of the premises:

- (a) That is single-family or duplex residential property, immediately;
- (b) That is private, nonresidential property, properly posted, immediately;
- (c) That is private, nonresidential property, not posted, 24 hours; or
- (d) That is any residential property, properly posted, immediately.

(3) If under division (B)(2) of this section, permission is not granted, then the city shall not remove and impound any vehicle until the procedure established in division (C) of this section has been followed.

7.502.3.3. If the vehicle is on private property, the City Clerk or his or her designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any abandoned or junk vehicle on private property only with the permission of the owner of the property, a resident, or other person in control of the premises. If permission is denied, the city may declare the existence of the abandoned or junk vehicle to be a nuisance and proceed to abate the nuisance as provided for in §§ 92.15 through 92.21. Once the abatement procedure has been completed, the city may apply for an order from a court of competent jurisdiction authorizing the removal and impoundment of the vehicle and, after the order has been granted, the city may then remove and impound the vehicle.

7.502.4 Sale; Waiting Periods.

7.502.4.1. Sale after 15 days. An impounded vehicle is eligible for disposal or sale under § 90.23, 15 days after notice to the owner, if the vehicle is determined to be:

- (1) A junk vehicle, except that it may have a valid, current registration plate and still be eligible for disposal or sale under this subdivision; or
- (2) An abandoned vehicle.

7.502.5. Sale after 45 days. An impounded vehicle is eligible for disposal or sale under § 90.23, 45 days after notice to the owner, if the vehicle is determined to be an unauthorized vehicle or upon the date of a voluntary written title transfer by the registered owner to the impound lot operator.

7.502.6. Notice Of Taking And Sale.

7.502.6.1. Contents; notice given within five days. When an impounded vehicle is taken into custody, the city or impound lot operator taking it into custody shall give notice of the taking to the registered owner and any registered lien holders within five days. The notice shall:

- (1) Set forth the date and place of the taking; the year, make, model and serial number of the impounded motor vehicle if the information can be reasonably obtained; and the place where the vehicle is being held;
- (2) Inform the owner and any lien holders of their right to reclaim the vehicle under § 90.21; and
- (3) State that failure of the owner or lien holders to exercise their right to reclaim the vehicle and contents within the appropriate time allowed under § 90.19 shall be deemed a waiver by them of all right, title and interest in the vehicle and contents and a consent to the transfer of title to and disposal or sale of the vehicle and contents pursuant to § 90.23.
- (4) State that the vehicle owner who provides to the impound lot operator documentation from a government or nonprofit agency or legal aid office that the owner is homeless, receives relief based on need, is eligible for legal aid services, or has a household income at or below 50% of the state median income has the unencumbered right to retrieve any and all contents of the vehicle without charge.

7.502.6.2. Notice by mail or publication. The notice shall be sent by mail to the registered owner, if any, of an impounded vehicle and to all readily identifiable lien holders of record. The Department makes this information available to impound lot operators for notification purposes. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lien holders, the notice shall be published once in a newspaper of general circulation in the area where the motor vehicle was towed from or abandoned. Published notices may be grouped together for convenience and economy.

7.502.6.3. Unauthorized vehicles; notice. If an unauthorized vehicle remains unclaimed after 30 days from the date the notice was sent under division (B) of this section, a second notice shall be sent by certified mail, return receipt requested, to the registered owner, if any, of the unauthorized vehicle and to all readily identifiable lien holders of record.

7.502.7. Right To Reclaim.

7.502.7.1. Payment of charges. The owner or any lien holder of an impounded vehicle shall have a right to reclaim the vehicle from the city or impound lot operator taking it into custody upon payment of all towing and storage charges resulting from taking the vehicle into custody within 15 or 45 days, as applicable under § 90.19, after the date of the notice required by §90.20.

7.502.7.2. Lien holders. Nothing in this chapter shall be construed to impair any lien of a garagekeeper under the laws of this state, or the right of a lien holder to foreclose. For the purposes of this section, GARAGEKEEPER is an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair or maintenance of motor vehicles.

7.502.7.3. At any time before the expiration of the waiting periods provided in § 90.21 a registered owner who provides documentation from a government or nonprofit agency or legal aid office that the registered owner is homeless, receives relief based on need, is eligible for legal aid service, or has a household income at or below 50% of state median income has the unencumbered right to retrieve any and all contents without charge and regardless of whether the registered owner pays incurred charges or fees, transfers title, or reclaims the vehicle. For the purposes of this section:

(1) CONTENTS does not include any permanently affixed mechanical or nonmechanical automobile parts; automobile body parts; or automobile accessories, including audio or video players; and

(2) RELIEF BASED ON NEED includes, but is not limited to, receipt of MFIP and Diversionary Work Program, medical assistance, general assistance, general assistance medical care, emergency general assistance, Minnesota supplemental aid, MSA-emergency assistance, MinnesotaCare, Supplemental Security Income, energy assistance, emergency assistance, food stamps, earned income tax credit, or Minnesota working family tax credit. The city or impound lot operator shall establish reasonable procedures for retrieval of vehicle contents under this section, and may establish reasonable procedures to protect the safety and security of the impound lot and its personnel.

7.502.8. Operator's Deficiency Claim; Consent To Sale.

7.502.8.1. Deficiency claim. The nonpublic impound lot operator has a deficiency claim against the registered owner of the vehicle for the reasonable costs of services provided in the towing, storage and inspection of the vehicle minus the proceeds of the sale or auction. The claim for storage costs may not

exceed the costs of:

- (1) 25 days storage for a vehicle described in § 90.19(A); and
- (2) 55 days storage for a vehicle described in § 90.19(B).

7.502.8.2. Implied consent to sale. A registered owner who fails to claim the impounded vehicle within the applicable time period allowed under § 90.19 is deemed to waive any right to reclaim the vehicle and consents to the disposal or sale of the vehicle and its contents and transfer of title. The failure to exercise rights to claim contents under § 90.21(C) constitutes a waiver of all right, title and interest in the contents of the vehicle and a consent to the transfer of title to and disposal or sale of the contents.

7.502.9. Disposition By Impound Lot.

7.502.9.1. Auction or sale.

(1) If an abandoned or unauthorized vehicle and contents taken into custody by the city or any impound lot is not reclaimed under § 90.21, it may be disposed of or sold at auction or sale when eligible pursuant to §§ 90.20 and 90.21.

(2) The purchaser shall be given a receipt in a form prescribed by the Registrar of Motor Vehicles which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. Before a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

7.502.9.2. Unsold vehicles. Abandoned or junk vehicles not sold by the city or public impound lots pursuant to division (A) of this section shall be disposed of in accordance with § 90.24.

7.502.9.3. Sale proceeds; public entities. From the proceeds of a sale under this section by the city or public impound lot of an abandoned or unauthorized motor vehicle, the city shall reimburse itself for the cost of towing, preserving and storing the vehicle, and all administrative, notice and publication costs incurred in handling the vehicle pursuant to this chapter. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lienholder for 90 days and then shall be deposited in the treasury of the city.

7.502.9.4. Sale proceeds; nonpublic impound lots. The operator of a

nonpublic impound lot may retain any proceeds derived from a sale conducted under the authority of division (A) of this section. The operator may retain all proceeds from sale of any personal belongings and contents in the vehicle that were not claimed by the owner or the owner's agent before the sale, except that any suspected contraband or other items that likely would be subject to forfeiture in a criminal trial must be turned over to the appropriate law enforcement agency.

7.502.10. Disposal Authority. The city may contract with others or may utilize its own equipment and personnel for the inventory of impounded motor vehicles and abandoned scrap metal and may utilize its own equipment and personnel for the collection, storage and transportation of these vehicles and abandoned scrap metal. The city may utilize its own equipment and personnel only for the collection and storage of not more than five abandoned or unauthorized vehicles without advertising for or receiving bids in any 120-day period.

7.502.11. Contracts; Reimbursement By MPCA.

7.502.11.1. MPCA review and approval. If the city proposes to enter into a contract with a person licensed by the MPCA pursuant to this section or a contract pursuant to § 90.24, the MPCA may review the proposed contract before it is entered into by the city, to determine whether it conforms to the MPCA's plan for solid waste management and is in compliance with MPCA rules. A contract that does so conform may be approved by the MPCA and entered into by the city. Where a contract has been approved, the MPCA may reimburse the city for the costs incurred under the contract that have not been reimbursed under § 90.23. Except as otherwise provided in § 90.24, the MPCA shall not approve any contract that has been entered into without prior notice to and without a request for bids from all persons duly licensed by the MPCA to be a party to a disposal contract pursuant to M.S. § 116.07, as it may be amended from time to time; nor that does not provide for a full performance bond; or does not provide for total collection and transportation of abandoned motor vehicles, except that the MPCA may approve a contract covering solely collection or transportation of abandoned motor vehicles where the MPCA determines total collection and transportation to be impracticable and where all other requirements herein have been met and the unit of government, after proper notice and request for bids, has not received any bid for total collection and transportation of abandoned motor vehicles.

7.502.11.2. The city may perform work. If the city utilizes its own equipment and personnel pursuant to its authority under § 90.24, and the use of the equipment and personnel conforms to the MPCA's plan for solid waste management and is in compliance with MPCA rules, the city may be reimbursed by the MPCA for reasonable costs incurred which are not reimbursed under §

90.23.

7.502.11.3. The city required to contract work. The MPCA may demand that the city contract for the disposal of abandoned motor vehicles and other scrap metal pursuant to the MPCA's plan for solid waste disposal. If the city fails to contract within 180 days of the demand, the MPCA, through the Department of Administration and on behalf of the city, may contract with any person duly licensed by the MPCA for the disposal.

7.503. City Employee Purchase Of Abandoned Property Or Abandoned

Vehicles. Pursuant to M.S. § 15.054, as it may be amended from time to time, no officer or employee of the city shall sell or procure for sale or possess or control for sale to any other officer or employee of the city, any property or materials owned by the city except pursuant to conditions provided in this section. Property or materials owned by the city and not needed for public purposes, may be sold to an employee of the city after reasonable public notice at a public auction or by sealed response, if the employee is not directly involved in the auction or process pertaining to the administration and collection of sealed responses. Prior to such auction or collection of sealed responses, public notice of at least one week's published notice must be provided. An employee of the city may purchase no more than one motor vehicle from the city at any one auction. This section shall not apply to the sale of property or materials acquired or produced by the city for sale to the general public in the ordinary course of business. Nothing in this section shall prohibit an employee of the city from selling or possessing for sale public property if the sale or possession for sale is in the ordinary course of business or normal course of the employee's duties.

CHAPTER 8, CIVIL DEFENSE AND FIRE DEPARTMENT

8.101. Policy and Purpose.

8.101.1. Because of the existing and increasing possibility of the occurrence of disaster of unprecedented size and destructiveness resulting from enemy attack, sabotage or other hostile action, or from fire, flood, earthquake, or other natural causes, and in order to insure that preparations of this city will be adequate to deal with such disasters, and generally, to provide for the common defense and to protect the public peace, health and safety, and to preserve the lives and property of the people of this City, it is hereby found and declared to be necessary:

- (a) To establish a local organization for civil defense.
- (b) To provide for the exercise of necessary powers during civil defense emergencies.
- (c) To provide for the rendering of mutual aid between this city and other political subdivisions of this State and of other states with respect to the carrying out of civil defense functions.

8.101.2. It is further declared to be the purpose of this ordinance and the policy of the City that all civil functions of this City be coordinated to the maximum extent practicable with the comparable functions of the federal government, of this state, the county and of other states and localities, and of private agencies of every type, to the end that the most effective preparations and use may be made of the nation's manpower, resources, and facilities, for dealing with any disaster that may occur.

(adopted 4/10/78)

8.102. Definitions.

8.102.1 A Civil defense@ means the preparation for and carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize and repair injury and damage resulting from disasters caused by enemy attack, sabotage or natural causes, these functions include, with limitation, fire fighting services, sheriff services, medical health services, rescue, engineering, warning services, medical health services, rescue, engineering, warning services, medical health services, rescue, engineering, warning services, communications, radiological, chemical and other special

weapons defense, evacuation of persons from stricken areas, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services, utilization of best available fallout shelters, and other functions related to civilian protection, together with all other activities necessary or incidental to preparation for and carrying out of the foregoing functions.

8.102.2. A Civil defense emergency@ means an emergency declared by the governor , or an emergency proclaimed by the mayor under this ordinance.

8.102.3 A Civil defense forces@ means any personnel employed by the city and other volunteer or paid member of the local civil defense agency engaged in carrying on civil defense function in accordance with the provisions of this ordinance or any rule or order thereunder.
(adopted 4/10/78)

8.103. Establishment of Civil Defense Agency.

8.103.1. There is hereby created within the city government an office of Civil Defense Director.

The director shall be appointed by the mayor for an indefinite term and may be removed by them at any time. The director may be compensated at a rate to be determined by the City Council and they shall be paid their necessary expenses. The director shall have direct responsibility for the organization, administration and operation of the civil defense agency, subject to the direction and control of the mayor. The civil defense agency shall be organized into such divisions and bureaus, consistent with state and local civil defense functions during a civil defense emergency. The civil defense agency shall perform civil defense functions within the city and in addition, shall conduct such functions outside the city as may be required pursuant to the provisions of the Minnesota Civil Defense Act of 1951 as amended, or this ordinance.

8.104. Powers and Duties of the Director.

8.104.1. The director, with the consent of the mayor, shall represent the City on any regional or state organization for civil defense. They shall develop proposed mutual aid agreements with other political subdivisions within or outside the state for reciprocal civil defense aid and assistance in a civil defense emergency too great to be dealt with unassisted, and they shall present such agreements to the Council for its action. Such arrangements shall be consistent with the state civil defense plan and during a civil defense emergency it shall be the duty of the civil defense agency and civil defense forces to render assistance

in accordance with the provisions of such mutual aid arrangements. Any mutual aid arrangements with a political subdivision of another state shall be subject to the approval of the governor.

8.104.2. The director shall make such studies and surveys of the manpower, industries, resources and facilities of the city including fallout shelters as they deem necessary to determine their adequacy for civil defense, and to plan for their most efficient use in time of a civil defense emergency.

8.104.3. The director shall prepare a comprehensive general plan for the civil defense of the city which will include a community shelter plan utilizing the established fallout shelters and shall present such plan to the Council for its approval. When the Council has approved the plan by resolution, it shall be the duty of all municipal agencies and all civil defense forces of the city to perform the duties and functions assigned by the plan as approved. The plan may be modified in like manner from time to time. The director shall coordinate the civil defense activities of the city to the end that they shall be consistent and fully integrated with the civil defense plans of other political subdivisions within the state.

8.104.4. In accordance with the state and city civil defense plan, the director shall institute such training programs and public information programs and shall take all other preparatory steps, including the partial or full mobilization of civil defense forces in advance of actual disaster, as may be necessary to the prompt and effective operation of the city civil defense plan in time of a civil defense emergency. They may, from time to time, conduct such practice air raid alerts or other civil defense exercises as they may deem necessary.

8.104.5. The director shall utilize the personnel, services, equipment, supplies and facilities of existing departments and agencies of the city to the maximum extent practicable. The officers and personnel of all such departments and agencies of the city to the maximum extent practicable. The officers and personnel of all such departments and agencies shall, to the maximum extent practicable, cooperate with and extend such services and facilities to the local civil defense agency and to the governor upon request. The head of each department and agency, in cooperation with and under the direction of the director, shall be responsible for the planning and the programming of such civil defense activities as will involve the utilization of the facilities of this department or agency.

8.104.6. The director shall, in cooperation with existing city departments and agencies affected, organize, recruit and train fallout shelter managers, radiological monitors, police reserves, rescue personnel, auxiliary firemen, emergency medical personnel and any other personnel that may be required on

a volunteer basis to carry out the civil defense plans of the city and the state. To the extent that such emergency personnel are recruited to augment a regular city department or agency for civil defense emergencies, they shall be assigned to such department or agency for purposes of administration and command. The director may dismiss any civil defense volunteer at any time and require them to surrender any equipment and identification furnished by the city.

8.104.7. Consistent with the civil defense plan, the director shall provide and equip emergency hospitals, casualty stations, ambulances, canteens, evacuation centers and other facilities or conveyances for the care of the injured or homeless persons.

8.104.8. The director shall carry out all orders, rules and regulations issued by the governor pertaining to civil defense.

8.104.9. The civil defense director shall direct and control the general operations of all local civil defense forces during a civil defense emergency in conformity with controlling regulations and instructions of state civil defense authorities. The heads of departments and agencies shall be governed by their orders in respect thereto.

8.104.10. Consistent with the civil defense plan, the director shall provide and equip at some suitable place in the city an emergency operating center, and, if required by the local civil defense plan, auxiliary centers to be used during a civil defense emergency as headquarters for direction and control of civil defense forces. They shall arrange for representation at the center by municipal departments and agencies, public utilities and other agencies authorized by federal or state authority to carry on civil defense activities during a civil defense emergency. They shall arrange for the installation at the emergency operating center of necessary facilities for communication with and between heads of civil defense division, the stations and operating units of municipal services and other agencies concerned with civil defense and for communication with other communities and emergency operating centers within the surrounding area and with the federal and state agencies concerned.

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

8.105. General Provisions on Civil Defense Workers.

8.105.1. No person shall be employed or associated in any capacity in the civil defense agency who advocates or has advocated a change by force or violence in the constitutional form of government of the United States or in this state, or the overthrow of any government in the United States by force or violence, or who has been convicted of or is under indictment for information charging any subversive act against the United States. Each person who is appointed to serve in the civil defense agency shall, before entering upon their duties, take an oath in writing before a person authorized to administer oaths on this state, or before any officer of the state department of civil defense, or the county director. The oath shall be substantially in the form prescribed by Minnesota Statutes, Section 12.43.

8.105.2. Civil defense volunteers shall be called into service only in case of a civil defense emergency or a natural disaster for which the regular municipal forces are inadequate or for necessary training and preparation for such emergencies. All volunteers shall serve without compensation.

8.105.3. Each civil defense volunteer shall be provided with such suitable insignia or other identification as may be required by the director. Such identification shall be in a form and style approved by the federal government. No volunteer shall exercise any authority over the persons or property of others without their identification. No person except an authorized volunteer shall use the identification of a volunteer or otherwise represent himself to be an authorized volunteer.

8.105.4. No civil defense volunteer shall carry any firearm while on duty except on written order of the highest ranking peace officer for the City.

8.105.5. Personnel procedures of the city applicable to regular employees shall not apply to volunteer civil defense workers, but shall apply to paid employees of the civil defense agency.
(adopted 4/10/78)

8.106. Emergency Regulations.

8.106.1. When used in this section, the term Acivil defense emergency@ includes, in addition to the meaning given in Section 8.102.2, disasters caused by fire, flood, windstorm or other natural causes.

8.106.2. Whenever necessary to meet a civil defense emergency or to prepare for such an emergency for which adequate regulations have not been adopted by the governor or the City Council, the mayor may by proclamation promulgate regulation consistent with applicable federal or state law or regulation respecting: protection against nuclear missiles; the sounding of attack warning; the conduct of persons and the use of property during emergencies; the repair, maintenance and safeguarding of essential public services; emergency health, fire and safety regulation, trial drills or practice periods required for preliminary training; and all other matters which are required to protect public safety, health and welfare in civil defense emergencies..

8.106.3. Every proclamation of emergency regulations shall be in writing and signed by the mayor; shall be dated; shall refer to the particular civil defense emergency to which it pertains, if so limited; and shall be filed in the office of the city clerk, where a copy shall be kept posted and available for public inspection during business hours. Notice of the existence of such regulation and its availability for inspection at the clerk's office shall be conspicuously posted at the front of the city hall or other headquarters of the city and at such other places in the affected area as the mayor shall designate in the proclamation. Thereupon the regulation shall take effect immediately or at such later time as may be specified in the proclamation. By like proclamation the mayor may modify or rescind any such regulation.

8.106.4. The city council may rescind any such regulation by resolution at any time. If not sooner rescinded, every such regulation shall expire at the end of 30 days after its effective date or at the end of the civil defense emergency to which it relates, whichever occurs first. Any ordinance, rule or regulation inconsistent with an emergency regulation promulgated by the mayor shall be suspended during the period of time and to the extent that such conflict exists.

During a civil defense emergency, the city is, notwithstanding any statutory or charter provision to the contrary, empowered through its governing body acting within or without the corporate limits of the city to enter into contracts and incur obligations necessary to combat such disaster by protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster. The city may exercise such powers in the light of the exigencies of the disaster without compliance with time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, limitations upon tax levies and the appropriation and expenditure of public funds including, but not limited to, publication of ordinances and resolutions, publication of calls

for bids, provisions of civil service laws and rules, provisions relating to low bids, and requirements for budgets.

8.106.5. During a civil defense emergency the mayor is authorized to contract on behalf of the city for services or for the purchase of merchandise of materials where the amount of the contract or purchase does not exceed \$500.00. The mayor may take such action without prior approval of the council, and without compliance with regular purchasing and bidding procedures, but all claims resulting therefrom shall be audited and approved by the council as in the case of other purchases and contracts.

8.107. Civil Defense Agency Procedure. There is hereby established in the city treasury a special fund to be known as the civil defense fund. Into this fund shall be placed the proceeds of taxes levied for civil defense, money transferred from other funds, gifts and other revenues of the civil defense agency. From it shall be made expenditures for the operation and maintenance of the civil defense agency and other expenditures for civil defense. Regular accounting, disbursements, purchasing, budgeting and other financial procedures of the city shall apply to the civil defense fund insofar as practicable; but budgeting requirements and other financial procedures shall not apply to expenditures from the fund in any case when their application will prevent compliance with terms and conditions of a federal or state grant of money or property for civil defense purposes.

8.108. Fallout Shelter in Public Structures.

8.108.1. It is the policy of the city that fallout shelters be incorporated in all public buildings of the City to the extent practicable in order to provide protection against radiation in the event of nuclear attack.

8.108.2. The City Council may require that all contracts for the design or construction of public buildings, including additions to or alterations of existing structures, incorporate fallout protection for at least the normal anticipated daily population of the building. The fallout shelter protection provided for shall meet or exceed the minimum space and fallout protection criteria recommended by the Office of Civil Defense, United States Department of Defense, unless exempted from such shelter requirement as provided in Subdivision 3.

8.108.3. The Council may exempt buildings or structures from the requirements of this section where it finds that such incorporation of fallout shelter will create an additional cost in the construction of such structure in excess of 5% of the estimated cost thereof without shelter so incorporated, or if it finds that other factors make unnecessary or impractical the incorporation of fallout shelter in such structures.

8.109. Conformity and Cooperation with Federal and State Authority.

8.109.1. Every officer and agency of the city shall cooperate with federal and state authorities and with authorized agencies engaged in civil defense and emergency measures to the fullest possible extent consistent with the performance of their other duties. The provisions of this ordinance and of all regulations made thereunder shall be subject to all applicable and controlling provisions of federal and state laws and of regulations and orders issued thereunder and shall be deemed to be suspended and inoperative so far as there is any conflict therewith.

8.109.2. The City Council may appoint any qualified person holding a position in any agency created under federal or state authority for civil defense purposes as a special policemen of the city with such police powers and duties within the city incident to the functions of their position, not exceeding those of a regular policeman of the city, as may be prescribed in the appointment. Every such policeman shall be subject to the supervision and control of the chief of police and such other police officers of the city as the chief may designate.

8.110. Participation in Labor Dispute or Politics. The civil defense agency shall not participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes, nor shall it be employed in a legitimate labor dispute.

8.111. Penalty. Any person who violated any provision of this ordinance or of any regulation adopted thereunder relating to acts, omissions or conduct other than official acts of city officers or employees, is guilty of a misdemeanor.

8.200 FIRE DEPARTMENT

8.201. Elections, Appointments. The Chief of the Fire Department shall be nominated annually by the members of the department, subject to appointment by the Council. The Fire Relief Association selects the assistant chiefs according to the by-laws and who shall be subject to confirmation by the Council. One Assistant Chief shall be designated as Assistant Chief For Firefighters. One Assistant Chief shall be designated as Assistant Chief For First Responders. All officers shall hold office for one year and until the their respective successors have been selected and appointed; except that any of them may be removed by the Council for cause after a public hearing. All Fire Department personnel and probationary personnel shall be recommended by the Chief of the Fire Department, subject to confirmation by the City Council. Fire Department personnel shall continue as members of the Department during good behavior, and may be removed by the Council only for cause after a public hearing. Fire Department personnel may be suspended as a disciplinary matter by the

Chief for failure to follow instructions, follow to attend drills, insubordination or other behavior which is contrary to the best interest of the Department. Any personnel so suspended shall, upon request, be entitled to a hearing before the City Council. The Chief shall submit a record of all persons serving with the Fire Department for the records of the City Council.

8.201.1. The process of recruitment, selection, appointment and termination of firefighters and probationary firefighters shall, as required by state law, follow all of the provisions of the Veteran's Preference Act, M.S. §§ 43A.11 and 197.46, as they may be amended from time to time, and, as required by state law, there shall be no discrimination on the basis of age, race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, sexual orientation or disability (except based on a bona fide occupational qualification) as provided by the Minnesota Human Rights Act, M.S. Ch. 363A, as it may be amended from time to time.

8.202. Duties of Fire Marshal. The office of the Fire Marshal may be held by the Chief or by an Assistant Chief, if the Council by resolution approves. The Fire Marshal shall be charged with the enforcement of all Ordinances or sections of this Code aimed at fire prevention. They shall have full authority to inspect all premises and to cause the removal or abatement of all fire hazards.

8.203. Duties of the Chief. The Chief shall have control of all of the fire fighting apparatus and all first responder and emergency management materials and shall be responsible for its care and condition. They shall make a report regularly to the Council as to the condition of the equipment and needs of the Department. Such reports shall be reported not less often than annually. The Chief shall submit such additional reports and recommendations as they shall deem appropriate, or as requested by the Council, and shall report each suspension by them of a member of the Fire Department, at the first meeting of the City Council following such suspension. The Chief shall be responsible for the proper training and discipline of the members of the Fire Department, and may suspend any member for refusal or neglect to obey orders pending final action by the Council on their discharge or retention.

8.203.1. Classes of Fire Department Personnel. The Fire Department personnel shall consist of two classes. One class shall be designated as "Fire Fighters" and shall consist of only those persons determined by the Fire Chief to have sufficient training, expertise and capabilities to be able to respond to fire fighting emergencies. A class of personnel shall be identified as "First Responders". All such personnel shall be those persons determined by the Fire Chief to have sufficient training, expertise and knowledge to respond to personal injury, emergencies or other life threatening situations as a First Responder. Nothing shall prohibit a person from serving in both classifications, providing their service in one classification does not, in the opinion of the Fire Chief, leave the City insufficiently protected for other emergencies. Under no circumstances shall a Fire Fighter or First Responder respond to an emergency call until such time as they have been certified as having the proper training to do so and have been recommended by the Fire Chief and accepted by the City Council upon completion of all appropriate testing.

8.204. Records. The Chief shall keep in convenient form a complete record of all emergency situations responded to. Such records shall include the time of the alarm, location of the emergency, if the emergency was a fire, First Responder call or other situation. If the response was a fire, the Chief shall further identify the cause of the fire (if known), the type of building, name of owner and tenant, purpose for which it was occupied, value of the building and contents. In any case, the Fire Chief shall retain information as to the members of the Department responding to the emergency, as well as such other information as they may deem advisable or may be required, from time to time, by the City, County or State.

8.205. Practice Drills. It shall be the duty of the Chief to hold regular practice meetings of at least one hour duration to give personnel instruction and practice in methods.

8.206. Assistant Chief. In the absence or disability of the Chief, the Assistant Chief shall perform all functions and exercise all of the authority of the Chief.

8.207. Firepersons. The Chief, the Assistant Chiefs, the Fire Marshal and all fire personnel and probationary firepersons shall be not less than 18 years of age and able-bodied. No one under 18 may be a member of a volunteer department. They shall become members of the Fire Department only after six (6) months' probationary period. The Council may require that each candidate, before they may become a probationary fireperson, must satisfy certain minimum requirements of height, weight, education and any other qualifications which may be specified by the Council; and that they must pass satisfactorily a mental and physical examination. There shall be a minimum of ten (10) firepersons and a maximum of forty (40).

8.208. Loss of Membership. Firepersons absent from three (3) consecutive drills or calls shall be subject to a forfeiture of their membership in the Department, unless such absences have been excused by the Fire Chief.

8.209. Compensation. The members and officers of the Fire Department shall receive compensation as set by the City Council from time to time.

8.210. Minimum Pay. In computing compensation for fires, one hour shall be considered as the minimum to be paid to any fireman or officer.

8.211. Relief Association. The members and officers of the fire department may organize themselves into a Firemen's Relief Association.

8.212. Interference with Department. No person shall give or make, or cause to be given or made, an alarm of fire without probable cause, or to neglect or refuse to obey any reasonable order of the Chief at a fire, or to interfere with the fire department in the discharge of its duties; and any person convicted of violating this section shall be guilty of a misdemeanor.

8.213. Fires Outside the City. When any property owners, association of property owners, insurance company or society, or political subdivision enters into a contract with the city for fire protection on property owned, leased or represented by such person, persons, organization or political subdivision, and agrees to pay for such services at the rates prescribed, the city clerk shall inform the chief of the fire department of such agreement, and thereafter the department shall go outside the city limits to answer fire calls or alarms from such property or properties, but in no case shall the fire department send apparatus to such property if the fire chief or other individuals in charge of the fire department at the time decides that it is needed for local services, and in no case shall it send more equipment or men than it anticipated in the agreement.

8.214. Policies and Procedures. The Volunteer Fire Department may adopt policies and procedures for the operation of the department, which shall be effective upon approval by the City Council. Any provision of these policies and procedures, which may be called a Constitution and Bylaws, which is inconsistent with state and federal law, including the Veterans Preference Act, Minnesota Human Rights Act, and state laws requiring the City Council to control Fire Department Finances, shall be unenforceable and void.

8.215. City Council Authority. As required by state law, M.S. § 412.241, as it may be amended from time to time, the City Council shall have full authority over the financial affairs of the Volunteer Fire Department, and shall provide for the collection of

all revenues and other assets, the auditing and settlement of accounts, and the safekeeping and disbursement of public money. This division does not apply to the funds of any Fire Relief Association.

8.300 FIREARMS

8.301. Definitions. For the purposes of sections 8.301 to 8.303 of this code the following terms shall have the meaning given them.

8.301.1. AFirearms@ shall mean any weapon from which is propelled any missile, projectile or bullet by means of explosives or gas and shall include air and BB guns.

8.301.2. ALong Gun@ shall mean a rifle, shotgun or similar gun not designed to be fired from the hand.

8.301.3. AHandguns@ shall mean any firearm designed to be fired from the hand.

8.301.4. AAssault Weapons@ shall mean any weapon other than firearms or military type weapons having the designed personal assault characteristics of any dagger, dirk, stiletto, switchblade knife, springblade knife, push button knife, blackjack, sandclub, pipe club, chain club, metal knuckles and wrist rocket, bow and arrow and crossbow.

8.301.5. AAmmunition@ shall mean any complete round prepared for insertion in and propulsion from any firearms.

8.302. Firearms Within the City.

8.302.2. To discharge or cause to discharge any type of firearm to also include air and BB guns within the City limits of Lynd.

8.302.4. The provisions of this section shall not apply to law enforcement or military personnel while engaged in the course of their duties.

8.303. Penalty. Any person violating any provision of sections 8.301 to 8.302 shall be guilty of a misdemeanor.

8.400 DANGEROUS PRODUCTS

8.401. Explosives, Inflammable Liquids. No person shall store any explosives, inflammable liquids or other dangerous substance in such a manner as to endanger public health and safety.

8.402. Penalty. Any person violating any provision of section 8.401 shall be guilty of a misdemeanor.

CHAPTER 9, ANIMALS

9.100 DOGS AND CATS

9.101. 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."

9.102. License Required. All dogs over the age of six months kept, harbored, or maintained by their owners in the city, shall be licensed and registered with the city. Dog licenses shall be issued by the City Clerk upon payment of the license fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 30.11 of this code, as that ordinance may be amended 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.

9.102.1. It shall be the duty of each owner of a dog subject to this section to pay to the City Clerk the license fee established in the Ordinance Establishing Fees and Charges adopted pursuant to § 30.11, as it may be amended from time to time.

9.102.2. Upon payment of the license fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to § 30.11 of this code, as that ordinance may be amended from time to time.

9.102.3. The licensing provisions of this division (B) shall not apply to dogs whose owners are nonresidents temporarily within the city, nor to dogs brought into the city for the purpose of participating in any dog show. If the animal owned is a service animal which is capable of being properly identified as from a recognized school for seeing eye, hearing ear, service or guide animals, and the owner is a blind or deaf person, or a person with physical or sensory disabilities, then no license shall be required.

9.102.4. The funds received by the City Clerk from all dog licenses established by the Ordinance Establishing Fees and Charges adopted pursuant

to § 30.11 of this code, as that ordinance may be amended from time to time, shall first be used to defray any costs incidental to the enforcement of this chapter; including, but not restricted to, the costs of licenses, and impounding and maintenance of the dogs.

9.102.5. 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.

9.103. License Fees; Expiration. The annual license fee shall be as set by Section 18.107 of the Lynd City Code. Every license shall expire on the 1st day of April following its issuance.
(Code of 1980)

9.104. Affixing Tag. The owner shall permanently affix the tag to the collar of the dog, so licensed in such a manner that the tag is constantly worn by the dog.
(Code of 1980)

9.105. Dog Nuisances.

9.105.1. Habitual barking. It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least five minutes with less than one minute of interruption. The barking must also be audible off of the owner's or caretaker's premises.

9.105.2. 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 owner has knowledge of the damage.

9.105.3. 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 on their own property, on the property of others or on public property and disposing of the feces in a sanitary manner.

9.105.4. Warrant required. The Animal Control Officer or sheriff 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, as provided for in § 10.20, to search for and seize the animal.

9.105.5. Other. Any animals kept contrary to this section are subject to impoundment as provided in 9.612. A violation of this ordinance and is punishable as a misdemeanor.

9.106. Confinement of Certain Dogs. Every female dog in heat shall be confined in a building or other secure enclosure in such manner that it cannot come into contact with another dog, except for planned breeding.

9.107. Quarantine of Certain Dogs. Any dog which bites a person shall be quarantined for such time as may be directed by the city poundmaster. During quarantine the animal shall be securely confined and kept from contact with any other animal. At the discretion of the poundmaster the quarantine may be on the premises of the owner; however, if the poundmaster requires other confinement, the owner shall surrender the animal for the quarantine period to any animal shelter or shall, at their own expense, place it in a veterinary hospital.
(Code of 1980)

9.108. Muzzling Proclamation. Whenever the prevalence of rabies renders such action necessary to protect the public health and safety the council shall issue a proclamation ordering every person owning or keeping a dog to muzzle it securely so that it cannot bite. No person shall violate such proclamation and any unmuzzled dog unrestrained during the time fixed in the proclamation shall be subject to impoundment as heretofore provided, and the owner of such dog shall be subject to the penalty hereinafter provided.
(Code of 1980)

9.109. Impounding.

9.109.1. Running at large. Any unlicensed animal running at large is hereby declared a public nuisance. Any Animal Control Officer or sheriff officer may impound any dog or other animal found unlicensed or any animal found running at large and shall give notice of the impounding to the owner of the dog or other animal, if known. The Animal Control Officer or sheriff 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.

9.109.2. 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 confined in the city pound 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, not outside of the county in which this city is located, 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.

9.110. Reclaiming. All animals conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least five regular business days, unless the animal is a dangerous animal as defined under 9.400 in which case it shall be kept for seven regular business days or the times specified in 9.400, 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 the Ordinance Establishing Fees and Charges adopted pursuant to Chapter 18 of this code, as that ordinance may be amended 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 fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to Section 18.112 of this code, as that ordinance may be amended from time to time, and valid certificate of vaccination for rabies and distemper shots is required.

9.110.1. Unclaimed animals. At the expiration of the times established in 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 let any person claim the animal by complying with all provisions in this section, or the officer may sell the animal to the University of Minnesota, or cause the animal to

be destroyed in a proper and humane manner and shall properly dispose of the remains thereof. Any money collected under this section shall be payable to the City Clerk.

9.111. Animal Control Officer.

9.111.1. 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.

9.111.2. Interference With Officers. No person shall in any manner molest, hinder, or interfere with any person authorized by the City Council to capture dogs, cats or other animals and convey them to the pound while engaged in that operation. Nor shall any unauthorized person break open the pound, or attempt to do so, or take or attempt to take from any agent any animal taken up by him or her in compliance with this chapter, or in any other manner to interfere with or hinder the officer in the discharge of his or her duties under this chapter.

9.200 LIVESTOCK

9.201. Livestock. No person shall keep or harbor any horses, cattle, donkey, mules, sheep or goats in the City or to permit the same to be done upon premises owned, occupied or controlled by them except under the provisions of sections 9.202 to 9.205.

9.202. Stables and Barns. No stable or barn in which horses, sheep, cows, or goats are kept may be located in less than 1 acre of land or within 100 feet of a place of human habitation. Stables and barns, where lawful, shall be kept clean. Manure shall be removed with sufficient frequency, to avoid nuisance from odors or from the breeding of flies, at least once per month from October 1 to May 1 and once every week from May 1 to October 1 of each year.

9.203. Swine. No swine may be kept with the City.

9.204. Keeping of Certain Fowls. All fowls must be confined within a pen, coop, or fenced area not less than 50 feet from any human habitation. All buildings and areas shall be kept clean and free of odors.

9.205. Manure. Manure shall be removed beyond the City limits unless used for fertilizer, in which case it shall be spread upon the ground evenly and turned under at once or as soon as the frost leaves the ground.

9.206. Public Nuisance. Fowl kept contrary to the provisions set forth in section 9.204 are hereby declared a public nuisance and may be abated according to law.

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

9.300. LOOSE AND DISEASED ANIMALS

9.301. Loose Animals. No person shall allow any animals or fowls belonging to them or in their care to run at large or to be picketed on public grounds. This prohibition shall not apply to cats or dogs except by section 9.101 are forbidden to be at large. (ord. 28, sec. 2, 02/10/75)

9.302. Disease.

9.302.1. Running at large. No person shall keep or allow to be kept on his or her premises, or on premises occupied by them, nor permit to run at large in the city, any animal which is diseased so as to be a danger to the health and safety of the city, even though the animal be properly licensed under this section, and a warrant to search for and seize the animal is not required.

9.302.2. Confinement. Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public, may be apprehended and confined in the pound by any person, the Animal Control Officer or a sheriff officer. The officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in a manner so as to be a danger to the health and safety of the city, the officer shall cause the animal to be painlessly killed and shall properly dispose of the remains. The owner or keeper of the animal killed under this section shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.

9.302.3. Release. If the animal, upon examination, is not found to be diseased the animal shall be released to the owner or keeper free of charge.

9.303. Animals Presenting A Danger To Health And Safety Of City. If, in the reasonable belief of any person or the Animal Control Officer or sheriff officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the person or officer may destroy the animal in a proper and humane manner whether or not the animal is on the property of its owner. Otherwise, the person or officer may apprehend the animal and deliver it to the pound for confinement under 9.109. If the animal is destroyed, the owner or keeper of the animal destroyed shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examination. If the animal is found not to be a danger to the health and safety of the city, it may be released to the owner or keeper in accordance with § 9.110.

9.303. Penalty. Any person violating any provision of sections 9.301 and 9.302 shall be guilty of a misdemeanor.

9.400 DANGEROUS AND POTENTIALLY DANGEROUS DOGS.

9.401. Adoption by reference. Except as otherwise provided in this section, 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.

9.402. Definitions. Definitions in this section shall have the following meanings:

9.402.1. **DANGEROUS DOG.** A dog that:

- (a) Has when unprovoked, inflicted substantial bodily harm on a human being on public or private property;
- (b) Has killed a domestic animal when unprovoked while off the owner's property;
- (c) Has attacked one or more persons on two or more occasions; or
- (d) Has been found to be potentially dangerous and after the owner has notice of the same, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

9.402.2. **DOG.** Both the male and female of the canine species, commonly accepted as domesticated household pets.

9.402.3. **GREAT BODILY HARM.** Bodily injury which creates a high probability of death, or which causes serious permanent disfigurement, or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.

9.402.4. **OWNER.** Any person or persons, firm, corporation, organization, department, or association owning, possessing, harboring, keeping, having an interest in, or having care, custody or control of a dog.

9.402.5. **MAINTENANCE COSTS.** Any costs incurred as a result of seizing an animal for impoundment, including, but not limited to, the capturing, impounding, keeping, treating, examining, securing, confining, feeding, destroying, boarding or maintaining seized animals, whether these services are provided by the city or the pound.

9.402.6. **POTENTIALLY DANGEROUS DOG.** A dog that:

(a) Has when unprovoked, inflicted a bite on a human or domestic animal on public or private property;

(b) Has when unprovoked, chased or approached a person, including a person on a bicycle, upon the streets, sidewalks or any public or private property, other than the owner's property, in an apparent attitude of attack;
or

(c) Has a known propensity, tendency or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

9.402.7 **PROPER ENCLOSURE.** Securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the dog from escaping and to provide protection for the dog from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the dog from exiting. The enclosure shall not allow the egress of the dog in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:

(a) A minimum overall floor size of 32 square feet.

(b) Sidewalls shall have a minimum height of five feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches, support post shall be one and one-fourth inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground.

(c) A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and openings in the wire shall not exceed two inches.

(d) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and openings in the wire shall not exceed two inches. The gate shall be self-closing and self-locking. The gate shall be locked at all times when the dog is in the pen or kennel.

9.402.8. **SUBSTANTIAL BODILY HARM.** Bodily injury that involves a temporary but substantial disfigurement, or that causes a temporary but substantial loss or impairment of the function of any bodily member or organ or that causes a fracture of any bodily member.

9.402.9. **UNPROVOKED.** The condition in which the dog is not purposely excited, stimulated, agitated or disturbed.

9.403. **Declaration of dangerous or potentially dangerous dog.**

9.403.1. A sheriff officer, community service officer, animal control officer or other authorized city employee may declare a dog to be dangerous or potentially dangerous when the officer has probable cause to believe that a dog is dangerous or potentially dangerous. The following factors will be considered in determining a dangerous or potentially dangerous dog:

(a) Whether any injury or damage to a person by the dog was caused while the dog was protecting or defending a person or the dog's offspring within the immediate vicinity of the dog from an unjustified attack or assault.

(b) The size and strength of the dog, including jaw strength, and the animal's propensity to bite humans or other domestic animals.

(c) Whether the dog has wounds, scarring, is observed in a fight, or has other indications that the dog has been or will be used, trained or

encouraged to fight with another animal or whose owner is in possession of any training apparatus, paraphernalia or drugs used to prepare such dogs to fight with other animals.

9.403.2. Beginning six months after a dog is declared dangerous or potentially dangerous, an owner may request annually that the city review the designation. The owner must provide evidence that the dog's behavior has changed due to the dog's age, neutering, environment, completion of obedience training or other factors. If enough evidence is provided, the city may rescind the designation.

9.403.3. Exceptions.

(a) The provisions of this section do not apply to dogs used by law enforcement.

(b) Dogs may not be declared dangerous or potentially dangerous if the threat, injury, or danger was sustained by a person who was:

1. Committing a willful trespass or other tort upon the premises occupied by the owner of the dog;
2. Provoking, tormenting, abusing or assaulting the dog, or who can be shown to have a history of repeatedly provoking, tormenting, abusing, or assaulting the dog; or
3. Committing or attempting to commit a crime.

9.404. License required. The owner must annually license dangerous and potentially dangerous dogs with the city and must license a newly declared dangerous or potentially dangerous dog within 14 days after notice that a dog has been declared dangerous or potentially dangerous. Regardless of any appeal that may be requested, the owner must comply with the requirements of M.S. § 347.52 (a) and (c) regarding proper enclosures and notification to the city upon transfer or death of the dog, until and unless a hearing officer or court of law reverses the declaration.

9.404.1. Process for dangerous dogs. The city will issue a license to the owner of a dangerous dog if the owner presents sufficient evidence that:

(a) There is a proper enclosure;

(b) Written proof that there is a surety bond by a surety company authorized to conduct business in Minnesota in the sum of at least

\$300,000, payable to any person injured by a dangerous dog, or receipt of a copy of a policy of liability insurance issued by an insurance company authorized to do business in Minnesota in the amount of at least \$300,000, insuring the owner for any personal injuries inflicted by the dangerous dog. Such surety bond or insurance policy shall provide that no cancellation of the bond or policy will be made unless the city is notified in writing by the surety company or the insurance company at least ten days prior to such cancellation;

(c) The owner has paid the annual license fee for dangerous dogs as established in by the City Council.

(d) The owner has had a microchip identification implanted in the dangerous dog. The name of the microchip manufacturer and identification number of the microchip must be provided to the city. If the microchip is not implanted by the owner, it may be implanted by the city at the owner's expense; and

(e) The owner provides proof that the dog has been sterilized. If the owner does not sterilize the dog within 30 days, the city may seize the dog and sterilize it at the owner's expense.

9.404.2. Process for potentially dangerous dogs. The city will issue a license to the owner of a potentially dangerous dog if the owner presents sufficient evidence that:

(a) There is a proper enclosure;

(b) The owner has paid the annual license fee;

(c) The owner has had a microchip identification implanted in the potentially dangerous dog. The name of the microchip manufacturer and identification number of the microchip must be provided to the city. If the microchip is not implanted by the owner, it may be implanted by the city at the owner's expense.

9.404.3. Inspection. A pre-license inspection of the premises to insure compliance with the city code is required. If the city issues a license to the owner of a dangerous or potentially dangerous dog, the city shall be allowed at any reasonable time to inspect the dog, the proper enclosure and all places where the animal is kept.

9.404.4. Warning symbol. The owner of a dangerous dog licensed under this section must post a sign with the uniform dangerous dog warning symbol on the property in order to inform children that there is a dangerous dog on the property. The sign will be provided by the city upon issuance of the license.

9.404.5. Tags. A dangerous dog licensed under this section must wear a standardized, easily identifiable tag at all times that contains the uniform dangerous dog symbol, identifying the dog as dangerous. The tag shall be provided by the city upon issuance of the license.

9.404.6. License fee. The city will charge the owner an annual license fee for a dangerous or potentially dangerous dog as established in the Ordinance to Establish Fees and Charges as it may be amended from time to time.

9.405. Properly restrained in proper enclosure or outside of proper enclosure. While on the owner's property, an owner of a dangerous or potentially dangerous dog must keep it in a proper enclosure. Inside a residential home, there must be a secured area maintained where the dog will stay when persons other than family members are present. If the dog is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash no longer than four feet and under the physical restraint of an adult. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration.

9.406. Notification requirements to city.

9.406.1. Relocation or death. The owner of a dog that has been declared dangerous or potentially dangerous must notify the City Clerk in writing if the dog is to be relocated from its current address or if the dog has died. The notification must be given in writing within 30 days of the relocation or death. The notification must include the current owner's name and address, and the new owner's name and the relocation address. If the relocation address is outside of the city, the city may notify the local law enforcement agency of the transfer of the dog into its jurisdiction.

9.406.2. Renter's obligations. A person who owns or possess a dangerous or potentially dangerous dog and who will rent property from another where the dog will reside must disclose to the property owner prior to entering the lease agreement and at the time of any lease renewal periods that the person owns or possesses a dangerous or potentially dangerous dog that will reside at the property. A dog owner, who is currently renting property, must notify the property owner within 14 days of city notification if the owned dog is newly declared as dangerous or potentially dangerous and the owner keeps the dog on the property.

9.406.3. Transfer of ownership into the city. No dog that has been previously determined to be dangerous or potentially dangerous by another jurisdiction shall be kept, owned or harbored in the city unless the dog's owner complies with the requirements of this section prior to bringing the dog into the city. Dogs in violation of this division are subject to impoundment and destruction.

9.407. Seizure. Animal control may immediately seize any dangerous or potentially dangerous dog if:

9.407.1. After 14 days after the owner has notice that the dog is declared dangerous or potentially dangerous, the dog is not validly licensed and no appeal has been filed;

9.407.2. After 14 days after the owner has notice that the dog is dangerous, the owner does not secure the proper liability insurance or surety coverage as required or such required insurance is cancelled;

9.407.3. The dog is not maintained in a proper enclosure;

9.407.4. The dog is outside the proper enclosure and not under proper restraint, as required by 9.405;

9.407.5. After 30 days after the owner has notice that the dog is dangerous, the dog is not sterilized, as required by 9.404.1(e);

9.407.6. The dog's microchip has been removed.

9.408. Reclamation. A dog seized under 9.407 may be reclaimed by the owner of the dog upon payment of maintenance costs, and presenting proof to animal control that the requirements of this section have been met. A dog not reclaimed under this division within seven days may be disposed of and the owner will be liable to the city for maintenance costs. A person claiming an interest in a seized dog may prevent disposition of the dog by posting a security in an amount sufficient to provide for the dog's maintenance costs. The security must be posted with the city within seven days of the seizure inclusive of the date seized.

9.409. Subsequent offenses: seizure. If a person has been convicted of violating a provision of this section, and the person is charged with a subsequent violation relating to the same dog, the dog may be seized. If the owner is convicted of the crime for which the dog was seized, the court may order that the dog be destroyed in a proper and humane manner and the owner pay the maintenance costs. If the owner is not convicted and the dog is not reclaimed by the owner within seven days after the owner

has been notified that the dog may be reclaimed, the dog may be disposed of, used for research, or destroyed.

9.410. Notice, hearings.

9.410.1. Notice. After a dog has been declared dangerous or potentially dangerous or has been seized for destruction, the city shall give notice by delivering or mailing it to the owner of the dog, or by posting a copy of it at the place where the dog is kept, or by delivering it to a person residing on the property, and telephoning, if possible. The notice shall include:

(a) A description of the seized dog; the authority for and purpose of the declaration and seizure; the time, place, and circumstances under which the dog was declared; and the telephone number and contact person where the dog is kept;

(b) A statement that the owner of the dog may request a hearing concerning the declaration and that failure to do so within 14 days of the date of the notice will terminate the owner's right to a hearing;

(c) A statement that if an appeal request is made within 14 days of the notice, the owner must immediately comply with the requirements of M.S. § 347.52, paragraphs (a) and (c) regarding proper enclosures and notification to the city upon transfer or death of the dog, until such time as the hearing officer issues an opinion;

(d) A statement that if the hearing officer affirms the dangerous dog declaration, the owner will have 14 days from receipt of that decision to comply with all other requirements of M.S. § 347.51, 347.515, and 347.52;

(e) A form to request a hearing; and

(f) A statement that if the dog has been seized, all maintenance costs of the care, keeping, and disposition of the dog pending the outcome of the hearing are the responsibility of the owner, unless a court or hearing officer finds that the seizure or impoundment was not reasonably justified by law.

9.410.2. Right to hearing.

(a) After a dog has been declared dangerous, potentially dangerous or has been seized for destruction, the owner may appeal in

writing to the city within 14 days after notice of the declaration or seizure. Failure to do so within 14 days of the date of the notice will terminate the owner's right to a hearing. The owner must pay a \$100 fee for an appeal hearing.

(b) The appeal hearing will be held within 14 days of the request. The hearing officer must be an impartial employee of the city or an impartial person retained by the city to conduct the hearing.

(c) If the declaration or destruction is upheld by the hearing officer, actual expenses of the hearing up to a maximum of \$1,000, as well as all maintenance costs, will be the responsibility of the dog's owner. The hearing officer shall issue a decision on the matter within ten days after the hearing. The decision shall be delivered to the dog's owner by hand delivery or registered mail as soon as practical and a copy shall be provided to the city. The decision of the hearing officer is final.

9.411. Destruction of certain dogs. The hearing officer is authorized to order the destruction or other disposition of any dog, after proper notice is given pursuant to 9.410 and upon a finding that:

9.411.1. The dog has habitually destroyed property or habitually trespassed in a damaging manner on property of persons other than the owner;

9.411.2. The dog has been declared dangerous, the owner's right to appeal hereunder has been exhausted or expired, and the owner has failed to comply with the provisions of this section;

9.411.3. It is determined that the dog is infected with rabies;

9.411.4. The dog inflicted substantial or great bodily harm on a human on public or private property without provocation;

9.411.5. The dog inflicted multiple bites on a human on public or private property without provocation;

9.411.6. The dog bit multiple human victims on public or private property in the same attack without provocation;

9.411.7. The dog bit a human on public or private property without provocation in an attack where more than one dog participated in the attack; or

9.411.8. The dog poses a danger to the public's health, safety or welfare. In determining whether the dog poses a danger to the public's health, safety or welfare, the following factors may be considered:

- (a) The dog weighs more than 20 pounds;
- (b) The strength of the dog, including jaw strength;
- (c) The dog's tolerance for pain;
- (d) The dog's tendency to refuse to terminate an attack;
- (e) The dog's propensity to bite humans or other domestic animals;
- (f) The dog's potential for unpredictable behavior;
- (g) The dog's aggressiveness;
- (h) The likelihood that a bite by the dog will result in serious injury.

9.412. Concealing of dogs. No person may harbor, hide or conceal a dog that the city has the authority to seize or that has been ordered into custody for destruction or other proper disposition.

9.413. Dog ownership prohibited.

9.413.1. Except as provided below, a person shall not own a dog if the person has been:

- (a) Convicted of a third or subsequent violation of 9.404, 9.405, or 9.406 or similar ordinance in another jurisdiction, or M.S. §§ 347.51, 347.515 or 347.52;
- (b) Convicted of 2nd degree manslaughter due to negligent or intentional use of a dog under M.S. § 609.205 (4); or
- (c) Convicted of gross misdemeanor harm caused by a dog under M.S. § 609.226, Subd. 1.

(2) Any person who owns a dangerous or potentially dangerous dog and is found to be in violation of any of the provisions of this section or had owned a dangerous or potentially dangerous dog but never

achieved compliance with this section may be prohibited from ownership or custody of another dog for a period of five years after the original declaration. Any dog found to be in violation, may be impounded until due process is completed, pursuant to 9.410.

(3) If any member of a household is prohibited from owning a dog in § 9.413.1 or 9.413.2, unless specifically approved with or without restrictions by the city, no person in the household is permitted to own a dog.

9.414. Dog ownership prohibition review. Beginning three years after a conviction under 9.413.1 that prohibits a person from owning a dog, and annually thereafter, the person may request in writing to the city council that the city review the prohibition. The city may consider such facts as the seriousness of the violation or violations that led to the prohibition, any criminal convictions, or other facts that the city deems appropriate. The city may rescind the prohibition entirely or rescind it with limitations. The city also may establish conditions a person must meet before the prohibition is rescinded, including, but not limited to, successfully completing dog training or dog handling courses. If the city rescinds a person's prohibition and the person subsequently fails to comply with any limitations imposed by the city or the person is convicted of any animal violation involving unprovoked bites or dog attacks, the city may permanently prohibit the person from owning a dog in this state.

9.415. Penalties.

9.415.1. Unless stated otherwise, any person who violates a provision of this section is guilty of a misdemeanor.

9.415.2. Any person who is convicted of a second or subsequent violation of any provision of 9.404, 9.405, or 9.406 is guilty of a gross misdemeanor.

9.415.3. Any person who violates 9.414, whether an owner or household member, is guilty of a gross misdemeanor.

9.500. DANGEROUS ANIMALS (EXCLUDING DOGS).

9.501. Attack by an animal. It shall be unlawful for any person's animal to inflict or attempt to inflict bodily injury to any person or other animal whether or not the owner is present. This section shall not apply to dogs as regulated by § 9.400.

9.502. Destruction of dangerous animal. The Animal Control Officer shall have the authority to order the destruction of dangerous animals in accordance with the terms established by this chapter.

9.503. Definitions. For the purpose of this division, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

9.503.1. **DANGEROUS ANIMAL.** An animal which has:

- (a) Caused bodily injury or disfigurement to any person on public or private property;
- (b) Engaged in any attack on any person under circumstances which would indicate danger to personal safety;
- (c) Exhibited unusually aggressive behavior, such as an attack on another animal;
- (d) Bitten one or more persons on two or more occasions; or
- (e) Been found to be potentially dangerous and/or the owner has personal knowledge of the same, the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals.

9.503.2. **POTENTIALLY DANGEROUS ANIMAL.** An animal which has:

- (a) Bitten a human or a domestic animal on public or private property;
- (b) When unprovoked, chased or approached a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or
- (c) Has engaged in unprovoked attacks causing injury or otherwise threatening the safety of humans or domestic animals.

9.503.3. **PROPER ENCLOSURE.** Securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the animal from exiting. The enclosure shall not allow the egress of the animal in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:

(a) Have a minimum overall floor size of 32 square feet.

(b) Sidewalls shall have a minimum height of five feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches, support posts shall be 1¼-inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground.

(c) A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than two inches.

(d) An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than two inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the animal is in the pen or kennel.

9.503.4. **UNPROVOKED.** The condition in which the animal is not purposely excited, stimulated, agitated or disturbed.

9.504. Designation as potentially dangerous animal. The Animal Control Officer shall designate any animal as a potentially dangerous animal upon receiving evidence that the potentially dangerous animal has, when unprovoked, then bitten, attacked, or threatened the safety of a person or a domestic animal as stated in division (C)(2). When an animal is declared potentially dangerous, the Animal Control Officer shall cause one owner of the potentially dangerous animal to be notified in writing that the animal is potentially dangerous.

9.505. Evidence justifying designation. The Animal Control Officer shall have the authority to designate any animal as a dangerous animal upon receiving evidence of the following:

9.505.1. That the animal has, when unprovoked, bitten, attacked, or threatened the safety of a person or domestic animal as stated in division 9.503.1.

9.505.2. That the animal has been declared potentially dangerous and the animal has then bitten, attacked, or threatened the safety of a person or domestic animal as stated in division 9.503.1.

9.506. Authority to order destruction. The Animal Control Officer, upon finding that an animal is dangerous hereunder, is authorized to order, as part of the disposition of the case, that the animal be destroyed based on a written order containing one or more of the following findings of fact:

9.506.1. The animal is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning or multiple attacks; or

9.506.2. The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.

9.507. Procedure. The Animal Control Officer, after having determined that an animal is dangerous, may proceed in the following manner: The Animal Control Officer shall cause one owner of the animal to be notified in writing or in person that the animal is dangerous and may order the animal seized or make orders as deemed proper. This owner shall be notified as to dates, times, places and parties bitten, and shall be given 14 days to appeal this order by requesting a hearing before the City Council for a review of this determination.

9.507.1. If no appeal is filed, the Animal Control Officer shall obtain an order or warrant authorizing the seizure and the destruction of the animal from a court of competent jurisdiction, unless the animal is already in custody or the owner consents to the seizure and destruction of the animal.

9.507.2. If an owner requests a hearing for determination as to the dangerous nature of the animal, the hearing shall be held before the City Council, which shall set a date for hearing not more than three weeks after demand for the hearing. The records of the Animal Control or City Clerk's office shall be admissible for consideration by the Animal Control Officer without further foundation. After considering all evidence pertaining to the temperament of the animal, the City Council shall make an order as it deems proper. The City Council may order that the Animal Control Officer take the animal into custody for destruction, if the animal is not currently in custody. If the animal is ordered into custody for destruction, the owner shall immediately make the animal available to the Animal Control Officer. If the owner does not immediately make the animal available, the Animal Control Officer shall obtain an order or warrant authorizing the seizure and the destruction of the animal from a court of competent jurisdiction.

9.507.3. No person shall harbor an animal after it has been found by to be dangerous and ordered into custody for destruction.

9.508. Stopping an attack. If any sheriff officer or Animal Control Officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.

9.509. Notification of new address. The owner of an animal which has been identified as dangerous or potentially dangerous shall notify the Animal Control Officer in writing if the animal is to be relocated from its current address or given or sold to another person. The notification shall be given in writing at least 14 days prior to the relocation or transfer of ownership. The notification shall include the current owner's name and address, the relocation address, and the name of the new owner, if any.

9.510. Dangerous animal requirements.

9.510.1. Requirements. If the City Council does not order the destruction of an animal that has been declared dangerous, the City Council may, as an alternative, order any or all of the following:

(a) That the owner provide and maintain a proper enclosure for the dangerous animal as specified in 9.503.3;

(b) Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous animal on the property;

(c) Provide and show proof annually of public liability insurance in the minimum amount of \$300,000;

(d) If the animal is outside the proper enclosure, the animal must be muzzled (if physically possible depending on the type of animal) and restrained by a substantial chain or leash (not to exceed six feet in length) and under the physical restraint of a person 16 years of age or older. The muzzle must be of a design as to prevent the animal from biting any person or animal, but will not cause injury to the animal or interfere with its vision or respiration;

(e) The animal shall have a microchip implant as provided by M.S. § 347.515, as it may be amended from time to time;

(f) All animals deemed dangerous by the Animal Control Officer shall be registered with the county in which this city is located within 14 days after the date the animal was so deemed and provide satisfactory proof thereof to the Animal Control Officer.

(g) If the animal is a cat or ferret, it must be up to date with rabies vaccination.

9.510.2. Seizure. As authorized by M.S. § 347.54, as it may be amended from time to time, the Animal Control Officer shall immediately seize any dangerous animal if the owner does not meet each of the above requirements within 14 days after the date notice is sent to the owner that the animal is dangerous. Seizure may be appealed to district court by serving a summons and petition upon the city and filing it with the district court.

9.510.3. Reclaiming animals. A dangerous animal seized under 9.510.2, may be reclaimed by the owner of the animal upon payment of impounding and boarding fees and presenting proof to animal control 9.510.1 that each of the requirements under 9.510.1, is fulfilled. An animal not reclaimed under this section within 14 days may be disposed of as provided under 9.506, and the owner is liable to the city for costs incurred in confining and impounding the animal.

9.511. Subsequent offenses. If an owner of an animal has subsequently violated the provisions under 9.500 with the same animal, the animal must be seized by animal control. The owner may request a hearing as defined in 9.507. If the owner is found to have violated the provisions for which the animal was seized, the Animal Control Officer shall order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining the animal. If the person is found not to have violated the provisions for which the animal was seized, the owner may reclaim the animal under the provisions of 9.510.3. If the animal is not yet reclaimed by the owner within 14 days after the date the owner is notified that the animal may be reclaimed, the animal may be disposed of as provided under 9.506 and the owner is liable to the animal control for the costs incurred in confining, impounding and disposing of the animal.

9.600 BASIC CARE.

9.601. Humane Treatment. 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.

9.602. Dogs and cats. Dogs and cats must be provided the following basic care.

9.602.1. 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. Feed standards shall be those recommended by the National Research Council.

9.602.2. 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.

9.602.3. 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. Exercise for 20 to 30 minutes and water must be provided at least once every eight hours. Food must be provided at least once every 24 hours or more often, if necessary, to maintain the health and condition of the animals.

9.602.4. Shelter size. A confinement area must provide sufficient space to allow each animal to turn about freely and to easily stand, sit, and lie in a normal position. Each confined animal must be provided a minimum square footage of floor space as measured from the tip of its nose to the base of its tail, plus 25%, expressed in square feet. The formula for computing minimum square footage is: (length of animal plus 25%) times (length of animal plus 25%), divided by 144. A shaded area must be provided sufficient to protect the animal from the direct rays of the sun at all times during the months of May to October.

9.602.5. 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.

9.602.6. 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.

9.602.7. Temperature. Confinement areas must be maintained at a temperature suitable for the animal involved.

9.602.8. 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.

9.602.9. Lighting. An indoor confinement area must have at least eight hours of illumination sufficient to permit routine inspection and cleaning.

9.602.10. 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.

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

9.602.12. 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.

9.603. 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.

9.604. Dogs and cats in motor vehicles.

9.604.1. 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.

9.604.2. 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.

9.605. 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.

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

9.605.2. Shade. Shade from the direct rays of the sun, during the months of May to October shall be provided.

9.605.3. 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.

9.607. Kennels.

9.607.1. Definition of kennel. The keeping of three or more dogs on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a "kennel;" except that a fresh litter of pups may be kept for a period of three months before that keeping shall be deemed to be a "kennel."

9.607.2. Kennel as a nuisance. Because the keeping of three or more dogs on the same premises is subject to great abuse, causing discomfort to persons in the area by way of smell, noise, hazard, and general aesthetic depreciation, the keeping of three or more dogs on the premises is hereby declared to be a nuisance and no person shall keep or maintain a kennel within the city.

9.700. Fighting Animals.

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

9.702. No person shall:

(1) 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;

(2) Receive money for the admission of a person to a place used, or about to be used, for that activity;

(3) Willfully permit a person to enter or use for that activity premises of which the permitter is the owner, agent, or occupant; or

(4) Use, train, or possess a dog or other animal for the purpose of participating in, engaging in, or promoting that activity.

(5) 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.

9.800 SEIZURE OF ANIMALS.

9.801. Any sheriff 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:

9.801.1. There is an identified complainant other than the sheriff officer or Animal Control Officer making a contemporaneous complaint about the animal;

9.801.2. The officer reasonably believes that the animal meets either the barking dog criteria set out in 9.105.1; the criteria for cruelty set out in 9.600; or the criteria for an at large animal set out in 9.101;

9.801.3. The officer can demonstrate that there has been at least one previous complaint of a barking dog; inhumane treatment of the animal; or that the animal was at large at this address on a prior date;

9.801.4. 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 ignored;

9.801.5. The Animal Control Officer or sheriff 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. If the officer has the permission of the owner, a property manager, landlord, innkeeper, or other authorized person to enter the property or has obtained a

pass key from a property manager, landlord, innkeeper, 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 written notice of the seizure is left in a conspicuous place if personal contact with the owner of the animal is not possible.

9.900 PENALTY.

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

9.902. Misdemeanor. Unless otherwise provided, violation of this chapter shall constitute a misdemeanor.

9.903. Petty misdemeanor. Violations of §§ 91.101, 9.105, 9.906 and 9.607 are petty misdemeanors.

CHAPTER 10, GENERAL WELFARE

10.100 PUBLIC NUISANCES

10.101. Definitions. For the purpose of sections 10.101 to 10.106 the term Apublic nuisance@ shall be any thing, act or use of property which:

10.101.1. Annoys, offends, injures or endangers the health, comfort, repose, morals, decency, peace or safety of any considerable number of members of the public; or

10.101.2. Unlawfully interferes with, obstructs, or renders dangerous for passage a public waterway, park, square, street, alley, highway or any other public waterway, park square, street, alley, highway or any other public right-of way or property; or

10.101.3. Depreciates the value of the property of a considerable number of members of the public; or

10.101.4. In any way renders a considerable number of the public insecure in life or use of property.

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

10.102.1. Decayed Food. All decayed or unwholesome food offered for sale to the public.

10.102.2. Diseased Animals. All diseased animals running at large.

10.102.3. Milk from Untested Cows. Milk, which is produced by cows and has not been tested and found free of tuberculosis within the year previous to the offering, of such milk for sale to the public.

10.102.4. Carcasses. Carcasses of animals not burned or destroyed within twenty-four hours after death.

10.102.5. Manure and Rubbish. Accumulations of manure and rubbish.

10.102.6. Garbage Cans. Privy vaults and garbage cans which are not fly-right.

10.102.7. Cesspool Contents. Dumping the content of any cesspool, privy vault or garbage can except at places authorized by law.

10.102.8. Weeds. All noxious weeds, tall grasses, and other rank growths on vacant or improved property in excess of 8 inches.

10.102.9. An accumulation of tin cans, bottles or trash or debris of any nature or description; and the throwing, dumping, or depositing of the dead animal, manure or description; and the throwing, dumping, or depositing of any dead animals, manure, garbage, waste, decaying matter, ground sand, stones, ashes, rubbish, tin cans or other material of any kind on private property.

10.102.10. Smoke and Fumes. Dense smoke, noxious fumes, gas and soot or cinder in unreasonable quantities.

10.102.11. Offensive and Unlicensed Trades. Offensive trades and businesses as defined by statute or ordinance not licensed by law.

10.102.12. Medicine Samples. The distribution of samples of medicines or drugs unless such samples are placed in the hands of an adult person by someone properly licensed.

10.102.13. Common Drinking Cups. Providing common drinking cups in public places, public conveyances and public buildings.

10.102.14. Other Acts Detrimental to Health. All other acts, missions of acts, occupations and uses of property which are deemed by the board of health to be a menace to the health of the inhabitants of the City or a considerable number thereof.

(ord. 12, sec. 2, 09/10/57)

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

10.103.1. Bawdy Houses. All houses kept for purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses.

10.103.2. Window Peeping. The looking into or peeping through doors, windows or openings of private homes by methods of stealth and without proper

authority and by surreptitious methods, or what is commonly known as Awindow peeping@.

10.103.2. Other Acts Detrimental to Morals. All other things, acts, omissions or occupations that may be considered detrimental to the moral well being of the inhabitants of the City, or a considerable number thereof.

10.104. Public Nuisances Affecting Peace and Safety. The following are declared to be nuisances affecting public morals and decency.

10.104.1. Low Limbs. All limbs of trees which are less than 12 feet above the surface of any public sidewalk or street.

10.104.2. Low Wires. All wires which are strung less than 15 feet above the surface of any public street or alley.

10.104.3. Dangerous Buildings. All buildings, walls, and other structures which have been damaged by fire, decay or otherwise to an extent exceeding one-half of their original value or which are so situated as to endanger the safety of the public.

10.104.4. Noises. All unnecessary noises and annoying vibrations.

10.104.5. Hazardous Buildings. Any building which because of inadequate maintenance, dilapidation, physical damage, unsanitary condition, or abandonment, constitutes a fire hazard to public safety or health of the residents of the City.

(ord. 12, sec. 4, (3-5,8,9), 09/10-57)

10.105. Nuisances affecting the safety and environment. It is unlawful for any person, firm, partnership, or corporation occupying or owning private property within the corporate limits of the City of Lynd to keep or permit to be kept any "junk" on such private property within the City of Lynd for a period in excess of seven (7) days.

10.105.1. Definition of Junk: Junk as defined herein shall include but shall not be limited to the following:

10.105.1.1. Motor vehicles which do not have attached thereto a valid and current license plate issued by the proper state agency and not in operable condition.

10.105.1.2. Parts of motor vehicles or machinery.

10.105.1.3. Used appliances stored in the open.

10.105.1.4. Decayed, weathered, or broken construction materials.

10.105.1.5. Any construction materials not presently suitable for construction purposes.

10.106. Duties of City Officers. The Lyon County Sheriff's office or other designated officer shall enforce the provisions of this ordinance relating to nuisances. The sheriff's office shall enforce provisions relating to nuisances and shall assist the other designated officer in the enforcement of provisions relating to nuisances affecting public safety. Such officer shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

10.107. Enforcement. For the purpose of enforcement, the City may proceed to seek enforcement as to any activity or condition which constitutes a violation of this Ordinance by proceeding through a series of civil procedures to provide notice to the owner or occupant of the premises and require the removal of the nuisance or may proceed through a criminal proceeding or may pursue both civil and criminal enforcement as hereinafter provided.

10.107.1 Alternatives. For the purpose of enforcement, the City may proceed to seek enforcement as to any activity or condition which constitutes a violation of this Ordinance by proceeding through a series of civil procedures to provide notice to the owner or occupant of the premises and require the removal of the nuisance or may proceed through a criminal proceeding or may pursue both civil and criminal enforcement as hereinafter provided.

10.107.2 Decision Not an Election of Remedies. A decision by the City to pursue a particular nuisance activity through a civil procedure or a criminal procedure is not a decision by the City not to pursue the other alternative for enforcement. The City may choose to pursue either alternative first. A decision to pursue one does not prevent the City from pursuing the same nuisance for the same violation through the other procedure.

10.108. Civil Procedures Relating to Abatement.

10.108.1 Notice. Written notice of violation; notice of the time, date, place and subject of any hearing before the city council; notice of city council order; and notice of motion for summary enforcement hearing shall be given as set forth in this subdivision.

10.108.1.1 Notice of violation. Written notice of violation shall be served by the officer charged with enforcement on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of violation, notice of violation shall be served by posting it on the premises.

10.108.1.2 Notice of council hearing. Written notice of any city council hearing to determine or abate a nuisance shall be served on the owner of record and the occupant of the premises either in person or by certified or registered mail. If the premises are not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of council hearing, notice of council hearing shall be served by posting it on the premises.

10.108.1.3 Notice of city council order. Except for those cases determined by the city to require summary enforcement, written notice of any city council order shall be made as provided in Minn. Stat. 463.17 (Hazardous or Substandard Buildings).

10.108.2 Procedure. Whenever the officer charged with enforcement determines that a public nuisance is being maintained or exists on premises in the city, the officer shall notify in writing the owner of record or occupant of the premises of such fact and order that such nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated.

10.108.2.1 If the nuisance consists of the failing to mow weeds or grasses in the City in excess of 8 inches, and the nuisance is not abated as ordered, the officer may immediately proceed to abate the nuisance.

In all other cases if the notice of violation is not complied with, within the time specified, the enforcing officer shall report the fact forthwith to the City Council or in lieu thereof the enforcing officer may notice the matter for hearing before the City Council at the same time that the notice to abate the nuisance is given.

After notice to the owner of record or occupant, the Council, after the notice and the opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further direct that the nuisance be abated within a time prescribed by the Council, which time as set by the Council may provide for additional time for compliance or may be the same time as had been previously specified by the enforcing officer. The City Council may order the abatement of the nuisance either immediately, or if compliance has not been obtained within the time specified by the City the City Council may elect to pursue injunctive relief from the District Court or summary enforcement or both.

10.108.3 Emergency procedure; summary enforcement. In cases of emergency where delay in the abatement required will permit a continuing nuisance to unreasonably endanger public health, safety, or welfare, the City Council may order summary enforcement and abate the nuisance if the notice and procedure requirements set forth in subdivisions 10.109.1 and 10.109.2 above have been followed.

To proceed with summary enforcement, the officer charged with enforcement 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.

10.108.3.1 The enforcement officer shall notify the occupant or owner of the premises in writing of the nature of the nuisance and of the City's intention to seek summary enforcement and the time and place of the Council meeting to consider the question of summary enforcement.

10.108.3.2 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 subdivision 10.108.3.1 above, and may order that such nuisance be immediately terminated or abated.

10.108.3.3 If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance. The summary enforcement provision of this Subdivision 10.108.3.3 shall Be utilized only in cases when they are provided for by Minnesota Statutes MS 463.15 et seq.

10.108.4 Immediate Abatement. Nothing in this Section 10.108 of this ordinance 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.

10.108.5 Injunction. In addition to the other rights and remedies relating to enforcement and in addition to the criminal penalties as hereinafter provided the City may bring a legal action to enforce the provisions of this ordinance and may obtain an injunction to prevent and prohibit further violations of provisions of this ordinance.

10.109 Civil Procedures as to the Recovery of Costs.

10.109.1 Personal Liability. The owner of premises on which a nuisance has been abated by the City shall be personally liable for the cost to the City of the abatement, including administrative costs, legal and court expenses. As soon as the work has been completed and the cost determined, the City Administrator or other official designated by the Council shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the City Administrator.

10.109.2 Assessment. If the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the clerk shall, on or before September 1 following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under Minn. Stat. 429.101 against each separate lot or parcel to which the charges are attributable. The Council may then spread the charges against such 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 10, as the Council may determine in each case.

10.110 Criminal Penalties.

10.110.1 Petty Misdemeanor. A violation of Section 10.100 to Section 10.110.4 shall constitute a petty misdemeanor. A petty misdemeanor is punishable by a fine of up to \$300.00.

10.110.2 Continuing Violation. Each day that a violation occurs after notice is given to a landowner or occupant of property of the need to abate a nuisance shall constitute a separate offense.

10.110.3 Minimum Penalty. That the minimum penalty for a violation of this Ordinance shall be a fine of \$75.00.

10.110.4 Enhanced Penalty. In event that a violation of this Ordinance occurs on the same premises on more than one occasion or as to the same owner on multiple properties the matter may be charged as a misdemeanor. If a matter is charged as a misdemeanor, the maximum penalty shall be a fine of up to \$1,000.00 and incarceration for a period of up to 90 days. The officer charging such a violation or the prosecuting attorney may certify that a subsequent violation, which under this provision may be enhanced, has not been charged as an enhanced offense in which case the matter shall be a petty misdemeanor as provided in subdivision 10.110.1.

10.200 LOUD AND NOISY GATHERINGS.

10.201. Party or Gathering. The words party or gathering for the purpose of this ordinance shall mean three or more persons present in either an indoor or outdoor setting, which is either private or open to the public. (Ord. 27, 2nd S. 7/13/92)

10.202. Order to Disperse. When a peace officer determines that party or gathering is creating noise or such a disturbance that it disturbs the quite and repose of others, they shall:

10.2021. Order the persons other than owners or tenants to disperse immediately.

10.2022. Order the owners or tenants of such premises who has knowledge of the disturbance to make a reasonable effort to see that the disturbance is stopped.

10.203. Violation. It is a violation of this ordinance:

10.2031. For a person to participate in any party or other gathering of people giving rise to noise that disturbs the quite or repose of other persons.

10.2032. For a person to refuse to disperse or leave a party or gathering after being ordered to leave by a peace officer.

10.2033. For an owner or tenant of a premise who has knowledge of a disturbance to permit a loud and noisy party or gathering.

10.2034. For a person to fail to comply with a peace officer order pursuant to 10.221 or 10.222.

10.204. Penalty. Every person that violates the provisions of this ordinance, when they performs an act that is thereby prohibited or declared unlawful, or fails to act when such failure is prohibited or declared unlawful by this ordinance, and upon conviction thereof, shall be punished as for a misdemeanor.

10.300 NOISE RESTRICTION

10.301. Noise Restriction. Between the hours of 10 P.M. and 6 A.M., no person shall play, use, or operate on public or private property any radio, tape, or disc player, musical instrument, phonograph, or the machine or device for the production of amplification of sound in such a manner, considering the time and place and the

purpose for which the sound is produced, as to unreasonably disturb the peace, quiet, or repose of a person or persons of ordinary sensibility.

10.302. Objective Standards. The play, use or operating of any radio, tape or disc player, musical instrument, phonograph, or other machine or device for the production or amplification of sound in such a manner as to be plainly audible at a distance of fifty (50) feet, from said machine or device shall be prima facie evidence of a violation of this section.

10.303. Vehicles. When sound violating this section is produced by a machine or device that is located in or on a vehicle, the vehicle's owner is not present, the person in charge of the vehicle at the time is guilty of the violation.

10.304. Exemptions. This section shall not apply to sound produced by the following:

10.304.1 Amplifying equipment used in connection with activities for which permits have been granted;

10.304.2. Anti-theft devices, and

10.304.3 Machines or devices for the production of sound on or in authorized emergency vehicles.

10.305. Penalty.

10.305.1 Any person violating the provisions of this Ordinance shall upon conviction be guilty of a petty misdemeanor and subject to a fine of not more than \$300.00.

10.305.2 Any person violating the provisions of this ordinance on a second occasion within six months of a prior violation shall be guilty of a misdemeanor and upon conviction may be punished by a fine of not more than \$1,000.00 and imprisonment of not more than 90 days or both.

CHAPTER 11, MORALS AND CONDUCT

11.100 DISORDERLY CONDUCT AND DISTURBANCE OF THE PEACE

11.101. Disorderly Conduct and Disturbance of the Peace. No person knowing or having reasonable grounds to know that it will, or will tend to, alarm, anger, or disturb others or provoke an assault or breach of the peace, shall do any of the following:

11.101.1. Engage in brawling or fighting.

11.101.2. Disturb an assembly or meeting, not unlawful in its character.

11.101.3. Engage in noisy, boisterous or riotous conduct tending reasonable to annoy or disturb others.

11.101.4. Engage in offensive, obscene or abusive language or in boisterous and noisy conduct tending reasonably to arouse alarm, anger or resentment in others.

11.101.5. Willfully and lewdly exposes his or her person or the private parts thereof, or procures another to so expose himself or herself; or

11.101.6. Races the motor of any motor vehicle; or

11.101.7. Causes the spinning or skidding of wheels or tires causing tire squeals or similar noises; or

11.101.8. Fails or refuses to vacate or leave any premises after being requested or ordered, whether orally or in writing, to do so, by the owner, or person in charge thereof, or by any law enforcement agent or official; provided, however, that this provision shall not apply to any person who is owner or tenant of the premises involved nor to any law enforcement or other government official who may be present thereon at that time as part of their official duty, nor shall it include the wife, children, employee or tenant of such owner or occupier.

11.102. Penalty. Any person violating any provision of section 11.101 shall be guilty of a misdemeanor.

11.200 OBSCENE AND LEWD BEHAVIOR

11.201. Obscene and Lewd Behavior. No person shall do any of the following knowing, or having reasonable grounds to know, that it will, or tend to, cause the result stated:

11.201.1. Appear in public nude, or in any public place in a state of dress, in a manner that offends public decency.

11.201.2. Exhibit any private part of the body, or participate in a sexual act in public, in a manner that corrupts public morals or offends public decency.

11.202. Obscene Displays. No person shall do any of the following knowing, or having reasonable grounds to know, that it will, or tend to cause the result stated:

11.202.1. Display or sell sexually explicit pictures or writings in a manner that corrupts public morals or offends public decency.

11.202.2. Take part in or show any sexually explicit play, movie, or other performance in a manner that corrupts public morals or offends public morals or offends public decency.

11.203. Penalty. Any person violating any provision of sections 11.201 and 11.202 shall be guilty of a misdemeanor.

11.300. DANCE HALLS

11.301. Dance Hall. A public dancing place, as the term is used in Section 11.301 to 11.313 shall be taken to mean any room, place, or space, open to public patronage in which dancing, wherein the public may participate, is carried on and to which admission may be had by the public by payment, directly or indirectly, of an admission fee or price for dancing. A public dance, as the term is used in this section, shall be taken to mean any dance wherein the public may participate by payment, directly or indirectly, of admission fee or price for dancing, or a fee for a membership in a club, and shall include any manner of holding a dance which may be participated in by the public through the payment of money, directly or indirectly.

11.302. Proprietors Must Obtain Permits. It shall be unlawful for any person to give, hold, or conduct a public dance unless the owner or proprietor of the public dancing place, or the person giving the same or in charge thereof, shall first have procured a permit to hold, give, and conduct such public dance from the City of Lynd.

11.303. Issuance of a Permit. Such permit shall be obtained from the City Clerk after submitting an application to the City Clerk for presentation to the City Council at the next regularly scheduled City Council meeting. Such permits may be issued by the City Council for one or more public dances or for a period of time not exceeding one year. The permit shall be issued at a fee under such conditions as the council may from time to time determine.

11.304. Permit to be Posted. Any person desiring a permit to hold, give, or conduct a public dance shall make application therefore by filing with the City Clerk a verified application, in writing, setting forth the name and address of the person, persons, committee, or organization who are to give, hold, and conduct the same, and the time and place where such public dance is to be held. The application shall thereupon be presented to the City Council at its next meeting for action. The City Council may refer the application to the chief peace officer of the municipality or to the sheriff of the county for investigation and a report before granting the same. The City Council shall thereupon act upon the application and either grant or reject the same. In the case the same is granted, the City Council shall fix the fee to be paid by the applicant for such permit and shall direct the City Clerk to issue the same upon the payment of the fee and upon payment of the expense of the investigation herein provided for in the case such investigation is made. The permit shall specify the names and addresses of the persons to whom issued, the amount paid therefor, and the time and place where the public dance is to be held. The permit shall be posted in a public place where the public dance is to be held. The permit shall be posted in a public place in the dance hall described therein during the time the public dance described therein is being given, and the persons named in the permit shall be responsible for the manner in which the public dance is held and conducted.

11.305. Applications. All applications for such permits shall be made on a form furnished by the City. The applicant shall represent that the applicant has not, within five (5) years prior to the making of the application, been convicted of a felony, gross misdemeanor, or of the violation of any of the provisions of this ordinance or any law similar thereto. The applicant shall further represent that they have not been convicted of any violation of any state, federal, or local law relating to the sale or consumption of alcohol, whether a determination of such violation has been made in a civil or criminal proceeding. The applicant shall represent that they have not been adjudged to have violated any provision of this ordinance or of any similar ordinance in a civil proceeding. In the event that the applicant has committed such a violation, the applicant shall detail any such violations in the application. The existence of any such violation may be a grounds for the City to deny the applicant's permit, provided, however, no permit shall be denied as the result of a liquor violation if liquor will not be served upon the premises for which the application for a dance permit is made.

No permit shall be issued under the terms of this ordinance unless the City Council is satisfied that the place where the public dance is to be given is properly ventilated and is

equipped with necessary toilets, washrooms, lighting facilities, and that such place is not likely to become a public nuisance or detrimental to public morals.

11.306. Immodest Dances Prohibited. No person shall dance, nor shall any person to whom such permit is issued, permit or suffer any person to dance in any public dance hall, any indecent or immoral dances or any dance which is characterized by immodest motion of the body. No person shall in any public dance hall, act or speak in rude, boisterous, obscene, or indecent manner, nor shall any person to whom a permit has been issued suffer or permit any person to so act or speak therein.

11.307. Lights. Every public dancing place shall be brightly illuminated while in public use, and dancing therein while the lights are extinguished, dimmed, or turned low, so as to give imperfect illumination is hereby prohibited.

11.308. Not to Admit Certain Persons. No person to whom a permit has been issued shall permit any intoxicated person to be or remain in any public dancing place.

11.309. Officer Must Attend All Public Dances. It is required that the person to whom such permit is issued shall have an officer of the law present at every public dance to be given or held thereunder during all the time the public dance is being held. Such officer of the law shall be designated by the chief peace officer of the City. In all cases the fees and expenses of such officer of the law shall be paid in advance by the person to whom the permit has been issued. In case any person, not a licensed peace officer, shall be designated as such officer of the law, the person to whom the permit has been issued shall be responsible for the person's acts and conduct and there shall be no liabilities for the person's acts and conduct on the part of the officer designating the person or the City under the provisions of this ordinance.

11.3010. Police Protection. The applicant shall, on each occasion, a minimum of seven (7) days in advance of a public dance, inform the Lyon County Sheriff's office, in writing, of the applicant's intention to hold a dance upon the premises of the applicant. The applicant and Lyon County Sheriff's office shall discuss prospective or likely attendance at the dance event. The applicant will be responsible for the payment of the actual costs of employing additional licensed peace officers by the City to provide additional licensed officers by the City to provide additional protection during the occurrence of such dances. Such costs shall be billed to the applicant periodically by the City and shall be paid within seven (7) days thereafter. Failure to make any such payment shall be grounds for revocation of the dance permit. If the parties are unable to agree as to the number of additional officers who may be necessary, the decision by the Sheriff's office shall be final. Such officers shall perform such duties as are directed by the Sheriff's office and shall not be accountable, reportable, or in any other manner subject to the direction or control of the applicant or any of the other employees of the applicant.

Such additional officers shall be in addition to those officers who are located within the premises on which the dance is to be conducted as provided in Section 11.309.

11.311. Hours. No public dance shall be held or conducted between the hours of one o'clock and six o'clock a.m., of any day; provided, that no public dance shall be held or conducted on Sunday between the hours of one o'clock a.m., and 12 o'clock noon thereof. In all other cases, the City Council issuing the permit herein provided for, may, if they so desire, fix the hours within which public dances may be held, not inconsistent herewith, and shall also have authority, by ordinance or resolution, to regulate or to prohibit the same on Sunday, within the limits of the City.

11.312. Disposition of Fees. All fees for permits hereunder shall be paid into the general fund of the City.

11.313. Revocation of Permit. The City Council may at any time revoke the permit and shall at any time revoke this permit for a violation of the terms of this ordinance by the applicant, and shall revoke such permit held by any person convicted of violating any of the provisions of this ordinance. It shall be grounds for revocation of the dance permit if the applicant has failed to make payment to the City of charges for Sheriffs service in a timely manner or has failed to inform the Sheriff's office in advance of dances to be conducted by the applicant or has, in any other manner, violated the terms or requirements of this ordinance.

11.314. Violation a Misdemeanor. Any person, firm, or corporation violating any of the provisions of this ordinance shall be guilty of a misdemeanor.

CHAPTER 12, ALCOHOLIC BEVERAGES, CIGARETTES AND CONTROLLED DRUGS AND SUBSTANCES

12.100 INTOXICATING LIQUOR

12.101. Definitions. For the purpose of section 12.101 to 12.116 of this code the terms defined in this section shall have the meaning given them in Minnesota Statutes Section 340A.101 or any successor statute.

12.102. License Required. No person except a wholesaler or manufacturer, to the extent authorized under state license, shall directly or indirectly deal in, sell, or keep for sale in the City any intoxicating liquor without a license to do so as provided in this code.

12.103. Types of License. Licenses shall be of the types allowed by Minnesota Statutes Chapter 340A and subject to the requirements and restrictions set out in that statute except as to more restrictive provisions contained in the Lynd City Code.

12.104. Application for License. Every application for a license to sell liquor shall state the name of the applicant, their age, representations as to their character, with such 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, whether the applicant is owner and operator of the business, how long they has been in that business at that place, and such other information as the council may require from the applicant or as required by Minnesota Statutes Chapter 340A. In addition to containing such information, the application shall be in the form prescribed by the liquor controlling commissioner and shall be verified and filed with the Clerk. No person shall make a false statement in an application.

12.105. Financial Responsibility. All applications for licenses shall be accompanied by proof insurance as required by Minnesota Statutes Chapter 340A.

12.106. Approval of Security. The security offered under section 12.105 shall be approved by the council and, as applicable, by the state liquor control commissioner. Operation of a licensed business without having on file with City at all times effective proof of financial responsibility and/or insurance as required in sections 12.10 and 12.106 is a cause for revocation of the license.

12.107. License Fees. The annual fee for a liquor license shall be as specified by Section 18.108 of the Lynd City Code.

12.107.1. Each application for a license shall be accompanied by a receipt from the City treasurer for a payment in full of the appropriate license fee. All fees shall be paid into the general fund. If an application for a license is rejected, the treasurer shall refund the amount paid.

12.107.2. Each license shall be issued for a period of one year, except that if the application is made during the year, a license may be issued for the remainder of the license period for a prorated fee with any unexpired fraction of a month being counted as one month. Each license shall expire on November 1st of each year.

12.107.3. No refunds shall be made except as authorized by statute.

12.108. Granting of Licenses. The council shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After investigation and hearing, the council shall, in its discretion, grant or refuse the application. No license required to be approved by the state of Minnesota shall become effective, until it, together with the security furnished by the applicant, has been approved by the state.

12.109. Transferability of License. Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without council approval. Any transfer of stock of a corporate licensee is deemed a transfer of the license and a transfer of stock without prior council approval is a ground for revocation of the license.

12.110. Persons Ineligible for License. No license shall be granted to any person made ineligible for such a license by state law.

12.111.2. No license shall be granted for operation on any premises on which taxes, assessment, or other financial claims of the City are delinquent and unpaid.

12.112. Conditions of License. Every license is subject to the conditions in the following subdivisions and all other provisions of this code and of any other applicable code, state law or regulation.

12.112.1. Every licensee is responsible for the conduct of their place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell intoxicating liquor there is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this code and law equally with the employee.

12.112.2. The following acts or conduct on licensed premises are deemed contrary to public welfare and morals, and therefore, no Aon-sale@ license shall be held at any premises where such conduct or acts are permitted:

12.112.2.1. To employ or use any person in the sale or service of alcoholic beverages in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.

12.112.2.2. To employ or use the services of any hostess while such hostess is unclothed or in such attire, costume or clothing as described in paragraph 12.112.4.4.

12.112.2.3. To encourage or permit any person on the licensed premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other person.

12.112.2.4. To permit any employee or person to wear or use any device or covering exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion thereof.

12.112.2.5. To permit any person to perform acts or of acts which simulate:

12.112.2.5.1. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.

12.112.2.5.2. The touching, caressing or fondling on the breast, buttocks, anus or genitals.

12.112.2.5.3. The displaying of the pubic hair, anus, vulva, genitals or the nipple or areola of the female breast.

12.112.2.6. To permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described above.

12.112.2.7. To permit any person to remain in or upon the licensed premises who exposes to public view the pubic hair, anus, vulva or genitals except where said pubic hair, anus, vulva or genitals are covered with transparent clothing, in the form of pants or panties, and in addition where the breast and the pubic hair, anus, vulva and genitals are covered with transparent clothing.

12.112.2.8. To permit the showing of film, still pictures, electronic reproduction, or other visual reproductions depicting:

12.112.2.8.1. Acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law.

12.112.2.8.2. Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals.

12.112.2.8.3. Scenes wherein a person displays the vulva or the anus or the genitals.

12.112.2.8.4. Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described above.@

12.112.2.9. To permit any employee, or person under contract to perform on the premises, to dance on any table, bar or other elevated platform, except on a duly designated stage designed exclusively for the entertainment of patrons of the premises, said stage to be located at least three feet from any patron.

12.113. Hours of Operation.

12.113.1 No “on- sale” of intoxicating liquor shall be made between the hours of 2:00 am and 8:00 am on any day.

12.113.2 No “off-sale” shall be made before 8:00 am and after 10:00 pm on any day.

12.113.3 No Aoff-sale@ shall be made on Thanksgiving Day, Christmas Day December 25th, or after 8:00 pm on Christmas Eve December 24th.

12.114 Adoption of State Statutes. The provisions of Minnesota Chapter 340A and any successor statute are adopted and shall govern the consumption of alcoholic beverages and age of persons allowed to serve alcoholic beverages.

12.115. Penalty. Any person violating any provision of sections 12.101 to 12.114 shall be guilty of a misdemeanor.

12.200 3.2 Percent Malt Liquor

12.201. Definitions.

The terms used in this ordinance shall have the meanings given to them in Minnesota Statutes 340A.101.

12.202. License Required. No person shall sell, vend, deal in or dispose of, by gift, sale or otherwise, or keep or offer for sale, any 3.2 percent malt liquor within the City without first having obtained a license therefore. The City of Lynd may issue off-sale, on-sale, or temporary 3.2 percent malt liquor licenses in accordance with Minn. Stat. 340A.403 or any successor statute.

12.203. Application for License. All applications for any license to sell 3.2 percent malt liquor shall be made on forms supplied by the City setting forth the name of the person asking for the license, their citizenship, their age, references as to their character, the location where the business is to be carried on, whether applicant is owner and operator of such business, the time the applicant is owner and operator of such business, the time the applicant has been in that business at that place, may require a consent to a background check and may such other information as the council may require from time to time. No person shall make any false statement on an application.

All applications for licenses shall be accompanied by a receipt from the Treasurer for

the required annual fee for the respective license. All such fees shall be paid into the general fund of the City. Upon rejection of any application for a license, the Treasurer shall refund the amount paid.

12.204. Financial Responsibility. All applications for licenses shall be accompanied proof of financial responsibility and insurance as required by Minnesota Statutes Chapter 340A.

12.205. License Fees and Duration. Fees for licenses shall be as specified by Section 18.109 of the Lynd City Code. All licenses shall expire on the last day of June in each year; provided that if eight months of any licensing year have elapsed when the application is made, the fee shall be reduced to one half of the regular amount thereof.

12.206. Granting of Licenses. The council may cause an investigation to be made of all facts set forth in the application. After such investigation the council shall grant or refuse any such application in its discretion.

12.207. Conditions of Licenses. All licenses granted hereunder shall be granted subject to the following conditions and subject to all other provisions of this Code, and applicable state and federal laws.

12.207.1. No license shall be granted for sales on any premises where a licensee has been convicted of the violation of sections 12.201 to 12.212 or where any license has been revoked for cause for at least one year after the conviction or revocation.

12.207.2. Licenses shall be granted only to persons who are of good moral character.

12.207.3. All licenses granted under this code shall be issued to the applicant only and shall be issued for the premises described in the application. A license shall not be transferred to another place without the approval of the City Council.

12.207.4. All premises where any license hereunder is granted shall be open to inspection by any sheriff or health officer or other properly designated officer or employee of the City at any time during which the place so licensed is open to the public for business.

12.208. Closing Hours. No sale of 3.2 percent malt liquor shall be made between the hours of 2:00 A.M. and 8:00 A.M. of any day.

12.209. Revocation. The violation of any provisions of sections 12.201 to 12.212 of this Code or of any laws of the State of Minnesota or of the United States relating to the manufacture, sale or transportation of 3.2 percent malt liquors or intoxicating liquors, shall be ground for revocation or suspension of the license. In all

other cases, a license may be revoked or suspended by the council after written notice to the licensee and a public hearing. The notice shall give at least eight days' notice of the time and place of the hearing and shall state the nature of the charges against the license. The council may suspend any license pending a hearing on revocation or suspension.

12.210. Penalty. Any person violating any provision of sections 12.201 to 12.209 shall be guilty of a misdemeanor.

12.300 CIGARETTES

12.301. License Required. No person shall, directly or indirectly, or by means of any device keep for retail sale, sell at retail, or otherwise dispose of any cigarette or cigarette wrapper at any place in the City unless a license therefore shall first have been obtained

12.302. Application and Issuance. Application for such license shall be made to the Clerk on a form supplied by the City. Such application shall state the full name and address of the applicant, the location of the building and the part intended to be used by the applicant under such license, the kind of business conducted at such location, and such other information as shall be required by the application form. Upon the filing of the application with the Clerk, the application shall be presented to the Council for consideration, and if granted by the Council, a license shall be issued by the Clerk upon payment of the required fee.

12.303. License Fee. The fee for every such license shall be as set by Section 18.110 of the Lynd City Code. Licenses shall not be transferrable from one person to another.

12.304. License Shall be Displayed. Every such license shall be kept conspicuously posted about the place for which the license is issued and shall be exhibited to any person upon request.

12.305. Restrictions. No license shall be issued except to a person of good moral character. No license shall be issued to an applicant for sale of cigarettes at any place other than their established place of business. No license shall be issued for the sale of cigarettes at a movable place of business; nor shall any license be issued for the sale of cigarettes at more than one place of business. No person shall sell or give away any cigarette, cigarette paper or cigarette wrapper to any person, below the age of 21 years. No person shall keep for sale, sell, or dispose of any cigarette containing opium, morphine, jimson weed, bella donna, strychnia, cocaine, marijuana, or any other deleterious or poisonous drug except nicotine.

12.306. Revocations. Every such license may be revoked by the Council for a violation of any provision of this code if the licensee has been given a reasonable notice and an opportunity to be heard.

12.307. Penalty. Any person violating any provisions of Section 12.201 through 12.306 shall be guilty of a misdemeanor.

12.400 PUBLIC CONSUMPTION

12.401. Consumption of Beer or Liquor on Streets and Public Property. It is unlawful for any person to consume or possess an unsealed container of beer or liquor on any street or outside of any building on any other public property or on any property open to the public except City Parks when and where permission has specifically been granted by a permit issued by the City of Lynd. This section shall not apply to the possession of an unsealed container in a motor vehicle on streets or public property when the container is kept in the trunk of such vehicle, if it is equipped with a trunk, or in some other area of the vehicle not normally occupied by the driver or passengers if the motor vehicle is not equipped with a trunk. For the purposes of this Section, a utility or glove compartment shall be deemed to be within the area occupied by the driver or passengers.

12.500 CANNABIS AND HEMP

12.501. Definitions.

12.501.1. For purposes of this article, the terms “cannabis flower,” “cannabis products,” “lower-potency hemp edibles,” and “hemp-derived consumer products” shall have the definitions given to them in Minnesota Statutes, section 342.01, as it may be amended from time to time.

12.501.2. For purposes of this article, “public place” is defined as any indoor or outdoor area that is used or held out for use by the public whether owned or operated by public or private interests. Pursuant to Minnesota Statutes, section 152.0263, subd. 5, “public place” does not include the following: (i) a private residence, including the person's curtilage or yard; (ii) private property not generally accessible by the public; and (iii) the premises of an establishment or event licensed to permit on-site consumption of cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products.

12.502. Prohibition. Use of cannabis and hemp prohibited in public places.

No person shall use cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place. A violation of this section

shall be considered a petty misdemeanor notwithstanding any other penalty provision in the city code, and the city council may establish, by resolution, a corresponding fine in its fee schedule for violations of this section.

CHAPTER 13, REGULATION OF BUSINESSES AND TRADES

13.100 SAND AND GRAVEL PITS

13.101. License Required. No person, firm or corporation shall open, operate or maintain any sand or gravel pit or place or grounds for the excavation of sand or gravel within the City without first having obtained a license from the Council to open, operate or maintain the aforementioned.

13.102. Exemptions. No license shall be required for the owner of any land to take gravel or sand for use on those premises or to make products which are to be used on the premises.

13.103. Application. Any person desiring to operate any sand or gravel pit or place or grounds for the excavation of sand or gravel shall submit a written application to the council. The application shall state the location and plan of operation of the gravel or sand pit. The application shall be accompanied by a penal bond in the sum of \$150.00 running to the City.

13.104. Issuance of License. After approval of the application by the council the clerk shall issue a license.

13.105. Conditions of License. Persons operating any sand or gravel pit within the City which is below the natural or artificial grade of the surrounding land or adjacent streets shall be enclosed with a sufficient fence or barrier to prevent animals or human beings from falling into the same. Upon abandonment of any pit, the owner shall be responsible for filling the same to the natural or artificial grade of the surrounding streets.

13.106. Forfeiture of Penal Bond. Any licensee violating the provisions of sections 13.105 shall forfeit the penal bond accompanying that person's application.

13.107. Penalty. Any person violating any provision of section 13.101 to 13.106 shall be subject to any particular penalty prescribed therein and said person shall also be guilty of a misdemeanor.

13.200 TRANSIENT MERCHANTS, PEDDLERS AND HAWKERS AND AUCTIONEERS

13.201. Prohibition of Solicitors, Peddlers, Hawkers and Transient Merchants.

No solicitors, peddlers, or transient merchants shall go in or upon any private residences where said person has not been requested or invited to solicit orders for the sale of goods, wares and merchandise.

13.202. Penalty. Any person violating any provision of section 13.201 shall be guilty of a misdemeanor.

CHAPTER 14, MUNICIPAL PLANNING COMMISSION

14.101. Establishment of Commission. A city planning commission for the City of Lynd is hereby established. The commission shall be the City Planning Agency authorized by Minnesota Statute, Section 462.354.

14.102. Membership. The city planning commission shall consist of seven members. The City Administrator and city attorney shall be ex-officio members, and the city council shall select one member of the commission from its own membership. The other four members shall be appointed and may be removed at the discretion of the City Council by a 4/5 vote of the council.

14.103. Terms, Vacancies, Oath of the Members of the Commission. First appointed, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, and one for a term of four years. Both original and successive appointees shall hold their office until their successors are appointed and qualified. The terms of the ex-officio members shall correspond to their respective official terms. Vacancies during the term shall be filled by the city council for the unexpired portion of the term. Every appointed member shall before entering, upon discharging the duties, take an oath that he or she will faithfully discharge the duties of office. All members shall serve without compensation.

14.104. Officers. The commission shall elect a chairperson from among its appointed members for a term of one year, and a secretary for such term as desirable, and such other officers as it may from time to time determine.

14.105. Meetings, Records, Reports. The commission shall hold at least one meeting annually, and such other meetings as necessary or desirable. It shall adopt rules for the transaction of business, and shall keep a record of its resolutions, transactions, and findings, which record shall be a public record. On or before September 1st of each year the commission shall submit a report to the City Council of its work the previous year, along with a proposed public improvement plan and work program for the coming year. Expenditures of the planning commission shall be within amount appropriated for the purpose by the City Council.
(Code of 1980)

14.106. Powers and Duties of the Commission. The planning commission shall have the powers and duties given planning agencies generally by law. The commission shall also exercise the duties conveyed by this ordinance and as determined from time to time by the City Council. Once adopted, the commission shall review these elements from time to time, and recommend appropriate amendments.

14.107. Zoning Ordinances, Public Hearing. No zoning ordinance, or amendment shall be adopted by the City Council until a public hearing has been held thereon by the planning commission, upon notice as provided by Minnesota Statutes, Section 462.357, Subdivision 3.

14.108. Plats, Approval. Any subdivision plat submitted to the City Council for approval shall, prior to final approval, be referred to the planning commission for review and recommendation. Any plat so referred shall be returned to the Council by the commission with its recommendation within 30 days, and failure of the commission to report within that period is deemed to have satisfied the requirements of the action.

CHAPTER 15, MISDEMEANOR AND OTHER OFFENSES

15.100 PENALTY FOR MISDEMEANOR

15.101. Penalty for Misdemeanor. Any person found guilty of conduct defined as a misdemeanor in any section of any provision of any chapter of this code shall, upon conviction thereof, be punished by as provided my Minnesota Statutes 609.02 Subd. 3 or any successor statute.

15.102. Penalty for Petty Misdemeanor. Any person found guilty of conduct defined as a petty misdemeanor in any section of any provision of any chapter of this code shall, upon conviction thereof, be punished by as provided my Minnesota Statutes 609.02 Subd. 4(a) or any successor statute.

CHAPTER 16, ZONING

16.100 **DEFINITIONS**

16.101. Definitions. For purpose of this Ordinance the terms defined in this section have the meanings given them:

16.101.1. **AAccessory use of structure@** a use or structure on the same lot with and incidental and subordinate to, the principal use or structure.

16.101.2. **AAgricultural Field Crop Production@** means the production of crops by means of cultivation, and includes forage crops, but does not include livestock production.

16.101.3. **AAppellant/petitioner@@** the person or persons who have requested from the board a variance, or who have appealed a decision of the zoning administrator.

16.101.4. **ABoard@** the zoning board of appeals and adjustments established in Section 16.5031.

16.101.5. **ADwelling, one-family@** a building used exclusively for occupancy by one family.

16.101.6. **ADwelling, two-family@** a building used exclusively for occupancy by two families living independently of each other.

16.101.7. **ADwelling, multiple@** a building or portion thereof used for occupancy by three or more families living independently of each other.

16.101.8. **ADwelling unit@** a dwelling or portion of a dwelling or of an apartment or hotel used by one family for cooking, living and sleeping.

16.101.9. **AEssential services@** a municipal or public utility service or structure.

16.101.10. **AFamily@** an individual or two or more persons related by blood, marriage or adoption, including foster children and bona fide domestic servants employed on a full-time bases by the family in the dwelling unit, living together as a single housekeeping unit in a dwelling unit and also including roomers, provided that the family plus the roomers shall not exceed a total of five

persons, provided further that the limit of five persons shall not apply where the entire group living in the dwelling unit consists of person related by blood, marriage or adoption, including foster children and domestic servants.

16.101.11. AHeight of building@ the vertical distance from the average elevation of the finished grade at the front of the building to the highest point of the roof.

16.101.12. AHome occupation@ a lawful occupation customarily carried on by a resident of a dwelling as an accessory use withing the same dwelling.

16.101.13. AJunk yard@ land or structures used for the storage of junk, including scrap metals, or for the dismantling or >wrecking' of automobiles or other vehicles or machinery, other than the storage of materials which is incidental or accessory to any business or industrial use of the same lot.

16.101.14. AJunk@ shall include but not be limited to motor vehicles which do not have attached valid and current license plates issued by the proper state agency, and motor vehicles which, although such valid and current license plates are attached, are not presently operable; parts for motor vehicles and machinery; used appliances stored in the open; decayed, weathered or broken construction materials no longer suitable for construction purposes.

16.101.15. ALot@ a single parcel of land (located within a block of in a platted area) which, at the time of application for a permit for a building on the land, is designated by its owner or developer as a parcel to be used, developed or build upon as a unit under single ownership or control. A lot may or may not coincide with a lot or record.

16.101.16. ALot, corner@ a lot situated at the intersection of two or more streets, or bounded on two or more adjacent sides by street lines.

16.101.17. ALot, interior@ a lot other than a corner lot.

16.101.18. AManufactured home@ the words manufactured home, when used in this Ordinance, shall be defined in the same manner manufactured home is defined in Minnesota statutes Section 327.31 and shall include "tiny home" constructed in essentially the same manner as a manufactured home.

16.101.20. ANon-conforming structure or use@ a structure or use lawfully in existence on the effective date of this Ordinance or any amendment thereto and not conforming to the regulations for the district in which it is situated.

16.101.21. AStory@ that portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is not floor above it, then the space between the floor and the ceiling next above it.

16.101.22. AStory-half@ that portion of a building under a gable, hip or gambrel roof the wall plates of which, on at least two opposite exterior walls, are not more than two feet above the floor or such story.

16.101.23. Structure@ anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

16.101.24. AStructural alteration@ any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

16.101.25. ATravel trailer@ a mobile home, tiny home, or other prefabricated transportable or non-transportable dwelling unit under 30 feet in length and 12 feet in width which is suitable for use as a residence.

16.101.26. AYard@ an open space other than a court, which open space is unoccupied and unobstructed from the ground upward, except as otherwise provided in this Ordinance.

16.101.27. AYard front@ a yard extending across the front of the lot between side lot lines and lying between the front street line or lakeshore line of the lot and the nearest line of the principal building.

16.101.28. AYard, rear@ a yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the principal building.

16.101.29. AYard, side@ a yard between the side line of the lot and nearest line of the building and extending from the front yard to the rear yard.

16.102 MINNESOTA ACCESSIBILITY CODE

16.102.1. The Minnesota Accessibility Code, established pursuant to M.S. §§ 326B.01 - 326B.998, as they may be amended from time to time, and as provided for in Minn. Rules Ch. 1341, as it may be amended from time to time, is adopted as the building code for accessibility in this city. M.S. § 326B.16 provides that a city which has not adopted the Uniform State Building Code is nevertheless responsible for the enforcement of the Minnesota Accessibility Code, and this section is intended to comply with that requirement.

16.102.2. No building subject to the provisions of the Minnesota Accessibility Code shall be constructed, reconstructed or substantially altered, or undergo a change in use within the city unless the building will comply with the Minnesota Accessibility Code after the construction or alteration is completed or the change in use occurs.

16.102.3. Any person who constructs, reconstructs or substantially alters any building subject to the Minnesota Accessibility Code, or changes the use of any such building shall, before construction or alteration begins, certify to the City Clerk that the applicable provisions of the Minnesota Accessibility Code will be complied with.

16.102.4. No person shall be issued a building, zoning or land use permit unless they certify that any structure to be located on the property shall be constructed or reconstructed in compliance with the handicapped accessibility provisions, if they apply to the structure to be constructed, substantially altered or reconstructed.

16.102.5. A violation of this section is a misdemeanor punished as provided for in § 10.99.

16.200 ZONING DISTRICTS AND DISTRICT REGULATIONS

16.201. Establishment of districts. For the purpose of this Ordinance the City of Lynd is divided into the following use districts:

A. Residential - single family	R1
B. Residential - multi family	R2
C. Manufactured home	R3
D. General business	B1
E. Commercial - Industrial	C1
F. Flood Plain	F1
G. Open space	OS1

16.202. Map. The boundaries of the use districts are delineated on the Official Zoning Map, which is hereby adopted by reference and declared to be a part of this Ordinance. Such map shall be on permanent file and available for public inspection in the city hall. It shall be the responsibility of the City Clerk to maintain and keep the map up to date and to record each amendment thereto within 30 days after official publication of the Ordinance adopting the amendment.

16.203. Annexed land. Any land hereafter annexed to the city shall be considered to be in the residential R1 district until otherwise classified.

16.204. Compliance with Ordinance. No structure or land shall hereafter be used, or occupied, and no structure shall hereafter be erected, constructed,

reconstructed, moved or structurally altered except in conformity with the regulations specified in this Ordinance for the district in which it is located.

16.205. Schedule of Regulations. The attached ASchedule of District Regulations@ applying to land and buildings as indicated for the various districts established by this Ordinance is hereby adopted and declared to be a part of this Ordinance and may be amended in the same manner as any other part of this Ordinance.

16.300 SUPPLEMENTARY REGULATIONS

16.301. In General. The regulations specified elsewhere in this Ordinance are supplemented and modified by the provisions of this section.

16.301.1. The uses described in the attached Schedule of District Regulations, Part 1, in each category, represent the most common uses anticipated in that particular district. The listings are not exclusive, but are meant to provide a guideline for the types of uses anticipated in that particular district. For any use not specifically mentioned in the Schedule of Regulations, the Planning Commission shall determine the appropriate classification by determination of which used listed in the Schedule of Regulations is most nearly similar to the prospective use.

16.302. Off-Street Parking.

16.302.1. Off street parking and loading zones. No building shall be hereafter erected, substantially altered, or its use changed unless off-street parking and loading spaces have been provided in accordance with the provisions of this Ordinance. The number of off-street parking spaces provided shall be at least the minimum number provided in the schedule contained in (6). When a building is enlarged, additional off-street parking shall be required only with respect to the additional usable floor area.

16.302.2. Change in facilities. An off-street parking area shall not be changed to any other use until equal facilities are provided elsewhere. No parking area used or designated in connection with a building in existence on the effective date of this Ordinance shall be reduced to provide fewer than the minimum number or parking spaces required under this Ordinance.

16.302.3. Fractional space. When an application of the standards of this Ordinance with respect to number of off-street parking spaces results in the need to provide a fraction of one space, any fraction of on-half or less shall be disregarded and any other fraction shall be construed as one.

16.302.4. Uses not mentioned. For any use not specifically mentioned in the schedule of off-street parking and loading requirements, the number of spaces required shall be that required for that use named in the schedule which is determined by the Planning Commission to be most similar.

16.302.5. Improvement and maintenance. Required parking and loading spaces, together with driveways, aisles and other circulation areas, shall be improved in such a way as to provide a durable and dust-free surface. All parking and loading areas shall provide for proper drainage of surface water to prevent the drainage of such water onto adjacent properties or walkways. The owner of any parking or loading area shall maintain the area in good condition without holes and free of all dust, trash and other debris.

16.302.6. Schedule of off-street parking spaces. The minimum number of off-street parking spaces for each type of use shall be determined in accordance with the following schedule:

<u>Citation</u>	<u>Use</u>	<u>Minimum number of parking spaces</u>
R1	Single family or two-family dwelling, townhouses	2 for each unit
R2	Multi-family dwelling	2 for each unit
R-R2	Housing for the elderly	1 for each maximum occupancy
R3	Manufactured or Mobile home park	2 for each unit
R1	Schools	1 per employee plus 1 per 10 students planned for in building design
R1	Churches	1 for 4 seats
R1	Hospitals, nursing homes	1 per 3 beds
R1	Theaters, etc.	1 per 3 seats
B1	Auditoriums, etc.	1 per 3 seats
B1	Dance halls, inside skating rinks, similar buildings with	1 per 3 maximum occupancy

B1	no fixed seats Bowling alleys	4 per lane
C1	Motels, hotels	1 per sleeping room or unit
B1	Restaurants, bars, etc.	1 for 4 seats
C1	Mortuaries	1 per 50-100 square feet (usually limited To assembly room usable floor areas, parlors and Aslumber rooms@)
B1	Retail stores	1 per 300 square feet
B1	Offices	1 per 400 square feet
B1	Wholesale, warehouse	1 per employee
C1	Industrial establishments	1 per 2 employees

16.303. Mobile or Manufactured Homes.

16.303.1. Building Permit Required. No mobile or manufactured home shall be brought into or placed upon any lot in the City of Lynd, in a mobile or manufactured home park or elsewhere, without first obtaining a building permit.
(Ord. 28, 2nd S. 5/10/93)

16.303.2. Application Requests. All building permits relating to mobile or manufactured homes shall require the applicant to provide the date of manufacture. No mobile or manufactured home shall be located in the City of Lynd unless such mobile home bears a construction label as required by HUD CFR 3280.8 and a data plate containing the information required by HUD CFR 3280.5. No mobile or manufactured home will be permitted within the City of Lynd unless the same has been constructed after within 20 year of the date of the application.
(Ord. 28, 2nd S. 5/10/93)

16.303.03. Installation. All building permit applications shall include the name, address, and phone number of the registered installer who will be installing the manufactured home, provided, however, an owner/occupant may install a mobile home or manufactured home owned by them personally. A person owning a mobile or manufactured home for lease will not be considered an owner/occupant, and a registered installer will be required to install homes being offered for lease.

16.303.04. Storm Shelter. No mobile or manufactured home permit shall be issued for installation in a mobile or manufactured home park unless the park operator has a storm shelter constructed in accordance with the requirements of the Minnesota Department of Health and approved by the Department of Health and City Council.

16.303.05. After the date of the adoption of this code, only manufactured homes which comply with the Manufactured Home Building Code established by M.S. § 327.31 may be located in and used as a dwelling within the city. A mobile home, manufactured home, house trailer or other mobile dwelling which does not comply with the Manufactured Home Building Code and which is used as a residence after the date of the adoption of this code is a nonconforming use as defined by M.S. § 462.357, Subd. 1e, as it may be amended from time to time, and this nonconforming use may be continued, including through repair, maintenance, replacement, restoration or improvement but if the nonconformity or occupancy is discontinued for a period of more than one year, or the nonconforming use is destroyed by fire or other peril to the extent of greater than 50% of its market value and no building permit is applied for within 180 days of when the property is damaged, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.

16.304. Manufactured Home.

Modular Home Regulations. A modular home shall have the definition contained in the Lynd City Code of 1980, Section 16.101(20). Any modular home or manufactured home meeting some, but not all, of the requirements of this Section and Section 16.101(20) shall be considered a mobile or manufactured home and shall comply with the Zoning Ordinance as a mobile or manufactured home.

A manufactured home shall, in addition to the requirements of Section 16.101(20), comply with the following additional requirements:

16.304.1. Such home shall comply with all zoning regulations for the zone in which they are located.

16.304.2. A building permit and all other required permits shall be required for such structures.

16.304.3. All such manufactured homes shall be built in compliance with Minnesota Statutes and Rules regulating such manufactured homes.

16.304.4. Connection to all available City utilities is required. The question of whether a City utility is available shall be determined by the City Council.

16.304.5. Any manufactured home installed outside of a mobile home or manufactured home park shall be installed in such a way that the longest

dimension of the structure shall be placed with the narrowest dimension of the lot on which the structure is located.

16.304.6. All metal siding shall have horizontal edges and overlap in sections no wider than 12 inches. Sheet metal siding is not permitted.

16.304.7. Manufactured homes installed outside of a mobile or manufactured home park shall be permanently anchored to the foundation. Each manufactured home shall have a permanently constructed foundation which shall be constructed to below the frost line. The foundation shall be solid for the entire circumference of the home.

16.304.09. If a manufactured home has been transported using axles or wheels, and if placed outside of a mobile home or manufactured home park, all such axles or wheels must be removed from the structure and are not permitted to remain attached.

16.304.10. No manufactured home shall be brought into the City of Lynd if the same was constructed more than twenty (20) years before the date on which it is proposed to be moved into the City.

16.400 CONFORMING USES AND STRUCTURES

16.401. Incompatibility of Nonconformities. Nonconformities are declared by this Ordinance to be incompatible with permitted uses in the districts in which the nonconformity occurs. A nonconforming use of a structure, a nonconforming use of land or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this Ordinance by attachment on a building or land of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be generally prohibited in the district in which such use is located. All regulations in this section shall allow repair, replacement, restoration, maintenance or improvement of non-conforming uses as set out in Minnesota Statutes and be interpreted to comply with Minnesota Statutes section 462.375 Subd. 1e. (Code of 1980)

16.402. Nonconforming Lots of Record.

16.402.1. Dwelling on small lot. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of this Ordinance or amendment despite the fact that the lot fails to meet the requirements for area or width, in the district; but yard dimensions and other requirements for the lot shall conform to regulations for the district. This

exemption from area and width requirements applies only to a lot without continuous street frontage with other lots in the same ownership.
(Code of 1980)

16.402.2. Lots in the same ownership. If two or more lots or combinations of lots and portions or lots with continuous street frontage in single ownership are of record on the effective date of this Ordinance, and if all or part of the lots do not meet the width and area requirements of this Ordinance for lots in the district, that land involved shall be considered to be an undivided parcel for the purpose of this Ordinance, and no portion of such parcel shall be used which does not meet lot width requirements of this Ordinance, nor shall the parcel be so divided that any remaining lot does not comply with such requirements.
(Code of 1980)

16.402.3. Nonconforming use of land. Any nonconforming use of land may be continued until expiration of the time fixed by section 16.404 (5), subject to the following provisions:

16.402.3.1. No such nonconforming use shall be enlarged or increased, or extended to occupy a greater area than was occupied when the use became nonconforming;

16.402.3.2. No such nonconforming use shall be moved in whole or part to any other lot except to an area where the use is proper and conforming;

16.402.3.3. If any nonconforming use is discontinued for more than one year, any subsequent use of the land shall conform to the regulations of this Ordinance for the district in which the land is located.

16.402.3.4. When a nonconforming use is superseded by a conforming use the nonconforming use shall not thereafter be resumed.

16.403. Nonconforming structures with Conforming Use. A nonconforming structure, lawful except for the provisions of this Ordinance, may be continued so long as it remains otherwise lawful, subject to the remaining provisions of this ordinance and the following provisions:

16.403.1. Change in nonconformity. No such structure shall be enlarged or altered in a way which increases its nonconformity, but it may be altered to decrease its nonconformity;

16.403.2. Substantial destruction. When a nonconforming structure is destroyed by fire or other peril to the extent of 50% or more of its estimated

market value, as indicated in the records of the county assessor at the time of the damage, and if no building permit has been applied for within 180 days of when the property is damaged, any structure constructed on the land must conform to the provisions of this ordinance.

16.403.3. Moving structure. If the nonconforming structure is moved to another lot it shall thereafter conform to the regulations for the district to which it is moved.

(Code of 1980)

16.404. Nonconforming Uses of Structures and Land.

16.404.1. Continuance permitted. A nonconforming use of a structure or of structure and land in combination may be continued so long as it remains otherwise lawful, subject to the following provisions.

16.404.2. Resumption of nonconforming use. Any structure or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use shall hereafter conform to the regulations for the district, and the nonconforming use shall not thereafter be resumed.

16.404.3. Discontinuance. When a nonconforming use is discontinued for a period of more than one year the structure or structure and land in combination shall not thereafter be used except in conformity with the regulations of the district

16.404.4. Destruction of nonconforming structure. When a nonconforming use of a structure and land in combination exists, destruction of the structure by fire or other peril to the extent of 50% or more of its estimated market value, as indicated in the records of the county assessor at the time of the damage, and if no building permit has been applied for within 180 days of when the property is damaged, such destruction shall eliminate the nonconforming status of the land. A licensed building inspector shall determine the percentage of destruction.

16.406. Repairs and Maintenance. Any nonconforming structure or portion of structure containing a nonconforming use may be repaired, replaced, restored, maintained or improved but not expanded as provided by Minnesota Statutes section 462.357 Subd. 1e.

16.407. Uses Under Special-Use Permit. When a use is granted a special-use permit in a district in which such a use is authorized under permit, the use is deemed a conforming use.

(Code of 1980)

16.408. Nonconformities Created by Amendment. When a nonconformity in a structure or the use of land or a structure is created by an amendment to this Ordinance, the rights granted by this section to the continuance of nonconformities apply to nonconformities existing on the date of the amendment.

(Code of 1980)

16.409. Building Under Construction. Nothing in this ordinance requires a change in the plans, construction or designated use of any building on which actual construction was lawfully done prior to the effective date of this Ordinance or amendment thereto and has been carried on diligently. Actual construction means the placing of construction materials in permanent position and fastening them in a permanent manner. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding and is carried out diligently, such demolition or removal is deemed to be actual construction.

16.500 ADMINISTRATION AND ENFORCEMENT

16.501. Administration Officer. The City Council shall serve as the zoning administrator who shall be responsible for enforcing this Ordinance. In carrying out this general authority, they shall:

16.501.1. Administer the requirements of this Ordinance for building permits and issue or deny each application in accordance with the provisions of this Ordinance within forty (40) days of receipt of the application for a building permit;

16.501.2. Conduct inspections of buildings and the use of land to determine compliance with the terms of this Ordinance;

16.501.3. Maintain permanent and current records pertaining to the Ordinance, including but not limited to, maps, amendments, special uses, variances, appeals, planned unit developments and applications therefore;

16.501.4. Receive, file and forward applications for appeals, variances, special-use permits or other action to the appropriate official bodies;

16.501.5. Provide clerical and technical assistance to the board;

16.501.6. Make recommendations to the council on the institution of appropriate actions or proceedings for enforcement of this Ordinance, on

amendments, and on any other matters relating to the administration of this Ordinance.

16.502. Building Permits. No structure shall be erected, added to, structurally altered or moved when the construction, erection, alteration or moved item has a value in excess of \$1,000.00, until a permit therefore has been approved by the city council and issued by the city clerk. No building permit shall be issued for any structure where the construction, additional moving or use thereof would be in violation of this Ordinance. Application for a building permit shall be made to the city clerk on a form furnished by the city. With every application for a building permit there shall be submitted two copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory building to be erected, and such information as may be necessary to determine compliance with this Ordinance. The fee for a building permit shall be fixed by annual resolution of the City Council. The fee for a building permit shall be paid by the applicant at the time application for a permit is made. The city council shall issue the building permit only if they determine that the building plans and the application comply with the terms of this Ordinance.

16.502.1. Building Permits - Duration. All building permits issued by the city shall state the date on which the permit was issued. In addition to the date on which the permit was issued, the city clerk shall, after consultation with the applicant, state a date on the building permit not more than one year after the date of issuance, by which date all work to be performed according to the terms of the building permit shall have been completed. The city clerk shall provide to the applicant the original or a copy of the original building permit.

All work on the project for which the building permit has been issued shall be completed by the completion date shown on the building permit, or if no date is shown, then not later than one year after the date the building permit is issued. If the work is not completed within one year from the date that the permit is issued, the applicant must apply to the city to renew the permit. The failure of the city clerk to include a date on the building permit by which the work is to be completed shall not affect the requirement that the work shall be completed within one year from the date of issuance.

16.502.2. Issuance of a Building Permit. Building Permits may be issued by the city council after receipt of an Application and the appropriate filing fee and approval by the City Council.

16.502.3. Issuance of a Building Permit through Special Meeting. Building Permits may be issued by the city council outside of the monthly city

council meeting upon a calling of a special meeting. The person requesting the building permit will be required to pay the cost of having the special meeting.

16.503. Board of Appeals and Adjustments.

16.503.1. The City Council shall serve as the Board of Appeals and Adjustments for the City of Lynd. When serving as the Board of Appeals and Adjustments, the City Council shall have those powers specified in Minnesota Statutes Sections 462.357, Subdivision 6, and 462.359, Subdivision 4. All procedures of the City Council sitting as the board of Appeals and Adjustments shall conform to the requirements of Minnesota Statutes.

16.504. Variances. No variance shall be granted to allow a use not permissible under the terms of this Ordinance in the district involved. In granting a variance the board, or the council on appeal, may prescribe appropriate conditions in conformity with this Ordinance. When such conditions are made part of the terms under which the variance is granted violation of the conditions is a violation of this Ordinance. A variance shall not be granted by the board, or by the council on appeal unless it conforms to the following standards:

16.504.1. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and do not result from the actions of the petitioner;

16.504.2. Literal interpretation of the provisions of this Ordinance would deprive the petitioner of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.

16.504.3. Granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures or building in the same district;

16.504.4. The proposed variance will not impair an adequate supply of light and air to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety or welfare of the residents of the city.

16.505. Decision by Council. Upon filing with the board a request for variance or an appeal from an administrative order or determination, the board shall set a date for hearing thereon, which shall be no later than forty (40) days from the date of filing, and shall hear such persons as wish to be heard, either in person or by agent or attorney. Notice of any such hearing shall be mailed not less than ten (10) days before the date of hearing to the person who filed the appeal or request, and in the case of a

request for a variance, to each owner of property situated wholly or partly within 350 feet of the property to which the variance relates, insofar as the names and addresses of such owners can be determined by the clerk from records available to the public. Within a reasonable time after the hearing the Council shall make its order deciding the matter and serve a copy of such order upon the appellant or the petitioner by mail. The decision of the Council shall be final, subject only to judicial review taken by the appellant or petitioner. If the appellant or petitioner desires judicial review of a Council decision they shall, within forty-five (45) days of the date of the Council's order, file with the City Clerk a notice of intention to appeal for judicial relief; if said notice shall not be filed, the action of the Council shall be final.

16.506. Form of Action Taken and Record Thereof. The Council on appeal shall provide for a record of its proceedings, which shall include the minutes of its meetings, its findings and the action taken on each matter heard by it, including its final order. The City Clerk shall maintain a permanent record of the disposition of all appeals to the council from decisions of the board.
(Code of 1980)

16.600. SPECIAL USE PERMITS

16.601. Procedure. A special use permit may be issued in accordance with this section for any use of purpose for which such permits are required or permitted by this Ordinance or the schedule adopted in Section 16.205. Application for a special use permit shall be made by the owner to the City Council

16.602. Standards. The Council shall authorize the issuance of such permit only if it finds that such use at the proposed location:

16.602.1. Will not be detrimental to or endanger the public health, safety morals, comfort, convenience or general welfare of the neighborhood or the city;

16.602.2. Will be harmonious with the general and applicable specific objectives of the comprehensive plan of the city and this Ordinance;

16.602.3. Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area;

16.602.4. Will not be hazardous or disturbing to existing or future neighboring uses;

16.602.5. Will be served adequately by essential public facilities and services, including, but not limited to, streets, sheriff and fire protection, drainage structures, refuse disposal, water and sewer systems and schools; or will be

served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use;

16.602.6. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;

16.602.7. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any person, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare, odors or other hazardous materials;

16.602.8. Will have vehicular approaches to the property which are so designed as not to create traffic congestion or an interference with traffic on surrounding public thoroughfares;

16.602.9. Will conform to specific standards of this Ordinance applicable to the particular use.
(Code of 1980)

16.603. Conditions. In approving any special use permit the council may impose conditions which it considers necessary to meet the standards of this Ordinance and to protect the best interests of the surrounding area or the city as a whole.
(Code of 1980)

16.604. Expiration. If substantial construction has not taken place within one year after the date of a special use permit, the permit is void.
(Code of 1980)

16.605. Amendment. An amendment to this Ordinance may be initiated by the City Council. When the amendment involves changes of district boundaries affecting an area of five acres or less and an amendment is initiated by petition, the petition shall be signed by not less than fifty (50) percent of the owners of property situated within 350 feet of the proposed change. Amendments shall be considered and adopted in accordance with procedural requirements imposed by statute.
(Code of 1980)

16.606. Penalty. Any person who violates any provision of this Ordinance is guilty of a misdemeanor. Each day that the violation is permitted to exist constitutes a separate offense.
(Code of 1980)

SCHEDULE OF REGULATIONS

Part 1 Uses

Section A. Residential R1

1. Permitted uses:

- (1) Agricultural Field Crop Production
- (2) Single-family Dwellings
- (3) Two-family Dwellings
- (4) Public and Parochial Schools
- (5) Public Parks and Playgrounds
- (6) Churches
- (7) Essential Services
- (8) Accessory Uses
- (9) Modular Homes

2. Special uses:

- (1) Cemeteries
- (2) Home Occupations
- (3) Recreational Uses
- (4) Nursery Schools and Licensed Daycare Centers
- (5) Hospitals and Clinics for Humans
- (6) Public Utility Buildings
- (7) Fire Stations
- (8) Water Recreation and Water Storage
- (9) Municipal Buildings and Libraries
- (10) Garages or similar structures as primary uses on lots which are not on the same lot and incidental or subordinate to the principal residence or other principal use or structure.

Section B. Residential R2

1. Permitted uses:

- (1) Agricultural Field Crop Production
- (2) Single-family Dwellings
- (3) Two-family Dwellings
- (4) Multi-family Dwellings
- (5) Public and Parochial Schools
- (6) Public Parks and Playgrounds
- (7) Churches

- (8) Essential Services
- (9) Accessory Uses
- (10) Modular Homes
- (11) All uses permitted in District R1

2. Special uses:

- (1) Cemeteries
- (2) Home Occupations
- (3) Recreational Uses
- (4) Nursery Schools and Licensed Daycare Centers
- (5) Hospitals and Clinics for Humans
- (6) Public Utility Buildings
- (7) Fire Stations
- (8) Water Recreation and Water Storage
- (9) Municipal Buildings and Libraries
- (10) Garages or similar structures as primary uses on lots which are not on the same lot and incidental or subordinate to the principal residence or other principal use or structure.

Section C. Residential R3

1. Permitted uses:

- (1) Agricultural Field Crop Production
- (2) Single-family Dwellings
- (3) Two-family Dwellings
- (4) Multi-family Dwellings
- (5) Public and Parochial Schools
- (6) Public Parks and Playgrounds
- (7) Churches
- (8) Essential Services
- (9) Accessory Uses
- (10) Mobile Homes
- (11) Modular Homes
- (12) All uses permitted in Districts R1 and R2

2. Special uses:

- (1) Cemeteries
- (2) Home Occupations
- (3) Recreational Uses
- (4) Nursery Schools and Licensed Daycare Centers
- (5) Hospitals and Clinics for Humans
- (6) Public Utility Buildings

- (7) Fire Stations
- (8) Water Recreation and Water Storage
- (9) Municipal Buildings and Libraries
- (10) Garages or similar structures as primary uses on lots which are not on the same lot and incidental or subordinate to the principal residence or other principal use or structure.

Section D. General Business B1

1. Permitted uses:

- (1) Retail Businesses
- (2) Eating and Drinking Establishments
- (3) Offices
- (4) Personal and Professional Services
- (5) Municipal Buildings and Libraries
- (6) Fire Stations
- (7) Commercial Schools
- (8) Commercial Recreation
- (9) Animal Clinics
- (10) All uses permitted in Residential District R1, R2 or R3.

2. Special uses:

- (1) Water Recreation and Water Storage
- (2) Research Laboratories
- (3) Public Utility Buildings
- (4) Planned Unit Business Projects
- (5) Multiple-family Dwellings
- (6) Wholesale Businesses
- (7) Supply Yards

Section E. Commercial-Industrial C1

1. Permitted uses:

- (1) Research and Testing Laboratories
- (2) Offices
- (3) Supply Yards
- (4) Warehousing
- (5) Auto Sales, Service and Repair
- (6) Truck Terminals
- (7) Light Manufacturing
- (8) Eating and Drinking Establishments
- (9) Hotels and Motels

- (10) Funeral Homes
- (11) Commercial Recreation
- (12) Home and Trailer Sales and Display
- (13) Grain Handling and Storage and Feed Sales
- (14) Wholesale Business
- (15) Essential Services
- (16) Accessory Uses
- (17) Commercial storage buildings and rentals.
- (18) All uses allowed in R1, R2, R3, and B1 districts.

2. Special Uses:

- (1) Water Recreation and Water Storage
- (2) Fire Station and Municipal Buildings(3) Public Utility Buildings
- (4) Planned Unit Business Projects
- (5) Retail Businesses
- (6) Offices
- (7) Manufacturing
- (8) Planned Unit Industrial Projects
- (9) Sewage Lagoons
- (10) Municipal Airports
- (11) Any other commercial or industrial use

Section F Open Spaces OS1

1. Permitted uses:

- (1) Parks
- (2) Playgrounds
- (3) Essential Services
- (4) Accessory Uses
- (5) Special Uses
- (6) Schools
- (7) Churches
- (8) Municipal Buildings

(Code of 1980)

16.900 PIPELINE SETBACK

16.901. Purpose. The purpose of this Ordinance is to increase public safety by requiring that new development be set back from pipeline locations.
(Ord. 24, 2nd 2., 8/8/91)

16.902. Applicability. This Ordinance applies to new residential and other development. It does not apply to development that has occurred or for which development permits have been issued before the effective date of this Ordinance. (Ord. 24, 2nd 2., 8/8/91)

16.903. Setback. All buildings and places of public assembly shall be constructed not closer to the pipeline than the boundary of the pipeline easement. (Ord. 24, 2nd 2., 8/8/91)

16.904. Variance. Variance procedures for this provision shall be those followed by the City Council of the City of Lynd on all other zoning issues and as set forth in M.S. 462.351 et seq. as amended from time to time. (Ord. 24, 2nd 2., 8/8/91)

CHAPTER 16A, GENERAL FLOOD PLAIN ORDINANCE

16A.100 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE

16A.101. Statutory Authorization. The Legislature of the State of Minnesota has, in Minnesota Statutes Chapters 103F and Chapter (394 for counties or 462 for municipalities) delegated the authority to local governmental units to adopt regulations designed to minimize flood losses. Minnesota Statute, Chapter 103F further stipulates that communities subject to recurrent flooding must participate and maintain eligibility in the National Flood Insurance Program. Therefore, the City of Lynd, Minnesota does ordain as follows:

16A.102. Statement of Purpose. The purpose of this Ordinance is to maintain the community's eligibility in the National Flood Insurance Program and to minimize potential losses due to periodic flooding including loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

16A.103. Warning of Disclaimer of Liability. This Ordinance does not imply that areas outside of the flood plain district or land uses permitted within such districts will be free from flooding and flood damages. This Ordinance shall not create liability on the part of the City of Lynd or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decisions lawfully made thereunder.

16A.200 GENERAL PROVISIONS

16A.201. Adoption of Flood Insurance Rate Map. The Flood Insurance Rate Map for the City of Lynd, dated August 19, 1985, developed by the Federal Emergency Management Agency is hereby adopted by reference as the Official Flood Plain Zoning District Map and made a part of this Ordinance.

16A.202. Lands to Which Ordinance Applies. This Ordinance shall apply to all lands designated as flood plain within the jurisdiction of the City of Lynd. **16A.203. Interpretation.** The boundaries of the flood plain district shall be determined by scaling distances on the Official Flood Plain Zoning District Map. Where interpretation is needed as to the exact location of the boundaries of the flood plain district, the City Clerk shall make the necessary interpretation based on elevations on the regional (100-year) flood profile, if available. If 100-year flood elevations are not available, the

community shall: 1) Require a flood plain evaluation consistent with Section 16A.403 of this Ordinance to determine a 100-year flood elevation for the site; or 2) base its decision on available hydraulic/hydrologic or site elevation survey data which demonstrates the likelihood the site is within or outside of the flood plain.

16A.204. Definitions. Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application.

16A.204.1. Accessory Use or Structure. A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

16A.204.2. Basement. Means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

16A.204.3. Flood Fringe. That portion of the flood plain outside of the floodway.

16A.204.4. Flood Plain. The channel or beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood. Flood plain areas within the City of Lynd shall encompass all areas designated as Zone A on the Flood Insurance Rate Map.

16A.204.5. Floodway. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonable required to carry or store the regional flood discharge.

16A.204.6. Obstruction. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, dredged spoil, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, stockpile of sand or gravel or other material, or matter in, along, across, or projecting into any channel, watercourse, lake bed, or regulatory flood plain which may impede, retard, or change the direction of flow, either in itself or by catching or collecting debris carried by floodwater.

16A.204.7. Regional Flood. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Rate Map. 16A.204.8.

Regulatory Flood Protection Elevation. The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

16A.204.9. Structure. Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in 16A.121 of this Ordinance and other similar items.

16A.300 CONFLICT WITH PRE-EXISTING ZONING REGULATIONS AND GENERAL COMPLIANCE

16A.301. The Flood Plain District as Overlay Zoning District. The flood plain zoning district shall be considered an overlay zoning district to all existing land use regulations of the community. The uses permitted in Sections 16A.040 and 16A.050 of this Ordinance shall be permitted only if not prohibited by any established, underlying zoning district. The requirements of this Ordinance shall apply in addition to other legally established regulations of the community and where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall apply.

16A.302. Compliance. No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of the Ordinance. Within the Floodway and Flood Fringe, all uses not listed as permitted uses in Section 4.0 shall be prohibited. In addition, a caution is provided here that:

16A.302.1. New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Ordinance and specifically Section 16.303 et seq, and Section 16A.1200.

16A.302.2. Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Ordinance and specifically 16A.090; and

16A.302.3. As built elevations for elevated structures must be certified by ground surveys as stated in 16A.700 of this Ordinance.

16A.400 PERMITTED USES, STANDARDS, AND FLOOD PLAIN EVALUATION

CRITERIA

16A.401. Permitted Uses in the Flood Plain. The following uses of land are permitted uses in the flood plain district:

16A.401.1. Any use of land which does not involve a structure, an addition to the outside dimensions to an existing structure or an obstruction to flood flows such as fill, excavation, or storage of materials or equipment.

16A.401.2. Any use of land involving the construction of new structures, the placement or replacement of manufactured homes, the addition to the outside dimensions of an existing structure or obstructions such as fill or storage of materials or equipment, provided these activities are located in the flood fringe portion of the flood plain. These uses shall be subject to the development standards in 16A.402 of this Ordinance and the flood plain evaluation criteria in 16A.403 of this Ordinance for determining floodway and flood fringe boundaries.

16A.401.3. Travel trailers and travel vehicles are regulated by Section 16A.302 of this Ordinance.

16A.402. Standards for Flood Plain Permitted Uses.

16A.402.1. Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

16A.402.2. Storage of Materials and Equipment.

16A.402.2.1. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

16A.402.2.2. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning or if placed on fill to the Regulatory Flood Protection Elevation.

16A.402.3. No use shall be permitted which will adversely affect the capacity of the channels or floodways of any tributary to the main stream, or of any drainage ditch, or any other drainage facility or system.

16A.402.4. All structures, including accessory structures, additions to existing structures and manufactured homes, shall be constructed on fill so that the basement floor, or first floor if there is no basement, is at or above the Regulatory Flood Protection Elevation. The finished fill elevation must be no lower than one foot below the Regulatory Flood Protection Elevation and shall extend at such elevation at least 15' beyond the limits of the structure constructed thereon.

16A.402.5. All Uses. Uses that do not have vehicular access at or above an elevation not more than two feet below the Regulatory Flood Protection Elevation to lands outside of the flood plain shall not be permitted unless granted a variance by the Board of Adjustment. In granting a variance, the Board shall specify limitations on the period of use or occupancy of the use and only after determining that adequate flood warning time and local emergency response and recovery procedures exist.

16A.402.6. Commercial and Manufacturing Uses. Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than two feet or be subject to flood velocities greater than four feet per second upon occurrence of the regional flood.

16A.402.7. On-site Sewage Treatment and Water Supply Systems. Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

16A.402.8. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in

addition to applicable state or local anchoring requirements for resisting wind forces.

16A.403. Flood Plain Evaluation.

16A.403.1. Upon receipt of an application for a permit, manufactured home park development or subdivision approval within the flood plain district, the City Clerk shall require the applicant to furnish sufficient site development plans and a hydrologic/hydraulic analysis by a qualified engineer or hydrologist specifying the nature of the development and whether the proposed use is located in the floodway or flood fringe and the Regulatory Flood Protection Elevation for the site. Procedures consistent with Minnesota Rules 1983 Parts 6120.5600 (Technical Standards and Requirements For Flood Plain Evaluation) and 6120.5700 (Minimum Flood Plain Management Standards for Local Ordinances) shall be followed during the technical evaluation and review of the development proposal.

16A.403.2. The City Clerk shall submit one copy of all information required by Section 16A.403.1 of this Ordinance to the respective Department of Natural Resources' Area Hydrologist for review and comment at least 20 days prior to the granting of a permit or manufactured home park development/subdivision approval by the community. The City Clerk shall notify the respective Department of Natural Resources Area Hydrologist within 10 days after a permit or manufactured home park development/subdivision approval is granted.

16A.500 UTILITIES, RAILROADS, ROADS AND BRIDGES IN THE FLOOD PLAIN DISTRICT

16A.501. All utilities and transportation facilities, including railroad tracks, roads and bridges, shall be constructed in accordance with state flood plain management standards contained in Minnesota Rules 2022 Parts 6120.5000 - 6120.6200.

16A.600 SUBDIVISIONS

16A.601. No land shall be subdivided and no manufactured home park shall be developed or expanded where the site is determined to be unsuitable by the City Council for reason of flooding inadequate drainage, water supply or sewage treatment facilities. The City Council shall review the subdivision/development proposal to insure that each lot or parcel contains sufficient area outside of the floodway for fill placement for elevating structures, sewage systems and related activities.

16A.602. In the Flood Plain District, applicants for subdivision approval or development of a manufactured home park or manufactured home park expansion shall provide the information required in 16A.403.1 of this Ordinance. The City Council shall evaluate the proposed subdivision or mobile home or manufactured home park development in accordance with the standards established in 16A.400, of this Ordinance.

16A.603. For all subdivisions in the flood plain, the floodway and flood fringe boundaries, the Regulatory Flood Protection Elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawing and platting documents.

16A.604. Removal of Special Flood Hazard Area Designation. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

16A.700 ADMINISTRATION

16A.701. Permit Required. A permit issued by the City Clerk shall be secured prior to the construction, addition, or alternation of any building or structure; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a nonconforming use; and prior to excavation or the placement of an obstruction within the flood plain.

16A.702. State and Federal Permits. Prior to granting a permit or processing an application for a variance, the City Clerk shall determine that the applicant has obtained all necessary State and Federal permits.

16A.703. Certification of Lowest Floor Elevations. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Ordinance. The City Clerk shall maintain a record of the elevation of the lowest floor (including basement) for all new structures and alterations or additions to existing structures in the flood plain district.

16A.800 VARIANCES

16A.801. A variance means a modification of a specific permitted development standard required in an official control including this Ordinance to allow an alternative

development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.

16A.802. The Board may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which justified the granting of the variance.

16A.803. Variances from the provisions of this Ordinance may be authorized where the Board of Adjustment has determined the variance will not be contrary to the public interest and the spirit and intent of this Ordinance. No variance shall allow in any district a use prohibited in that district or permit a lower degree of flood protection than the Regulatory Flood Protection Elevation. Variances may be used to modify permissible methods of flood protection.

16A.804. The Board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variance sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing. A copy of all decisions granting a variance shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

16A.805. **Appeals.** Appeals from any decision of the Board may be made, and as specified by the City Council and also Minnesota Statutes.

16A.806. **Flood Insurance Notice and Record Keeping.** The Zoning Administrator shall notify the applicant for a variance that:

16A.806.1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and;

16A.806.2. Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

16A.900 NONCONFORMITIES

A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:

16A.901. No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.

16A.902. An alteration within the inside dimensions of a nonconforming use or structure is permissible provided it will not result in increasing the flood damage potential of that use or structure.

16A.903. The cost of all structural alterations or additions both inside and outside of a structure to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the Community's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of 16A.040 of this Ordinance for new structures.

16A.904. If any nonconforming use of a structure or land or nonconforming structure is destroyed by any means, including floods, to an extent of 50 percent or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The City Council may issue a permit for reconstruction if the use is located outside the floodway and, upon reconstruction, is adequately elevated on fill in conformity with the provisions of this Ordinance.

16A.1000 PENALTIES FOR VIOLATION

A violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of Variance) shall constitute a misdemeanor.

16A.1000.1. In responding to a suspected ordinance violation, the City Council may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party.

16A.1000.2. When an ordinance violation is either discovered by or brought to the attention of the City Clerk, the City Council shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.

16A.1000.3. The City Clerk shall notify the suspected party of the requirements of this Ordinance and all other Official Controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the City Council may order the construction or development immediately halted until a proper permit or approval is granted by the Community. If the construction or development is already completed, then the City Clerk may either (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30 days.

16A.1000.4. If the responsible party does not appropriately respond to the City Council within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The City Council shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.

16A.1100 AMENDMENTS

16A.1100.1 All amendment to this Ordinance, including revisions to the Official Flood Plain Zoning District Map, shall be submitted to and approved by the Commissioner of Natural Resources prior to adoption. The flood plain designation on the Official Flood Plain Zoning District Map shall not be removed unless the area is filled to an elevation at or above the Regulatory Flood Protection Elevation and is contiguous to lands outside of the flood plain. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given 10 days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the ordinance amendment or technical study under consideration.

16A.1200 TRAVEL TRAILERS AND TRAVEL VEHICLES

Travel trailers and travel vehicles that do not meet the exemption criteria specified in 16A.1200.1 below shall be subject to the provisions of this Ordinance and as specifically spelled out in 16A.1200.3 and 16A.1200.4 below.

16A.1200.1. Exemptions. Travel trailers and travel vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in 16A.122 below and further they meet the following criteria:

16A.1200.1.1. Have current licenses required for highway use.

16A.1200.1.2. Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks, and the travel trailer/travel vehicle has no permanent structural type additions attached to it.

16A.1200.1.3. The travel trailer or travel vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

16A.1200.2. Areas Exempted For Placement of Travel/Recreational Vehicles:

16A.1200.2.1. Individual lots or parcels of record.

16A.1200.2.2. Existing commercial recreational vehicle parks or campgrounds.

16A.1200.2.3. Existing condominium type associations.

16A.1200.3. Travel trailers and travel vehicles exempted in 16A.1200.1 lose this exemption when development occurs on the parcel exceeding 500 dollars for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation requirements and the use of land restrictions specified in 16A.400 of this Ordinance.

16A.1200.4. New commercial travel trailer or travel vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:

16A.1200.4.1. Any new or replacement travel trailer or travel vehicle will be allowed in the Floodway or Flood Fringe Districts provided said trailer or vehicle and its contents are placed on fill above the

Regulatory Flood Protection Elevation determined in accordance with the provisions of 16A.403 of this Ordinance and proper elevated road access to the site exists in accordance with 16A.400 of the Ordinance. No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100-year or regional flood.

16A.1200.4.2. All new or replacement travel trailers or travel vehicles not meeting the criteria of (a) above may, as an alternative, be allowed if in accordance with the following provisions. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100 year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with 16A.402.8 of this Ordinance.

CHAPTER 17, RESERVED

CHAPTER 18, FEES

18.100. ESTABLISHMENT BY RESOLUTION. Unless specifically set out in this code of ordinances in this chapter or in another provision, any fee imposed by the City of Lynd shall be set out by resolution of the City Council.

18.200. FIRE SERVICE FEE. Pursuant to Minnesota Statutes §§366.011, 366.012 and 415.01, the City of Lynd establishes a fire service fee, as authorized by statute, payable by anyone for whom emergency services are provided by the City of Lynd Fire Department as set out more fully in this ordinance.

18.201. Definitions.

18.201.1. "Fire service" means any deployment of firefighting personnel and/or equipment to extinguish a fire or perform any preventative measure in an effort to protect equipment, life, or property in an area threatened by fire. It also includes the deployment of fire fighting personnel and/or equipment to provide fire suppression, rescue, extrication, and any other services related to fire and rescue as may occasionally occur.

18.201.2. "Fire service charge" means the charge imposed by the City for receiving fire service.

18.201.3. "Motor vehicle" means any self-propelled vehicle designed and originally manufactured to operate primarily upon public roads and highways. It also includes semi trailers, snowmobiles, all terrain vehicles and other similar means of transportation.

18.201.4. "Fire protection contract" means a contract between the City and a town or other city for the City to provide fire service.

18.201.5. "Mutual aid agreement" means an agreement between the City and a town or other city for the City's fire department to provide assistance to the fire department of a town or other city.

18.202. Parties Affected.

18.202.1. Owners of property who receive fire service.

18.202.2. Anyone who receives fire service as a result of a motor vehicle accident or

fire within the City.

18.202.3. Owners of property in cities or townships to which the City provides fire service pursuant to a fire protection contract.

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

18.203. Rates.

18.203.1. Fire Service Charge: \$1000.00

18.203.2. Foam: Class A: \$200 / 5 Gallons

18.204. Billing and Collection.

18.204.1. Parties receiving fire services may be billed directly by the City. All parties will be billed whether or not the fire service is covered by insurance. Any billable amount of the fire charge not covered by a party's insurance remains a debt of the party receiving the fire service.

18.204.2. Parties billed for fire service will have 30 days to pay. If the fire service charge is not paid by that time, it will be considered delinquent and the City will send a notice of delinquency.

18.204.2. If the fire service charge remains unpaid for 30 days after this notice of delinquency is sent, the City will use all practical and reasonable legal means to collect the fire service charge. The party receiving fire service shall be liable for all collection costs incurred by the City including, but not limited to, reasonable attorney fees and court costs.

18.204.3. If the fire service charge remains unpaid after the notice of delinquency is sent, the City Council may, on or before October 15 of each year, certify the unpaid fire service charge to the county auditor in which the recipient of the services owns real property for collection with property taxes. The county auditor is responsible for remitting to the city all charges collected on behalf of the city. The City must give the property owner notice of its intent to certify the unpaid fire service charge by October 15th.

18.204.4. False alarms will not be billed as a fire call unless the services are requested by the property owner. In the case of a false alarm where the fire department responds at the request of the property owner, the Fire Chief in consultation with the City Council may choose to waive or reduce the fee charged to the property owner for the call. If,

however, the false alarm is caused by an automatic alarm that malfunctions, the City may charge for a fire call if it responds to the call.

18.205. Mutual Aid Agreement.

When the City fire department provides fire service to another fire department pursuant to a Mutual Aid Agreement, the billing will be determined by the Mutual Aid Agreement.

18.206. Application of Collections to Budget.

All collected fire charges will be city funds and used to offset the expenses of the City fire department in providing fire services.